

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 16 Bealtaine 2019

Thursday, 16 May 2019

The Committee met at 9 a.m.

MEMBERS PRESENT:

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

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 Mr. Mark Brady, deputy director of audit. Apologies have been received from Deputy Deering.

The first item is the minutes of the meeting of 9 May. Are they agreed? Agreed. There are no matters arising from the minutes which cannot be dealt with as we move through our correspondence.

There are three categories of correspondence. Category A deals with the opening statements and briefing material for today's meeting. Nos. 2162A and 2163A from the Department of Health, dated 14 May, are the briefing documents and opening statement for today's meeting. Is it agreed to note and publish them? Agreed.

No. 2164, from the National Paediatric Hospital Development Board, dated 15 May, is the board's opening statement for today's meeting. Is it agreed to note and publish that? Agreed.

Category B comprises correspondence from Accounting Officers and Ministers and follow-up responses to PAC meetings and other items for publishing. No. 2131B from Mr. Donal McManus, CEO, Irish Council for Social Housing, dated 15 April, provides a breakdown requested by the committee of all tenancies - 29,803 housing units - offered by approved housing bodies, including a clarification of the length of tenancies, the number of tenants with tenancy-for-life status, and those with four-year, six-year and ten-year tenancies. This information may inform our considerations in producing our periodic report on housing. We noted and published this item at our last meeting and agreed to hold it over for further consideration this week. We will discuss it when discussing housing.

Deputy Catherine Connolly: I asked for it to be held over, among other items. I have read it. There is a serious amount of detail, which I welcome.

Chairman: That is good.

Deputy Catherine Connolly: It certainly should be discussed in the context of our housing report.

Chairman: Absolutely. We will ask the secretary to take on board the content of that latest correspondence when preparing a document for us to consider on the housing issue.

The next item, held over from the last occasion, is from Ms Rachel Downes, CEO, Caranua, dated 25 April 2019. It provides an update, requested by the committee, on the current financial position of the Residential Institutions Statutory Fund, known as Caranua. We noted and published this at our previous meeting but we agreed to hold it over in case members have anything to ask.

Deputy Catherine Connolly: I just want to go back over that again. I read it and asked for it to be held back. There is still money outstanding.

Chairman: There is.

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Deputy Catherine Connolly: It is €6 million or so.

Chairman: There is €6 million or something like that outstanding.

Deputy Catherine Connolly: The whole process is to be completed in August of this year, is it?

Chairman: Yes, that is correct.

Deputy Catherine Connolly: Will Caranua be coming back before us?

Chairman: We had not planned for that to happen between now and July.

Deputy Catherine Connolly: That is all right.

Chairman: We had not planned for it.

Deputy Catherine Connolly: Will it come before us in due course?

Chairman: It will.

Mr. Seamus McCarthy: The financial statements are audited annually so it is available to be called at any time.

Deputy Catherine Connolly: It is unacceptable that the money is still outstanding.

Chairman: Correct.

Deputy Catherine Connolly: That is the first item. We followed up on this. There are other items regarding Caranua to which I would like to return at some stage and from which we could learn. They are not for today and I do not want to delay the meeting but I certainly want to come back to Caranua with regard to value for money, which is really a horrible term to use considering the purpose of Caranua. It is certainly not to do with the clients.

Deputy Marc MacSharry: I support Deputy Connolly on that point.

Chairman: The 2018 financial statements are with the Comptroller and Auditor General at the moment.

Mr. Seamus McCarthy: They are done.

Chairman: They are done. Does he have any idea of when they might be published?

Mr. Seamus McCarthy: The 2018 accounts are scheduled for release in June or July.

Chairman: This issue will come up again in its annual financial statement for last year and we will have an opportunity to discuss it at that point.

Mr. Seamus McCarthy: The accounts for 2017 have been submitted and the committee could call Caranua before it in that regard.

Chairman: We have discussed the 2017 accounts already. The 2018 accounts are under audit at the moment and will be dealt with later.

No. 2147B is from Mr. Liam Sloyan, chief executive officer of the National Treatment Purchase Fund. It is dated 2 May 2019 and updates the committee regarding the review of the

system of pricing under the nursing home support scheme. The National Treatment Purchase Fund advises that its review of the scheme was being finalised and was expected to be with the Minister at this stage. However, the secretariat informs me that it does not believe it is with the Minister yet. I propose we ask to be kept updated. We want to keep that matter very much on our radar because many people are interested in that particular topic. We note and publish that.

No. 2148B from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, dated 3 May 2019, provides information requested by the committee with regard to a timescale in respect of the improvement of cost estimations and an information note on the assessment process to determine whether a project meets the value for money criteria and how this is integrated into the approval process for any major projects. We note and publish this. Much of this issue relates to the timescale in respect of improvements in cost estimation. It is expected that phase 1 will be completed very soon as part of the public spending code and it is expected that phase 2 will be completed towards the end of this year or the beginning of next year. We will hold that in our files for ongoing reference purposes.

Deputy David Cullinane: I welcome that. Lessons are obviously being learned in respect of the national children's hospital and the broadband plan. As we discussed at our last meeting, there was a lot of commentary on the correspondence between Mr. Watt and the Secretary General of the Department of Communications, Climate Action and Environment. That is fine. He set out very real concerns regarding that project. In the letter he cited that part of his concerns represented a learning from the national children's hospital. Can we write to Mr. Watt asking if any similar correspondence was had, if any similar concerns were raised, or if any similar exchange of views occurred in respect of the national children's hospital? That is one element of this issue at which we have not looked. I know we had Mr. Watt before the committee. He was reluctant to get into the matter of the national children's hospital - he was here dealing with the broader issue of procurement in respect of all of the big projects - but we now know that he put in writing very serious concerns in respect of the national broadband plan. There may well also have been correspondence on this matter, although it may not have been as stark as that regarding the national broadband plan. I would like to see what engagement there was between the Department of Public Expenditure and Reform and the Department of Health in respect of the national children's hospital. I imagine that there was some level of engagement. Is it possible for the committee to seek any such correspondence between the Department of Public Expenditure and Reform, specifically Mr. Watt, and the Secretary General of the Department of Health in order to see what was being said at that time?

Chairman: Yes, I understand.

Deputy Catherine Connolly: I support that suggestion but from the small amount of correspondence at which we did look, the emails, it seems to have been the other way around. Somebody in the Department of Health was attempting to contact the Department of Public Expenditure and Reform regarding the children's hospital but received no response.

Chairman: That was before the budget.

Deputy Catherine Connolly: It seems to have been the reverse, but that is subject to clarification.

Deputy David Cullinane: If that is what the correspondence shows up, that is what it shows up.

Chairman: We will ask that specific question again.

Deputy Catherine Murphy: We had a list of topics for that particular day and the national broadband plan was included on it, although we almost could not discuss it. Mr. Watt was quite cross with us.

Chairman: He said that answering the question as to whether the plan should proceed would be a career-ending move.

Deputy Catherine Murphy: He was quite cross with the committee that the focus was almost entirely on the national children's hospital. There is merit, while there is a bit of distance, to reconsidering the whole issue of how capital projects are managed.

Chairman: We will write to Mr. Robert Watt in that specific regard. The Secretary General of the Department of Health will be before the committee today and we will ask him the same question.

Deputy David Cullinane: Even that is a learning in itself. Most people see the tension between the Departments as having been a healthy tension. It is good to see that as part of a process. If that was lacking in respect of the national children's hospital or, worse, if it was the case that the Department of Health was trying to make contact with the Department of Public Expenditure and Reform and not hearing back, it would show up a failure in itself. It is interesting. I do not believe we asked for that level of documentation. Because we now have the correspondence regarding the broadband plan, we should seek whatever correspondence was had in this regard.

Chairman: Is that agreed? The committee agrees to that. It is definitely agreed. We note and publish that and will follow up on the request outlined by Deputy Cullinane. The next item of correspondence is No. 2151B from the Minister for Finance and for Public Expenditure and Reform, Deputy Donohoe, dated 9 May 2019. It is the minute from the Minister in respect of our periodic report No. 4, which was published in December. There were 29 conclusions and recommendations in our report. The Minister has provided a detailed response across 26 pages. I suggest we take time to study that response in detail because it is part of our work to examine the Minister's response to our recommendations. We need to take a little bit of time. I propose that we note and publish this but hold over discussion until our next meeting. Is that agreed? Agreed. There is quite a lot in it.

The next item of correspondence is No. 2152B from Mr. Ray Mitchell, assistant national director of Health Service Executive, dated 9 May 2019, providing information requested by the committee with regard to the national children's hospital and, particularly, the role of PwC as consultant at different stages of the project. We will discuss this in further detail when we meet with the hospital board, the HSE and the Department of Health. I propose that we note and publish this but, in the interests of balance, I want to read one paragraph of this letter into the public record because people will be aware that, as Chairman of the committee, I expressed concern regarding the fact that PwC had earlier involvement in the process and that the Department then brought it back to carry out the cost escalation report. In the interest of balance and fairness, I will put some of the response on the record rather than noting it and people not being aware of it. The response from the HSE----

Deputy Catherine Connolly: Is this the letter from 10 May and the attachment to it?

Chairman: It is the letter from 10 May, No. 2152B, and I am reading from the top of page

4. I am doing this in the interests of balance. My view was made clear the last day; this is the HSE's view. In the interests of balance I want to put both on the record. It says:

This review was conducted over a nine-week period and involved the deployment of a highly experienced international PwC team comprising capital project and infrastructure specialists, required detailed examination of over 2,000 NCH project documents, more than 40 in-depth interviews with 52 members of the NCH project team and the development of a comprehensive and detailed PwC report.

This review was of a fundamentally different nature and scale to the high-level advice provided by PwC and others to the HSE in November 2018. We do not see any conflict of interest arising from PwC's involvement in the provision of high-level advice to the HSE in November and its role in carrying out the review of cost escalation in 2019. Indeed, we believe that the work conducted was highly complementary, given the technical nature of the skills and experience required.

I am just putting that on the record. It would be unfair to the people who I may have criticised the last day. I am not saying whether I agree or disagree, but I made my view clear and it is only fair that I put their response on the public record, in the interest of balance. We will discuss it with those people later today.

Deputy David Cullinane: We will, but I still think it merits a response in terms of the correspondence that came in separate from this meeting, so I would like to make a number of observations on it. The first is that this was never about individuals. I am not aware of what comments the Chairman made but any concerns that were raised, from recollection, were more about the process and conflicts of interest. The letter itself says that the Department does not see any conflict of interest arising from PwC's involvement in the service of the so-called high-level advice it gave. It then says there is no conflict between that and its role in carrying out a review into cost escalation. Underneath that, when it expands on what PwC was doing, it states that it was giving advice on the guaranteed maximum price report, or, to use its own words, "high-level advice". There seems to be a lack of understanding, at best, as to what constitutes a conflict of interest. A conflict of interest can arise if there is a perception of a conflict of interest, so if we are going to do an independent report it has to be completely at arm's length. I would imagine there should be no involvement in the project itself. PwC does work for the HSE and the Department of Health, but given that it had a high-level role at some point in the process, that should have precluded it from independently examining the process. That is a clear conflict as far as I am concerned. I will take this up with the Department, but I do not think the Department can write to the committee with any seriousness and say that it does not see any conflict of interest. Anybody who understands conflicts of interest would see that it is a glaringly obvious one, and should not have been allowed to happen. We have been saying time and again that there are a small number of these companies doing the rounds, getting all these jobs, giving advice on the one hand and then doing so-called independent reviews on the other, and it is not good for accountability, or for getting answers to the questions people want answered. While I have to say the PwC report was a good one and very much reflected what as in the Mazar's report in that it was not hugely different, I still think it is a conflict of interest. I do not accept the response from the Accounting Officer, but we will take that up with him.

Chairman: We will take it up during the course of that meeting.

Deputy Marc MacSharry: I have no difficulty with what the Chairman said at the last meeting because I joined him, as many did at that meeting, in agreeing with it. At the end of the

day, we cannot have the contestants judging the beauty pageant. There is effective admission here that the same few personnel were involved. However, what worries me even more is that the Secretary General does not see a conflict of interest, so God knows what is going on in other capital projects throughout the country if that is the case. PwC is a stand-up company with a global reputation that does excellent work, as does KPMG and so on. There are only a limited number of companies between the two canals in Dublin but we seem to have a peculiar dedication to solely using them. PwC was involved with high-level input. What is high-level input? The fact that it gave high-level input means it cannot review it. It is called an independent review, but that was not independent. Maybe everybody did the best possible job they could, but it is compromised, and its credibility is affected. One of the best Secretaries General, to my mind, in terms of his candid answers here from time to time, is compromising his good name by saying that he does not see a conflict of interest in this, in effect.

The other thing I would say is that there is much a lot of woolly language and high-level expertise from health construction people, but who are they?

Chairman: We will ask. The Director General of the HSE will be here shortly and we will pose those questions then.

Deputy Catherine Murphy: I have many of the same points, but I think it is important to reiterate them. I asked whether the same personnel were involved, and we know now that some of them were. Are we seriously being asked to accept that people were going to be asked, essentially, to disagree with themselves? That is what this is, and it is nonsense. Deputy MacSharry made the point that the thought process in engaging companies should be of serious concern, and in any report we issue, we should be making that point as firmly as possible to the Department of Public Expenditure and Reform in relation to the advice it gives other Departments in these kinds of conflicts. It is almost like we are being made eejits of with this kind of response. That is the way I feel about it. The same personnel involved in giving high-level advice are then asked to critique themselves. To me, that just screams of a conflict of interest.

Deputy Catherine Connolly: I think the Chairman might have been a bit premature in trying to balance the record because I do not know what record needed to be balanced.

Chairman: I made a lot of-----

Deputy Catherine Connolly: That is okay for the Chairman himself, but as a member of this committee, I read this and I find it very worrying, and that is something that is going to have to be teased out today. I do not know what words I used but I certainly stand over whatever I said. This document shows that PwC was engaged in November 2018 in relation to this. It has been employed by contract since January 2019 in relation to general work but it was given this specific piece of work in November 2018. The document states that in November PwC was appointed as one of a number of organisations and that there is no separate, documented advice from any of the external parties involved. I happened to hear the Chairman's interview today and I think he said that PwC was only involved for a few days, but that is subject to clarification. It was paid €21,477, plus VAT, for a couple of days' work, and that is again subject to clarification. That external advice, of which there is no documentation, along with the other external advice, was used to justify the step of going forward. As there was no way of going back, they had to go forward, so they called in all of the expert advice to go forward with no documented evidence. Fast-forward to January, and we commission PwC again to do an even more extensive review. Significantly, the Chairman and I both commented at the time on the conclusion. It was asked to give recommendations and findings but its conclusion was that there was no

choice but to go ahead. It was only copper-fastening what apparently - because one has to be very careful now, apparently - was already decided in November 2018, or that is how it looks to anyone listening, and to us trying to struggle through all this documentation.

Interestingly, it is not mentioned on the list of reports so we will be going back to that as well. We asked for the list of reports and struggled to get it.

Chairman: The reports from other consultants.

Deputy Catherine Connolly: The other consultants, included Mazar's, Deloitte, and Line-sight. There is also an internal report from November, but there is no price given for that one. We know now that one of the external advisers was PwC at a cost of over €20,000. We struggled to get all this information, so-----

Chairman: We will discuss it when the HSE is here.

Deputy Catherine Connolly: We will absolutely discuss it.

Deputy David Cullinane: An additional point I forgot to mention was that if there is a conflict of interest, it can be managed if it is declared. There was no declaration here. I read the PwC report and it does not say anywhere that it provided high-level advice at an earlier stage in this project. It was not said. We had discussions at both this committee and the Joint Committee on Health and questions were asked about whether there was a conflict of interest. It was only later on, when the report was published, that we got the letter from Mr. Mitchell that stated there was a relationship between the company and the HSE. We found it out by accident, really. My point is that conflicts of interest arise, and they can be managed, but this was not managed or declared at any point before or during the process. It was only afterwards by accident, and by the good work of this committee, that we found out that there was a relationship there. I think it is a slam dunk in terms of it being a clear conflict of interest and the fact that it was not even managed by the company, the Department, or the HSE, is even worse. It is problematic that this letter justifies it and states that there was no conflict of interest. If the Comptroller and Auditor General was doing a look-back on this he would look for correspondence from all sides. He can speak for himself but I imagine he would not accept this. I cannot see how it can be accepted that the Department does not see any conflict of interest. It is staggering.

Chairman: That is the Department's position. I read it out but I am not asking people to agree or disagree. I wanted to put it on the record.

Deputy Catherine Connolly: It goes on the record without being read out, but it was read out in order to balance things.

Chairman: As Chairman, I was trying to be impartial and to show that there was a counter point of view. I have put it on the record and people can judge it accordingly. I am not drawing conclusions.

The next item is No. 2155, from the Comptroller and Auditor General, Seamus McCarthy, dated 9 May, providing an update to the committee regarding the submission by public bodies of draft financial statements for audit by the Office of the Comptroller and Auditor General. The first job of the Committee of Public Accounts is to review the financial statements of the approximately 300 public bodies audited by the Comptroller and Auditor General. We can only do that if they submit financial statements. The primary requirement of a board in any organisation is to produce financial statements within a reasonable time period. If they are not

able to do that, I would question what else might not be working properly in the system. When we took over a couple of years ago, the percentage of financial statements which had been submitted within a three-year period year stood at about 40%. We have been following this issue relentlessly and we had the education and training boards, ETBs, before us when only one of 17 had submitted its accounts on time. We have issued several reports and the committee took the unprecedented step of authorising me to write to the chair and secretary of every organisation reminding them of their obligations. Over the past couple of years we have seen a vast improvement, with it going up to 70% and then over 80%. I am happy to report that, up to the end of April, over 92% of the roughly 300 organisations audited by the Comptroller and Auditor General had submitted their draft accounts for audit. There remain 24 which have not done so. With the consent of the committee, I will write to the chairperson and chief executive of each of the 24 organisations tomorrow, reminding them of their obligation to get their accounts in straight away. We are making outstanding progress in getting the financial statements because I realised a few years ago that the statements we were getting were four years old. That was a waste of everybody's time and it showed a lack of governance in the organisations in question.

I will read out the names of the organisations which had not submitted their accounts by the end of April. A number are directly from the Department of Finance. The sundry moneys deposit account has a turnover of €149 million. The hepatitis C special account has a turnover of €26 million, and the hepatitis C reparation account has a turnover of €4 million. The local loans fund normally has a turnover of €280,000 and the Credit Union Restructuring Board, now in wind-down, has also not submitted accounts. The environment fund, which is directly from the Department, has a turnover of €44 million each year but has not submitted accounts and the fisheries harbour accounts in the Department of Agriculture, Food and the Marine has a turnover of €6 million but has not submitted accounts.

In the education sector, the following colleges have not submitted accounts: University College Cork; Dublin City University; Dublin Institute of Technology, although that body is in a wind-down situation; the State Examinations Commission; Letterkenny Institute of Technology; St. Angela's College in Sligo; St. Patrick's College of Education, which is a residual account following amalgamation; and the Church of Ireland College of Education, also a residual account and in wind-down mode. Some of the universities will make the fair point that they have external auditors and have to go through that process before it comes to the Comptroller and Auditor General. They will say they have a double audit and I acknowledge that but the accounts are several months late.

The accounts in the HSE fund are: the private patients accounts of €72 million; the National Treatment Purchase Fund; the Pre-Hospital Emergency Care Council; the hepatitis C insurance scheme; and two accounts with minor activity, namely, the long-stay repayment scheme special account and the long-stay repayment scheme donation account. Finally, there are three State bodies which had not submitted accounts by the end of April, namely, the Legal Aid Board, Irish Water Safety and the Discovery Programme - Centre for Archaeology and Innovation. We will write to the Accounting Officer in the Department of Finance and the relevant Government Departments and directly to the chairmen and chief executives of the organisations in question. I thank the Comptroller and Auditor General for keeping on top of this. If nothing else, we will make sure there is corporate governance at board and Accounting Officer level in all these organisations. We are nearly there.

No. 2156 is from the Minister of State at the Department on Education and Skills with responsibility for training, skills, innovation and research and development, Deputy John Hal-

ligan, dated 18 April advising the committee of the recent launch of Ireland's national intellectual property protocol 2019 - a framework for a successful research, commercialisation and accompanying research guide. I welcome the development, which will have a bearing on the commercialisation of all forms of intellectual property and I am pleased that there is a requirement for State research funding organisations and a State innovation funding agency to apply the policy and framework in the national intellectual property protocol, consistent across all programmes of funding. The committee will continue to monitor this topic closely, especially in relation to the third level institutions. We will note and publish this.

The next item is No. 2157 from John McKeown, Secretary General, Department of Employment Affairs and Social Protection, dated 9 May, providing information requested on foot of an inquiry regarding the use of precedential test cases by the Social Welfare Appeals Office to determine issues in respect of employment, self-employment or bogus self-employment. We will note and publish this and forward the response to the correspondents who raised the issue. No. 2158 is also from John McKeown, Secretary General, Department of Employment Affairs and Social Protection, dated 10 May, providing further information regarding the JobPath programme in response to our queries. The Department is currently reviewing its contract of public employment services with a view to continuing to provide resource services to those who need support. We will note and publish this.

The next item is correspondence is from private individuals and other correspondence. No. 2153 was received from an individual dated 5 May relating to the national broadband plan. The correspondent raised value for money issues that may feed in to our consideration of broadband matters. We note this. No. 2154 is from an individual, dated 6 May, relating to negative environmental impacts of broadband roll-out, which we will also note. No. 2154 is from Deputy Cullinane and relates to the committee's consideration of the broadband issues. We are awaiting documentation on broadband matters and I propose to note the item for the moment and return to it when we get the information we have requested. The next item on the agenda is statements of accounts received since the last meeting.

I did not read out correspondence No. 2159 from the Tax Appeals Commission. We had asked for a two-monthly update on its ten largest cases, which amounted to approximately €700 million in March. Some had been settled and there were different issues so we wrote back for an update. The update will require clarification and we will write to the commission immediately. It does not give exact estimates as to do so might prejudice the outcome of a hearing but it gives various bands. It states that, as of 16 May, three cases are before the commission where the corporation tax to be determined is in excess of €100 million each. It goes on to state that in three further cases the amount to be determined is estimated at between €50 million and €100 million and in three other corporation tax cases the amount to be determined is between €30 million and €50 million. There is one case in respect of an environmental levy where the amount in question is between €30 million and €50 million. Interestingly, the schedule identifies an overall total of €2.571 billion. I do not know what that figure means. Is it the quantum of cases with the Tax Appeals Commission? On the last occasion we dealt with the commission, that figure was approximately €1.7 billion. If there has been a dramatic increase in the quantum of cases in value terms before the Tax Appeals Commission, we need that clarified. I am not sure what is the figure at the bottom of its chart. It does not state what the figure represents. I am guessing. If I am wrong, I need that clarified. In addition, the commission should explain why the volume of cases on its desk has gone from what we understood to be €1.7 billion to €2.5 billion in a very short time. I acknowledge that it must deal with the appeals, but it must have some observation on that increase. We will write to the commission on that issue because

it is a matter we have been following due to the quantum and volume of cases before the Tax Appeals Commission. It appeared before the committee and there were many issues.

Deputy Catherine Murphy: There are also two court cases. One is a judicial review and the other relates to the environmental levy. It would be no harm to have an idea what the cases are about.

Chairman: The Supreme Court imposed a stay on progressing one of the appeals. Is the Deputy's point that the case was before the courts and is a matter of public knowledge?

Deputy Catherine Murphy: Yes.

Chairman: That is item No. 10. Which is the other one?

Deputy Catherine Murphy: Looking at the amount involved with the environmental levy, it is obviously about a point of principle rather than the individual. The entire levy could be compromised by a decision in that case.

Chairman: No. 8 refers to corporation tax and involves an estimated figure of more than €100 million. It states that the High Court has imposed a stay on progressing this appeal pending the outcome of judicial review proceedings which have yet to be heard in the High Court. No. 10 relates to an environment levy and the estimated quantum of the case is between €30 million and €50 million. As the Deputy stated, the Supreme Court has imposed a stay on progressing the appeal pending its judgment in proceedings which have yet to be heard. The case has not been decided. We should be able to get further information. If the cases are before the courts, they are a matter of public record. We will ask for that information to be sent to the committee. We understand that if a court tells the Tax Appeals Commission not to decide a case until the court proceedings have concluded, the commission must comply. It is not its fault that there are many cases on its desk.

The next item on the agenda is accounts received since our last meeting. The Ombudsman for Children received a clear audit opinion for 2017. Institute of Technology Tralee received a clear audit opinion, but it incurred a deficit each year for the past five years, an accumulated revenue deficit of €4.4 million. The Comptroller and Auditor General highlights that in regard to its continued existence. Obviously, it needs support to clear its deficit. Fís Éireann, formerly known as the Irish Film Board, received a clear audit opinion. The Revenue account received a clear audit opinion. There is a minor detail involving €77 billion. Is that the Central Fund?

Mr. Seamus McCarthy: No, it is the Revenue account. The figure is made up of taxes and other charges collected. PRSI and so on go through this account. It is the Revenue account 2018.

Chairman: It is separate from the Revenue Commissioners.

Mr. Seamus McCarthy: No. The Revenue Commissioners Vote involves their administration costs. The Revenue account relates to the taxes that come in.

Chairman: Who produces the report?

Mr. Seamus McCarthy: The Revenue Commissioners.

Chairman: That is fine. We will deal with them in due course.

Mr. Seamus McCarthy: Yes. This is the first of the 2018 accounts to come through.

Chairman: That is very good. The Revenue is-----

Mr. Seamus McCarthy: It is ahead of the game.

Chairman: -----one of the first organisations to have its accounts audited. If it can do so with a throughput of €77.3 billion, some of the smaller organisations should be able to do likewise. The final account received is for the Aquaculture Licences Appeals Board, which received a clear audit opinion. We note that.

The next item on the agenda is the work programme.

Deputy Catherine Murphy: On this issue, we sought information on several matters relating to the national broadband plan, such as the entity, how it changed and who were the people behind it. Did we receive that information?

Chairman: No.

Deputy Catherine Murphy: Can we get it? I specifically sought it because the final bidder changed over time. The committee should be able to track each time it changed in order to ascertain who were or are the people behind it.

Chairman: We could also ascertain who is likely to be behind it when a contract is signed.

Deputy Catherine Murphy: We sought that information and I have been looking out for it, but did not see it arriving. The committee has a work programme. The issue of when we will do the report will probably not appear on that programme. Another committee is doing some work on this area and the work we did may be helpful to it because we largely focused on the metropolitan area networks, MANs, contracts and the early sale without tendering of the concessionary-----

Chairman: The extension.

Deputy Catherine Murphy: Exactly. The extension and the sale without tendering the sale. We heard from other parties that they would have tendered. The fact that Granahan McCourt was the company behind Enet is useful work which should not have to be duplicated by the other committee. That makes it important that we finalise our work in this area. I acknowledge that there is likely to be one further hearing, but we should not let the process continue for a considerable period.

Chairman: The other committee wishes to carry out certain examinations. There will be no duplication. Two committees will not do the same job. We have done a large volume of work. The Deputy's point is that we need to complete our work, which will be beneficial to other committees as they will not have to go back over ground already dealt with by this committee. We will discuss it further at our next meeting in two weeks.

