

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Déardaoin, 14 Samhain 2019*

*Thursday, 14 November 2019*

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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 Imelda Munster,
Deputy Catherine Connolly,	Deputy Catherine Murphy,
Deputy David Cullinane,	Deputy Kate O'Connell.
Deputy Alan Farrell,	

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. He is joined by Ms Maureen Mulligan, deputy director of audit.

No apologies have been received. We are holding the minutes over until the next meeting and there are no matters arising from the minutes.

The next item on the agenda is correspondence. The first category is A, briefing documents and opening statements for today's meeting. We will note and publish Nos. 2536 and 2537 from the Courts Service regarding briefing documents and opening statements.

The next category is B, correspondence from Accounting Officers and-or Ministers and follow-up to PAC meetings and other items for publishing. The first two items, Nos. 2476 and 2538, are from Professor Phillip Nolan, President, Maynooth University, dated 17 October and 8 November 2019. The first item includes a request for further information in regard to an anonymous query we had written to the university about. We received an anonymous query and we indicated the last day we would send that to the university for comment. After the meeting, we looked at it again and we summarised the contents because it was felt that if we gave the anonymous correspondence directly to the university, the correspondent might be identifiable within the university, and we felt that might not be appropriate. We gave the university a summary of the key points and it is coming back to us for more information. We will give it as much as we can but I want to hold back on giving it the original documentation because the person might be identifiable within the college. The university says that, based on what it has received so far, it cannot trace the particular issues. In any event, we will provide any additional information we can.

The second item is a response to our queries following correspondence which raised a number of concerns. The following information is provided by the university: the university's current risk register, as well as any internal or external reviews or audits of this conducted in the past three years, and this is quite an extensive document from the professor; the final accounts in regard to Innovation Value Services Limited, which we have discussed and which is the organisation that went into liquidation; details of occasional staff in receipt of payments for one year, two years, three years, four years and more than four years; and an information note on the research and knowledge transfer plans for 2016, 2017, 2018, 2019 and 2020. Professor Nolan states that the services referenced were procured in accordance with and satisfy all legal requirements and guidelines as set down in the university's procurement policy. The monetary value of the engagements referenced are under the threshold for a national tendering process system and, accordingly, contracts were awarded on the basis of quotations sought from suppliers of the relevant services. We will note and publish this.

The reason we are asking this of every organisation is that we are looking at the issue of non-compliance with public procurement guidelines. It is a matter of form. We will be issuing this to every organisation which has submitted 2018 accounts. In the meantime, there are a number of Votes - perhaps five or six - that are audited by the Comptroller and Auditor General where non-procurement issues are listed. We will not get to some of those until well into next year. With the secretariat and the Comptroller and Auditor General, we will look at the annual

report and identify those five, six, seven or other number of Votes and, next week or as soon as possible, we will agree a letter to each of those Accounting Officers. We want to complete everything that has been published. Those accounts have already been laid in the Oireachtas and published. Even though we do not get to interview the witnesses at this stage, in advance of that we want to get information in regard to non-compliance with public procurement. We will want to include that topic in a report next year so we will do advance work on it.

There is a lot of information on what are called in the document “occasional hourly payments”. There is comprehensive information on the number of staff and on the number of registered students who have been in the system for occasional payments for over four years, which is 126, as well as the range of payments. We asked for the amounts paid to the 158 staff in the six months up to 30 March 2019 where those staff had been engaged over more than four years. One staff member was paid over €20,000 in that six-month period when we are talking about “occasional hourly payments”. It seems to be a pattern, which was the purpose of Deputy Catherine Murphy’s query. As to how widespread it is, the university has given us the information in regard to people being employed on what it calls “occasional hourly payments”. They are not temporary or part-time; they just come and go, and it is a case of, “We will call you when it suits. Here is the hourly rate.”. However, for some people, that arrangement seems to be continuing for a period of time. We will note and publish that. I am sure Deputy Murphy will want to comment.

**Deputy Catherine Murphy:** This is a general point rather than a point in regard to Maynooth University. There is a presumption that university people are going to be extraordinarily well paid but, in fact, one will find there is a high level of fairly poor payments and, often, there is a greater level of job security at primary school level than at university level. I do not think we should be surprised that there is quite a low level of payment of between €10,000 and €20,000, even though quite a lot of hours could be put in. The other point is that this also relates to registered students and it is not unusual to see MA or PhD students lecturing on a part-time basis. It is an area that needs to be looked at in its own right, irrespective of this issue.

**Chairman:** Will we write to the Higher Education Authority to establish if it is a practice across all universities?

**Deputy Catherine Murphy:** That would be useful because I believe there are other things that flow from it. The things that flow from it will be things that will catch up on people later on, such as employment rights, holiday payments and all those other things that go with the casualisation of work. It is certainly prevalent. I have spoken to people in several universities and the same profile is cropping up. It comes back later if people end up, for example, getting a welfare payment that is not a benefit but an allowance. There is a circular point about this possibly being almost a subsidy from the public purse.

While the number is not very large, there are 1,300 people and, again, it is not unusual to have people coming in and guest lecturing, and so on, which can really be of benefit to the college. Let us acknowledge things like that. There were 126 with some number of years and 56 with four years, yet they were occasional staff. The term “occasional staff” could mean people are trying to serve their time to end up becoming permanent staff. It is a class of employment we are seeing more of. The HEA would be the body to address this to and I imagine IFUT would have something to say on this.

**Chairman:** That is the Irish Federation of University Teachers. We will follow this up because perhaps there is a broader issue. I suspect there is an element of this across many of the

third level colleges. I call Deputy Cullinane.

**Deputy David Cullinane:** That was my point on this issue. I agree with Deputy Murphy that it is a class of employment that we have seen, not just in universities but in other areas as well. It may be a big job of work for us but this is just one university. I would imagine the situation is similar across all of them. Would the HEA have that information readily available? Could it send on a breakdown to us for each institution and university?

**Chairman:** Okay, we will send this-----

**Deputy David Cullinane:** I have another issue I wish to raise when the Chairman finishes.

**Chairman:** We will send this letter to the HEA because the specifics of it might be news to the authority as well. We will ask it for its views and also ask it to contact the other colleges and ask them to assemble the information. It is not our job to do its job. We will ask it to assemble the information from the constituent colleges and pass it over.

**Deputy David Cullinane:** The other issue is on the non-compliant procurement contracts. I am not exactly sure what is being asked of the Comptroller and Auditor General in that regard. Every time the appropriation accounts come before us, we write to the Accounting Officers looking for a detailed explanation which, in itself puts pressure on, which is of value. Let us say, for example, we pick 2018 and have a report on the full picture at each organisation that has submitted its accounts - some have not but most have - and where there was a problem. Is there a possibility of the secretariat then doing some work on this? We have been looking at the areas where there are problems. Some of the problems are benign while others are not. We can examine areas of crossover in terms of the problems. That would be useful because we want to get the parties involved to learn from this. There are two issues at play here. First, the rules themselves may not be fit for purpose. That is one of the issues we may need to consider. The rules may need to be changed. That is not for us to do but it might be the outcome of our work. What would be the way forward in that context? I would imagine that it would not be hugely difficult to do this.

**Chairman:** No, it is not too difficult. We are not proposing that we go back to 2016 or 2017 because we have enough data for 2018. The Comptroller and Auditor General has published the appropriation accounts and they have been laid before the Oireachtas. Some of them have these issues. They have already been published and noted by the committee. We are just asking the secretariat and the Comptroller and Auditor General, in the context of the Votes, to pick out those with procurement issues and we will systematically go through-----

**Deputy David Cullinane:** Each organisation, the list of the non-compliance-----

**Chairman:** No, each of the Departments, because we are talking about the voted expenditure. It is only a minority of them but we will systematically write the standard letter to each of them and ask them to give a detailed breakdown of the procurement issues that are referred to in their appropriation accounts. We will write to all of those organisations whose 2018 accounts have either been examined here or noted and published and acknowledged in the Oireachtas and where there is a reference to a procurement issue. We have done quite a few of them already. In January, we will assemble all of that information, and when that is done, we will break it down into different categories. Some issues may be around extensions of contracts, proprietary products-----

**Deputy David Cullinane:** The rollover of contracts-----

**Chairman:** Yes. One theme I have seen is a consistent referral to the fact that the Office of Government Procurement has not established a framework. I can see between four and six different reasons for these procurement issues arising. Some of it is down to bad management, to be honest. When we assemble the information, we will be able to examine and categorise it under the different headings-----

**Deputy David Cullinane:** To identify where the failings are-----

**Chairman:** After that, we will be able to pull it all together.

**Deputy David Cullinane:** That is exactly it.

**Chairman:** I can see a straightforward path in terms of where we want to get to on this, but we have to assemble the information first. Members should note that on foot of further items of correspondence received by the committee and discussed at our meeting last week, we will be writing to Maynooth University with further specific queries.

The next item of correspondence, No. 2522, is from Professor Ciarán Ó hÓgartaigh, President, NUI Galway, dated 31 October 2019 providing an information note requested by the committee on the number of non-compliant procurement contracts in 2018. The details are all there. We will note and publish this. Members can use it as they see fit in the meantime, but we will include it as part of our information gathering process as just discussed. We will come back to it. I note that some of the 2018 non-compliant contracts mentioned are no longer non-compliant. The contracts have been corrected. We will keep the pressure on and will assemble the information over the next month or two.

**Deputy Catherine Connolly:** I welcome that response and the engagement with the committee. It is confirmation that the university is taking this seriously.

**Chairman:** I think our input is going to help in that regard. As Deputy Cullinane said, we must look at areas where the rules may be overly restrictive, for example. We will look at the nature of the frameworks being established by the Office of Government Procurement. Are those frameworks achieving, in the round, the best value for society? Price is-----

**Deputy Marc MacSharry:** I ask the Chairman to clarify what he means when he says we will come back to it. In what way will we come back to it?

**Chairman:** We are going to assemble the information over the next month or two. We will then have a list of 50 organisations, let us say, that had compliance issues. We will have dossiers on all 50, and we will ask the secretariat to streamline them into categories such as those for which there was no Government framework in place or those that involved proprietary products. The contract for the locks in prisons is an example of the latter. It was not possible to put that contract out to tender. Other categories would be those where the contracts were rolled over or those where there was no proper system in place. The HSE would be an example of the latter. It gets it consistently wrong.

**Deputy Marc MacSharry:** Will we be asking for clarification?

**Chairman:** Yes.

**Deputy Marc MacSharry:** Will we be asking what it is for? If we take the €297,000 on HR services-----

**Chairman:** No. In the first letter we are asking for a detailed breakdown on everything that is covered. We are going to get the full breakdown of all the non-compliance in the first batch of letters. When we get the batch of letters back, we will stream them into-----

**Deputy Marc MacSharry:** Are we including Galway and Maynooth in that?

**Chairman:** Yes. We are including everything that has come before us.

**Deputy David Cullinane:** Once we have compiled that information, the Department of Public Expenditure and Reform or the Office of Government Procurement, or both, should come before us to discuss it.

**Chairman:** Obviously. We will assemble the information. Then it will be quite easy to bring both of them in to discuss it and deal with the issues arising.

**Deputy Catherine Connolly:** I am concerned about the non-compliance but I am also concerned about the suitability of the system. The Galway and Roscommon Education and Training Board, GRETB, of which I am critical, has raised serious issues in terms of the difficulty it has in complying. Would it be possible to listen to somebody on the ground? Maybe consideration could be given to that.

**Chairman:** To assist us?

**Deputy Catherine Connolly:** Yes, to assist us in our understanding. Maybe that would be worth considering.

**Chairman:** Years ago the Committee of Public Accounts visited this issue. Small stationery suppliers and office suppliers were brought in-----

**Deputy Catherine Connolly:** I was thinking more of the organisations that experience-----

**Chairman:** We will discuss that. We might ask-----

**Deputy David Cullinane:** Do some of the bigger Departments have their own procurement officers?

**Mr. Seamus McCarthy:** Yes, some of them do. It depends on how much they are procuring but-----

**Deputy David Cullinane:** Would a smaller organisation like an ETB have a procurement officer or would procurement be the responsibility of a financial controller?

**Mr. Seamus McCarthy:** It should have a procurement officer.

**Deputy Catherine Murphy:** The big problem is the procurement officers are all individuals. The sectors could possibly do better if they worked as one entity. Ireland is a very small country. There could be an advantage in having one procurement officer for a sector. That is where a lot of the potential advantage is being lost. We are probably also losing Irish jobs as a consequence.

**Chairman:** A small school down the country might be getting a delivery of stationery from Dublin. The local stationery shop is not getting the contract. I know that the price has to be right but there is a bit of displacement going on.



**Deputy David Cullinane:** These are the processes we are talking about. Often they are too cumbersome.

**Chairman:** These are the issues to which we will return but we will assemble the information first.

**Mr. Seamus McCarthy:** There is a sectoral focus within the Office of Government Procurement, for health, education, local government and so on. The office looks at the nature of what is procured in different sectors and assists with devising a strategy for the optimal way to procure. It might be useful if that office provided the committee with an outline of how it balances issues of local supply and local demand on a regional basis.

**Chairman:** We can ask the office for that.

**Deputy David Cullinane:** Are there EU directives that have frameworks on procurement?

**Mr. Seamus McCarthy:** Yes there are, but they do recognise that there are better ways to set up the procurement competition so that we get true competition and small and medium enterprises are not prohibited from competing. Let us take a printing example and a contract for ballot papers for a general election. They can break it down into a number of printing contracts so it is not one national contract for all constituencies. Similarly, with Galway and Roscommon Education and Training Board, for example, it does not make sense that they would have to procure everything from a national competition. There should be regional delivery because a lot of the demand is going to be local. There are challenges there. It is important that everybody has an opportunity to compete. One needs to look at the conditions that are applied in a competition that can perhaps rule out certain suppliers, for instance if one sets too high a threshold for turnover level a business has to have or the track record of the business. There are protections that come from that, because one knows that somebody is established and not a fly-by-night operation but one does not want to rule out legitimate competition that could actually deliver better value for money.

**Chairman:** In the meantime, we will ask the Office of Government Procurement to give us an outline of those. That is helpful.

**Mr. Seamus McCarthy:** Yes.

**Deputy Catherine Murphy:** Is there another ingredient? It is not all about the commercial side. Consider libraries, for example, where books are procured that may be published in another country. One loses some of the local dimension, which is incredibly important from a cultural perspective. This is not a quantifiable one. Is this counted in at all? It is just an example.

**Mr. Seamus McCarthy:** There will be solutions. If certain books are required, maybe for local history or local interest requirements, it is for the library to specify that these are the books it wants and then place the order, as opposed to somebody saying "Here is a selection of books that we offer." It is complex but it is amenable to common sense being applied also.

To get an overview on 2018, the committee may need to look back to some of the big organisations that were through in the earlier part of the year. The obvious one is the HSE where the financial statements would have been noted earlier. This is in case they are not in the trawl that is already being done. The committee may need to add those.

**Chairman:** We have gone back through it all with the secretariat during the week. The

NTMA and the HSE were in before the summer. We are going back and catching them all. I thank Mr. McCarthy for that.

**Deputy Catherine Connolly:** The letter is very important. We will get back information about EU directives and all of our obligations but we are teasing out the balance here and how to get the balance, as the Comptroller and Auditor General has just said. It is about how we tease this out to ensure it is competitive but still of benefit to the local community, that it is fair and that they have an equal opportunity to participate. That is the balancing exercise.

**Chairman:** It is a balancing issue. From looking at this issue previously I am aware that Ireland, which is the only island economy in the EU, ends up placing more of its contracts outside the State than other EU countries do. In France 98% or 99% of all contracts given out by public bodies go to French companies. It is the same in Germany, Spain and Italy. Ireland, however, is taking a lazy approach that we just adopted. We all remember the situation some years ago when every leaving certificate examination paper was published in France. They just made the contract so big that a French company got it. The French would never do that. It could have been broken down by subject and made into ten contracts and perhaps ten, six, two or three Irish companies could have bid. It is about how the contract is constructed. This goes back to the scale of the contract and the scale of the turnover and number of people the organisation must have. In my experience, public sector organisations take the lazy approach where they want the bidder to have a big turnover. I have seen how companies or building contractors built housing estates for local authorities and if five or six years later two more houses were wanted in the same estate, the contractor was no longer eligible - having built the previous 20 houses - because the company's turnover in the past two years had diminished during the recession. Things like that do not make sense. There are a number of such cases. In other cases some contracts come up and a company that perhaps has experience in the area does not have turnover. It can set up a joint venture company with some other utterly unconnected business that has a high turnover cashflow. A filling station business with a big cashflow could link up with a builder to form a joint company and then the builder meets the turnover criterion. There are lots of aspects we need to watch. It is easy to construct a company to get the turnover if one sets about to do that. I have seen this happen in practice. These are the issues. In the meantime, the people with the track record are not getting a look in at all. I apologise for that diversion but the members can see where we are at.

**Deputy David Cullinane:** We have come at this in the first place because there is an obvious problem. If every second or third set of accounts has a note that there is non-compliance, it means there is a problem. When we have looked at this we have found that the problems are twofold. In some cases it is bad management and a flagrant disregard of the rules. This is one element of it. There are also problems with the system being too rigid and not flexible enough for smaller organisations also. This is where our focus should be. The thematic approach advocated, where it is broken down into the four or five or six themes and reasons why there are failures, could tell us where lots of the problems are. Initially we were hitting all the organisations over the head to say "Why are you not complying?". The system obviously is not working and I believe we need to be looking at that. It cannot be working if every second or third organisation and big Department comes back time and again with non-compliance. Some of it is bad management and we cannot let them off the hook on that one. Some of it is just that they are not complying with fair rules. If there is no level playing field, however, or if it is too rigid, too complex or too difficult - or whatever the problems might be in some areas - then we have a responsibility to find that out.



**Chairman:** We will move on from this. I remind members of where we can achieve results. Some years ago we had only one of the 17 education and training boards getting its accounts in within three months of the year end. We brought them all up, went through them one by one and put four of the ETBs in front of us. Hey presto, the following year every one of the ETBs' accounts were in on time. The committee's involvement does help, with the work of the Comptroller and Auditor General. Having to answer to the Committee of Public Accounts does help. Let us use the bit of influence that we have. No. 2522 is agreed.

No. 2523 is correspondence received from Anne Graham, chief executive, National Transport Authority, following up with information requested at our meeting on 1 October. I will first refer to the headings. There is some shocking information in this, which follows through on the request for more information. Some of it is routine and great information is provided but there is one issue I wish to highlight. Ms Graham gives a breakdown of: the money spent on advertising campaigns for bus shelters; the cost of the Go-Ahead Ireland project *vis-à-vis* Dublin Bus; the roll-out of accessibility infrastructure, a list of the towns where that has been completed in the past year or two and the ones that are currently in planning; the proposal to carry out accessibility works in Carlow train station; and the payment by the Department of Employment Affairs and Social Protection for free travel. We had been asking about the issue of free travel. There are five pages on that and we will come back to it in detail because it is connected to the public services card. We will note and publish the correspondence but we are not finished with the issue of the public services card yet. There is a lot of correspondence coming in from individuals on that issue arising out of the committee's discussions here and our meeting with the Department last week.

**Deputy Imelda Munster:** I refer to page 7, in the second last paragraph. We are aware that the public service obligation, PSO, for the free travel scheme has been capped for nine years at €51.6 million. The National Transport Authority also states that it understands that increases were paid to commercial operators. Can the committee write to the Department of Employment Affairs and Social Protection to find out exactly what is paid and who the contractors are? We know that over the years, when Bus Éireann was in huge financial difficulties it had to subsidise the difference, which put the company into even further financial difficulty. Bus Éireann had to subsidise the difference between the Government-awarded funding for the free travel scheme and the actual cost. Perhaps we could find out who is getting what and how much the operators are getting from the Department. It is important to establish if the public transport service operators are being put at a distinct disadvantage. Even with some of the private operators, they are not compelled to have disability access, while public transport operators are and rightly so. It will be interesting to see if they are being awarded more in funding under the free travel scheme.

**Chairman:** We will write to them and ask for a detailed breakdown. We asked about that last week. We will double-check and see if they have answered this arising from last week's meeting. If they have not answered that question, we will put it on the list.

**Deputy Imelda Munster:** If there is a shortfall for each carrier, what is that in terms of what they are getting and if they have to subsidise it like CIÉ?

**Chairman:** When we get the information back, we will take it up with the respective operators.

**Deputy Catherine Murphy:** There is a talk about a breakdown in advertising campaigns. It is not immediately obvious. Obviously, some of those advertising campaigns will be on

buses and bus shelters. It is not immediately obvious who benefits from this. It is probably Adshel. That area is a little opaque in terms of the income from advertising. Does the National Transport Authority, NTA, get it or the commercial company which provides the shelters? That is not immediately obvious.

On the sanctioned headcount, there is a litany of stuff in that which is unacceptable in terms of how the Department deals with it.

**Chairman:** We will write to them. We did not ask about the income from advertising on the various bus shelters and who gets it. We will ask the question. We were shocked to discover at a meeting last week that the majority of the staff in the NTA are outsourced and on contract. We have never met a State organisation where the majority of the day-to-day staff are not direct employees. The NTA has a situation where it has 118 direct employees and 148 people sourced through agencies on placement contract. I have never seen this before.

