

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Déardaoín, 4 Aibreán 2019*

*Thursday, 4 April 2019*

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The Committee met at 9 a.m.

### MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy Alan Kelly,
Deputy Shane Cassells,	Deputy Marc MacSharry,
Deputy Catherine Connolly,	Deputy Catherine Murphy,
Deputy David Cullinane,	Deputy Jonathan O'Brien.

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 at the committee. He is joined by Ms Maureen Mulligan, deputy director of audit. We have received apologies from Deputies Deering and Kelly. Are the minutes of 28 March agreed and can they be published? Agreed. Nothing specific arises that will not come up in the course of our discussions on our work programme.

The first items of correspondence are Nos. 2081A and 2085A, which comprise the opening statement from the Secretary General of the Department of Justice and Equality, and a briefing note from Ms Catherine Smith, corporate secretariat, for today's meeting. We note and publish that.

The next items are from Accounting Officers or Ministers following on from previous meetings of this committee. We held over No. 2073B from Dr. Deirdre Keyes, chief executive of Kildare-Wicklow Education and Training Board, KWETB, at our meeting last week. The documentation is dated 21 March and provides a response to information requested by the committee, including notes on independent valuations, meetings of the board held in hotels, leasing of property by the ETB which it previously owned, and details of a rent-free period for the Bray civic centre. Dr. Keyes also refers to a review of all of the ETB's leases and the difficulties it has faced so far in collating that documentation. We noted and published the item the previous day and agreed that we might hold it over to allow people to consider it further.

**Deputy Catherine Connolly:** I have not actually looked at it yet and-----

**Chairman:** We can hold it over again. We are happy to do that.

**Deputy Catherine Murphy:** Did we get any further correspondence?

**Chairman:** There was one other item of correspondence related to this. It is from-----

**Deputy Catherine Murphy:** I was referring to further correspondence from Dr. Keyes.

**Chairman:** No, we did not receive such correspondence.

**Deputy Catherine Murphy:** Are we expecting further information from Dr. Keyes concerning those cases?

**Chairman:** We will discuss it the next day, and it is up to us to decide whether we have further questions to ask. We have noted and published it, but we need to discuss it. We will make a point of discussing it and make sure, when the documentation is going out, that members are aware that it will be up for discussion the next day.

The next item is No. 2078B from Ms Maria Browne, Chief State Solicitor, dated 29 March, providing a breakdown of outstanding lottery grant cases for the year ending 2018, as requested by the committee. Ms Browne states that the correct terminology is "outstanding files" as opposed to outstanding cases. We are being corrected on our terminology. There were 174 files outstanding at the end of 2018. We will note and publish that. When the Office of the Chief State Solicitor appeared before the committee we asked a question about the number of files

it had on voluntary organisations which had made applications for national lottery funds, and were all experiencing some delay. Ms Browne has outlined the details on that. There are quite a few still outstanding. Some of the cases have been dealt with from the Chief State Solicitor's point of view, but third-party solicitors have not yet provided confirmation. The documentation is there.

The next item is No. 2080B from Mr. Aidan O'Driscoll, Secretary General of the Department of Justice and Equality, providing information requested by the committee concerning Courts Service statistics. It appears that neither the Department nor the Courts Service are able to provide the number of non-legally aided persons appearing before the courts. We will note and publish this. We had been given details on legal aid cases and we had asked if, as the total number of cases is known, whether we could work out how many non-legally aided cases there were. The Department has said that it cannot do that. The letter says:

Legal Aid certs granted can refer to a single offence or a category of offences. A defendant appearing before the courts could be granted a number of Legal Aid Certs for offences in the one case or could have a number of Legal Aid Certs referring to different cases before the courts.

That is not corrected. The letter goes on to say:

As indicated previously, legal aid is granted by the courts in the majority of indictable offences dealt with in the Circuit, Central and Special Criminal Courts. The Courts Service advises that this would refer to at least 95% of these cases.

In the District Court it advises that approximately 70% of defendants get free legal aid and says that the main reason for that is that cases dealt with there include minor road traffic offences such as speeding, tax certificates or national car test, NCT, certificates not being displayed. That is as much information as the Department has. We will note and publish that.

The next category is category C, which is correspondence from private individuals and other correspondence. There are three items, being Nos. 1872C, 1876C and 1886C, which we will discuss in private session. They relate to the University of Limerick. We will have a short private session before we sit in public session with our witnesses.

The next item of correspondence is No. 2072C from an individual, dated 25 March. The individual raises a number of matters around the governance of KWETB and its failure to respond to questions raised. The correspondence also raises questions about evidence given by witnesses from KWETB to this committee. Do members want to discuss this? We could get the permission of the person who wrote to us to forward the correspondence to the Department where the matters relating to the KWETB are being examined and seek to have a response put before the committee. I propose writing to the chair of KWETB for a collated response to the specific matters in the evidence referred to by the correspondent. Do members want to do that or will we hold it over for consideration with other KWETB correspondence?

**Deputy Catherine Connolly:** We should hold it over.

**Chairman:** It is all the same topic.

**Deputy Catherine Connolly:** Are we discussing No. 2072C?

**Chairman:** Yes.

**Deputy Catherine Murphy:** It is not necessarily all the same topic. Some of the legitimate points raised are issues for the board of KWETB. Some of them refer to failure at the Department of Education and Skills. Did we forward something to that Department on foot of the KWETB problems?

**Chairman:** We have not done that recently. We had done it previously. Do the Deputies suggest that we go through the points and divide them into matters relevant to the Department and those relevant to the internal workings of KWETB? We will not follow up at this stage. It is highly complicated and many issues will arise.

**Deputy Catherine Murphy:** We cannot do the work of the board. That is not our function. We have to separate these things out. Perhaps we could go back to the individual and point out the things that are properly within the remit of the board and then strip out the other things. We might then be able to see the wood for the trees.

**Chairman:** We will write back to the correspondent, acknowledging what we received and asking him or her to separate the issues he or she wants us to deal with through the Department.

**Deputy Catherine Connolly:** Perhaps we should ask whether these issues have been brought up with the board. I do not know whether this person is writing to us in desperation. I agree with Deputy Catherine Murphy that we cannot do the work of the board-----

**Chairman:** We are not doing the board's work.

**Deputy Catherine Connolly:** -----but we should clarify whether these matters have been brought to the attention of the board; if so, when that occurred; and whether it is reflected in the minutes.

**Chairman:** We will ask that question. I have had a look at it. Some items refer to the audit committee and other items ask why board meetings were not held to discuss particular matters before the KWETB's appearance here. That is a matter for the board, not for this committee. I will put on the record that we invite Accounting Officers or chairpersons of boards here every week. It is not a requirement for those organisations that they have a board meeting before they appear here to instruct or suggest to the Accounting Officer or the chairman of the board how he or she should conduct himself or herself before this committee. We would not be happy if that was the case, because it could be interpreted in all sorts of ways. I do not necessarily agree that there should have been a board meeting specifically to discuss appearances before this committee. The Accounting Officer is paid to report here and not to discuss his or her evidence with the board. Does the Comptroller and Auditor General have any observations?

**Mr. Seamus McCarthy:** The obligations are on individual chief executives and Accounting Officers to give their own evidence when they come here and not anybody else's evidence or directions. Challenges arose from the 2015 audit of KWETB and they have created considerable difficulties for the current chief executive and the board, as well as the Department. There are questions about the adequacies of the governance systems and the points being raised here speak to the difficulties and challenges. There are lessons to be learned but the question is what those lessons are.

**Deputy Catherine Murphy:** The board needed to address the question about legal advice and why the board was not consulted. If one does not change the culture at board level, change will not happen. It is not here that this needs to be heard but on the board.

**Mr. Seamus McCarthy:** My understanding is that there have been discussions and consideration has been taken of some of those matters at board meetings. I do not know what the resolution has been.

**Deputy Catherine Connolly:** Could the Department assume a more hands-on monitoring approach to the board?

**Mr. Seamus McCarthy:** I cannot speak to that.

**Chairman:** It is not our job to investigate what happens on every board.

**Deputy Catherine Connolly:** Was there not a direction?

**Mr. Seamus McCarthy:** There was a direction issued.

**Deputy Catherine Connolly:** There were conditions and a time limit to the direction. It is serious when somebody has taken the trouble to write to us. I do not wish to give the impression that we do not want to deal with it. That is not correct at all. We have given it a lot of time and we will give it more time. The Comptroller and Auditor General said there were issues arising that gave cause for concern to his office, to the Department and to us. The response has been a discussion, the report of the Comptroller and Auditor General and a direction with conditions and a time limit. Is it the area of Department or the Higher Education Authority?

**Mr. Seamus McCarthy:** It is the area of Department in relation to training boards.

**Deputy Catherine Connolly:** What stage is the Department at when it comes to monitoring all the new procedures that were to be undertaken?

**Chairman:** There are seven headings. I will not get into any of the specifics because people will understand what we are discussing. The person who has written to us questions why legal advice was withheld from the board, why two audit committee chairs have departed since September 2018, who the parties were to leases on which KWETB entered into agreements, the schedule of meetings between the board and the Department, whether complaints were being dealt with appropriately within the KWETB, if there were appropriate safeguards against abuse of the appointments system in the KWETB, and inaccurate or misleading statements at the recent meeting of the Committee of Public Accounts which the KWETB attended. There are also concerns because the clock is running down, with the board's term of office is due to end with the local elections very shortly. Out of all those, only one is specifically directed to the Committee of Public Accounts. All the others are very much internal matters and relate to how the board operates.

**Deputy Catherine Murphy:** Deputy Connolly's point is important, however. The Department of Education and Skills had a watching brief after the 2012 report. What emerged was a quite dysfunctional board and there is now a Garda inquiry into it. A full independent report has been done so it is not a minor deal. If the Department is going to have a watching brief or if it has issued a circular, we have to be sure it takes it seriously.

**Chairman:** Do we address this directly to the Department, in that case? This is something the Department and the KWETB should be doing on an ongoing basis. It is not our job to micromanage this.

**Deputy Jonathan O'Brien:** I think there are serious questions that need to be answered but I am not sure whether this is the committee to get those answers. When the board appeared

before us, there were a number of follow-up items which we requested but, to the best of my knowledge, none has come in, though the board sent in one piece of correspondence.

**Chairman:** We received items the last day and published them but we held over the discussion on them.

**Deputy Jonathan O'Brien:** We got one item of correspondence which we did not ask for, relating to a building which had not even been raised at the committee. Some of what we asked for has not been forthcoming or, if it has come in, I have not seen it.

**Chairman:** We got quite a bit of correspondence the last day but members had not fully read through it. We agreed to hold over a discussion on it. If there are unanswered questions we will deal with them the next day - we just have not done it yet.

**Deputy Jonathan O'Brien:** Okay.

**Chairman:** Should we send this to the Secretary General of the Department?

**Deputy Catherine Connolly:** I think we should, and we should ask for an update on what has happened since it gave the direction.

**Chairman:** We have to write to the person who wrote to us to get their permission to do that. There was a reference to inaccurate or misleading statements at a recent meeting of the Committee of Public Accounts and we should write directly to the KWETB about that because evidence given at this committee is our affair.

**Deputy Jonathan O'Brien:** This was about being in receipt of legal advice.

**Chairman:** Yes, it is about legal advice. The chairman gave an answer so we will ask for confirmation or clarification, or maybe a response to that part of the report with the consent of the person who wrote to us. To be clear, we have to get the consent of the person who wrote to us, we will write to the board about the evidence given by the board members and the Accounting Officer to this committee and we will write to the Department for a response about the direction it gave to the board.

The next item is No. 2082, from an individual and dated 28 March. The individual had previously corresponded with the committee to advise us regarding a High Court ruling that is due this Friday, or was due last Friday.

**Mr. Seamus McCarthy:** It was last Friday. The judgment has been given.

**Chairman:** I do not know about the judgment. It concerned an individual who sought information under freedom of information on value for money in respect of Irish Public Bodies Mutual Insurance Limited. It was granted by the Information Commissioner but the Local Government Management Agency, LGMA, refused to issue it, which became the subject of the High Court proceedings last week. Did the court-----

**Deputy Jonathan O'Brien:** Did the High Court not state that there was not a presumption that information should be forthcoming?

**Mr. Seamus McCarthy:** I know that the judgment has been given but I would prefer not to go on record on it.

**Chairman:** We will get our own update.



**Deputy Catherine Connolly:** The lady is on record as saying she is very happy with the judgment.

**Chairman:** Okay.

**Mr. Seamus McCarthy:** I think the information is to be released.

**Deputy Catherine Connolly:** I believe it was a very positive judgment.

**Chairman:** It is to be released but-----

**Deputy Catherine Connolly:** I have only speed-read the judgment but it is a positive judgment. Ms Dorothea Dowling, who set up the initial-----

**Chairman:** She was the chairperson.

**Deputy Catherine Connolly:** She said she was very happy with the judgment.

**Chairman:** We will get it because the correspondent wrote to this committee on account of the fact that we were dealing with insurance claims. The State Claims Agency came before the committee and indicated that it had taken over dealing with all the section 38 organisations. It received approximately €4 billion in State funding for its activities and it is welcome that this has all been centralised under the State Claims Agency. Local authorities were also here and I asked them if they had discussions about doing the same for local authorities, which also get approximately €4 billion. There are a lot of claims but there is no visibility or transparency as to how they were being dealt with, while there is at least some of that with the State Claims Agency. Arising from that, Ms Dorothea Dowling, whose name is on the public record, wrote to the committee to compliment us, inquire about the matter and explain that she had been on the case and that it was due to be heard by the High Court. We both have independently expressed a keen interest in the issue. When we receive the ruling, we will consider it as part of our next interim report when we are dealing with the State Claims Agency, although I think we have to finalise our work in that regard.

**Deputy Jonathan O'Brien:** The court case I was examining yesterday, in respect of University College Cork and the Information Commissioner, must have been a different one.

**Chairman:** I refer to the case of IPB and local government.

**Deputy Jonathan O'Brien:** It was a different case.

**Mr. Seamus McCarthy:** The committee had requested the report that Ms Dowling was looking for but the request was declined.

**Chairman:** As I recall, we wrote to the LGMA before Christmas to seek the report but it was declined.

**Mr. Seamus McCarthy:** For the record, IPB is the insurer of the education and training boards.

**Chairman:** I understand that. Does IPB have any role in respect of the Oireachtas? I am not sure but I think it might handle our public liability insurance as Oireachtas Members, although I may be wrong.

**Deputy Catherine Connolly:** Perhaps a copy of the judgment could be circulated to ev-

everyone.

**Chairman:** Yes, exactly. It is an issue of public interest.

**Deputy Catherine Connolly:** If members of the committee are interested, they can read it and we can discuss it.

**Chairman:** Yes, I am pleased that we have reached a conclusion on the matter because we had raised it.

The next item is No. 2084, from an individual we dealt with last week in respect of No. 2070, on the election observation roster. The individual has provided a correction. The briefing last week stated the individual was not granted a place on the roster and has taken an appeal to the High Court, but the correspondence states this is not correct. The individual has stated the Department had made a number of complaints about him to the Information Commissioner in the High Court but that he was appealing it. He stated that taking the High Court judgment to the Court of Appeal has caused him great personal cost. I am happy to put the correction on the record, although I do not believe that it changes our decision that the selection process for the election roster is not a matter for the Committee of Public Accounts. I thank the individual for correcting the matter and we note the correspondence.

**Deputy Catherine Connolly:** While I agree that observation rosters are not a matter for the Committee of Public Accounts, I have a question on the procedure in place. I cannot discuss the matter now, however, because I have two letters to examine. I wished only to clarify. I have raised the issue repeatedly but I do not raise it effectively enough. I will re-examine the matter and revert to the committee. It does not concern the letter to which the Chairman referred.

**Chairman:** I understand but have we already covered the matter in the periodic report?

**Deputy Catherine Connolly:** We probably did but for now, I wish to re-examine the matter. I will check whether it has been covered.

**Chairman:** We either dealt with it in a previous periodic report or it may have been considered elsewhere.

**Deputy Catherine Connolly:** It could well have been sorted out. I do not know but I need to check.

**Chairman:** We know that there was a gap between the appointments and so on.

**Deputy Catherine Murphy:** In the third periodic report, which was published in May 2018, one aspect that we examined was RTÉ and the Eversheds review. I have been contacted by somebody to say the person is one of the people affected but that nothing has happened almost 12 months later. Can we have a full update on the progress on that in order that we can follow through on the matter? The committee had an engagement with RTÉ but we could not deal with some of the issues because we were waiting for-----

**Chairman:** Does this issue relate to self-employed contracts?

**Deputy Catherine Murphy:** Yes.

**Chairman:** My recollection is that RTÉ told us it was addressing the issue in the case of all new contracts, but that people were concerned about all the employees who had begun work



there before the change of policy. We did not have the impression the latter set of employees was being addressed. We need an update.

**Deputy Catherine Murphy:** There was an expectation but almost 12 months later, nothing has happened. I presume that we will write back to RTÉ to seek an update and inquire whether there will be a full implementation of the report. Perhaps RTÉ will assure us in that regard.

**Chairman:** Is that agreed? Agreed.

The next item is accounts and statements received since the last meeting, and four slides will be shown on the screen. The first concerns Letterkenny Institute of Technology, which has a clear audit opinion. The Nursing and Midwifery Board of Ireland has a clear audit opinion but the issue of superannuation entitlements is mentioned, as it is in accounts throughout the health sector. The Law Reform Commission 2017 has a clear audit opinion. Ordnance Survey Ireland, OSI, has a clear audit opinion and recognises a deferred pension funding asset. Will Mr. McCarthy explain that?

**Mr. Seamus McCarthy:** It is similar to the third level sector. The OSI is in a trading position, that is, it is selling product. It recognises a deferred pension funding asset, where if its trading does not generate enough resources to pay pensions, the State will meet the liability in future.

**Chairman:** The next item is the work programme.

**Deputy Catherine Murphy:** Before we do the work programme, there are two reports that we expect to deal with. One relates to the national broadband plan and there is a time issue with that. When are we likely to receive a draft of it?

**Chairman:** I have asked that we be in a position to issue it at the end of this month, which allows the secretariat a couple of weeks. There will also be the recess for Easter. We hope that it will be issued immediately after we return from the recess. The report contains two sections, which relate to broadband and housing. We will bring those two items forward.

**Deputy Catherine Murphy:** Will it be one report or a few distinct reports?

**Chairman:** It will be one report which deals with two items and that will comprise a chunk of the next periodic report to be completed. Our target is for the end of this month. I reiterate what the Department of Communications, Climate Action and Environment stated because the people did not fully grasp it. There was a debate in the Dáil last week with the Minister on the issue, where he stated the Department was dealing with one tender and that he would bring a proposal to the Government in the near future. That was picked up by the public and many people interpreted it as suggesting there would be a decision on the contracts. The Secretary General, however, made it clear at the committee last week that the only proposal that would be made to the Government in the near future would be to appoint Brendan McCourt, or not, as the preferred bidder. When the preferred bidder status is given, the Government remains under no contractual obligation. It is not a contract for rural broadband. It gives the Government certainty in order that it can then negotiate its infrastructural agreements with Eir and other bodies. It now has some certainty to finalise the detailed costs.

When that is all put together, after whatever period of time, the Government can consider signing a contract, or otherwise. There have been cases in the past where preferred bidders have been approved by the Cabinet, circumstances change, and ultimately the contract is never

signed at a loss and cost to the preferred bidder because there are no contractual obligations. The proposal to the Government is not to sign the national broadband plan contract but rather only to appoint the preferred bidder. While it is a significant step along the way, it is not the entire process. I am sure people understood that from the debate that emanated from the Dáil last week, but the debate on the issue at the committee's meeting was more specific. I am putting it on the record because the Deputy has raised the issue, and it might clarify the matter for the public. Our target is the end of this month, which is only a few weeks away.

**Deputy Catherine Murphy:** If the decision is made to appoint the preferred bidder, the level of detail that will be provided is not known at this stage.

**Chairman:** Our report will have to include clear signposts and signals in respect of the tendering process that has been ongoing since the end of December 2017, to ensure value for money in public expenditure. We will have the opportunity to discuss that only after the Easter break, but we will try to deal with it as quickly as possible at that stage because time is of the essence.

**Deputy Catherine Murphy:** I do not wish to labour the point but a related matter is that some of the fixed wireless providers contacted some members of the committee after some of our hearings, when there was a headline figure on the per metre costs. Some people told me they expected a reduction at wholesale level following their dealings with Enet.

**Chairman:** Is the Deputy referring to the metropolitan area networks, MANs, or broadband?

**Deputy Catherine Murphy:** I am talking about the MANs. The quotes did not decrease but rather increased. I am not sure we got the information here that was-----

**Chairman:** If the Deputy wishes to send us a note, we will consider it next week and take it up.

**Deputy Catherine Murphy:** I will do that.

**Chairman:** If that is an issue, we need to address it. We will write and make sure we get an answer on that. When we make our report in several weeks, it will include what is being suggested now. We will need certain points of clarification before we conclude our report. That sounds like one of them.