On the work programme, we will not sit next Thursday, as members are aware. I propose that we postpone our engagement with the Courts Service until June. It was scheduled to appear next Thursday, but the Dáil will not sit on that day and it is unlikely that members will be in Leinster House. We have identified 27 June to meet the Courts Service. The intention is to have two sessions on that day, the first with the Courts Service and the second with the Houses of the Oireachtas Commission. I do not wish to drop the meeting with the Courts Service. We

might be able to hold a morning session and an afternoon session. We will organise timing accordingly.

On the meeting with the Department of Finance, chapters 2 and 3 of the report of the Comptroller and Auditor General are listed for discussion with the Department on 30 May. The chapters were already discussed during the committee's engagement with the Department of Public Expenditure and Reform and, as such, I wish to formally take them off the agenda for the meeting with the Department of Finance. We do not want any unnecessary duplication.

Deputy Alan Kelly: On any other business, a long time ago, we asked for a report into the companies in Cork Institute of Technology. This matter has been going on for years, but we keep getting pushed back. Some months ago, we wrote again asking for the information and were told in response that the report is being compiled. This has been going on since the previous Committee of Public Accounts. We delved into the issue and found out about the companies. The report should have been completed. We wrote to the institute and asked it where we go from here because, obviously, we are being stonewalled. Where is the report? We need to contact the HEA and CIT and put a deadline on its delivery.

Chairman: We will be meeting in two weeks. The report should be presented to the committee within ten days or at our next meeting we will set a date for representatives of Cork IT to appear before the committee and explain why the report has not been completed.

Deputy Alan Kelly: Will the Chair write to Cork Institute of Technology and inform it of that?

Chairman: We will write to the chief executive and the chairman of the board.

Deputy Alan Kelly: That is fine.

Chairman: We must have the answer before we meet in two weeks' time. If not, we will set a date to bring them here.

Deputy Alan Kelly: That is perfect. Thank you.

Deputy Kate O'Connell: I corresponded with the clerk on the matter yesterday. Some weeks ago when we had representatives of the EPA here, I asked for a report on the monitoring of drug residues in drinking water and also the cost benefits of its radon programme, but I have not received anything yet. I accept that there was the Easter break, but it seems like a very long time to wait for answers which I imagine should have been fairly simple to provide, especially on the monitoring of water quality, which is topical.

Chairman: We had a good meeting with the EPA some weeks ago. Two weeks is more than long enough for a Secretary General to provide a response. We will follow up the matter directly.

Deputy Kate O'Connell: Thank you.

Chairman: If we have not received a response on this day two weeks, it will be well over one month and we will set a date for representatives of the EPA to come and tell us why it has not responded. I am taking that approach to get people to act properly.

Sitting suspended at 9.52 a.m. and resumed at 9.57 a.m.

National Paediatric Hospital Development Board: Financial Statements 2017 (Resumed)

Mr. Jim Breslin (*Secretary General, Department of Health*), **Mr. Dean Sullivan** (*Deputy Director General, Health Service Executive*) and **Mr. Fred Barry** (*Chairman, National Paediatric Hospital Development Board*) called and examined.

Chairman: Today we will continue our examination of the 2017 financial statements of the National Paediatric Hospital Development Board. From the National Paediatric Hospital Development Board we are joined by Mr. Fred Barry, the new chairman; Dr. Emma Curtis, medical director; Mr. Jim Farragher, finance officer, and Mr. Paul Quinn. From the Department of Health we are joined by Mr. Jim Breslin, Secretary General, and Ms Tracy Conroy, assistant secretary. From the HSE we are joined by Mr. Dean Sullivan, deputy director general of strategy, and Mr. Jim Curran, head of estates.

I remind members, witnesses and those in the Visitors Gallery to switch off their mobile phones completely or switch them to airplane mode, as they can still cause interference with the recording and broadcasting systems, even when left in silent mode.

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

Members are reminded of the provisions of Standing Order 186 to the effect that the committee shall refrain from inquiring into a policy or policies of the Government or a Minister of the Government or the merits and objectives of such policy or policies.

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

As the Comptroller and Auditor General made his opening statement on this topic at a previous meeting, he will not make one today. I, therefore, invite Mr. Breslin to make his opening statement.

Mr. Jim Breslin: When the committee met on 31 January to consider the 2017 financial statements, I circulated in advance of that meeting a briefing note which had been prepared by the Department for the Joint Committee on Health setting out the detail of the cost escalation on the new children's hospital capital project. In advance of this meeting I circulated an update on developments since. As is well known, the Government approved the construction investment to allow phase B, the above-ground works of the hospital, to be instructed in December. At the same time the Government approved the commissioning of an independent review of the escalation in cost of the capital project. The purpose of the review was to examine in detail the contributory factors to the cost escalation and associated responsibilities in order that any potential weakness would be identified and comprehensively resolved in the interests of the successful completion of the project and the effective management of public funds. The terms of reference also required the review to identify and address major residual risks, as well as control

and oversight issues. It also was required to develop recommendations which may identify any areas of potential cost savings or reductions, which are consistent with the applicable contractual undertakings and the delivery of the project. The report of the review was presented to the Government on 9 April last and published on the same day.

The PwC report is the result of an intensive and extensive body of work carried out by a team of experts over a period of nine weeks. The PwC team was composed of a number of international capital project and infrastructural specialists, including chartered engineers, quantity surveyors, chartered accountants, commercial specialists, data analysts and healthcare experts with extensive experience in the review of complex capital projects and programmes. In publishing the review, the Government requested that an implementation plan be prepared and submitted to the Government for its consideration. Extensive work has been undertaken between the Departments of Health, Public Expenditure and Reform and the Taoiseach, the National Paediatric Hospital Development Board, NPHDB, Children's Health Ireland, CHI, and the HSE. The Minister for Health updated the Government on this work earlier this week and it is envisaged that the draft implementation plan will be considered by the Government shortly. The PwC report accepted that the two-stage procurement process used to award the contract for construction of the new children's hospital is a widely used approach and can deliver significant benefits. It also identified failures that occurred in the set-up, planning and budgeting stages for the project, and in the implementation of the two-stage process. It warns that the guaranteed maximum price, GMP, established through the process does not provide a contractual ceiling on cost and significant residual risks remain. A primary focus of the development board must be on managing this risk and preventing further cost increases.

The report synthesised the findings of the review into a set of 11 recommendations. The first nine are specific to this project, and identify steps to be taken by all stakeholders in this project relating to project delivery, control, and assurance. This ranges from a review of the scope and responsibilities of the advisory firms that constitute the design team to reflect their roles in the performance monitoring of contractors, to strengthening the capacity and capability of the development board executive and to putting in place a scrutiny process that includes all levels of the governance structure to review all proposals that are focused on reducing the GMP. The remaining two recommendations relate to the management of other public sector spending on major capital infrastructure projects more generally, and therefore are a matter for the Minister for Public Expenditure and Reform. The Government noted the report's findings and requested the Ministers for Health and for Public Expenditure and Reform to revert with a proposed implementation plan for these nine recommendations. The implementation plan will set out for each of the 11 recommendations the actions taken to date and the further actions proposed, together with timelines. The implementation plan is being developed on a collaborative basis by key stakeholders and will be brought to the Government shortly for consideration, following which it is expected it will be published. The implementation plan will address the deficiencies identified in the report, including developing and implementing, where necessary, more robust project control and project assurance plans appropriate for a project of this national importance throughout the remaining construction programme.

The development board is fully committed to implementing the recommendations, as are the Department, the HSE and Children's Health Ireland. As the chair of the board will outline, he has established and leads a sub-committee of the board to ensure full implementation of the recommendations relevant to it. The National Paediatric Hospital Development Board has already taken a number of important steps to strengthen its project control systems, capacity and capability. Work is under way to improve reporting standards and introduce revised working

arrangements with the design team. Consideration will need to be given to the report's warning of potential loss of corporate knowledge. It is appropriate that the focus is on maintaining corporate knowledge and expertise and on strengthening the project by building further capacity and capability. In that context, the committee may be aware in relation to the executive of the NPHDB, that the project director of the development board, who holds the statutory function of chief officer, announced his resignation in March, effective from early June. Given the scale and complexity of the project and the challenges associated with both roles in this current phase of the project, the NPHDB decided that the roles should be divided. Following receipt of sanction by the Department of Public Expenditure and Reform in respect of the remuneration rate for the chief officer post, the job campaign was advertised by the Public Appointments Service last week. Discussions are ongoing with the Department of Public Expenditure and Reform regarding the terms and conditions for the recruitment of the project director post.

The PwC report's findings did not identify that the existing governance structures above the NPHDB contributed to the cost escalation. The review was satisfied that these structures did not impede the flow of information in relation to the cost escalation but did find that the terms of reference and composition of the children's hospital project and programme steering group and board meant that their collective ability to provide challenge to the role of the NPHDB was limited, and accordingly recommends a review of these matters. Such changes will form part of the implementation plan to be approved by the Government.

The project is now in the major construction phase. Above-ground works at the St. James's site are progressing well with the structural frame, walls, slabs and columns now above ground level in most advanced areas. Basement excavation and piling are now substantially complete. The mechanical and electrical fit-out of the basement plant areas will commence in this quarter. Construction work on the new children's hospital will be completed in the third quarter of 2022. This will be followed by a period of commissioning and the hospital will open in 2023.

Work at the outpatient department, OPD, urgent care centre at Connolly is on target for handover to CHI this month followed by equipment installation and operational commissioning. In fact, as the chair of the board will update us, the handover of the Connolly facility has taken place this week. The delivery of services at the Connolly centre will be provided on a phased basis from the end of July 2019. Decant works at Tallaght University Hospital are now complete and the new crèche, changing facility and offices are open. Construction work on the Tallaght paediatric outpatient and urgent care centre started last month and it is due to open next year.

Extensive engagement has taken place with the Oireachtas health committee and the Committee of Public Accounts on how the cost escalation came about and its reporting. PwC reviewed more than 2,000 project documents, records and data. The report documents what happened and the timeline of reporting. I believe the review's findings on the reporting of the cost escalation are consistent with previous information provided to the Oireachtas, including this committee, and the documentation published by the Department and others. The scale of the review, and the consequent robustness and comprehensiveness of the recommendations mean that the benefit of the review is of very considerable additional significance.

When we met the committee at the end of January, the Chairman impressed upon the witnesses the importance of the work required to complete the project and that the learning from the PwC should be used to inform the quality of that work. We now have very detailed recommendations regarding the enhancement of control processes across the design team and the development board. The board of the new development board has accepted these recommen-

dations and implementation is under way. PwC also quite correctly identifies that the nature of the project, which has now entered the major construction phase, will change as we approach the opening of the main hospital at St. James's. The commissioning and bringing into operation of a project at this scale requires co-ordinated delivery of the building, equipment, technology, staff and clinical and non-clinical operations. There is a very good working relationship between the development board and CHI. This will be enhanced further with the support of the HSE and the Department and in line with the recommendations set out in the PwC report, for the benefit of the successful delivery of this major investment in children's health services.

I thank the Chairman and I am happy to address any queries

Chairman: I thank Mr. Breslin. I believe Mr. Barry has been here in previous capacities in the National Roads Authority, or whatever it was named, on previous occasions. He is welcome now to give his opening statement.

Mr. Fred Barry: I thank the Chairman, and may I say, I did not expect to be back here again. I thank members of the committee for inviting us here this morning to resume its January 2019 examination of the NPHDB 2017 financial statements. I am joined by Mr. Paul Quinn, board member of the development board, Mr. Jim Farragher, its finance officer, and Dr. Emma Curtis, who is the medical director of the development board.

The National Paediatric Hospital Development Board was appointed in August 2013 to design, build, and equip a new children's hospital. A planning application was lodged in August 2015 and An Bord Pleanála granted planning permission in April 2016 for the new children's hospital, the paediatric outpatients and urgent care centres at Connolly and Tallaght hospitals and related developments, including the Children's Research and Innovation Centre and a family accommodation unit adjacent to the new children's hospital.

The expenditure as at 31 December 2017 was €67.2 million. There is some more detail in the document which I will not read out if that is okay. Also we have the draft unaudited expenditure as of 31 December 2018 and a date for Comptroller and Auditor General to audit these accounts has been set for late June 2019. The expenditure in 2018 is €129 million.

In December 2018 following the completion of the second stage of the two-stage procurement process, the final cost of the design, build and equipment programme for which the National Paediatric Hospital Development Board, NPHDB, is responsible is now at €1.433 billion, which is €450 million more than advised to Government in April 2017. Some €319 million of the additional cost relates to construction costs, and the balance of €131 million, which includes €50 million in VAT, relates to costs associated with staff, construction-design consultants, planning, design team fees, risk and contingency. Previously we included detail on the seven construction cost drivers in the briefing document sent to the committee for its review in January 2019. A PwC review on the escalation of costs was commissioned by the HSE in January 2019 and the findings of the review were published on 9 April.

As discussed with the committee in January 2019, once the board became aware of the significant additional costs emerging, the board set in place a review of alternative options. Contractually, the NPHDB did not have to proceed with the second stage - which is phase B above ground - construction works, and a number of options were considered and carefully evaluated. The outcome of the options evaluated was a recommendation by the development board, accepted by the HSE, the Department of Health and Government, to proceed with the instruction of phase B works as it offered the best solution commercially and ensured the completion of the

children's hospital in the shortest timeframe.

Since our last appearance before the committee in January 2019, the then chair, Tom Costello, resigned from the role and I would like to take this opportunity to acknowledge the contribution and personal commitment made by him. Shortly after, I was pleased to be appointed to the role as chair of the NPHDB and I appeared before the Oireachtas Joint Committee on Health to ratify my position as chair. In March 2019, the project director, John Pollock decided that as the two-stage procurement process was finalised and approved, and the project has now moved into the final construction phase, it was an appropriate time for him to leave the project.

To this end and as per one of the recommendations from the recently published PwC report on cost escalation "to strengthen the capacity of the NPH Executive", we have recently advertised through the Public Appointments Service for a chief officer and we hope to interview for this role within the coming weeks.

As indicated, since our last appearance a PwC review on the cost escalation of the project has also taken place and recommendations have been made in this regard. The board of the NPHDB has reviewed the report, acknowledged and noted the issues raised and the recommendations set out in the PwC report, and is developing an implementation plan against this.

Prior to the publication of the PwC report the board had identified and commenced implementing a number of key project changes, for example: strengthening the executive with separate chief officer and project director roles; establishing commissioning and project controls work streams within the NPHDB; key risks as a standing item at board meetings; agreed procurement strategy with stakeholders in relation to equipping the main children's hospital; and putting in place performance-based indicators with core design team members. In addition, the NPHDB will continue to work with all stakeholders involved in this important project and will do all that is within its power to support the implementation of the PwC recommendations.

The paediatric outpatient and urgent care centre at Connolly hospital is complete and earlier this week was handed over to Children's Health Ireland for it to commence the commissioning and transitioning of staff. Children's Health Ireland will operate the service and the centre is due to open in July 2019.

Decant works at Tallaght University Hospital are now complete, and the new crèche, changing facility and offices are open. Construction work on the 4,600 m² paediatric outpatient and urgent care centre started last month and is due to open in 2020.

Construction work on the new children's hospital on a shared campus with St. James's is progressing well with the structural frame, walls, slabs and columns now above ground level in most advanced areas. Basement excavation and piling are now substantially complete. The mechanical and electrical fit-out of the basement plant areas is due to commence shortly. Project costs incurred to end of March 2019, including construction costs were €314 million.

Construction work on the new children's hospital is scheduled to be completed in quarter 3 2022. This will be followed by a period of commissioning and it will open in 2023.

I thank members for their attention. We are happy to answer any questions.

Chairman: I thank Mr. Barry. Before I call the first member, I want to ask Mr. Breslin a question. The State will invest approximately €2 billion. When it is opened in 2023, will the State own the site on which this €2 billion will have been spent?

Mr. Jim Breslin: The site on which the hospital is being built is owned by the HSE. St. James's Hospital occupies the site, but it is owned by the HSE and the building will be owned by the State. It will be handed over to Children's Health Ireland which is a statutory public body.

Chairman: On the tri-location of the maternity services, incorporating the Coombe hospital, a site has been reserved. Will that be owned by the State?

Mr. Jim Breslin: Yes. Again the entire St. James's site is owned by the HSE. So all that is in the ownership of the State and will continue to be so.

Chairman: People will be pleased to know that, because that question has been asked in recent days. I thank the Secretary General for that answer.

Today the lead speaker is Deputy O'Connell, who has 20 minutes. The second speaker is Deputy Connolly, who will have 15 minutes. Other speakers will have ten minutes in the following sequence: Deputies MacSharry, Catherine Murphy and Cullinane.

Deputy Kate O'Connell: I thank all the witnesses for coming in. I hope I do not repeat questions from the previous session. I apologise in advance if I do.

The administration costs on the site for 2017 as outlined in our briefing document come to €12 million. This is essentially housekeeping money as such; it is not building anything. Almost €7 million of that €12 million is for planning application costs. Why is this so high and why did it come out in the 2017 accounts? To what does it pertain? Is it for architects' fees or fees for submitting planning applications? Why does it appear in the administration section? Is that appropriate? I presume this is in Mr. Farragher's area.

Mr. Fred Barry: Certainly, the €7.5 million is mainly Dublin City Council, DCC, contributions.

Deputy Kate O'Connell: I ask Mr. Barry to expand on that. That is fees.

Mr. Jim Farragher: Levies by DCC-----

Deputy Kate O'Connell: Levies.

Mr. Jim Farragher: -----as part of the planning contribution, the planning application.

Deputy Kate O'Connell: What is the position on that? Is it going out this year or will it be phased over time?

Mr. Jim Farragher: No, we have part of it paid. Over €3 million of that is paid to DCC.

Deputy Kate O'Connell: Is that currently?

Mr. Jim Farragher: Paid, yes. Over €4 million is to be paid.

Deputy Kate O'Connell: How? Will it be over a phased period?

Mr. Jim Farragher: Yes, monthly - phased monthly.

Deputy Kate O'Connell: Why is it front-loaded into the 2017 accounts?

Mr. Jim Farragher: We had not booked the liability prior to that and it was felt appropriate

to book and recognise the liability in the accounts.

Deputy Kate O'Connell: That is obviously so because they are the accounts, but why in 2017?

Mr. Jim Farragher: Primarily because we did not do it in 2016.

Deputy Kate O'Connell: They did not what in 2016.

Mr. Jim Farragher: We did not book costs in 2016. We had paid some money and it was recognised we should book the total-----

Deputy Kate O'Connell: By whom was it recognised?

Mr. Jim Farragher: By the board.

Deputy Kate O'Connell: Okay. It was decided just to pop all of it into 2017's accounts.

-Mr. Jim Farragher: Yes, but we were going to be paying it on an ongoing monthly, quarterly basis.

Deputy Kate O'Connell: So it is on a quarterly basis. Therefore only half of it is going out of the 2017 accounts. Did €4 million of it go out of the 2017 accounts?

Mr. Jim Farragher: No. Some of it had accumulated up to 2017.

Deputy Kate O'Connell: There were eight sub-committees formed under the board, of which one was a procurement sub-committee. It met four times in 2017, which seems to be a small number of meetings considering where we are today. I understand Mr. Quinn sits on that board. Can anyone give me an indication of any contributions made by that sub-committee with regard to procurement and any real tangible interventions that were made to contribute in a positive way to the procurement process?

Mr. Paul Quinn: The committee met on several occasions.

Deputy Kate O'Connell: It met four times in the year.

Mr. Paul Quinn: It had a number of working groups as well. During the evaluation process for the main tenders, the committee also formed various different groups to perform the evaluation of the tenders that were under way. From my recollection, that process took place for the most part in late 2016, more so than in 2017. Much of the procurement planning and strategy had taken place prior to the meetings to which Deputy O'Connell is referring. In fact, the procurement strategy for the hospital was formed in 2015, from my recollection. Much of the work of the procurement committees and the oversight of how the executive and the teams formed involved conducting those activities and ensuring that we were staying with the processes that had been put in place.

Deputy Kate O'Connell: How many times in 2016 did the group meet? How many times in the latter half of that year?

Mr. Paul Quinn: I do not have that information.

Deputy Kate O'Connell: Can we get it? What tangible interventions were made towards the end of 2016? Can Mr. Quinn provide some examples? What I am really trying to find out

is whether the group was at anything.

Mr. Paul Quinn: Of course. Again, the work of the committee was to oversee the tenders in place. A lot of reporting was taking place from the various evaluation teams. We were walking through how those evaluations had taken place. We had established a procurement auditor whose job it was to provide detailed oversight at arm's length from the board and the evaluation teams. The idea was to bring a degree of oversight to the procurement processes. The auditor reported to the procurement committee on several occasions during the procurement process. There was, therefore, considerable activity in overseeing the work of the evaluation teams.

Deputy Kate O'Connell: I realise there seems to be a lot of activity but, in terms of actual things done, can I have an example? Mr. Quinn is a long-standing member of the board whose appointment was competency based. His expertise is in procurement. Can he remember, off the top of his head, any time that he made an intervention that saved money in procurement or that led to efficiency in terms of procurement?

Mr. Paul Quinn: The strategies from the outset were there to drive competition in the marketplace.

Deputy Kate O'Connell: Does Mr. Quinn have an example of what he did to drive competition in the marketplace? Given his expertise, it seems there must be some example.

Mr. Paul Quinn: I do not have the minutes of all the meetings in 2016.

Deputy Kate O'Connell: Mr. Quinn does not need them. I am simply looking for some examples. As someone with expertise in procurement-----

Mr. Paul Quinn: I cannot recall all of the projects.

Deputy Kate O'Connell: As someone involved in procurement, if Mr. Quinn made some major intervention, surely he would remember it.

Mr. Paul Quinn: There were quite a number of interventions.

Deputy Kate O'Connell: Any of them will do.

Mr. Paul Quinn: We developed a programme for bringing the various different elements of the project to the marketplace. Most of the work of the board is in oversight and ensuring that the projects are brought in a timely fashion to ensure we are maintaining compliance and delivering value for money by bringing and ensuring-----

Deputy Kate O'Connell: The value-for-money element is the problem.

Mr. Paul Quinn: The programme was there to ensure we brought the tenders to the marketplace. That is how value for money is achieved in public procurement. It materialises where opportunities are brought to the marketplace and competitions are formed. A great deal of work was put in place to ensure projects and programmes were brought in such a way as to achieve value for money. We were making sure the tenders were structured in the right kind of way. We were making sure they were structured in a way that was open to small and medium-sized businesses, where possible. There was considerable discussion, engagement and decision-making to ensure those decisions were being made and that the projects were structured in a way to deliver value for money. What I do not have in front of me, although we can provide them separately-----

Deputy Kate O'Connell: Mr. Quinn cannot remember any incident. It is unusual that Mr. Quinn cannot remember any incident where he made an intervention that affected procurement in a positive way.

Mr. Paul Quinn: I can, but I cannot put it exactly into 2016 for the Deputy.

Deputy Kate O'Connell: Mr. Quinn might be able to do so this afternoon.

Mr. Paul Quinn: Maybe I should go back to 2015 when many of the strategies-----

Deputy Kate O'Connell: I do not mind which year Mr. Quinn goes back to provided we have an example.

Mr. Paul Quinn: There was considerable discussion in terms of how we were structuring the approach to the market for the main works and with regard to things like how the tender would be structured.

Deputy Kate O'Connell: No, I get that.

Mr. Paul Quinn: The balance was relevant too. These are important factors in terms of ensuring that we get competition in the marketplace.

Deputy Kate O'Connell: The importance of competition is to drive down prices. It is not simply to give everyone a fair crack at it. The idea is to get quality and price reduction.

Mr. Paul Quinn: I absolutely understand that. There was a lot of work done to ensure that the projects were brought to the market in such a way as to attract competition. There was also a lot of work done to ensure that we were communicating with the marketplace to ensure that, especially for the main works, we would attract the right kind of field of bidders. We sought an international set of bidders with competency and form. We sought bidders who had delivered projects of this scale, especially in the tricky area of healthcare delivery.

Deputy Kate O'Connell: There is a note in the accounts stating that the consultancy costs are all outsourced and that it is business as usual. Can anyone tell me the meaning of that note? Do we have a value somewhere for consultancy costs incurred in 2017? What I am getting at is the question of additional fees. There is a business as usual note. Were any external consultants employed in procurement? There is also a procurement fee of €172,159. Considering all the boards and expertise and appointments, how much extra money was spent on consultants in 2017? There is reference to a procurement fee of approximately €172,000. Who got that and what was it for?

Mr. Jim Farragher: That is under consulting fees. The relevant note relates to administrative costs. These include information and communications technology. We outsourced all the ICT support to a company that had publicly tendered. That was the annual cost in 2017. Legal expenses came to €409,000, including VAT.

Deputy Kate O'Connell: I am really trying to get at the procurement aspect, especially any procurement consultants employed.

Mr. Jim Farragher: Procurement consultants supported the various procurements that were in the process of being finalised. The construction-----

Deputy Kate O'Connell: I do not need to know. How much money was spent on procure-

ment consultants external to the normal bills?

Mr. Jim Farragher: These were all external costs for procurement.

Deputy Kate O'Connell: I am asking about procurement. Let us forget about ICT costs.

Mr. Jim Farragher: The figure of €172,000 is all externally paid primarily to legal firms to help the procurement process in terms of documentation and support to the procurement process.

Deputy Kate O'Connell: Was any external consultant brought in with expertise in procurement and paid a fee? That is what I am getting at. Was anyone employed with a specific expertise in procurement in a consultancy or advisory role externally? If so, how much was paid?

Mr. Jim Farragher: Yes. I do not have the breakdown of the individual fees. Two firms were used primarily, McCann FitzGerald and Eversheds Sutherland. We paid fees to them. These were tender fees and they were publicly procured. We have a framework in place for the legal fees. We drew down legal and procurement support for the board.

Deputy Kate O'Connell: McCann FitzGerald and Eversheds Sutherland were used for legal and procurement expertise. Is that correct?

Mr. Jim Farragher: That is correct.

Deputy Kate O'Connell: What was the total amount spent for that?

Mr. Jim Farragher: The figure of €172,000 relates to procurement fees.

Deputy Kate O'Connell: That is the total, so it is within that bundle. Is that correct?

Mr. Paul Quinn: It is within that bundle, yes.

Deputy Kate O'Connell: Is Mr. Barry, as chair of the board, aware of anybody who has a position on any of the multiple boards and subcommittees and who is also employed on a personal or contractual basis? Is there anyone who sits on one of the boards and who, in a parallel life, does consultancy work? Does anybody on the established boards get paid fees for work for external consultancy companies?

Mr. Fred Barry: I do. I do a certain amount of consulting in my own right and I am a director of the Project Management Group.

Deputy Kate O'Connell: Is there anybody else in a similar position?

Mr. Fred Barry: I am not aware of any others but some may have outside involvements of which I am not aware.

Deputy Catherine Connolly: I missed that answer, could Mr. Barry repeat it? I beg his pardon.

Mr. Fred Barry: I do a certain amount of consulting work myself and, in addition, I am a director of the Project Management Group, which is one of the larger engineering project management companies in the country.

Deputy Kate O'Connell: From the briefing note I had understood that the rules regarding appointments preclude those on the board from earning outside money. I suppose it is compli-

cated when one has a role on a board like this.

Mr. Fred Barry: None of my outside involvements has anything to do with the children's hospital or with the health sector in any form or fashion.

Deputy Kate O'Connell: Grand. There is no financial benefit accruing to Mr. Barry.

Mr. Fred Barry: I am not engaged with any of the companies involved in any way.

Deputy Kate O'Connell: As the new chair, is Mr. Barry confident that nobody who reports to him is-----

Mr. Fred Barry: Conflicted?