**Deputy Catherine Murphy:** Plus, it is also costing more.

**Chairman:** This is an organisation that is in existence for ten years. We got shocked at that and we asked for a breakdown. This is what I am shocked at.

On page 20 of this letter, it states the current employee headcount is 118, which costs €8.7 million. That is an average of €73,728 per employee. That includes PRSI, superannuation and everything that might go with that. The outsourced placements, that is, the 148 persons sitting beside the direct employees doing the same day-to-day work, cost €20.6 million. That is an average €139,189 per employee which is 90% greater than the cost of a direct employee. This is a gross mismanagement of the budget. It is spending 90% more per person than it needs to.

It further states that there was sanction to increase some additional staff. That has been done. At the end of the schedule, it states the board agreed to put plans in place for additional staff to be recruited. It does not give us the numbers of the staff to be so recruited, however. It states its long-term objective is to ensure it has the proper staffing requirements.

Ten years after the organisation has been established, this is totally unacceptable. There is bad expenditure on behalf of the taxpayer of €10 million. There is €20 million on outsourced staff. If these were the authority's own staff, that figure would halve. Up to €10 million is being spent on outsourced staff to do day-to-day work in that organisation ten years after it was established. It gave all the details about recruitment embargoes over the decade. These figures are such a stand-out. It is a matter on which we will report. We have mentioned that at the meeting. Those of us here were shocked to hear this. That is why I want to put those figures out there now.

**Deputy Catherine Connolly:** In its strategic resourcing plan, the figures are slightly different. The outsourced numbers are forecasted to go up more on page 21 of the plan. The NTA has forecast that-----

**Chairman:** What page are you on?

**Deputy Catherine Connolly:** Page 21.

**Chairman:** That is the strategic resource plan 2019 to 2020, which was only completed this summer.

**Deputy Catherine Connolly:** Yes, it is on page 21.

It confirms the forecasted headcount is not actually the figure given earlier. It forecasts 140 direct employees and 179 outsourced placements. It will actually increase. The Chairman was looking at page 20 of the letter when the current outsourced claims placement numbers are 148 and will rise to 179 for this year.

**Chairman:** So, it has been deteriorating.

**Deputy Catherine Connolly:** The prediction for this year is a further increase.

**Chairman:** It is outrageous

**Deputy Catherine Connolly:** There is a background to this from various Government policies.

**Chairman:** Our job is to look after taxpayers' money.

**Deputy Catherine Connolly:** Yes, but we must highlight it.

**Deputy Marc MacSharry:** What roles are these contractor people performing?

**Chairman:** They are doing day-to-day work. It is not specialised.

**Deputy Marc MacSharry:** We are not talking about specialist people.

**Chairman:** A number of them are but a number of them are there on a day-to-day ongoing basis. It is not bringing in a consultant for a project for three months. These are here for the whole time. As the Deputy said, the NTA's own strategic plan indicates that the figure is getting more serious. Our point is made for today and we will come back to this.

**Deputy Catherine Murphy:** I asked that question innocently and that was the answer. It is one that we should be conscious of with organisations which have been created in recent years. It is a kind of a staple question we might ask to see if there is the same profile.

The Chairman demonstrated the costs with figures and there may well be an adjustment in that. There is another issue, however. If people are on contract, the organisation will have to keep on training new people coming in. Staff retention becomes an issue, as does the viability of an organisation. We can point the finger at the NTA and tell it to get this sorted out. In actual fact, it is the Department of Transport, Tourism and Sport that is the origin of the issue.

If we are to take action, we need to write to the Department. It has constantly asked the NTA to outline its requirement. It knows what its requirements are. It can evaluate the work of the people it is employing on a contract basis and decide what is essential employment. It is a bit like the schools building programme. One goes through many stages and one concludes that it is all about spreading money over several years. There is not even a saving in this case with the NTA. As the Chairman demonstrated, it is actually costing more. I do not think, however, we are counting the total cost. I would like us to write to the Department of Transport, Tourism and Sport as opposed to the NTA.

**Chairman:** We actually did and I should have said we have the reply. It is No. 2531B. I should have linked this to the other remark earlier. We wrote to the Department of Transport, Tourism and Sport because we were so shocked that day. We have the reply back from it, No. 2531B, dated 6 November 2019. It actually states under progress in implementation that in December 2018, the NTA received approval from the Department of Public Expenditure and

Reform for the sanction of funding of phase 1 involving 26 additional new positions. The recruitment of the additional personnel commenced in January 2019 and all new staff are expected to be in place by the end of the year. Phase 2 of the plan was approved by the Department's management board in July 2019, and it is engaged with the Department of Public Expenditure and Reform and the NTA in respect of sanction for phases 2 and 3. Discussions are continuing on the approval of the associated delegated pay sanctions for phase 2 of the plan.

The Department's effort to date, even in respect of the 26 additional staff, has been minuscule and it has not dealt with the issue. Given that it is now in talks about phases 2 and 3, we will write to the Department of Public Expenditure and Reform because it is involved in the sanction. The sanction it should consider relates to ensuring that it has the adequate complement of staff rather than continually paying contracted staff, who cost €140,000 each as opposed to the average salary of €73,000. If the Department of Public Expenditure and Reform has the remotest interest in the issue of cost, that is what it should consider, rather than arguing whether 24 or 26 additional staff should be appointed. It is symptomatic of where we are.

**Deputy Catherine Connolly:** It would be remiss of me, as Chair of the Irish language committee, not to mention there are serious implications for the Irish language and Bille na dTeangacha Oifigiúla, which will provide that 20% of all new recruits will have Irish, although, presumably, that will not cover outsourced jobs. Serious implications will arise from that type of Government policy.

**Chairman:** We will write to the Department of Public Expenditure and Reform in respect of what we have just discussed and provide the transcript. The implications should jump out at the Department. It should not talk about phases, grades or whatever. Its efforts to correct the circumstances have been paltry. I could accept it if it were years one, two or three, but not in year ten.

No. 2524 is correspondence from the HSE, dated 5 November, providing information on the national integrated staff records and pay programme, NISRP. The letter states it is a programme to facilitate access to comprehensive employee data, consistent support and business information throughout the HSE, and to fulfil the Government direction to establish and develop a shared services model. It indicates that the overall cost of the programme will be €27 million over the course of its lifetime, to 2023. We will note and publish the correspondence.

**Deputy Catherine Murphy:** I raised the issue a number of weeks ago because there have been many complaints. There is not a problem with there being a single platform but there may be a problem with how it operates. There have been many staff complaints about the matter. It will be rolled out gradually. My concern is whether it is fit for purpose or whether the complaints relate to what are just teething problems. Much information has been provided in the letter. The complaints suggest that people are not being paid properly and payments are weeks overdue, and they have been submitted by everyone from porters to hospital consultants and ambulance drivers. The system has to be flexible. I cannot understand how it would not be flexible and it may be that it is a matter of how it is being used. I would like us to satisfy ourselves that the programme is fit for purpose. Otherwise, we could be talking about it again in two years.

**Chairman:** The letter states, "For the vast majority of HSE staff, the only change experienced will be the introduction of the self-service tool". That means employees will download their own payslips, which is fine for salaried employees and so on. However, the letter continues:

For a smaller cohort of staff (specifically those involved in capturing staff hours worked, payroll and staff records processing) there will be more significant changes to processes and systems used. The Programme undertakes an extensive change management exercise (including engagement, communications, training and post 'Go-Live' support) ...

We will request details of the problems experienced to date.

**Deputy Catherine Murphy:** Most people do not worry about engaging with systems but they know at the end of the week if their wages are correct.

**Chairman:** That is correct.

**Deputy Catherine Murphy:** They know if their weeks were overtime or if that causes a problem. That is the point I am trying to make.

**Chairman:** We will reply and request details of the specific issues we have highlighted.

No. 2527 is correspondence from the clerk to the Joint Committee on Agriculture, Food and the Marine, acknowledging correspondence we sent to the committee. We will note and publish the correspondence.

No. 2528 is correspondence from Mr. Seán Ó Foghlú, Secretary General of the Department of Education and Skills, dated 6 November, regarding correspondence we sent to him on the alleged misuse of special educational needs allocations and resources. We asked about the Department's oversight of school expenditure and the school grant system in this regard. The Department makes clear it allocates special education teachers. There is no allocation of funds and, therefore, that is not an issue.

The Department states that since the system was introduced several years ago, 88 reports of potentially inappropriate use of special education teaching resources have been made to the Department, comprising 71 in primary schools and 17 in post-primary schools. It states the figures should be viewed in the context of more than 13,500 special education and training posts and 4,000 primary and post-primary schools, that there have been 1,500 school inspections, and that the majority of the issues arose having been uncovered by the Department during its own inspections. It states that in respect of the numbers we mentioned, 34 schools have confirmed they use the allocation in accordance with the guidelines, 29 schools have replied to say the allocation is being reviewed, replies are awaited for a further 20, while five schools are yet to be in a position to demonstrate compliance.

The Department is addressing the 88 schools that have been reported and goes on to state that, ultimately, the first responsibility is with the board of management, which must satisfy itself that proper controls are in place. It indicates that the board's income and expenditure accounts must be prepared for the end of each school year and must be properly audited or certified. All schools' accounts are available for audit by officers of the Department, officials and the Comptroller and Auditor General, if requested. There are 4,000 more schools, therefore, that the Comptroller and Auditor General can audit if he wishes.

**Mr. Seamus McCarthy:** If I have nothing else to do.

**Chairman:** I will say that in my reply. There were some cases but we are clear that the problem is not with staff. Perhaps the schools are doing something else. There have been 88 complaints and most of them were uncovered by the Department. While some were not, it is



systematically reviewing them. We will note and publish the correspondence, and reply to the person who wrote to us.

No. 2529 is correspondence from Ms Colette Drinan, secretary and director of audit at the Office of the Comptroller and Auditor General, dated 7 November 2019, responding to a query regarding vacancies at that office. The information was requested by the secretariat and will feed into our next periodic report. There will be some good news for some of the staff at the office. The letter states that as of 31 October, the office had 181 full-time equivalent members of staff and no vacancies, which was the result of ongoing active recruitment, especially at the trainee auditor grade. Consequently, the office has more trainee auditors than the complement but fewer senior auditors than the complement. It is expected that a number of internal promotion competitions will re-align the numbers at an early stage. There will be some promotions, therefore, for some of the people at the office, which is good to note. It shows that when we examine accounts, even though the Comptroller and Auditor General appears before the committee every week, we do our work straight and ask straight questions, and we received good answers in this case.

No. 2530 is correspondence from Mr. Seán Ó Foghlú, Secretary General of the Department of Education and Skills, providing information following our meeting with Caranua. I specifically asked for details and we have received details of properties. The letter states it was indicated that four properties would transfer to public bodies, the Department or the HSE, as the case may be. The four cases referred to are Cloughmacsimon, County Cork, offered by the Rosminians, who took cash of €101,600; in Portlaoise, the Congregation of the Christian Brothers gave a cheque with a value of €2 million in lieu of property; in Enniscorthy, County Wexford, the Congregation of the Christian Brothers paid €412,665 in cash as opposed to property-----

**Deputy Marc MacSharry:** We might postpone discussion of the matter until Deputy Connolly returns, given that it is her area.

**Chairman:** I will do that but, as the Deputy may have noticed, 80% of what happened was in Portlaoise. He might understand, therefore, why the question came from me.

**Deputy Marc MacSharry:** I do.

**Chairman:** We will return to the matter and bring it to Deputy Connolly's attention.

**Deputy Marc MacSharry:** Deputy Connolly has an interest in the matter, like the Chairman.

**Chairman:** The final property to be transferred was Moate national school, for which €650,000 was received from the Sisters of Mercy. In each case, ownership and title issues arose, and it was a requirement of the indemnity agreement that the property transfer with good market value for each title. There are issues with trusts in those cases. I am told that in some cases the orders had to revert to the Vatican to have the trusts corrected and it was easier to hand over a cheque. That was strictly only in the cash and the funds received were placed in the special account used to fund the awards made by the Residential Institutions Redress Board and associated legal and other costs. We will place that on record. We will remind Deputy Connolly that the letter is here because it is relevant to our ongoing discussions on Caranua. People understand the reason that some properties were offered but could not be transferred. We have been following that. We will note and publish the letter and we will make sure that Deputy Connolly is made aware of its existence. She can raise it next week or at some other future date



because there is more correspondence dealing with Caranua. Is that agreed? Agreed.

No. 2531B is from Ms Ailish Neville at the Department of Transport, Tourism and Sport. We have dealt with the matter which concerns the NTA.

**Deputy Catherine Murphy:** I was looking for that information in the other document. The letter outlines just how chaotic it all is.

**Chairman:** It does. When I was reading the letter from the NTA, I knew I had read that other correspondence but it was further down the list. I was speaking from recollection.

No. 2532B is from Ms Rachel Downes, CEO of Caranua. She provides a lot of information. We will note and publish it but we will hold it over.

**Deputy Catherine Murphy:** There is one issue I would like us to clarify with Caranua. We are aware that a number of people have met Mary O'Toole, who is reviewing cases where there is a dispute about the length of time involved due to the lack of records. It is not clear if an amount has been retained, but there is no point in doing the review if there is nothing in the budget to deal with it. Could we clarify the position as it is not immediately obvious?

**Chairman:** We will ask for a note, but Caranua made it clear that it expects to have €2 million or €3 million extra at the end of its work that would allow it to reopen some of the old cases. A deadline for closing off cases was introduced. Some cases arrived after the deadline and they were not taken into account. Based on the average payments made to date, Caranua knows that if it pays what it has in its system, there will be a surplus and it might be able to look at some of the cases that arrived late. We will note and publish this and we will hold over a discussion on the document until next week if Deputy Connolly wants, particularly as it is Caranua. We will associate the other letter from the Department about the properties with it. Is that agreed? Agreed.

No. 2533B is from Mr. Gerard Dollard, CEO of the Irish Greyhound Board. He is providing a response on whether it is standard practice to perform post mortems on dogs that die on tracks. The board stated that it has not been standard practice, but it is its intention that it will be the practice in the future. The board has been dealing with the veterinary medicine department in UCD in Belfield and it is its intention to do that from now on. Is it agreed that we will note and publish this? Agreed.

No. 2534B is from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform. We wrote to Mr. Watt asking for information on the full list of public bodies that are using the public services card and an information note outlining what stage the project is at. He referred us to the Government website which shows the public bodies that are currently using the card and the stages the project is at. There is also information on the website on whether the card is currently live or is planned for introduction in the near future. We also asked for a detailed implementation and costing plan and he said the Department does not have that; it is a matter for each implementing body. First, he referred us to a website and, second, he referred us to every other Department. We will note and publish that. Is that agreed? Agreed.

No. 2540B is from the Courts Service and is dated 11 November. It provides a note on the recording of wards of court fees in the appropriation account. Can we agree to note and publish this item? We will discuss the matter later with the Courts Service. Is that agreed? Agreed.

We now move on to category C correspondence. No. 2517C is from Mr. Michael McGlynn,

communications and research executive with Nursing Homes Ireland. Mr. McGlynn provides a statement issued to the media. The organisation has called on the committee to question the HSE and the Department of Health to achieve full disclosure regarding the costs to bring HSE nursing homes up to the required regulatory standards. We will note that question for the HSE, which will be here in three weeks' time. We will put that on the list and tell the HSE we are going to ask that question. I propose that we ask the HSE to provide an information note on that. We will note that. Is that agreed? Agreed.

No. 2518C is from an individual. I propose to hold the discussion in private session because this is a letter I received following our meeting with Caranua. An individual whom I think was too late in applying for the first tranche of funds saw there might be funding available. I think a person had to get an award from the redress board before he or she could go to Caranua. I will hold this letter over for the private session because it contains personal information. We will come back to that in due course. Is that agreed? Agreed.

No. 2520C is from an individual asking what the Committee of Public Accounts is going to do about Deputies' expenses. I understand that the Houses of the Oireachtas Commission is examining the matter of expenses. That is important. We will note this item. Is that agreed? Agreed.

No. 2535C is from an individual and is dated 6 November, requesting the committee to investigate expenditure management in Irish Water. Irish Water does not fall within the remit of the committee but it receives money from the Department. We will send the correspondence to the Department and ask it for a response in respect of its oversight and governance of Irish Water regarding the matters raised. The Department is a funding Department and it is answerable to the committee. Is that agreed? Agreed.

**Deputy Catherine Murphy:** When the officials from the Department of Employment Affairs and Social Protection were in with us, I asked about a CV builder and it being hosted in another jurisdiction. I was told that was just a newspaper item.

**Chairman:** Could Deputy Catherine Murphy say that again?

**Deputy Catherine Murphy:** It was about a CV builder in the context of Seetec or JobPath. When I asked a question of the officials of the Department when they came before the committee, I was informed that it was just a newspaper item and that there was no issue arising. I tabled a parliamentary question subsequently. It is not a big deal, but it is an issue relating to accurate information that is being given. The reply stated:

I am advised that in late 2017 an issue was raised concerning specifically the CV Builder element of ...[a particular] software package and where relevant CV data was stored. Seetec were requested to remove the capacity to store CVs on the ... platform and this functionality was replaced ... [and people have it] ... on an optional basis.

There was a basis for the question I asked and it is very annoying that it was batted away. I got a perfectly acceptable response then but I am surprised that I was given that kind of response.

**Chairman:** I ask the Deputy to pass on the parliamentary question to the secretariat and we will write to the Accounting Officer, who was here only last week. To keep the record straight, we will give the transcript of what was said and the reply to the parliamentary question and ask for a response. We will do that. I thank the Deputy.

**Deputy Shane Cassells:** On Irish Water, I highlighted the broader aspect of this issue a number of weeks ago in terms of the change that was going to be implemented. We saw this week, on the front pages of our national newspapers, that it has come home to roost. There was a drop of some €35 million in the Local Government Fund and there was a change in terms of the Irish Water situation in that its contribution would be based on population. As a result of the changes, this week we saw that Dublin City Council now finds itself in receipt of some €8 million less in funds. Previously, commitments had been given that loss in revenue would be resolved through a Government subvention but the Government has back-tracked on that commitment. I made the point to the Comptroller and Auditor General that it would have serious implications for the funding of local government. I accept that is not within our remit but it goes back to the changes in local government funding, which has now resulted in €8 million less going to Dublin City Council, and that is just one council. I am trying to ascertain the figures for the various councils across the country at the moment because it is having a major impact. I ask that we would look at this again because that one change will have a major net impact on the operation of local councils.

**Chairman:** That matter was discussed here at a meeting recently. In essence, we were told the Local Government Fund was going to be reduced-----

**Deputy Shane Cassells:** By €35 million.

**Chairman:** I do not have the transcript in front of me, but I understood that would be replaced by Irish Water paying commercial rates to the various local authorities.

**Deputy Shane Cassells:** The Chairman will correct me if I am wrong, but the assessment is based on population rather than the network and we saw this week how that reappraisal has cost the administrative centre of the city of Dublin some €8 million in lost revenue. The city manager had said he understood it would be counteracted by a subvention from central government. That is not forthcoming now and the council is down some €8 million. It is in a budgetary process whereby it is trying to pass on the cost through parking charges, increases in rent and so forth. My point, which is a broader one, is that we still do not know the net impact across all the councils in this country and where this will leave them.

**Chairman:** We will need to write to the Secretary General of the Department for clarification.

**Deputy Shane Cassells:** I agree.

**Chairman:** I am sure the Deputy has parliamentary questions about this. It was discussed here and the Deputy raised it here.

**Deputy Shane Cassells:** I did have a parliamentary question, which I read out here recently. The answer was that it would be actively monitored.

**Chairman:** We will ask for the current position rather than the monitoring role and for up-to-date information.

**Deputy Catherine Murphy:** When writing, could the Chairman also ask where the baseline review is? We were told it was imminent. It has been completed but has been sat on since last February. Can we ask where it is?

**Chairman:** We can. Is it the baseline review for the Department funding for local govern-

ment, the bloc grant or whatever they call it?

**Deputy Catherine Murphy:** No. It is not a bloc grant.

**Chairman:** It is not a bloc grant. That was the wrong term.

**Deputy Catherine Murphy:** It is a baseline set for each local authority. It is based on figures going back to 2000.

**Chairman:** Is it the requirement for each local authority?

**Deputy Catherine Murphy:** It is the point below which the figure is not supposed to fall but it pays no attention whatsoever to population shifts.

**Chairman:** Both of those items have been discussed here before. We are going to follow up on both of them.

**Mr. Seamus McCarthy:** We have a chapter on setting the Government funding of local authorities. It is available for examination.

**Chairman:** In the current report?

**Mr. Seamus McCarthy:** In the report, yes. It is a standard one.

**Chairman:** We will point to that. It will probably be January.

**Mr. Seamus McCarthy:** It would provide a framework for that discussion.

**Deputy Shane Cassells:** I know. The problem is that it is like a rabbit hole. The work is fantastic but it relates back to the frustration. That is why I would like the letter to be sent. It is these kinds of issues, which are all separated out, that can have such a major impact. The one in question is a huge one.

**Chairman:** We will ask for the reply within ten days. I believe that is normal anyway.

We have held over some correspondence connected to Caranua in case members want to discuss it. We published it but held it over for further discussion. There was a late item of correspondence, No. 2543, from Deputy MacSharry, in connection with the Irish Wheelchair Association.