**Deputy Catherine Murphy:** Very well.

**Chairman:** I thank the Deputy. That deals with the accounts and statements. Details of our work programme are now appearing on screen. Today we will hear from the Department of Justice and Equality. Next week we will hear from the Central Statistics Office, CSO, and the Office of the Comptroller and Auditor General. We have received a request for a meeting on the national children's hospital from Professor Chris Fitzpatrick. This could be done in private session. Do members want to proceed with that? An offer has been made. Professor Fitzpatrick is a paediatric consultant. I am not sure with what hospital he is associated.

**Mr. Seamus McCarthy:** Is he associated with UCD?

**Chairman:** He is a consultant obstetrician at the Coombe Women and Infants University Hospital.

**Deputy Jonathan O'Brien:** On what issue does he want to present to the committee?

**Mr. Seamus McCarthy:** He was questioning the location of the national children's hospital.

**Deputy Catherine Murphy:** He is concerned with regard to the trilocation issue.

**Chairman:** The letter is on screen. Part of our next periodic report will deal with this issue. We will not be dealing with it in the report at the end of this month, which will only address two topics. Before we complete that report, if we want to invite-----

**Deputy Catherine Connolly:** I have a different opinion on that. I am of the view that we should hear from him. He has gone to the trouble to write. The letter is very well written. The issues are set out. Meeting him would do no harm. What we can do about it and whether it is relevant are valid questions. It would not take a lot of time and it could be done in private session. I do not mind. I am open to suggestions.

**Chairman:** I suggest that we have this meeting in private session next Thursday, after we deal with the Vote for the Office of the Comptroller and Auditor General.

**Deputy Marc MacSharry:** Why does it need to be in private session?

**Deputy Catherine Connolly:** I am open to anything.

**Chairman:** I do not know.

**Deputy Catherine Connolly:** We will be going into private session in a moment to discuss-----

**Chairman:** We will discuss what we are going to do in private session. That is a very good suggestion.

**Deputy Marc MacSharry:** I was out of the room for a second. I refer to the issue of incontinence wear, on which we heard from a family. I unofficially facilitated a meeting between the HSE, the family and the Brothers of Charity on the committee's behalf. That took place last Monday and I very much hope the situation has been resolved.

**Chairman:** That is fantastic. It was a difficult situation. We will discuss the matter in private session. On 18 April, we will be dealing with the Environmental Protection Agency and then there are non-sitting weeks after Easter. That means it will be early May-----

**Deputy Marc MacSharry:** A meeting is scheduled for the day before the local and European elections. I am open-minded, but what sort of attendance can we expect? Will the Dáil be sitting that week?

**Chairman:** It is.

**Deputy Marc MacSharry:** Will people be around? I am just putting it out there.

**Chairman:** I suspect that the Dáil will sit. I do not want to skip a meeting. We will discuss it closer to the time. As of now, we will retain the scheduled item.

**Deputy Catherine Connolly:** It is a fair point.

**Chairman:** It appears that it will be the beginning of May before we conclude the report on broadband and housing, unless we want to meet in the first week of May. The latter is a non-

sitting week. We could meet then if we have prepared a draft report and members want to come to Dublin to discuss it. However, members might not want to travel during a non-sitting week. I am not recommending that, I am just making the point. We will come back to that matter.

On 9 May, we will deal with An Garda Síochána. The Comptroller and Auditor General's report on overtime is relevant to that. On 16 May we will resume dealing with the National Paediatric Hospital Development Board's financial statements. We expect to have considered the PwC report in advance of that meeting. We will meet the Courts Service on 23 May and on 30 May we will meet with representatives of the Department of Finance to deal with a special report from the Comptroller and Auditor General on EU transactions. We will meet with the Department of Children and Youth Affairs on 13 June. These are provisional arrangements. The following week, the annual report of the National Treasury Management Agency, NTMA, will be published. That will deal with an awful lot of issues on behalf of the State. The HSE financial statements should be available in advance of 26 June. We will try to deal with those before we go break for the summer. After that, we have a scheduled meeting with the Houses of the Oireachtas Commission. We want to do that before the break as well. That body's annual report will be out around the end of June. It is just as well to have sight of its annual report before meeting with its representatives. I thought we might have done it earlier, but the annual report will be out at the end of June. The Secretary General of the Houses of the Oireachtas Commission will be at that meeting.

These are provisional items. We can come back and address others. That is an approximate programme which is subject to change. There are a couple of items to discuss in private session before we call our guests from the Department of Justice and Equality.

*The committee went into private session at 9.45 a.m. and resumed in public session at 10.05 a.m.*

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

### **Vote 24 - Justice and Equality**

**Mr. Aidan O'Driscoll** (*Secretary General, Department of Justice and Equality*) called and examined.

**Chairman:** Today we are examining the appropriation accounts for Vote 24 - Department of Justice and Equality, for the year 2017. We are joined by Mr. Aidan O'Driscoll, Secretary General; Ms Oonagh McPhillips, deputy secretary general; Mr. Doncha O'Sullivan, assistant secretary; Mr. Michael Korrane, assistant secretary; Ms Carol Baxter, assistant secretary; Mr. Mark Wilson, principal officer; and Mr. Seamus Clifford, principal officer; and by Ms Anne Marie Treacy, assistant principal from the Department of Justice and Equality, and Mr. John Burke, principal officer from the Department of Public Expenditure and Reform.

I remind members, witnesses and those in the Public Gallery that all mobile telephones should be switched off or switched to airplane mode because merely putting them on silent mode can interfere with the recording system.

I advise witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to 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 or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members of the committee are reminded of the provisions under Standing Orders to the effect that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister or the merits of the objectives of such policies. While we expect witnesses to answer questions put by the committee clearly and with candour, witnesses can and should expect to be treated fairly and with respect and consideration at all times in accordance with the witness protocol.

We will first hear an opening statement from the Comptroller and Auditor General.

**Mr. Seamus McCarthy:** Vote 24 for the Department of Justice and Equality provides funding for a broad range of services and activities undertaken directly by the Department of Justice and Equality or funded by the Department through the provision of grants. This includes the Irish Probation Service, the Irish Naturalisation and Immigration Service, the Reception and Integration Agency, the State pathology service and the Garda Síochána Ombudsman Commission. An overview of the main funded services and agencies is given in a summary diagram which I have attached to this opening statement.

The policy and oversight remit of the Department has changed somewhat since the beginning of 2017. This is reflected in the appropriation account. Responsibility for the Charities Regulatory Authority transferred from the Department of Justice and Equality to the Department of Rural and Community Development in July 2017. In accordance with standard Government accounting procedures, the voted expenditure related to the authority for all of 2017 is reflected in the appropriation account of the Department of Rural and Community Development. Responsibility for Ordnance Survey Ireland and the Votes of the Valuation Office and the Property Registration Authority transferred from the Department of Justice and Equality to the Department of Housing, Planning and Local Government in 2018.

The 2017 appropriation account for Vote 24 records gross expenditure of almost €423 million in the year, spread across five spending programmes. I have indicated those in the figure that is now on the screen. The programmes are organised in line with statements of strategic objectives. Note 3 of the appropriation account provides a breakdown of the programme spending under subheads that indicate the instruments used by the Department to achieve those objectives. On the receipts side, appropriations-in-aid of the Vote totalled just over €66 million in 2017. Almost three quarters of this related to a range of fees charged in respect of immigration registration, nationality and citizenship certification and visa issuance. The net expenditure on the Vote was approximately €22 million less than was provided for in the 2017 Estimate.

In my report on the appropriation account, I drew attention to a material level of non-compliance with EU and national procurement rules in respect of contracts operated by the Department in 2017. Further detail in this regard is disclosed by the Accounting Officer in the statement on internal financial control.



**Chairman:** I invite Mr. O'Driscoll to make his opening statement.

**Mr. Aidan O'Driscoll:** The Department's Vote is one of six Votes which currently makes up the justice Vote group. The justice and equality Vote, which we are examining today, accounts for 18% of gross expenditure in the overall Vote group; the Garda Vote accounts for 64% of gross expenditure; prisons and courts are 13% and 5% of gross expenditure, respectively, with the remaining Votes for the Policing Authority and the Irish Human Rights and Equality Commission accounting for less than 1%. However, our focus today is on Vote 24, the justice and equality Vote.

The Department's Vote covers a wide remit, encompassing both the administrative divisions of the Department and a broad range of offices and agencies across the justice sector. In all, there are approximately 60 individual subheads reflected across five expenditure programmes which are set out in the briefing material and which support the Department's overall vision of a safe, fair and inclusive Ireland. The remit of the Department is broad and diverse and includes subheads relating to commissions and special inquiries, civil and criminal legal aid, immigration and asylum accommodation, the Probation Service, equality, integration and disability, and a range of other services, including offices and agencies such as the Data Protection Commission, the Criminal Assets Bureau, forensic science and State pathology laboratories, the Garda Síochána Ombudsman Commission and so forth.

As there is no specific chapter relating to the justice and equality Vote in the Comptroller and Auditor General's report for 2017, I propose to focus briefly on a few areas within the Vote where there has been developments in the last couple of years.

The committee will be aware that the Department is undergoing a major transformation programme at present. This arises from the Government's acceptance of the final report of the effectiveness and renewal group, ERG, in June 2018, following significant political and public debate. This programme aims to develop a future operating model that embraces the challenges and opportunities of the 21st century, which enhances organisational agility and responsiveness and places the Department of Justice and Equality at the forefront of developments in the Irish Civil Service.

I am pleased to say that significant progress is being made. The Department has now been realigned under two executive pillars each headed up by a deputy secretary, with Ms Oonagh Buckley heading up the civil justice and equality pillar and Ms Oonagh McPhillips, who is with me today, heading up the criminal justice pillar. The two executive pillars will be supported by a central corporate pillar. A new corporate governance structure reflecting this realignment came into operation from January 2019. The second phase involves the Department designing and implementing a new operating model and organisational structure in the two executive pillars based on five core functions, namely, policy, operations, transparency, governance and legislation.

The transformation programme is being overseen by a programme board chaired by myself and including the Secretary General to the Government, the Secretary General of the Department of Business, Enterprise and Innovation and the Vote assistant secretary for the Department of Public Expenditure and Reform, which will ensure that the programme is conducted in accordance with good governance principles, that it is delivered on time, within budget and that the design solutions are appropriate. In addition, the ERG continues to provide its input and produces quarterly progress reports, which are published on the Department website.



The Department has completed the high-level design of the new operating model and structure and has now moved to detailed design. The programme is due for completion by early October this year. Funding for this programme has been provided in the justice and equality Vote in 2019.

There is also a very significant policing reform programme ongoing in relation to the implementation of the recommendations in the report of the Commission on the Future of Policing in Ireland. The Department is facilitating and supporting this programme including the provision of funding to An Garda Síochána to assist with certain work under the programme.

I would also like to mention the Data Protection Commission, DPC, which has received significant additional funding in recent years to build the organisation's capacity and capability in preparation for the DPC's enhanced regulatory powers and more prominent international role under the general data protection regulation, GDPR. These increased resources have facilitated the recruitment of additional staff, including legal, technical, audit and investigations specialists, as well as policy and administrative staff. The budget allocation of the organisation increased from €1.9 million in 2014 to €7.2 million in 2017 and has increased further to €15.2 million in 2019. This resource level will enable the DPC to continue to build the organisation's knowledge and capability in the performance of its expanded statutory role as an EU-wide regulator and lead supervisory authority for the large multinational technology companies, many of which have their European headquarters in Ireland.

Committee members will be well aware of the pressures in our accommodation system for asylum seekers. The Department is currently managing a total of 6,497 international protection applicants, including 5,980 residing in our accommodation centres with a further 517 applicants in emergency hotel accommodation. At the end of 2016, the Department was accommodating 4,425. However, by the end of 2017, the number had risen to 5,096 persons, an increase of 15%, and, at the end of 2018, there were 6,106 persons in accommodation. The increasing numbers to be accommodated is a significant part of the challenge facing the asylum system. A process to support residents moving into mainstream housing is being finalised through the establishment of a dedicated unit working with centre managers, NGOs, and local authorities.

Another expanding area in the Department is the Irish Naturalisation and Immigration Service, INIS, which has grown considerably in scale and scope since it was established in 2005. INIS now comprises approximately one third of all staff in the Department of Justice and Equality, processing over 250,000 applications a year. The role of INIS has expanded over recent years to include areas such as border management at Dublin Airport, immigration registrations in the Dublin metropolitan area and the newly-established Irish passenger information unit. INIS has put a service improvement plan in place for the period 2018 to 2020 which, while ambitious in scope, is also realistic. The actions can be delivered within the timeframes set out and a strong programme board has been established to make sure that is the case. Some early reforms have included the introduction of plain language in all INIS application forms, the launch of INIS Online, a new customer portal that will allow all applications and payments to be submitted online by the end of March 2020, and the establishment of a change management unit within INIS to drive innovation and best practice in project and change management.

It is clear to all of us working in the Department that the demands we face in the immigration area are likely to continue to grow over the coming years. Meeting those demands requires that we seek to deliver our services in different ways, and to increase our efficiency, while also improving customer experiences. These objectives are entirely compatible with the overall departmental transformation programme.

The year under examination, 2017, was of course an important year in the development of a strategic approach to equality. Four major equality strategies were launched that year: the national strategy for women and girls, the national Traveller and Roma inclusion strategy, the national disability inclusion strategy and the migrant integration strategy. These represent a whole-of-Government approach to addressing the needs of diverse groups and to ensuring their equal participation in Irish society. Each strategy was developed and is being implemented with the involvement of the groups that each is designed to serve. This was also the year in which the Irish State formally recognised Travellers as an ethnic minority. This landmark recognition is a key step forward in fostering a society which respects and celebrates diverse identities. In that context, my Department is currently developing a national LGBTI strategy, which will be published later this year.

I note that Brexit has been a significant area of work since the UK referendum and this remains the case. The Department of Justice and Equality shares this agenda with all other Departments and is working within the highly co-ordinated whole-of-Government structures led by the Departments of the Taoiseach and Foreign Affairs and Trade. My colleagues and I will be happy to answer any questions that members have.

**Deputy Marc MacSharry:** The Department even has an ERG.

**Mr. Aidan O'Driscoll:** We have an ERG.

**Deputy Marc MacSharry:** That is an unfortunate acronym.

**Chairman:** We will now take our speakers in the following sequence: Deputy Connolly has 20 minutes and Deputy Farrell is the designated second speaker. All other speakers have ten minutes in the following sequence: Deputies MacSharry, Catherine Murphy, Cassells and Jonathan O'Brien.

**Deputy Catherine Connolly:** The witnesses are very welcome and I thank them for the information and briefing documents provided. I also thank the office of the Comptroller and Auditor General for his briefing documents because they are very helpful. I also offer congratulations to the Department on a clear audit except in relation to procurement, which I will come to.

My attention was caught by the list of positive strategies that Mr. O'Driscoll mentioned and the news that the Department is about to establish another one for gay, lesbian and transexual people. There are four major equality strategies and they are wonderful on paper. How are those implemented in different Departments and in budgetary considerations? Are there practical measures for the proofing of decisions taken by Government?

**Mr. Aidan O'Driscoll:** I thank the Deputy for her congratulations on the clear audit. I agree that it is important.

There is a very strong follow-up process for the strategies I mentioned. The purpose of the strategies is to drive a whole-of-Government approach to create a situation wherein there are a large number of actions under each of these strategies.

**Deputy Catherine Connolly:** I understand that. Strategies had to be brought in because of inequality and the failures to deal with it. Now that we have the strategies, what steps follow? Mr. O'Driscoll is telling me there is a very clear follow-up. What is that follow-up?

**Mr. Aidan O'Driscoll:** There are a large number of actions under each strategy and these

are allocated to specific Departments and agencies and then there are regular meetings, generally chaired by the Minister of State, Deputy Stanton, to follow up on the progress of each of these actions. Regular progress reports are compiled.

**Deputy Catherine Connolly:** Is there equality proofing and poverty proofing of actions that are being taken, particularly when it comes to the budget?

**Mr. Aidan O'Driscoll:** Yes. Each of the actions is itself related to the equality objective. There is a whole set of actions under the Traveller strategy for each Department. Our role and the role of the Minister of State is to make sure that each of those bodies is doing what it should. That is built into their work programmes, strategy statements and so on. In that sense, it is equality proofed.

**Deputy Catherine Connolly:** Will we see something open and accountable where this has been implemented?

**Mr. Aidan O'Driscoll:** Yes, in the reports on progress under each strategy. That is very visible and the detail in those is significant. There is an open and accountable approach.

**Deputy Catherine Connolly:** Ms Baxter is nodding about this.

**Ms Carol Baxter:** We have a traffic light approach where every action is tracked against progress. As the Secretary General has said, the Ministers chair oversight committees which include representatives of civil society as well as Departments and public agencies. They also track the implementation of actions and the traffic light system is a public document.

**Deputy Catherine Connolly:** With regard to the opening statement and the Vote, money has been saved on the Magdalen laundry *ex gratia* scheme. We had that scheme and its extension as a result of the Ombudsman's report.

**Mr. Aidan O'Driscoll:** That is right.

**Deputy Catherine Connolly:** It disappointed me that we needed an Ombudsman's report. I thought we might have learned from all of the schemes we have had and rolled it out properly. Will Mr. O'Driscoll update me on why there are savings? I am on page 20, relating to the Magdalen fund. The Estimate provision was more than €4 million. The outturn was substantially below that. We all know that there is a delay in implementing part of the Act and Mr. O'Driscoll has given that as one reason. What reasons are there for the underspend? What is the total number of applications?

**Mr. Aidan O'Driscoll:** The saving is due mainly to a delay that occurred in commencing the Assisted Decision-Making (Capacity) Act 2015. Those payments could not be made in a number of cases.

**Deputy Catherine Connolly:** Where are we now?

**Mr. Aidan O'Driscoll:** All of the capacity cases but one have been paid, as I understand it.

**Deputy Catherine Connolly:** I think there were 17 outstanding.

**Mr. Aidan O'Driscoll:** They have all been paid bar one.

**Deputy Catherine Connolly:** Is that for particular reasons?

**Mr. Aidan O'Driscoll:** Yes. A senior counsel is going through all of these individual cases. I take it that there is a reason that one case is still outstanding.

**Deputy Catherine Connolly:** What is the total number of applications under the scheme and extended scheme? How much has been paid out?

**Mr. Aidan O'Driscoll:** There were 721 cases under the scheme. A total of €27.341 million was paid out under the original scheme.

**Deputy Catherine Connolly:** For 721 applications? How many were successful?

**Mr. Aidan O'Driscoll:** I think that was the number that was paid.

**Deputy Catherine Connolly:** How many applications were there in total? If Mr. O'Driscoll does not know, a note will suffice.

**Mr. Aidan O'Driscoll:** If the Deputy does not mind.

**Deputy Catherine Connolly:** We are working on 721 applications that have received a total payment of €27.4 million.

**Mr. Aidan O'Driscoll:** A total of 721 is the number paid. There are 97 applications for the secondary scheme which the Deputy referred to.

**Deputy Catherine Connolly:** There are 97 and seven have been paid out.

**Mr. Aidan O'Driscoll:** Eight, I think.

**Deputy Catherine Connolly:** Explain the other 89.

**Mr. Aidan O'Driscoll:** To explain the 97, 52 were applicants under the old scheme who have entered the new scheme. They were refused under the old scheme. It relates to the Deputy's earlier question.

**Deputy Catherine Connolly:** Some 52 were refused under the old scheme and have to go through this scheme.

**Mr. Aidan O'Driscoll:** Some 45 are applicants under the new scheme. My latest briefing says nine were paid, not eight. Two have offers outstanding, ten are not eligible and one has withdrawn.

**Deputy Catherine Connolly:** How are we doing with the time for this process?

**Mr. Aidan O'Driscoll:** I would like this to move faster.

**Deputy Catherine Connolly:** Why is it not?

**Mr. Aidan O'Driscoll:** We have been putting in place a data-sharing agreement with religious bodies, which has come in just in the past week or two. With that in place, assuming that the information flows, the remaining people under that scheme should be paid very quickly.

**Deputy Catherine Connolly:** Why has it taken so long to put in place something as basic as data sharing?

**Mr. Aidan O'Driscoll:** It took a while to negotiate that but it is now in place.

**Deputy Catherine Connolly:** Why? What was the difficulty? I have a particular interest in this, having been there in many guises in a previous life.