Deputy Kate O'Connell: -----conflicted in any way by a role for which they get paid? Is there anyone? Forget the conflict issue. We can decide that. Are any members of the board getting paid externally-----

Mr. Fred Barry: Is the Deputy asking about people being paid for anything to do with the hospital?

Deputy Kate O'Connell: -----for anything to do with this?

Mr. Fred Barry: I am not aware of any such cases.

Deputy Kate O'Connell: Has he asked all the board members?

Mr. Fred Barry: I have not put it to them in those terms, no.

Deputy Kate O'Connell: It might be worth doing so.

Mr. Jim Farragher: We do so at each board meeting. We ask the members present to declare if they have any conflict of interest on any matters being discussed by the board. That is a standing item at the beginning of the meeting.

Deputy Kate O'Connell: The members are to declare if they have a conflict.

Mr. Jim Farragher: That is correct.

Deputy Kate O'Connell: Are they ever asked whether they are getting paid and is that question answered? Who determines whether there is a conflict?

Mr. Fred Barry: If any of the board members were getting paid by any of the companies with which we have contracts-----

Deputy Kate O'Connell: Mr. Barry can forget that. I am talking about other companies.

Mr. Fred Barry: Okay, but payment from the companies with which we have contracts would be an immediate conflict of interest.

Deputy Kate O'Connell: Can we get an answer, just to make sure?

Mr. Fred Barry: I have given an answer regarding my own case. While I have outside involvements, they are with companies which are not, in any way, associated with this project. There are declarations of conflicts of interest at the board meetings. While I have not been chair

long enough to see the returns, all board members have to make standard returns of interests, which would bring any conflicts of interest to light. I have not been in the position long enough to have seen a set of those returns yet.

Deputy Kate O'Connell: One of the nine of the 11 recommendations of the PwC report that are relevant is to split the role of chief officer and to appoint a new person. While PwC was doing its report, which I believe was before Mr. Barry's time, the board came up with some recommendations of its own. One of these was to employ somebody else. Recommendation 5 in the PwC report was to beef up or strengthen the role. With regard to the implementation of the recommendations, is the only recommendation that has been implemented to date the recommendation to employ somebody else?

Mr. Fred Barry: No-----

Deputy Kate O'Connell: I am just concerned about the prioritising of recommendations if the first one was to give someone else a job. When I was reading this last night it occurred to me that this was the priority for the board.

Mr. Fred Barry: Indeed, although replacing the chief officer or project director who is leaving is a key priority. If that role is left vacant we will not have a permanent person in that position, which will create issues. We have already taken quite a few steps. Some relate to plans which are in action and we have already delivered results in respect of others. We have already strengthened project controls within the organisation.

Deputy Kate O'Connell: With regard to this new role, the recommendation said that the executive should be strengthened in the short term. This is PwC's recommendation. This new role has been advertised through the Public Appointments Service.

Mr. Fred Barry: There are a number of steps involved in strengthening the executive.

Deputy Kate O'Connell: This is the one which has been taken, however.

Mr. Fred Barry: This is one of the things that has been done.

Deputy Kate O'Connell: Is it the only thing that has been done to date?

Mr. Fred Barry: No, it is not the only thing that has been done. It is being done, but it is not the only thing that is being done. We have already taken steps to strengthen the project controls capability within the organisation.

Deputy Kate O'Connell: What has been done in that regard?

Mr. Fred Barry: We have brought in a couple of experts on scheduling, cost control, and claims management.

Deputy Kate O'Connell: Does "a couple" mean two?

Mr. Fred Barry: Yes.

Deputy Kate O'Connell: Has anyone else been brought in?

Mr. Fred Barry: Those are the steps that have been taken with regard to having people *in situ*. We are going to be bringing in additional strength in that regard.

Deputy Kate O’Connell: Does “additional strength” mean people?

Mr. Fred Barry: Yes.

Deputy Kate O’Connell: It means more people.

Mr. Fred Barry: Yes. It means more people with the right background and experience.

Deputy Kate O’Connell: Does that suggest that the board did not have people with the right backgrounds to begin with?

Mr. Fred Barry: I would not say that but, as PwC brought to light, there was over-reliance on the design team consultants. We want to have greater strength within the executive.

Deputy Kate O’Connell: With regard to the design fees for 2018, why are the design teams so large every year? I would have thought that when something is being designed such fees would be front-loaded early on in the project. Is the same design team sitting somewhere designing on a constant basis or what way does it work?

Mr. Fred Barry: It is the same companies, although not necessarily the same individuals. The prime activities that the design team are carrying out at the moment have regard to construction details. As the contractor finalises its plans for construction it comes up with a lot of detailed queries and submissions which the design team has to review, approve, and work out best solutions for with the contractor. A lot of that goes on. The design team has provided the employer’s representative, which is an individual who is supported by a team which is on site doing quality assurance, tracking for progress payments, certifying applications, and so on. The design team still has a very heavy involvement, not in original design work but in follow-up work.

Deputy Kate O’Connell: It is working to bring the project forward. The Connolly site is pretty much ready to go, is it not?

Mr. Fred Barry: Yes.

Deputy Kate O’Connell: I have not been out there. Is there a building which is equipped and functioning but in which there are not yet patients?

Mr. Fred Barry: I cannot tell the Deputy about the patients.

Deputy Kate O’Connell: I do not think there are any patients in it.

Mr. Fred Barry: It has not been commissioned yet. It has been handed over to Children’s Health Ireland. The plan is that it will be commissioned and brought into action later this summer.

Deputy Kate O’Connell: Mr. Breslin said that a phased opening would begin at the end of July.

Mr. Jim Breslin: Yes. That is standard.

Deputy Kate O’Connell: Where is it standard?

Mr. Jim Breslin: It is standard the world over. The building is handed over and it then has to be brought into operation. One does not take it straight from the builder and put patients

into it. As the chair said, we are now in the process of passing the building across to Children's Health Ireland, which has a full plan in place to bring patients on board over the summer period.

Deputy Kate O'Connell: With regard to the phasing of the handover of the main children's hospital building, I am concerned about the timelines involved. How could we end up with a building empty for any number of months?

Mr. Fred Barry: This is not peculiar to hospitals. This occurs with pretty much all major capital projects. There is a period between the end of substantial construction and the commissioning of the buildings. Whether it is an industrial plant for Intel or a hospital, there is always a transition period following the end of construction while the owners and managers of the building-----

Deputy Kate O'Connell: I get that.

Mr. Fred Barry: -----get up to speed.

Deputy Kate O'Connell: With regard to expediting the transition so that this resource can be utilised as quickly as possible for the main hospital, is it going to be-----

Mr. Fred Barry: It will be 2023.

Deputy Kate O'Connell: Is it going to be worked in such a way to prevent us having a lovely hospital in which there are no sick children?

Mr. Fred Barry: To go back to my earlier statement, the target is for substantial construction to be completed towards the end of 2020 with commissioning to be complete in 2023. It is in 2023 that patients will start to use the hospital.

Mr. Jim Breslin: Dr. Curtis might deal further with that point.

Dr. Emma Curtis: With regard to when the hospital is completed and handed over, a huge amount of commissioning and planning work has been taking place over the last number of years for Connolly specifically, and staff will be brought in and trained onsite, using the equipment and understanding it. On the international experience, in Australia there was pressure to open a hospital and shorten the training period, which resulted in significant risk and led to a public inquiry because the proper amount of time was not allotted between handover of the building and bringing patients in to ensure the staff entirely understood the building, the work, the equipment and the systems. It is very important there is a proper period of training of staff.

Deputy Kate O'Connell: There is one hospital in Australia where there was huge risk from expediting this. Is there any hospital in the world that has successfully done this without huge risk? Has doing it faster worked out for anyone else?

Dr. Emma Curtis: I do not know the periods but this one is well known. They shortened the period they had wanted to spend in training, with the result that there were clinical issues in terms of patient safety and an ensuing public inquiry. The recommendation is that one does not compromise on preparation and training of staff at a site which is new before opening it.

Deputy Kate O'Connell: That makes sense. Is it something that can be decided on day one in that one can estimate how long staff training will take? Is there, say, a three-month or a four-month period?

Dr. Emma Curtis: The period of time required for Connolly is planned and, similarly, it will be planned for Tallaght and for the new children's hospital as to how long it will take from the day of handover to bringing in patients.

Chairman: I thank Deputy O'Connell and call Deputy Catherine Connolly.

Deputy Catherine Connolly: Fáilte romhat ar ais. I congratulate Mr. Barry. He was nominated by the Government and approved by the health committee. Is that right?

Mr. Fred Barry: Yes.

Deputy Catherine Connolly: There was no interview process and it was a nomination plus an approval.

Mr. Fred Barry: Yes.

Deputy Catherine Connolly: Thank you. We are back here because, quite clearly, there has been a huge overspend. None of us wants to be here, certainly not the members of the Committee of Public Accounts. I wish Mr. Barry the best. He gave us an opening statement today of four pages. He gave us a history lesson, partly, and he outlined things that have happened. We know that. It is why we are here and why we have this report that cost €500,000. I would expect more than just a little paragraph telling me what Mr. Barry is going to do. I am not personalising this. Before my time on the committee, the board appeared before the Committee of Public Accounts and said this hospital was going to cost €650 million. Committee members were assured that everything was in place - governance, risk assessment, the whole lot. That was in 2015, prior to Mr. Barry's time and my time on the committee. On the last occasion, the board came before us and assured us everything was in place. It takes PwC to tell us that everything was not in place. Presumably, the witnesses have read the report. What did Mr. Barry think of the findings of the report, and I am not asking for any personal views?

Mr. Fred Barry: In terms of its recommendations-----

Deputy Catherine Connolly: What did Mr. Barry think of its findings?

Mr. Fred Barry: The recommendations are the key thing I was focused on.

Deputy Catherine Connolly: What did Mr. Barry think of its findings? Let me help. The definitive business case was faulty and inaccurate. What is the PEP?

Mr. Fred Barry: It is the project execution plan.

Deputy Catherine Connolly: Thank you. The PEP was faulty, reporting back was faulty, there was a failure to challenge by the board and a competency-based board was unable to challenge what was coming up, there was undue reliance on the design team and so on. All of that was identified. Was any of that identified by the board prior to this?

Mr. Fred Barry: I would say "Yes".

Deputy Catherine Connolly: Good. Where?

Mr. Fred Barry: The board brought in Mazars towards the end of last year to help it do better, basically. Mazars came out with the recommendations and suggestions, and the board was already acting on these before the PwC investigation came along.

Deputy Catherine Connolly: Mazars's internal audit service was to close out the review of the guaranteed maximum price in November 2018. The review of business continuity and disaster recovery, which is an aptly titled document, is from Mazars. Where else did Mazars say something?

Mr. Fred Barry: Mazars gave advice on organisation.

Deputy Catherine Connolly: Very good. Mr. Barry can imagine where we are coming from in terms of board competency. Honestly, I do not wish to be critical at all. I will come back to the Department in regard to what this is going to cost. We are up at €1.7 billion at the moment.

Mr. Fred Barry: Yes.

Deputy Catherine Connolly: To take the focus off Mr. Barry for a while, I make the point to Mr. Breslin that we are up at that price and it does not include an educational and research centre.

Mr. Jim Breslin: The €1.7 billion does.

Deputy Catherine Connolly: What does it include?

Mr. Jim Breslin: It includes all of the construction costs.

Deputy Catherine Connolly: I know all that but I want to know about what is additional. It builds a hospital. Does it equip it completely with everything besides the basic beds?

Mr. Jim Breslin: It includes equipping.

Deputy Catherine Connolly: What does equipping mean? Does it include all of the ICT?

Mr. Jim Breslin: I will go through it. It includes equipping and it also includes ICT and an electronic health record.

Deputy Catherine Connolly: I have the list.

Mr. Jim Breslin: It includes the research and education centre and it also includes the costs that were incurred on the Mater site.

Deputy Catherine Connolly: That reminds me of what was written down. What was the price that was written down on the previous debacle?

Mr. Jim Breslin: It was about €35 million.

Deputy Catherine Connolly: Some €35 million was written off. What is not included? I am confused at this stage with the Secretaries General, for whom I have the greatest respect, as to what the final cost is. I think we had somebody before us who could not answer in regard to a cost of €2 billion. What does that list not include?

Mr. Jim Breslin: PwC was asked to look at this and it set it out from page 70 of the report. It set out the risks but they are not crystallised and they are not there at the moment. The management of them will determine the final cost of this. One of the risks which is excluded from the contract is construction inflation, if it were to exceed 4%.

Deputy Catherine Connolly: I understand all of those and they should all have been iden-

tified before. That is what the report is telling us, namely, they were not identified and there is an optimism bias, and all of this other lovely language that led to huge increases in cost. My question to Mr. Breslin is this. What figure has the Department for a hospital that will be up and running, in addition to what Mr. Breslin is telling us today? Besides the risks, what is not included for the hospital?

Mr. Jim Breslin: The risks are the exclusions.

Deputy Catherine Connolly: That is all.

Mr. Jim Breslin: Yes.

Deputy Catherine Connolly: There is nothing else. Therefore, any additional price to the €1.7 billion will be to do with what is built in to deal with optimism bias, risks and various-----

Mr. Jim Breslin: And, in particular, the risks as identified in the PwC report, which enumerated where they can be quantified, such as in regard to inflation, where a scenario is set out to quantify them. Some of them are not quantifiable.

Deputy Catherine Connolly: However, everything else is included.

Mr. Jim Breslin: Yes.

Deputy Catherine Connolly: Is the accommodation for the families of children included?

Mr. Jim Breslin: The accommodation is in co-operation with the Ronald McDonald charity, and that is identified as a risk. If it cannot fundraise to the extent of the cost of that, it is a risk, and it is set out in the PwC report.

Deputy Catherine Connolly: Ronald McDonald is going to provide accommodation for the families of sick children.

Mr. Jim Breslin: They do that the world over in children's paediatric hospitals.

Deputy Catherine Connolly: That is lovely. It is very reassuring that we are spending almost €2 billion of taxpayers' money and we are going to rely on Ronald McDonald.

Mr. Jim Breslin: It is important that the voluntary sector is part of this initiative. They are on the Crumlin site as well, as we speak.

Deputy Catherine Connolly: That is my own personal view and I will stick to the facts. However, it certainly does not help me to think that Ronald McDonald is going to provide accommodation. Will Mr. Breslin explain to me what the State is providing for accommodation?

Mr. Jim Breslin: The major development in this hospital is that every child will be in a single room where there will be room for the parent to stay with the child overnight.

Deputy Catherine Connolly: Please listen to me. We are not going to deal with the wonders of the hospital. I am asking Mr. Breslin what-----

Mr. Jim Breslin: That is important in terms of accommodating a carer throughout the night, which cannot be done in the existing hospitals.

Deputy Catherine Connolly: I have no difficulty with that. I am a mother. I am sure the health committee will tease it out more. My job is to tease out what the State is paying for ac-

commodation, along with Ronald McDonald.

Mr. Jim Breslin: There will be a partnership with the Ronald McDonald charity to deliver the parent accommodation.

Deputy Catherine Connolly: What will the State be paying? What is ring-fenced for accommodation?

Mr. Jim Breslin: Originally, the proposition from the charity was that it would deliver that in full. At this stage, it has come forward to say it would want a contribution from the State towards that. I think the figure that is being talked about at the moment is to a maximum of about €10 million but it depends on its ability to fundraise for it.

Deputy Catherine Connolly: We have gone through all of these costs. We did not provide in the plan for accommodation and totally relied on a charity. That charity is now coming back and saying it is not so charitable and needs a contribution from the Government. Is that correct?

Mr. Jim Breslin: Yes, but this is a model the world over that charities are used as part of the-----

Deputy Catherine Connolly: I only want the facts.

Mr. Jim Breslin: Those are the facts.

Deputy Catherine Connolly: We will discuss the models.

Mr. Jim Breslin: Those are the facts.

Deputy Catherine Connolly: The contribution being asked for is €10 million to start with and possibly more.

Mr. Jim Breslin: They are the facts.

Deputy Catherine Connolly: Is it a fact that it will possibly be more?

Mr. Jim Breslin: Yes, subject to the fundraising of the charity.

Deputy Catherine Connolly: I see. When will the figure be final?

Mr. Jim Breslin: The planning permission is in place but the construction of that facility will be at the back end. We will work with the charity over the intervening period to assist in delivering that solution.

Deputy Catherine Connolly: The planning application is done and dusted.

Mr. Jim Breslin: We do not need to do it now because it is much more low tech than the main hospital.

Deputy Catherine Connolly: Reference to tri-location with a maternity hospital was included in the accounts at the beginning. Is this included as an objective in the 2018 accounts?

Mr. Jim Breslin: No, the development board has been established to deliver the children's hospital-----

Deputy Catherine Connolly: I understand all of that.

Mr. Jim Breslin: -----so there would not be any-----

Deputy Catherine Connolly: I ask Mr. Breslin to bear with me for a second as I have limited time.

Mr. Jim Breslin: The answer is “No”.

Deputy Catherine Connolly: Maybe I put my question badly. The 2017 accounts from the board refer to tri-location.

Mr. Jim Breslin: It may refer to it but I do not believe that would involve us spending money on it.

Deputy Catherine Connolly: That is okay. I did not ask a single thing about money. I asked about tri-location. The 2017 annual report of the National Paediatric Hospital Development Board, under the heading “Design”, states:

The following hospital facilities are required to deliver high quality, child-centred and family-focused services:

- The new children’s hospital will be tri-located with adult and maternity hospitals on a shared campus.

Is that bullet point included in the 2018 accounts?

Mr. Jim Breslin: When the Deputy says it was included in the accounts, I read that to be if money spent in 2017 was recorded in the accounts and my answer is “No”.

Deputy Catherine Connolly: I heard that and I repeat the question to the board. Is the bullet point on tri-location included in the 2018 accounts? The witnesses might check that and revert to me. It is in the 2017 accounts.

Mr. Fred Barry: I would just reinforce what Mr. Breslin has said. The accounts for the development board are not going to include tri-location.

Deputy Catherine Connolly: No. I only have a short time and I do not mean to be abrupt but I am asking specific factual questions. I do not need Mr. Barry to repeat what Mr. Breslin has just said. I have simply asked a factual question.

Mr. Fred Barry: They are our accounts and they will not include any money for tri-location.

Deputy Catherine Connolly: I did not ask that question. I asked was it included as a-----

Mr. Jim Breslin: The Deputy asked if the words are included.

Deputy Catherine Connolly: The words are extremely important. They are down as-----

Mr. Jim Breslin: I get that. Sorry.

Deputy Catherine Connolly: I am not asking Mr. Breslin. I am asking the board because these are the accounts of the board.

Mr. Jim Farragher: The accounts for 2018 have not been finalised yet.

Deputy Catherine Connolly: I did not ask that. I asked if the bullet point for tri-location

was included. That is all. If the witness does not know, he can come back through the Chairman.

Mr. Fred Barry: It is part of it. The accounts have not been finished yet.

Deputy Catherine Connolly: I did not ask about the accounts. I did not ask about the figures. I asked if it was included as it is in the 2017 accounts where it is at the beginning as a bullet point.

Mr. Fred Barry: We have not finalised the bullet points either. We have not got to that point yet.

Deputy Catherine Connolly: Very good. The witnesses might come back to us. Who carried out the business case originally and who carried out the definitive business case? Costs for business case development in 2016 were €245,000. Business case development costs in 2017 were €43,474. Who did the business case and what is the total cost? This is a definitive business case that has, I believe, been highlighted as being inaccurate. I will be careful with my words and come back exactly with the words that were used around the business case. Who did it and what was the total cost?

Mr. Jim Farragher: EY prepared the business case based-----

Deputy Catherine Connolly: Who is that?

Mr. Jim Farragher: Ernst & Young. It prepared the business case based on a tender that we completed.

Deputy Catherine Connolly: Very good. Did Ernst & Young update the business case? Did it do the business case from the beginning, which then became the definitive business case?

Mr. Jim Farragher: Yes, it did a draft business case in 2016 and that was finalised in 2017.

Deputy Catherine Connolly: What is the figure for the total cost of that definitive business case?

Mr. Jim Farragher: In terms of the figure-----

Deputy Catherine Connolly: I will save time. Is it possible for me, through the Chairman, to get a total cost for the definitive business case done by Ernst & Young?

Mr. Fred Barry: Yes.

Deputy Catherine Connolly: I raise this because the PwC report, which cost €500,000, states on page 28: “The DBC [definitive business case] overstated the completeness of the design and understated the risks”. The report goes on to highlight that this “was factually incorrect and, in fact, when the DBC was approved in April 2017, the Stage 2C Design had been underway for 11 months.” As well as describing it as “factually incorrect”, the report said a number of other things about the definitive business case. I would like to know the cost of that business case. I said I would be precise about the words. The report said that the definitive business case “contained material errors”.

Chairman: From what page is the Deputy quoting?

Deputy Catherine Connolly: I quoted from page 28 of the report but there are many pages

on this issue.

Chairman: I thank the Deputy.

Deputy Catherine Connolly: How many private beds in private rooms will be in the hospital? I ask Mr. Breslin to answer that.

Dr. Emma Curtis: There are no private beds in the hospital.

Deputy Catherine Connolly: There are no private beds.

Dr. Emma Curtis: No. Within the plans there is a facility for a small private clinic area, which I am almost certain has eight consulting rooms. This facility is being included in accordance with the contract, which was in place at the time - it is still the consultant contract - and entitles consultants to do private outpatient practice on site of a public hospital. This is the reason that is included.

Deputy Catherine Connolly: There is a small clinic area for eight consultants.

Dr. Emma Curtis: It is eight rooms.

Deputy Catherine Connolly: That is eight rooms for a number of consultants.

Dr. Emma Curtis: Yes, they could be used by a number of consultants.

Deputy Catherine Connolly: That is a legacy from the consultant contract that was in place.

Dr. Emma Curtis: The consultant contract continues to provide that provision.

Deputy Catherine Connolly: There are different consultant contracts. This is the one contract where they are allowed to do private work in a public hospital.

Dr. Emma Curtis: That is correct.

Deputy Catherine Connolly: In that sense, it is a legacy from what was in place previously and it was copper-fastened in a contract.

Dr. Emma Curtis: I am sorry. I do not understand.

Deputy Catherine Connolly: It is not very hard.

Dr. Emma Curtis: There is a consultant contract that allows consultants to do private practice.

Deputy Catherine Connolly: I understand that. There are a number of consultant contracts. This particular contract allows private consultants to do private work in a public hospital.

Dr. Emma Curtis: It is recognition of that entitlement.

Deputy Catherine Connolly: That is in their contract. Are special areas being provided to them?

Dr. Emma Curtis: It is a small area with eight consulting rooms on the outpatient floor.

Deputy Catherine Connolly: It is provided for in their contract that they can do private

work in a public hospital.

Dr. Emma Curtis: If that functions as a private clinic, there will be a charge for it. It will not be freely available.

Deputy Catherine Connolly: Has the charge been worked out?

Dr. Emma Curtis: Not that I am aware of.

Deputy Catherine Connolly: That is interesting when there is no accommodation and we are reliant on Ronald McDonald. I thank Dr. Curtis for clarifying that.

The costs of communications stood out the last time. Mr. Barry, as the new chairman of the board, might look at the costs incurred to have public relations companies sell the good news. Has he looked at those costs in the accounts for 2017 and 2018?

Mr. Fred Barry: I have looked at what we are doing on communications and the need for communications.

Deputy Catherine Connolly: Yes.

Mr. Fred Barry: We have a lot of work to do with the resident community in the area.

Deputy Catherine Connolly: I ask Mr. Barry to listen to me. I am aware of the history and I know about working with residents, which is very important. This is the board's second time before the committee. Does Mr. Barry have an updated figure for consultancy fees paid to a PR company? In 2016, the cost of communications was €267,000. According to the annual report of the board, the cost of communications in 2017 was €288,563. What did we pay for communications in 2018?

Mr. Jim Farragher: It is a similar amount - €279,000.

Deputy Catherine Connolly: That is a contract.

Mr. Jim Farragher: That is a tender contract.

Deputy Catherine Connolly: That emerged thanks to *The Irish Times*, not at this committee. It emerged as a follow-up.

Mr. Seamus McCarthy: For the record, that figure excludes VAT. The figure for 2017, including VAT, is €353,616.

Deputy Catherine Connolly: Can anyone tell me the length of the contract with the PR company, the name of the PR company in question and the total cost involved?

Mr. Fred Barry: To make sure we get it right we will send in a note with all of that information.

Deputy Catherine Connolly: I thank Mr. Barry but it would have been helpful if that information was here today. It is about communications, which is what we are doing here. We want facts. We are looking at how to avoid costs so it would be helpful.

I asked this question earlier and have forgotten the answer given. Is the board renting a building? If so, where?

Mr. Jim Farragher: That is correct. It is across from the new hospital that is being built.

Deputy Catherine Connolly: How long is the lease for that?

Mr. Jim Farragher: The initial lease was for three years, which is just expiring, and we are in the process of finalising a lease.

Deputy Catherine Connolly: How long will that last?

Mr. Jim Farragher: That will be until 2023.

Deputy Catherine Connolly: It will not be leased after that.

Mr. Jim Farragher: No.

Deputy Catherine Connolly: That is marvellous. Can we get a figure for those as well?

Mr. Jim Farragher: Yes.

Deputy Catherine Connolly: I am coming towards the end of my time and I want to ask about PwC. Mr. Breslin sent us a detailed note.

Mr. Jim Breslin: I did not send it to the Deputy but I know what she is referring to.

Chairman: It was the HSE that sent it to us.

Deputy Catherine Connolly: That is correct. The board provided a list. The information was extracted rather than given proactively. The list refers to design, build and equip and associated reports. The most recent was an internal report from November 2018. Is Mr. Barry aware of that report, what it cost and who was involved compiling it?

Mr. Fred Barry: To ensure that we get everything right, we will include that in the note.

Deputy Catherine Connolly: Does anybody else from the board know about this report? In fairness to Mr. Barry, he is new to his position. Does anyone have a cost for this? Is Mr. Farragher involved in finance?

Mr. Jim Farragher: The Deputy might clarify to which report she is referring. I am not quite clear on that. Is it a PwC report?

Deputy Catherine Connolly: I am not quite clear on it either. I got this from the board, as did everybody else.

Chairman: Could the Deputy read the heading of the document?

Deputy Catherine Connolly: The heading is, “Listing of independent and internal corporate reports relating to reviews, examinations or audits in relation to corporate governance or internal financial controls – 2017 to 2018”. There is a list and then, finally, reference to “Internal Report” and “Process to Guaranteed Maximum Price”.

Mr. Jim Farragher: That report that was compiled by Mazars and its purpose was to review the process we were undergoing to deliver the prices in respect of which information has been provided to the Deputy.

Deputy Catherine Connolly: To be fair, it is referred to as an internal report.

Mr. Jim Farragher: It was the internal audit group that did it. It is the Mazars report.

Deputy Catherine Connolly: Is Mr. Farragher sure of that?

Mr. Jim Farragher: We will correct that if it is something different but I believe it is.

Mr. Seamus McCarthy: It may be an issue of terminology. I understand that Mazars was working as an internal auditor. It is an outsourced internal audit function.

Mr. Jim Farragher: Exactly. It is an outsourced internal audit.

Mr. Seamus McCarthy: It is outsourced, which is the point the Deputy is making, and there was an expense associated with it.

Deputy Catherine Connolly: I am not sure what point I am making. I am trying to discover the nature of the report from November 2018. I understood that was the report wherein the board considered whether to go forward. The prices were rising and I understand the board commissioned a number of high worth companies, including PwC, to come in and advise it. Is that the report or am I confused?