**Deputy Marc MacSharry:** A number of Deputies, from all parties and none, and members of the public have raised the announced closure of Cuisle Accessible Holiday Resort. It is a very important part of Irish Wheelchair Association infrastructure that is available to wheelchair users throughout the country but it is to close imminently. We all know the association is an important organisation and that it does excellent work, which we support. It probably does not get enough resources but, that said, it did get €40 million for the current year. We should invite in representatives of the Irish Wheelchair Association and the relevant Department. While the association is a section 39 organisation and is well within its right to decline the invitation, it might be happy to send representatives along to talk to us about the matter along with officials from the Department. There are 48 jobs involved. Apart from that, the infrastructure is unique. It is a policy issue but we should be seeking to have more such infrastructure to facilitate those with disabilities rather than seeking to close one of the facilities we do have.

**Deputy Shane Cassells:** On Deputy MacSharry's point on not limiting the amount of infra-

structure, while the centre is based in the west it has been accessed by people from all over the country. I support the efforts of Deputy MacSharry, Deputy Eugene Murphy and others from all parties in supporting this call today.

**Chairman:** It is clear-cut. We can write to the HSE for a note on the compliance and service-level agreement it has with the Irish Wheelchair Association. I am sure this must be covered in the agreement. HSE representatives will be before us in three weeks. I understand the health committee agreed yesterday to invite members of the Irish Wheelchair Association. Can we double-check that? The representatives should not have to appear before two committees on the same issue. We will invite them if the health committee has not done so. If that committee has already agreed to invite the representatives in, we will let them go to that committee. We will not duplicate each other's work. In the meantime, we will contact the HSE, the funding body, regarding its service-level agreement with the Irish Wheelchair Association.

There are only two sets of financial statements in front of us. The Competition and Consumer Protection Commission has a clear audit opinion and the Social Insurance Fund has a clear audit opinion. Attention is drawn to Chapter 12, on the regularity of social welfare payments, which we discussed at length here last week. I am formally noting the accounts we discussed last week.

On the work programme, there is no significant change. We can keep it under review. Is there any other business?

**Deputy Marc MacSharry:** A number of weeks ago, I wrote to the committee or suggested at a meeting that we invite the chief procurement officer to join us. I wonder whether there is an update on that.

**Chairman:** The chief procurement officer of the Office of Government Procurement. I do not know the answer but we will find out. We will discuss it in private session in a minute and raise it on the record afterwards during public session.

**Deputy Marc MacSharry:** We will discuss it in private session.

The other issue concerns business cases for infrastructure. I saw on the eTenders website at the weekend that Irish Rail called for a consultancy to develop a commercial business case to secure support for the expansion of the DART. I am not getting into policy areas. The issue was announced about three times. On the record of the Dáil in 2015, there is a reference by the Minister to the then updated business case for July 2015, and now we are calling for another business case. The public is quite rightly expecting that it concerns the expansion to Kildare, Drogheda and so on given the commuter crisis and rail-capacity crisis.

What are the rules? How many business cases do we need? It seems that the dogs on the street could pull the business case together. We were talking about numbers of staff earlier. If we are putting this out to tender, I presume it costs money. I do not know whether it will be hundreds of thousands, millions or tens of thousands of euro, for what seems to be the third business case for the expansion. With all the staff we have, and with the expense involved, are we really saying the Department of Transport, Tourism and Sport, Irish Rail, the National Transport Authority, NTA, and Transport Infrastructure Ireland are so lacking in appropriate expertise that they cannot produce the business case for a DART extension? I believe there is an administrative merry-go-round. Everybody needs plausible deniability and no one is prepared to take a decision. I can understand that regarding more spurious issues. With the public services card,



there was no business case. We all had an issue with that. When it comes to public transportation, however, we do not need much convincing that certain things are needed. So many years on, we have just gone to tender for what appears to be the third business case. Two issues arise in this regard. Why do we need external consultants to produce a business case? Why do we need a business case at all? While I know I can be accused of being facetious from time to time, I fully understand that any Minister would want to secure value for money. As we heard at a meeting of this committee, there were not too many business cases for reopening Stepside Garda station, yet, while the DART extension is a much greater and more pressing issue, we are looking for the third business case, effectively six years after it was announced by the then CEO of Irish Rail, Mr. David Franks, as something Irish Rail intended to produce. There is not a commuter in Ireland who could not write the business case pretty quickly.

**Chairman:** Is it the NTA that has put it out to tender?

**Deputy Marc MacSharry:** Irish Rail.

**Deputy Catherine Murphy:** I agree with a lot of what has been said but at the same time I believe we have learned lessons about failing to plan. We need to know the ingredient that is different. There is reliance on the likes of the DART upgrade going ahead and on building capacity into treatment plants in regard to the zoning of land. Many of these are interconnected. For instance, headroom is needed if the DART is to be upgraded, which involves rebuilding bridges and so on. All these components are important in understanding the timing. What components are being examined and do they differ from the original proposal? Is that detail part of a business case?

**Deputy Shane Cassells:** The point raised by Deputy MacSharry is much broader. We should consider how the business case is made for major infrastructure projects or their expansion and the documents that are examined by consultants. Some weeks ago when Ms Anne Graham from the NTA was before the committee, I raised the flawed business case that was written in 2011 relating to the Navan rail line in my constituency. Where are all the documents that they are examining? They are lifting them from the senior planners in every county. As Deputy Murphy noted, they are only looking at the development plans, projections for land zoned and so on. Every senior planner in the country is writing the same document. The senior planner in my county has written the business case for the extension of the train line that is required and I am sure that is the same everywhere, whether it is to address congestion in Galway or whatever. These people are paid by the State in the first instance. The duplication of this work is a waste of taxpayers' money. I am frustrated that a senior planner is paid money to write something only for his or her work to be re-examined by a consultant who is paid out of the public purse by the NTA to just lift the planner's work, stick a cover on it and give it back to the authority. It is bananas. The people who are employed by the State in the first instance know the nuts and bolts. What frustrates me even more is that some of the consultants come in and reject what the senior planner said originally. Who do we trust more? I trust the senior planner who is employed by the State and knows the nuts and bolts a damn sight more. Deputy MacSharry's point about the processes that we go through to produce a document to put on a Minister's desk, who is prepared to make a decision and who is the fall guy if something goes wrong is pertinent. It is worthy of much more discussion, perhaps when we consider the chapter on local government and State agencies again. I fully endorse those points.

**Deputy Marc MacSharry:** I just want to add to Deputy Murphy's remarks. Perhaps circumstances are changing and there is a need for more planning or whatever but we have legislative powers. Section 181(2)(a) of the Planning and Development Act 2000 empowers the



Minister to gazump the law in an emergency, but when is an emergency an emergency? There is no doubt that if we want to continue to obsess about covering one's ass, for want of a better expression, we will never get anything done. If a business case is done and a decision made, that is the leadership we look for from the Executive, yet we are going around in circles when it comes to commuters. This does not even relate to my constituency but to that of Deputy Murphy and others.

**Chairman:** What can we do?

**Deputy Marc MacSharry:** First, I want to know why do we not have the expertise. Does no one in Irish Rail have the expertise to make a commercial business case?

**Chairman:** The company is not under the remit of this committee; it is under the remit of the transport committee.

**Deputy Marc MacSharry:** I am also on that committee, as is Deputy Catherine Murphy. We can also ask there but I think it is an issue of public expenditure. This is going to cost money. Let us ask the Department of Transport, Tourism and Sport why agencies under its remit do not have the expertise to make a commercial business case. If the answer is that they do not have the expertise, then there are recruitment problems and the HR policy approaches are wrong. If someone does not know the commercial case for rail expansion and they work for the NTA or Irish Rail, those organisations are not fit for purpose. The next question is: how many business cases are needed? Someone will always take issue but someone needs to take a decision and say that they have the two or three quotes, that they are happy that this is what is needed and a decision will be taken to do it.

I do not know who will be Minister for Transport, Tourism and Sport by the time any of these projects come to fruition if we continue along these lines.

**Chairman:** We will write to the Department of Transport, Tourism and Sport regarding the DART expansion, but Irish Rail is under the remit of the transport committee, not this committee.

**Deputy Catherine Murphy:** We were critical of the lack of a written business case for the public services card. We need business cases. I agree that we do not need to keep repeating them for the same project. Can we find out if there is something different for this? It has a bearing on the kind of rolling stock that is bought if there is not an electrified service and we do not want to do that. This has knock-on consequences.

**Chairman:** We will ask the Department to tell us what circumstances require a new business plan or what is different about it.

**Deputy Marc MacSharry:** In 2013, the then CEO, Mr. David Franks, sought the support of the Joint Committee on Transport and Communications for that project. It is now several years later. I agree with everything Deputy Murphy said but a couple of deadlines should be set and stuck to. Let us get on and do these projects. Congestion costs the State a lot of money in lost time, accidents and so on. By the time the 2013 vision comes on-stream, it will probably be ten or 15 years behind the curve anyway. We need to up our game.

**Chairman:** We will write to the Department directly on that and the Irish Rail element can be raised at the transport committee.

**Deputy Marc MacSharry:** Yes, we will do that.

**Chairman:** We must deal with a couple of items of private correspondence, which we will deal with in private session.

*The committee went into private session at 10.27 a.m. and resumed in public session at 10.49 a.m.*

## **2018 Annual Report of the Comptroller and Auditor General and Appropriation Accounts**

### **Vote 22: Courts Service**

**Ms Angela Denning** (*Chief Executive Officer, Courts Service*) called and examined.

**Chairman:** Today we are examining the appropriation accounts for Vote 22 - Courts Service, for the year 2018. We are joined by Ms Angela Denning, chief executive officer. This is her first meeting with us as she is newly appointed. We welcome her and wish her very success in her new position. We are also joined by Mr. Peter Mullan, head of Circuit and District Court operations, Mr. Seán Quigley, head of resource management and accountant of the Courts Service, and Mr. Tom Ward, principal officer at the office of the CEO. Accompanying these are principal officers Mr. Cillian Smith and Mr. John Cleere.

From the Department of Justice and Equality, we are also joined by Mr. Richard Fallon, principal officer at the civil justice and equality in governance section, and from the Department of Public Expenditure and Reform Mr. John Burke, principal officer, and Mr. Liam Gleeson, assistant principal. In the Visitors Gallery is Mr. Gerry Curran, press and information officer for the Courts Service. I remind witnesses, members and all those in the Visitors Gallery that all phones are to be switched off or put in airplane mode. Merely putting them on silent will still allow them to interfere with the recording systems.

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

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

Members of the committee are reminded of the provisions of Standing Order 186 whereunder the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such a policy. While we expect witnesses to answer questions asked by the committee clearly and with can-

dour, witnesses can and should expect to be treated fairly and with respect and consideration at all times in accordance with the witness protocol.

**Mr. Seamus McCarthy:** The Courts Service has responsibility for managing court administration, supporting the Judiciary, and providing court buildings and related office accommodation. The associated expenditure is accounted for through Vote 22. The 2018 appropriation account for the Vote records gross expenditure of €135 million. This is up marginally from €133 million in 2017. An analysis of the main components of the 2018 gross expenditure is provided in the figure now shown on the screen. The largest element of spending is administration pay, amounting to €52.5 million. Salaries of judges are paid directly from the Central Fund of the Exchequer and not from the Vote. These amounted to €26.8 million in 2018.

The second largest area of Vote expenditure relates to charges levied under public private partnership, PPP, arrangements for the provision and operation of courthouses. Expenditure in 2018 was €35.8 million. Note 2.8 to the appropriation account summarises the estimated overall cost of the PPP arrangements and the remaining financial commitments to be met over the life of the contracts. At the end of 2018, these future commitments were estimated at €758 million.

On the receipts side, appropriations-in-aid of the Vote totalled just over €49.5 million in 2018. More than 90% of this related to a range of fees charged in respect of legal documents lodged and services provided in court offices.

The net expenditure on the Vote was around €4 million less than was provided in the 2018 Estimate. The Courts Service got the agreement of the Department of Public Expenditure and Reform to carry over €2.5 million in unspent capital funding to 2019. The balance of €1.6 million was due for surrender at the year's end. Funds held in trust by the courts and managed by the Judiciary do not form part of the appropriation account and are not within the remit of my audit.

In my report on the appropriation account for 2018 I drew attention to a material level of non-compliance with national procurement rules in respect of contracts operated by the Department during the year. This is disclosed by the Accounting Officer in the statement on internal financial control.

**Ms Angela Denning:** I thank the Chairman for the invitation to appear before the committee in my capacity as Accounting Officer for the Courts Service, covered by Vote 22, and I look forward to discussing any aspect of the Vote with the members of the committee.

I am pleased to report that a clean audit report has been provided by the Comptroller and Auditor General on the 2018 appropriation account. Overall the Vote was managed successfully and was within budget at year end. A surrender balance of €1,611,785 was recorded on the Vote.

The Courts Service is responsible for the management and administration of the courts. As committee members are aware, the administration of justice is a matter for the Judiciary, and in accordance with the constitutional independence of the Judiciary and the provisions of the Courts Service Act 1998, it is outside the scope of the functions of the Courts Service. The committee will appreciate that in my discussions today, I am therefore precluded from commenting on any matter relating to the exercise by a judge of his or her judicial functions or on any matter relating to the exercise of quasi-judicial functions by an officer of the court. I am

also, of course, precluded from commenting on matters of Government policy.

Since its establishment, the Courts Service has worked to ensure that the courts operate effectively and efficiently, the use of available resources is optimised, value for money is achieved and the best possible service is provided to court users. In recent years the service, in common with other Departments and agencies, has seen a very welcome increase in funding and staff numbers. Using the resources available to us, the Courts Service continues to work with the Judiciary to introduce a broad range of reforms that provide improved services to the citizen as well as yielding significant savings for the Exchequer while maintaining the constitutional right of access to justice. The service has robust financial measures in place across the organisation to ensure that expenditure is kept to an absolute minimum and incurred only where it is necessary and unavoidable, and that value for money is achieved.

The Courts Service was established to support the courts in the administration of justice. This is a unique role supporting the third branch of Government. An effective courts system is critical to a functioning modern society, especially in these challenging times. Like most public bodies, the key task for the Courts Service is to continue to meet the expectations of all stakeholders and to deliver efficient services in a timely fashion. In addition to the change and diversity in the economic, social, demographic and cultural landscape, we have also seen very significant challenges from advances in technology that have positive and negative impacts on the efficiency of the courts system. Allied challenges arise from increasing levels of litigation and increased complexity in legislation, both of which are outside of the control of the courts but to which the service must respond. The Courts Service has had a modernising agenda since its establishment in 1999. Very significant performance and efficiency improvements have been achieved since the last time the service was before the committee in 2017. I will now outline the most significant of these.

First, I refer to regional courthouse projects, which constitute a public private partnership bundle. The project to construct or refurbish seven regional courthouses was completed in 2018. Forming part of the Government's infrastructure and capital investment plan 2016-2021, it was the largest courthouse building project undertaken outside of Dublin in the history of the State. The project saw the construction of four new courthouses in Drogheda, Letterkenny, Limerick, and Wexford and substantial refurbishment and extension works to existing courthouses in Mullingar, Waterford, and Cork. The courthouses were delivered as public private partnership projects. Finance was arranged through the National Development Finance Agency, NDFA, with payments to be made by the service over a period of 25 years. The seven-courthouse project delivered in excess of 36,000 sq. m of accommodation, including 31 courtrooms and all relevant support facilities, including consultation rooms, victim support facilities, holding cells and court offices.

The courts office review implementation was a major review in 2017 of Circuit Court and District Court combined office structures. It included recommendations to improve and better support the service delivery framework and operational model in provincial court offices. The first 18-month phase has focused on taking work out of court offices and enhancing the support available to them through the implementation of eight projects. The eight projects involve centralising jury summons administration, such as printing, posting and enveloping; centralising the service of foreign documents under EU regulations; electronic transfer of non-Garda summons; developing clear and consistent parameters for customer service; introducing a new management structure in offices; supporting succession planning; supporting technical training; and developing a more reactive and transparent resource allocation model. Work to deliver on

these projects commenced during 2018 and an office has now been established in Castlebar to deal centrally with the service of foreign documents under EU regulations and the administration of jury summonses using the printing and enveloping facilities of the Revenue Commissioners. The centralisation of tasks will result in significant efficiencies, achieving economies of scale, consistency in service delivery, automation of tasks currently carried out manually, and the redeployment of court staff to other customer service tasks. A new management structure was piloted in several offices in 2018 with arrangements in place to extend it to all provincial court offices in 2019. A new customer charter, together with clearer and consistent parameters for customer service delivery in combined court offices, is also now ready to be launched.

Inter-agency work has also taken place for the benefit of citizens. The service continued to work in partnership with other agencies and NGOs to deliver enhanced services for the benefit of courts users. Among those that are of significant benefit are arrangements for courts users with mortgage arrears. The service facilitates the work of Abhaile, a scheme to help homeowners find a resolution to their home mortgage arrears. It also facilitates staff of the Money Advice and Budgeting Service and duty solicitors who may attend Circuit Court hearings either before the county registrar or a judge of the Circuit Court.

In the area of family mediation, the service continued to work with the Legal Aid Board to increase access to mediation services in family law offices of the District Court. A project in Dublin District Family Court in Dolphin House resulted in an increase in the number of information sessions per mediator per week. A similar service continued to be provided in Clonmel, Cork, Dundalk, Ennis, Naas, Nenagh and Limerick. Efforts continued to extend the service to other court office locations around the country. Arrangements have also been put in place for victims of domestic violence in partnership with local non-governmental organisations in 18 locations nationwide. The service facilitates support and referral services for people appearing in the family law courts.

Part 10 of the Legal Services Regulation Act 2015 provides for the establishment of the new Office of the Legal Cost Adjudicators of the High Court, which has replaced the Office of the Taxing Master. It will also provide greater transparency in legal costs awarded by the legal cost adjudicators with additional governance arrangements. Work has been ongoing over the past two years to prepare for the establishment of the office and the transition from the current Taxing Master regime. The legislation was commenced on 7 October 2019 and two of the three legal cost adjudicators have been appointed. The Courts Service has put in place arrangements to support the operation of the office. These include the assignment of additional staff members to the office, a new online information and communications technology application process and the refurbishment work to the office to accommodate additional sittings and other requirements, which was completed in 2018.

The Probate Office review assessed the current probate service in terms of its rules, legislation and structures with a view to improving delivery to the next-of-kin of deceased persons. Implementation of the recommendations of the review commenced in 2018 and included improvements to existing business processes which at the end of the year resulted in significantly reduced waiting times for probate applications. A new simplified fees structure will be launched later in the year, which will make the application process easier for all court users.

The service has developed an online system for the management and administration of licensing applications to the Circuit Court and District Court. The system will provide for electronic filing of applications, including electronic payment of fees and an electronic register. The roll-out for online use by solicitors is continuing and five offices in counties Louth, Done-



gal, Sligo and Leitrim can now complete their applications online. Data show that between 1 July and the end of September 2019, 32% of applications in those counties were made using the new system. An information and communications strategy for solicitors is under way, involving seminars, posters and information on the Courts Service website. A project to provide for online applications for leave to appeal to the Supreme Court was completed in 2019.

I will now speak to the national development plan for the period 2018 to 2027. A number of proposed courthouse developments were included in the Government's national development plan, which was published in February 2018. These include further new or refurbished courthouses in regional cities and county towns where facilities remain substandard, including Galway city, Wicklow town, Portlaoise, Tralee and Roscommon, as well as further provincial locations such as An Clochán Liath in Dungloe to serve as the Gaeltacht court for the region and Tuam. They also include the family law and children court complex in Dublin, followed by the redevelopment of the Four Courts as a campus for civil courts; the construction of standard county town-type court facilities at several locations in County Dublin and in north Kildare, Bray and Navan; and regional family law centres. The precise allocation and timing of additional funding over the ten-year period of the national development plan remains to be fully determined. The outcome of further detailed planning and analysis of costs will determine the prioritisation of projects.

In addition to the provision of new and refurbished court buildings, the Courts Service is also responsible for ensuring that court accommodation is maintained to an appropriate standard which meets the needs of court users and protects the architectural integrity of our historic courthouses. In 2018, a contract was awarded to AECOM Ireland to conduct a nationwide condition survey of court buildings. As well as detailing the condition of each building, the report also sets out a 20-year planned preventative maintenance costing for each building on a year-by-year basis. It is anticipated that all surveys will be complete by the end of quarter one in 2020 and once all surveys are completed, the results will enable the Courts Service to make some key decisions about how best to provide for the maintenance of court buildings into the future.

In the area of reform, the Courts Service is extremely appreciative of the continued support from the Minister for Justice and Equality and the Oireachtas for the resources it makes available to support the continued operation of the courts system. Having an effective courts system is a key component of a well-functioning modern society and will be essential in meeting future economic challenges. We recognise that enhancing and reforming our processes and procedures can make an important contribution. We can point to our track record of investment in ICT as evidence of our commitment to the improvement of services. In particular, the implementation of our ICT programme over the past two years has resulted in the optimisation of courtroom and court support technology, including the roll-out of digital audio recording to all court jurisdictions and venues and extended use of video link and video conferencing, which has resulted in significant efficiencies across the justice sector. Court-generated financial transactions valued at approximately €1.8 billion have been transformed and centralised in a shared service centre utilising modern financial accounting technology. The development of case management and e-filing projects have been mentioned.