**Mr. Aidan O'Driscoll:** I understand.

**Deputy Catherine Connolly:** My concern is mostly about the effectiveness of the scheme.

**Mr. Aidan O'Driscoll:** I share that.

**Deputy Catherine Connolly:** Why did it take so long? When is it envisaged that everybody who is entitled to payment will receive it?

**Mr. Aidan O'Driscoll:** To get the data, we had to put data-sharing agreements in place. To be fair to the religious orders, they are also bound by the provisions of the general data protection regulation, GDPR, and so on. We have to put these steps in place but I hope that with this important step now taken, payments can be made over the next few weeks.

**Deputy Catherine Connolly:** I will not go into details but we receive letters outlining desperation and difficulties. They have given me permission to use their names but I do not want to. It is the same with Caranua. It is very good in theory but in practice people have great difficulties. Does an internal division in the Department of Justice and Equality administer the scheme?

**Mr. Aidan O'Driscoll:** Yes.

**Deputy Catherine Connolly:** Is the appeals or review system internal too?

**Mr. Aidan O'Driscoll:** We are only at the point on this scheme of doing the initial assessment.

**Deputy Catherine Connolly:** Mr. O'Driscoll might come back to us about this. It is internal within the Department, which is going through a transformation which I will not have time to go into today, and it is perhaps for the Joint Committee on Justice and Equality to address anyway. There were serious problems with the Department and that is why it is going through a transformation and why we have had many reports such as the Toland report. I will leave that aside. The Magdalen scheme is being administered under the Department. What has been learned with regard to administering the scheme effectively for people who are very vulnerable? What appeal process is there so that they do not resort to us in desperation, telling us that they have not been answered? That is not entirely fair to Mr. O'Driscoll because I have not given him all the details, but that is what I have been told.

**Mr. Aidan O'Driscoll:** I would be very surprised if that was the case. I respect the confidentiality of the Deputy's communications, but if there is a case that she wants to draw our attention to, I would be happy to look at it. With regard to the applications that have been received, nine have been paid and two offers are outstanding. Ten have been deemed not eligible. There has been back-and-forth with the applicants to deem some to be eligible and others not. In other cases, additional information is required and that is covered by the data-sharing agreement. We hope with that in place that we can move quickly to payments.

**Deputy Catherine Connolly:** I understand that. I am looking at a different part of Mr. O'Driscoll's report, on the cost of tribunals, which he has kindly outlined to us. We are now at almost €70 million for the Morris tribunal. There is a long list of them. In that context, we are talking about a tiny amount of money. I will not dwell on it but I would like a note from



Mr. O'Driscoll on how long the process takes from when somebody applies. What appeal has been put in place? Is it external to the Department? What external people are on it? We have been through it with Caranua and I would not like people to go through what the applicants to Caranua went through. We should learn.

Mr. O'Driscoll referred to asylum figures in his statement and gave us the up-to-date figure. Does that include the relocation and resettlement applicants? Mr. O'Driscoll has given a total figure of 5,980, with 517 in emergency hotel accommodation. That is a figure of 6,497.

**Mr. Aidan O'Driscoll:** If the question is whether it includes the refugee programme, the answer is that it does not.

**Deputy Catherine Connolly:** In how many centres do the 5,980 people live?

**Mr. Aidan O'Driscoll:** There are 38 centres.

**Deputy Catherine Connolly:** There are 38 centres now but there were more. Some are owned by the State where the services are contracted in and others are commercially-owned. How many are commercially-owned?

**Mr. Aidan O'Driscoll:** Most are commercially-owned. There are 31 that are commercially owned and seven are State-owned.

**Deputy Catherine Connolly:** The service does not have enough capacity in those.

**Mr. Aidan O'Driscoll:** Is the Deputy referring to the State-owned centres?

**Deputy Catherine Connolly:** No, in all of the centres.

**Mr. Aidan O'Driscoll:** No, we do not. We are now in a process of putting out to tender calls for additional accommodation.

**Deputy Catherine Connolly:** Let us leave that for now. We have 517 people taking up hotel beds.

**Mr. Aidan O'Driscoll:** That is right.

**Deputy Catherine Connolly:** We have 5,980 people in direct accommodation, either commercially-owned or State-owned premises. How many of those are children? Will Mr. O'Driscoll provide a breakdown showing how long they have been there? This has come up repeatedly, including in the McMahon report. I will get to chapter 6 of the Comptroller and Auditor General's report of 2015, which deals with this subject and included recommendations.

**Mr. Aidan O'Driscoll:** There are 88 children in emergency accommodation.

**Deputy Catherine Connolly:** That is in hotels. How many are in direct accommodation?

**Mr. Aidan O'Driscoll:** The figure is 957.

**Deputy Catherine Connolly:** How many of those have been given status and cannot move on in their lives?

**Mr. Aidan O'Driscoll:** That figure is 729.

**Deputy Catherine Connolly:** There are 729 children who have received status one way or



another and cannot move out.

**Mr. Aidan O'Driscoll:** In my opening statement I said that we are very actively trying to work on facilitating them to move on-----

**Deputy Catherine Connolly:** I am sure that is the case but there is a major housing crisis.

**Mr. Aidan O'Driscoll:** We are working with NGOs and local authorities on that.

**Deputy Catherine Connolly:** I understand that but all of this was foreseeable. Is that not the case? It was foreseeable that asylum seekers would get status and would move out to get on with their lives.

**Mr. Aidan O'Driscoll:** Of course, yes.

**Deputy Catherine Connolly:** At the moment, we have a system that is clearly in crisis. How much is it costing?

**Mr. Aidan O'Driscoll:** The allocation for this year was over €70 million for accommodation but the cost will be well in excess of that.

**Deputy Catherine Connolly:** Is that for 2018 or 2019?

**Mr. Aidan O'Driscoll:** I am talking about 2019.

**Deputy Catherine Connolly:** We were looking at the 2017 accounts when the allocation was €67 million.

**Mr. Aidan O'Driscoll:** It was €67 million and then €77 million in 2018 but my guess at this point is that it will be up around €95 to €100 million this year.

**Deputy Catherine Connolly:** The figure increased from €67 million to €77 million and will be between €95 million and €100 million this year. There are 729 children who have status and should not be in direct provision. Let us return to chapter 6 of the Comptroller and Auditor General's report, which deals with procurement and management of contracts for direct provision. At the time, he stated the contract was not going out to tender and the Department disagreed in the sense that it was a negotiated procedure.

**Mr. Aidan O'Driscoll:** Yes.

**Deputy Catherine Connolly:** If I am wrong at any point, I ask Mr. O'Driscoll to correct me. It was a question of getting value for money. The Comptroller and Auditor General was highlighting that it was not going to procurement for private providers but that the Department was going through a process of inviting expressions of interest and so on before negotiating an agreement. He pointed out clearly in that chapter that the conditions or criteria necessary for the negotiated procedure were not in place. However, the Department proceeded with the negotiated procedure in any event and took issue with the Comptroller and Auditor General at the time. I believe those recommendations were made in 2015. What has changed since then? Has the Department changed its negotiated procedure?

**Mr. Aidan O'Driscoll:** We have, yes.

**Deputy Catherine Connolly:** When did it change it?

**Mr. Aidan O'Driscoll:** We are now, this year, in the process of putting out a series of regional tenders. We are in mid-process at the moment in relation to the provision of these facilities all around the country. We are doing it region by region because it is a policy to-----

**Deputy Catherine Connolly:** Why did the Department wait until now? The recommendation was made in 2015 and it is now 2019. The Department is only now using procurement when this issue was raised by the Comptroller and Auditor General a long time ago.

**Mr. Aidan O'Driscoll:** Obviously, it would take a while for cases where contracts were already in place. We did move to tender provisions previously but we are now rolling it out throughout the country for all additions.

**Deputy Catherine Connolly:** When did the Department move to tenders previously for direct provision?

**Mr. Mark Wilson:** I will clarify the differences between the different tender processes. There is a process for the State-owned centres-----

**Deputy Catherine Connolly:** No, I understand all of this. Correct me if I am wrong but there is a process for State-owned centres, where that is contracted. It is done by procurement and companies or people are brought in to run the services. Then there is direct provision which is not done by procurement and the Department enters into a negotiated agreement. That issue was raised back in 2015. I have moved on from that and am asking what changes have been made. I am being told the Department is going to go to procurement.

**Mr. Aidan O'Driscoll:** From early 2018, we were working with the Office of Government Procurement in developing the requirements for the new commercially-run centres. They were to incorporate the recommendations of the McMahon report, particularly around improvements in respect of services for families.

**Deputy Catherine Connolly:** We all know that. We have heard all this before and we have read the reports. I know the changes the McMahon report recommended. The Ombudsman has reported on the issue. I am specifically talking about how one ensures there is value for money if the Department is not using procurement.

**Mr. Aidan O'Driscoll:** We are.

**Deputy Catherine Connolly:** The Department is now.

**Mr. Aidan O'Driscoll:** Exactly. This is an important point. We are now rolling it out throughout the country. Obviously, it is a process of change from the old system.

On value for money, we are now in a position to start comparing the results of tendering with those from the original approach of negotiation. I do not want to draw a firm conclusion on this yet, but a preliminary conclusion is that there is not a huge saving. It is difficult to judge because we are constantly raising the standards that we require. The standards under the new tender system are higher than they would have been under the old negotiated system.

**Deputy Catherine Connolly:** All of that was identified in the chapter of the Comptroller and Auditor General's report of 2015 in terms of identifiable indicators that could be measured.

**Mr. Aidan O'Driscoll:** As I already pointed out to the Deputy, the numbers have been rising rapidly over the last few years.

**Deputy Catherine Connolly:** They did not rise rapidly. There was a fall in the numbers.

**Mr. Aidan O'Driscoll:** No, there was certainly a significant rise in 2017 and also in 2018. I was not in the Department then, but in fairness to it, when one looks at this objectively, the Department was trying to cope with those increased numbers. It was certainly conscious of the Comptroller and Auditor General's conclusions and did move and has moved to a tender basis now. In that tender basis, it has also moved to the requirement for higher standards within the centres.

**Deputy Catherine Connolly:** Has the Department examined alternative ways of dealing with this issue to ensure people can integrate? What preparations have been put in place to avoid what has happened in various towns? There have been good towns and there were other towns which were also good but where there was not proper communication. What has the Department put in place on that?

**Mr. Aidan O'Driscoll:** We have communications systems in place. In every place where a centre is formed a friend of the centre's organisation is also formed. For instance, there was controversy in Wicklow-----

**Deputy Catherine Connolly:** And in Lisdoonvarna.

**Mr. Aidan O'Driscoll:** -----and friends of the centre was established there. I was told when I visited Mosney that when it was established as a provision centre, there was controversy there but a very active friends of the provision centre was established and helped with relations with the local community.

The Deputy asked if we were looking at alternatives.

**Deputy Catherine Connolly:** Proactively.

**Mr. Aidan O'Driscoll:** Yes, we are doing so proactively.

**Deputy Catherine Connolly:** Good.

**Mr. Aidan O'Driscoll:** However, we are doing it with people who know about these things, namely, non-governmental organisations, NGOs, housing associations and so on, to see if there are other approaches. We would love to have NGOs and housing associations involved in the provision of this kind of accommodation. That would be a really positive development and we are very open to that.

**Deputy Catherine Connolly:** That is a change, which I welcome. Unfortunately we are now doing that in the middle of a housing crisis. It is, however, a welcome change.

There are many more questions I would ask but I will finish as I am nearly out of time. I will jump to the issue of the forensic science laboratory and the money that was saved. I refer to page 19, which states there was an estimate and refers to procurement. The outturn was much less than the allocation and savings were achieved. I understand the enabling works were done with a view to building a new facility because this is a converted office that is not fit for purpose. Is that putting it too strongly?

**Mr. Aidan O'Driscoll:** I have not had an opportunity to visit yet. I am going there next week but I believe the facilities are not adequate, clearly.

**Deputy Catherine Connolly:** Obviously that was all agreed and a plan put in place, and that plan seems to have gone off the rails, does it not? There is an underspill in the-----

**Mr. Aidan O'Driscoll:** No, the situation in respect of the forensic science laboratory is that there is a tender out for the main building works and for the mechanical and electrical works.

**Deputy Catherine Connolly:** The note stated that the construction of the laboratory would get under way during 2018. That did not happen.

**Mr. Aidan O'Driscoll:** The enabling works, as the Deputy herself pointed out, were-----

**Deputy Catherine Connolly:** Let us not play with words now. The construction of the laboratory was to get under way. Did the construction-----

**Mr. Aidan O'Driscoll:** To be fair, I would think enabling works are actually part of a whole construction project. The enabling works have been done, as the Deputy correctly said. The tender results may well be in. The OPW is managing this.

**Deputy Catherine Connolly:** Who can answer the question about the tendering?

**Mr. Aidan O'Driscoll:** There are two tenders, one for the main construction and one for mechanical and electrical works. Both of those are out. We will see when they come in what the total cost of the project will-----

**Deputy Catherine Connolly:** I understand there was a tendering process, or an expressions of interest process, and nobody showed an interest. It is being indicated that is not correct. When did it start? That is great. Mr. O'Driscoll will give us a clarification note on this. When are the enabling works expected to be completed? Have they been completed? Are we now going up or down?

**Mr. Aidan O'Driscoll:** The enabling works, as far as I know, are substantially completed. The OPW is directly managing the project. On the procurement process for the main building, the tender commenced in January of this year and mechanical and electrical procurement followed in February. We are there now but I have to say to the Deputy that out of these tenders will come a bill and we have to see now if we can pay it, whether it can fit into the capital budget. That also has to be-----

**Deputy Catherine Connolly:** Is this one of the projects that was marked as being affected by the children's hospital? I cannot recall.

**Mr. Aidan O'Driscoll:** To be honest, there is going to be no direct impact on this by the children's hospital. The delays-----

**Deputy Catherine Connolly:** Just to clarify, was it one of the projects that was identified?

**Mr. Aidan O'Driscoll:** The savings that would occur anyway can of course be recycled into the children's hospital but there is no impact on the development of the forensic science laboratory by the children's hospital.

**Deputy Catherine Connolly:** There is no delay.

**Mr. Aidan O'Driscoll:** No.

**Deputy Catherine Connolly:** Mr. O'Driscoll is going to give us a note on tendering and

when it is likely to be constructed. What I should have started out with was procurement, which is on the front of the accounts. It is in page 3, where 39 of them are set out.

**Mr. Aidan O'Driscoll:** For 2017, yes, 39 supply agreements-----

**Deputy Catherine Connolly:** To a value of €6 million plus.

**Mr. Aidan O'Driscoll:** A value of €6.6 million. There is a slight reduction in 2018, down to €5.9 million.

**Deputy Catherine Connolly:** Good.

**Mr. Aidan O'Driscoll:** Why they arose-----

**Deputy Catherine Connolly:** How many projects in 2018 for the €5.9 million?

**Mr. Aidan O'Driscoll:** The figure is 33.

**Deputy Catherine Connolly:** Mr. O'Driscoll can go ahead.

**Mr. Aidan O'Driscoll:** Of the 39, 15 related to sole supplier contracts. These are mainly things related to forensic science, in fact, and ICT, which is a normal issue with those kinds of contracts. Two were specialist but they were very small and only amounted to €74,000 so they are not a significant factor here. The main other element was 22 contract extensions. That amounted to €4.3 million. My understanding is that these arose for a variety of reasons. One was legal delays in respect of putting contracts in place. Another was delays in putting in place the Government cloud arrangement in particular and some delays in putting in place Office of Government Procurement, OGP, frameworks. As the OGP frameworks have rolled out, most Departments are gradually converting to their use but there was some delay in the roll-out. The progress in 2018 is significantly due to the availability of contracts under the OGP framework.

**Deputy Catherine Connolly:** It has gone down to €5.9 million for 2018. It is not a huge reduction.

**Mr. Aidan O'Driscoll:** I accept that it is not a huge leap but we are going in the right direction. We have established a specialist procurement unit within the Department and between that and the OGP frameworks, I am hopeful about the future direction. I am reluctant to make firm promises.

**Chairman:** Just to confirm, following on from that, in respect of the forensic laboratory, Mr. O'Driscoll said the main contract and the mechanical and electrical contract went out to tender in January or February. When is that process expected to be completed and a contractor appointed? When is a contractor expected on site and what is the expected completion date? Mr. O'Driscoll can send us a note on the different timescales.

**Mr. Aidan O'Driscoll:** If I may, I will discuss it with the OPW and give the committee a note. I want to repeat the point I made. We make estimate provisions for all of these large capital projects. We now will see what the actual tender shows. We are working within fixed multi-year capital envelopes, as the committee may be aware. We now have to fit projects within those envelopes.

**Chairman:** The Secretary General is saying there is no absolute final decision to proceed and it is all pending the facts.

**Mr. Aidan O'Driscoll:** The position is that until one signs a contract, one is not there. These are necessary steps for us. Of course we are fully committed to the project. I have already said that the existing facilities for forensic science are clearly inadequate and it is a high priority. As the Accounting Officer, I am required to manage the budget, as the Comptroller and Auditor will confirm.

**Chairman:** The Secretary General will give us a note including that caveat.

**Mr. Aidan O'Driscoll:** We will absolutely do that.

**Chairman:** Deputy Farrell is scheduled to be the next speaker but he is not here at present. I call Deputy MacSharry.

**Deputy Marc MacSharry:** I will indicate for a second round if I can. I do not have many questions specific to the Vote we are considering this morning so I will be going a little bit off the reservation after my initial questions. Like Deputy Connolly, I congratulate the Department on a clear audit opinion and offer continued good wishes to the new team at its helm. I said in private session that I did not have a question relevant to the immigration side but I do have one. I am totally in favour of us playing our global part in terms of the acceptance and welcome of refugees. They are very welcome. In terms of their placement, I am conscious that there has been procurement of locations in Moville, County Donegal and in Roosky, County Roscommon, to prepare for this. It seems logical that larger towns and cities might be better placed to seamlessly integrate and welcome different nationalities. Is demographic analysis done to inform decisions to place a large number of refugees in a small location like Roosky or a relatively small location like Moville, as opposed to the likes of Letterkenny, Roscommon, Sligo, Athlone or Dublin? Again I emphasise that they are very welcome.

**Mr. Aidan O'Driscoll:** It is a very fair question. The tenders we are doing at the moment, as I said earlier, are done on a regional basis. We run a tender for a segment of the country, for example for two or three counties. We then have to see who comes forward in those counties with an offer.

**Deputy Marc MacSharry:** Our hands are kind of tied because of tendering, then. Is that the case?

**Mr. Aidan O'Driscoll:** I would not put it that strongly but we have to respond to what is tendered.

**Deputy Marc MacSharry:** Can I ask if the Department might consider what other options are available? That methodology is flawed and probably feeds what can sometimes be accused of being racism, although I do not believe it to be racism, where smaller locations are anticipating that a former hotel or other large building might contribute to their recovery in terms of tourism in the future. We need to prioritise where the people we are welcoming are going, for them to have the maximum ease while at the same time not upsetting the demographic balance of a particular small location. I know the witnesses do not have an answer today but perhaps they could take it on board.

I want to divert to other matters. I know the clerk will be concerned about this but it is in the interests of using our time most efficiently. Neither the witnesses nor the committee is in a position to have the delegation before us as regularly as all of us might like. I will put some points on record with respect to the Irish Prison Service. Following our meeting on 17 January, I was accused on the public airwaves by the Prison Officers Association, POA, of seeking to



shut down the mess committees. I am also informed that briefings are being held by the POA in prisons throughout the country, with members being told not to communicate with Deputies and that I in particular was seeking to shut down mess committees. It is totally incorrect to say there was any move to shut down facilities available to hard-working prison officers for hot meals and I would be to the fore in opposing same. That is not to confuse my wish for the appropriate procedures to be in place. I thought it peculiar that the Prison Officers Association would take to the national airwaves or provide a briefing in this way when in the same meeting I was highlighting issues of critical importance, such as sexual harassment, career blocking and illegal surveillance of that association's members. Nevertheless, it is what the association chose to do. I am on the side of the ordinary prison officer but, in line with our constitutional responsibility in here, I am also on the side of appropriate procedures and protection for staff and so on.

As a result of the meeting of 17 January relating to the prison service and subsequent research, I am concerned there may be a parallel investigative, judicial and enforcement system in operation across and within individual prisons when it comes to alleged wrongdoing by prison staff. Therefore I have a number of questions for the Secretary General, although I fully appreciate that he does not have the Irish Prison Service team with him today. I accept fully that he may not be in a position to answer questions and if he is not, we can move on and perhaps he can revert to us, preferably in writing. When will the report of the preliminary investigation carried out by the Inspector of Prisons arising from section 31(2) of the Prisons Act 2007 be published?