Mr. Jim Farragher: That was a report that was reviewed based on an outline of the development of the cost to €1.433 billion. It reviewed the process-----

Deputy Catherine Connolly: Did Mazars run this?

Mr. Jim Farragher: Yes.

Deputy Catherine Connolly: Is Mr. Farragher sure of that?

Mr. Jim Farragher: If it is not, I will correct it.

Mr. Jim Breslin: May I intervene?

Deputy Catherine Connolly: Yes, please.

Mr. Jim Breslin: I will give the Deputy my best view on this based on the page she has open in front of her. The first report mentioned Mazars internal audit services to close out the review of the guaranteed maximum price, GMP, process.

Deputy Catherine Connolly: I see that.

Mr. Jim Breslin: That is Mazars, the internal auditors.

Deputy Catherine Connolly: That is okay.

Mr. Jim Breslin: The amount was €23,000.

Deputy Catherine Connolly: I am asking about the last one.

Mr. Jim Breslin: The last one was compiled by the development board.

Deputy Catherine Connolly: That is right. There we are.

Mr. Jim Breslin: The committee also has that report and it informed the decision that was made to proceed.

Deputy Catherine Connolly: Mr. Farragher, we have had it corrected and this report was commissioned by the board.

Mr. Jim Farragher: This is a GMP report the board commissioned.

Deputy Catherine Connolly: Please listen. This is extremely important because this was the one that justified the board in going forward. It could not go back and had to go forward. This report was the basis of the recommendation the board gave to Government and the Government, or the Department, followed that advice.

Mr. Jim Farragher: Yes.

Deputy Catherine Connolly: Who was involved in compiling that internal report on the basis of which it was decided that the development could not go backwards and that a different option could not be taken?

Mr. Jim Farragher: Basically, the primary lead was one of the quantity surveyors who works for the development board.

Deputy Catherine Connolly: Who is that?

Mr. Jim Farragher: It was mentioned earlier that we should not mention names.

Deputy Catherine Connolly: Listen to me. PwC was involved in this. Let us have a list of the names.

Mr. Jim Farragher: This was an internal person; it was an employee.

Deputy Catherine Connolly: I am not interested in names.

Mr. Jim Farragher: Okay.

Deputy Catherine Connolly: Please stop obfuscating. I apologise if that is not what is happening but that is how it appears. A report was compiled and PwC and advisers from Northern Ireland were involved.

Mr. Jim Breslin: Not in that one.

Chairman: That is the next one.

Deputy Catherine Connolly: Where is the next one?

Mr. Jim Breslin: I will clarify the position. This is a list of development board reports.

Deputy Catherine Connolly: I understand.

Mr. Jim Breslin: The Deputy is interested in the report that was commissioned and the work that was undertaken by the HSE and not the development board.

Deputy Catherine Connolly: Okay.

Mr. Jim Breslin: When the GMP process was concluded-----

Deputy Catherine Connolly: Yes.

Mr. Jim Breslin: ----and the development board compiled its report together and gave it to

the HSE and the Department, the HSE undertook some analysis in respect of it and involved external expertise in that regard.

Deputy Catherine Connolly: That is very good, I thank Mr. Breslin. That external expertise included PwC-----

Mr. Jim Breslin: It did.

Deputy Catherine Connolly: -----and advisers from Northern Ireland, among others. They came up with a report stating that, after examination, they thought the board had to proceed with the development. Is that right?

Mr. Dean Sullivan: There was no “they”. The Secretary General wrote to the HSE on receipt of the GMP report and three options were identified. One of those options recommended as a way forward was to stick with BAM as the main contractor. The Secretary General wrote to me and asked for advice on two things.

Deputy Catherine Connolly: I know all that.

Mr. Dean Sullivan: One of those was about lessons to take in order to understand what had happened to get to the place at which we found ourselves. The other thing he asked me to look at was how to proceed. I wrote back to the Secretary General six days later and stated that it would only be possible to look at the latter of those two things, namely, what was the best way to proceed.

Deputy Catherine Connolly: That is okay. I am not questioning that at this point. Those are facts and Mr. Sullivan is providing a factual analysis. I am asking if PwC was involved at that point.

Mr. Dean Sullivan: PwC was one of the advisers feeding into the HSE’s advice to the Department.

Deputy Catherine Connolly: I have said that about five times. PwC was involved. The HSE has informed the committee that PwC was not involved in the decision-making process, and I would hope not. We did not need to be told that. PwC was brought in as an adviser. PwC helped the board reach a conclusion and was then employed as an independent company again in January - at a cost of €500,000 or thereabouts - to come to the same conclusion.

Mr. Dean Sullivan: No.

Deputy Catherine Connolly: No.

Mr. Jim Breslin: The Deputy and I might disagree but she might let me, at least, tell her what I think happened.

Deputy Catherine Connolly: Yes.

Mr. Jim Breslin: We were in a very short and constrained period within which a decision had to be made as to whether to award the contract. I had two concerns, one of which was how did we get here and the other was what is the best next step to take. The Mazars report to which the Deputy has referred was conducted by the development board and that told us how we got here. I was not satisfied that would be the final word on the subject because Mazars is the internal auditor to the development board. It would have been nice to have somebody external look

at that. As Mr. Sullivan just stated, however, he informed me that this was not possible in the available time. There was too much work involved.

Deputy Catherine Connolly: Mr. Breslin is explaining and justifying something I am not asking about at this point.

Mr. Jim Breslin: I am explaining that PwC has done two different jobs.

Deputy Catherine Connolly: We might come to that in a moment and the Chair will have more time to tease the matter out. PwC made a conclusion in November. It made a similar conclusion, which it was not asked for in its terms of reference-----

Mr. Jim Breslin: That is a good point.

Deputy Catherine Connolly: I am delighted Mr. Breslin thinks I have made one good point.

Mr. Jim Breslin: It is a good point. It has been missed and it is a good point.

Deputy Catherine Connolly: I am better when Mr. Breslin is giving out to me.

Mr. Jim Breslin: I have caught the Deputy off guard.

Deputy Marc MacSharry: I must have missed the good point but it must be worth repeating if Mr. Breslin-----

Deputy Catherine Connolly: When his turn comes, Deputy MacSharry can ask Mr. Breslin to repeat what he said. At the time to which we are referring, PwC came back. It was given terms of reference. I would hope PwC would compile a fairly good report for €500,000. It is unfortunate that PwC was repeating what Mazars had stated, to a great extent. PwC gave a conclusion that it had already given in November through the board. Is that right?

Mr. Jim Breslin: Yes.

Deputy Catherine Connolly: I am considering the perception of that. We are looking at governance, the ability to challenge and preventing this happening in the future. We are also looking forward to Mr. Barry learning to challenge these things so that-----

Mr. Jim Breslin: PwC retained its independence.

Deputy Catherine Connolly: Did it?

Mr. Jim Breslin: The core of the second task was to do a look-back exercise on the escalation and review 2,000 documents, as PwC did, to try to discover exactly what happened and what the weaknesses in that were. That was the core of it. As the Deputy stated, PwC also threw in a bit which indicated that the board could not have done anything differently. That was not in the terms of reference, it was *obiter* and a little bit off the point.

Deputy Catherine Connolly: Was it only a little bit off the point? It was the very point that the Government picked out to justify proceeding. I do not expect our guests to comment on that but the official commentary from Government pointed to the PwC conclusion. That is interesting.

Mr. Jim Breslin: As stated earlier, the value of the work PwC did is in the detailed look-

back and the identification of weaknesses that we would address going forward, and not in the decision of Government for or against.

Chairman: I am confused now. I have three documents in my hand. The first document is the PwC report, commissioned at the end of January-early February and published one month ago. We are all agreed on that. The second is an internal HSE or Department of Health document, into which PwC had an input, produced in December.

Mr. Dean Sullivan: It was the back end of November, early December.

Chairman: The third document is a Mazars report from 17 December. The HSE report, into which PwC had an input, was produced three or four days later. The timeframe is one week before Christmas. The decision was made after this, but between this and the following week, an additional HSE report was produced. We have a PwC report, a HSE report which was produced towards the end of December, the Mazars report of 17 December and another report produced two weeks earlier on 28 November. I know the authors of the first three reports. Who wrote the last one?

Mr. Jim Breslin: That is the development board's report. It is its recommendation on what decision the Government should make.

Chairman: The development board produced a report, comprised of over 100 pages, on 28 November. Within a fortnight, the Mazars report and the development board report are produced. Within a week of that, the HSE reports, incorporating PwC's input, on the two previous reports. In January, we get another report. Is my sequence correct?

Mr. Jim Breslin: It is. I can explain.

Chairman: I understand a report is produced every month. Who is drafting it this month?

Mr. Jim Breslin: There is a good reason for all of this.

Chairman: The guaranteed maximum price was discussed extensively at the health committee. Mr. Breslin mentioned an internal report. Did the Department get external consultant assistance in that regard?

Mr. Jim Farragher: It was done internally. As far as I am aware, we did not employ any external consultants.

Chairman: Appendix 6 of the report I am holding up-----

Mr. Jim Farragher: It is the AECOM report.

Chairman: It is the international hospital consultant benchmarking report for the national paediatric hospital dated 25 October from a company called AECOM. Are they internal or external consultants?

Mr. Jim Farragher: That is an appendix.

Chairman: It is the international benchmark.

Mr. Jim Farragher: It is benchmarking on costs.

Chairman: Am I correct that external consultants were involved in this report?

Mr. Jim Farragher: This is a question around-----

Chairman: The guaranteed maximum price.

Mr. Jim Farragher: No. The cost per sq. m. build happens at reasonable intervals.

Chairman: Appendix 6.2 is another report entitled Construction Inflation Overview from a company called Linesight.

Mr. Jim Farragher: Yes.

Mr. Jim Breslin: Linesight are the quantity surveyors.

Chairman: Perhaps Mr. Breslin will elaborate because I got the impression the report was carried out internally. It now appears it was done with the assistance of several external people.

Mr. Jim Farragher: We relied on those reports.

Chairman: I ask one of the witnesses to take me through what happened from Linesight to AECOM, the Department's report, the Mazars report the following week, the HSE report, incorporating PwC input, a week later and then the PwC report the following month.

Mr. Jim Breslin: Can I give-----

Chairman: I think I have the sequence right.

Mr. Jim Breslin: You have.

Chairman: I ask Mr. Breslin to explain it for the benefit of the public.

Mr. Jim Breslin: I will explain it.

Chairman: People are bamboozled by all of this.

Mr. Jim Breslin: There was a huge decision involved in this. In September, the board which I chair was informed that there was a significant escalation in the costs for this project. We were not at the point where that had been fully completed. Work was still going on in concluding the guaranteed maximum price, GMP. If were in a calmer environment, where we were not already on site and in a contractual relationship, we would take a stand back and probably spend a year going through this but we knew that we were going to be under pressure once that GMP process completed to make a decision on it.

Chairman: I ask Mr. Breslin to explain to the public why there was an imperative for a timeline. Would the Department have had to pay compensation if it delayed the project?

Mr. Jim Breslin: We had to decide whether we would just tell BAM to leave the site and retender and take time in doing that, taking account of delay and inflation, or whether we were going to tell BAM to work on. If we did not make a decision in a defined window, which is laid out in the contract, there would be penalties for that.

Chairman: In other words, the rush was related to the fact that BAM had included in its original tender that if there was any delay in reaching a decision in regard to phase 2, there would be a cost to the taxpayer for delaying BAM getting on with the job.

Mr. Jim Breslin: Yes.

Chairman: The witnesses' backs were to the wall.

Mr. Jim Breslin: The key for me-----

Chairman: I am sure Mr. Barry will agree that it was a dreadful position for taxpayers to be put in on day one that if there was any delay in moving to phase 2, bearing in mind the design had not been completed before phase 1 commenced, they would have to pay for it. Hence, the rush.

Mr. Jim Breslin: I hear exactly what the Chair is saying but in that situation the key for me was that Government would be able to make an informed decision and that we would not get to the finalisation of the GMP process and then decide, "Oh God, what information do we need?" I wrote-----

Chairman: I think Mr. Breslin has acknowledged that it would have been better had the Department had the report on the escalation of costs before the Government made the decision.

Mr. Jim Breslin: Yes, it would.

Chairman: I want that noted. It was a case of putting the cart before the horse in that we signed the contract for phase 2 knowing there was a problem with costs. Having signed the contract, we then received a report on the escalation of costs. If right was right, that report should have been done before moving on.

Mr. Jim Breslin: I will set out what I did have. I wrote to the then chair of the development board and I said that we were hearing about cost escalation and setting out the information we would need to inform Government. I asked for a full comprehensive report on the GMP process, setting out how it was managed and how the costs had escalated. The GMP document is among the documents which the Chairman has in his hands. I also said to the development board that I wanted an audit of the GMP process, which it said it was considering. Other than the development board, I wanted somebody to look at it, lest they found something that was not proper within the process. The development board used Mazars, its internal auditors, to do that.

Chairman: I take it Mazars had no role in the big report.

Mr. Jim Breslin: Having done that - this is where optimism bias comes in - I was aware that the development board was responsible for the project. Obviously, it would put forward the information and seek to do so and be full and open and transparent but the best will in the world aside, I thought it would be good to have some external advice on this. That involves people with technical skills, which we do not have in the Department, to put their eyes across the GMP report produced by the development board and look at the options that were being presented. The HSE has a good deal of that expertise. It has an estates function, technical procurement functions and so on, so I asked Mr. Dean Sullivan to arrange for that external look at what the development board was saying.

Chairman: I understand Mr. Breslin was concerned about developer optimism and that it would justify the current position. I can understand that. Mr. Breslin was right to be cautious and seek a second view. He then got a report from Mazars. Am I correct that Mr. Breslin is saying he was not happy with it?

Mr. Jim Breslin: No. I was happy with it.

Chairman: If Mr. Breslin was happy with it, why was it necessary for PwC to do a report?

Mr. Jim Breslin: I will be frank. If I was to sit here today and say that the independent process to establish how the €450 million escalation happened hinges on the internal auditors to the development board, I think the Chairman, or somebody here, would be saying, “Ah, come on now.”

Chairman: Okay.

Mr. Jim Breslin: First, we said we needed external input on the decision that needs to be made. I also wanted external input on how we got here. In fairness, Mr. Sullivan wrote back to me and said he could provide external input on the decision but to do the proper job on how we got to that point was an extensive piece of work, a documentary review, and there was no way that could be done in the time available. Instead, we went to Government and presented it with the Mazars, HSE and GMP process reports. The Minister recommended to Government that a review be undertaken of how we got here, which is the January PwC report.

Chairman: Mr. Breslin said in his opening statement that decision was made around that time.

Mr. Jim Breslin: In December.

Chairman: For the benefit of people watching, I recall there was a bit of argument about it in January when the Dáil returned following the recess.

Mr. Jim Breslin: The Dáil came back and people saw the terms of the reference and thought there was something missing and suggested what might be included.

Chairman: That was in train before the Dáil came back.

Mr. Jim Breslin: The Chairman also said in January that he would like to see this bit. We reflected, and as PwC was mobilising, we amended the terms of reference. We were trying to do our job.

Chairman: Okay, fine but there are myriad reports. It sounds to me as though BAM had everybody over a barrel. If BAM did not receive its signed contract by a certain date then everyone would have to pay up. That was a significant error, where the State was left in a tight corner with no room to manoeuvre.

Mr. Jim Breslin: The market is also so hot in terms of getting people to bid and inflation. There is a cost the longer one delays on something.

Chairman: I apologise to Deputy MacSharry for that but so many reports were mentioned that I wanted to get them all in sequence.

Deputy Marc MacSharry: The Chairman will give me some latitude because of that.

Chairman: I will. I am sorry about that.

Deputy Marc MacSharry: I thank the Chairman. I welcome the witnesses. I will articulate my usual opening clause. Sometimes I can be abrupt because I only have ten minutes. It is nothing personal. I refer to earlier questioning of Mr. Barry. Is it correct that he is a non-executive director of PM Group?

Mr. Fred Barry: Correct.

Deputy Marc MacSharry: Is the PM Group doing any work at all relevant to the hospital?

Mr. Fred Barry: No.

Deputy Marc MacSharry: Has it any current or former professional relationship with BAM?

Mr. Fred Barry: Yes. It has worked with BAM. BAM is one of the biggest, contractors in the country so the PM Group definitely worked with BAM on projects. I personally have worked with BAM on many projects.

Deputy Marc MacSharry: Is that on the private consultancy side?

Mr. Fred Barry: Also on the State side. I was with the National Roads Authority, NRA, for some years and BAM was one of the contractors.

Deputy Marc MacSharry: Does Mr. Barry have knowledge of the nine cases that BAM is taking against arms of the State relevant to other projects?

Mr. Fred Barry: I have been involved in many disputes with BAM over the years. I could not say that I know all nine cases.

Deputy Marc MacSharry: Given Mr. Barry's experience of the NRA and his substantial international experience, if a company has form in litigating after the fact, does that come into consideration at tendering stage or assessment?

Mr. Fred Barry: No.

Deputy Marc MacSharry: Mr. Barry said that he had been involved in a few disputes and, of course, these can happen in the building of any project, no matter how small or big.

Mr. Fred Barry: Disputes are part and parcel of the construction industry. I would not like anyone to think that BAM is always in disputes and no one else is. However, BAM is in disputes quite regularly, as they are entitled. The disputes are always carried out under the terms of the contracts. One cannot take a prejudiced view against the appointment of a contractor for exercising its rights under its contract.

Deputy Marc MacSharry: It is totally without prejudice but common sense demands that one would take a view.

Mr. Fred Barry: Public procurement procedures are quite prescriptive as to what one can and cannot-----

Deputy Marc MacSharry: They are. Is it correct that one of the clauses refers to "most economically advantageous"?

Mr. Fred Barry: Yes, that is one of the descriptions.

Deputy Marc MacSharry: If builder A has sued me nine times previously, it will probably come into my consideration of what is economically most advantageous.

Mr. Fred Barry: One would like it to, but one very often cannot.

Deputy Marc MacSharry: Why not?

Mr. Fred Barry: Because the rules around procurement are quite prescriptive. As a buyer, I would welcome the opportunity to be able to take all facets of past performance into account. In the private sector, that is how I or anyone else would behave.

Deputy Marc MacSharry: I would be very interested in a note on why we cannot take such matters into account. I know it is probably a deeper issue but Mr. Barry has unique experience in the area in which we are interested.

Is Mr. Barry's relationship with BAM, whether on the State side or the private side, recent?

Mr. Fred Barry: I finished up with the NRA approximately three years ago, so I had experience with BAM right up until the end of that.

Deputy Marc MacSharry: What about the private side? I do not mean to pry but it is in the public interest.

Mr. Fred Barry: I have not an interest - I was not on the same side of the table as BAM in any of these situations, to be clear. My dealings with BAM in the private sector go back 15 years.

Deputy Marc MacSharry: Okay, that is fine.

I welcome the Secretary General. He said that PwC consultants retain their independence but, as I said earlier, the contestants cannot judge the beauty pageant. By Mr. Breslin's admission PwC threw in a few extra lines at the end to reaffirm their genius in its advices of November or December in the report. Despite the great name and global standing of PwC, can Mr. Breslin say that the perception of conflict of interest does not exist here when the briefing document to which Deputy Connolly referred clearly states that some of the people involved in what was termed "high-level input" in November-December were the same people clapping themselves on the back for earning a sweet €55,000 a week for nine weeks in the report that said that the Government should go ahead?

Mr. Jim Breslin: The Deputy may or may not accept it but if I genuinely believed a conflict of interest existed, I would say it to him today.

Deputy Marc MacSharry: It is a matter of form that the practice should be not to do these things. I said at the previous meeting we had on this that while it is the prerogative of the Office of the Comptroller and Auditor General to decline a request to do particular work, the one thing that we have with the office is absolute certainty that no commercial relationships exist. Was the high-level advice before Christmas tendered?

Mr. Jim Breslin: PwC was competitively procured under a framework -----

Deputy Marc MacSharry: That is not a tender though.

Mr. Jim Breslin: It is a tender. Then that is drawn down over the period.

Deputy Marc MacSharry: So it went out to tender. How much did PwC get for that? We know it received €450,000 for the later report but how much did it receive for the high-level input before Christmas?

Mr. Jim Breslin: The contract is with the HSE, but it is not for a guaranteed amount, but is based on the work that is done.

Deputy Marc MacSharry: How much was the company paid?

Mr. Jim Breslin: If I may go back to the question the Deputy asked me, as he answered his own question at the start.

Deputy Marc MacSharry: No, I made an observation, which I am entitled to do.

Mr. Jim Breslin: I will answer since the Deputy put the question to me. I genuinely do not see a conflict of interest. If I did, I would say so. For example, in a situation where PwC had advised the development board during the course of the escalation of €450 million I would call that one. There is absolutely no way that I would see that as independent. That is clearly not independent. Instead, after that, PwC was part of the State examining the problem and trying to see what was to be done. It advised the HSE on next steps, but it was completely separate. We could have done it all in one phase. We could have taken three months to do next steps and look back but we did not have the time. The HSE got some advice and it was in a very constrained period. It does not have a PwC report that is signed off corporately.

Deputy Marc MacSharry: How much did the company receive?

Mr. Jim Breslin: It received €21,000 for that. We still want to do the look back.

Deputy Marc MacSharry: The company received €21,000 for that. At €55,000 a week that is probably two days.

Mr. Jim Breslin: It has all the expertise. It has the ability to mobilise a team internationally. On the look back, which is a separate task looking into how we ended up here, people have acknowledged it as a good report. It contains recommendations. We will implement them and they will prove to be hugely valuable in delivering this project.

Deputy Marc MacSharry: Why was the steering group not consulted? The steering group met in November and said that it needed another meeting to consider the GMP report in order that it might make a recommendation to the board, which, in turn, could make a recommendation to the Government. There was time to procure the four reports that the Chairman mentioned but the officials did not even go to the steering group.

Mr. Jim Breslin: We covered that the last day.

Deputy Marc MacSharry: No, we did not cover it, actually. What we said was that there was not time.

Mr. Dean Sullivan: That is right and that is still the position.

Deputy Marc MacSharry: How much would the penalty have been?

Mr. Dean Sullivan: My recollection from seeing the minutes of the previous meeting is that Mr. Pollock referred to a figure of €12 million in terms of cost delay.

Deputy Marc MacSharry: We would have had to pay €12 million even though we were not on the hook. The Government could have said that it was not going ahead with this.

Mr. Dean Sullivan: It could have. That was an option on the table.

Deputy Marc MacSharry: Would that not have bought time at a minimum?

Mr. Dean Sullivan: No, because my understanding - and colleagues on the development board may wish to comment - is that if a deferral of that nature had been put in place, there would have been a cost penalty.

Deputy Marc MacSharry: Okay. The Government did a deal for phase A leading BAM to believe it was a shoo-in for phase B. If BAM did not get it, it would get money anyway. Is that correct?

Mr. Dean Sullivan: We are at risk of rehearsing what is in the PwC review. Many of the points to which the Deputy referred are picked up in that review in terms of some of the difficulties in the process that was put in place. Regarding to the specific issue that the Deputy is asking about, we discussed this at length at the previous meeting.

Deputy Marc MacSharry: We did but it was inconclusive. There was not time and people were deferring to one another.

Mr. Dean Sullivan: That is not being inconclusive. Those were the facts; I said so at the last meeting.

Deputy Marc MacSharry: There was not time. We are talking about €800 million.

Mr. Dean Sullivan: I said to the Deputy at the last meeting that given the significance and sensitivity of the issue, it was escalated as quickly as possible for discussion at the board the Secretary General chaired.

Deputy Marc MacSharry: Why did Mr. Sullivan not tell us at the last meeting about the 4% exclusion on VAT?

Mr. Dean Sullivan: We did.

Deputy Marc MacSharry: No, the witnesses did not. That came up at the meeting with the Department of Expenditure and Public Reform much later.

Mr. Jim Breslin: I will check the record but I think we were clear there were-----

Deputy Marc MacSharry: No, Mr. Breslin did not.

Mr. Breslin mentioned the AECOM report. I quoted from that report when we had the Department of Public Expenditure and Reform in. Mr. Watt said that this was not his project at all. I will be returning to that in a minute.

Chairman: My recollection of the meeting, when Mr. Pollock was here as chairperson, and correct me if I am wrong, was that BAM was on site and had completed phase 1 and that if BAM was delayed in moving on to phase 2, it was known as a compensable event and it would have to prove how much it was going to lose-----

Deputy Marc MacSharry: It is going to be a compensable event if BAM did not get the project.

Chairman: -----if it was delayed. Let me explain it. BAM could have been removed and that would have been the end of it but if the company was retained and delayed, the delay would be a compensable event. It could have been removed with no compensation.

Deputy Marc MacSharry: It could have said it was not going ahead. The steering group

did not see it because it did not have time. This is ridiculous. What is a steering group for? Has the steering group been got rid of? It seems it was excluded from the key decision for which it was in existence because there was not time. Why was there not time? Who was sitting on their hands?

Can I quote from the Taoiseach some weeks back? I did not read this in the PwC report. The Taoiseach said that they had looked at the terms of reference, and that the terms of reference would be revised to enable PwC to find individuals accountable, or to identify individuals who made particular mistakes. Who are the individuals? Who was asleep at wheel? Who caused such a substantial delay that we had to rush to take a decision for fear of having to dish out taxpayers' money because we did not manage our time well enough? Who is responsible?

Mr. Dean Sullivan: What is rehearsed within the PwC review and what we rehearsed at the previous Committee of Public Accounts session was-----

Deputy Marc MacSharry: I did not see anybody named.

Mr. Dean Sullivan: I was going to give the Deputy a flavour of the time issue again, which is that it was late in coming to the table. It was late when the development board became aware of the pressure that was on costs. Because of that it was late being escalated to the steering group that I chair, and to the board that Mr. Breslin chairs. Because of that and the time ticking on the phase B issue that we talked about, there was not much time. That is the fact and that is set out very clearly. That timeline is specifically referenced-----

Deputy Marc MacSharry: The buck stops nowhere.

Mr. Dean Sullivan: -----within the PwC review.

Deputy Marc MacSharry: Is it not fair to say that?

Mr. Jim Breslin: The terms of reference were amended to include that the review would deal with the accountability of the relevant key parties, their functions and roles. That is the job PwC was asked to do.

Deputy Marc MacSharry: The bottom line here is that nobody swings. On we go with systemic failure, culture, time issues, planning and so on. The whole team still ploughs on, except in terms of what we now know. Mr. Breslin mentioned the AECOM report, and I was going to refer to this earlier. The AECOM report on construction inflation was going to be incorporated. The exclusion is 4%. Last year, it ran at 7.5% nationally. AECOM said it will run at 7% this year. Dublin inflation is between 10% and 12%. No one in this room knows how much this thing is going to cost us because it is already a given that there is going to be a 3% margin for negotiation. It is going to be open season once inflation continues the way it is going, as far as BAM and renegotiation are concerned. Is that not correct?

Mr. Jim Breslin: It is not open season in the sense that any figure can be drawn up.

Deputy Marc MacSharry: I am not saying any figure, but to state €1.7 billion, or whatever the figure is, as the cost is just wrong. If it is going to take between now and 2023 and it stays at the same 3% increase per annum, a lot more money is involved, is it not?

Mr. Jim Breslin: The PwC report is very clear on this. On page 72, it states that if it were to be at 7%, it would generate a €47 million additional cost. This is a future scenario.