The funding provided in recent years for investment in ICT has allowed the Courts Service to continue its programme of maintenance and development of our ICT infrastructure, as well as driving the implementation of new software for the benefit of staff, judges and courts users. However, like many organisations, the Courts Service cannot afford to stand still. The increased



use of technology is key to meeting the challenge of maintaining services to the Judiciary, staff, the legal profession and the public, and to meet legislative requirements and the demand for additional eGovernment and online services. We recognise that ICT is the enabler of modernisation and reform initiatives, supporting increased interaction with other justice agencies and Departments and providing improved customer service. Significant benefits have already been achieved through the ICT projects already in place for a range of stakeholders, including savings for the Exchequer and better service to court users. The Courts Service's ICT strategy has charted the course for the maintenance of infrastructure, delivery of online services and the development of courtroom technology for the past three years.

A major challenge in the implementation of the strategy continues to be projects that require to be given priority over those outlined in the strategy. In 2019, with the assistance of KPMG, a new plan for an ICT operating model was developed and it is being prioritised for resourcing. At the same time, a new long-term strategy for the delivery of Courts services for the next ten years has been developed and consultations with key stakeholders will commence shortly on its implementation.

It is critical that the Courts Service has the capabilities and operating model to continue its reform agenda, meet the challenges we are facing and capitalise on opportunities as they arise. In keeping with the renewed focus at government level on key reforms in the Department of Justice and Equality and in the civil and wider public sectors, the Courts Service continues to take a co-ordinated and focused approach to the implementation of change in the organisation. To this end, the Courts Service has recently established a strategy and reform directorate to provide leadership in the definition of the systemic change necessary to deliver tangible change to courts users. The recruitment of a chief information officer to lead the ICT function is also essential to enable the service to meet the challenges of the future.

Our strategic plan for 2018 to 2020 sets out the strategic priorities and objectives of the Courts Service. It was designed to ensure that we can continue to deliver effectively on our key legislative mandates over the period of the plan. Significant progress is being made in the review and reform of our structures and service delivery with a focus on maximising the use of technology and rationalising processes. My role as chief executive officer is to ensure that the Courts Service supports access to justice for citizens and delivers improved value for money for the taxpayer.

**Chairman:** I thank Ms Denning for that very comprehensive opening statement. The first speaker, Deputy MacSharry, will have 20 minutes, and the following speaker, Deputy Burke, will have 15 minutes. Other members will have ten-minute slots. They are Deputies Catherine Murphy, Cullinane, Connolly and Munster. I ask people to keep to those times and see if we can get everybody done with questions before the voting session in the Dáil.

**Deputy Marc MacSharry:** I welcome our guests and I offer my best wishes to Ms Denning in her new role. The Courts Service has a number of valuable properties but no valuations were carried out in 2018 according to paragraph 2.2 of the chapter in the Appropriation Accounts 2018 relating to Vote 22. The paragraph states, "40 buildings and four sites have been revalued". When were they revalued?

**Ms Angela Denning:** I am informed that the properties were valued in 2016 and 2017 and we revalue every five years.

**Deputy Marc MacSharry:** It is every five years. The valuation for the seven public pri-

vate partnership properties are to be considered this year. What is the nature of those? Are they built for the service, owned by the developer and leased by the service?

**Ms Angela Denning:** They were built by the developer and we pay a unitary charge per year. We also pay for services involved in the operation of the courts. For example, there are jury-minding services at the Criminal Courts of Justice in Dublin. Other services include cleaning, day-to-day maintenance, preventative maintenance, portering and caretaking.

**Deputy Marc MacSharry:** Ms Denning mentioned jury minding. What is that?

**Ms Angela Denning:** There is jury minding in Dublin. Outside of Dublin, the Garda minds juries. In Dublin, part of the contract means that a trained staff member of the PPP company minds the juries. That staff member ensures that jury members get into the jury room in the morning, are brought to court, are brought for their lunch, are brought back and no one interferes with the jury's operation.

**Deputy Marc MacSharry:** Are such staff members law enforcement officers?

**Ms Angela Denning:** They are outside of Dublin, given that they are members of the Garda. In the Criminal Courts of Justice, however, that function is part of the operations of the building and the staff in question are specially trained.

**Deputy Marc MacSharry:** What training do they undergo, where do they get it and what qualifications have they?

**Ms Angela Denning:** They are hired by the PPP company, G4S. I am told that some of them are ex-members of the Garda. They receive training.

**Deputy Marc MacSharry:** Where are the four sites?

**Ms Angela Denning:** Is the Deputy referring to the current PPP bundle?

**Deputy Marc MacSharry:** I am looking at the notes to table 2.2 on page 11 of the appropriation account. They refer to 40 buildings and four sites that have been revalued. One of them is on Church Street, Dublin.

**Ms Angela Denning:** That is the Hammond Lane site.

**Deputy Marc MacSharry:** We will get to that, but where are the others?

**Ms Angela Denning:** Clifden, Dungloe, Basin Street, Naas and Tuam. As of yesterday evening, I signed a contract for Portlaoise as well.

**Deputy Marc MacSharry:** Are those lands owned and vacant? Are they greenfield sites?

**Ms Angela Denning:** We own the sites. Regarding the site at Hammond Lane, we have entered into an arrangement with builders operating in the Smithfield area for them to use it as a site depot, under a licence for a period of one year with two six-month extensions if required, so that we avoid the vacant tax levy.

**Deputy Marc MacSharry:** I will get to that in a second. Are the other sites just greenfield sites?

**Ms Angela Denning:** No. The site in Naas is adjacent to the courthouse. The situation in

Dungloe is similar. The site is Tuam is also next door to a courthouse.

**Deputy Marc MacSharry:** What are the plans for them? Will the Courts Service sell them?

**Ms Angela Denning:** The current intention is to renovate the buildings. As sites become available-----

**Deputy Marc MacSharry:** The Courts Service needs them for parking or-----

**Ms Angela Denning:** As the Deputy will understand, most courthouses are located in town centres and it is difficult to acquire sites in close proximity. When they become available, it is strategically a good idea to purchase them at that point because they might not be available otherwise when one comes to redevelop the sites.

**Deputy Marc MacSharry:** The Hammond Lane site was for the new family law and children's court.

**Ms Angela Denning:** Yes.

**Deputy Marc MacSharry:** It was bought 20 years ago for £4 million.

**Ms Angela Denning:** I believe so.

**Deputy Marc MacSharry:** The Minister-----

**Chairman:** Ms Denning is new, so if other witnesses have information-----

**Deputy Marc MacSharry:** She can confer with anyone. In 2015, the then Minister announced that the complex would be built as part of a PPP and completed by 2020 for €40 million.

**Ms Angela Denning:** Yes.

**Deputy Marc MacSharry:** I will hazard a guess and say that will not happen.

**Ms Angela Denning:** Correct.

**Deputy Marc MacSharry:** Why is that?

**Ms Angela Denning:** It is our intention to build a family law complex on the Hammond Lane site. When the site was acquired by the Office of Public Works, OPW, drawings were done to maximise its use. They included a complex of 21 or 22 family law court rooms, the children's court and facilities for the Supreme Court. Those plans came in at €141 million. Currently, the Department of Justice and Equality has an envelope for PPP projects of €150 million. Of that, €80 million has been allocated to the Courts Service and €70 million has been allocated to the Garda for three Garda stations. We asked the OPW to redraw the plans for Hammond Lane using €80 million only. The first drawing that came back provided for 12 or 13 family law court rooms. The Courts Service board rejected that earlier this year. Subsequently, the Department asked us in late July to include the children's court in the €80 million. At the last Courts Service buildings committee and board meeting, the drawings came back to us from the OPW. They would accommodate between eight and ten court rooms, including the children's court, for €80 million. The Courts Service board considered that that would not be good value or accommodate our current requirement for family law court rooms in Dublin.

Since we own various other properties around Dublin, we have now asked the OPW to see whether if, in the balance of the Courts Service's estate, the children's court could be accommodated somewhere else and to give us a price as to how much a renovated building would cost. We have also asked it to see what we could do with Hammond Lane for the €80 million, given that we have a number of other priorities. For example, the lease on our headquarters at Phoenix House will be up shortly and the staff located there will have to be accommodated somewhere else.

We would like to maximise Hammond Lane for the purposes of family law. To say that family law facilities in Dublin are appalling is not an overstatement. We would like to do our best for family law users. That is our priority. We have a building in Smithfield and own the old traffic court building next to it. We are trying to see whether we can do something with those two in terms of the children's court.

This matter will come back to the next board meeting in December. I hope that the OPW will revert to us in the meantime. It is our intention to proceed with a family law building on Hammond Lane. The difference between us and the Department is the €80 million as opposed to the €141 million that would develop the entire site.

**Deputy Marc MacSharry:** It was before Ms Denning's time, but who kept moving the goalposts? According to the then Minister in 2015, the price was going to be €40 million. Did the board move the goalposts or did the Government decide that it needed more or less out of the site? I am interested in knowing whether additional demands were made of the Courts Service to do a bigger, better and wider job. How did the figure go from €40 million to the approximately €140 million in four years, notwithstanding the precedent of the national children's hospital where the price has risen much more quickly?

**Ms Angela Denning:** I understand that at the outset, €40 million was what people believed it would take to build the building. After surveyors examined the site and the accommodation that was required to be transferred into it, the price was found to be €141 million.

**Deputy Marc MacSharry:** People would be interested in knowing who it was who thought that it would cost €40 million. Was it the OPW?

**Ms Angela Denning:** I do not know, but I assume it was based on the cost of delivering-----

**Deputy Marc MacSharry:** We would be interested in knowing-----

**Ms Angela Denning:** I can find out and revert to the committee.

**Deputy Marc MacSharry:** -----whether it was down to a mistake at official level in the OPW or wherever. Without surveyors, one cannot put a price on what will happen.

**Ms Angela Denning:** All of the pre-building work has been completed on the site, including archaeology and the ground survey. If we knew exactly what we could build there for €80 million, we could proceed in the morning. There is a lot more-----

**Deputy Marc MacSharry:** I understand that, but the figure was €40 million and is now approximately €140 million. That is the problem. Does any of the other witnesses wish to speak? Any of them can contribute.

**Ms Angela Denning:** I understand that €141 million has been the figure for the past two to three years. I have seen the drawings. It is a comprehensive building of seven storeys' height.

**Deputy Marc MacSharry:** In 2015, the Minister spoke about €40 million. That was only four years ago. Somewhere in the space of 12 months, the price increased by €100 million.

**Ms Angela Denning:** I do not believe that the €40 million was a Courts Service figure, but I will establish where it came from and will revert to the committee.

**Deputy Marc MacSharry:** That is what is important. The Courts Service depends on the OPW to do everything for it. Was it the OPW that originally said €40 million?

**Ms Angela Denning:** I do not know.

**Deputy Marc MacSharry:** Exactly. If there is an incompetence somewhere, we need to identify it and try to rule it out so that it does not happen to the Courts Service again.

**Ms Angela Denning:** I do not know whether there was an incompetence either. I do not know where the figure came from, so I will revert to the committee.

**Deputy Marc MacSharry:** Ms Denning would not call it that, but I would.

The vacant site levy to be applied by Dublin City Council to Hammond Lane would be €700,000.

**Ms Angela Denning:** It is not a vacant site now.

**Deputy Marc MacSharry:** So I believe. Will Ms Denning tell us a bit about the arrangement?

**Ms Angela Denning:** It is a one-year licence to the builders. Sisk is building a site for Tailte Éireann and another site in Smithfield. Sisk is using this as its site depot.

**Deputy Marc MacSharry:** To store its trucks.

**Ms Angela Denning:** It has trucks, containers and prefabs.

**Deputy Marc MacSharry:** Supplies and all of that stuff.

**Ms Angela Denning:** It is still doing work there.

**Deputy Marc MacSharry:** It got planning permission for its own business without the benefit of that depot.

**Ms Angela Denning:** It has planning permission for the other two sites.

**Deputy Marc MacSharry:** Of course it has. Is the zoning consistent with a depot?

**Ms Angela Denning:** I do not know what the zoning is for the area. It is the city centre-----

**Deputy Marc MacSharry:** Did the Courts Service apply for a change of use for the year?

**Ms Angela Denning:** We do not own the site. The OPW does.

**Deputy Marc MacSharry:** It is an interesting issue. Were I a private developer who wanted to duck out of the vacant site levy, I would not get away with licensing it out.

**Ms Angela Denning:** I do not know what the arrangement is in relation to planning.



**Deputy Marc MacSharry:** Can you get us a note on it, albeit that it will be from the OPW? The Courts Service is associated with the ownership of it.

**Ms Angela Denning:** Of course.

**Deputy Marc MacSharry:** It is for the purposes of the Courts Service. A three-card trick has been used to get out of the €700,000 vacant site levy and the Courts Service is the beneficiary. I do not think that looks good and a standard developer would not be able to do that. A €700,000 vacant site levy would bank €140 million in borrowings. If it is not GDPR, commercial sensitivity is used as an excuse not to answer. Can Ms Denning tell us how much they are paying Sisk?

**Ms Angela Denning:** The arrangement is with the Office of Public Works and not with the Courts Service.

**Deputy Marc MacSharry:** I ask for a note on zoning. Is it permitted that the site be licensed out or have we done a three-card trick to duck out of the €700,000? Who made the mistake of mixing up the €40 million and the €140 million?

**Ms Angela Denning:** I do not know that it is a mistake but I will find out and revert to the Deputy.

**Deputy Marc MacSharry:** I do not expect Ms Denning to confirm it was a mistake but I can get away with saying it. A change from €40 million to €140 million does not go so well.

**Chairman:** It is for the Courts Service or the OPW to provide the note.

**Deputy Marc MacSharry:** The Courts Service is present.

**Chairman:** There are also discussions with Dublin City Council on the matter.

**Ms Angela Denning:** I will consult with the Office of Public Works.

**Deputy Marc MacSharry:** Ms Denning said the four sites were reflected in the appropriation account.

**Ms Angela Denning:** Hammond Lane is not one of the sites in the appropriation account.

**Deputy Marc MacSharry:** Is it not?

**Ms Angela Denning:** No. It is not on our balance sheet.

**Deputy Marc MacSharry:** Okay. I ask Ms Denning to request this information from the OPW and they can come back to us with answers.

**Ms Angela Denning:** I will do that.

**Deputy Marc MacSharry:** Under compensation and legal costs, there were 30 claims by members of the public in 2018.

**Ms Angela Denning:** Court buildings are busy public areas and, unfortunately, accidents happen.

**Deputy Marc MacSharry:** Absolutely. Would these typically be people falling and so on?

**Ms Angela Denning:** Yes, there were trips, falls and slips. A lot of the historic buildings have steps. The State Claims Agency deals with everything on our behalf.

**Deputy Marc MacSharry:** Who sits on the board of the Courts Service? Are there any lay people or people from a variety of backgrounds?

**Ms Angela Denning:** There are. The legislation establishing the Courts Service sets out the composition of the board. A number of judges are on it as representatives of each of the courts and there is a nominee elected by the judges of each of the courts. I am a member of the board and the chairman of the Bar Council is on it at the moment, as is the president of the Law Society. A staff member, elected by the staff of the Courts Service, is there and there is a nominee of the Department of Justice and Equality. We have a nominee to represent the consumers of the Courts Service, who works for a family law NGO, while there is somebody representing ICTU and somebody with relevant business knowledge and experience of commerce and financial administration.

**Deputy Marc MacSharry:** Who sits on the audit and risk committee?

**Ms Angela Denning:** The audit and risk committee is not entirely made up of Courts Service board members. There are some members of the board, some external members chosen for their business expertise, and a representative of the Department of Justice and Equality.

**Deputy Marc MacSharry:** There are independent people on that committee. Has the Courts Service had any protected disclosures since the Act came in in 2014?

**Ms Angela Denning:** We have received one per year for each of the past three years but all were found not to come within the legislation.

**Deputy Marc MacSharry:** They were not protected disclosures, then.

**Ms Angela Denning:** They were not.

**Deputy Marc MacSharry:** Does the Courts Service employ a public relations firm?

**Ms Angela Denning:** We have a contract with a media adviser who deals with various things such as answers to parliamentary questions and other things. He is not a media adviser as such but there are a lot of questions from journalists on a daily basis about court cases and he would assist them in deciding on where the line is between what can and cannot be reported. He did a lot of work on a case in the criminal courts of justice recently, assisting the media in access to the court and things like that where special arrangements had to be put in place.

**Deputy Marc MacSharry:** Do communications people work as staff in the courts?

**Ms Angela Denning:** The Courts Service has an information officer. At the moment, there is a vacancy at principal officer level in that area as the last incumbent retired earlier in the year. We are about to make a decision on a replacement and I would like to employ a head of communications because, as we embark on a new reform programme, we will need extensive communications with stakeholders. We will need to be a bit more outward facing in the future.

**Deputy Marc MacSharry:** Fines have gone down by 38%.

**Ms Angela Denning:** Mr. Mullan will deal with this.

**Deputy Marc MacSharry:** In 2014, we transferred €11.2 million in road traffic and other

finances to the Exchequer but last year it was €6.9 million. How is that?

**Mr. Peter Mullan:** There are a number of reasons. The new fines regime was introduced by the Oireachtas by the Fines (Payment and Recovery) Act 2014 but it was not commenced until 11 January 2016, for a variety of reasons. A lot of ICT work needed to be done by the courts and there were certain procurement issues in that period. The new regime will have been in place for four years by January next year.

**Deputy Marc MacSharry:** Why would a new regime have any impact on this?

**Mr. Peter Mullan:** I am about to explain. One of the purposes of the Act was to put in place a regime for people who could not pay fines. Prior to this, people who could not pay small fines such as those relating to their television licences were imprisoned for a short time, often leading to a revolving-door situation with other prisoners having to be released to accommodate them. If a fine was not paid within the default period, it would be re-entered by way of a fines notice, the matter would come back before a court and a District Court judge would decide how the matter would be dealt with. Various orders were available to the judge, such as making an attachment order, requiring community service, making a recovery order or, ultimately, imprisonment. The policy of the Department was to deflect people who could not pay small fines away from entering the prison regime. The working out of the Act has not been exactly as envisaged by the Department and it has meant the Act has not operated as it should. Accordingly, the payment of fines to the Exchequer has reduced considerably.

**Deputy Marc MacSharry:** Is this down to judges not fining people?

**Mr. Peter Mullan:** No, it is most certainly not that.

**Deputy Marc MacSharry:** Is it reasonable to say that at least as many fines are being issued as previously?

**Mr. Peter Mullan:** Yes, it is.

**Deputy Marc MacSharry:** For all our improvements, our collection has gone down by 38%.

**Mr. Peter Mullan:** A court procedure has been put in place to deal with fines notices but that is not operating in the way it should.

**Deputy Marc MacSharry:** In 2018, €6.9 million in fines were transferred to the State. How much was levied?

**Mr. Peter Mullan:** The level of District Court, Garda and other fines in that period has remained quite consistent. However, the Fines (Payment and Recovery) Act 2014 has not operated in the manner that was expected. It was always going to take a two-year period from when it commenced in 2016 to see how it was going to work. It provided, for the first time, for people to be able to pay a fine by instalments. That had never before been in existence. Instalment was a practical way by which people could pay fines. If fines are paid by instalment, there will be a delay in the moneys coming to the Exchequer. It takes a number of years to see how this will work out. There was an element of having to wait to see how it would work.

**Deputy Marc MacSharry:** Is that happening?

**Mr. Peter Mullan:** It is, yes.

**Deputy Marc MacSharry:** Is everybody opting to pay a €500 fine by the week? Is that what is going on?

**Mr. Peter Mullan:** There is a minimum requirement with regard to the level of fine for the instalment provision to be used. It is fair to say, however, that the anticipated use of instalment was higher than what has been the case.

**Deputy Marc MacSharry:** Who do we blame for this?

**Mr. Peter Mullan:** The answer to that is that the legislation has not worked in the way it was envisaged. It is based on one fundamental premise-----

**Deputy Marc MacSharry:** Do we blame the Department?

**Mr. Peter Mullan:** Sorry Deputy, if I could just finish?

**Deputy Marc MacSharry:** I know but I am very limited with my time.

**Mr. Peter Mullan:** Unfortunately it is a complicated issue and to answer it properly I will have to go through it properly, if the Deputy does not mind.

The Fines Act requires a number of different elements to operate. It requires a fine to be levied, the fines notice to go unpaid, a fines enforcement notice to be served and then for a person to reappear before the court. This takes a period of time. We have found that large numbers of people do not appear before the courts. Up to one third of defendants do not appear before the courts for a second appearance. It is for this reason bench warrants are issued. Those bench warrants must then be executed by the Garda to bring people back to the system. It is fair to say this is one of the reason the Fines Act does not operate in the manner envisaged.