**Mr. Aidan O'Driscoll:** We have received the report. As is appropriate, we are examining it and it is being sent to the Attorney General for that examination. It will then go to the Minister once we have the Attorney General's comments and so on. The Minister is required to lay it before both Houses of the Oireachtas and publish it. It will follow very quickly from that. I cannot give the Deputy an exact date but it will not be-----

**Deputy Marc MacSharry:** Is there a ballpark date? Will it be a month or two months or in the next session?

**Mr. Aidan O'Driscoll:** It is in that sort of ballpark but I do not want to give the committee a definite date.

**Deputy Marc MacSharry:** All right. It will be some time between now and October then. From the committee's perspective, the sooner the better in that regard. In Mr. O'Driscoll's response to issues raised at our meeting of 17 January, he confirmed with regard to surveillance the use of firms for approximately €18,000 in one case and €10,500 in another. He went on to state "It is not possible from the information available to determine if these payments relate to the surveillance of prison staff." He further states that he had sent the invoices to the Inspector of Prisons, and I presume that is to assist with her investigation. Why would he not have asked the surveillance companies in question to inform the answer to us and why would he not have contacted the head of operations of the Irish Prison Service, who is the line authority for the approval of such expenditure?

**Mr. Aidan O'Driscoll:** The Deputy is now getting into the substance of the Inspector of Prisons report, in effect, and she is looking at all these matters. I really would not be comfortable getting into that matter. It is beside the point that we are here to deal with the justice and equality side-----

**Deputy Marc MacSharry:** I outlined at the beginning that I appreciate those factors but I

am trying to use all our time efficiently.

**Mr. Aidan O'Driscoll:** I accept that and I will not hide behind these facts. Nevertheless, the Deputy is now getting into issues that have been dealt with by the Inspector of Prisons in her report and I really must allow the process to play out.

**Deputy Marc MacSharry:** Okay. Irrespective of her report, these questions arise, so I ask the witness to note them and revert to us. I presume he is suggesting that for legal reasons, he cannot go there currently. Is that a fair assessment?

**Mr. Aidan O'Driscoll:** Again, I am not hiding behind legal advice or anything. The Inspector of Prisons was asked by the Minister to undertake the process of writing a report and it is now under consideration by the Attorney General and Department staff. It will go to the Minister shortly and that process must play out.

**Deputy Marc MacSharry:** All right. The Secretary General is saying these matters may have direct relevance to her report so he cannot answer. Okay. At a previous meeting, between the Department's last appearance before the committee, I alluded to the fact that documentation arrived anonymously to me at Leinster House some weeks ago. I said I would seek legal advice on same and I have. The contents of this documentation are a matter of major concern for me. I do not want the clerk to panic at this stage and nobody is going to be named here. I do want to make a point, however, and I have taken legal advice on what I am about to say.

These appear to be a list of profiles of people who may have been and may still be serving prison officers or contractors. It includes what I would describe as personal detailed information and allegations of wrongdoing. The documentation gives detailed accounts of movements of a person or persons in areas outside a prison environment with dates, times, addresses and vehicle registration numbers. The providence of this information, according to these documents, if genuine, would implicate the operational support group of the Prison Service in surveillance and intelligence gathering outside the prison environment. As a result of the nature and content of these documents, which are here, I will today forward a copy to each of the Garda Commissioner and the Data Protection Commissioner as the relevant authorities. Naturally, this is a matter of major concern to me, as I assume it is to the Secretary General.

The Chairman should stop me whenever my time is up as I want to come in for a second round. Is the Department or the Irish Prison Service, to the witness's knowledge, aware of an instance of a Prison Service employee with responsibility for stores in any of our prisons whom it is alleged has sold prison stores items on the Internet? Can he confirm whether this person was simply allowed to resign as opposed to being subjected to the appropriate Garda investigation, prosecution, penalties and loss recovery to the State? If the Department is not aware of such an instance, will Mr. O'Driscoll make all the necessary inquiries?

**Mr. Aidan O'Driscoll:** I appreciate that the Deputy is putting certain issues on the record and he wants to do that today. I am not in a position to speak in detail about prisons issues and that is not the subject matter of today's meeting.

**Deputy Marc MacSharry:** Okay. That is fine.

**Mr. Aidan O'Driscoll:** Let me say this. The Deputy has indicated that he has information about what he regards as significant wrongdoing. If I understand it correctly, he has said he is reporting it to the Garda, which is appropriate.

**Deputy Marc MacSharry:** No, that concerns a previous matter relating to surveillance. This is a separate question.

**Mr. Aidan O'Driscoll:** In both questions, the Deputy has outlined serious wrongdoing and both should be reported to the Garda, I suggest. It is not extraordinary advice. I am clearly not in a position to talk about-----

**Deputy Marc MacSharry:** It is a reasonable question to the Accounting Officer, as all these matters have financial implications. Could the Department make the appropriate inquiries?

**Chairman:** We are all at a disadvantage, as the Deputy has a document of which we have had no sight.

**Deputy Marc MacSharry:** I alluded to documents that concerned surveillance. These are other questions arising from research.

**Chairman:** The documents in the Deputy's possession relate to security.

**Deputy Marc MacSharry:** That is the surveillance matter. It was an earlier question.

**Chairman:** Yes. Has that been referred to the Garda Síochána?

**Deputy Marc MacSharry:** What are you referring to? It is not clear.

**Chairman:** To be clear, if documentation has been referred to that we have not seen, has it been forward to the Garda Síochána?

**Deputy Marc MacSharry:** The only documentation referred to, apart from my own personal and private research, relates to the previous question. I have outlined and read into the record what I will do in that regard. It will be sent to the Garda Commissioner today. The current question is not related to that documentation at all.

**Chairman:** It is another issue. It is on the sale of items.

**Deputy Marc MacSharry:** I asked if there was an instance where somebody responsible for stores in the Prison Service was selling items on the Internet from those stores for personal gain, and whether that person was allowed to retire or resign without the appropriate Garda investigation. If the answer is "I am not aware of that", I am simply asking whether the Department will carry out the necessary inquiries. I have a number of questions along these lines. If my time is up, there is no problem and I will stop and come in the next time. The witness did not say it was nothing to do with him. He said I should go to the Garda if I had information. I am going to the Secretary General of the Department, which is perfectly reasonable.

**Chairman:** Does the Deputy have documentation he can give to Mr. O'Driscoll to assist him in the inquiries he is asking him to undertake?

**Deputy Marc MacSharry:** I would have to take legal advice on that. I am wording questions in the way that I can to assist the Secretary General in what I hope might be inquiries that he will make.

**Chairman:** Okay.

**Deputy Marc MacSharry:** Are either the Department or the Prison Service aware of an

instance or instances of prison staff who, outside their prison careers, run private enterprises and supplement the running of same from prison stores? If not, will the Department make the necessary inquiries? I assume the answer may be the same.

**Mr. Aidan O'Driscoll:** We will seek the comments of the Prison Service on anything the Deputy sends to us-----

**Deputy Marc MacSharry:** Clearly,-----

**Mr. Aidan O'Driscoll:** -----but I would repeat-----

**Deputy Marc MacSharry:** Sorry. Go on.

**Mr. Aidan O'Driscoll:** I would repeat my point that if the Deputy has information that indicates wrongdoing, it is appropriate to report that to the Garda also. If the Deputy sends queries to us, we will of course seek answers to them from the Prison Service.

**Deputy Marc MacSharry:** We are putting them on the record now.

**Mr. Aidan O'Driscoll:** That is fine.

**Deputy Marc MacSharry:** That constitutes sending them.

**Chairman:** Our guests can take it that, because it is on the record, the Department has been asked.

**Deputy Marc MacSharry:** Obviously, products are made in prison woodworking shops, metalworking shops, etc. What is the situation with those products? Are they sold? If so, what are the protocols involved? To whom are they sold? Where are the funds lodged? Is the Department or the Prison Service aware of any prison staff member who has availed of prison workshop materials or products and prison staff expertise and manpower paid for by the State to make improvements to his or her personal, family or holiday home? Will inquiries be made about that?

At our meeting of 17 January, I inquired about agency nurses. Mr. Don Culliton stated that there were significantly fewer agency nurses following a recruitment drive. I am not sure that is true. Will the Department inquire? Is it not the case that there is still a substantial amount of agency nurses provided through the agency Cpl Healthcare?

Also at that meeting, the number of instances of sexual harassment was discussed. In the letter following the meeting-----

**Deputy Jonathan O'Brien:** May I say something?

**Chairman:** I might ask Deputy MacSharry-----

**Deputy Marc MacSharry:** Sure.

**Deputy Jonathan O'Brien:** I am a little uncomfortable with the line of questioning. I do not want to stop the Deputy, but a number of serious allegations are being put on the public record without any verification. If that is what Deputy MacSharry wants to do, it should be made clear that he is doing so in an individual capacity and that the committee is not putting them on the record.

**Chairman:** I accept what Deputy Jonathan O'Brien is saying. I will give my view at this point. When Deputy MacSharry has completed his questioning, we will make a decision, but from where I, as Chairman, sit, if allegations of criminality have been made, I will direct that the committee send them to the Garda Síochána directly because-----

**Deputy Jonathan O'Brien:** The committee does not have that information. It is one individual on the committee who has it.

**Chairman:** No. Not only are the questions directed at Mr. O'Driscoll to make inquiries, but I am the Chairman of the committee and that request to him is coming through me. I will seek assistance from the committee but, given the nature of what has been said, I cannot ignore it. If a suggestion of criminality is made at a meeting that I am chairing, I have a duty to send a transcript of what has been said to the Garda Síochána to take the matter up with whoever might have information on it. Deputy MacSharry will understand that what he says-----

**Deputy Marc MacSharry:** In respect of what-----

**Chairman:** I will have to send a transcript. I will be sending the transcript of what has been said to the Garda Commissioner because-----

**Deputy David Cullinane:** That is reasonable.

**Chairman:** I cannot have that said at the Committee of Public Accounts. If there is substance, I cannot stop it, but if it is said at the Committee of Public Accounts on the public record, I have a duty as Chairman, given the suggestion of criminality, to send the transcript to the Garda Commissioner for his action afterwards. I just want us all to understand. Mr. O'Driscoll will consider doing the same - that is up to him - but I know what I have to do as Chairman.

Deputy MacSharry should complete his questioning. It will be on the record and the transcript will be sent on.

**Deputy Marc MacSharry:** Is my time up? I do not want to eat into anyone's time.

**Chairman:** The Deputy is done for the moment, but he is due to come in again. As soon as the transcript is available, I am insisting that it be sent to the Garda Commissioner.

**Deputy Marc MacSharry:** That is fine. I will take my own legal advice. I have not mentioned names and no one has been made identifiable by anything I have said.

**Chairman:** No.

**Deputy Marc MacSharry:** I have been careful, but I also have a responsibility to do the best job possible. All of these issues have financial implications for the State. That is why I am using this opportunity to put them on record. I would be grateful if the Garda took an interest in the transcript of today's meeting. I would say the same of the Department of Justice and Equality. That is why I am asking whether the Department will make the necessary inquiries. I do not want to take an adversarial position with the Secretary General on this matter, but prudence demands that these matters be examined. They are reasonable questions.

**Chairman:** I will say for the benefit of the Secretary General and the Deputy that, regardless of what the Department does, these suggestions have been made at a meeting that I chair and I will send the transcript to the Garda Commissioner. The Secretary General is free to do what he chooses, but I know what I will do as Chairman.



We will move on. Deputy Catherine Murphy has had to leave for a moment. I will slot her in as soon as she returns. Deputy Cassells is next.

**Deputy Shane Cassells:** I welcome the Secretary General and his colleagues. There are 5,980 people in accommodation centres and 517 in hotels, totalling 6,497. I believe Mr. O'Driscoll stated that these figures had probably increased. The growth figures outlined in his opening statement are significant. He stated that Ireland had committed to receiving 4,000 persons under the refugee protection programme. How many are anticipated in 2019?

**Mr. Aidan O'Driscoll:** So far, we have admitted to Ireland 2,374 under those programmes and there are commitments to a further 1,300 approximately, which would leave a gap of 300 or so to reach the 4,000 figure. In principle, it is possible that all of them could arrive in 2019. Realistically, some of them will spill into 2020.

**Deputy Shane Cassells:** Mr. O'Driscoll spoke about the procurement process and the challenges it posed. In that context, has the Department identified through its engagements properties that would allow it to take that amount of people this year?

**Mr. Aidan O'Driscoll:** Yes. We are under pressure on all fronts. The refugee programme may pose less of a problem in the sense that we can at least anticipate who is arriving and when. It is done through refugee programmes with a variety of UN and other bodies. We will know that, for example, 40 people are arriving and what their family configurations are. We can ensure that appropriate housing is available. That is quite different from the asylum seeker situation where someone just turns up at Dublin Airport or the Irish Naturalisation and Immigration Service, INIS, office on Burgh Quay. We have no forewarning, but the person has to be housed that night. They are different challenges. I am not saying that the refugee programme is easy to manage, as it is not, but it does not pose the same challenges in terms of immediacy of response that the asylum seeker situation does.

**Deputy Shane Cassells:** I suppose the challenges in tendering arise because the process of asylum seekers approaching the Department is reversed compared with the refugee protection programme. Mr. O'Driscoll spoke about the communication process with local authorities and working with them. He also mentioned the pressures in the Department's accommodation system, which was putting it mildly. In terms of the challenges that the Department experiences from place to place, does it work with local authorities regarding expressions of interest from properties, their suitability and the potential sensitivities in order to avoid the types of incident that have occurred previously?

**Mr. Aidan O'Driscoll:** Yes. There is a great deal of engagement. When a centre is identified or offered, there is engagement with local authorities, health services and so on. I ask my colleague, Mr. Wilson, to expand on the matter a little.

**Deputy Shane Cassells:** Before that happens, I will speak to the point a little more. We have heard in the case of these sections of the community - I only say sections because it is not reflective of all of the community - things being cited such as medical, education and childcare issues as reasons for non-suitability. Let us say there is engagement with the CEO in Roscommon, the director of housing in that area or the local government management association nationwide and that they say yes, that they do fit into the suitability criteria and that the Department is able to come out, front and centre, before the protests happen in the first instance. I am interested in hearing about that matter.



**Mr. Aidan O'Driscoll:** I will leave Mr. Wilson go first. I will then comment.

**Mr. Mark Wilson:** On the procurement process, the tenders are considered and a framework is put in place. When the tender process for a given region starts, we inform the CEOs of the various local authorities.

**Deputy Shane Cassells:** Yes.

**Mr. Mark Wilson:** The first of the frameworks is being formed. We have a committee that is being pulled together and that will meet for the first time next week. It includes the representatives of the LGMA, the HSE, the Department of Education and Skills and the Department of Employment Affairs and Social Protection to consider how and when information can be provided at the earliest point, the relevant services that can be engaged to look at the issues involved, including communication with communities and relevant service providers on health and education services.

**Deputy Shane Cassells:** Therefore, there is positive engagement by the CEOs of the local authorities in that respect.

**Mr. Mark Wilson:** In the past two months we have met the County and City Management Association, CCMA, to discuss the work of the Reception and Integration Agency, RIA, particularly in respect of those with status. Within that forum we discussed the challenges of the procurement model and how communication with the local authorities could be improved.

**Deputy Shane Cassells:** Mr. O'Driscoll clarified for Deputy Connolly that there were 38 centres, 31 of which are commercially owned, while seven are State-owned, for the 5,980 people in the direct provision system and that the cost last year was €77 million, that, potentially, will rise to €100 million this year. There is the additional cost of maintaining 517 persons in hotel accommodation.

**Mr. Aidan O'Driscoll:** The latest headline figure is about €38 per person per day in the accommodation centres. In 2017 I think the figure was about €35. For hotel accommodation, it is difficult to give a figure because, obviously, there are different rates.

**Deputy Shane Cassells:** What was the cumulative figure in 2017 and 2018?

**Mr. Aidan O'Driscoll:** The cumulative figure for 2018 was €890,000 for emergency accommodation.

**Deputy Shane Cassells:** Was that the cost for 517 persons?

**Mr. Aidan O'Driscoll:** It is the cost for the current number of persons.

**Mr. Mark Wilson:** We began to use emergency accommodation in September when we expected to only use a small amount of it.

**Deputy Shane Cassells:** September 2018.

**Mr. Mark Wilson:** Yes. We expected to use it for a short period in Merville and Roskeel. Unfortunately, work on the centres did not progress and the numbers increased such that we had about 250 by year-end. That number has since increased to 517.

**Deputy Shane Cassells:** Was the figure quoted, €850,000, the cost in the period September to Christmas 2018?

**Mr. Mark Wilson:** Yes. The cost for the year to date is €3.4 million.

**Deputy Shane Cassells:** Does that figure include the cost in the September to Christmas period or is it cost between January and March?

**Mr. Mark Wilson:** It is for the first quarter, January to March.

**Deputy Shane Cassells:** Was the €3.4 million spent on hotel accommodation?

**Mr. Mark Wilson:** Yes.

**Deputy Jonathan O'Brien:** Was it spent in accommodating 517 people?

**Mr. Mark Wilson:** That is correct.

**Deputy Shane Cassells:** Let us consider the Department believed it to be only a short-term measure prior to Christmas because it had anticipated housing people in direct provision centres. Were these figures anticipated? Are they scheduled costs for the Department? If that was the cost in the first quarter of the year, potentially, it will cost between €12 million and €14 million more to provide accommodation in hotels for the full year.

**Mr. Aidan O'Driscoll:** As the Deputy knows and as I said earlier, it is quite clear that we will well exceed the budget foreseen for the whole year. We are working on a figure of €95 million to €100 million, but it is still early in the year. It is really important to understand the point I made about the asylum system. Literally, people turn up at the airport-----

**Deputy Shane Cassells:** I appreciate that.

**Mr. Aidan O'Driscoll:** -----or at the front door on Burgh Quay and we have to cope. It is very challenging at the best of times, but obviously in the context of the housing problem-----

**Deputy Shane Cassells:** It is made more challenging by it.

**Mr. Aidan O'Driscoll:** With rising numbers, it is particularly challenging.

**Deputy Shane Cassells:** How many hotels are there on the books for the Department?

**Mr. Mark Wilson:** Sixteen.

**Mr. Aidan O'Driscoll:** Sixteen.

**Deputy Shane Cassells:** I go back to the comments made about identified properties. We see the challenge the Department is facing. Mr. Wilson said using hotel accommodation was a short-term solution. That was in September and already the numbers are growing. Owing to the challenges being faced by the Department, my fear is that it will become a long-term solution. From January to March, the cost was €3.4 million. As the Secretary General rightly said, there is a housing crisis. In identifying suitable accommodation will the hotel aspect become like the housing assistance payment, HAP, scheme when suddenly the cost will spiral out of control? We have the perfect storm with the housing crisis being compounded by the challenges facing the Department in identifying suitable properties such that hotels are becoming a solution when people present. Only God knows to what the cost could rise by the end of the year. In meeting the challenges encountered by the Department on a daily basis I am afraid that using hotel accommodation has become an option. Is my assessment correct? What is the Department's long-term strategy to nip the problem in the bud to prevent using hotel accommodation from

becoming a crutch in the way the HAP scheme has in dealing with the housing crisis?

**Mr. Aidan O'Driscoll:** The Deputy has articulated clearly some of the challenges we are facing. We do not want to provide emergency accommodation in hotels. We do not want to be involved in that business. It is not what we want to do. I hope the regional tender processes in seeking accommodation solutions will result in increased capacity to deal with the increased numbers we are facing.

In answering Deputy Connolly I did say - I also made the point in my opening remarks - that we had to be open to considering other solutions which would be completely different. They include engagement with NGOs, housing associations and so on on what accommodation they might be able to offer.

We have another problem. The number in hotel accommodation is over 500, while the number with status in our system is over 700. Based on simple mathematics, if we were able to move more people with status into normal housing, we would not be involved in the hotel business.

**Deputy Shane Cassells:** I will come to that issue.

**Mr. Aidan O'Driscoll:** That is the other side of the coin.

**Deputy Shane Cassells:** On the 38 properties, will the Secretary General outline the hierarchy in terms of size? What are the top three in terms of capacity? Is there a limit on the size of centres in order that capacity will not exceed X amount?

**Mr. Aidan O'Driscoll:** I will pass that question to Mr. Wilson.

**Mr. Mark Wilson:** The largest centre is in Mosney.

**Deputy Shane Cassells:** What is its capacity?

**Mr. Mark Wilson:** It is 600. The Knockalisheen centre in County Clare can provide accommodation for 250, while the centre on the Kinsale Road can provide accommodation for 299. We also have capacity to provide accommodation for 250 in The Towers in Clondalkin. In the centre in Athlone we are providing accommodation for 300.

**Deputy Shane Cassells:** What is the average figure for the 38 centres? Obviously, the centre in Mosney skews the figures.