Deputy Marc MacSharry: Five multiplied by 40 is equal to €200 million extra.

Mr. Jim Breslin: The Deputy is calculating it for every year. This is what it would generate if it were at this rate.

Deputy Marc MacSharry: It is an annual increase at the moment. AECOM did not say it was going to increase by 7% in total over the next five years. It said we are at 7.5% this year and that it could be more next year. An exclusion of anything over 4% can be negotiated.

Mr. Jim Breslin: One has to choose a potential scenario on inflation. PwC has chosen different average inflation rates. If the average rate of inflation stays at 4%, the total cost of the project does not change.

Deputy Marc MacSharry: It is not going to stay at 4%.

Mr. Jim Breslin: Of course, that is why I am saying that there are four different-----

Deputy Marc MacSharry: Has anybody taken a wild guess as to what it will be cost-wise? The people really want to know. We have this omni-shambles and omni-shambles part two going on with the national broadband plan. What we are saying to people is that today the price is €1.7 billion. AECOM is telling us that this is going to increase cumulatively about 3% per year if its projections are correct, and maybe even more.

Mr. Jim Breslin: It is not. An exercise has been done and it is in the report.

Deputy Marc MacSharry: What is the price?

Mr. Jim Breslin: It is not a wild guess. If it were at 7% over the remainder of the project, it would cost an additional €47 million.

Deputy Marc MacSharry: No, it is 7% per annum over the course-----

Chairman: No, it states average inflation over the period of the contract.

Deputy Marc MacSharry: It is a 7% increase in the cost between now and then.

Mr. Seamus McCarthy: No, it will not be a 7% increase.

Deputy Marc MacSharry: What will it be?

Mr. Seamus McCarthy: The analysis is done in the PwC report of €47 million, if inflation averages at 7%.

Deputy Marc MacSharry: It is above 7% of the moment.

Mr. Seamus McCarthy: If it averages at 10%, it gives a figure of €97 million.

Chairman: It is €97 million, if inflation is at 10%.

Deputy Marc MacSharry: As things stand, we are talking about €100 million extra.

Mr. Seamus McCarthy: That would seem to be implied.

Mr. Jim Breslin: The Deputy mentioned a wild guess.

Deputy Marc MacSharry: Mr. Breslin told me it is in the PwC report.

Mr. Jim Breslin: The Deputy has now gone to 10% when we are not at 10%.

Deputy Marc MacSharry: Dublin inflation was at 12% last year.

Mr. Jim Breslin: There are three indexes and they are set out. They are national indexes. Some of them are at below 7% and some are above 7%, but they are around 7% currently.

Deputy Marc MacSharry: Is it reasonable to say that the price that is being bandied around at the moment is likely to be €50 million to €100 million more, based on the PwC's genius?

Mr. Jim Breslin: I think it is reasonable to say it is €50 million, and if inflation were to change it would be in excess of that.

Deputy Marc MacSharry: I will leave that issue for now.

When he was in here, Mr. Watt informed us that he meets Mr. Quinn at 11 o'clock every Monday morning. Is that correct?

Mr. Paul Quinn: We have a management committee meeting at 11 o'clock every Monday.

Deputy Marc MacSharry: Mr. Watt seemed to indicate that Mr. Quinn never mentioned to him in all those meetings that there problems with the hospital.

Mr. Paul Quinn: This comes back to my obligations as a board member. I have written to the committee on that recently. In summary, and not to give the committee the long version because I know it is pressed for time, I have obligations in law in terms of the statutory instrument that established the children's hospital board. I have obligations under circular 10/2012, which basically indicates that if a civil servant is serving on a board, he or she has to be satisfied that the board is addressing the matter. If the board is addressing the matter, which this board was, the correct line of authority and reporting is through the chair to the Minister. I could see as a member of the board-----

Chairman: What Minister is Mr. Quinn referring to?

Mr. Paul Quinn: I will get to that, Chairman. I was quite clear that the board was meeting frequently with the steering group and was communicating the issues that we had on hand, through those structures. As the Chairman reminded me, the appropriate Minister, as is set out in Government policy, is the Minister for Health. I would have been precluded from, and I would have been in breach not only of my obligations as a board member but of the law, if I were to report directly to the Secretary General or to the Minister for Public Expenditure and Reform.

When the matter of my appointment to the board and the discussions arose at this committee and other committees about my obligations, I met the Minister for Finance, Deputy Donohoe, to explain what had happened. He supported my judgment as to what I did. He agreed that I had observed my obligations and he has said that publicly in the Oireachtas.

Deputy Marc MacSharry: When did Mr. Quinn meet the Minister, Deputy Donohoe?

Mr. Paul Quinn: As far as I recall, it either on 2 February or 5 February. I can get an exact date if required.

Deputy Marc MacSharry: No, that is okay.

Mr. Quinn obviously has a very close working relationship with the Secretary General, if he meets him every Monday.

Mr. Paul Quinn: I have as close a relationship as one might have with the Secretary General.

Deputy Marc MacSharry: I realise Mr. Quinn has fiduciary duties as a board member. Clearly, there is a flaw in the legislation, if on the one hand one is privy to this and on the other hand one cannot share it with the people who matter, which is the Government.

Mr. Paul Quinn: I disagree with the Deputy that this is a flaw. The circular is very well crafted and very deliberate.

Deputy Marc MacSharry: I know Mr. Quinn may disagree, but as a legislator I think it is bad practice. Mr. Quinn was the head of procurement for the State on one hand and on a board on the other hand. It defies all logic and credibility that he had to keep an omnishambles which was going off the rails secret from the Department of Public Expenditure and Reform, while at the same time doing an excellent job of publicly procuring very successful projects throughout the country. I am not holding Mr. Quinn responsible for that. If he was legally prevented, even through back channels, from approaching Mr. Watt over a cup of coffee to discuss his grave concerns that is a perfectly reasonable claim. The Minister supports Mr. Quinn and says he did the right thing. However, Mr. Quinn's description of the law means that the law needs to be changed, or we should not have officials like him on board.

Mr. Paul Quinn: The Deputy's question presumes that there was no communication and the issues we were contending with as a board were not being addressed. The one thing I am absolutely clear on is that they were being addressed. I refer to the number of meetings between the Government structures that sat-----

Deputy Marc MacSharry: Mr. Quinn was not even consulted on the steering group, as I said earlier. There was time pressure, so a decision was taken to streamline the process of dishing out €2 billion of the people's money in order to avoid a fine of €12 million. That is effectively what we are saying. Mr. Quinn is the head of procurement. He has extraordinary expertise and he is saying the system prevented him from picking up the phone or saying to the Secretary General at one of those meetings at 11 a.m. every Monday morning that he had grave concerns.

Mr. Paul Quinn: The structures within the public service between Ministers and Secretaries General are very clear on the lines of accountability and responsibility. Ultimately this is a project for the Minister for Health. I was absolutely clear that reporting was taking place to ensure that the Minister for Health was absolutely apprised of the issues. All the minutes show that communications were taking place. As the board became aware of matters, those matters were communicated through the steering committee, the board etc. As a civil servant I could see that the appropriate Minister was being apprised of these matters. I was also aware that during the year there was engagement between the Department of Health and the Department of Public Expenditure and Reform on bringing to bear the final report which ultimately came to the Department of Public Expenditure and Reform. The Secretary General of the Department of Public Expenditure and Reform, Mr. Watt, recounted this when he appeared before this committee. I could see that the machinery was working and doing what it is meant to do.

Deputy Marc MacSharry: It was not though, because we did not know for months. The

machinery is defective. The standard operating procedure is defective. We have somebody with Mr. Quinn's expertise on hand and we are not seeing appropriate action. Yes, issues were reported to X and Y. If they did not act on it, that was not the board's problem. Fine. Legally, perhaps it was not. I am just saying that if that is the case the system is flawed.

Chairman: That is something the Committee of Public Accounts has to consider.

Deputy Marc MacSharry: Absolutely.

Chairman: Deputy MacSharry has had more than double the allotted time.

Deputy David Cullinane: Do we all get double time?

Chairman: I did not say that.

Deputy Marc MacSharry: We both have so far.

Deputy Catherine Murphy: The witnesses are very welcome. We are looking at process and value for money, which is the remit of the committee. One of the things that creates costs in any project is a failure to design it and nail things down at a very early stage. Reading any documentation or report on this, one would have to say that it is almost entirely because of the process that we face such significant overruns. That is how it reads to me. The National Paediatric Hospital Development Board was set up in about 2013. It included individual expertise in the clinical, construction and procurement areas. Mr. Quinn brought that expertise. He was on the board from the beginning.

Mr. Paul Quinn: Yes, I was appointed in 2013.

Deputy Catherine Murphy: On a board where there is particular expertise, say clinical expertise, one does not second-guess it. As such, Mr. Quinn's expertise on procurement was critical in this. He was the influencer on the board where process was concerned.

Mr. Paul Quinn: I was, among others. We had quite a number of people on the board who were involved in procurement and had a very strong understanding of the processes. To be clear, it did not simply fall to me.

Deputy Catherine Murphy: Mr. Quinn came from a public service background.

Mr. Paul Quinn: Yes.

Deputy Catherine Murphy: Where did the idea of the two-phase process come from? Did it come from the board itself? Where within the board was it generated?

Mr. Paul Quinn: Considerable discussion took place. I will start again. The board very quickly established several structures to set out how it would go about its business. One of those was a procurement subcommittee.

Deputy Catherine Murphy: Was Mr. Quinn on that subcommittee?

Mr. Paul Quinn: I was a member of that subcommittee.

Deputy Catherine Murphy: Who chaired it?

Mr. Paul Quinn: I would prefer not to mention names here, but it was another member of the board with significant legal experience. Several parties were involved both within the board

structure and more broadly from outside it.

Deputy Catherine Murphy: I have limited time, as Mr. Quinn knows.

Mr. Paul Quinn: I will move on to answering the question the Deputy is asking. Regarding where the decision came from, a key driver of this whole project was the timeline. There was a very strong push to ensure that this project would open by the tail-end of 2018. We needed to find a mechanism by which the standard process for the delivery of these projects could be accelerated to ensure this timeline could be met. Several options were considered, and the two-phase process was discussed at that committee.

Deputy Catherine Murphy: Was Mr. Quinn a supporter of this two-phase process? Did he buy into it?

Mr. Paul Quinn: Again, boards make decisions on a collective basis so I have to stand over the decision that was made.

Deputy Catherine Murphy: Did the board have a disagreement about it?

Mr. Paul Quinn: We had. Boards spend a lot of time debating and discussing matters. To come back to the Deputy's question, our debates and discussions led to the inclusion of controls to ensure that cost escalation risks which we identified could be managed.

Deputy Catherine Murphy: As such, the board did identify cost risks.

Mr. Paul Quinn: Yes, and-----

Deputy Catherine Murphy: What did the board do to mitigate those risks?

Mr. Paul Quinn: The two-stage process is effectively an accelerated process. The idea is that the State goes to market with the project in two phases.

Deputy Catherine Murphy: I will read from the minutes of May 2014, featured on page 3 of a briefing document dated 12 March. They say that the second part, comprising the remainder of the building contract, would be tendered using a bill of approximate quantities, with PC, prime cost, provisional sums for large work packages such as mechanical or electrical works. Both parts would be tendered at the same time.

Mr. Paul Quinn: Correct.

Deputy Catherine Murphy: All of the evidence suggests that the board nailed costs down at the beginning. How could the board nail down the costs of the construction phase at the beginning when it did not have a detailed design?

Mr. Paul Quinn: Effectively the two-stage process enables that design to be completed between the first phase and the second phase delivery effective.

Deputy Catherine Murphy: They were tendered at the same time. It is approximate.

Mr. Paul Quinn: It was tendered at the same time, with a bill of quantities. This is important and I ask the Deputy to give me a little bit of latitude. The idea was that at the instruction phase, which we hit in December 2018, the absolute detail of the design would be nailed down. That process takes place on the basis of what is called a bill of approximate quantities. There was nervousness about that within the board, because obviously we were concerned that an

approximate bill of quantities would undershoot. As such we set an objective of hitting-----

Deputy Catherine Murphy: I really have to cut Mr. Quinn off because I want to ask other questions.

Mr. Paul Quinn: This is really important. I ask for just one more minute. We set a threshold for cost accuracy that ultimately did not get hit. We wanted to ensure in terms of risk that we would design that and before we go to tender that we would be at 90%.

Deputy Catherine Murphy: I will stop Mr. Quinn there because I have to pursue this line that I want to pursue. What other example in this country of a two-phase tendered major public construction project was he basing this on? What had been done before that he was using as an example?

Mr. Paul Quinn: This is the first on the public sector side. It is, as I understand it, used more pervasively in the private sector side.

Mr. Fred Barry: If I may, the use of variations on two-phase tendering, that is, in one form or another, going out with approximate bills or very incomplete information at an early stage and converting that at a later stage, is very prevalent in the private sector on projects where there is an urgency to get delivery of the project.

Deputy Catherine Murphy: We heard earlier that there were penalties if one had to go back and re-tender when one got to the detailed phase. Was that factored in?

Mr. Fred Barry: It may not have been clear. If the negotiations around the GMP had fallen and the project had not gone forward with BAM, there would not have been penalties payable to BAM. The parties would simply have parted ways but the State would have been faced with the delay and extra costs of re-tendering.

Deputy Catherine Murphy: That is at variance with what I heard.

Mr. Fred Barry: If, on the other hand, there had been delay and the State wished to proceed with BAM, BAM would have been able to claim additional costs arising from delay and associated costs out of that if the State had continued with BAM. If the State had parted from BAM, there would not have been penalties payable.

Deputy Catherine Murphy: I understand that part of it.

Who drew up the documents? Did a consultancy firm draw up the documents in relation to the two-phase process? Who was that?

Mr. Fred Barry: I think they were standard Government documents.

Mr. Paul Quinn: We used them as a basis. The contract documents were based upon the standard public works contract. They were amended using our legal advisory firm.

Deputy Catherine Murphy: Was a consultancy firm involved?

Mr. Paul Quinn: Our legal advisory firm were McCann FitzGerald, which assisted the board in developing the new form of contract. The actual tender documents themselves were developed, as is standard practice, by the design team who put together all the detail into the documents.

Deputy Catherine Murphy: Did Mr. Quinn test this two-phase process? Did he ask for advice outside the board?

Mr. Paul Quinn: We did, particularly through our design team. The design team that was appointed is internationally experienced, particularly the lead architectural firm, BDP. It is one of the main firms in architectural design for hospitals, certainly, in the UK and, I think, more broadly.

Deputy Catherine Murphy: We have in-house expertise as well, for example, associated with the Department of Finance, which watches - perhaps not quite - costs. There is, for example, expertise in the OPW.

Mr. Paul Quinn: Yes.

Deputy Catherine Murphy: Did Mr. Quinn asked its staff?

Mr. Paul Quinn: The board has outlined that there was an engagement agreed with the Government contracts committee for construction, which is a consultative body established going back to the foundation of the State.

Deputy Catherine Murphy: Were there reservations, if Mr. Quinn consulted them?

Mr. Paul Quinn: The same reservations that we, ourselves, had as a board in relation to the two-stage process. Their recommendations and the recommendations of the board around the control mechanism that we needed to establish were the same, particularly with regard to achieving a high degree of accuracy, but not completeness, in the design before it went to the marketplace.

Deputy Catherine Murphy: Was the imperative to get this done on time a higher priority than being within budget?

Mr. Paul Quinn: I certainly would not agree to that. The priority was to deliver the project within budget from the outset. The instruction all the way through to the design team was to achieve a project that was delivered to budget. All the way through the meetings, at finance committee, procurement committee and the board, we had routine reports from the design team indicating where we were on costs so we believed when we were going to marketplace that we had a structure that was going to deliver the project within the budget.

The one thing I would mention is before we went to market we got an indication that market had started to heat up. It should be remembered when this project commenced-----

Deputy Catherine Murphy: I do not need to go into that.

Mr. Breslin had to get some expertise in to tease out what was going on and get a professional evaluation done. Consultants were brought in by the HSE or the Department to do that. The idea of this hospital was that it was to be tri-located and the maternity hospital was critically important in terms of the location. That will be all the more challenging now given the cost of delivering the national children's hospital on this site.

Would Mr. Breslin recommend this process again?

Mr. Jim Breslin: The two-stage process?

Deputy Catherine Murphy: The two-stage process or a separate board to develop it.

Mr. Jim Breslin: On the two-stage process, PwC says it is used and it has benefits but the issue in this - I am summarising the PwC findings - is in its execution. Before I would go near two stage again, I would want to absolutely scrutinise and have a full range of expertise look at the maturity of the design that we would go to the market with and the controls that would be implemented to get to the GMP so that we would not end up with a delayed GMP, and one with an escalating price, as took place in this case.

Two stage is an unusual approach. For most of the healthcare facilities we use, we will not use two stage. If there was a particular circumstance where there were a lot of arguments for two stage, based on this experience, I would want it to be absolutely invigilated that it was going to be a two stage that would execute well.

Deputy Catherine Murphy: How immature would Mr. Breslin say the approximate approach was?

Mr. Jim Breslin: The PwC report states that in the advice, in terms of when the definitive business case was being developed, the design team were saying that it would provide 95% cost certainty. Had it done so, we would have been fine. I think, on reflection, what PwC is saying is that at various gateways where one is making big decisions, one should have extra technical eyes over the product. If I were doing two stage again, I would not simply take the design team's output. I would want somebody not associated with the project to look at it and say that it is 95% and that what one would see in terms of further development is within a margin of error of that type. In fact, what we have is a very significant design development which drives the cost upwards. That is the type of certainty I would want to see in any two stage.

Deputy Catherine Murphy: In terms of one step removed and having a board to deliver, if Mr. Breslin were to go back and redo this again, would he go the same route?

Mr. Jim Breslin: I have said this before. If we had used an alternative, which was this was a project unlike anything the Irish health service has delivered before and, in fact, probably unlikely anything the Irish public sector has delivered before, but we are just going to use our normal routines, we would have rightly been criticised.

In and of itself, the construct of the development board is not one that would not work in any circumstances. What PwC says is that - I am improvising the language now - we put all our eggs in one basket. It was a well-resourced basket. It was professionally brought together but they were all in there. That meant that if the technical specifics were not caught at the development board, there was nothing else that was able to say that one needed to look at that further.

If I were doing it again, there would be pros and cons. When one puts layers over a body that is responsible for delivering something and second guesses it, one can slow things down and that can cost money. In the gateways, if we were to do this in this way again, I would want external eyes on it to properly give us subjective advice as we sought approvals for the next stage.

Deputy Catherine Murphy: There are significant additional medical facilities that will be constructed into the future. In terms of expertise within the Department, is it appropriate to beef that up? What recommendations would Mr. Breslin make in terms of learning from this with regard to capital projects? Should there be something in a more centralised format?

Mr. Jim Breslin: I agree that we should. There are two options. Potentially there is scope to do something that is shared across Government. There are different examples of that in dif-

ferent jurisdictions. However, even if that was the case, for me as Accounting Officer, I would be of the view that we should enhance our own capability. HSE Estates is very expert in this area but it could do with additional resources in light of the type of investment we intend to make over the next ten years. The reason I say that is because when I was a lot younger, I joined the Department of Health and we had a hospital planning office that had architects, quantity surveyors and procurement expertise. They were involved in project teams. That was no longer consistent with the role of the Department when the HSE was set up. We moved all of those staff out to the HSE and we have not been involved in the day-to-day work of project teams. As a result, we lack somebody with experience of infrastructure who can sit above it and say "I know projects, I know what can go wrong and here are the things I want to try to ask questions about." I would like to see that in the Department in the future and I have made that case.

Deputy Catherine Murphy: Given the amount we are spending on consultants, having that expertise might be very good value. Mr. Breslin is the Accounting Officer and is responsible-----

Chairman: Can I interrupt the Deputy? We have been here for over two hours. If someone needs to go out for five minutes, please do and come back. We have been able to go in and out from our side of the fence. The meeting will continue. If somebody wants to go out for five minutes, they can do so. I do not think there is any need to suspend the meeting.

Deputy Catherine Murphy: Regarding Mr. Breslin's responsibility, does the structure of having a board do this work? Does that compromise that responsibility? Is it sufficient that the chairperson has the responsibility for reporting to Mr. Breslin if he or she is asked to?

Mr. Jim Breslin: There are different models. One could be the Secretary General and Accounting Officer in a Department like the Department of Employment Affairs and Social Protection where one employs all the staff and owns all the system. I often think that this would give me a direct line into things but I guess that if I was in the Department of Employment Affairs and Social Protection, it would also be a scale issue. The more usual one - certainly in the health sector - is that we are an Accounting Officer and then we have bodies underneath, with the largest being the HSE. Our duty is to satisfy ourselves that the monitoring systems and procedures in those bodies are adequate and if information comes to light that they are not, to ensure that this information is acted upon and improvements made.

Deputy Catherine Murphy: Was that the case with the hospital board?

Mr. Jim Breslin: We are certainly in the overhaul stage of making sure all of those systems are effective.

Deputy Catherine Murphy: But was it the case?

Mr. Jim Breslin: Was it the case that-----

Deputy Catherine Murphy: Was it the case that Mr. Breslin was satisfied all along?

Mr. Jim Breslin: I was satisfied until I was no longer satisfied and-----

Deputy Catherine Murphy: When was Mr. Breslin no longer satisfied?

Mr. Jim Breslin: Over the course of September and into-----

Deputy Catherine Murphy: So it was very late in the day.

Mr. Jim Breslin: Yes, and that is the reason for commissioning some of the reports and making sure, as I commit to doing, that the recommendation that have been identified are fully acted upon and implemented in those bodies.

Mr. Fred Barry: Can I correct something I said earlier? I was asked whether anybody who was employed by or involved in the board was involved in any of the companies we were paying. I forgot one connection. One of the board members was a solicitor with McCann Fitzgerald. I just want to put that on the record because I said earlier that I was not aware of any connection.

Deputy David Cullinane: My first question is for Mr. Breslin. I have two things to say so that we are on the same page. I think we can certainly agree that we are now left with a project with significant cost overruns and that some of those costs could have been avoided. Would Mr. Breslin accept that?

Mr. Jim Breslin: I do but PwC breaks it down a bit. It says that 65-----

Deputy David Cullinane: That is my second point.

Mr. Jim Breslin: I agree.

Deputy David Cullinane: We can establish that there was a cost overrun where costs could have been contained and indeed reduced.

Mr. Jim Breslin: Agreed.

Deputy David Cullinane: We have two reports, one from Mazars and one from PwC, both of which show failings that led to the cost overrun. There are learnings from that because there are recommendations in the PwC report that are, obviously, useful for future projects as well so, hopefully, we can agree on that as well.

Mr. Jim Breslin: Yes.

Deputy David Cullinane: I am sure Mr. Breslin has seen public commentary regarding very robust exchanges between the Secretary General of the Department of Public Expenditure and Reform and the Secretary General of the Department of Communications, Climate Action and Environment regarding the national broadband plan. Some would see that discussion regarding a cost-benefit analysis of that project and very strongly held differing views as being very healthy. I think it is healthy when there is challenge. What was the engagement between Mr. Breslin and Mr. Watt throughout this process - certainly in the earlier stages? If it did not involve Mr. Breslin, was there any engagement with his predecessor? What was the level of engagement between the two Departments with regard to looking at cost containment and cost benefit throughout this process?

Mr. Jim Breslin: I cannot talk about earlier stages because given the length of the project, I was not there from the start. In respect of going to Government in 2017 for that investment decision, which is when I was present, there was protracted interaction with the Department of Public Expenditure and Reform on the proposal, the cost implications of it, the business case for it and the cost-benefit analysis.

Deputy David Cullinane: Were there disagreements about the two-stage process at any point?

Mr. Jim Breslin: No, there were no disagreements on the two-stage process. One of the things that came from that was the structures that were put in place to oversee the development board. They came from the engagement with the Department of Public Expenditure and Reform where it sought to have additional structures built in over the development board and we did that.

Deputy David Cullinane: Is Mr. Breslin satisfied that some of the issues captured in both reports that led in part to the cost overrun are down to failures in both the Department of Public Expenditure and Reform and the Department of Health?

Mr. Jim Breslin: I said earlier that we put all our eggs into a basket that was properly provided for and provisioned-----

Deputy David Cullinane: I will get to that in terms of the PwC report-----

Mr. Jim Breslin: But that does not take from the fact that there may have been opportunities over the course of this to insert ourselves into the process and challenge and PwC-----

Deputy David Cullinane: Should there have been more robust challenges from both Departments in terms of speaking to each other and speaking to the board because Mr. Breslin said all the eggs were in that basket? Was there sufficient robust challenge regarding how this project was being managed and how this project was looking at cost containment or worse, cost escalation? Is Mr. Breslin satisfied that he now understands where the failures in that area were?

Mr. Jim Breslin: Yes. My colleagues on the development board can speak for themselves but I think they would have felt the weight of the challenge through the process both from the Department and the HSE. Over the course of the €61 million in cost escalation up to the €450 million, we have had very frank and challenging conversations with the development board. I will say that what PwC says is that major construction projects constitute a field in and of themselves. Whereas I was challenging the board on the cost issues, what we were not able to bring to bear was extra insight above the technical skills in the development board that would have been able to unpick why issues were happening and how systems could have been improved.

Deputy David Cullinane: I get that and that is a fair point. The Comptroller and Auditor General has a lot of experience in looking at process. Very often, many of the issues we cover involve a failure of governance or insufficient robust exchanges or information to hand for people who need information when they are making decisions. This is not just a project; it is about construction and the building of a hospital from conception to delivery - the doors opening and the hospital being staffed. In the Comptroller and Auditor General's opinion, what body would or should have overall responsibility for the project?

Mr. Seamus McCarthy: I made the point when we met previously that I see this as a Department of Health project in the first instance.

Deputy David Cullinane: Okay.

Mr. Seamus McCarthy: It is under the public spending code. It is the sponsoring authority for this. Obviously, there is a complicated arrangement. The HSE is in the frame as well. Overall, I see it as a Department of Health project.

Deputy David Cullinane: Okay. I concur with that. I would like to look at the structure that was set up. We had the National Paediatric Hospital Development Board. Then we had

two separate steering groups, one of which was the children's hospital project and programme steering group. According to the PwC report, "the terms of reference and composition of the CHP&P Steering Group and Board meant that their collective ability to provide challenge to the role of the NPHDB was limited". The report also looked at the board as a "single point of failure". I think that is the terminology that was used.

Mr. Jim Breslin: Is the Deputy referring to the development board?

Deputy David Cullinane: Yes. The development board itself was looked at as a "single point of failure". What lessons have been learned from that?

Mr. Jim Breslin: The phrase "single point of failure" frames the issue. I spoke about all the eggs being put in one basket. The PwC report also said that "Whilst the governance structures in place above the NPHDB were complex, they did not appear to impede the flow of information relating to cost". It also made the point that the-----

Deputy David Cullinane: The report raises questions about the level of challenge.

Mr. Jim Breslin: It does.

Deputy David Cullinane: It uses the word "challenge" an awful lot.

Mr. Jim Breslin: Yes.

Deputy David Cullinane: I will come back to the board now. I will start with Mr. Barry, who is new to the board. The report seems to suggest that there was a lack of challenge, and of robust discussion and debate on serious issues, at board level. I will bring Mr. Quinn in on this matter in a moment. Does Mr. Barry agree that the PwC report points to an apparent lack of ability to challenge across all the reporting mechanisms that were in place, notwithstanding the significant expertise that was available? It seems that the level of challenge was not sufficient and was not in keeping with what would have been expected. I refer, for example, to the documentation that the board was provided with. Is that a fair interpretation of what the report finds? What is Mr. Barry's view of that finding?