Earlier this year, the law was clarified with regard to the traditional prosecutor being in court. Traditionally, a garda in court was the prosecutor and it was that garda who made the application for a bench warrant. Because there was no garda present, certain judges took the view they should not issue a bench warrant, as there would be no application. There was a case stated to the High Court on the matter and it was clarified in May this year that there is no necessity to have a prosecutor in court and that the appropriate order is not to strike out the matter if the prosecutor is there. This is another reason the Fines Act-----

**Deputy Marc MacSharry:** Can I ask-----

**Mr. Peter Mullan:** The final issue, and I will be short on this, is that all of the default orders that could be made, whether community service, attachment orders, recovery orders or imprisonment, all require the person to appear before a District Court judge for a second court appearance. It is fair to say the number of these appearances before judges has been a lot lower. None of the default provisions can kick in until there has been an appearance and they have not appeared.

**Deputy Marc MacSharry:** Why do we not revert back to what happened before this?

**Mr. Peter Mullan:** I am moderately new in my role as I started in the summer of last year. It became obvious to me that the Fines Act was not operating in the manner that might have been envisaged. I raised the matter internally within our structure and the matter was raised with the Courts Service board in December last year. It directed the Chief Justice to write to the Minister for Justice and Equality in January, which he did, outlining that the Fines Act was not

operating in the manner envisaged. It is fair to say the Department responded to this moderately quickly and set up a high-level working group. That work is ongoing with a view to examining solutions to this complicated issue to try to get the present system to work better or if legislative amendments are required to see how we would do this.

**Chairman:** Mr. Fallon from the Department also wishes to speak.

**Deputy Marc MacSharry:** Great.

**Mr. Richard Fallon:** I want to augment what Mr Mullen has said. The Chief Justice was in contact with the Minister in March and straight away, we established a high-level working group which involves the Department, the Courts Service, the Garda Síochána, prisons, the Office of the Director of Public Prosecutions, the Attorney General and the Probation Service. It is useful to look briefly at its terms of reference. We are looking at-----

**Deputy Marc MacSharry:** Of the high-level working group?

**Mr. Richard Fallon:** Yes. We are trying to preserve the policy of minimal committals because in the past, we have seen people go to jail for not paying fines and then being let out after two days. The idea is to find an effective way of observing this while, at the same time, maximising the effectiveness of the alternative sanctions available to the courts in cases of default and, overall, ensuring the integrity of the criminal justice process at this level is maintained. The group is meeting and, as has been indicated, there will be areas, such as the legislation, that can be tightened up. This is one of the solutions being considered.

**Chairman:** Deputy-----

**Deputy Marc MacSharry:** In fairness, the witness have to give detailed responses.

**Chairman:** I know. We got long answers.

**Deputy Marc MacSharry:** The reality is, as is standard practice in the State, we are complicating something that is simple. The levels of fines are consistent and across the Revenue Commissioners and the fines and fees that are applied we were taking in €7.2 million and we are now taking in €5.7 million. We were taking in €11.2 million and we now take in €6.9 million. A total of 33.33% of our fines are not being paid. The witnesses are telling me the reason was to keep people out of prison and not put people in jail or send them to Castlereagh.

**Mr. Richard Fallon:** No-----

**Deputy Marc MacSharry:** That is what you just said.

**Mr. Richard Fallon:** Sorry Deputy, you are after putting words in my mouth.

**Deputy Marc MacSharry:** All right, here is the thing.

**Mr. Richard Fallon:** No, hold on. You have to let me answer if you are interpreting what I said. What I said was-----

**Deputy Marc MacSharry:** I am only looking at the figures.

**Mr. Richard Fallon:** The Deputy is looking at the figures but who is not paying the fines? It is not the courts that are not paying the fines, it is citizens-----



**Deputy Marc MacSharry:** Yes, but why does it have anything to do with legislation then? If I am fined €100, I pay my money-----

**Mr. Richard Fallon:** No, we are looking at ways to make the legislation more enforceable. That is all I am saying. What I am saying is that it is not a question of not locking up people; that does not offer a simplistic solution, particularly for people in dire economic situations, and we must factor all of this into the enforcement of the fines regime. We are reviewing the whole thing lock, stock and barrel with a view to finding a way to secure a higher level of compliance with fines but I have to say-----

**Deputy Marc MacSharry:** Would nobody have-----

**Chairman:** When was the legislation brought in?

**Mr. Richard Fallon:** It was 2014.

**Chairman:** When did it commence?

**Mr. Peter Mullan:** In 2016.

**Chairman:** Legislation was introduced in 2016 and now Mr. Fallon is saying that it needs to be reviewed lock, stock and barrel with regard to how it is implemented. Everything that has been said here was foreseeable in advance of the legislation being passed. All of these issues were foreseeable.

**Mr. Richard Fallon:** Yes but the legislation was debated in the Houses and went through with reforms to make the fines system more amenable, from a policy point of view, to compliance.

**Deputy Marc MacSharry:** It clearly has not worked and the proof is in the pudding. While the intentions were brilliant, it has not worked. Why is the default position not to revert back to what it was before rather than have a high-level group and - I love this line - an administrative merry-go-round whereby in about six years' time, we will have it all figured out and at that stage cumulatively one third of the money that was due to the State will not have paid. This is money we used to collect very efficiently back in 2014 but since we legislated for it, we are incapable of doing this. I would love to know who is to blame and if it is the Minister or the Government of the day we will take it up with them.

**Chairman:** Or us, as the Oireachtas, for passing the Bill.

**Deputy Marc MacSharry:** A high level group. I have no doubt-----

**Chairman:** I am been straight about it.

**Deputy Marc MacSharry:** I have no doubt that would be the case.

**Chairman:** The Deputy has gone over 30 minutes and everyone else-----

**Deputy Marc MacSharry:** Yes but it is-----

**Chairman:** I know.

**Deputy Marc MacSharry:** Fifteen of them were confusing me.

**Chairman:** I will move on to Deputy Burke.

**Deputy Marc MacSharry:** Can I just ask one question to which the witnesses can respond?

**Chairman:** Grand. One last question.

**Deputy Marc MacSharry:** I will not come in later to annoy everyone. Is it possible to get a statistic on how many people in 2018 were convicted of being in possession of drugs with a value of more than €13,000?

**Mr. Peter Mullan:** The Deputy must ask a parliamentary question on that so it will be answered.

**Deputy Marc MacSharry:** I am asking it here and it will save the parliamentary question. Is that all right?

**Mr. Peter Mullan:** How could I possibly answer?

**Chairman:** It can be sent on to us.

**Deputy Marc MacSharry:** I said it could be sent to us. It can be sent to us. I did not ask for it now.

**Mr. Peter Mullan:** We can absolutely answer that. There is no issue with that. It can be answered.

**Deputy Marc MacSharry:** That was part of the question. How many people were convicted for having drugs with a value of more than €13,000? What proportion of them were given the ten-year mandatory sentence? Is it possible to get this information?

**Chairman:** Supply the information in writing to the committee.

**Deputy Peter Burke:** I thank the witnesses for their attendance. On page 127 of the annual report it is noted that debt increased by approximately 63% compared with last year, to €39 million. Is there a listing of debt that is not in compliance with the orders originally issued by a court? Is there a figure for the amount that is outside the terms of payment issued by a court?

**Ms Angela Denning:** Is the Deputy asking how many fines have not been paid within the required time?

**Deputy Peter Burke:** Yes. Is there a year-by-year breakdown? What is the composition of the debt?

**Ms Angela Denning:** We do not have that information with us but we will provide it to the committee.

**Deputy Peter Burke:** What percentage of the €39 million noted in the 2018 accounts is outside the terms issued by a court?

**Ms Angela Denning:** I ask the Deputy to explain his question.

**Deputy Peter Burke:** I refer to offenders who have been directed by a judge to pay a fine but not done so.

**Ms Angela Denning:** Yes.

**Deputy Peter Burke:** What is the value of fines that have been imposed by a court but not

paid?

**Mr. Peter Mullan:** I apologise; I misunderstood the question. It was commenced on 11 January 2016 and in that year fines to the value of €21 million were imposed while the value of fines recovered was €8.7 million. In 2017, fines to the value of €22 million were imposed and approximately €8 million was recovered. In 2018, €21 million was-----

**Deputy Peter Burke:** Some of the fines levied towards the end of the period could be within the terms of-----

**Mr. Peter Mullan:** I think-----

**Deputy Peter Burke:** Either the witnesses have a figure for that or they do not. What is the segmentation of the debt? Do the witnesses have the various headline figures relating to fines that exceed the terms of an order of a court and the extent by which they exceed the terms? I am trying to determine what type of management control systems are in place for escalating the debt.

**Ms Angela Denning:** It is not a debt to the Courts Service; it is a debt to the Exchequer.

**Deputy Peter Burke:** It is the job of the Courts Service to collect the debt.

**Ms Angela Denning:** Under the Fines Act, when a fine is not paid or the first instalment is not paid within the correct time, the Courts Service must issue a fines notice. We have figures in that regard, which we will provide to the committee.

**Mr. Peter Mullan:** I have those figures. Fines notices relate to fines not paid within the default period and for which new enforcement summonses have issued. Now that the law on the matter has been clarified, a further 10,000 new enforcement summonses will be issued, beginning in January. Up to September 2017 there is €4 million-----

**Deputy Peter Burke:** What is the figure in monetary terms?

**Mr. Peter Mullan:** A sum of €4 million. A further 80,000 fines have not been paid. There is €23 million in outstanding enforcement notices, which we-----

**Deputy Peter Burke:** There is €27 million-----

**Mr. Peter Mullan:** That amount remains outstanding.

**Deputy Peter Burke:** Some €27 million of the €39 million debt at the period end noted in the accounts is potentially outside the terms of what was directed.

**Ms Angela Denning:** Yes.

**Deputy Peter Burke:** That is a significant amount.

**Ms Angela Denning:** It is.

**Mr. Peter Mullan:** It is.

**Deputy Peter Burke:** Do the witnesses have confidence in the collection process if that scale of debt-----

**Ms Angela Denning:** As Mr. Mullan outlined, the issue is not the collection process. We

have a very good process in place to collect fines. The difficulty is that when a person does not attend court on foot of the fines notice he or she receives, we have no mechanism to bring him or her into court other than to issue a-----

**Deputy Peter Burke:** One could not have confidence in that system.

**Ms Angela Denning:** The system definitely causes problems.

**Deputy Peter Burke:** Ms Denning does not have confidence in it. If the figures are as stark as the witnesses have outlined, it is clear that the system is not working.

**Mr. Peter Mullan:** As I outlined to Deputy MacSharry, the Courts Service board was quite critical of the fines legislation before it was enacted. However, when it was enacted, we brought in the technical expertise to ensure it was enforced. When it became clear last summer that it was not working in the manner intended or collecting the level of moneys it ought, we raised that with the Courts Service board and the Chief Justice raised the matter with the Minister for Justice and Equality in January of this year. To answer the Deputy's question in simple terms, it is not working in the manner it should.

**Deputy Peter Burke:** Some 72% of the debt is outside its terms.

**Mr. Peter Mullan:** It is not Courts Service debt; it is Exchequer debt. The answer-----

**Deputy Peter Burke:** The Courts Service is tasked with collecting the debt.

**Mr. Peter Mullan:** Yes. Now that the law has been clarified in the case to which I referred, a further 10,000 new enforcement summonses will issue in January and that will-----

**Deputy Peter Burke:** What value do those 10,000 summonses represent?

**Mr. Peter Mullan:** Some €4 million. Thereafter, a further 80,000-----

**Deputy Peter Burke:** There is €22 million-----

**Mr. Peter Mullan:** After that, yes. The reason we have not-----

**Deputy Peter Burke:** What is the delay in collecting that €22 million that comprises the lion's share of the debt?

**Mr. Peter Mullan:** There is no delay. We will issue the summonses in due course. If I were to direct that fines notices be issued in the morning, no other business would be done in the District Courts. Family, criminal and civil law proceedings-----

**Deputy Peter Burke:** Has the Courts Service escalated this issue to the Chief Justice, the highest level?

**Ms Angela Denning:** Yes. A review group has been set up in the Department and we participate on it.

**Deputy Peter Burke:** This issue is at crisis level.

**Mr. Peter Mullan:** I would not characterise it as being at crisis level. It is fair to say that the Courts Service-----

**Deputy Peter Burke:** This goes to the core of the administration of justice. If a court

imposes a fine on a perpetrator but he or she does not pay his or her debt to society, the justice system is not working.

**Mr. Peter Mullan:** It is for the Deputy to characterise it as such. As soon as it became obvious to the senior management team of the Courts Service that there was a difficulty in this regard, we brought it to the Courts Service board-----

**Deputy Peter Burke:** It is more than a difficulty.

**Mr. Peter Mullan:** It is a serious difficulty. We brought it to the Courts Service board, which wrote to the Minister on the matter. We are involved in the high-level group.

**Deputy Peter Burke:** The matter needs to be escalated further.

I refer to page 130 of the report, which details poor box allocations for the year. The Law Reform Commission raised the possibility of reforming the poor box system more than a decade ago. Legislation in that regard was in train. In each of the local districts, a person who committed an offence goes into his or her local court and the money is paid into an account. Does each district have a separate account to hold the poor box fund or is it held in a universal fund covering the 23 districts and the Dublin metropolitan region?

**Mr. Peter Mullan:** It is a universal fund audited by our audit committee and of which we have sight.

**Deputy Peter Burke:** How is it managed? If a judge directs the payment of a sum to a worthy cause, does the Courts Service write a cheque to cover it?

**Mr. Peter Mullan:** It requires an order from a District Court judge. Each such order is published in our annual report. Each payment to the charities and organisations that have received moneys is in our annual reports.

**Deputy Peter Burke:** Has the Courts Service raised any risk assessment issues in that regard?

**Mr. Peter Mullan:** One of my colleagues is responsible for internal audit. I can verify that it is a robust process, having been subject to it. She keeps an eye on that matter throughout the period.

**Deputy Peter Burke:** Mr. Mullan stated that the Courts Service internal audit is robust. Would it surprise him to learn that district 17 accounted for 25% of all poor box allocations directed in 2018?

**Ms Angela Denning:** That is a matter for the Judiciary.

**Mr. Peter Mullan:** That is done subject to judicial order.

**Deputy Peter Burke:** I understand that. I am asking how it is managed. How does the Courts Service escalate concerns regarding how money is issued or spent? I acknowledge it is a matter for the Judiciary to make a determination in that regard but in the context of how the Courts Service manages processes, it is obliged to raise any concerns it has regarding how the money is allocated.

**Mr. Peter Mullan:** The process is robust in respect of the organisations to which money is paid, the level of money paid and the associated accounting. What is the location of district 17,



which accounted for 25% of allocations?

**Deputy Peter Burke:** Tralee.

**Mr. Peter Mullan:** Historically, the District Court judge there used the poor box in the manner he did. That is a matter of judicial order which we must respect, and that is what we do.

**Deputy Peter Burke:** I understand that, but it seems to me that-----

**Mr. Peter Mullan:** Until the law is changed in that regard-----

**Deputy Peter Burke:** Has the Courts Service recommended that the law be changed?

**Mr. Peter Mullan:** We indicated that we would welcome a change in the law on this matter because it would give us greater clarity on how these funds are used.

**Deputy Peter Burke:** I need to judge how the Courts Service is managed and how it escalates concerns. I accept that use of the poor box is at the discretion of judges, but the court in Ennis accounted for €3,750 while the court in Tralee accounted for almost €500,000. A court in a small rural area is allocating more than the court in Tallaght, which is in the Dublin metropolitan region. That would look highly unusual to a person with an audit background. It is a matter I would have expected to be escalated to the highest level of the organisation.

**Mr. Peter Mullan:** The Department is aware of the matter. The criminal justice (community sanctions) Bill proposed to abolish the court poor box and replace it with a statutory reparation fund. It is fair to say that we would welcome that. Clearly with the amount of legislation that has to come through this House, it has obviously been delayed at that stage. That is clearly a reform we would welcome.

**Deputy Peter Burke:** I am not casting any aspersions on any individual. Based on good audit practice, if any one individual is directing control over where a fund should go, there is no connected-persons assessments of where it should go. There is no risk assessment carried out in terms of the funds. That is a gaping hole in terms of the management and operation of the process.

**Ms Angela Denning:** The Legislature has given this discretion to the Judiciary.

**Deputy Peter Burke:** I am not doubting that. However, like the debt, that is clearly not working. It is the job of the Courts Service to escalate these matters. If the Courts Service is managing it, it needs to raise queries on it.

**Mr. Peter Mullan:** And we have. As I said, we have very clearly indicated that a statutory reparation fund would be something we would welcome.

**Deputy Peter Burke:** I recently raised here the disqualification of drivers and driver licences that were surrendered. In 2011, 2012 and 2013 only 6% to 7% of those disqualified through the courts handed back their licences. In response to a parliamentary question, the CEO of the Road Safety Authority, RSA, advised that the RSA and the Courts Service were engaged in an exercise to reconcile data that involves managing and matching information between the Courts Service and persons identified in the courts against the consequential record in the National Vehicle Driver File. The RSA anticipated that this exercise would be completed by mid-January 2019. Has the Courts Service completed that body of work with the RSA? Are these figures accurate?

**Mr. Peter Mullan:** No, that exercise is still ongoing. I think it is important to point out that one of the reasons the data between the RSA and us does not always exactly match is that it is a moving target. People appeal their cases and cases are heard. We measure the court order that is made. There is a 14-day period in which that order can be appealed. The RSA measures the actual disqualifications and clearly disqualifications can be higher because people can get penalty points that combined go over 12. So, there will never be an exact match between the two.

**Deputy Peter Burke:** If there were a rate of in excess of 80%, I might give Mr. Mullan some leeway. However, when the rate is only 6% or 7% it indicates that for some of the years on foot of a District Court order to surrender their licence, only 6% of those people actually surrendered their licence. While there can be some overlap with individuals reaching the threshold of penalty points and there can be issues under appeal or adjudication, the figure should not be that low.

**Mr. Peter Mullan:** Sorry, I got distracted there. There are a number of issues going on there in relation to it. The reconciliation took place. One of my colleagues did a reconciliation that got it down to 1% in relation to that. There is a separate issue then-----

**Deputy Peter Burke:** It is 1% in relation to what?

**Mr. Peter Mullan:** It is 1% in relation to when the way that the RSA measures disqualifications and how we measure disqualifications. When one matches the two figures we got it down to within 1%.

**Deputy Peter Burke:** It has issued figures showing that over a six-year period only 12% of drivers, who were convicted and required to hand in their licence, handed in their licence. If the Courts Service got it to within 1%, Mr. Mullan is saying that the RSA figures are correct.

**Mr. Peter Mullan:** I think we are at cross-purposes in relation to this. In relation to the handing up of driver licences, which takes place within the District Court environment, our figures are that each year they go between 30% at the lowest and up to 39%, so approximately one third.

**Deputy Peter Burke:** There is a significant difference between the RSA figures and the Courts Service figures.

**Mr. Peter Mullan:** Can I add one issue in relation to this because I think it is important?

**Deputy Peter Burke:** It is more than 1%.

**Mr. Peter Mullan:** There is an ongoing exercise between us, the RSA, and the Department of Transport, Tourism and Sport in relation to getting disqualification details over electronically that will be able to reconcile these. That is a project that is ongoing. I think it is due for completion in quarter 1. I think in quarter 1 we are anticipating that we will be providing our disqualification details from the court to the RSA and the Department of Transport, Tourism and Sport electronically. I think many of the issues the Deputy raises will hopefully be resolved with that.

**Deputy Peter Burke:** This is very basic in the administration of justice. Those systems are clearly not working.

**Mr. Peter Mullan:** No, and I think it is fair to say that we signalled that the legislative requirement in relation to the bringing and producing of driver licences-----

**Deputy Peter Burke:** It is all coming back to legislation. That seems to be the excuse being used. It surely is a simple thing if a judge directs someone to hand in their licence that we have a system in place that can measure that accurately and tell us pretty well immediately if someone is contravening that order and has not handed in their licence by the specified period. One would think that would be fairly straightforward-----

**Mr. Peter Mullan:** One would.

**Deputy Peter Burke:** -----but it is not.

**Mr. Peter Mullan:** If the Deputy had ever worked in a District Court, he would realise why. It is very active. One can have upwards of 100 to 150 defendants in relation to the matter. One can have gardaí, prosecutors, solicitors-----

**Deputy Peter Burke:** Is Mr. Mullan saying they do not have enough staff?

**Mr. Peter Mullan:** No, there is no issue in relation to that. I am saying that we had indicated before that legislative provision was brought in that we did not feel it was the most appropriate manner to deal with it. Having been legislated appropriately, we have dealt with it and we have tried to do that. There is a mechanism for-----

**Deputy Peter Burke:** Does Mr. Mullan believe the legislation is appropriate for it now?

**Mr. Peter Mullan:** No, I think the legislation needs to be looked at, but that is a matter for the Deputy.

**Deputy Peter Burke:** I have an issue with Mr. Mullan saying every time that it is a matter for us. Quite clearly it is not a matter for us if the Courts Service cannot accurately measure the number of people who were convicted and had their driver licence withheld, and present that figure to me. He is saying there is a 1% difference in figures there-----

**Ms Angela Denning:** We measure the number of people who were convicted and who produced their driver licences in court on the day. We cannot measure anything else after that.

**Chairman:** However, one third of those who produce it on the day-----

**Ms Angela Denning:** The figures we have indicate that approximately a third of people hand in their licences on the day.