**Mr. Mark Wilson:** I do not have an average figure. Certainly, very few of our centres are under a figure of 60 to 80. The majority are in the 100 to 200 band.

**Deputy Shane Cassells:** Mr. Wilson mentioned Mosney. That hits the top and it is well above average. What year was Mosney acquired and opened? The campus is significant in size. When was it acquired and when did the facility open?

**Mr. Mark Wilson:** I do not have that information with me, but my understanding is that it was in the early days of direct provision, starting around 2000.

**Mr. Seamus McCarthy:** According my previous report, the date was in December 2000.

**Deputy Shane Cassells:** The Secretary General mentioned the pressures the Department is under. Is the policy to replicate the size that Mosney offers? What is the policy in that respect?

Numerous human rights issues have been expressed about Mosney.

**Mr. Mark Wilson:** The capacity of an individual centre is based on the building itself.

**Deputy Shane Cassells:** There is no policy in terms of the Department being open to any proposals put forward. Is that the case? The Department would not take the view that a centre with a capacity of 600 is too much. Concerns have been expressed previously on human rights issues at Mosney.

**Mr. Mark Wilson:** There has not been a need to consider that.

**Mr. Aidan O'Driscoll:** I wish to come in here on the reference to human rights issues.

**Deputy Shane Cassells:** I will phrase it in a different way.

**Mr. Aidan O'Driscoll:** Please do.

**Deputy Shane Cassells:** That is fine. I am going to drill down into the detail that. This revolves around what we interpret in terms of whether people should be able to have washing and cooking facilities or the security of a front door in their own area as opposed to a central area. We raised these issues during previous meetings of the Committee of Public Accounts. We will raise it again. I come from Meath. The matter has been covered extensively by local media there and so forth. When the centre opened, what was the initial estimate regarding the length of time it would remain in operation? What lease was agreed with Mr. McCluskey? What is the policy for it as a centre in terms of the model of long-term accommodation?

**Mr. Aidan O'Driscoll:** I am not sure if my colleagues have the data. Several points need to be made. First, Deputy Cassells is asking about commercial arrangements with a particular supplier.

**Deputy Shane Cassells:** It is the biggest one.

**Mr. Aidan O'Driscoll:** I will look to the Chairman on that. Is that really appropriate? In any case-----

**Deputy Shane Cassells:** I want to clarify that because I do not want people to misinterpret what I am saying. According to the Comptroller and Auditor General, the cost to the State of hiring that facility up to December 2016 was €101 million to the State. One provider has received €101 million in State funding for one centre housing 600 people. I think I am within my rights to ask about that particular centre. That is my view. Perhaps the Chairman will indicate whether it is fair to do pursue this matter?

**Mr. Aidan O'Driscoll:** I am simply stating that I am unsure we have that level of commercial detail available to us here and now. The Deputy asked about the facilities at Mosney. I am completely new to this so I am casting a fresh eye on it. I only joined the Department six months ago. I visited Mosney. The facilities there for families are not the kind of facilities that we would want people living in long-term. I will come back to that point.

**Deputy Shane Cassells:** I accept refurbishment was carried out. I am saying that previously when we discussed the matter here that was not done.

**Mr. Aidan O'Driscoll:** Significant refurbishment was done and the facilities were very good, it seemed to me, especially around education and health, the fact that people have indi-

vidual doors and can do their own cooking. We have moved to a situation whereby already more than 50% of people in accommodation centres can do their own cooking. We are trying to move to a point where everyone will be in that position. This has, rightly, been a sensitive issue. People want to have that independence of action.

I am keen to make one point though. What is acceptable for accommodation for someone for a short time is different to what is acceptable for someone for accommodation for a long period. Numerous issues intersect here. One relates to standards in the facilities. As has already been pointed out, they are being substantially enhanced. Under the new tender arrangements, the standards are higher again. All involve cooking facilities and so on.

The second point relates to the question the speed with which applications are processed. We go through the International Protection Office, the Refugee Appeals Tribunal and so on. We are also trying to address that. In other words, we are trying to get faster movement through the system so that people do not end up staying in the facilities for a long time. There has been significant improvement in this in recent years, but there is a great deal more to be done. We want to get to a point where people spend a relatively short time – I am referring to periods of months rather than years – in these facilities while they are waiting for a first decision and perhaps appeal to the tribunal. The next step beyond that is where people choose to take judicial review. That is more difficult to predict. We certainly want a situation whereby people are not in these facilities long-term. I am simply making the point that a facility that one would consider acceptable for a short-term period is different from a facility that we would want people to be in long term.

**Deputy Shane Cassells:** I appreciate that.

**Mr. Aidan O'Driscoll:** We completely understand and accept that. That is what we are trying to do.

**Deputy Shane Cassells:** I appreciate that. As stated, I accept that there had been refurbishment at the facility. It was fair to make the point that this took place after significant media coverage in respect of the conditions there. I accept what has been done but I have raised the point previously at this committee that there had been what would be considered subhuman conditions there. The Ombudsman, Peter Tyndall, had previously raised the question of the points system that exists for the purchase of food for families and babies and the cost of baby food as well as what families need to raise children. That had been previously raised by the Ombudsman. That is not a political charge; it was raised by the Ombudsman. I take the view these are fair points to make given the amount of money being spent by the State in the hiring of this centre.

A total of 729-----

**Chairman:** This is the Deputy's final question. He will be able to come in a second time if he wants.

**Deputy Shane Cassells:** I want to decide what question to ask to wrap up. A total of 729 are awaiting status decisions. How many of those people are at that particular centre?

**Mr. Mark Wilson:** I have a figure of 187.

**Deputy Shane Cassells:** That is 187 of the total population of 600 at that centre. Is that correct?

**Mr. Mark Wilson:** Yes.

**Chairman:** Mr. O'Driscoll mentioned the issue of length of time at the various centres. Will he send us a schedule? Can he tell us how many people are in the system for less than 12 months, between one and two years, between two and three years, between three and four and so on? What is the longest period that people are currently in the system? Has anyone been there beyond six or seven years? What is the longest period?

**Mr. Aidan O'Driscoll:** I cannot say there is no one beyond six or seven years, but if there are people beyond that, the number is small. I have some details available.

**Chairman:** Please call them out. We will ask Mr. O'Driscoll to circulate the details as well.

**Mr. Aidan O'Driscoll:** I have a simple table that I will circulate.

**Chairman:** If he is happy to do so, can Mr. O'Driscoll pass that on to the secretariat and we will circulate it in due course? That is provided there is nothing confidential in it. If there is, perhaps he could read out the key figures.

**Mr. Aidan O'Driscoll:** It is a detailed table. We will pass it onto the committee.

**Chairman:** I ask Mr. O'Driscoll to provide the figures. We will ask our staff to circulate the table to the members shortly. People can refer to it as the meeting progresses. The next speaker is Deputy O'Brien, who will be followed by Deputy Cullinane.

**Deputy Jonathan O'Brien:** I wish to look at Mosney. Mosney is not included in the accommodation figures. Am I right?

**Mr. Aidan O'Driscoll:** It is, yes.

**Deputy Jonathan O'Brien:** There is a note in the document I have stating that it will not be included in the accommodation centres only.

**Mr. Aidan O'Driscoll:** Some of my colleagues are far more expert than I and they should feel free to correct me. Mosney is unusual in that it is both an accommodation centre for asylum seekers – what is known as a direct provision centre – and also an emergency reception and orientation centre, EROC, a place where we put refugees for the initial period of adjustment. When they arrive first, they go to a centre and then they move on within a period of months to permanent housing. Mosney has both. Maybe that is what the note is referring to.

**Mr. Mark Wilson:** Yes, the total for re-accommodation is 600 persons, but it has an EROC function separate to that where it has 200 persons.

**Deputy Jonathan O'Brien:** There are 800 in total.

**Mr. Mark Wilson:** Yes.

**Deputy Jonathan O'Brien:** Several centres closed recently. Will the Department provide details as to why they did so? Was it just a case that the contracts were up or that they were not suitable? There was a centre in Dublin 2 with a capacity of 33 which closed in 2017. There was another in Limerick with a capacity of 90 which also closed in 2017. Another centre in Dublin 2 with a capacity of 110 closed in February 2018. A centre in Clare with a capacity of 115 also closed recently.



**Mr. Mark Wilson:** In respect of properties in Dublin, there have been occasions where the contractor has decided to use the premises for other purposes. On at least one occasion, a decision was made not to continue using a particular premises by the RIA due to fire safety concerns. At times, it can be in respect of our decision while, at other times, the contractor chooses to use the building for other purposes.

**Deputy Jonathan O'Brien:** In the latter case, would the contractor have to wait to the end of the lease or can they break it?

**Mr. Mark Wilson:** The contracts would have a break clause in them for either the Department or the contractor. Under the tender process, that is a 12-week period. In each of these cases, there may have been different arrangements in place. The more likely scenario is that the contract came to an end and simply was not renewed.

**Mr. Aidan O'Driscoll:** It may be relevant to add that from September 2017 to December 2018, several new locations also opened with a total capacity of 880. As some fall out, others come in.

**Deputy Jonathan O'Brien:** I accept that several centres have opened at the same time. It is my understanding, however, that no new self-catering centres have been opened. I stand open to correction in that regard. There was also the closure of a self-catering centre in February last year.

**Mr. Aidan O'Driscoll:** As already stated, we have moved to a position where over 50% of people can cook for themselves. That is a steady advance. We hope that by the end of the year, or thereabouts, to have virtually everybody in a position where they can cook for themselves. This involves existing centres converting their facilities. Obviously, that is a challenge for some of them. All of the new centres coming in under the tenders will have that facility. By the end of the year, or thereabouts, we hope every centre will have that capacity.

**Mr. Mark Wilson:** All commercially operated centres will have a requirement under the new tender to have self-catering facilities. We are working progressively with the OPW to put in place those facilities in State-operated centres.

**Deputy Jonathan O'Brien:** Is it policy that there would be a 10% buffer between capacity and occupancy? From my understanding of the figures presented to the committee by the Department, not one of the centres meets this criterion. In fact, some centres are operating at 100% capacity. The lowest capacity I could find is in the HSE southern area at 94%.

**Mr. Aidan O'Driscoll:** The overall average is 97% capacity. It must be remembered that capacity is one matter in terms of number of beds. It is not that simple, however, because families arrive with particular configurations and have to be accommodated. Getting to 100% capacity is quite difficult in a centre. As we expand the number of centres under the tender, hopefully, we can reduce this pressure somewhat. That it is the objective of the exercise.

**Deputy Jonathan O'Brien:** I assume that the objective is not to reach 100% capacity because one would need a certain amount for emergencies, such as dealing with health or fire safety concerns. The target is to be operating at 90% capacity but it is currently at 97%. Will the new centres that will be brought on-stream bring down this figure or will it remain in excess of 90%?

**Mr. Aidan O'Driscoll:** We would definitely hope that it will bring down that percentage. I

return to my earlier point, however. We have to respond to the number of people who turn up and claim asylum. We do not have an accurate way of predicting this. The flows tend to change over time. The objective is to get down to a position where we have spare capacity. That is what one needs to cope with unpredictable demand.

**Deputy Jonathan O'Brien:** Is there any criterion for where the centres are located taking into account population figures? The monthly report provided to the committee for October refers to how many centres are in each location and the occupancy rate as a percentage of the overall population of the area? Is there a criterion that we should not exceed a certain percentage or is it just for information purposes?

**Mr. Aidan O'Driscoll:** It is a little bit of both. We use it for management purposes. We track it, which is sensible for the reasons suggested by the Deputy. At the same time, we have to balance that against the fact that we have to respond to what comes in on a tender. We try to balance these two factors as best we can. Regarding the long-term housing of those who achieve status, an allocation system which reflects population densities and so forth is being developed with the CCMA.

The answer to the Deputy's question on the long-term housing of people is "Yes". On the short-term housing, we do track it but we have to respond to whatever is tendered to us.

**Deputy Jonathan O'Brien:** One of the regular complaints I receive is that if somebody has a grievance or a complaint regarding the management of a centre, he or she must go through a particular process before he or she can approach the Ombudsman. It is my understanding that the first step in that process is to actually forward the complaint to the agency or private company which is running the centre? Will the Department accept that this is not an ideal process because many people would be reluctant to forward any complaints about a centre to the people actually running it?

**Mr. Mark Wilson:** There is a four-stage process relating to complaints whereby a resident can make an informal complaint to the manager, a formal complaint to the manager, a formal complaint to the RIA and then one to the Ombudsman. It is open to the resident to go directly to the Ombudsman should they so wish. The Ombudsman visits most centres and did so in 2018. He found that most of the issues being brought to his attention were able to be resolved locally with the local manager at the point in time when he visited the centre. As to whether there is a culture whereby it is difficult for residents to complain, it was referred to in the last Ombudsman's report. However, it was qualified by stating there was no evidence available to him to confirm that concern.

**Deputy Jonathan O'Brien:** The most recent data I could get my hands on for referrals to the Child and Family Agency dates all the way back to 2014. I do not know if there are more up-to-date data but, if there are, perhaps the Department could provide them to the committee and to me.

There was huge variation in the percentage of referrals of children within direct provision centres compared with children outside of direct provision centres. In other words, 14% of the population of children living in direct provision centres would have had referrals to the Child and Family Agency, which was significantly higher than the percentage for those not within direct provision centres. Do we know why there is that wide variation?

**Mr. Mark Wilson:** Again, I do not have the statistics available to me but I will get them

for the Deputy. We reviewed our child protection policy after the Children First Act 2015. The managers of a centre have become the mandated persons for the purposes of making referrals to the Child and Family Agency. We have provided training to those managers and a practice document in support of that. Effectively, the centre manager, as the mandated person, makes the referral to the Child and Family Agency.

**Deputy Jonathan O'Brien:** Some 14% of children living in direct provision are being referred whereas the corresponding figure for children not living in direct provision centres is 1.6%, so we can see there is a huge variation. With regard to the types of referrals and whether they would reach the threshold for an initial assessment to be done, in direct provision centres the figure stands at 85% and outside direct provision centres it stands at 50%. In my opinion, from reading the information we have, there is an issue which needs to be addressed. What steps are being taken to try to address this?

**Mr. Aidan O'Driscoll:** First, the people in direct provision centres are asylum seekers. Many of them have come through quite traumatic experiences and we are very conscious of that. This would obviously apply to the children as much as to the adults, and they may have experienced any number of challenges in their young lives. For that reason, we have a specific child protection policy for accommodation centres. Child safeguarding statements are published, and so on, and accommodation centres which have children provide a whole series of facilities for them. Of course, there is direct engagement with the HSE and Tusla around children's services. The higher level of referrals is something we should be very concerned about but it may also reflect, to some extent, proactivity in dealing with the challenges that we know people in our centres have, which is very important. This applies to adults but it particularly applies, in the context of the Deputy's question, to children.

**Chairman:** For the information of people watching, I thank the witnesses for the schedule they circulated regarding the number of people in direct provision and asylum centres. We will note and publish this today. We asked for figures on the various lengths of stay and this relates to the 6,093 people in the centres, 289 of whom have been there for more than four years, 146 for more than five years, 65 for more than six years and 142 for more than seven years. I want to put that on the record for information purposes and we will circulate that schedule. I call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** I apologise if I am going over territory that has been gone over already. It is because I had to leave the room to attend another meeting.

I want to refer to page 3 of the opening statement in regard to data protection. Many multinational companies have their European headquarters in Ireland and they are particularly in the area where data and data protection is a very prominent issue. We are essentially the European regulator, not just the Irish regulator. Is there work going on in regard to scoping out that obligation, given it is a big obligation? Are there any indicative costs associated with that?

**Mr. Aidan O'Driscoll:** Yes. The Office of the Data Protection Commission became the Data Protection Commission, DPC, under the new Act, and there is a subtle difference. In the transition from one to the other, detailed work was done on what were the responsibilities that would fall on the Data Protection Commission in Ireland in the context of the new GDPR. That was done and there was very rapid expansion in funding for the DPC which, as I indicated in my opening statement, went from €1.9 million in 2014 to €19.5 million in 2019. One would be hard put to find any other agency that has had a scale of increase in funding of that sort. That has mainly been around providing additional people with specific skills for the DPC because of

the role the Deputy has just mentioned.

We are very conscious, first, that the DPC has a role in regard to advising all companies and proactively dealing with complaints and so on, and it received some 4,000 complaints in 2018, if I remember correctly. In regard to activities in Ireland, these are the normal DPC functions that one would expect. However, we are also very conscious, obviously, and the DPC is very conscious, of its responsibilities in the context of these companies being headquartered here. The Deputy was right to say the DPC has to take a lead role in the EU and is seen as the lead in the EU in that data protection regulation role.

**Deputy Catherine Murphy:** On the data protection area, I am curious about the extent of the independence of the Data Protection Commissioner. Yesterday, the communications committee was told it would not be able to release a report into the public services card until it got the go-ahead from the Department of Employment Affairs and Social Protection, which is the lead Department in that regard. Has Mr. O'Driscoll concerns about the confusion as to whether this card can be extended? Is that costing money? There has been some flip-flopping as to whether it is required.

**Mr. Aidan O'Driscoll:** I am familiar with the public services card more from my previous role in the Department of Agriculture, Food and the Marine. The public services card is, frankly, the responsibility of another Government Department so I could not really comment on its development. There is a very wide take-up of the public services card, perhaps wider than many people recognise. However, the answer to the question, I am afraid, is that I am not in a position to give a view on that.

**Deputy Catherine Murphy:** I want to cover a few other areas, some of which have been covered already, including that of direct provision and-----

**Mr. Aidan O'Driscoll:** I understand I made a misstatement. The figure for the DPC in 2019 is €15.2 million whereas I may have said something else.

**Deputy Catherine Murphy:** Page 16, on Vote 24, deals with the Garda Síochána Ombudsman Commission, GSOC. There was a saving of €800,000 due to not proceeding with an investigation into wrongful cancellation of fixed charge notices. My understanding is there are queues of work for GSOC. Could those funds have been used at the time to deal with some of those queues?

**Mr. Aidan O'Driscoll:** There is a saving under that heading but, of course, the Garda Síochána Ombudsman Commission retained the budget. There was a review of its requirements and we have received clearance from the Department of Public Expenditure and Reform to increase its staffing level by 42, which is what it sought. That will give it the capacity to undertake additional inspections or investigations, as the Deputy indicated. However, that does not specifically relate to the fixed charge notice issue which was simply overtaken by events and it was decided, therefore, not to proceed with that particular issue. However, we have provided the additional resources to allow it to undertake the investigations which it must. I do not wish to hog the time, but it may be relevant to state that, of course, the commission now comes under the reform of policing proposed in the report of the Commission on the Future of Policing in Ireland and there will, therefore, be further developments on that front.

**Deputy Catherine Murphy:** I wish to move to an issue within Irish prisons, namely, tuberculosis, TB. The committee is looking at preventable issues, such as claims to the State

Claims Agency. There was a relatively significant outbreak of TB in Dublin prisons, possibly Mountjoy, some years ago. Has there been a change in how such an outbreak is handled? It is a notifiable disease. Were there issues in terms of compensation or isolation as a result of the outbreak? Should the committee raise this issue with representatives of the Prison Service?

**Mr. Aidan O'Driscoll:** The Deputy may not have been present at the beginning of the meeting. We are dealing with the Vote for the Department of Justice and Equality. A few months ago, I and my colleagues from the Prison Service addressed the prisons Vote. Quite simply, I do not have the briefing material or accompanying colleagues from the Prison Service to deal with this issue. I will note the point made by the Deputy and provide her with a written response if that is acceptable.

**Deputy Catherine Murphy:** The committee held a significant number of hearings some time ago regarding Templemore and dealing with the issue of bank accounts. The Prison Service holds certain bank accounts. It seems to have changed bank in 2018-19. Is that something with which the Department deals or is it exclusively within the remit of the Prison Service? For what reason would it change banks? Would it be a value for money issue or prompted by another matter?

**Mr. Aidan O'Driscoll:** I am unsure exactly to what the Deputy is referring. I do not wish to repeat myself, but prisons is a separate Vote. I am the Accounting Officer for it. There is a separate Vote for the Garda and for which the Garda Commissioner is Accounting Officer. Some of the issues raised by the Deputy would be more appropriately raised when discussing the Garda Vote with the Commissioner or in the context of the prisons Vote. On many of these issues, I am happy to take questions regarding other Votes but I will have to reply in writing to those questions.

**Deputy Catherine Murphy:** I ask Mr. O'Driscoll to send a note on that issue.

There are several underspends in Vote 24. On page 16, it is noted that the estimate for the Office of the Data Protection Commissioner was €7.5 million but the outturn was €6.1 million. That primarily relates to payroll expenditure. What is the reason for that underspend?