Mr. Fred Barry: I cannot judge its assessment of what happened in the past. One of the key functions of the board is to provide challenge, to have independent decision-making and independent views and to ensure there is a gap between the board and the executive. I regard that as particularly important going forward. It is something we need to have and need to do.

Deputy David Cullinane: Has the board examined the extent to which challenge was provided? Two reports have examined where the process failures were. According to the Mazars report:

It was noted in the GMP report dated 12 November 2018 that a key driver in the escalation of costs was the 2nd stage measurement process. The cost escalation noted in respect of this process was €142m.

Anyone who examines where the failures were would look at what was happening at board level. Where was the engagement? Where was the robust discussion? Where was the disagreement? What hard questions were being asked? I am asking whether that happened. Has the board looked back to see whether it happened? It has been established where some of these failings were. Why was the board not asking these questions?

Mr. Fred Barry: I cannot speak for-----

Deputy David Cullinane: Was Mr. Quinn on the board at that time?

Mr. Paul Quinn: I was indeed. As I try to answer that question, it might be of assistance to mention that it needs to be borne in mind in this context that notwithstanding the €61 million we were aware of from the tail end of 2017, the first indication the board had that there was any substantial deviation in costs occurred at the tail end of May 2018. All of the committees have had access to the board minutes and have seen how these matters played out. From the start of June-----

Deputy David Cullinane: I will stop Mr. Quinn there. Is that, in itself, not a problem?

Mr. Paul Quinn: The board was getting reports all the time that said we were on track in terms of our costs. Those questions were being asked. We had established financial control structures.

Deputy David Cullinane: How was it that the board did not know? Where was the failure? Why did the board not become aware of this until the tail end of May 2018? What was the failure that led to circumstances in which the board did not find out until the tail end of May 2018? If things were working effectively, surely the board would have been aware much earlier. If it was not the board's fault, it was someone else's fault.

Mr. Fred Barry: It is clear when we look at it that the process of tracking what was happening with the costs and the quantities as the design developed from the time of tender to the time of the GMP process did not work as it should have done.

Deputy David Cullinane: The board was being told it was a single point of failure. We are now being told by Mr. Quinn that they did not become aware of the escalating costs until the tail end. There was an obvious failure in process. How could it be that at the tail end, the board-----

Mr. Fred Barry: It is a-----

Deputy David Cullinane: One second. Sorry, I am not finished. The board, which was tasked with making sure of value for money and containing costs, did not become aware until the tail end. How did that happen?

Mr. Paul Quinn: It is important to recognise the process that was happening here. The design team that was working on this in the background was taking the millions of components that needed to be nailed into this process. Between 80 and 100 people were working concurrently on the design to bring that design to conclusion. In addition, they were working with the contractors to understand that design, to ensure that design was fully comprehended and to ensure that design worked against the materials and items that had been billed. There were many-----

Deputy David Cullinane: The design process-----

Mr. Paul Quinn: Could I finish please? Many people were working in parallel to bring all of these packages together. I cannot recall exactly how many packages there were.

Mr. Fred Barry: There were 150 packages.

Mr. Paul Quinn: The people who were working to bring those 150 packages together were

feeding into a funnel, in effect to bring the pricing to a conclusion. Things moved so quickly because many things were happening concurrently. It was not a sequential process which involved designing the lights in January-----

Deputy David Cullinane: All of this has to go back to the overall project. According to page 18 of the Mazars report on the design, and as Mr. Quinn has outlined, “Design best estimate costs increased sharply in June and July 2018 as more packages were costed.”

Mr. Paul Quinn: Correct.

Deputy David Cullinane: The additional costs came to approximately €15 million. It seems that this is a process failure.

Mr. Paul Quinn: It is, in part. It comes back to the timeframe within which the board was trying to work to achieve the conclusion of the design. Page 17 of the Mazars report sets out how the costs moved on. The board was apprised of the estimates all the way through. It was only in the summer that they started to deviate. Obviously, the board challenged the design team and the executive to get the work done, to complete and conclude the design. We could understand exactly what the numbers-----

Deputy David Cullinane: Mr. Quinn sat on the board. Was he on the board from the beginning?

Mr. Paul Quinn: I was indeed.

Deputy David Cullinane: Mr. Quinn has seen it all. He saw what the board did or did not do. He saw all the failures about which we now know, as a result of the PwC and Mazars reports. We now have the benefit of hindsight. Mr. Quinn may not have had that at the time. Does he believe, in the context of his own membership of the board, that there may have been failings on his part, given that he was also head of the OGP? There has been a lot of public commentary on that. We are tasked with asking the hard questions of public servants when they come before us. I am not giving an opinion. I am asking for Mr. Quinn’s perspective. With the benefit of hindsight, having seen the two reports I have mentioned and given that the hospital project has gone way over budget, does Mr. Quinn, who sat on the board and who has procurement expertise, see any failings on his part in respect of his membership of the board and his role as the head of the OGP?

Mr. Paul Quinn: As the Deputy said, hindsight is always a fantastic lens to look through anything. With the benefit of hindsight, I strongly agree with what the PwC report says about the independent challenge function. We put a lot of reliance on the design team we put in place. As Mr. Breslin said, we set a 95% cost-certainty objective for that design team. We relied on that. As he also said, in hindsight an independent arm’s-length technical review would be helpful. I must caution that such a review is not cheap. It is not a question of hiring somebody for a couple of days to come in and look at it.

Deputy David Cullinane: Given that we have potentially lost €500 million, none of this is cheap.

Mr. Paul Quinn: No.

Deputy David Cullinane: It is definite that there were process failures. People should be big enough to recognise that if there were failings on their part, those failings should be

accepted and learned from. We say this to everybody who comes before us. There are many lessons to be learned from this project.

Mr. Paul Quinn: Yes.

Deputy David Cullinane: I know the Secretary General has accepted that. I have two more questions and then I will be finished.

Mr. Paul Quinn: There is another aspect to which I want to draw attention. As I have already said, part of it has been some form of peer review or external view on some of the technical aspects. The other aspect from which we have learned enormously is the volatility of the construction market. The Deputy will have seen in recent weeks that Ireland is now the fourth highest inflationary location in the world for construction. When the project began in 2013 nothing was happening in construction. We had to take a view on inflation and inflationary pressures and we now-----

Deputy David Cullinane: That was stated several times at the health committee so I accept it. I know this was dealt with in the report on the conflicts of interest and the Secretary General responded by stating he stands over his view there were no conflicts of interest. Where in the PwC report does it state it was giving high level advice to the board on this project?

Mr. Jim Breslin: I do not think it does.

Deputy David Cullinane: Why not?

Mr. Jim Breslin: If PwC had completed a report and submitted it under the corporate assurance processes that PwC uses-----

Deputy David Cullinane: No, we have it here that some of the PwC personnel involved in providing a high level input also formed part of the much larger team that conducted the review. Does Mr. McCarthy see this as something that should be declared and should at least be included in a report?

Mr. Seamus McCarthy: I do not think I should comment on the specifics of something I have not examined and reported on.

Deputy David Cullinane: Is it something Mr. McCarthy will be examining at some point?

Mr. Seamus McCarthy: It is a possibility and-----

Deputy David Cullinane: It strikes me there is something fundamentally wrong when it is not even acknowledged or declared. Conflicts of interest can be avoided if there is a declaration. There is not even a declaration. Questions were asked of Mr. Breslin and others when they were here previously regarding conflicts of interest and a relationship between PwC and this particular project. To my knowledge we were told there was not. Was the Department aware of the high level advice that PwC was giving?

Mr. Jim Breslin: Yes.

Deputy David Cullinane: It was well aware of that. Why were we not told?

Mr. Jim Breslin: Because the nature of a conflict, as I have set out, would have been where the weaknesses and escalation had taken place, which was in the development board, if PwC had been advising the development board. PwC had no role or relationship with the develop-

ment board.

Deputy David Cullinane: The committee might take a different view. That is up to the committee.

Mr. Jim Breslin: I also made the point they were two quite discrete and different tasks. One was looking backwards into the development board on how the escalation had taken place. The other was to consider the options to finish out the guaranteed maximum price, GMP, process or go with a different strategy.

Deputy David Cullinane: The Department has responsibility for healthy living-----

Mr. Jim Breslin: Yes.

Deputy David Cullinane: -----and healthy eating.

Mr. Jim Breslin: Yes.

Deputy David Cullinane: A Big Mac, fries and a Coke would not be part of that I would imagine. How is it that McDonald's, of all places, would be part of funding this?

Mr. Jim Breslin: It is not McDonald's the-----

Deputy David Cullinane: Yes. It is Ronald McDonald House.

Mr. Jim Breslin: It is the charity associated with the family.

Deputy David Cullinane: Yes.

Mr. Jim Breslin: It is delivering a really good service in Crumlin. Families enjoy it and find it absolutely supportive. It can go beyond what a normal public service would do. It has a means of bringing-----

Deputy David Cullinane: I do not dispute the quality of any service delivered but Mr. Breslin must accept that for some people this is about the national children's hospital and children's health. We have seen several conflicts previously with regard to cigarette companies sponsoring sports. Eventually we saw this was flawed and that there was an issue. Does Mr. Breslin not see any issue or concern with regard to a company that-----

Mr. Jim Breslin: It is not the company.

Deputy David Cullinane: Not as the company-----

Mr. Jim Breslin: It is a charity.

Deputy David Cullinane: I do not think we can divorce the two.

Mr. Jim Breslin: People raise their funds in all different ways. The fact it has made a very valuable contribution to parents attending Crumlin hospital and has a track record in doing so gives us reassurance that the two are not connected.

Deputy David Cullinane: I certainly would not agree with that. They are very well connected. Philanthropy was meant to form a significant role in funding this project but the philanthropic funds that were anticipated did not come onstream. Is Ronald McDonald House one of the only few that did come on board?

Mr. Jim Breslin: No, the plan is still to fundraise for the hospital, including for the children's research and education centre and other aspects of the hospital. There are people who will do that anonymously-----

Deputy David Cullinane: At the previous meeting, Mr. Breslin gave us a breakdown of what was estimated with regard to philanthropic funding and what was achieved. At that point, he acknowledged we do not have what we had hoped.

Mr. Jim Breslin: No, but the nature of philanthropy is that it does not come on board right at the start. It wants to see the thing happening and the fact we established Children's Health Ireland as a statutory body on 1 January and have given it a mandate for philanthropy engagement, and that the instruction on phase B has taken place, brings a certainty to the hospital that allows us to engage with philanthropy to try to bring it on board.

Deputy Jonathan O'Brien: I have some questions on the timelines. We became aware of the cost escalation at the end of May 2018. Ms Conroy asked for a memo to be sent to the Government at the end of May 2018. Is that correct?

Ms Tracey Conroy: A memo for the Government at the end of May 2018? That was in the context of discussions at the steering group-----

Deputy Jonathan O'Brien: Yes.

Ms Tracey Conroy: -----I think.

Deputy Jonathan O'Brien: She stated the Government needed to be advised of potential cost escalation in advance of the budget estimates.

Ms Tracey Conroy: That was in the context of closing out the GMP and that it would be preferable if it could be closed out in advance of the Estimates process or in the context of the Estimates process.

Deputy Jonathan O'Brien: When did that memo actually go out?

Ms Tracey Conroy: The GMP process was finalised in November and the Minister brought a memo for the Government in December 2018.

Deputy Jonathan O'Brien: Was Ms Conroy happy-----

Ms Tracey Conroy: As soon as we were in a position to bring the necessary advices together, which the Secretary General has already gone through, such that the Minister was in a position to make proposals to the Government, we did so. The GMP process was finalised on 9 November and the memo went on 18 December.

Deputy Jonathan O'Brien: Ms Conroy was happy with that timeline and she was not concerned that it did not go earlier.

Ms Tracey Conroy: We would have preferred earlier finalisation of the GMP process but as soon as it was concluded the memo was brought to the Government. There was no delay in bringing advices to the Government on foot of the GMP process.

Deputy Jonathan O'Brien: When did it actually go to the Government? I am trying to get the timeline.

Ms Tracey Conroy: It went, I think, on 18 December.

Deputy Jonathan O'Brien: That was after the budget.

Ms Tracey Conroy: Yes.

Deputy Jonathan O'Brien: That was not what was intended initially. It was due to go prior to the budget to form part of the Estimates.

Ms Tracey Conroy: The GMP process was not finalised until 9 November.

Deputy Jonathan O'Brien: But the hope-----

Ms Tracey Conroy: We were not in a position to bring it to the Government before the Estimates process because it was not finalised.

Deputy Jonathan O'Brien: Okay, but nobody told the Department of Public Enterprise and Reform a potential cost overrun was going to take place. Even though some of the figures had been crystallised prior to the budget nobody decided to tell the Department of Public Enterprise and Reform there was an issue coming up. The Department decided to wait until it had the final figure to go to the Government.

Mr. Jim Breslin: The final figure is when it is crystallised because the GMP process, which has an independent arbitration element brought into it, arrives at that final figure. The GMP process was challenged and PwC explained this in full. It was extended a couple of times because it was proving difficult to finalise the design and the costing of the design as between the development board and the developer. In that situation, we did not have proper information. In August, the Department became aware of the claims that the developer is lodging but again-----

Deputy Jonathan O'Brien: Of €200 million.

Mr. Jim Breslin: Yes. There was a process of interrogating those and, ultimately, arbitrating them if required. That did not conclude until November. That was when we had the information on which to base our proposition.

Deputy Jonathan O'Brien: The Minister for Health knew in September of the €190 million.

Mr. Jim Breslin: Yes.

Deputy Jonathan O'Brien: That was crystallised at that stage because a detailed memo was sent-----

Mr. Jim Breslin: No, it was not crystallised. The Minister knew in August but the GMP outcome was not known. What we said to him, based on what the development board was telling us, was that there was an emerging problem and an estimate of it but not a complete and final figure. Based on what the development board was telling us, we informed the Minister that a problem was emerging and gave an estimate in respect of it but we did not state that it was a complete and final figure.

Ms Tracey Conroy: We were very clear with the Minister in that note on 27 August that there was still work to be done and a process concluded in order to reach a final figure. We also indicated that those developments needed careful consideration by the board in conjunction with the legal and design teams.

Mr. Jim Breslin: Separate to the GMP process, we would have informed the development board that it needed to challenge not just that process but also to look at contingency regarding how it could seek to offset some of the increase in order that it did not all-----

Deputy Jonathan O'Brien: The memo that was sent to the Minister on 7 December details the €191 million.

Mr. Jim Breslin: As an estimate. It did not state that we had arrived at that figure as the outcome of the GMP process. It was a working update. The memo would have stated that we would come back to the Minister.

Deputy Jonathan O'Brien: The memo also states that the estimated €191 million over the value did not include VAT or contemplate the sectoral employment order or hyperinflation. It is grand for the Department to state that it did not have a final figure, that it knew there was going to be a cost overrun at that stage but that it just did not know how much this would be.

Mr. Jim Breslin: That is correct. We have been through this already. PwC has confirmed what we stated previously about the timelines in which the Department established matters, advised the Minister and so on. We cannot disagree on that. The record is clear in that PwC has reviewed the documents and also because we have made them publicly available. The timelines are as outlined.

Deputy Jonathan O'Brien: The reason it was not brought to the attention of the Department of Public Expenditure and Reform was because there was no crystallised figure.

Mr. Jim Breslin: Yes. I have stated on the record that we informed the Department of Public Expenditure and Reform that we were in the process, that it was challenging but that we were pushing the development board to be robust in concluding matters in order to get us there as quickly as possible. That was our position with the development board. We asked it to challenge the figure and stated that it was representing the State and the taxpayer and should not accept anything that could be challenged. We stated that it should robustly push back in order to get us the best outcome possible.

Deputy Jonathan O'Brien: In hindsight, was that the correct approach?

Mr. Jim Breslin: It was the only approach because that was what the contract provided for. We could not have told the development board to stop what it was doing and that we would bring somebody else in to do the job.

Deputy Jonathan O'Brien: Surely somebody could have said to the Minister, Deputy Donohoe, that there was a potential overrun and that while there was not yet a final figure, it would, based on reports that the Department of Health had received, be significant. He could have been told that perhaps he should take that into account in the Estimates.

Mr. Jim Breslin: Capital envelopes are for three years. Decisions had been made in the context of the national development plan. One can be certain that the Department of Health regularly, including through the process in question, states that it could do with more funding because we have lots of priorities. The Department of Public Expenditure and Reform indicated that was not part of the discussion. People should not forget that we had a huge Supplementary Estimate, which ended up at €625 million on the current side, and the current Estimates for this year also had to be concluded. There were a lot of conversations about funding requirements over this period.

Deputy Jonathan O'Brien: There were no conversations about the potential cost overrun in respect of the national children's hospital.

Mr. Jim Breslin: A specific figure was not included for the children's hospital because the GMP process was still under way.

Deputy Jonathan O'Brien: Was the Department of Public Expenditure and Reform even aware that there was a potential cost overrun?

Mr. Jim Breslin: Yes. It was aware that the GMP process was under way, that it was challenging and that there was a push from the developer for increased costs. Perhaps I have to be more careful about what I say, given that I am on the record, but I have stated that when I came back from leave, maybe because people had generated a reputation, I immediately assumed it was somebody trying it on. I assumed we were being pushed by the developer into a place where we needed to be much harder and clearer and to challenge the behaviour. What PwC has established was that, as I stated in January in hindsight, the design has developed over the period to such an extent that the quantities have gone up. In August and September, I very much stated to the development board that it was a State entity, working on behalf of the taxpayer, that it should not accept what people were saying because they had an interest in trying to make extra costs and that it should push back on everything.

Deputy Jonathan O'Brien: The Minister for Health stated in the Dáil on 18 September that the project was in line with the expenditure profile. It is clear that was not true.

Mr. Jim Breslin: The Minister went on the record in the House in a debate on that matter. He explained himself and acknowledged that, in hindsight, he wishes he had provided additional context in respect of it. It was on the cash profile. The amount of money spent on the project was in line with the profile. In hindsight, however, we should have worked with the Minister to say that the GMP process had not yet concluded but that, when concluded, it would be the process that would determine the construction budget. I do not speak for the Minister because he is on the record of the House on this subject.

Deputy Kate O'Connell: When referring to "the Minister", it would be helpful if our guests indicated which one.

Mr. Jim Breslin: I was referring to the Minister for Health.

Deputy Kate O'Connell: It would be helpful if our guests identified the fact that they are speaking about the Minister for Health, the Minister for Public Expenditure and Reform or whomever.

Mr. Jim Breslin: There is only one Minister in my life.

Deputy Kate O'Connell: I accept that but we have many in our lives.

Deputy Jonathan O'Brien: I have none in my life.

Deputy Kate O'Connell: The Deputy is probably better off.

Deputy Jonathan O'Brien: There has been much talk about whether Mr. Quinn, in his role as a board member, should have approached the Minister for Public Expenditure and Reform. Mr. Quinn provided a detailed letter to this committee in which he outlined the reasons he did not do so. I accept those reasons and will not question them. Mr. Quinn also stated that, in his

opinion, the issues were being addressed by the board to his satisfaction. Having examined the PwC report, does Mr. Quinn still believe that to be the case? If this were all happening again, would he be more forceful in bringing that information to the attention of the Minister for Public Expenditure and Reform?

Mr. Paul Quinn: It is a difficult question because it is somewhat speculative. In hindsight, as I have mentioned, the one thing the board could have done differently would have been to add more external review of the accuracy of the design at various points. When one stands back and looks at what PwC showed in a graph, fundamentally, it was an underestimation of costs that happened because the design was not developed as substantially as it could have been. We started to bring in some expertise to look at matters such as the mechanical and electrical design to see the degree of appropriateness of the design. In hindsight, I do not think I could have gone to the Minister for Public Expenditure and Reform because, as stated earlier, I am bound by professional ethics in the job I do. Doing procurement on behalf of the State provides one with a great deal of information on a lot of contracts going in many different directions. I have to keep my powder dry in respect of what I know, which I do because it is part of my professional job. I am also minded that I am bound by the statutory instrument under which the board was established, which gives a clear line of authority for reporting. It gives me clear obligations, while the circular clearly states that if there is a problem and I am not happy with how it is being addressed, my line of reporting is to the Minister for Health.

On whether I would have done anything differently in hindsight other than the peer review piece, the board, in the context of the job it was trying to do, was driving the executive and the design team to get the process concluded so that we get a decision to the Government. From our perspective, we did not want to get ahead of any sanctions. Rather, we wanted to give the facts to the Government and explain what had happened. We wanted to give options to the Government because we were gravely concerned about what had happened and how it had happened. Ultimately, should I have gone in a different way to the Minister for Public Expenditure and Reform? I do not believe so.

Deputy Jonathan O'Brien: Mr. Barry has taken over the role of chairman. I presume he has read all the minutes of the meetings and has probably identified weaknesses in some of the controls and processes that previously existed. Will he outline what steps he has taken to ensure they are rectified? The Minister for Health has talked about extending the expertise on the board. Has Mr. Barry had any discussions with him about the individuals or experts he would like to see becoming members of the board?

Mr. Fred Barry: I have had a couple of conversations with the Minister for Health. In the course of those, we have discussed the fact that some of the board members are likely to be resigning over the next few months. If the Minister wishes to make new appointments, the opportunity will be there in the context of the numbers set out in the statutory basis relating to the board. It is a matter for the Minister as to whether he decides to make direct appointments to the board or to go through the Public Appointments Service. I have no doubt that, when the time comes, I will be offering my view and the board's view on where we need strengthening of the board given the stage of the project. We are looking at the construction now and the commissioning phase at the other end. In the normal course of events I expect I will be giving more input into that.

Deputy Jonathan O'Brien: Mr. Barry, as chairman, has the opportunity to appoint three people to the board.

Mr. Fred Barry: No, I do not have any appointment powers.

Mr. Jim Breslin: That was changed in legislation relating to Children's Health Ireland. We moved the basis of the board away from chair appointments. They are all ministerial appointments now, including the appointment of the chairman. The normal course would be for the Minister to use the State boards process to do that.

Chairman: The information we received from the HSE for this meeting includes Statutory Instrument No. 246 of 2007, which refers to three members being nominated by the chairman.

Mr. Jim Breslin: That has been overtaken by the Children's Health Act which came into force on 1 January.

Chairman: It would be helpful if we got the current position from the HSE rather than that from 12 years ago.

Mr. Jim Breslin: In fairness, it is the basis on which the current board was put in place last year. However, that changed on 1 January.

Chairman: I ask the HSE to send us a formal outline of the current position because I read that and-----

Deputy Jonathan O'Brien: I was of the opinion that Mr. Barry still had that power because of the briefing note we received this morning, but I stand corrected.

I have a final question. There has been much talk about trying to control some of the cost escalations and identifying savings. I do not expect Mr. Barry to give commercial details but is he hopeful that significant savings can be made in the coming months or is it likely, as has been widely reported, that the cost will continue to increase?

Mr. Fred Barry: There are changes being made that will lead to some money being saved. They are not large amounts in the context of the overall cost of the hospital. They will be helpful but all the pressures, by and large, will be upwards over the next few years rather than otherwise.

Deputy Jonathan O'Brien: Is the construction inflation cost the major one?

Mr. Fred Barry: It includes construction inflation. The PwC report - helpfully in this context - sets out all the residual risks that are still held on the State's side and they will all come into play. A big part of our job is managing the ones that can be managed. General inflation in the industry is beyond anything that we, individually, can manage. We can manage some of the others and we will do that robustly.

Chairman: We have completed our first round of questions. The vote in the Dáil will take place in an hour so we are not going to conclude without a break. I will suspend the meeting for five minutes. Do the members think we can complete our deliberations within the remaining hour before the vote takes place in the Dáil? If there is co-operation, there will be strict ten-minute slots. We will try to work with a view to completing an hour from now because of the vote in the Dáil.

Deputy Catherine Connolly: The vote is at 1.45 p.m.

Chairman: If we continue, we can conclude by then.

Deputy Catherine Connolly: We have been here for a long time.

Chairman: That is why I am suspending the meeting for five minutes. Are our guests happy with a five-minute suspension?

Deputy Catherine Murphy: It is really ten minutes.

Mr. Jim Breslin: I have just taken a break, so I am.

Sitting suspended at 12.45 p.m. and resumed at 1 p.m.

Chairman: We are back in public session and will make every effort to conclude before votes in the Dáil. The speakers will be Deputies O'Connell, Connolly, Catherine Murphy and Cullinane. We will have strict ten minute slots because we will not get out of here if people go beyond that and we all want to make an effort to leave before divisions.

Deputy Kate O'Connell: I have read Mr. Quinn's letter. He referred to a circular about civil servants reporting and responsibilities when they are nominated to a board. I understand his interpretation of that. Will he explain it for me because I am a bit confused? The letter refers to scope for further arrangements for information-sharing so that if somebody on the board feels that there is a particular need, there is a mechanism for that person, who is Mr. Quinn in this case, to request further arrangements. It goes on to state that if the civil servant is concerned about serious issues not being addressed, as Mr. Quinn referred to, it should be noted in the minutes and it should go to a senior board member. If none of that works, Mr. Quinn himself would then go to the Secretary General of the parent Department. In this case, does Mr. Quinn consider the parent Department to be the Department of Public Expenditure and Reform or the Department of Health?

Mr. Paul Quinn: The parent Department for my appointment is the Department of Health. I was appointed by the Minister for Health.

Deputy Kate O'Connell: I know that. I wanted to clarify it. Maybe I am misinterpreting it but I think that Mr. Quinn is saying that at no point did he think to allow for these further arrangements to happen. He acted within the rules at all times under his statutory responsibilities. He was appointed to the board based on his competency and expertise in procurement. It seems clear from all of the other meetings and the meetings today that the costs were escalating. It is clear to us now that it was obvious early on. Mr. Breslin referred to how it was when he came back from his leave. Before that, it must have been apparent to Mr. Quinn that it would not cost the amount initially set out. With regard to equipment, which I see as being part of Mr. Quinn's role, was he ever concerned about the buying or procurement of equipment for the hospital? Did he ever do anything with regard to this issue in particular?

Mr. Paul Quinn: I will start with the circular. It contains a passage stating:

Further arrangements for information sharing may be agreed between the board and the Minister/Department - including that a civil servant nominated to the board may brief his / her Minister from time to time on matters that he/she considers of significant importance.

Deputy Kate O'Connell: The Minister in this case is the Minister for Health because he nominated Mr. Quinn.

Mr. Paul Quinn: No. This allows that when establishing and appointing a civil servant to a board, additional arrangements can be put in place. They were not put in place.

Deputy Kate O'Connell: They were not put in place and Mr. Quinn never sought for them to be put in place.

Mr. Paul Quinn: I never sought for them to be put in place.

Deputy Kate O'Connell: That is fine.

Mr. Paul Quinn: On the question about equipment, there was much engagement.

Deputy Kate O'Connell: Mr. Quinn never sought for additional mechanisms to be put in place for reporting. At any point, did he seek in his role to report the obvious escalations in cost to anybody? Did he make any effort with regard to these further arrangements or otherwise to highlight to whichever Minister what was going on?

Mr. Paul Quinn: To be clear, as a board member, the board in its entirety was very concerned with the escalation of costs. Going back to the slide from Mazars, I remind the Deputy that the cost escalation from a board perspective happened over an extraordinarily tight period of time. We were alerted on effectively the last day of May. At the beginning of June, the board became aware of the first issue.