**Chairman:** Ms Denning is telling me that two thirds of people have the licence in court, but-----

**Ms Angela Denning:** They may not have it in court.

**Mr. Peter Mullan:** They may not have a licence-----

**Chairman:** However, they are in court.

**Mr. Peter Mullan:** They may not have a licence or they do not produce their licence. There is a criminal procedure available to-----

**Chairman:** Hold on. How many of those in court hand in their licence? Ms Denning said one third.

**Mr. Peter Mullan:** It is approximately one third.

**Chairman:** Do they have their licences with them or what?

**Ms Angela Denning:** Yes.

**Chairman:** Why do the two thirds who are in court and have their licences with them not-

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**Mr. Peter Mullan:** They may not have a licence and that is-----

**Chairman:** They are unlicensed drivers.

**Mr. Peter Mullan:** They may well be or they may not be in court because in many of the road traffic offences in relation to this matter, the defendant may not be in court.

**Chairman:** Mr. Mullan said earlier that the Courts Service would have to stop everything in the District Court if it had to issue all these fines. He told the Committee of Public Accounts that the Courts Service was too busy to issue the fines. That is what I heard.

**Mr. Peter Mullan:** No, I most certainly did not say that. That is a characterisation-----

**Chairman:** He said the Courts Service would be too busy and it would get nothing else done.

**Mr. Peter Mullan:** No, not that we would get nothing else done. It is fair to say that the Oireachtas and the Government would want that all criminal-----

**Deputy Peter Burke:** There would be no family law done.

**Mr. Peter Mullan:** There would be no family law done. There would be no criminal business done, so that-----

**Chairman:** Then the Courts Service does not have the resources to do what the legislation asks it to do.

**Ms Angela Denning:** We do not have the number of judges at the moment to deal with-----

**Chairman:** These are separate.

**Ms Angela Denning:** If we were to list the 80,000 or 90,000 outstanding fines matters, never mind the road traffic offences, that would take up a significant proportion of judicial time at District Court level, which would mean that other work would have to be put aside.

**Mr. Peter Mullan:** Which means that criminal summonses would not be dealt with.

**Deputy Peter Burke:** This is incredible stuff. Ms Denning has said that one third of people hand in their driver licence in the court. That totally contradicts the RSA figures, which were: 6% in 2011; 7% in 2012; 9% in 2013; and 9% in 2014. In 2018 after the change in legislation, it went up to 13%. Those figures are a long way off one third of people. There is a serious contradiction in the figures and Mr. Mullan is saying there is only a 1% variance.

**Mr. Peter Mullan:** It comes from trying to speak to colleagues in relation to that. In relation to that 1% differential, the Deputy spoke earlier about the difference between how the RSA measures disqualified drivers and how we measure it. It was in that respect that we got it down to 1%.

**Deputy Peter Burke:** This is a straightforward fact. The fact is that a District Court judge issues an order that someone has to surrender their licence. We should be able to measure exactly what is handed in on that day and exactly what is not. It is the job of the Courts Service to ensure that we have the data to enable us to make decisions and legislative change if that is required. I have major concerns in three instances, namely, the poor box, the collection rate of fines and the issue of disqualified drivers' licences.

**Chairman:** I have to say something to Ms Denning that I have not said before as Chairman of the Committee of Public Accounts. We are witnessing a shambles. The performance that is being televised live is a shambles. It is probably undermining the administration of justice in the country. The message here is that most people do not pay fines or hand in their driver's licence. Ms Denning does not know who does or does not, or whether they have their licences in court or not. Some of them do not show up. She does not know whether they were even licensed drivers to start with. If I was a criminal, I would say that the system is broken and let us ignore it. Ms Denning is new in the job. Something is radically wrong here. I have been here weekly for a long time. I have never seen such confusion and people not knowing what is going on with regard to who is in or out of court, with people and gardaí being here and there. An awful impression is being given today of how the Courts Service works and that is not good.

**Ms Angela Denning:** I am sorry that the Chairman's impression is in respect of how the Courts Service works, because that is not the difficulty. The issue relates to the operation of the legislation that is in place.

**Chairman:** Who operates it?

**Ms Angela Denning:** There are certainly changes that could be made to the Fines Act and the mechanism for the registration of the collection or accumulation of penalty points to improve the legislation, and we have raised those matters.

**Chairman:** We got a great opening statement from Ms Denning but there was no reference to this significant issue. We probe this issue at the Committee of Public Accounts. I have never heard anything as shambolic.

**Ms Angela Denning:** I am sorry to cut across the Chairman. We implement the legislation as it is at present. If it changed in the morning, we would proceed to implement that and be happy to.

**Chairman:** Is the Courts Service implementing every aspect of the legislation entirely?

**Ms Angela Denning:** Not every aspect of it but there are aspects to the legislation, that is, there is a lacuna which allows people to circumvent the order which has been made by the court. If one does not produce one's driver's licence, the penalty points cannot be recorded.

**Deputy Peter Burke:** We have been issued with an eight-page opening statement. I would have thought these issues would be an opportunity for the Courts Service to bring these concerns to the attention of the Committee of Public Accounts if the service is concerned that legislation is not operating correctly, that disqualified drivers are not being tracked correctly or that fines are not being collected in an efficient manner. I do not see that mentioned in the eight-page opening statement.

**Ms Angela Denning:** The matters have been raised at an appropriate level. I am sorry that-----



**Deputy Peter Burke:** I am simply pointing out a fact. It is a simple matter to track drivers who are driving when they have not surrendered their licences, having been instructed to by the court. It is straightforward.

**Chairman:** I will move on but I note that Ms Denning has a big job ahead of her.

**Ms Angela Denning:** I am well aware of that.

**Chairman:** I was a bit exasperated. I am amazed at what I am hearing.

**Deputy Catherine Murphy:** I think we all are. I have listened to what Ms Denning has said about the legislation. The issue of the 80,000 or 90,000 fines and notices and what it would do to the District Court is serious. Is any of that statute-barred? Is the Courts Service looking at that?

**Ms Angela Denning:** No.

**Deputy Catherine Murphy:** I understand Ms Denning is the Accounting Officer. She is making a differentiation between the Courts Service and the Exchequer but I am afraid that we will not make that differentiation. This is because Ms Denning will be looking for the Exchequer to fund, for example, the refurbishment of courthouses and so on and that is part of where the money comes from. It strikes me that we are here again with a topic that arises weekly with various Departments and agencies. We do things backwards. We create the problem and then go back to try to fix it. Instead of doing the proper regulatory impact assessment to begin with, it looks like there is a four-stage process for the fine from the Courts Service's perspective but nobody has ownership of it after that, whereas somebody did before, with a garda following up on it. Does Ms Denning have immediate solutions?

**Ms Angela Denning:** The immediate solution to the Fines Act would be a change in the legislation.

**Deputy Catherine Murphy:** What specific points does Ms Denning refer to when she mentions a change in legislation?

**Ms Angela Denning:** Mr. Fallon said earlier that the policy direction of the legislation was to keep people out of custody for matters such as not paying a fine for not paying their television licence, where people genuinely could not meet the fine. The way the legislation was shaped has created another lacuna where, if the person does not attend, the judge has no power other than to issue a bench warrant and for the Garda to bring the person to court, which drains other resources of the State.

**Deputy Catherine Murphy:** There is a double cost.

**Ms Angela Denning:** There is a double cost and if we could eliminate that, it would assist everyone.

**Deputy Catherine Murphy:** I have a short time and want to ask a number of questions. The average compensation award for claims by members of the public is €1,600. The average legal cost is €34,000. Why is that?

**Ms Angela Denning:** The State Claims Agency acts on behalf of the Courts Service in all of those claims. The costs are those for the solicitor for the applicant. If the Deputy tripped in a courthouse in the morning, went to the solicitor and issued proceedings-----

**Deputy Catherine Murphy:** So this is compensation for the solicitor, rather than for the person that is injured.

**Ms Angela Denning:** I cannot say that. Any representative is entitled to have his or her costs paid.

**Deputy Catherine Murphy:** It is completely out of kilter.

**Ms Angela Denning:** We make an effort to resolve claims as soon as possible.

**Deputy Catherine Murphy:** It is completely out of kilter.

On the matter of Hammond Lane project, Ms Denning says it is still owned by the OPW. Is there a protocol to transfer it? Has it been valued?

**Ms Angela Denning:** Much of that will be dealt with depending on the way that we proceed with the building. If we deal with it as a public private partnership, PPP, it will stay in the ownership of the OPW, we will pay the unitary charge and then ownership will transfer to the Courts Service once the 25 years of payments are concluded. However, if it is built as a traditional build, it would stay in the ownership of the OPW, which would build it while we would pay for it.

**Deputy Catherine Murphy:** If it was to be done as a PPP, who would retain the ownership?

**Ms Angela Denning:** In all PPP projects, we will take ownership of the site before construction commences. At the end of the 25-year period, we will own the building and the site.

**Deputy Catherine Murphy:** With regard to the refurbishment of courthouses and the building of new courthouses, economies of scale were thought about when a number were bundled, with BAM as the successful contractor. Did they all come in on budget for the amount tendered for? Were there overruns? What was the profile of that?

**Ms Angela Denning:** They all came in on budget except that we retained the risk for latent defects in buildings when the tender issued. These were all historic buildings and the National Development Finance Agency, NDFA, advised us that we should retain the risk for latent defects in order that we would have a good tender and in order that the prices would come in at a reasonable level. If the developers took on that risk, the tender prices would be significantly higher. When the buildings were completed, a number of claims were submitted for latent defects. The NDFA dealt with those. Out of 14 categories of claim, only three were allowed, and that claim was settled for €8.9 million to be paid over three years. That is additional to the tender price. That said, we saved in excess of €5 million because of the timing of the delivery of the courthouses, so it represents an additional €3.9 million to be paid over three years. That is to deal with things like what happened in Mullingar when they took casings off the walls and discovered that there was a structural problem.

**Deputy Catherine Murphy:** There is, for example, the maintenance of courthouses that are lying idle, the one in Wicklow being a case in point.

**Ms Angela Denning:** Yes.

**Deputy Catherine Murphy:** Obviously, if a building is closed, it must still be maintained, as otherwise it will degrade. Of the buildings the service maintains, is that the most obvious

example? Are there other courthouses for which it is paying the cost of maintenance? Is there any it will not re-use and will sell?

**Ms Angela Denning:** Any we have closed and do not intend to re-use is normally offered by us to the local authorities and the OPW first to see if it can be used by the State and the community. We regularly transfer court buildings to local authorities for free to be put to community use. For example, Offaly County Council has recently agreed to take Birr courthouse for use as a civic arts centre.

**Deputy Catherine Murphy:** If I remember correctly, from all of the rows I have had at budget time, the local authorities actually used to fund courthouses.

**Ms Angela Denning:** In some circumstances.

**Deputy Catherine Murphy:** Therefore, they are getting back some of what they put in.

**Ms Angela Denning:** Yes.

**Deputy Catherine Murphy:** They would perhaps not say it was for free.

**Ms Angela Denning:** On the other hand, I could say that in some cases we have been stung where courthouses were vested in us from the local authority and we have been landed with significant bills for the refurbishment and maintenance of historic buildings. It is a *quid pro quo*.

**Chairman:** For use by the public.

**Deputy Catherine Murphy:** Was anything in that bundle the subject of conciliation or was it something to which the Courts Service agreed?

**Ms Angela Denning:** The NDFA dealt with it. The conciliation element would have involved the latent defects discovered. There was a process put in place in the tender document. An agreed process is in place whereby such matters are dealt with by the NDFA.

**Deputy Catherine Murphy:** In terms of the valuation of what the Courts Service has available, I am very familiar with the position in my area. I know, for example, that Kilcock courthouse will be closed permanently. It is for the service to consider and recommend what is needed for the future. How many buildings are under active consideration for closure outside the ones that have been refurbished and for which there is a different strategy?

**Ms Angela Denning:** The accommodation strategy is pretty much a moveable feast. The Courts Service board has decided that priority will be given to county town venues which will all be refurbished. The next question that arises is that if a significant amount of money is spent in refurbishing a county town venue, does one then need three or four smaller District Court venues in the same county. There is a broad spectrum of criteria used by the board. Recently, we had work done by consultants in looking at the demographics, geographical locations, the distance between courthouses, the availability of cells, the condition of courthouses, courthouse ownership, the caseload in a particular area, security, health and safety issues and the capital cost of refurbishing a courthouse. All of these are taken into consideration before a decision is made to either close or refurbish a venue.

**Deputy Catherine Murphy:** Is information on latent defects now available?

**Ms Angela Denning:** Yes, it is available.

**Deputy Catherine Murphy:** Will Ms Denning, please, send it to us?

**Ms Angela Denning:** Absolutely.

**Deputy Catherine Murphy:** It would be useful to see how it was matched. On maintenance costs, the Court Service has a preventive programme.

**Ms Angela Denning:** Yes.

**Deputy Catherine Murphy:** What was in place in advance of that programme?

**Ms Angela Denning:** No, we did not have a preventive maintenance programme. In conjunction with the Office of Public Works, we had a reactive maintenance programme such that where something went wrong, we fixed it. For example, in recent times a ceiling collapsed in a courthouse, but we would prefer if things did not reach that stage. The Comptroller and Auditor General highlighted this issue in an earlier report as presenting a risk. We have taken it on board and asked the contractors to look at courthouses throughout the country. It will be done in quarter one of 2020. In the case of one courthouse that I thought was in pretty good shape, it will cost about €4.5 million to undertake works which will mainly involve the mechanics and electrics, as well as work to the roof.

**Deputy Catherine Murphy:** I know that we keep on talking about how precious children are and the Children Court is deplorable, but has the Courts Service accepted this?

**Ms Angela Denning:** Yes.

**Deputy Catherine Murphy:** Obviously, there is the ongoing dispute between the Courts Service and the Department of Justice and Equality. It involves a sizeable amount of money.

**Ms Angela Denning:** It does.

**Deputy Catherine Murphy:** I know that providing additional space in the Supreme Court building to ease the pressure in the Four Courts building is part of the solution. Does the CEO regard any of the buildings the Courts Service might be able to use as being viable in adopting another strategy for the provision of a building for the Children Court?

**Ms Angela Denning:** We have a number of sites in Dublin that we will consider in that regard. Given the legislation surrounding the provision of court facilities for children, a separate, stand-alone building would be ideal. That would be the ideal outcome. We do have the Children Court building. We own the site, as well the site next to it. We also own the old traffic court next to it.

**Deputy Catherine Murphy:** How many courtrooms are there in the building?

**Ms Angela Denning:** Two.

**Deputy Catherine Murphy:** It will be a different design because of who the Courts Service is dealing with.

**Ms Angela Denning:** Yes.

**Deputy Catherine Murphy:** What will be the difference in capacity between what the Courts Service now has available and what it is looking to build?

**Ms Angela Denning:** We do not, for example, have facilities within the Children Court building to have a jury trial involving a child. Unfortunately, we foresee this as being a requirement into the future. We have had a number of such trials in recent years, for which we made arrangements in the CCJ, but, ideally, we would like to operate everything in the one building in which we would have appropriate facilities for the children involved in cases. The legislation indicates that children and adults should not mix. To date, we have had to make special arrangements for jury trials involving children. Ideally, we would like to operate everything within the one building in which we would have better control and the risks would be lower.

**Deputy Catherine Murphy:** I thank the witnesses.

**Deputy David Cullinane:** There are two issues to which I want to come back. I want to be fair to the Courts Service and accept from the responses given that there are problems with legislation, legal lacunae and a shortage of judges. It has to be said there are a number of issues which are leading to problems that I agree with the Chairman were not dealt with in the opening statement made by the Courts Service. They are substantial and concern the enforcement of the law in making sure fines are collected and other issues related to the presentation of driving licences. Will Mr. Mullan tell me in very simple terms what the problem is in that regard? I want to explore the issue, but I also want to give him an opportunity to explain again why it is a problem. I know that he had a lengthy discussion with Deputy Burke on the numbers of people who were obliged to present their driving licence in court. Will he, please, give me figures again and very quickly outline the scale of the problem? What is the problem in the courts on a daily basis and what is happening about it?

**Mr. Peter Mullan:** The figure we have for the production of driving licence details in court is approximately one third .

**Deputy David Cullinane:** Therefore, one third provide the details and two thirds do not.

**Mr. Peter Mullan:** Yes, that is correct.

**Deputy David Cullinane:** What happens to the two thirds who do not?

**Mr. Peter Mullan:** It is a criminal offence that can be prosecuted by An Garda Síochána.

**Deputy David Cullinane:** Is it? That is the question.

**Mr. Peter Mullan:** The answer is no, it is not, or it does not appear to be.

**Deputy David Cullinane:** It does not appear to be.

**Mr. Peter Mullan:** It is clearly a matter for An Garda Síochána. It is the prosecuting authority in the matter. I think it is fair to say there was a case stated by a District Court judge on the law related to this matter. As the Deputy knows, the law was changed approximately two years ago to deal with some of the lacunae that may have existed.

**Deputy David Cullinane:** I will get to that in a second. In very simplistic terms-----

**Mr. Peter Mullan:** The answer is that gardaí do not prosecute-----.

**Deputy David Cullinane:** Yes, exactly. In simplistic terms we could take a figure of 1,000 people coming before the court and presenting their licences, with 334 doing so and 666 not doing so. The 666 who do not present their licences are committing a criminal act but there is



no enforcement.

**Mr. Peter Mullan:** It is not prosecuted by An Garda Síochána.

**Deputy David Cullinane:** Does that mean the penalty points that a person might accrue from an offence would not be applied to the licence?

**Mr. Peter Mullan:** No. That would be recorded.

**Mr. Tom Ward:** I might be able to help with this. Until recently I was a member of the criminal justice working group looking at the fixed charge notice system. Certainly one of the elements being worked on by the Department of Transport, Tourism and Sport is a master licence record project whereby driver licences would be matched to registration numbers of vehicles. The reliance in the system for the person to produce the licence will, I hope, in the near future be at an end. Whether a person attends court or does not, the aim would be that as close to 100% of cases as possible would be matched. At this time we are completely reliant on the individual bringing his or her licence to court and producing it at the required time. If the person leaves before the case is dealt with and without producing the licence, we provide the data as best we can to the Road Safety Authority to match the licence to the penalty imposed.

**Deputy David Cullinane:** If a person does not produce his or her licence, does the person gain an advantage, either financial or otherwise?

**Mr. Tom Ward:** The fine would be imposed as normal. Those people would have the obligation, like everybody else, to pay the fine.

**Deputy David Cullinane:** We will get to that in a second as there are issues with collection.

**Mr. Tom Ward:** With respect to the penalty points element, a matching exercise takes place with the Road Safety Authority and it would scour its database.

**Deputy David Cullinane:** With the two thirds of people who do not produce their driver licence, it is not the case they would not have the fine or penalty points imposed. That is still done. The only problematic element is that the people have not produced their driver licence, which is an offence in itself. Is that it?

**Mr. Tom Ward:** That is right. On the face of every summons there is an instruction to bring the licence to court. If the people do not do so, they have technically committed an offence.

**Deputy David Cullinane:** Exactly. There is also a cost to getting to that point in the first place. I imagine in the vast majority, if not all cases, a garda would have stopped an individual because of a road traffic offence. There is a cost to the taxpayer to get to the point where somebody is given a fine in the first place. The taxpayer would hope that the administration of justice would be done and the law would be acted upon but that does not seem to be the case. The witnesses spoke earlier about why this happening. One of the reasons given was a shortage of judges. Am I wrong in saying that?

**Ms Angela Denning:** Yes. The shortage of judges would arise in the event that we would list all 80,000 or 90,000 fines notices at the same time. We do not have a shortage of judges aside from when we replace retired judges etc. We are short one judge in the District Court now.

**Deputy David Cullinane:** Will the witness speak to the 80,000 or 90,000 fines notices? Is

it the case that some of those would never be heard?

**Ms Angela Denning:** They will be heard but it is a question of how we list them so as not to overly burden the entire system at one go.

**Deputy David Cullinane:** They would never be listed in one go.

**Ms Angela Denning:** No. There are 10,800 to be issued from January next year.

**Deputy David Cullinane:** The service holds off from listing all of them because they are done in bundles.

**Ms Angela Denning:** We held off because a case was stated. Once it was resolved and the law was clear, we were in a position to start to list them again.

**Deputy David Cullinane:** If they were all listed, it would have an impact on other elements.

**Ms Angela Denning:** Absolutely.

**Deputy David Cullinane:** I understand.

**Ms Angela Denning:** We are just taking a measured approach.

**Deputy David Cullinane:** I will come back to the collection of fines. The witness mentioned there was a legal lacuna in the area so will she explain that?

**Ms Angela Denning:** When the fine is imposed, a person has options to pay. If a person pays a first instalment, the instalment procedure kicks in or a person can choose to pay it all in one go. In the event that a person does not pay, a fines notice issues from the Courts Service. That must be served and a person would be obliged to attend court before a District Court judge on a particular day to have the enforcement side of things dealt with. If a person does not attend that hearing, the remedies available to the judge do not kick in.

**Deputy David Cullinane:** Is the witness saying there is an incentive to individuals not to turn up?

**Ms Angela Denning:** Yes.

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

**Mr. Peter Mullan:** Our records indicate a third of persons do not appear and ultimately a bench warrant will issue for them.