**Mr. Aidan O'Driscoll:** The Office of the Data Protection Commissioner was expanding very rapidly in that period. We made provision for the full planned expansion within the year but, obviously, recruitment takes time, particularly in the case of the highly skilled staff required by the commissioner. Quite simply, the recruitment did not reach the level envisaged when the Vote was formed. As I stated, there has been a very significant increase in the staffing level of that office. There was a 33% increase in staffing in 2016, 57% in 2017 and 47% in 2018. It is an unparalleled increase in staffing numbers and it is not particularly surprising that the process took a little longer than was envisaged when we were preparing the estimate.

**Deputy Catherine Murphy:** I understand that there was an unusually high level of recruitment while the office was ramping up. Is it now at full capacity?

**Mr. Aidan O'Driscoll:** It will be at full capacity by the end of the year. Recruitment is continuing.

**Deputy Catherine Murphy:** How many people will be employed in the office?

**Mr. Aidan O'Driscoll:** The figure I have for the end of 2019 is 168.



**Deputy Catherine Murphy:** Where are those staff located?

**Mr. Aidan O'Driscoll:** There are a few offices in Dublin. A process is ongoing to identify a better long-term office solution for the Office of the Data Protection Commissioner and it is largely dealing directly with the Office of Public Works in that regard.

**Mr. Seamus McCarthy:** There are separate financial statements for the Office of the Data Protection Commissioner which I audit. The committee may at some point be interested in holding a formal hearing on the office.

**Deputy Catherine Murphy:** I wish to touch on the Probation Service. It seems that the level of recidivism is reduced when the Probation Service works well and, in that light, funding it is an investment. Is there sufficient capacity within the Probation Service?

**Mr. Aidan O'Driscoll:** In January 2019, there were 404 staff in the Probation Service. On whether there is sufficient capacity, one very important area that is an expanding responsibility of the Probation Service is the management of community service. There is a process of recruiting community service supervisors. Community service is expanding and, as I understand it, is proving to be extremely effective. However, it has not expanded at the anticipated rate. I expect it to expand further as various issues are ironed out and I will not be surprised if the Probation Service needs additional staff in that respect. I hope that the director of the Probation Service does not take that as an absolute commitment from his Accounting Officer. I am just pointing it out to the committee as an area where we are expanding and the Probation Service is doing this job.

**Deputy Catherine Murphy:** What kind of skill sets are being recruited? Given that it currently has 404 staff, towards what capacity is Mr. O'Driscoll working?

**Mr. Aidan O'Driscoll:** Probation Service staff generally have a social work-type qualification or a background in social work. They do not all have precisely the same qualification but, rather, there is a range of qualifications. It is broadly in that kind of space, which is that the culture of the Probation Service is of the social work type.

**Deputy Catherine Murphy:** How many community service supervisors are we talking about? Obviously, they are spread throughout the country.

**Mr. Aidan O'Driscoll:** I may not have the exact figure, but in 2018, the Probation Service received sanction to recruit 17 community service supervisors over a two-year period. That was put in place in anticipation of a growth in community service that did not quite happen.

**Deputy Catherine Murphy:** How many have been recruited?

**Mr. Aidan O'Driscoll:** For that reason, there was a saving in the Probation Service Vote of €889,000 in relation to community service vacancies. As the provisions of the Fines Act have been implemented fully at a slower rate than anticipated, we expect the community service supervisor group to expand. I understand 43 candidates have been placed on panels.

**Deputy Catherine Murphy:** The service was hoping to recruit 17. Have 17 been recruited?

**Mr. Aidan O'Driscoll:** It is seven so far in total.

**Deputy Catherine Murphy:** In terms of value for money, how much does it cost on average to keep someone in prison?



**Mr. Aidan O'Driscoll:** At my last appearance here, I had exactly the figures the Deputy seeks.

**Chairman:** It is €68,000. We have it on our documentation from the last time.

**Mr. Aidan O'Driscoll:** The figure for probation is, of course, a fraction of that, which is probably the point.

**Deputy Catherine Murphy:** My point is that if we are looking for value for money and better outcomes, including a reduction in the recidivism rate, the cost-benefit analysis, if one is looking at it purely from that point of view, tends to suggest it is a really decent investment given that it is costing on average €68,000 to incarcerate someone who is likely to go on and repeat the behaviour if it is not modified. Of the 17 it is hoped to recruit, seven have been recruited. When is it hoped to have the full complement and will there be a second round then?

**Mr. Aidan O'Driscoll:** No. As I said, a panel is in place and I take it the service is drawing from that panel. I do not have the specific figures in front of me but I understand that there is a panel in place. I take the Deputy's broader point and agree with her 100%. This is exactly the direction of travel we want to take. If one looks at the report of the Commission on the Future of Policing in Ireland, it is highly relevant. It takes a much more holistic view of policing and managing vulnerable people who become involved in crime and so on. The direction of travel is to divert people, in particular young people, away from prison and so on and into these more social work type services where they can hopefully be helped to develop a fulfilling life away from crime.

**Deputy Catherine Murphy:** It only works if there is certainty and a degree of sanction if people do not comply.

**Mr. Aidan O'Driscoll:** That is what we are trying to get the balance on in the review of the Fines Act, for example. It is to try to find that balance.

**Deputy David Cullinane:** I welcome Mr. O'Driscoll and Ms McPhillips. I will start with direct provision and asylum seekers, albeit a lot of the questions have been asked already. There are just some issues I wanted to have clarified. There are a lot of myths around asylum seekers as I am sure the witnesses are aware. What exactly is direct provision in the sense of what it entitles a person to? What is directly provided for and what is the weekly subsistence rate a person in a direct provision centre gets?

**Mr. Aidan O'Driscoll:** The most important point to make about direct provision is that approximately 75% of people who seek asylum end up in direct provision. It is possible for people to turn it down. It is an offer, not a requirement. Approximately 25% of people choose not to take up the offer and they live with family, friends or whatever it is. The figures on that have varied over the years as I understand it. In fact, the figures for people who chose not to go into direct provision were significantly higher some years ago and have been lower in other years. That is a very important point about direct provision. In that sense, it is voluntary. It is voluntary, recognising, however, that people very often turn up with nothing. They have to take what they can get in that context, I suppose. The rate of payment is handled by the Department of Employment Affairs and Social Protection. It has been increased from €21.60 per adult to €38.80 per adult per week and from €15.60 per child to €29.80 per child. This is in the context of the direct provision arrangement, which provides for housing, full board, basic medical requirements and so on. Every asylum seeker in direct provision has a medical card, which is

also covered in the normal way. Of course, they also have access to education facilities. The payment has to be understood in that context. It is from the Department of Employment Affairs and Social Protection.

**Deputy David Cullinane:** When someone is in the direct provision programme and accommodation and the subsistence rate Mr. O'Driscoll outlined are being provided, is he or she allowed to work?

**Mr. Aidan O'Driscoll:** If the person is in the asylum application system for nine months or more, he or she gets the right to work. This is a relatively recent development. Approximately 2,300 applications for the right to work have been made with 1,600 having been approved. We have had 632 employment declaration forms returned.

**Deputy David Cullinane:** Is that new? There was a point when one was simply not allowed to work.

**Mr. Aidan O'Driscoll:** It is new.

**Deputy David Cullinane:** At what point does that kick in? Is it after nine months of being in the system?

**Mr. Aidan O'Driscoll:** Yes.

**Mr. Michael Kirrane:** In June 2018, Ireland opted into the recast conditions directive, part of which provides for access to the workplace after nine months from the date of application. To go back to something the Secretary General was talking about, the directive also covers material conditions such as the requirement to provide housing and food and so on. It is the obligation of the State to provide these under EU law since Ireland opted into the directive.

**Deputy David Cullinane:** It is fair to say, notwithstanding the fact that people have their accommodation, food and medical needs provided for directly along with very low rates of subsistence, it is not a desirable medium to long-term solution. There are individual freedoms a person does not have because he or she is in a centre. We have the figures on how long people are in these centres and I will get to those in a second. Obviously, there is a direct correlation between the asylum process and the length of time it takes to process claims and how long people stay in the system. The Department is responsible for the asylum applications process. What work has been done recently or what changes have been made in recent years to speed up the asylum process and ensure applications can be processed more quickly so that people are less dependent on direct provision, one way or another? If asylum is granted, the person is a refugee who can work and enjoy those freedoms they do not have in direct provision centres. What changes have been made in recent years to speed up the process and what is the average wait time for someone who applies to have an adjudication on his or her application?

**Mr. Aidan O'Driscoll:** I will ask Mr. Kirrane to provide the precise figures in a moment. On the policy, the Deputy is right that there have been delays in people going through the process. A lot of effort has been put into trying to improve that through additional staff and improving processes and so on. Mr. Kirrane will outline some of that in a moment. I would like to pick up on one of the Deputy's points. It is important to say that people in the accommodation centres have full rights. They are not confined there. They are not detained there. They come and go and everything else. Of course we assume everybody would prefer to move onto normal housing.

**Deputy David Cullinane:** I will stop Mr. O'Driscoll there. When officials from the Department of Justice and Equality and RIA were before the committee two years ago - Mr. O'Driscoll's predecessor was here - I put it on the record that what Mr. O'Driscoll has described has not been my experience across the board. I have had experience of having to visit reception centres in the past. Things have changed, thankfully. They are private entities which are run privately. Some of them have different rules. When I was a member of Waterford City and County Council a number of years ago, I was invited by the residents to visit one of these centres. When I turned up, I was refused entry. I was asked to seek an appointment. When I sought an appointment, it was refused to me by management.

**Mr. Aidan O'Driscoll:** I am aware of this.

**Deputy David Cullinane:** I am not the only person to whom this happened. A number of organisations, including non-governmental organisations, were invited in to assist and support people who were living in these centres. As Mr. O'Driscoll has spoken about rights, I should mention that people have a right to vote in local elections. I was refused permission to canvass even though everyone has a right to canvass Mr. O'Driscoll or anybody else in this room or elsewhere. The people living in this centre were not allowed to be canvassed. On the basis of being refused permission to canvass, I subsequently wrote to the residents. The letters I sent to each of them were posted directly to the reception centre. Those letters were opened and put in the bin by the manager of the centre. To me, that does not suggest that their rights are the same as those of anybody else. Although things have changed since then, I do not believe the individual freedoms associated with living in one's own home, whether it is through social housing or private housing, are afforded to people who live in reception centres. I do not accept that all the freedoms enjoyed by Mr. O'Driscoll and me are being enjoyed at this point in time by people in direct provision centres. Notwithstanding the change that has allowed some people to work, there are still some people who are not allowed to work. People cannot work up to nine months. Mr. O'Driscoll has to accept that there are freedoms which are denied. I am not saying that things have not changed. I accept fully that they have. I am conscious of the positive changes that have happened. I still hold the view that the rights enjoyed by these people are not the same as the rights that Mr. O'Driscoll or I might enjoy.

**Mr. Aidan O'Driscoll:** We agree that it has changed. I was speaking in the present tense. We are very conscious that in the past, a number of Deputies raised the issue of being able to canvass people, meet residents and so on. I think a lot of progress has been made on that. If there are any issues that arise from time to time, I ask people to notify us in order that we can sort them out. People make mistakes. My understanding now is that people have the right to canvass. In fairness, I have been in a few centres. In one centre I visited, I could not see that there should be any problem in canvassers accessing the place in a perfectly normal way. In another centre, it was more difficult to say exactly which space was the private communal space, to which one would not realistically expect canvassers to have access, and which space was the public space. Distinguishing those things is not always absolutely crystal clear. As I have said, people can make mistakes.

I will explain what I think about all of those things and why I reacted to what the Deputy said. I was not reacting to the Deputy's comment, in particular. From time to time, there is public comment which grossly exaggerates the constraints under which people operate. I accept that they are operating under constraints. The Deputy is quite right to say they do not have the right to work for the first nine months. That is a right enjoyed by the Deputy and me. That is absolutely true. In many cases, these people are coming from difficult circumstances and are

probably finding it difficult to navigate our services as they access them for the first time. We try to assist them in that. They have rights in that space which we try to vindicate. The broader point I wanted to make was a simple one. I want to make it clear that people have freedoms here and that some of the commentary out there is a bit unfair.

**Deputy David Cullinane:** I accept that. It is a fair point for Mr. O'Driscoll to make as Accounting Officer. I have no difficulty with that. I agree that positive changes have been made. I have seen them on the ground in my constituency of Waterford. I fully accept that. I think we have a long way to go as well. I ask Mr. Kirrane to come back in on the changes that have been made with the asylum process and the application process.

**Mr. Michael Kirrane:** I will explain what has happened since the introduction of the International Protection Act. There was an initial period in which a transitional arrangement under the Act required a lot of cases to come back under that Act. That created some problems initially. Approximately 3,500 cases had to be dealt with before new cases could start to be dealt with under the Act. That created a difficulty which has not substantially been dealt with. The average processing time moved out as a result and is approximately 19.7 months at present.

**Deputy David Cullinane:** Okay. If I can just come to the-----

**Mr. Michael Kirrane:** The figure in respect of new cases is now down to 14 months.

**Deputy David Cullinane:** Fourteen months. Okay.

**Mr. Michael Kirrane:** The intention is that by this year, it will be down to an average of nine months.

**Deputy David Cullinane:** Yes.

**Mr. Michael Kirrane:** We have 3,600 live cases at the moment, two thirds of which are already scheduled for interview and one third of which have yet to be scheduled for interview. To put that into perspective, we have received precisely that number of new applications since 1 January. We are catching up rapidly. We have expanded the staff in this area to deal with the caseload. There are approximately 144 staff in the International Protection Office, along with 70 legal panel members who hear cases. We seek to give first-instance decisions as quickly as possible.

**Deputy David Cullinane:** Can I ask for a note to be given to us on that? I think those changes are positive as well. They are very much welcome. While I accept that the targets are genuine, I would like to get them in writing. That would allow us to hold Mr. O'Driscoll and Ms McPhillips to account when they are before us again. The targets are very welcome.

**Chairman:** When that note is sent the committee, perhaps it could include details of the average times going back over the past decade. I was here years ago, when the numbers were much higher, and the same thing was said verbatim. We were told that the numbers were dropping and the service was getting there. We have been here before. Five years ago, I heard Ministers saying verbatim what Mr. Kirrane has just said. I would like the committee to be given a longer-term perspective that is not confined to where we are today. We would like to see how it has moved. All of these things go up and down as the years go by.

**Deputy David Cullinane:** I would like to follow on from that by asking about the note that was provided in respect of the length of time people spend in reception centres. Approximately

10.5% of people in reception centres have been there for between four and seven years. This is quite a high figure. If it is the case that the asylum processes are getting faster - if applications are being processed more quickly - why is it the case that one in ten people is waiting for so long? Does the 10.5% figure relate to individuals or families? Regardless of whether it is individuals or families, one in ten-----

**Chairman:** It is individuals.

**Deputy David Cullinane:** Yes. Why are people in the system for between four and seven years?

**Mr. Michael Kirrane:** There could be a number of reasons for that. It is everyone's right to have his or her decision judicially reviewed. Sometimes those decisions are judicially reviewed on a number of occasions. It can take time before the entire process is dealt with from beginning to end.

**Deputy David Cullinane:** Can I ask-----

**Mr. Michael Kirrane:** I want to make it clear that we do not segregate families.

**Deputy David Cullinane:** Okay.

**Mr. Michael Kirrane:** If one member of a family is held up for some reason, the entire family is held up because we do not separate families. If a decision is made in relation to a series of other family members, that can add to those figures.

**Deputy David Cullinane:** Okay. Almost 30% of people have been waiting for between two years and seven years, which again is quite high.

**Mr. Michael Kirrane:** Yes.

**Deputy David Cullinane:** At local authority level, weekly meetings take place to look at all the cases in which people have ended up in emergency accommodation or been classed as homeless. What work is done by the Department on a weekly basis with regard to the 10.5% cohort or the 20% cohort I have mentioned? I understand that in some cases, there may be judicial reviews or there may be other issues. Are the cases of long-term residents of direct provision centres the subject of ongoing examination to see what can be done and what the position is with such cases? Is an assessment made of whether we are waiting for information from them, or they need to take the next step? What interventions are made by the Department or by RIA to look at helping and assisting the applications to be processed more quickly in order that people do not end up waiting for between four and seven years, or longer?

**Mr. Aidan O'Driscoll:** In the case of people who are there a long time, some of them are in the category that we talked about earlier - those who have permission to remain. As we said, there are 730 plus people in this category. Some of them would be from among the longer period residents. We are hitting difficulties in finding ways to move them into normal housing but we are trying to engage with NGOs and local authorities in that respect. Others, as mentioned by Mr. Kirrane, are coming through the judicial review process. The courts work in the way the courts work and we have to respect that. It is absolutely in the interests of the Department to move all of those-----

**Deputy David Cullinane:** Would Mr. O'Driscoll have data regarding what percentage of the 10.5% remain in direct provision because they are awaiting judicial review? I am not ask-



ing him to give us names of individuals but to furnish the committee with a breakdown of the status of the people within that 10.5% figure. It would assist us in identifying if it is the case that people are awaiting the court process and, as such, there is nothing the Department can do, but if there are other issues-----

**Mr. Michael Kirrane:** We should be able to provide that information.

**Deputy David Cullinane:** It is stated in the information already provided and in a report in *The Irish Times* that there are over 500 asylum seekers living in hotels and bed and breakfast accommodation. This issue may have been raised earlier. According to this media report, there were 196 asylum seekers in emergency accommodation in November of last year. By February of this year, that number had increased to 329 and now stands at 517, which is a significant number. Why is it increasing so rapidly?

**Mr. Aidan O'Driscoll:** It is increasingly extremely rapidly. We did go through this in some detail earlier. It is increasing because of capacity limits. We have hit capacity limits in our normal accommodation centres. I mentioned earlier that we do not wish to be in the business of housing people in hotels. It is absolutely not where we want to be but in an emergency situation we are not going to leave people homeless so we have to put them somewhere. In an emergency, a hotel is the only realistic option.

**Deputy David Cullinane:** According to the information provided, the cost of that provision is €4.5 million per annum. Is that correct?

**Mr. Aidan O'Driscoll:** I will get the exact figure for the Deputy. It is expensive.

**Deputy David Cullinane:** It is very expensive.

**Mr. Aidan O'Driscoll:** The average cost of a hotel----

**Deputy David Cullinane:** Would it not be more cost effective if we were dealing with them directly rather than in emergency accommodation?

**Mr. Aidan O'Driscoll:** Absolutely, but we are in a position where our accommodation centres are full. We gave the figures earlier.

**Deputy David Cullinane:** I understand that. The answer is to build new accommodation centres. I know there were difficulties in some areas around opening centres, which Deputy MacSharry went through earlier, and maybe some other speakers did as well. Some were due to open and there were fire problems and other issues. Is there a difficulty with opening reception centres in areas? Is it the case that the Department is meeting with hostility? Is it a problem with planning or is it that suitable premises cannot be identified? What is the main problem in identifying premises?

**Mr. Aidan O'Driscoll:** In response to an earlier question on the number of accommodation centres closing, I pointed out that from-----

**Deputy David Cullinane:** It is Mr. O'Driscoll's job to ensure there is accommodation.

**Mr. Aidan O'Driscoll:** It is.

**Deputy David Cullinane:** It is also his job to make sure we have a sufficient number of reception centres and accommodation premises for people. Good planning would ensure that



is the case. If we end up in the position where we have a rapid increase in emergency accommodation, that is down to either bad planning or some other reason. I am trying to establish the reason for it. In simple terms, what is the reason for it?

**Mr. Aidan O'Driscoll:** From September 2017 to September 2018, we put in place 880 new places in nine new centres. We are doing tenders throughout the country at the present time. We are doing it on a regional basis to provide new accommodation centres for the level of demand we are experiencing but, as we discussed earlier in regard to the asylum side as distinct from the refugee side, we find it very difficult to predict the number of people who will turn up and seek accommodation. People turn up at Dublin Airport, Burgh Quay or elsewhere and we have to accommodate them that night. It is not something we can plan for. It is quite different in the refugee programme, where we have a sense of who is coming-----

**Deputy David Cullinane:** I do not like to interrupt when Mr. O'Driscoll is responding to my questions but if there has been a massive increase in demand then he has to prove that that is the case. Can he provide us with the data which point to where in recent times there has been an unexpected increase in demand such that the Department has not been in a position to meet people's needs?

**Mr. Aidan O'Driscoll:** All of the increase in people in direct provision centres is because of increases in demand. I gave the figures in my opening statement.

**Deputy David Cullinane:** I am speaking about an increase above where the number would have been for the previous six months, 12 months or two years.

**Mr. Aidan O'Driscoll:** In 2016, it was 4,425. In 2017, it was 5,096. In 2018, it was 6,106, and so it is going up. We are trying to ensure that we have the necessary space available and we are using the tender process to try to find the relevant level of accommodation. I cannot predict for the Deputy the level of accommodation we will need in 2020, 2021 or 2022. We will try to estimate it. We will try to put the relevant accommodation in place but we cannot be certain of need because we cannot be certain who will turn up at our doorstep.