Deputy Kate O'Connell: May 2018.

Mr. Paul Quinn: I think the finance committee was made aware on 30 May 2018. The main board was advised the following week. The level of cost escalation at that point was €55 million. It took off from there and increased further.

Deputy Kate O'Connell: Until May 2018, Mr. Quinn was sitting on the board and the procurement subcommittee. He was appointed due to his expertise and experience. Before May, was it obvious to him from looking at everything that there would be a substantial cost escalation? With his experience, it must have been obvious enough.

Mr. Paul Quinn: No. It was not to the many practitioners and experienced people on the board.

Deputy Kate O'Connell: I am only asking about Mr. Quinn.

Mr. Paul Quinn: I will speak for myself. We believed everything to be in control and on plan up to that point. That is what we were advised as a board. Deputy O'Connell has seen the board minutes which have been released, so she is aware that that is the situation. Between June and August, the numbers went up considerably. I am conscious of my role within the Department of Public Expenditure and Reform and that it was important that it be advised appropriately. I am also conscious that the line of reporting established both under statute and also with regard to the governance arrangements was being adhered to. The board routinely engaged with the steering structures established above it to ensure that there was a flow of information. Sitting where I was, it was clear to me that the information was flowing into the Department of Health and the HSE. It was also clear from sitting on the Department of Public Expenditure and Reform's management advisory committee that the matter of escalation of costs was starting to become known within the Department. The Deputy is aware that there was correspondence between the Department of Public Expenditure and Reform and the Department of Health to bring forward that cost report, which was the fruition of the final cost report which was provided in November. Many things took place in that period to bring that communication to bear. I was satisfied that that communication was taking place. Should I respond on the equipment matter?

Deputy Kate O'Connell: Not yet.

Chairman: The Deputy only has two minutes left.

Deputy Kate O'Connell: I know. I find it unsatisfactory that somebody was appointed to a board based on his competency in procurement and it was not until about a year ago that it seems to have come to the fore. This was the first moment that it might have dawned on somebody with this competency that this might be a big problem. The information feed to the HSE and the Department of Health is fine but it seems rather strange to me that Mr. Quinn may not have mentioned this to Mr. Watt at his elevenses on a Monday morning. Perhaps that is the way it is. We will take Mr. Quinn at his word. The equipment issue is important for the meeting. A couple of years ago, I asked Mr. Pollock about the methods for procurement of equipment for the hospital. I was told that the final decision on buying or leasing of equipment had not been made when I asked the question at the end of January. It looks like the equipment will be bought now and not procured through a lease management solution. Can the delegates throw light on who costed this matter, how sustainable it is and how it relates to the figures of almost €90 million - €87.9 million - for equipping in the 2018 costs? Does that cost remain at €87.9 million? If things have not yet been decided, how do we know that is the real figure? For example, it may not have been decided whether to lease some equipment. I am aware from a report in the media that several MRI machines have been purchased. According to the report, a timeline was not met and there was some sort of timing issue whereby the imaging machines had to be bought. It seems a little uncontrolled. How can the figure of €87.9 million be put forward if the board does not know whether the equipment will be bought or leased or from where it will be sourced?

Chairman: The Deputy's ten minutes are up. I ask the witnesses to briefly reply.

Mr. Fred Barry: As I understand it, the question of whether to lease or buy was open until recently. A decision was made to buy.

Deputy Kate O'Connell: Is there documentation regarding the basis of that agreement which identifies the rationale for buying over leasing?

Mr. Fred Barry: It is the converse. The normal approach is to buy. A proposal under discussion involved leasing, but it was decided not to proceed with the leasing option.

Deputy Kate O'Connell: Mr. Barry stated that buying is the normal approach. Is that the case in Ireland or worldwide?

Mr. Fred Barry: It is the case for equipment for projects generally.

Deputy Kate O'Connell: Is it the case for hospitals?

Mr. Fred Barry: Yes. Equipment is sometimes leased, but the starting point is usually to buy. One would need a reason to lease rather than buy. The case for leasing went through the system and apparently - I was not part of the process - was unconvincing to all involved, leading to the decision to buy.

Chairman: As we are on a tight timetable, I ask Mr. Barry to send a note to the committee on the point raised by Deputy O'Connell.

Mr. Jim Breslin: I can confirm that the Departments of Health and Public Expenditure and Reform did not sign off on the managed equipment service as we did not feel the case for it was

sufficiently strong. We are going with the traditional route. The amount of money set aside in the budget is for that traditional procurement. The decision does not have a budgetary implication.

Deputy Kate O’Connell: Are the representatives confident that figure will cover the costs and that a hospital of this size will be equipped for €87 million?

Mr. Jim Breslin: A detailed piece-by-piece work-up was done on the equipment that forms part of the estimate. PwC flagged the fact that we are four years away from going live and there is the potential for technology change as we approach that point. However, it also identified that we will be equipping the existing hospitals. For example, we will expand the number of ICU beds in Crumlin hospital for paediatric cardiology. We will be able to move that equipment into the new hospital.

Chairman: We are short on time and must move on.

Deputy Catherine Connolly: The board was constituted anew in 2013. Did any of the delegates serve on the board prior to 2013?

Mr. Paul Quinn: My recollection is that one board member may have served previously.

Deputy Catherine Connolly: Did any of the board members present serve prior to 2013?

Mr. Paul Quinn: No.

Deputy Catherine Connolly: They have served since 2013.

Mr. Paul Quinn: Yes.

Deputy Catherine Connolly: They were reappointed in 2018 by the Minister.

Mr. Paul Quinn: That is correct.

Deputy Catherine Connolly: Mr. Barry stated that the board members were reappointed in 2018 for five years.

Mr. Fred Barry: I believe that to be the case.

Deputy Catherine Connolly: However, some members will not serve for the full five years.

Mr. Fred Barry: Correct.

Deputy Catherine Connolly: Why is that?

Mr. Fred Barry: That is for them to say.

Deputy Catherine Connolly: Have they indicated their intentions?

Mr. Fred Barry: They have indicated to me informally.

Deputy Catherine Connolly: How many members have informally indicated to Mr. Barry that they will leave the board?

Mr. Fred Barry: Three.

Deputy Catherine Connolly: Do they have particular expertise?

Mr. Fred Barry: They have informed me informally and I will leave it to them to identify themselves in due course.

Deputy Catherine Connolly: This was a competency-based board. It was set up with competent people to make competent decisions. Mr. Quinn had a particular role. I am interested in it because there will be a similar role in regard to broadband. We will have our man - I presume it will be a man, although I would prefer it to be a woman in order to get gender balance - watching the public purse in regard to broadband. Mr. Quinn's role is particularly important, as is what we learn from it. We were given a briefing recently and that is what we were told. On the question of who would look after the public interest in respect of the broadband company, we were told we would have a person on the board. The role held by Mr. Quinn is vitally important. What would he say to the Government regarding what he has learned and the appointment of a person in regard to broadband? I hope that is not an unfair question.

Mr. Paul Quinn: I can only speak on my role.

Deputy Catherine Connolly: I understand that. If he cannot answer the question, I will not argue with him. Has he learned anything which he would tell the Government regarding the appointment of a person to a role similar to his on the new company to deliver broadband? Are there certain things which he has learned and in regard to which care should be taken?

Mr. Paul Quinn: The roles are a little different. I was put on the current board because of my procurement expertise and experience. Procurement on the national broadband plan has been carried out and it has moved to a different phase.

Deputy Catherine Connolly: The person who will be appointed to broadband-----

Mr. Paul Quinn: The person would need significant contract management experience because the phase has moved from buying to doing and-----

Deputy Catherine Connolly: I am worried. I have been on the committee for three years. I am again being told that the phase has moved on. The board has now moved to a new phase. A report costing €500,000 tells us the board simply did not do its work, if I might put it like that. I would not like to be in the role of any of the board members. I am simply looking at what is stated in the report. Mr. Quinn was appointed to the board on behalf of the taxpayer to look after the public purse. If I am wrong, tell me so.

Mr. Paul Quinn: I was appointed as a public interest director. That is correct.

Deputy Catherine Connolly: To be fair, I have read the report and Mr. Quinn had an impossible task. He had to make many decisions on whether matters reached a standard such that he was obliged to report. That was very difficult and I feel for Mr. Quinn. However, there was something wrong with what the Government laid out as his duty or his ability to carry out that duty. We cannot go forward with broadband without learning.

Mr. Paul Quinn: I agree that we should always learn.

Deputy Catherine Connolly: Mr. Quinn was appointed because of his expertise, but his duty was to the board except in regard to very exceptional circumstances in which a level was reached. Mr. Quinn had to analyse matters and decide whether that level had been reached.

Mr. Paul Quinn: Yes.

Deputy Catherine Connolly: In his wisdom, Mr. Quinn stated that matters never reached that level because he was happy that the board was dealing with the issues, as was the chair of the board, who has now resigned, and the project manager, who is in the process of leaving. They were all dealing with the matters and Mr. Quinn was happy with that and did not need to report anything.

Mr. Paul Quinn: I stated that I was happy with the communication of information.

Deputy Catherine Connolly: I understand.

Mr. Paul Quinn: As to whether I was happy with the situation in which the board found itself-----

Deputy Catherine Connolly: I did not state that Mr. Quinn was happy. I specifically addressed his reporting back and the reaching of that standard.

Mr. Paul Quinn: I am trying to be clear that I was unhappy with the situation in which the board found itself-----

Deputy Catherine Connolly: That is a different matter.

Mr. Paul Quinn: -----but I was happy-----

Deputy Catherine Connolly: That the board was dealing with it.

Mr. Paul Quinn: -----that the communication was happening and we were dealing with it.

Deputy Catherine Connolly: Mr. Quinn was dealing with it and he was happy that the board was dealing with it. That is not quite what the PwC report states. I am sure Mr. Quinn has read the report in detail, as have I.

Mr. Paul Quinn: I have read the report.

Deputy Catherine Connolly: I find Mr. Quinn to be an extremely straight, honest and communicative witness, as I did on the previous occasion. Oversight bodies were set up but they did not challenge the board as a result of their terms of reference. The board did not challenge the design team; it relied on the design team. This comes back to Mr. Quinn and his expertise. It also relied on the executive. That is what the report states.

Mr. Paul Quinn: As a board member, one must rely on one's executive-----

Deputy Catherine Connolly: That is not what PwC-----

Mr. Paul Quinn: -----and challenge them.

Deputy Catherine Connolly: I am glad Mr. Quinn stated that. That is not what PwC stated. It stated that the board insufficiently challenged the design team and the executive. That is what the PwC report, which cost €500,000, stated.

Mr. Paul Quinn: That is what it states, yes.

Deputy Catherine Connolly: Does Mr. Quinn agree with it?

Mr. Paul Quinn: I disagree with that statement.

Deputy Catherine Connolly: Mr. Quinn disagrees with it. That is interesting. He disagrees with that finding. Do the other board members present disagree with it?

Mr. Fred Barry: I was not on the board at----

Deputy Catherine Connolly: Mr. Barry is going forward with a new approach. I ask him to bear in mind my frustration on behalf of the ordinary person because in 2015 the committee was assured that this would not happen and it was reassured it would not happen each time representatives of the board appeared before it. On each appearance, new language is used. There is reference to moving on to a new phase. The board was appointed based on competency. We now realise it did not have the required competency. Mr. Quinn clearly and honestly disagrees with the finding. Does Mr. Barry agree with the finding by PwC of a lack of challenge to the executive and the design team?

Mr. Fred Barry: I honestly cannot answer that.

Deputy Catherine Connolly: Mr. Barry cannot answer. That is interesting. It is not helpful for him, as the new chair, not to answer. It does not inspire confidence. I am only interested in governance, risk assessment and holding processes to account. Mr. Quinn disagrees and Mr. Barry cannot answer. As a member of the board, does Mr. Farragher accept the PwC finding that there was insufficient challenge and that there was too much reliance on what the design team was telling the board and the executive?

Mr. Jim Farragher: Yes.

Deputy Catherine Connolly: Mr. Farragher does.

Mr. Jim Farragher: No. I am sorry, but I did not say that.

Deputy Catherine Connolly: Is it a “yes” or a “no”?

Mr. Jim Farragher: To correct one point, I am not a member of the board but a member of the executive.

Deputy Catherine Connolly: I thank Mr. Farragher for correcting me. I was wrong.

Mr. Jim Farragher: Anybody sitting on the executive would have known that there was a challenge.

Deputy Catherine Connolly: I am sorry, but I made a mistake. I did not intend to ask Mr. Farragher a question. He is part of the executive, but it is for the board to decide. Is Dr. Curtis a member of the board?

Dr. Emma Curtis: No, I am not.

Deputy Catherine Connolly: It is just Mr. Quinn and the new chairperson. Mr. Quinn was instrumental in this process. He believed in this new way of doing things in Ireland. Is that correct?

Mr. Paul Quinn: I believed it was the most appropriate mechanism to deliver what we were being asked to do.

Deputy Catherine Connolly: PwC states it was very common, as does Mr. Breslin, but PwC modified its statement to state it was novel in Ireland.

Mr. Paul Quinn: It is novel in the public service in Ireland, something about which the chair has already spoken.

Deputy Catherine Connolly: Given the background and the write-off, the fact that there was a new board in 2013 and the reassurances that things had been learned, there was an extra duty on Mr. Quinn and the board in relation to this novel way of doing things. Is that right?

Mr. Paul Quinn: Yes.

Deputy Catherine Connolly: Good. How did Mr. Quinn meet that challenge and the extra burden in this new way of doing things?

Mr. Paul Quinn: The procurement strategy, defined in 2015, recognised that it was novel and that it was a deviation from standard Government processes.

Deputy Catherine Connolly: I know all that. I am asking how Mr. Quinn met the challenge, given that it was new.

Mr. Paul Quinn: We recognised the risks. As Mr. Breslin said, we established an objective that we would hit a high degree of cost certainty before we went to tender.

Deputy Catherine Connolly: That did not happen.

Mr. Paul Quinn: It actually did not.

Deputy Catherine Connolly: There was no cost certainty.

Mr. Paul Quinn: That is what I was saying.

Deputy Catherine Connolly: I am sorry; I misunderstood.

Mr. Paul Quinn: We received assurances from our design team on the cost, but it did not happen.

Deputy Catherine Connolly: Is Mr. Quinn not accepting that he relied on the design team too much without challenge? That is what PwC stated. The quantity surveyor had a conflicting way of assessing figures and accounts, but the board, including Mr. Quinn as an expert, relied on it without any challenge in what was a new way of doing things. It was novel and no comparison was made with international standards, even though, according to the report, it was used internationally. The board did not go back to look at international reports. Is that right?

Mr. Paul Quinn: There are multiple questions and I am not quite clear on what the Deputy is asking, but I am clear that there was a considerable challenge all of the time in the process. We relied heavily on our advisers, as one has to do. The board spends maybe one day or a day and a half per month discussing these matters. We tried to put in place the appropriate checks and balances to challenge as far as we could within that timeframe.

Deputy Catherine Connolly: I apologise for putting such a convoluted question. It was not fair. It is clear, however, that Mr. Quinn does not accept the PwC finding that there was an over-reliance on the design team without a proper challenge.

Mr. Paul Quinn: That is not what I said. The Deputy asked if there was a sufficient challenge of the executive and I am saying there was. We relied too much on our technical advisers and design team. As I suggested in response to Deputy Cullinane, we needed to have more peer reviews of the issue. It is a real problem.

Deputy Catherine Murphy: I wish to pick up again on the way the project was constructed. A number of issues arise when there are cost overruns and they are well teased out by expert opinion in Ireland and elsewhere. Poor design that has not been thought out, change orders, administration and how a site is run, etc. all come into it. In terms of the design, what the board did was make a guesstimate on the above-ground tender. The design was not worked out, because of which it was high risk. In hindsight, does Mr. Quinn agree that that was the case?

Mr. Paul Quinn: The Deputy is right about the factors that can change cost. I agree that the design was not adequately defined.

Deputy Catherine Murphy: Mr. Quinn was responsible for signing off on it and thinking it through with the help of expertise. Is that the case?

Mr. Paul Quinn: The board-----

Deputy Catherine Murphy: Mr. Quinn has specific expertise on the board. He came from the public service and is acutely aware of the finite amount of money available for the hospital project. Would it have gone ahead if it had been twice the original price? Does Mr. Quinn accept that the lack of nailed-down detail was a critical component and that he had a particular responsibility on the board to provide advice on it?

Mr. Paul Quinn: I participated throughout the development of the strategy associated with the procurement process. Did we believe the right controls were in place and that we had set the right objectives to ensure a degree of accuracy? Yes, we did. In hindsight, did it fail us? Yes, it did. Ultimately, that is why there was such an underestimation of costs.

Deputy Catherine Murphy: What did Mr. Quinn do to mitigate the cost, given that it was so novel for a major project in the public service?

Mr. Paul Quinn: We set the objectives for the design team related to the degree of cost certainty we were seeking.

Deputy Catherine Murphy: That was without having a detailed design at tender stage.

Mr. Fred Barry: Might I come in on this issue?

Deputy Catherine Murphy: I actually want to pursue it with Mr. Quinn.

Mr. Fred Barry: I can answer the question about what is normally done in these situations.

Deputy Catherine Murphy: I asked Mr. Quinn a specific question based on his being there at the time. I would like to hear from him on the matter.

Mr. Paul Quinn: Will the Deputy repeat the last part of the question?

Deputy Catherine Murphy: The detailed design was not nailed down. Without it, the board went to tender.

Mr. Paul Quinn: We were advised that we had achieved the 95% cost certainty target by

the design team before we went to tender.

Deputy Catherine Murphy: How could Mr. Quinn be advised by the design team when it did not have the detail? It made a general assessment of the number of rooms in the hospital but without the details in respect of one being a theatre, one being a bedroom, etc.

Mr. Paul Quinn: I do not believe that is the case. My understanding is the team was using a cost estimating model which extrapolated X number of theatres, X number of patient rooms, X number of consulting rooms, etc. That gave it the cost and allowed for connecting all of the rooms together, piping them, etc.

Deputy Catherine Murphy: It was more of a guesstimate than an estimate.

Mr. Paul Quinn: We were advised by the design team that it was not and that we had a degree of detail to enable us to achieve the figure of 95%. The board delayed the tender by almost three months to achieve what we understood to be the required degree of accuracy. It was not a case of putting out a guesstimate.

Deputy Catherine Murphy: Does Mr. Quinn place the responsibility on the design team for the project going so far out of kilter in terms of the amount of money that was to be spent?

Mr. Paul Quinn: There are two main factors, one of which is cost inflation which impacted on the project. Between the initial estimates and the figure of €983 million agreed to by the Government in April 2017 there was a substantial inflationary impact. The second aspect is the very considerable underestimation of quantities.

Deputy Catherine Murphy: That was down to not nailing down the design. I will move on as time is short and Deputy Cullinane has to come in. When an experience has proved to be very different from what was expected, does that make Mr. Breslin cautious about other aspects that would come forward from a board like this, given what the PwC report has said? Would that make him more cautious or even more questioning of the board?

Mr. Jim Breslin: It would indicate to me that what I require is extra levels of assurance, partly from the board itself but also in respect of building in some external expertise to give extra assurance. I think that will be a feature of the conclusion of this project. I do not question the bona fides of all the people working on it but given what has happened I think it merits that at this stage.

Deputy Catherine Murphy: There is not a full level of trust. The Secretary General requires additional oversight.

Mr. Jim Breslin: I would not describe it as trust, just that-----

Deputy Catherine Murphy: I am not saying that about the individuals. I accept the point.

Mr. Jim Breslin: Fresh eyes and people who have not worked up the proposition can always come with a more independent view of something. It would also be appropriate that they would have major project skills to be able to validate what the development board is coming forward with. They might also advise on the recommendations on strengthening the organisation, of which will be fully supportive, and indeed the board insofar as there is a current vacancy or any future vacancies. We will work supportively with the development board to help it do the job and then I will reserve a piece, which is some extra eyes to give assurance that the job is being done.

Deputy Catherine Murphy: Is there particular expertise that is necessary even at this early stage?

Mr. Jim Breslin: It is there already but one of the bits which PwC mentions is commerciality. I read that to be about the contract management, managing this contract with the construction firms to a point where it is done really effectively. We have experience doing that on small projects but doing it on big projects is a much bigger task. That would be one element. I referred to another element in my opening statement. Because of what has happened, I think we are going to have a lot of concentration on construction. However, knowing what I know about projects, although this is a health project of a bigger scale, the biggest piece for the successful delivery of the benefits of the project is the handover and bringing the project into operation. This includes commissioning phase, which the development board will be doing, but also the staffing, the introduction of the technology, the organisational culture and how it is all put in place in the new hospital. We have had Tallaght and Beaumont. We have experience of where that works really well as well as where issues arise. A focus for me for this remaining piece will be the commissioning, as well as the integration of the building with the people who are going to work in it and who are going to really make it successful. I would want to bring in some extra advices around what we can do successfully in that space to deliver those benefits.

Deputy David Cullinane: The two-stage process has been talked about an awful lot. Can Mr. Breslin quickly crystallise for us what it involved, especially the second part? Am I right in saying that phase 1 did not have a fully worked out design cost?

Mr. Jim Breslin: It had a preliminary design with an associated bill of quantities, which was priced. The objective was to be at 95% cost certainty but the design was underdeveloped and, as it was developed, extra quantities were required.

Deputy David Cullinane: Was the underdevelopment of that design a product of the two-stage process or was it a failure elsewhere?

Mr. Jim Breslin: It is possible that one could go to the market at one stage with that design and it would be exposed by the contractor. I think the feature of this was that it was put to market knowing that further work would take place on the design.

Deputy David Cullinane: What we heard from Mr. Quinn and what was in the PwC report was that all of these design packages came in at the tail end, as Mr. Quinn put it. Did the escalation take place then, when the board really became aware of increased costs in respect of the design? Is that what Mr. Quinn was saying earlier?

Mr. Paul Quinn: Effectively it was coming into a pricing funnel, in one sense. There are plenty of different aspects to it.

Deputy David Cullinane: Was that a consequence of the two-stage process? Was the two-stage process inherently flawed for the project that was being developed?

Mr. Paul Quinn: Not necessarily. The same issues could arise in a standard tender. In a standard tender, if there are design deficiencies or information gaps, it goes to market, gets priced up and the project proceeds, but we end up with claims arising over the life cycle of the project. One of the challenges of this process is that it brought all this to a head, which to some degree is a positive. In most normal projects, it ends up with all these claims emerging. Contractors will come forward and say something was not in the drawings that is being sought now, and a claim emerges.

Deputy David Cullinane: Would it be fair to say that the main driver of the two-stage process was timeframes and that there was pressure to get this done quickly?

Mr. Jim Breslin: It was one of the drivers, and a very important driver. There were also issues around whether we could actually get someone to come and bid for a complex project of this size without their being party to the finalisation of it.

Deputy David Cullinane: Going back to the PwC report in respect of accountability, the question of sufficient tension between the executive and the board was mentioned earlier. Mr. Quinn says there was sufficient challenge and Mr. Farragher says the same but PwC says different. How did PwC arrive at a different conclusion? Mr. Farragher was saying earlier, although he did not fully expand on it, that he felt there were sufficient questions being asked of the executive by the board. Mr. Quinn has said likewise. "Challenge" is the word that is used in the report. How can the witnesses square that with the findings of the report?

Mr. Jim Farragher: Taking one point that Mr. Quinn mentioned a few moments ago, while they were finalising the design and getting design certainty we did not go ahead with the tender. We deferred it for another three months so we could get additional certainty and get the design team to confirm that the 95% was there. While the programme was under a lot of time pressure, there was a certain level of questioning, although in hindsight obviously it was not enough. Time was taken. It did not deliver the exact result we would have liked but that questioning did take place over a three-month period.

Deputy David Cullinane: While Mr. Farragher says it could be a little bit better, PwC was very clear that there was not sufficient challenge between the executive and the board. It is a bit concerning, when the main thing we want is to have learnings, if there is not acceptance that there was a difficulty or an issue and if we can casually dismiss the PwC recommendations. Mr. Barry earlier on said the recommendations are the key issues here. If one of the key recommendations is not accepted, which is fine, of a so-called independent report-----

Mr. Jim Farragher: We can always learn and have continuous improvement. We are learning and will provide that. I know that is going to happen. That learning will be taken on board and will be implemented. Not alone that but as we continue through a project of this calibre, we will have to continue to improve and enhance. Even though we may seem to have found the final direction there will be some changes in the road because it is a huge project.

Deputy David Cullinane: I gave notice to the Chair and the Secretary General that I wanted to raise a local issue which has been covered very extensively nationally. I refer to the mortuary in Waterford and the reporting of very concerning claims that were made by four consultant pathologists. The Minister for Health has said there will be a review of the operations of the mortuary. Can Mr. Breslin and Mr. Curran give us an update on that? We are being told it will progress and that a new mortuary will be built. This is the first time Mr. Curran and Mr. Breslin have been before a committee since the story broke. Can they give us some indication of where the review is at the moment and of where the project is?

Mr. Jim Breslin: I might ask Mr. Curran to bring us up to date as he has issued the approval.

Mr. Jim Curran: I can confirm that the letter of approval has been issued for the construction of the mortuary in Waterford. We expect construction to commence before the end of the year.

Mr. Jim Breslin: On the review, the Minister is currently finalising the terms of that inde-

pendent review. It will certainly look at all of the processes and pathways, how the mortuary operates, but the precise terms of it are currently being finalised.

Deputy David Cullinane: I will look at two very specific issues that are of concern. The claim made by the four consultant pathologists was that bodies were decomposing on trolleys and some families could not wake their loved ones in open caskets but the hospital group is saying it had no evidence of that. These are very serious claims. As it also was accepted by the pathologists and by the hospital that no family in Waterford or the south east was ever informed of any problems at the mortuary, there is an issue of open disclosure. Will these issues also be examined in the review? As I am sure Mr. Breslin will agree, we cannot have claims and counterclaims and no ability or mechanism to establish exactly what happened. Can he assure us that those issues will be examined?

Mr. Jim Breslin: Obviously the concerns have been fully heard in this regard. The review will look at governance and management. I am not in a position to make the policy call today in this forum. We will work with the Minister on finalising that and he will engage, I presume, with the local Deputies in notifying them of the outcome of that too.

Deputy David Cullinane: I thank Mr. Breslin.

Chairman: At this stage a votáil has been called in the Chamber.

Deputy Kate O'Connell: Can I ask a brief question as there is time?

Chairman: Yes.

Deputy Kate O'Connell: There was 95% cost certainty. Mr. Quinn was advised that it was within that. Was he advised by the design team? Did the people who fabricated the design advise the board, the main buyer, that everything was within the 95% certainty range?

Mr. Paul Quinn: There is a reliance within construction projects, and particularly public construction contracts and projects-----

Deputy Kate O'Connell: We are stuck for time. Who advised the board?

Mr. Paul Quinn: The design team, and that is normal.

Deputy Kate O'Connell: Did the board take the word of the people who underestimated at that point?

Mr. Paul Quinn: We relied upon their information.

Deputy Kate O'Connell: Yes. A 95% certainty was given but how far out was the board?

Mr. Paul Quinn: I would have to work the maths on it.

Deputy Kate O'Connell: Can we have the maths on it as I would like to know how wrong the board was?

Mr. Paul Quinn: Absolutely.