**Chairman:** How many is that?

**Mr. Peter Mullan:** Approximately a third do not appear.

**Chairman:** Did the witnesses not say a third appear for these hearings?

**Deputy David Cullinane:** So a third do not appear.

**Ms Angela Denning:** Sorry but there is confusion between fines notices and penalty points.

**Chairman:** One step at a time. Which step are we at?

**Mr. Peter Mullan:** We were specifically asked about fines notices. The figures I have for bench warrants indicate that as of 14 October 2019, 25% of people do not appear for these hearings. I apologise as it is a quarter of cases. If there is a momentary advantage in that they do not appear-----

**Deputy David Cullinane:** I will stop the witness there-----

**Mr. Peter Mullan:** -----at some stage they will be rearrested.

**Deputy David Cullinane:** Let us say an individual is appearing before the court. I accept the Department's comment that a balance must be struck between imposing a custodial sentence, with the associated cost to the Exchequer and the fairness involved, and a fine along with community service or other options. A fine notice is given as a consequence of a court appearance and the person would be obliged to pay the money. How is that enforced?

**Ms Angela Denning:** The fines notice would be reckoned to come back before the court.

**Deputy David Cullinane:** What is the timeframe?

**Ms Angela Denning:** A court date is given on the notice.

**Deputy David Cullinane:** Okay. On the day the judge would say the person would have to be back before court by a certain date.

**Ms Angela Denning:** The person would come back on a particular day before the judge.

**Deputy David Cullinane:** Yes. Is it the case that if the person does not come back on the day-----

**Ms Angela Denning:** The judge has no remedy.

**Deputy David Cullinane:** The judge would have no remedy.

**Mr. Peter Mullan:** Other than the issuing of a bench warrant.

**Deputy David Cullinane:** How many times has that happened?

**Mr. Tom Ward:** The only way the person can be produced by bench warrant is for a garda to arrest that person and bring him or her back to court.

**Deputy David Cullinane:** Yes. Does that happen?

**Mr. Peter Mullan:** Yes.

**Deputy David Cullinane:** I imagine it does not happen very often. Would it be fair to say that in most of those cases, the person just gets off scot free?

**Mr. Peter Mullan:** No.

**Ms Angela Denning:** The bench warrant does not expire.

**Deputy David Cullinane:** I understand that.

**Mr. Peter Mullan:** All of the notices would be outstanding. I was very clear earlier in discussing whether there are difficulties with the Act. The answer is "Yes".

**Deputy David Cullinane:** Is it the reason the collection is down from €10 million to €7 million?

**Mr. Peter Mullan:** It is part of the reason.

**Deputy David Cullinane:** What other reasons are there?

**Mr. Peter Mullan:** It is primarily that reason.

**Deputy David Cullinane:** It is primarily the reason so it is a big problem.

**Mr. Peter Mullan:** I outlined to the Deputy's colleague, Deputy MacSharry, many of the difficulties in this matter and they were highlighted by the Chief Justice to the Department of Justice and Equality earlier this year. The high-level working group is trying to resolve those difficulties.

**Deputy David Cullinane:** If the Courts Service has highlighted this as an issue, as the witnesses have indicated, to whom has it highlighted the matter? Was it the Department?

**Mr. Peter Mullan:** The Chief Justice wrote to the Department in January this year.

**Deputy David Cullinane:** I came in late and I apologise for that but Mr. Fallon said a high-level group is in place. Is that correct?

**Mr. Richard Fallon:** Yes.

**Deputy David Cullinane:** When is it expected to report on this or make some decisions?

**Mr. Richard Fallon:** It has had three meetings and it is due another one before the end of this year. Once it has identified the initial areas that can be rectified - particularly legislative loopholes - it will try to come back as soon as it can in the new year.

**Chairman:** The witnesses might send a written update on that progress and expected timelines. This will require legislation.

**Deputy David Cullinane:** We are not looking to assign blame today but we want to get a resolution. There is a high-level group in place. People glaze over in general when they hear of a high-level group having multiple meetings. We want a resolution and the lacunae in the law need to be filled or corrected. I hope that will happen. It is something on which the committee should keep an eye.

**Mr. Richard Fallon:** We have spotted a problem and we are trying to address it. The group is not a broad discussion chamber and it is aimed at a specific problem.

**Deputy David Cullinane:** To be fair there are very senior representatives of the State on the high-level group. I accept that. The witnesses have been fair and a number of meetings have taken place, with one more due. I imagine there is an acceptance in the group that there must be urgency in this.

**Mr. Richard Fallon:** Yes.

**Deputy David Cullinane:** I accept that but we must keep an eye on it. Page 12 of the appropriation accounts chapter relates to what are termed other "commercial bank accounts". There is an account balance of €7.68 million that is not Exchequer-funded and it relates to

lodgements under family law, bail money lodgements and court poor box receipts. Could we have a breakdown of those receipts by type?

**Mr. Peter Mullan:** I will hand over to my colleague to answer that as it is more on the money side than the operational side.

**Mr. Seán Quigley:** We may need to get back to the committee with further details. This relates to accounting for family law payments and fines that are going through the system and either awaiting payment out or transfer to the Exchequer.

**Deputy David Cullinane:** Who audits that account?

**Mr. Seán Quigley:** The Comptroller and Auditor General and our own internal auditor.

**Deputy David Cullinane:** Does Mr. McCarthy audit that account with the balance of €7.68 million? It includes money from lodgements under family law, bail money lodgement and court poor box receipts.

**Mr. Seamus McCarthy:** To the extent that the money is received through the normal money-receiving systems, we audit it. However, we do not audit its disbursement.

**Deputy David Cullinane:** Do you audit the disbursement of all other moneys?

**Mr. Seamus McCarthy:** We audit the Vote moneys.

**Deputy David Cullinane:** Why not this money?

**Mr. Seamus McCarthy:** Because they are moneys under the control of the courts and I am prohibited from doing so.

**Deputy David Cullinane:** If the Comptroller and Auditor General is not doing it, who is auditing the disbursement of the money?

**Mr. Seán Quigley:** It would be our own internal audit function. Generally, these payments wash through this account because family law, bail and poor box receipts come in and go back out again. They are non-Exchequer moneys so are not audited by the Comptroller and Auditor General.

**Deputy David Cullinane:** If a court does not receive a maintenance payment from a spouse, can it issue a payment from the general fund?

**Mr. Seán Quigley:** No.

**Deputy Catherine Connolly:** Fáilte roimh and comhghairdeas, Ms Denning. Brendan Ryan has retired and I wish him all the best. I acknowledge the Courts Service's organisational capability review. It pays tribute to its staff, stating that the overriding message from the evidence is that the management and staff are highly capable, committed and professional in their everyday work. It has been on the ground for 20 years now and it inherited a very difficult position with a much underfunded courts service.

The review also states-----

**Chairman:** Sorry, Deputy, but to what are you referring?

**Deputy Catherine Connolly:** It is the organisational capability review, which it kindly

gave us along with other documents in which it highlighted the problem with the payment of fines. The review states:

Over the course of evidence gathering, stakeholders raised concerns about access to justice, drawing particular attention to matters around delays, costs and complexity. However, for its part, the Courts Service pointed to the constitutional independence of judges

To which stakeholders does the review refer here? Is it correct that it is stating the service does not really have a role in access to justice?

**Ms Angela Denning:** I think we have a role in access to justice. We have a key role in ensuring that systems and processes are amended in order to ease access to justice. At the moment we have a paper-based system and in time, as we enhance our ICT capability, I see us being able to move to online services for some things that would improve access for people.

**Deputy Catherine Connolly:** The role is to make the operation of the system more efficient and more technologically clued in, with appropriate buildings and other things. The most shocking statement today was the statement to the effect that the family law courts were appalling. I welcome the honesty and directness of the service in stating that. Is the children's court similarly appalling?

**Ms Angela Denning:** The children's court is in poor condition but it has the advantage in being a large enough building for the number of users. The footprint of Dolphin House in Dublin simply is not large enough for the number of people who use it every day, and which leads to overcrowding and cramped conditions. When people who do not get on with each other have to sit in close proximity to each other it aggravates the problems. The building is not fit for the throughput of traffic and the type of work it has to deal with.

**Deputy Catherine Connolly:** The service has plans for that but there is no clarity around funding for it.

**Ms Angela Denning:** Absolutely, though we are working with the Department of Justice and Equality on it.

**Deputy Catherine Connolly:** You may well be working with the Department of Justice and Equality on it but there is no clarity about the strategy or the level of funding that is necessary or available.

**Ms Angela Denning:** We are clear and have agreed an intention to build a family law complex.

**Deputy Catherine Connolly:** When?

**Ms Angela Denning:** As soon as is practicable. It will go back to the board in December and the board is anxious to resolve it as soon as possible.

**Deputy Catherine Connolly:** Of all the issues raised in the review, it is the interaction with the Department of Justice and Equality that strikes me most. It is not problematic on an individual level but on a more strategic and operational level, it is. One of the recommendations is to improve this interaction significantly. How is that happening? The failure of the Department of Justice and Equality to anticipate the operational challenges of the new fines legislation is highlighted. Why did the Department not carry out a review of the operation of this Act in a more timely fashion?



**Mr. Richard Fallon:** It was a recent Act.

**Deputy Catherine Connolly:** It is not a recent Act - it is from 2016.

**Mr. Richard Fallon:** It came into operation in 2016.

**Deputy Catherine Connolly:** That is right; three years ago.

**Mr. Richard Fallon:** With any new legislation that has gone through the rigours of the Houses and been enacted, there can be lacunae and in this instance we responded by setting up the high-level working group. This is an example of closer co-operation with the Courts Service and those on the front line of the courts system to resolve issues. At a broader strategic level we are establishing a family justice oversight group under a deputy Secretary General in the Department to look at reform in the family courts and the scheme of a new family law Bill. This will include the Hammond Lane development. In the past there would have been a traditional sense of the independence of the court and the role of the Department. The capability review points up, in keeping with new governance practices, that the strategic objectives of the Department-----

**Deputy Catherine Connolly:** The requirement for a bilateral relationship at a strategic level between the Courts Service and the Department is highlighted in the review. What have you done about this? What has been set up to rectify this?

**Mr. Richard Fallon:** We are working on setting up a programme of regular engagements, including under our new governance function for which I work under the restructuring of the Department. We are strengthening the linkages between the strategic objectives of the Department and those of the Courts Service in the administration of justice. Mr. Justice Peter Kelly is conducting a review-----

**Deputy Catherine Connolly:** A review of the civil administration.

**Mr. Richard Fallon:** Yes. We are taking a more concerted and structured approach to these matters so that they are more effective.

**Deputy Catherine Connolly:** Does Mr. Fallon accept what has been highlighted in the organisational review? It states there are deficits in the relationship that need to be addressed proactively.

**Mr. Richard Fallon:** There have been some deficits. I accept the finding.

**Deputy Catherine Connolly:** Good. If he accepts them, they have to be dealt with efficiently and speedily.

**Mr. Richard Fallon:** Absolutely.

**Deputy Catherine Connolly:** I have a general question on the review of legislation. It came up in the context of the sexual offences Bill. The system seems to have an aversion to building a review into legislation and where it is built in, it is in a very limited manner. If provision for an operational review had been built into the Fines Act, it would have sorted out matters very quickly. Mr. Fallon said the Department had spotted a problem, but it did not act and the Courts Service has been left with egg on its face, which is not really fair to it because it is legislation it is trying to operate. There are two elements - the Dáil which passed the legislation but did not see the lacunae and the Department of Justice and Equality in the review of its op-

eration. Is there not a lesson to be learned that legislation should be reviewed more frequently and efficiently?

**Mr. Richard Fallon:** I agree totally with the Deputy and will give an example. I was involved in the processing of the Legal Services Regulation Act 2015. It contains a specific section which requires a review of its operation to be carried out every three years. That this should be the case is something we can roll into legislation as a matter of principle. We also have a new mechanism to carry out periodic critical reviews of various State bodies and related legislation to see if the legislation is being operated in the way it should be. That is a major component.

**Deputy Catherine Connolly:** Something came up yesterday in the context of the Department of Justice and Equality and the Civil Legal Aid Act 1995. There is a very good provision included in that Act to provide assistance for victims of sexual or gender violence, but nobody is availing of it. The figures are extremely low. I think there was just one case in 2018, although I will not give further figures as I do not have precise figures. However, there is almost no take-up, with just one or two people availing of it. Although it is very good in theory, nobody has reviewed the legislation which dates from 1995. It concerns access to justice and goes back to reason representatives of the Courts Service are before us, namely, to examine the efficient running of the system and legislation operated. The Civil Legal Aid Act 1995 is a very good one in theory, but its operation has not been reviewed. There has been little or no uptake of the provision that allows victims to receive legal aid in a case of rape or a limited number of other cases.

**Mr. Richard Fallon:** The Deputy is correct.

**Deputy Catherine Connolly:** Does it give the Department cause for concern?

**Mr. Richard Fallon:** Traditionally, legislation was promulgated and enacted. It was then just left sitting there and assumed that everything was all right, but there is now acceptance in policy terms that legislation is not static and should not be left sitting there.

**Deputy Catherine Connolly:** Will the Department look at the issue in terms of access to justice? The legislation was enacted in 1995 and this is 2019, yet there has been no review, despite there being little or no uptake of the provision.

**Mr. Richard Fallon:** It is one of the elements we in the Department see as necessary on the legislative front.

**Deputy Catherine Connolly:** I have a question for Ms Denning. Where does the Irish language feature in the review of the organisational capability of the Courts Service? Given the commitments under law, where does it feature in any of the briefing papers or the opening statement?

**Ms Angela Denning:** At this stage, we are into the third Irish language scheme. Under the first and second schemes, we provided for improvements in translation standards. As the Deputy knows, any person participating in a trial is entitled to participate through Irish. We use a mix of mechanisms in that regard. Some cases are heard bilingually and the proceedings translated, depending on who is present in the courtroom. We provide jury explanatory leaflets in Irish. We also provide court orders and written judgements as Gaeilge. We provide translation and interpretation services for any party.

**Deputy Catherine Connolly:** I can read all of that information. What I am trying to get at

is that we have serious obligations under the Constitution as Irish is the first language. There are pieces of legislation in place and a new piece is coming down the road, an amended languages Bill, that will place an obligation on all new recruits to a figure of 20%. As an organisation, has the Courts Service discussed that provision?

**Ms Angela Denning:** We recruit mainly through the Public Appointments Service.

**Deputy Catherine Connolly:** I want to make a point about the Assisted Decision-Making (Capacity) Act 2015. Again, the delay is not the fault of the Courts Service, but parts of the Act are still not fully operational. What is the current position in that regard? Perhaps Ms Denning might be able to tell us how many have been made wards of court since the Act was passed?

**Ms Angela Denning:** I do not know how many have been since the legislation was passed, but in 2018 there were 2,720 new wards of court.

**Deputy Catherine Connolly:** If Ms Denning will allow me to put my questions, I will then stop and allow other members in. How many have been made wards of court since the Act was passed?

On the handing in of driving licences, I understand there is a distinction and a different mechanism for persons caught speeding and those caught drink driving. Is there a difference where a person is caught drink driving, convicted and has to hand in his or her licence?

**Chairman:** The information on the total number wards of court can be sent in writing to the committee.

**Deputy Catherine Connolly:** I ask Ms Denning to clarify the matter as best she can.

**Ms Angela Denning:** On the assisted decision-making legislation, I understand the Mental Health Commission has raised a few issues and that there may be a requirement to change the legislation. However, if the Act was commenced in the morning, we have rules of court drafted which are ready to go. We participate in the high-level group which is seeking to push on the legislation.

On the issue of penalty points, I will double check, but I think there is a distinction where somebody is brought to court for speeding and receives two, four or five penalty points and where somebody is disqualified automatically by virtue of a conviction. In those cases-----

**Mr. Tom Ward:** There is a different prosecutorial path for somebody who is being prosecuted for drink driving. We will need to come back to the Deputy on the exact mechanics used in the handing over of the licence. Our understanding is that once a case of drink driving is listed and a person is convicted, there is a 14-day window before he or she is-----

**Deputy Catherine Connolly:** That was explained. It is the same. I am seeking an update from the Department of Justice and Equality on the Assisted Decision-Making (Capacity) Act.

**Mr. Richard Fallon:** As the Deputy knows, to get things going, some provisions of the Act were commenced late in 2016. A director was appointed in 2017. There is a high-level steering group that is driving the initiative. It involves representatives of the Department of Health and our Department. Work is continuing to recruit the necessary staff resources, install IT systems and so on. Research work was done in developing a code of practice for use in implementation of the advance healthcare directive. The director of the Decision Support Service has conducted work which has included organisational design, a scoping of the service, project governance,

defining the regulatory framework, stakeholder engagement, the mapping of customer services and processes. There is quite a bit of work to be done, having regard to the group the system will benefit. The Department funded researchers in the development of codes of practice under section 103. The Minister for Health has a multidisciplinary working group which is assisting in the development of the code of practice for the advance healthcare directive provisions which he will be commencing under Part 8 of the Act. An allocation of €3 million was provided for, of which €2.1 million was provided in 2018. The figure was increased to €3.5 million in 2019, of which we expect about €2.7 million to be drawn down this year.

**Chairman:** As we are tight on time, the Department might send the information to us in writing. Mr. Fallon seems to have an extensive note in front of him.

**Mr. Richard Fallon:** I am simply saying the work is being done to get the Decision Support Service up and running as soon as possible. We are working closely with the director of the service and the Mental Health Commission to ensure the necessary arrangements will be put in place. We need to have the structures ready, having regard to the people with whom we are dealing.

**Deputy Imelda Munster:** I ask our guests to comment on the latest fiasco regarding road traffic legislation whereby the 2016 law on fixed charge notices was ruled unconstitutional in October. The case in question was thrown out of court and it is reported that up to 28,000 other cases may be affected by the ruling. What effect will that have on the Courts Service? This raises an important issue. It has been reported that prior to the introduction of that legislation, in upwards of 80% of cases brought before the courts the defence used was that the accused had not received a fixed charge notice. I do not know if that figure is correct and I ask our guests to correct it, if necessary. What effect will the October ruling have on the Courts Service?

**Ms Angela Denning:** The service of documents is not a matter for the Courts Service. We do not serve the summonses to bring people to court. We deal with people when they arrive in court. The mechanism to produce people before the courts is a matter for An Garda Síochána really.

**Mr. Peter Mullan:** The Deputy is referring to the recent decision of the High Court on the differentiation between 28 days and 56 days. Fixed charge notices are served by members of An Garda Síochána and that is where the issue arises. I understand that An Garda Síochána is looking at the legal issues involved. It is a matter for the force to decide whether to appeal. When the matter arrives in court, it becomes an issue if the person claims that he or she has not received the fixed charge notice. That then becomes part of his or her legal defence and it is a matter for the judge to decide whether to accept that defence. The ruling could give rise to some quite significant issues.

**Deputy Imelda Munster:** Defendants are using non-receipt of a notice as a defence. It is the responsibility of gardaí to issue fixed charge notices. Reference was made earlier to the setting up of a high level committee to address various issues. Has the Courts Service ever flagged this issue with An Garda Síochána or the Department? The numbers are significant and if this legislation is unconstitutional then the problem is not going to go away any time soon. Has the Courts Service flagged this issue?

**Mr. Peter Mullan:** My colleague, Mr. Ward, is on a fixed charge working group that was set up by the Department. The group is co-chaired by the Departments of Transport, Tourism and Sport and Justice and Equality and is looking at a lot of road traffic issues, including this par-

ticular one. It is fair to say that some of these problems have been with us for some time. Some of the solutions will require interventions from both Departments and from An Garda Síochána. There are issues around the service of documents. The issue regarding the constitutionality of the legislation is a matter upon which the court has just decided. That is a new matter. Up until six weeks ago, the law was constitutional; now it appears to be unconstitutional and that will have to be dealt with by the Oireachtas unless the decision is appealed.

**Deputy Imelda Munster:** What has the fixed charge notice committee done to date?

**Mr. Tom Ward:** With reference to the earlier discussion on the system, this is a part of the system that was working really well. It took thousands of people out of court that previously, under old regimes, would have been summonsed to court. My colleague, Mr. Mullan, is correct. The decision has just been handed down by the High Court. It is a question for the State in the form of the police to decide whether to appeal the decision. Certainly from our point of view, we would not welcome a situation where all of those cases would immediately come in as summonses. The more cases of this nature that are kept out of court, the better in terms of the overall efficiency of the system. The group that oversees the penalty point system met the week before last. I understand that the Office of the Director of Public Prosecutions is advising An Garda Síochána on the matter of an appeal. The issue is being taken very seriously. There are timeframes within which the State has to decide whether to appeal the High Court decision. That is the best information I have on where that stands.

**Mr. Peter Mullan:** I have one further figure which might be of assistance to the Deputy. A full 80% of persons detected as having committed a relevant motoring offence avail of the first two options under the fixed charge notice. In fact, the vast majority of persons actually pay the fixed charge. The remaining 20% are the ones that end up in court and a subset of them claim that they have not received the notice. To clarify, 80% of the recipients of fixed charge notices pay the penalty and do not come into our system. The vast majority pay the fixed charge.