**Deputy David Cullinane:** The question Mr. O'Driscoll has not answered is why there is difficulty in finding new premises. If he cannot answer the question now, he can forward a detailed note on it to the committee.

**Mr. Aidan O'Driscoll:** We are finding new accommodation. I said to the Deputy earlier that we found 880 places in the period I identified. We now have tenders out-----

**Deputy David Cullinane:** Mr. O'Driscoll's initial response to my question regarding the 526 people who are homeless was not that there was an increase in demand but that we do not have the accommodation for them.

**Mr. Aidan O'Driscoll:** That is right. The pace of increase in applications is higher than the pace of increase in our accommodation system but we are increasing the scale and scope of our accommodation system. Keeping pace with the level of demand is difficult, particularly when we are not in a position to predict that demand.

**Deputy David Cullinane:** The internal audit of any Department or organisation is important for the Committee of Public Accounts because internal audit can examine issues where there might be wrongdoing or a lapse in procedures, governance and so on. I am aware that the Department carried out an investigation into claims that almost €90,000 in funding was mis-

used by a non-government body working in the sexual assault support sector. I know this was covered by RTE's "This Week", programme. The Department is aware, I would imagine, of the audit findings. What did the audit unit of the Department do in that case and can Mr. O'Driscoll report to us the findings of the audit review?

**Mr. Aidan O'Driscoll:** We have recently given the audit report to the Comptroller and Auditor General. An audit was undertaken following some information that reached the Department in relation to one NGO. The broad finding of that report - obviously I will not go through the whole detail - is that about €88,000 of the funding that went to that NGO was not used for the purposes for which we had provided it. I want to make it clear that there is no suggestion of fraud or anything like that. It is a question of what the audit identified as lax financial management within the NGO.

**Deputy David Cullinane:** Can the committee get a copy of the audit report?

**Mr. Aidan O'Driscoll:** Would it be okay to send a note to the committee on it with the main information?

**Deputy David Cullinane:** The audit reports into Templemore, for example, were all furnished to this committee to allow us to be able to establish whether there needs to be changes in procedures and practices. We have very lengthy discussions with the auditors on those issues and with auditors of other Departments. The audit function is very important. It helps the committee to do its work. I ask Mr. O'Driscoll to reflect on whether he can provide the committee with a copy of the internal audit report because it would, I imagine, be helpful to me in understanding what happened. I accept, as Mr. O'Driscoll, said that there was no fraudulent activity. If there were lax standards, obviously that is a matter for this committee. I know the report has been given to the Comptroller and Auditor General, perhaps in the context of his work in terms of the Appropriation Accounts but I would like to see it.

**Mr. Aidan O'Driscoll:** Sorry, I was unclear in what I said. I am not saying we will not give the committee the report. However, we are in a position at the moment where we are considering what to do about the report and that may involve a further step of engagement with the NGO.

**Deputy David Cullinane:** That action arises from the report.

**Mr. Aidan O'Driscoll:** It is a little more. Some things were identified in the report. We have sought the possible repayment of the funds, but the NGO has indicated that it is not in a position to do so. There is a second phase in which we must look at its capacity to repay-----

**Deputy David Cullinane:** It does not matter how many phases there are. Internal audit is independent of Mr. O'Driscoll and simply reports to him on facts.

**Mr. Aidan O'Driscoll:** Of course.

**Deputy David Cullinane:** There is no reason we cannot receive a copy of a report with the facts. I do not know what Mr. O'Driscoll and internal audit will do as a next step; it may well seek to carry out a further examination, while Mr. O'Driscoll might have to act on foot of the audit report, but that is entirely different. I suggest Mr. O'Driscoll reflect on this and if he can, he should give us a copy of the internal audit report.

**Mr. Aidan O'Driscoll:** Fine.

**Chairman:** I have a few brief questions and will be very concise.

With reference to the Criminal Injuries Compensation Tribunal, there is a heading which refers to compensation for personal injuries criminally inflicted. Are they the same?

**Mr. Aidan O'Driscoll:** Yes.

**Chairman:** Each time I table a parliamentary question about the matter I am told that the tribunal is waiting to appoint people and that a meeting will be held shortly. It appears to be a hit and miss type of organisation. Mr. O'Driscoll is probably relying on barristers and other legal people to serve on it. Will he send us a detailed note on how it is operating? For years I have been hearing about cases that are a very long time in the system. Who is over it? Is it somebody separate or a person in the Department?

**Mr. Aidan O'Driscoll:** We can certainly furnish the Chairman with the note sought. My understanding is it is fully staffed. The Law Reform Commission has been asked to examine the terms of the scheme; therefore, there might be further developments. In any case, the Chairman is looking for facts.

**Chairman:** Yes.

**Mr. Aidan O'Driscoll:** We will send a note to the Chairman.

**Chairman:** They are the replies I have been getting to the parliamentary questions for several years.

**Mr. Aidan O'Driscoll:** We will do that.

**Chairman:** Mr. O'Driscoll will come back to the committee on the historical position. My next question might amuse him, but I am looking at page 16 of the accounts. It refers to a figure of €433,000 for the Irish Film Classification Office. What relevance does it now have? We can turn on our television and social media devices. Does the office have any relevance in modern society? It probably did years ago when the only time one could see a film was when one went to the cinema, but has life passed the organisation by? There is another organisation mentioned, the Classification of Films Appeal Board. Does it do much or what does it do? I see that it did not spend its money because there was a reduction in screen hire costs during the year under review. There was an underspend of €190,000 under the heading of screen rental. Does it have to rent screens to watch films? How many years is it in existence?

**Mr. Aidan O'Driscoll:** Did the Chairman see the figures for fees?

**Chairman:** On what page?

**Mr. Aidan O'Driscoll:** In the appropriations-in-aid. The office runs a profit.

**Chairman:** Does it have a separate account?

**Mr. Aidan O'Driscoll:** No. It comes through our account. If the Chairman looks at the Estimate for and the outturn in 2017-----

**Mr. Seamus McCarthy:** The fees were €1.5 million.

**Chairman:** Where is that mentioned?

**Mr. Seamus McCarthy:** In the appropriations-in-aid, note 4 on page 23.

**Chairman:** Yes.

**Mr. Aidan O'Driscoll:** As to its relevance, it is a classification office, rather than a censorship business. It provides guidance for people on whether a film is appropriate for a young person to view.

**Chairman:** Does it do that for all of the games youngsters play on Xbox and PlayStation?

**Mr. Aidan O'Driscoll:** To the best of my knowledge, no.

**Chairman:** Will Mr. O'Driscoll send us a note on the matter?

**Mr. Aidan O'Driscoll:** We can send a note on it.

**Chairman:** More young people are spending time on PlayStation and Xbox. They are not going to the cinema or looking at something their parents are watching on television where the parents have parental control of what is being on the television.

**Mr. Aidan O'Driscoll:** We will happily send a note on the matter.

**Chairman:** I have a feeling there is a big gap.

**Mr. Aidan O'Driscoll:** Mr. O'Sullivan might have additional information.

**Mr. Doncha O'Sullivan:** I do not wish to spend much time talking about this matter, but it is the Irish end of a pan-European video gaming classification scheme. It is not a statutory scheme but an advisory for users, parents and people buying video games.

**Chairman:** Is any of its work on a statutory basis?

**Mr. Doncha O'Sullivan:** Film and DVD classification.

**Chairman:** Films shown in the cinema and DVDs are classified. That is the only part on a statutory basis.

**Mr. Doncha O'Sullivan:** That is my understanding.

**Chairman:** I would have thought in this day and age that the most important aspect of what it does is what younger people are looking at such as violent games on Xbox, PlayStation and whatever else they use. I am surprised that we have all of the other classifications. When I go to the cinema, I know that a film is for over-18s or 12s, either accompanied or unaccompanied. I am looking at the relevance of the classification for young people. There is a gap.

**Mr. Doncha O'Sullivan:** The office recognises that it is-----

**Chairman:** Mr. O'Sullivan understands the concern I am raising.

**Mr. Doncha O'Sullivan:** Of course.

**Chairman:** The role needs to be broader. The office has a statutory role in the case of cinema, but there is a greater need for it to have a statutory role when it comes to what youngsters are buying.

**Mr. Aidan O'Driscoll:** It is an unusual inclusion in the responsibility of the Department of Justice and Equality. Many people are surprised that the agency is within our remit. Nevertheless, I am sure it will be happy to provide a note setting out what it does and the policy and other frameworks-----

**Chairman:** Especially what it does not do.

**Mr. Aidan O'Driscoll:** Yes and what it does not do.

**Chairman:** I am more concerned about the gaps in its system, rather than accounting for the part it does. As the Insolvency Service of Ireland is audited separately, we can put questions to it separately.

Mr. O'Driscoll has given us the annual report. As the back of it there are about three pages listing different organisations, some of which are statutory, while some are regulatory, appellant bodies and non-statutory. Can Mr. O'Driscoll give us a summary note on each of them? Some of them crop up in different schedules. Is there a formal service level agreement, as I call it, in place for each of the organisations to which the Department grants money? Presumably, there is.

**Mr. Aidan O'Driscoll:** Yes, there are.

**Chairman:** Will Mr. O'Driscoll give us a list indicating when the current agreements were signed? If he has it with him, he can circulate it.

My last question is about asylum centres. I will ask Mr. Burke from the Department of Public Expenditure and Reform to respond to it also. Will they tell me what is covered? There is bed, board, accommodation, food, education and transport if people are travelling into and out of town on buses or public transport. They all have a medical card. What else am I missing?

**Mr. Aidan O'Driscoll:** The Chairman has covered the main items. My colleague, Ms Baxter, might wish to say a few words on the matter.

**Chairman:** How much do they get in spending money?

**Ms Carol Baxter:** It is €38.80 for an adult.

**Chairman:** Per week.

**Ms Carol Baxter:** That is per week. It is €29.80-----

**Chairman:** The message gets out that when they come to Ireland, they receive €38.80 per week. I do not know what the average cost per person is, but €38.80 is only a fraction of the cost of maintaining a person in a centre.

**Ms Carol Baxter:** Yes. The cost covers accommodation, light, heat, all utilities, access to WiFi and toiletries, all of their food, laundry and transport, if the centre is located outside an urban area. It covers all general needs.

**Chairman:** The reason I want Mr. Burke to send a comparative note is that people will believe that is terrible. I want him to get the figure from the HSE and give me a comparison between the two where somebody participating in the fair deal scheme goes into a nursing home. The person's nursing home accommodation, food and light bills are paid. He or she would not necessarily have the same transport or education requirements. People in a nursing home

do not automatically receive a medical card as it is deemed that they are generally being taken care of. They are allowed to keep 15% of their social welfare payment as spending money, or approximately €30. It appears that there is inequality, given that all living costs are covered in the centres, compared with how we treat elderly persons in nursing homes. People might not like me going there-----

**Deputy Catherine Connolly:** I dissociate myself from those comments.

**Chairman:** Okay, but I just want the figures, from which people can draw their own conclusions. I will not comment on them. I just want the comparative figure in order to see how much disposable income people have if they are in one institution run by the State compared with another paid for by it. People can comment on the matter, but I am making no comment; rather, I am just asking for the financial figures to be produced.

**Deputy Marc MacSharry:** Rather than bring all of the witnesses back in the afternoon, presuming each of us can be here, I would be prepared to forgo part of the time for block voting in their interests.

**Chairman:** I am told that there will be only one vote today.

**Deputy Marc MacSharry:** I make this suggestion so as not to hold back the witnesses.

**Chairman:** Does anyone know what the vote is on?

**Deputy Catherine Connolly:** The witnesses should also have a break.

**Deputy Marc MacSharry:** I agree, but-----

**Chairman:** We are stopping at about 1 p.m. because we started at about 10 a.m. or 10.15 a.m. I am not going to move beyond three hours one way or the other.

**Deputy Marc MacSharry:** All I suggest is an extra 15 minutes would make all the difference.

**Deputy Catherine Connolly:** If the witnesses agree.

**Deputy Marc MacSharry:** I would like to let them go and finish what was started.

**Chairman:** There is an advantage in finishing up, too. Perhaps members might stick to five-minute slots, if they can.

**Deputy Catherine Connolly:** I do not believe the Chairman made a fair comparison. We have international obligations to asylum seekers. We have had the Mahon report, an Ombudsman's report and so on; therefore, the changes have been wrought from the system.

I welcome Mr. O'Driscoll's openness and honesty and the straightness of all of his companions. It is very helpful. I would not like to send a message that the system is overwhelmed. I looked back at the Comptroller and Auditor General's chapter and noted that in 2015 there were 4,696 people in the system. Today there are 6,106. I do not believe these are overwhelming figures. One has to take out the 700-plus people with status. Really there has not been a massive jump. What has happened is that there is a housing crisis and alternatives were never considered. Repeatedly, before this committee, in terms of achieving value for money, alternatives were never considered. To touch on what the Chairman said, there is a belief those concerned are lucky to get what they get. I appreciate the witnesses' openness and honesty and I am re-



turning it. I would not like the aforesaid message to be sent.

I have a couple of quick questions. Mr. Justice Murray produced a report at some stage. I remember reading it and did not bring it with me. There were references in it to serious issues related to a directive and data privacy. What happened as a result of it? The EU directive was no longer valid and had been withdrawn. If the witnesses do not know the answer, I do not mind. I remember reading the report and being shocked at the findings of Mr. Justice Murray. Legislation was to be enacted, but I do not believe it ever was.

The more specific question is about the integration fund, which is a very positive fund. When I read the annual report or one of the reports, I note that it is stated there is €50 million in the fund. I refer to the asylum, migration and integration fund which is mentioned on page 22. There are credits, which is extraordinary. There is an estimated provision of €1.5 million and the outturn was lower. These are just the specifics. Am I wrong that the moneys are coming from a fund of €50 million over a period to help in achieving integration?

**Mr. Aidan O'Driscoll:** Yes

**Deputy Catherine Connolly:** Why is there under-expenditure when there are so many glaring issues associated with helping people and local communities? What I see in regard to this-----

**Mr. Aidan O'Driscoll:** I believe the Deputy is talking about the AMIF which, as she says, amounts to €52.6 million in the period 2014 to 2020. It is a scheme co-funded with the European Union. In other words, like all other EU schemes with which I am familiar from my previous work, the money is expended first and recouped subsequently. This is a fund that is on a rising curve of expenditure.

**Deputy Catherine Connolly:** That money is available to be spent during the period, which is very positive.

**Mr. Aidan O'Driscoll:** Yes and I hope it will be.

**Deputy Catherine Connolly:** It is nearly 2020.

**Mr. Aidan O'Driscoll:** Indeed. To be fair, I can refer to other EU co-funds of a similar nature, including the ESF and agriculture funds, whereby it tends to be the case that it is towards the end of the planning period that the greatest expenditure is incurred because of the ramping up of costs and so on.

**Deputy Catherine Connolly:** I would love it if there was a proactive approach, given the difficulties that have been experienced throughout the country, rather than making something a problem when it is a positive challenge for both the local communities and those coming into the country.

**Mr. Aidan O'Driscoll:** Absolutely. Of the €52 million, €30 million is received by way of a grant per person resettled or relocated. Regarding the discussion we had on relocation and resettlement in connection with the IRPP, the refugee programme, the money kicks into that process. Some €22.6 million is committed to various activities set out in our national programme for the AMIF which is agreed with the European Commission. It covers expenditure on resettlement, relocation, integration projects, voluntary-----

**Deputy Catherine Connolly:** I am interrupting Mr. O'Driscoll but not in a bad way. Could

we receive a note on the matter?

**Mr. Aidan O'Driscoll:** We will give members a note.

**Deputy Catherine Connolly:** On citizenship, the number of citizenship applications was down last year. When people come into our offices – this is a general rather than a parochial point – we note that there is a delay. It is a positive for the country as it brings money in as there is an application fee. That is one part. The second aspect is visas. An example is where somebody from India is recruited by a recruitment firm and told that her husband or partner can join her. What is the backlog? Why the delay? What is the position on the partner or wife of a recruited individual coming here?

**Mr. Michael Kirrane:** I will deal with the second aspect first, if the Deputy does not mind. We have been aware for a while of difficulties people have, particularly skilled individuals, in coming to Ireland to work-----

**Deputy Catherine Connolly:** I am aware of that, which is why-----

**Mr. Michael Kirrane:** ----who wish to bring their spouse and family with them. Recently we agreed, with the Department of Jobs, Enterprise and Innovation, to change the rules in dealing with the spouse of a critical skills permit-holder. From now on, they will not have to seek a separate work permit. We will give them immigration permission that will allow their spouse or partner to access the labour force-----

**Deputy Catherine Connolly:** When will that be in place?

**Mr. Michael Kirrane:** It is already in place. From the first day of this month, we have introduced a new scheme for the *de facto* partner of a critical skills worker.

**Deputy Catherine Connolly:** Great.

**Chairman:** Can we receive a detailed note on that matter?

**Deputy Catherine Connolly:** What about citizens?

**Mr. Michael Kirrane:** Last year there were 12,700 applications for citizenship. The year before, there were 11,770. Our outputs are increasing. Our aim is to process straightforward cases within about six months and we are adhering to those timelines. Of course, there are other cases in which it can taken longer and there can be complications that require us to make inquiries in other jurisdictions, etc.

**Deputy Catherine Connolly:** Is Brexit an issue in that regard?

**Mr. Michael Kirrane:** We are seeing an increase in the number of applications from UK nationals. Of the approximately 1,000 additional applications in 2018, about half were from UK nationals applying for citizenship. They are UK nationals who perhaps have been living in Ireland for some time and are now choosing to apply for Irish citizenship.

**Chairman:** Reference was made to individuals being able to gain employment while still in a centre. It was said the rules had changed last year, or whenever it was.

**Mr. Michael Kirrane:** On the right of asylum seekers to work.

**Chairman:** I ask for a detailed note on the matter. When the rule was introduced, I received

complaints from individuals in the centre in Portlaoise to the effect that the right was only given to those who had arrived in Ireland after a certain date. Mr. Kirrane might clarify the matter.

**Mr. Michael Kirrane:** We will clarify the arrangement. They are complicated transition arrangements.

**Chairman:** Does they include everyone who has been here for five, six or seven years? A couple of individuals in the centre in Portlaoise at the time in question approached me to say they felt the arrangements were relevant only to those who had recently come to the State.

**Mr. Michael Kirrane:** It depends on when they received a decision. If they had received a negative decision some time previously, they might not have qualified.

**Chairman:** What does Mr. Kirrane mean by “decision”?

**Mr. Michael Kirrane:** A decision on their asylum application.

**Chairman:** Is Mr. Kirrane saying if an application has been rejected and the person is here while it is under appeal, that he or she is not eligible under the new rules?

**Mr. Michael Kirrane:** I will get the precise details for the Chairman because I do not want to mislead the committee.

**Chairman:** Mr. Kirrane can give me a comprehensive note about people who are here, had an asylum refusal but remain here. Do they have a right to work or is it only people whose first decision is pending?

**Mr. Michael Kirrane:** It is not as straightforward a situation as the one just articulated by the Chairman so that is why I do not want to mislead the committee.

**Chairman:** Please do not.

**Mr. Michael Kirrane:** I will get the committee a precise note.

**Chairman:** I am asking Mr. Kirrane to draft a considered note.

**Mr. Aidan O’Driscoll:** We will provide a detailed-----

**Chairman:** I ask Mr. Kirrane to provide a considered note. He can see I am only basing my question on the couple of people who approached me directly and I may not have the full picture. He can give the committee the full picture, in writing, when he has an opportunity.

**Mr. Aidan O’Driscoll:** I want to correct a figure that was given earlier in answer to a question from Deputy Connolly. We said there were 957 children in the direct provision centre. The figure is greater than that because 957 is the number of children of schoolgoing age. The full number is 1,630.