Chairman: I have a few questions on that precise issue. Given that the company was wrong to some extent, which the board must quantify, what comeback has the board against the company, in terms of financial comeback, for advice that did not stand up? Has the board pur-

sued the matter? This project is costing the Irish taxpayer money. Somebody made mistakes in terms of the cost and the obvious question from the taxpayer is as follows. Why should the taxpayer carry the can for somebody's professional mistakes? Has the board considered the issue and taken advice? Is the board considering seeking a comeback?

Mr. Fred Barry: Perhaps I will take that. Yes, to taking advice. A key issue in all of this is whether it is costing more because of the design being incomplete at that time or is it a late identification of costs that were going to occur anyway.

Chairman: Please say that again slowly for the viewers.

Mr. Fred Barry: Certainly. A key issue is, is the hospital actually costing more because we got the cost information late or was it always going to cost this amount of money-----

Chairman: The board did not get it right.

Mr. Fred Barry: -----but we did not realise that until a later stage.

Chairman: The board did not get the inputs right.

Mr. Fred Barry: Did not get the inputs right.

Chairman: Where is the board on that?

Mr. Fred Barry: There is clear evidence that we did not get the inputs right and that the hospital was always going to cost an awful lot more than was thought to be the case. If the quantities in the tender documents had been much more developed, and much more complete, then the tenders coming in would have been appropriately bigger. That money would be getting spent anyway.

Chairman: Okay.

Mr. Fred Barry: From the point of view of recourse against those who advised us, we would have to be able to establish that it has cost a lot more, not that we thought it was going to cost but that it would have otherwise have cost if they had got the quantities better in the first place, and that is a difficulty.

Chairman: I am going to get Mr. Barry to explain that last bit again. Is he saying it was going to cost more anyway?

Mr. Fred Barry: Yes.

Chairman: In other words, it was always going to cost €1.7 billion and as for the fact that we did not know about it, tough. Is that what Mr. Barry is saying?

Mr. Fred Barry: Yes.

Chairman: In other words, Mr. Barry is saying we were all led a merry dance, life is tough, there is no comeback and the project was always going to cost that amount if one built that?

Mr. Fred Barry: Yes.

Chairman: And the fact that we were all talking about lower figures, we were all being fooled collectively, the whole lot of us.

Mr. Fred Barry: Yes.

Chairman: And because we were the fools, we pay for it.

Mr. Fred Barry: And if it was not going to cost the €1.7 billion, what would it have cost and how does one establish that?

Chairman: I am not finished with this topic.

Mr. Fred Barry: Yes.

Chairman: Is that design team still with the board?

Mr. Fred Barry: Yes.

Chairman: How could the board have absolute confidence in a design team that got this so wrong at this early stage and there are four more years to go?

Mr. Fred Barry: This is part of the thinking behind both the PwC's view and the board's view, that we need stronger capability ourselves to better know ourselves what is truly going on.

Chairman: Is Mr. Barry saying that the PwC is kind of blaming the board rather than the design team? Is Mr. Barry saying the board does not have enough commercial experience within the board and it needs to beef up? I think the board needs to be strengthened and the PwC stated it needs to be strengthened.

Mr. Fred Barry: There is no escaping the reality that the project was significantly underestimated in the first place on the costs and that, as a board, we are late in coming to the Government and everybody else to say this is really going to cost all of this extra money.

Chairman: I would compare this with motorway projects that always cost more than the original quote, and Mr. Barry knows this. I know eventually that the authority got this-----

Mr. Fred Barry: Got our act together, yes.

Chairman: -----more right. Mr. Barry is saying the fact is the project was always going to cost €1.7 billion or whatever the figure is. The fact that nobody realised that, "Ah, sure".

Mr. Fred Barry: I am not saying, "Ah, sure" at all. I think it should have been done much better than it was done. I am not defending how we got to this point but in terms of-----

Chairman: Who gave the original figure to the Minister and the Oireachtas of €700 million or whatever the figure was? In the PwC's report the original budget was €790 million and then the figure increased to €983 million in April 2017.

Mr. Fred Barry: Without knowing for sure, I would assume that this started from the development board and worked its way through the HSE to the Department and so on-----

Mr. Paul Quinn: The design team was just appointed around that time and my recollection on it is that it was done using costing norms at that period of time. So for design teams, they would usually have norms. In the same way one would understand that building a house would cost roughly X amount of money per square metre, building hospitals would cost Y amount of money per square metre. They were very high-level costs and it was before any degree of design. It was on rough order of magnitude of square metreage, from my recollection, but we

are going back to 2013.

Chairman: That is the figure of €983 million in April 2017, which is on the first page of the PwC report.

Mr. Paul Quinn: The €983 million was the tendered cost that emerged from the tendering process. Effectively, the significant shift between the initial cost and that cost was really inflation because, again, when the project was commenced there was very little inflation in the tendering market, but by the time we hit the market in 2016, there had been a substantial increase in tender prices.

Chairman: Okay. So we came in with our tender in April 2017. The following year, not much before the end of 2018, the figure increased by €450 million, which is a 50% increase in 18 months. In April 2017 the figure was €983 million but in December, at the end of this report or at the end of the gross maximum price in November, which was 16 months later, the figure had increased by 50%. We know there were changes in the bill of quantities, commercial settlements with contractors and cost savings. That is there in the report on page 1. Who is responsible for missing the €450 million in real costs? Mr. Barry has said that it was always going to cost €1.43 billion for the construction and the fact that-----

Mr. Fred Barry: I sorry to interrupt and I am not trying to be argumentative.

Chairman: No.

Mr. Fred Barry: The Chairman asked me about whether we could recover costs from somebody.

Chairman: Yes.

Mr. Fred Barry: I am saying part of the challenge is to prove that it would not have been the €1.43 billion. If one took the view that it would only have been €1.33 billion if one had known all of this from the beginning, the question is how does one establish that.

Chairman: The board still received bad advice. Even if the outcome was always going to be always the outcome, it was still bad advice.

Mr. Fred Barry: I was not there.

Chairman: No.

Mr. Fred Barry: If I had been on the board through all of this I would be unhappy with the advice that I had received, yes.

Chairman: Yes, and that is my question. Why would the board continue to work with the company for the next couple of years?

Mr. Fred Barry: First, because we are in contract with it.

Chairman: Yes.

Mr. Fred Barry: That is part of it.

Chairman: And with BAM. Have we got ourselves so badly caught up in contracts that we cannot get away from bad advice?

Mr. Fred Barry: It is very difficult to change odd contracts in the middle of live projects.

Chairman: So it is here, regardless of whether we like it. What changes has it made in its organisation to give Mr. Barry a level of confidence that he clearly has not had in its work up to now?

Mr. Fred Barry: This is one of the issues we are taking up with it.

Chairman: At this stage.

Mr. Fred Barry: At this stage.

Chairman: However, six months or more have gone by.

Mr. Fred Barry: I am sure others may have taken it up with it beforehand. I am stating that it is a live issue at the moment.

Chairman: I will put the blunt question, which is not unreasonable to ask. Should the entire board stand down? I am not saying that the project should be stopped but I must ask whether we have the right structure in place. We have the hospital board, steering committees, the HSE, the Department of Health, the Minister and then the Government. That is six steps down the line that responsibility is being pinned. We know that the terms of reference kept any conclusion to be reached down at that level; they were not to come up the line near the HSE, the Department or any higher. At this stage, the competence of the entire board is at issue. That is no reflection. If something had gone 50% wrong in what the public had been told between April 2017 and November 2018, one has to question whether this board can even get it right. I am posing a valid question.

Mr. Fred Barry: Understood.

Mr. Jim Breslin: Can I just offer?

Chairman: It is a valid question.

Mr. Jim Breslin: It is a valid question.

Chairman: I am not making a recommendation, I am just posing a valid question

Mr. Jim Breslin: The PwC report states, "Significant changes to key individuals within the NPHDB and the NPH Executive in the immediate term would result in a loss of valuable insight and may result in a reduction in the ability of the NPHDB to resist future claims." That is a warning. It does not state that there can be no change - in fact, it goes on to state that we need to strengthen - or that we should make wholesale changes by standing everybody down and starting from scratch. We have a developer on site who knows this project. If we do not have people on the other side of the table who also know it, then we would be very exposed.

Chairman: Okay. This is about the fourth dilemma in which we have found ourselves at this stage. We are stuck where we are stuck. Given that all that is happening and that it took quite a period to do the maximum price guarantee-----

Mr. Jim Breslin: There was something I want to say which I have not yet had a chance to say. I do not want that to take from the fact that there are really good and committed people working on this project at both board level and in the executive. This issue has obviously cast a cloud over it. There has been a great deal of success. We got a first-up planning approval. The

satellite centre in Connolly Hospital Blanchardstown has already been handed over. So there are a lot of people who have worked really hard. The fact that I say things can be strengthened does not take from that.

Chairman: I only put it as a question. How closely is the board monitoring the cost? I am not talking about cashflow and when it is certified. Are there monthly reports? What mechanism is in place when the contractor sees something that could require a change in design; in layman's English we call it an extra. Is the board getting reports on these every month or are we going to get another shock in 12 months? What is the position?

Mr. Fred Barry: We are monitoring it very closely. We are, both as a board and an executive, very engaged in any potential cost increases.

Chairman: I understand that but has it been necessary to bring in any new software or is the internal audit function-----

Mr. Fred Barry: It is not really a software issue; it is a personnel issue. I can only repeat that the board is very actively involved. The executive is very closely involved. We are working very closely with the design team and everybody on the project in identifying potential changes.

Chairman: Is Mr. Barry aware of any cost increases on the project in the past six months since the completion of the GMP report in November?

Mr. Fred Barry: I am aware of many claims for additional payment from the contractor.

Chairman: So he is on the ball.

Mr. Fred Barry: Absolutely. However, there are none that have been substantiated yet.

Chairman: What is the process for clearing them off the decks? Do we just wait for a big whack at the end?

Mr. Fred Barry: The process is that the contractor puts his claims forward. The employer's representative has to make a decision as to whether they are valid or not. While the employer's representative is thinking about all of this, the executive and everybody involved on the development board side get to give their input into the issues, their arguments as to why money should not be payable and then a decision is made.

Chairman: The obvious question that people watching this now want me to ask is: in the past six months, what has been the quantum of claims submitted by the builder? I acknowledge that Mr. Barry has accepted none of them. It will be four years before the hospital will be open. We are six months on from the fact finding of the GMP report. Six months have passed. The board is obviously on top of it on a weekly and monthly basis. Now that six months have elapsed and now that Mr. Barry has stated that the board has accepted no claims, what has been the quantum of claims submitted to the board in the past six months that it has not accepted? What is on the table?

Mr. Fred Barry: I will confirm this to the committee to make sure it is the right figure but I think it is approximately €12 million.

Chairman: In the past six months.

Mr. Fred Barry: Yes.

Chairman: Okay, that is good.

Mr. Fred Barry: Or possibly even in less time than that. Since I have been involved, about that much has-----

Chairman: Okay, I thank Mr. Barry. It was important to ask that question.

Mr. Jim Breslin: The experts are down there. Not only is the question whether there is additional cost, but if that is a cost that the developer should bear because the contract refers to the GMP. So they are challenged on two bases: either it is “No, there no extra cost, keep going” or “There is an extra cost but it is your cost and you pay it”.

Chairman: I have stated that the board has not accepted any of these. I am not saying that just because a claim was submitted the board has to pay it.

When Mr. Barry took over as chairman, what level of briefing did he get? He was really being given a poisoned chalice at that point. I know he appeared before the Joint Committee on Health to discuss his appointment. Following his appointment, what kind of briefing did he receive? Did they just think, “You’re a good man for the job. Go in and work it out.”?

Mr. Fred Barry: The initial communication was, I suppose, fairly brief. I met one of the board members and I met the outgoing chairman in very short order having been asked to take up the role. With their encouragement I said “Yes” to taking it up. Subsequent to that, while I have met with the Secretary General and the Minister, my briefing has come primarily from my interaction with other board members, the executive and the contractors.

Chairman: Presumably one of the good reasons Mr. Barry was asked was because of his experience with the National Roads Authority.

Mr. Fred Barry: Yes, and probably as much in the private sector before the National Roads Authority.

Chairman: People have spoken about the importance of having the GMP. I put this question to Mr. Breslin or perhaps the representatives from the HSE. What is the close-out date for the GMP?

Mr. Jim Breslin: I will give the wrong date. I know roughly where it was, but I will give the wrong date if I have to give one.

Chairman: Approximately.

Mr. Jim Breslin: It moved, so-----

Chairman: That is my question. How or why did it move? We-----

Mr. Jim Breslin: I think it was about June and it got deferred to September and it was eventually closed out in November.

Chairman: The first sentence of the report states that it provides a look-back at the process up to the conclusion of the GMP on 1 November. Was there an earlier closing?

Mr. Jim Breslin: There was. There were-----

Chairman: This is a moveable feast.

Mr. Jim Breslin: There were extensions sought and reached by agreement with the developers that more time was needed to finalise the GMP. That was done without any costs being incurred. People said, "We'll finish the job without any penalty." I think there were two extensions to that.

Chairman: We are at 1 November here, the first paragraph of the report. The report itself was issued on 28 November, which clearly missed that deadline. We had the Mazars report on 17 December and it went to Cabinet before Christmas. I have heard that date was moved from 1 November to 1 February. It seems that the Department missed the 1 February date.

Mr. Jim Breslin: It was moved from 1 February to 1 November.

Chairman: No, it was moved forward from November to 1 February. That is the question I am asking. What was the final close-out date for the guaranteed maximum price?

Mr. Jim Breslin: It was 1 November.

Chairman: The Department missed it.

Mr. Jim Breslin: Is the Chairman referring to when the instruction was given to the next phase?

Chairman: Yes.

Mr. Jim Breslin: Then we went to Government and then the development board instructed.

Chairman: On what date was that and to what date was it moved?

Mr. Fred Barry: The instruction to proceed with phase B was given to the contractor in January.

Chairman: Exactly. It was definitely 1 February. Why did we have a mad rush in the ten days before Christmas when we had this report and the Mazars report and the commissioning of the other report? Did it have to be concluded before Christmas? Mr. Barry is indicating there was plenty of space in the new year to do it.

Mr. Fred Barry: No, I am not. I think it was quite early in January. The gap between the Government authorising us to go ahead and the formal instruction was small. It involved finalising the wording, I would imagine, in a to and fro with the contractor. I am not certain about that but 9 January is in my mind. Essentially, that is as soon as people get back to work after the Christmas break.

Mr. Jim Breslin: There is another point. There was a possibility that this would be instructed or not instructed. It would have been obvious to BAM that the decision had been made by Government to allow it to move ahead. Over Christmas, BAM would have known that. The actual format and legal text of the instruction would have been worked on. If one were sitting in BAM's shoes, one would have known that we were going ahead with this. If uncertainty had continued to prevail over that period, we could have had a different response from the developer.

Chairman: Send me a note on the exact actual date by which the Department had to give the contractor formal notice to proceed to phase B. It seems to have been early January. Give

us that note because we do not have that date.

Mr. Jim Breslin: I will do that.

Chairman: The next question goes back to the process for the guaranteed maximum price. Part of the problem relates to how long it took to do that. The PwC report states the process commenced in October 2017. It goes on to say that the stage 2 detailed design was completed in March 2018. What work could the National Paediatric Hospital Development Board do on the guaranteed maximum price before the design for phase 2 was completed? The board could do some work on it.

The issue here is that the board had the design completed in March and it was literally the end of November before it had the gross guaranteed maximum price finalised. The fact that this took so long put everyone in an invidious position in the month before Christmas. It probably meant that the board did not even have time to bring the matter to the steering committee. A great deal had to happen. The board knew these deadlines were imminent. Why did it let it run so late? Mr. Barry probably cannot answer that. Had the gross maximum price been signed off earlier, there would not have been a mad panic and the board might have been able to do a detailed report on the cost escalation. Does Mr. Barry get my point?

Mr. Fred Barry: Absolutely.

Chairman: Looking at this, it seems the delay in completing this work is one of the problems.

Mr. Fred Barry: I agree. It was in the board's interest to conclude the negotiations and get a price agreed. It was probably in the interests of the contractor to run the clock down a bit. I was not there but if I look at it from the outside, that is how it looks to me.

I noticed from the reports that there were great difficulties in reaching agreement on unit prices with the contractor. Most of the pricing issues ended up going to the independent expert for adjudication. Normally, in these situations parties get most things agreed through negotiation and only a minority of issues would go to the independent expert because they could not be agreed. For virtually all the pricing issues to go to the independent expert suggests that both parties to the negotiation were not in the same space.

Chairman: I do not think we have had this discussion before. Will Mr. Barry elaborate on the independent expert that was required to adjudicate? It is not clear in the brief. I have not heard this point being discussed before.

Mr. Fred Barry: Under the contractual process, to arrive at the adjusted contract price there is an original tender price. Then there is to be an adjusted price because of changes in quantities, specifications and so on. There has to be a mechanism for working it out if the two parties cannot agree. The contractual agreement was that, in the event the two parties could not agree, the matter would go to adjudication.

Chairman: Who was the adjudicator? What firm was involved?

Mr. Fred Barry: It was an individual.

Chairman: Did that take long? Was everything shoved on to the individual?

Mr. Fred Barry: The individual would have been appointed before the row started. He

would have been available.

Chairman: Of course.

Mr. Fred Barry: Normally, in these situations most of the issues get worked out in negotiation and not much goes to adjudication. Here, many of the pricing issues had to go to adjudication and that took time.

Chairman: It slowed down the process.

Mr. Fred Barry: The Chairman is wondering why this took until November. It was because the adjudicator had to be involved to bring the negotiations to a conclusion on many of the issues.

Chairman: No one made any reference to this in previous meetings.

Mr. Fred Barry: I was not there.

Chairman: I have no issue with it, but I did not know there was such a level of adjudication by an external person during that period.

Mr. Fred Barry: There was great frustration on the part of the development board at the fact that it took so long and that it was so difficult to arrive at that point.

Chairman: It sounds like the board had a contractor on site with which it did not work well, given that everything had to go to adjudication. It sounds like the board had a design team that got it badly wrong and had the board locked in. Is there any good news in respect of anyone the board was dealing with? Mr. Barry can hear what is coming out now. The builder had a problem. The board could hardly talk to the contractor about routine stuff and everything had to go to arbitration. The design team had problems. The board is examining whether it has a case. It was doing a project but had a problem with everyone it was employing. From listening to what Mr. Barry is saying, the board is contractually caught and the contractor has the taxpayer in a bind.

Mr. Fred Barry: There is a contract in place with the contractor. While we spent much time focused on the residual risks that the State still carries, a great deal of risk has been transferred to the contractor. We have a contractor who has signed up to a contract price to deliver this project over the coming years. A great many of the risks have been transferred to the contractor and those risks will stay with the contractor.

Chairman: It does not sound like it has been a smooth process so far.

Mr. Fred Barry: It will not be a smooth process. It will be a continual challenge to the end.

Mr. Paul Quinn: There is some good news here. Many of the issues that normally arise during the construction phase have been addressed now. All those battles and fights have been had with the contractors involved to get to a pricing point that is now locked down. There are still risks. It is well set out in the PwC report and elsewhere that the project still carries other risks like inflation. However, many of the issues associated with how many widgets, what type of widgets and at what costs those widgets will be provided have already been locked down. Let us not forget that this project is now two years ahead of where it would otherwise be if we had followed the standard project. I know there are many challenges.

Chairman: I have seen that chart. Not everyone will fully accept that. It has come at a major price.

Mr. Paul Quinn: I understand.

Chairman: I think the point Mr. Breslin made was that part of the problem was the decision to commence the work because that is why the board went for phase 2. Mr. Barry will be able to answer this question. He said this is the first time we have had this two-phase project in the public sector but it is a regular feature-----

Mr. Fred Barry: Variations of it are quite common in the private sector.

Chairman: That is why I am asking Mr. Barry this question. Will he elaborate on his knowledge of cases where this two-stage process or a variation thereof, with a contractor is on-site, has applied in the private sector? Are there contracts where the contractor was removed at stage 2? Is it normal in the private sector that, once the contractor gets on-site, then 99 times out of 100 the firm will finish out the job?

Mr. Fred Barry: The contractor normally gets to finish the job out.

Chairman: There we go.

Mr. Fred Barry: Normally, a firm goes out to tender at an early stage if it is in a hurry to get the job done. That can be a big driver of the job. That is normally what is behind going out to tender, although sometimes firms want to get contractors if the job is complex because they can contribute a great deal to the design development. Typically, people are under time pressure and that is a factor. That time pressure never goes away. In private sector jobs one does not normally have it as clean cut as it is here, where one starts off with approximate quantities and X months later one has a contract price that includes everything. Very often one starts off with approximate quantities and works one's way towards resolutions or guaranteed maxima on jobs as the job goes along. Replacing the contractor is very rare. In addition, the private sector has more robust remedies available than the public sector.

Chairman: People can close the gate.

Mr. Fred Barry: They can close the gate or they can tell a contractor they will never work with them again. Any parties who are not behaving will not last long in business.

Chairman: You mentioned a couple of hours ago that you cannot take previous experience into account.

Mr. Fred Barry: One can take account of previous experience in some respects, such as if they have experience of building projects of that type previously and so forth, but if somebody simply underperforms, is difficult to deal with or the like, it is very difficult to take that into account in the public domain.

Mr. Jim Breslin: Chairman, to reply to one of the previous questions, 8 January was the date of instruction of phase B.

Chairman: Okay. There is another general matter that cropped up years ago and will crop up again. Have you a mechanism to ensure that subcontractors are getting paid for the work? Ireland has been plagued with the problem of the guy who does the last part of the job not being paid and he probably does not even know who the main contractor is. You know what I am

referring to.

Mr. Fred Barry: I do.

Chairman: What type of mechanism do you have? How many will be working on this project at peak?

Mr. Fred Barry: Some 2,500.

Chairman: Many of those are individual small contractors who are way down the supply chain in terms of links with the main contractor. Will you discuss that? At the end of this we do not want to have a line of people saying they did not get paid. What can you do? I realise it is not easy but you must do something. As you know, subcontractors take a level of comfort from knowing that they are going to a public job. It is a Government-funded job, although that does not mean the Government is going to pay them, but they go on the job on the basis that there will not be an issue with the main contractor being paid. This is a big issue in construction and this is a big construction project. Talk to me about looking after the 2,500 people.

Mr. Fred Barry: It is a big issue and it is one that neither we nor the industry has cracked. The contractual relationships are such that we are obliged to pay and, as the State, will certainly pay all our obligations and I am sure we will pay them in a timely fashion. The issue is what happens in the different layers below that. As the client we cannot follow the money from the contractor, to whom we pay it, through the contractor's commercial arrangements all the way down. The different tiers of contractor will never say they are not paying the guy below them. They will say they do not owe him the money for some reason. Sometimes the reason is genuine and sometimes it is made up. We do not have a good way of ensuring there is fair treatment the whole way down the line through the different levels of contracting. I encountered this with the National Roads Authority, NRA.

Chairman: Of course you did.

Mr. Fred Barry: We could try to use some moral persuasion where that was possible but that is as far as it got. There was no way of enforcement all the way through.

Chairman: Mr. Curran wishes to speak. This is a big issue and it is relevant to the ordinary people working on the site.

Mr. Fred Barry: Indeed.

Mr. Jim Curran: There was legislation a few years ago on construction contracts. It is a guarantee. There is a process where a contractor or subcontractor can go to get resolution of those payment issues.

Chairman: This was Department of Public Expenditure and Reform legislation.

Mr. Paul Quinn: That is correct. It was brought through under our watch.

Chairman: I was possibly the party spokesperson on public expenditure and reform when it was brought through.

Mr. Paul Quinn: It is the Construction Contracts Act. From recollection it was passed in 2014 and enacted. It is based in the Department of Business, Enterprise and Innovation at present. It provides a mechanism where subcontractors can ensure they get payment, but they need

to act and ensure they are enforcing their rights. It gives them rights and it provides for low-cost adjudication. If a subcontractor is not getting paid he can go to an adjudicator and get a very quick determination, which is legally binding, so he can enforce his rights. The challenge in the industry is that often subcontractors leave it too late and then find themselves on the wrong end of having that leverage. However, those rights are there and, from a departmental and public procurement perspective, we encourage subcontractors in that regard because they often come back to the State as the last avenue of recourse. We had that with the Carillion collapse.

Chairman: The Minister of the day essentially put some of the blame on the subcontractors, saying they had left their debt outstanding for too long and should have moved earlier.

Mr. Fred Barry: It is very hard sometimes to do that.

Chairman: It is, because they will not get a job again.

Mr. Fred Barry: That is right. They are relying on relationships with favourite contractors.

Mr. Paul Quinn: Which does one wish to guard, one's relationship or one's cashflow? I would go for cashflow every time. Under the Act they are entitled to enforce the minimum statutory period which is defined in the Act. From my recollection it is 30 days.

Chairman: As you are from the Department of Public Expenditure and Reform I will ask you to do me a favour. It has gone to the Department of Business, Enterprise and Innovation but will you ask your appropriate colleague to send a summary of that issue to me in layman's English? I can hand it out to the guy with the trailer and jeep who has two guys working with him on these sites. The country is full of them. It should be a layman's version of it, not a legalistic version. It would be very helpful.

My last question is for the Department of Health and the HSE. What is to happen to Crumlin and Temple Street hospitals? I might have asked this on the last occasion.

Mr. Jim Breslin: Temple Street is part of the Mater group and in all probability will be retained. There will be some usage of it in terms of the service in the Mater Hospital. Crumlin hospital will become an asset of Children's Health Ireland. If it were to be disposed of, the proceeds or the alternative use of it would go to Children's Health Ireland. If moved out, are there other health services that could be put there or could it be a mixed development? We will do an options appraisal on that but any financial gain from it will go towards this hospital.

Chairman: Who owns Crumlin children's hospital?

Mr. Jim Breslin: Children's Health Ireland, which is the public-----

Chairman: It is State property.

Mr. Jim Breslin: Yes.

Chairman: There is no plan yet. It could end up being another facility for the health services.

Mr. Jim Breslin: There are some reasonable facilities there such as theatres and so forth. There potentially would be an argument for using them for a period. I am sure other people would say that some residential development would be very good. It is probably something that one would master plan, come up with an options appraisal and decide which way to go.

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Chairman: How many of the staff in Temple Street and Crumlin will move across to the hospital?

Mr. Jim Breslin: We hope everybody would move across. This is a huge opportunity for people who have looked for this hospital for 20 years.

Chairman: The staff in Crumlin will not just stay in Crumlin doing something different.

Mr. Jim Breslin: No. We have experience of doing these moves in other health facilities. Sometimes people are coming up to retirement and they do not make the move but, by and large, I believe they all would be up for this.

Chairman: We will conclude on that. I hope the staffing issue works well. Whether it is the finest children's hospital in the world has nothing to do with the architectural design and the cost but is about the staff and the medical care. Let us hope that aspect of it works out.

I thank the witnesses from the National Paediatric Hospital Development Board, the Department of Health and the HSE for their attendance and the information provided. I also thank the Comptroller and Auditor General and his staff. The clerk to the committee will seek any follow-up information and carry out any agreed actions arising from our discussion today. We will adjourn until 30 May when we will meet with officials from the Department of Finance to discuss the 2017 appropriation accounts for the Minister for Finance, the Annual Report of the Comptroller and Auditor General, Chapter 1 - Exchequer Financial Outturn for 2017, Chapter 22 - Irish Fiscal Advisory Council and the Comptroller and Auditor General's special report No. 105 on Ireland's transactions with the EU in 2017, finance accounts 2017.

The witnesses withdrew.

The committee adjourned at 2.20 p.m. until 9 a.m. on Thursday, 30 May 2019.