**Deputy Catherine Connolly:** The total is 1,630 of whom 957 are of schoolgoing age.

**Mr. Aidan O’Driscoll:** That means there are a lot of very young children.

**Deputy Catherine Connolly:** I was just going to say that. Is the total figure 1,630?

**Mr. Aidan O’Driscoll:** Yes.

**Deputy Catherine Connolly:** Of those, 957 are of schoolgoing age and the rest are under schoolgoing age.

**Mr. Aidan O'Driscoll:** Yes. I am sorry for that confusion.

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

**Chairman:** Are there 673 children under schoolgoing age?

**Mr. Aidan O'Driscoll:** That is quite visible when one visits a centre.

**Chairman:** That is a very big number.

**Deputy Catherine Connolly:** Are they all accompanied children?

**Mr. Aidan O'Driscoll:** Yes.

**Deputy Catherine Connolly:** Are all those children with a parent or somebody?

**Mr. Aidan O'Driscoll:** I think so, yes.

**Deputy Catherine Connolly:** Okay. I thank Mr. O'Driscoll for the clarification.

**Chairman:** Is that amount of young children a recent development?

**Mr. Aidan O'Driscoll:** I do not think so. People turn up at centres with babes in arms.

**Chairman:** Yes. We understand.

**Deputy Marc MacSharry:** I appreciate the understanding of the Chairman and Secretary General for what I am doing here today. At the meeting on 17 January, a number of instances of sexual harassment that have occurred was raised. The letter from the Department of 7 February, following the meeting, stated that nine instances emerged between a one, a three and a five, according to the way they were presented. Can the Department or the Irish Prison Service, IPS, advise if every instance, either intra-staff or those highlighted through a P19, the form which is used to register a complaint against a prisoner and lodged by a prison nurse, prison nurse officer or agency nurse working within a prison, has been acted upon with an appropriate investigation and follow-up? I am anticipating the answer I will get but if the answer is "No", would the Department be prepared, in the interests of women working within the Prison Service and female contractors, to consider carrying out a confidential survey among female staff to inquire into these matters?

**Mr. Aidan O'Driscoll:** It is a matter for the Chairman, but I presume Deputy MacSharry is about to go through a list of questions about prisons. I am geared up to deal with the justice and equality Vote and not the prisons Vote, but if the Deputy sends us, or gives us, his list of questions, we will endeavour to answer them as best we can. I propose to do so in writing with the advice of the Prison Service.

On the last occasion we were before the committee on the prisons Vote, the Deputy raised a large number of significant allegations. We provided to the committee very detailed responses to those.

**Deputy Marc MacSharry:** I am coming to those.

**Mr. Aidan O'Driscoll:** I was about to say that I have no doubt that the Deputy has further

questions about those. Again, if he gives those questions to us, we will endeavour to reply to them.

**Deputy Marc MacSharry:** The issue is that some remain outstanding.

**Mr. Aidan O'Driscoll:** I think we replied to every question we got.

**Chairman:** We require follow-through on-----

**Mr. Aidan O'Driscoll:** That is absolutely no problem.

**Deputy Marc MacSharry:** With the Chairman's permission, I will continue the way I am going.

**Chairman:** Yes.

**Deputy Marc MacSharry:** I said at the outset that I appreciate Mr. O'Driscoll does not have the relevant personnel with him today but I am being either opportunistic or efficient in the use of time. I will put these questions to the witnesses and I am quite happy, if they are not in a position to give a view on them-----

**Chairman:** Can I just ask-----

**Deputy Marc MacSharry:** -----that they would revert to us in writing.

**Chairman:** Can I just ask Deputy MacSharry to consider the following point? He has some information and there may be a suggestion of criminality involved, and I use the word "may". Is Deputy MacSharry satisfied that he has evidence of criminality?

**Deputy Marc MacSharry:** No. I am neither an investigator nor an officer of the law.

**Chairman:** He cannot say there is criminality. There are matters of concern that may or may not-----

**Deputy Marc MacSharry:** Consequent to some initial research before the last meeting, and considerably more since, questions have emerged. I am not alleging any criminality.

**Chairman:** The Deputy is not alleging any criminality. He wants the matters investigated.

**Deputy Marc MacSharry:** I am raising matters of concern, which I feel prudence demands require investigation by the Department, in the first instance. I am more than happy with, and welcome, the suggestion to send a transcript of the meeting to the Garda. The Secretary General of the Department and, consequently, the Irish Prison Service will have these questions on record and I have no doubt they will be of concern.

**Chairman:** I want to be clear that the Deputy has not established evidence of criminal wrongdoing.

**Deputy Marc MacSharry:** I am not a judge.

**Chairman:** That is correct. The Deputy has concerns, however.

**Deputy Marc MacSharry:** I have concerns and I think it would be a matter of public interest to put them in the public domain-----



**Chairman:** That is fine.

**Deputy Marc MacSharry:** -----so that they do receive the appropriate level of inquiry. It would be great if all the inquiries came back and definitively outlined there was nothing to see here, but prudence demands that we go there. This is not a vexatious attempt by me to spread falsities.

Does PMDS exist in the Department of Justice and Equality?

**Mr. Aidan O'Driscoll:** Yes.

**Deputy Marc MacSharry:** Can Mr. O'Driscoll briefly outline how that works for senior executive officers or people like that?

**Mr. Aidan O'Driscoll:** PMDS works by each year, one-----

**Chairman:** Can the Deputy or Mr. O'Driscoll tell the watching public what PMDS stands for? We might understand but the watching public might not.

**Mr. Aidan O'Driscoll:** It is the performance management and development system which virtually every large organisation in the country, and indeed the world, have in some form or other. At the beginning of the year, a person sets out what is referred to as their role profile. It identifies broadly and not in perfect detail what they will do and what they are expected to deliver during the year. It also contains an indication of what their development needs are, in terms of additional training and that kind of thing. That is usually agreed between the person and their supervisor and, if necessary because there are difficulties in agreeing that, it goes to the person senior to that again.

**Deputy Marc MacSharry:** Does it automatically go to more senior people and ultimately, perhaps to Mr. O'Driscoll himself or to a principal officer for sign-off, to say that is grand and their supervisor-----

**Mr. Aidan O'Driscoll:** In general, yes, they would ensure it was done satisfactorily.

**Deputy Marc MacSharry:** Is there scoring involved?

**Mr. Aidan O'Driscoll:** At the end of the year, there is a system whereby whether or not a person has performed satisfactorily against their goals is recorded.

**Deputy Marc MacSharry:** Would the results be relevant to increments?

**Mr. Aidan O'Driscoll:** They could be. In the past, there was a scoring system and if an employee fell below a certain score it could count against them in relation to-----

**Deputy Marc MacSharry:** Would the results be relevant to promotional prospects? If an executive officer was applying for a job as an assistant principal, would someone assessing that application go back through the PMDS and see that the executive officer was satisfactory in the past five years and that is good?

**Mr. Aidan O'Driscoll:** It feeds into the process. The process of promotion is very much more demanding than just PMDS.

**Deputy Marc MacSharry:** I have no doubt about that but would it form part of it, in terms of-----

**Mr. Aidan O'Driscoll:** Yes, it does.

**Deputy Marc MacSharry:** -----the Public Appointments Service?

**Mr. Aidan O'Driscoll:** It is in the process, yes.

**Deputy Marc MacSharry:** External candidates would not have PMDS because it is predominantly in the public sector.

**Mr. Aidan O'Driscoll:** That is right. That is why it does not come into the interview process.

**Deputy Marc MacSharry:** I appreciate that the Department will come back to me in writing. Are the Department or Irish Prison Service management in Longford aware of allegations that PMDS exists in name only within prisons, with scoring being picked at random and often subjectively determined by the relevant governor, rather than informed by the proper processes laid down when it was introduced and with ongoing monitoring by assistant chiefs and chiefs with regular reports, as Mr. O'Driscoll has outlined the process? I ask that the Department make the necessary inquiries into that.

I made a few comments to clarify my position on the mess committees, as opposed to the POA's view of my position, at the beginning of the meeting. In the Secretary General's response of 7 February you said that voluntary mess committees "operate as independent ... entities from the Irish Prison Service". I note from an email I have seen that the director general of the committee communicated to all governors on 28 January and used the same sentence. How this can be? We established that there was a lengthy industrial relations process that led to their establishment and that staff costs and the prison gratuity were covered by central funds or the Prison Service itself. If they are independent, as the Irish Prison Service and the Secretary General asserted, and not under the control of the Irish Prison Service, would this not constitute a breach of rules 30 and 31 of the Prison Rules of 2007 regarding the employment of prisoners?

**Chairman:** Did you say employment of prisoners?

**Deputy Marc MacSharry:** Yes.

**Chairman:** Prisoners are not employees. Prison officers are employees. Prisoners may have training and other things but they are not employees.

**Deputy Marc MacSharry:** I do not want to lose the point here.

**Chairman:** I do not want people thinking prisoners are employed in the Irish Prison Service.

**Deputy Marc MacSharry:** My wording stands.

**Chairman:** Okay.

**Deputy Marc MacSharry:** I said if the Irish Prison Service and the Department assert that the operation of the mess is not under the control of the Irish Prison Service, this would perhaps constitute a breach of rules 30 and 31 of the Prison Rules of 2007 in regard to the employment of prisoners. It is also alleged to me that in excess of €2 million has been spent on mess facilities over the past number of years from the capital budget of the Prison Service directly. The IPS has contracted a private company, Cater Care of Limerick, to audit the mess facilities for

environmental health purposes. The audit reports are made to the Irish Prison Service and HSE environmental health officers also carry out inspections of the mess facilities and report to the Irish Prison Service. The governor of each prison is an *ex officio* member of each mess committee. How, therefore, can we consider them to be independent?

**Mr. Aidan O'Driscoll:** I am not proposing to answer any of these questions.

**Deputy Marc MacSharry:** That is okay.

**Mr. Aidan O'Driscoll:** For the record, the Deputy is putting a lot of stuff on the record.

**Deputy Marc MacSharry:** I accept that.

**Mr. Aidan O'Driscoll:** For the record, this is not what we are here to discuss.

**Deputy Marc MacSharry:** Absolutely. I said that myself at the beginning.

**Chairman:** You are not expected to answer.

**Mr. Aidan O'Driscoll:** I do not propose to. I put on the record again that we are here to discuss the justice and equality Vote.

**Deputy Marc MacSharry:** We have covered the ground fairly well and will be finished in ten minutes.

**Mr. Aidan O'Driscoll:** The last time we were here on the prisons Vote, a large number of allegations were also put on the record.

**Deputy Marc MacSharry:** I am going to get to them.

**Mr. Aidan O'Driscoll:** They were untested allegations but were put on the record and when detailed responses were provided, I do not think a lot of the allegations stood up.

**Deputy Marc MacSharry:** I put it to Mr. O'Driscoll that, to the contrary-----

**Chairman:** Through the Chair, please.

**Mr. Aidan O'Driscoll:** Deputy, please. I think I have the microphone.

**Deputy Marc MacSharry:** Grand. Go on.

**Mr. Aidan O'Driscoll:** Again, today, the Deputy is putting a large number of untested allegations on the record. That is a matter for the Chairman and I am not going to say "yea" or "nay" about that. I am not, however, going to respond to them on the hop. It would be completely inappropriate for me to do that.

**Deputy Marc MacSharry:** I fully appreciate that.

**Mr. Aidan O'Driscoll:** I therefore have no intention of doing that. If the Deputy wishes to continue to put things on the record, however, that is a matter for the Chair.

**Chairman:** Mr. O'Driscoll is not here to answer those questions and I have made it clear that if I am concerned - I already have stated I am -I will be sending on a transcript of the meeting to the Garda. That is the outcome of this.

**Deputy Marc MacSharry:** That is great. I will get to the content of the other meeting in a moment or two. The question on the mess committee stands and I hope Mr. O'Driscoll will get back to us on it.

The email that I referred to, which was sent to governors on 28 January, stated that mess committee staff were advised to engage professional financial advice regarding the tax status of committees and the financial books that were to be kept. On the question of independence, it seems to be a Pontius Pilate move in that we seem to be taking control of an awful lot of things in terms of expenditure, light, heat and various other things. I am totally for the appropriate availability of food, meals and everything in the Prison Service but governors are on the committee so I do not see the level of independence or any separation. The line suggests the Prison Service is oblivious to tax status and the financial books.

In Mr. O'Driscoll's response to me, which he said was very detailed, he sent a list of balances when we had asked for audited accounts. He pointed out that the balances may not all be profit but he did not answer the question of who audits or when it is audited and we are still oblivious to that. He did, however, send us the procedure but nobody doubts that procedures are in place for how cash could be managed. I respectfully suggest that it is the Department which has not tested some of the issues I brought up at the last meeting. The Department has taken people's word for things but that may not be enough. I ask Mr. O'Driscoll to note that as well.

The email goes on to ask governors if they are aware of any misuse of Prison Service materials. We would love to think everybody was above reproach but these questions are arising. I am not saying governors are involved but they could be and we do not know. If there are practices that are wrong, what do we expect governors to say other than that there is nothing to see here? Would the Department consider asking the Comptroller and Auditor General, or an appropriate arms-length body such as the Department's own internal audit unit, which the procedure states can do spot checks, to carry out a forensic audit of all mess committees going back to their establishment, including interviews with all relevant personnel? I would prefer the Comptroller and Auditor General to do it. Mr. O'Driscoll said he is not answering and I understand why but I ask him to take it on board.

Is the Department or is the Irish Prison Service aware of an alleged amount, in the region of €20,000 or €25,000, being taken from the tuck shop or tuck shop account in a Dublin prison to fund a trip for a group to a sporting-related event in the United States between 2010 and 2013? It is a serious allegation which has come up umpteen times. Given the existence of such allegations, would the Department ask the Comptroller and Auditor General or another appropriate arms-length body to carry out a forensic audit of all tuck shops over the past ten years, including holding interviews with all relevant personnel?

Mr. O'Driscoll mentioned vehicles.

**Chairman:** I want to clarify something for the public record and for everybody watching. These are questions and issues being raised by Deputy MacSharry, who is one of 13 members of this committee. This is not a request from the Committee of Public Accounts until such time as the committee agrees to put these questions to you. People regularly ask for information but it has to be agreed by the committee.

**Deputy Marc MacSharry:** Can I ask-----

**Chairman:** No. Just let me finish speaking. Every day we ask for further information but

it is agreed by the committee to do so. If one member asks something on which the committee does not agree, it is a matter for that Deputy. I am not restricting Deputy MacSharry but what is happening now is a statement-----

**Deputy Marc MacSharry:** It was not a statement. It was a question.

**Chairman:** I am not restricting a person's right to speak.

**Deputy Marc MacSharry:** I would just like some clarity.

**Chairman:** I am giving the clarification. This is not a request from the Committee on Public Accounts. The committee has not yet decided what questions to put to the witness. This is a request from one member, which is not representative of the Committee on Public Accounts. I will probably refer the request to An Garda Síochána, and it will be for the members of the committee to decide whether to put these questions formally to the witness. When a member raises an issue here he or she is speaking on his or her own behalf, not on behalf of the committee at this point in time.

**Mr. Aidan O'Driscoll:** I accept that fully. I thank the Chairman for the clarification.

**Chairman:** We are in an unusual situation, but it is not my job to restrict a member in Parliament from saying what he or she has to say. The member is not speaking for the committee. As of now, he is speaking for himself and it will be up to the committee to decide whether it wants to put these questions to the witness.

**Deputy Marc MacSharry:** I will comment on what the Chairman said when I am finished. I mentioned vehicles at the last meeting, and in his reply on 7 February, Mr. O'Driscoll indicated that all vehicles are accounted for and that all assets have been verified by local management as being on-site. What if certain members of local management endorsed the absence, loan or alternative use of prison assets? We are taking people at their word. That is fine. Please God, all of these people are people of the highest integrity. However, ringing someone to ask whether he or she was speeding on a road and accepting his or her answer does not amount to an investigation. It seems to me that there is a crisis of confidence among hard-working prison staff at all levels about being able to call out wrongdoing in the culture that currently exists. What are we doing about it? Why, if there is a robust system in place, are people coming forward in other ways to other people in various forums, including to Members of the Oireachtas and members of various committees, this one included? Is all the information coming up in research vexatious, fantasies concocted by disgruntled staff with an axe to grind, or are some or all of these matters true? Are we prepared to check? Surely prudence demands that all matters are independently investigated.

I put it to Mr. O'Driscoll that, contrary to his claims against me, he has not tested the information I have put to him but, rather, has simply asked a question and accepted an answer, assuming therefore that an answer to my question was correct instead of carrying out an independent investigation in the interests of the taxpayer and of the health and safety and well-being and a healthy working environment and culture for prison staff? Is the Department of Justice and Equality open to the recommendation I am making now, that is, the establishment of a GSOC-style inspectorate, separate from the Irish Prison Service headquarters in Longford, with statutory powers to provide prison staff with the support and protection they require, and the confidence to which they are entitled? They should be above reproach and unable to be infected by any culture that may exist among a small number of staff at various levels. The Department



is only aware of information provided by headquarters in Longford, and is dependent on that information. It appears from my research that the Longford headquarters is only aware of and only as good as the information provided to it by individual prisons. It seems that some or all individual prisons operate as islands on a number of issues. My research has led me to question the existence of a parallel investigative judicial and enforcement system across our prison services. I hope those questions will be noted and answered.

I would appreciate it if the Chairman could provide for me, in writing, the Standing Order which allows for the validity or worth of my utterances to be adjudicated upon by other members of the committee. I look forward to receiving that, and information on the Act that determines that. I have been very careful. I have taken legal advice and chosen my words very carefully today. I have not identified anyone and I have focused on processes and procedures that are absolutely relevant to the expenditure of the State and Department of Justice and Equality. I question the Chairman's competence to tell the Secretary General that he does not have to answer my questions and can, in effect, disregard the questions that I, in trying to use my time efficiently, have put to him. I accepted this morning, in advance of this meeting, that he could answer the questions after this meeting in consultation with the experts involved in the Prison Service. I would appreciate a written response to that from the Chairman, and I thank him for staying on. We are missing votes as a result, but I believe these matters are of the utmost importance, and prudence demands they require investigation and actual testing, rather than the sort of testing we have seen in the past.

I thank all of the witnesses for coming here today, and continue to extend to the Secretary General every good wish in his new role. I hope he will understand my questioning in the spirit in which it was intended. I am only interested in protecting the taxpayers and ordinary prison officers in their place of work.

**Chairman:** To reiterate my position, as Chairman I respect the right of all members to speak openly and freely in this committee, as they are allowed to do in the Chamber. The Deputy has made it very clear that he had questions to put, and that he had made his own investigations and inquiries. No member of the committee is aware of any of the documentation or research the Deputy has carried out. I accept his statement that it is his own research. At committee meetings every week, we agree a set of minutes and we also agree a list of items on which the committee will follow up. We follow up on those items as a committee rather than having 13 individuals going in 13 different directions. We operate as a committee rather than as unconnected people. Everything we do is done by committee. Anything done otherwise is not the action of this committee. The questions that have been raised today do not have to be answered until such time as the committee agrees to put those questions to witnesses.

I thank the witnesses. They were here to listen and note what was said, but the committee has not requested that they respond to any of those matters. The committee may choose to send the transcript of this meeting and endorse all of the questions that have been put, but that will be considered and decided upon by the committee. Until that decision is made no request has issued. There are 13 members who make 13 different types of comments every week.

**Deputy Marc MacSharry:** Do the other 12 adjudicate on everyone else's questions?

**Chairman:** The Deputy will have noticed during today's proceedings that it often happens that a member will ask a question, and I will always tell the witnesses that they are to respond to the committee. I said that several times today.

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

**Chairman:** I say it every week. A person should not leave here wondering whether something said here was a request or a remark. I make it clear at every meeting that witnesses are to respond to the committee or to clarify issues for the committee. Questions come from the committee, not from me or from-----

**Deputy Marc MacSharry:** The last person I want to be in conflict with is the Chairman.

**Chairman:** There is no conflict here.

**Deputy Marc MacSharry:** The Chairman has said what he has said. I have put the questions and they are a matter of public record. I ask that Mr. O'Driscoll answer them, irrespective of what the Chairman has said. If he requires the questions in writing or in duplicate, to double the process, or as Parliamentary Questions, he will have them in 24 hours. However, he could circumvent that process by taking on board what I have asked in the public interest.

**Chairman:** People now understand the position. This is a matter for the committee.

I thank Mr. O'Driscoll and the officials from the Department of Justice and Equality, Mr. Burke from the Department of Public Expenditure and Reform and the Comptroller and Auditor General and his staff for their attendance. The clerk will follow up on any agreed follow-up information approved by the committee in advance of our next meeting. We will adjourn until 11 April 2019 when we will meet representatives of the Central Statistics Office and the Office of the Comptroller and Auditor General, which I do not believe has ever happened before.

**Mr. Seamus McCarthy:** It happened 21 years ago.

**Chairman:** Who was the Chairman on that occasion?

**Mr. Seamus McCarthy:** I will find out.

**Chairman:** That meeting will concern the appropriation accounts for Vote 4, Central Statistics Office, and Vote 8, Office of the Comptroller and Auditor General. The committee has also agreed to the request from Professor Chris Fitzpatrick, consultant obstetrician and gynaecologist at the Coombe Women and Infants University Hospital and former Master of the Coombe Hospital from 2006 to 2012, in connection with the national children's hospital.

*The witnesses withdrew.*

The committee adjourned at 13.30 p.m. until 9 a.m. on Thursday, 11 April 2019.