**Deputy Imelda Munster:** I thank Mr. Mullan for that information. It was reported last month that one quarter of drivers detected using their mobile phones while driving did not receive summonses and of the cases that made it to court, only half resulted in convictions. Given that cases were brought before the courts, one would imagine that evidence was presented by gardaí who saw drivers on their phones. In that context, I am curious as to why only half of those brought before the court were convicted.

**Ms Angela Denning:** We can not comment on matters relating to the hearing of cases. On a practical level, however, the prosecuting garda may not attend court or other things may happen. Sometimes the evidence may not be there. It is a matter for the judge but there are various reasons for cases being dismissed or struck out apart from the evidence.

**Chairman:** Could that include the person saying that he or she did not receive the notice in the first instance?

**Ms Angela Denning:** Yes, it could. That is a matter for the judge. It is entirely a matter for the judge.

**Chairman:** We understand that but does anyone keep statistics on it? We are asking our guests to comment.

**Ms Angela Denning:** We keep statistics on how many people are prosecuted, how many are convicted and how many cases are dismissed.



**Chairman:** Does anybody in the Courts Service keep statistics on why cases are struck out?

**Mr. Peter Mullan:** No, it is a simple binary question of a person being convicted or not convicted. In terms of the evidence given, we do not record what defence was raised.

**Chairman:** As the Deputy indicated, in 50% of cases there was no conviction. Surely it is in the State's interest to know why cases are being struck out. Does nobody collect that basic data?

**Ms Angela Denning:** I do not know whether An Garda Síochána collects that evidence.

**Chairman:** Does anyone do it?

**Mr. Peter Mullan:** We just do the binary recording of whether a person is convicted or not.

**Chairman:** Yes, Mr. Mullan said that already but surely there is something to be learned from the cases that are struck out. Surely it is possible to learn from such cases in order to minimise them as time goes on. Is anybody collecting statistics on the reasons for cases being struck out so that we can learn from them?

**Ms Angela Denning:** Possibly the State Solicitor's Office collects-----

**Mr. Seamus McCarthy:** That data is not collected, as far as I know. We looked at the matter previously, a number of years ago, but I do not believe-----

**Chairman:** It is a suggestion that we will put out there. I do not want to put more work in the way of the Courts Service but I am sure our guests understand the point I am making. We cannot learn if we do not gather the information.

**Ms Angela Denning:** I know from practice that the Director of Public Prosecutions or the State solicitors involved would look at what is happening with cases in general to see if legislation needs to be changed or rules introduced-----

**Chairman:** Yes, but most of these cases would be handled by the local Garda inspector in the District Court.

**Ms Angela Denning:** Yes, but the Director of Public Prosecutions would keep an eye the defences raised.

**Chairman:** Most of the prosecution in the District Court is done by the local garda-----

**Mr. Peter Mullan:** Correct.

**Ms Angela Denning:** Yes, but they would bring that back-----

**Chairman:** They are mainly dealt with by gardaí. Almost all of it is dealt with by An Garda Síochána. Does the Department of Justice and Equality know whether gardaí collect data on the reasons for cases being struck out? If 50% of defendants are saying that they did not receive the notice in the post, there must be some-----

**Mr. Richard Fallon:** I am not aware of gardaí doing it but I know that the Department of Transport, Tourism and Sport administers the Road Traffic Act so it may collect such data. That is where the functions lie so if there is data, it may be with the Department. However, that would depend on a declaration in the court as to why the case has been struck out.



**Chairman:** It would not be struck out without something being said in court.

**Mr. Richard Fallon:** I take the Chairman's point that an informed-----

**Chairman:** It appears that 50% of cases are being struck out for a variety of reasons. If we had statistics on that, it might help us to secure a better rate of conviction down the road. We cannot achieve that if we do not collect the information that enables us to learn. That is all I am saying.

**Deputy Imelda Munster:** That was my next question.

**Chairman:** I am sorry.

**Deputy Imelda Munster:** The Courts Service collects data on whether prosecutions were successful or unsuccessful but it would be useful to have the aforementioned information. Does the Courts Service just rely on gardaí to collect that data or is it not required to collect it? I would have thought that the recording of such information would be useful to the Courts Service in the context of improving the judicial system.

**Mr. Peter Mullan:** The Deputy is right that it would be useful information for the courts system to have. District Court judges can dismiss or strike out cases for a myriad of reasons. It is fair to say that recording those would cause logistical difficulties for us in the short term but the Deputy is absolutely right in saying that somebody should be recording this information. We might be the obvious example in some respects, but it would mean that we would need to improve our systems which would require investment.

**Deputy Imelda Munster:** Are resources the reason the Courts Service would not record the information?

**Mr. Peter Mullan:** Ultimately, if there were more resources available, there could be better recording of how decisions were made, about which there is no doubt.

**Deputy Imelda Munster:** Is it Mr. Mullan's opinion that the Courts Service ought to be recording the information?

**Mr. Peter Mullan:** I said it should be recorded on the system. Our statutory mandate is to manage the courts and provide support services for the Judiciary. I am not sure it would be within our statutory mandate. The obvious example is that if prosecutions were unsuccessful, it would be An Garda Síochána that would record the information. The data and the reasons should be recorded.

**Chairman:** Has the Department of Justice and Equality ever discussed the issue with An Garda Síochána? It is clear that a Garda inspector handles all of these cases. He or she knows the reason and ticks the box. The raw material is being gathered in the court by the prosecuting side as to why a case has been struck out. The information is in the files. It would be useful to record it, even on a sample basis, in the District Courts.

**Mr. Richard Fallon:** These matters are looked at by the Department of Transport, Tourism and Sport with the Garda, including penalty points and offences under the Road Traffic Acts.

**Chairman:** If they are looked at, it means that the statistics are collected.

**Mr. Richard Fallon:** If they have them available, they are looking at them. The analysis is

carried out by the Department of Transport, Tourism and Sport.

**Chairman:** The analysis about which we are asking involves a breakdown of the reasons cases were struck out.

**Mr. Richard Fallon:** I do not know if that information is available, but I can find out.

**Chairman:** Will Mr. Fallon ask? The information is being recorded on the spot on the day. The inspector knows the reason offered and the judge's decision. The raw material is available. The prosecution team cannot walk out of the courtroom without knowing why a case has been struck out. I should not have to spell it out because it is so basic. It cannot be the case that the information is not noted. The system would not work if the prosecution team was walking out of the courtroom without a reason being noted as to why a case had been struck out. It is obvious that it is recorded manually in a file. Somewhere along the line will somebody think about recording it, even on a sample basis? Will they try to get an accurate read on the reasons cases had been struck out? Perhaps then something might be done about it.

**Mr. Seamus McCarthy:** The chapter on fixed penalty charges in the 2012 report stated:

The examination team reviewed summary data from the Courts Criminal Case Tracking System (CCTS) in relation to fixed charge notice cases recorded in 2011 and 2012. This indicated that for 2011 cases - which had sufficient time to be finalised in the courts - half of the cases that proceeded to summons stage were struck out in court because the related summonses had not been served. This suggests that around 11% of all recorded fixed charge notices cases end up unpaid and without being answered in court.

Obviously, there is some information available.

**Chairman:** I am struggling. I cannot believe I have to go to the Comptroller and Auditor General who has to go back seven years to answer the question. I ask all witnesses, but nobody can give me an answer. Instead, I am referred to the Department of Transport, Tourism and Sport. The information is available. Will somebody think about this matter? That is all I am asking. I am not giving him or her a job to do.

**Deputy Imelda Munster:** It shows that there glaring gaps.

**Chairman:** The Comptroller and Auditor General could not have written that paragraph seven years ago without there being some basis for it. The information is available and being collected every day.

**Mr. Seamus McCarthy:** There was a recommendation made in the noughties that the systems between An Garda Síochána, the Courts Service and even the Irish Prison Service be joined. That would allow the tracking of the processing of a criminal case all the way through the system. I know that there was a working group, but I am not aware of where the matter stands.

**Chairman:** I offer my apologies to Deputy Munster, but Mr. John Burke from the Department of Public Expenditure and Reform has indicated.

**Mr. John Burke:** There is ongoing dialogue between the Department of Public Expenditure and Reform and justice agencies in looking at performance indicators. Some of the information is included in the Revised Estimates. There is also a publication entitled, Public Service Performance Report. We are looking at having better indicators. We can look at this issue in the

context of that dialogue.

**Chairman:** If Mr. Burke has some information available, raw or incomplete, he can send it to us. It would increase the confidence of the public in the system if it knew the system was watched and that records were kept.

**Deputy Imelda Munster:** When a committee flags matters which are obvious, the response is always that they are being looking at or that work is ongoing on them. It is hard to credit this issue is still ongoing and that the different services have not got their act together. It beggars belief that a simple matter of collating data that would provide useful information and result in co-ordination between all of the services involved is still ongoing. It is laughable that there is not this co-ordination. It flags everything that was said. It all relates back to co-ordination, the collating of information and where the legislation stands. I have always said there is a need for the consolidation of the road traffic laws because they are in an absolute mess. Adding little bits here and there without consolidation is causing many of the problems experienced. Hearing that work is ongoing and that the Department is only thinking about it at this stage is not good. If the work had been done, we would not have half of these problems.

On the statement on accounting policies and principles, in appendix A on page 25 eight courthouses are listed, in respect of seven of which there were public private partnerships. There does not seem to be valuations for them. Why is that?

**Ms Angela Denning:** The construction projects had not been finished at the time the accounts were prepared. They are now finished and will be included in the 2019 accounts.

**Deputy Imelda Munster:** I have a bee in my bonnet about PPPs. Will Ms Denning explain the terms of the PPPs for the new courthouses and the rationale behind them? The same applies to the HSE in the case of primary care centres. Where is the risk for the State in building much-needed courthouses as part of PPPs?

**Ms Angela Denning:** We have a mandate to provide suitable court accommodation. The only mechanism available for several years to provide that accommodation has been the PPP mechanism because of the funding position. In July 2012 the Government announced a €2.25 billion infrastructure stimulus programme, of which the seven courthouse PPP bundle was part. The Criminal Courts of Justice building will be ten years old this weekend. It was built as part of a PPP. From our perspective, we do not have maintenance issues with PPP buildings. When we take ownership of the buildings in 25 years' time, they will be as new because of a preventive maintenance programme. That has been proved to date. The Criminal Courts of Justice building is ten years old and it looks exactly the same as it did on the day we moved into it. All of the costs are included in the unitary charge, which is a significant bonus for us as it meant that we do not have to employ maintenance staff, go to tender in carrying out repair works and so forth. That is why PPPs were used in building those courthouses, but we are not wedded to the idea of having PPPs. Whatever central government policy is at the time, we will go with it.

**Deputy Imelda Munster:** It is a policy issue.

**Chairman:** We are coming up to the weekly division time. I have a few short questions to ask.

On the appropriation account, there is a figure for non-compliance with procurement rules which amounts to €3.371 million. I can read what is front of me and Ms Denning does not need to read it out. I want a more detailed, comprehensive note to be sent to the committee on each

of the items. The committee is carrying out an exercise in respect of non-compliance with procurement rules for all Votes and bodies that submit accounts for 2018. All we are doing at this stage is assembling all the information. Will Ms Denning send us a detailed note?

**Ms Angela Denning:** Yes.

**Chairman:** We are also assessing other Votes. For every Vote to which it applies, we ask the same question. We do not need to hear the details during this meeting. If Ms Denning has a note, she might send it in due course. The secretariat will specify precisely what we seek.

**Ms Angela Denning:** We had eight sole suppliers, three where there were problems with the OGP contracts and eight-----

**Chairman:** We will ask the Courts Service to spell out the names and types of the contracts in further detail.

**Ms Angela Denning:** That is no problem.

**Chairman:** I turn to the Courts Service's annual report of 2018. On the first chart, it is stated that in court funds, the service managed €1.929 billion. What role has the service in that regard?

**Ms Angela Denning:** In the main, they are wards of court funds or funds lodged on behalf of minors. They are the funds directed by the court to be lodged in court as part of a court order. Where a minor, for example, is involved in an accident, the court will direct that the money be lodged in court until he or she is 18 years old. An investment committee advises the Judiciary as to which is the appropriate fund. We have seven funds-----

**Chairman:** Mr. Quigley is probably the man to advise me best on the matter

**Ms Angela Denning:** Yes.

**Chairman:** He is head of resource management and accountant of the Courts of Justice. What is the difference between the Courts Service's annual report of 2018 and the financial statements for 2018 of the office of the accountant of the courts of justice? Are they the same or different?

**Mr. Seán Quigley:** The superior court rules require financial statements to be produced every year on court funds, as Ms Denning outlined, for wards of court and minors. The Chairman asked what the role of the Courts Service was in respect of the funds.

**Chairman:** Yes.

**Mr. Seán Quigley:** The remit of the Courts Service is to manage the courts and provide support service to the Judiciary. It is within that remit that we provide the service and we manage the funds in which we invest but, ultimately-----

**Chairman:** Mr. Quigley stated "we", but I thought he is part of the Courts Service.

**Mr. Seán Quigley:** Yes, I am.

**Chairman:** To whom does the Courts Service provide this service?

**Mr. Seán Quigley:** The Judiciary.

**Chairman:** It is confusing. Has Mr. Quigley a dual role, as accountant for the Judiciary in respect of this fund and in his work for the Courts Service?

**Mr. Seán Quigley:** A dual role, yes, but I am an employee of the Courts Service. I am a civil servant, ultimately.

**Chairman:** My question is in respect of the office of the accountant of the Courts of Justice, which are not audited by the Comptroller and Auditor General. The Courts Service managed funds of €1.9 billion, which I mentioned, and I understand that at least 70% of it was for wards of court. For everything we have discussed thus far about the Courts Service, Mr. Quigley is answerable to the Committee of Public Accounts, but is he answerable to the committee in respect of the office of the accountant of the courts of justice?

**Mr. Seán Quigley:** No-----

**Chairman:** That is what I want Mr. Quigley to explain to the public. He is answerable to the committee for part of his role, namely, at the Courts Service, but he is not answerable to us when he wears the other hat.

**Mr. Seán Quigley:** Well-----

**Chairman:** I am not saying there is anything wrong with that but he needs to explain-----

**Mr. Seán Quigley:** The issue has been well rehearsed over many years. We have an opinion from the Attorney General, which is in legislation, to the effect that the role of the Comptroller and Auditor General does not include the audit of court funds. Insofar as I account for what I do, it is in respect of the infrastructure we have put in place to manage the funds. Ultimately, they are not subject to audit by the Comptroller and Auditor General. That restricts the role of the Comptroller and Auditor General to audit the funds. Insofar as I have been, hopefully, of some help to the committee over the years, it is to explain how the role has been discharged to support the Judiciary.

**Chairman:** For the benefit of a person watching the meeting, we should state money is provided to run the Courts Service. Moneys are paid into the courts, such as for wards of court, which is a big issue. Coincidentally, it was a recurring matter at the State Claims Agency, which told us the majority of its payments every year are to the Courts Service. Our guests might not be aware of that-----

**Ms Angela Denning:** No.

**Chairman:** -----but we asked the agency to give us a breakdown because for the awards given for catastrophic injuries in hospitals, the people tend to be wards of court. We asked the agency, therefore, what proportion of the payments it makes is to the Courts Service. It was able to produce the figure because it knows where its payments go. It is understandably a high figure. It includes cases from private insurance companies, perhaps as a result of accidents and so on. Given that it is the responsibility of the Judiciary, there is separation between it and the Oireachtas, which is why the committee and the Comptroller and Auditor General cannot examine the figures. Am I correct?

**Mr. Seán Quigley:** Yes.

**Chairman:** I am trying to summarise it for people who are watching. It is reasonable. Our guests might be able to answer the following questions, but they might not.

What is the general solicitor?

**Ms Angela Denning:** The general solicitor is a solicitor's office within the Courts Service. Its staff are civil servants-----

**Chairman:** Do they report to Ms Denning?

**Ms Angela Denning:** In part. I pay for them but they report primarily to the President of the High Court because they provide solicitor services to the office of wards of court. For example, if a ward of court is an elderly person and there is a dispute within the family, and if there is nobody within the family to act as the committee for the ward, the general solicitor may be appointed as the committee for the ward to act in his or her best interests. In other circumstances, such as where a ward of court has property that needs to be sold, the general solicitor will do the conveyancing and so on. The general solicitor acts as the solicitor on behalf of wards of court, in the main.

**Chairman:** Who makes the decision to sell?

**Ms Angela Denning:** The President of the High Court will issue an order.

**Chairman:** A judge makes the decision.

**Ms Angela Denning:** It is made on foot of an order, yes.

**Chairman:** The general solicitor carries out the functions.

**Ms Angela Denning:** The general solicitor carries out the functions. Where there is a committee, its powers are contained in the court order appointing it, and it acts strictly in conjunction with that. The office of wards of court keeps tight controls over whether committees behave within the power given to them by the order. That is reviewed constantly and is part of the role of the office.

**Chairman:** While the Courts Service handles the administration, payment and the office, the general solicitor tends to report directly to the Judiciary.

**Ms Angela Denning:** Yes, and if a ward of court dies, for example, and the office is the committee, it will deal with the probate.

**Chairman:** As well.

**Ms Angela Denning:** Yes.

**Chairman:** The general solicitor is not a separate legal entity.

**Ms Angela Denning:** No, it is a solicitor within the Courts Service who is instructed by the President of the High Court.

**Chairman:** Have our guests the figures for the number of wards of court?

**Ms Angela Denning:** I think there are 22,600 at the moment.

**Chairman:** Did Ms Denning state more than 20,000 wards are made each year?

**Ms Angela Denning:** No, sorry, I had the wrong figures. The 22,600 was in respect of something else.



**Mr. Seán Quigley:** That is the total number of cases, of minors and wards of court. It is a much smaller number.

**Ms Angela Denning:** There are 2,765 wards at the moment.

**Chairman:** On average per annum, are there 100 or-----

**Ms Angela Denning:** There are approximately 250 to 300 declarations of wardship per year. In addition to that, we have cases of minors, where cases are settled or, as the Chairman noted, there may have been catastrophic injuries to the child. The money comes into court and if the minor is made a ward of court, he or she will also come in. At the moment, there are approximately 650 deceased wards. Their money is still there until such time as probate is dealt with and the estate can be distributed if there is any money.

**Chairman:** Why does the general solicitor not move on with the probate-----

**Ms Angela Denning:** The general solicitor is not necessarily the solicitor in every one of the cases.

**Chairman:** Will Ms Denning elucidate the matter?

**Ms Angela Denning:** Where the committee is a family member, it will instruct a solicitor who will deal with the probate.

**Chairman:** It may not be the delay in the general solicitor's-----

**Ms Angela Denning:** No, not necessarily. Not necessarily the technical end of probate but gathering the assets can be awkward in some cases.

**Chairman:** I was an executor of a will or two so I understand a bit about it. A reply to a parliamentary question said that it would be beneficial to the person who is the committee in his or her role if he or she was informed about the overall amount held in the fund. That is the family. What is the flow of information?

**Ms Angela Denning:** In the past year and a half or two years, the practice is that we send a statement out. That goes to the committee, which may not necessarily be the family because in situations like a family dispute and where the general solicitor is the committee, the statement goes to the general solicitor.

**Chairman:** Could the HSE or someone be the-----

**Ms Angela Denning:** Yes, it depends on who is appointed.

**Chairman:** Let us say that the HSE has good reason to decide that a person should be brought into an institution-----

**Ms Angela Denning:** The statement goes to the committee.

**Chairman:** As part of the HSE's work, it understands that. Can the HSE apply to be the ward of court?

**Ms Angela Denning:** It could apply to have somebody made a ward of court but in those circumstances, it is likely that the general solicitor would be appointed because the committee is usually an individual. It is usually a family member who acts in the interests of the ward.

**Chairman:** That is the default.

**Ms Angela Denning:** It is a family member in about 75% of cases. Where the HSE applies to have somebody made a ward of court, possibly because of a dispute in the family about the care of the person, it would be normal for the general solicitor to be appointed.

**Chairman:** Or if there is no next of kin in some cases.

**Ms Angela Denning:** Exactly.

**Chairman:** What is the plan for minors in wardship when they become adult wards of court? Is there a distinction or does it matter?

**Ms Angela Denning:** It depends on the circumstances of the minor. In normal cases where a child breaks his or her leg in an accident, that money is in court and is there until the child is 18. On the child's 18th birthday, he or she can come into the accountant's office and have that money paid out on proof of his or her age and identity.

**Chairman:** Is there much of that each year?

**Ms Angela Denning:** Yes.

**Mr. Seán Quigley:** Of the largest number of cases we have - the 22,000 that were mentioned - about 16,000 involve minors. How many in any one year is-----

**Chairman:** Could Mr. Quigley explain it again? I know there are only about two thousand something hundred wards, which accounts for 70% of the money. Mr. Quigley is saying that there are another 20,000 cases. What are they?

**Mr. Seán Quigley:** Approximately 16,000 of those involve young people under the age of 18. As Ms Denning suggested, they may have had some minor injury-----

**Chairman:** Fell in the schoolyard.

**Mr. Seán Quigley:** -----something like that, and they have been awarded a sum of money. Until they are 18, that money is held by the courts and invested. It is paid out when they reach 18 because there is no incapacity other than their age and once they reach the age of 18, it is paid out.

**Chairman:** If a 12 year old has an injury like that and there is an insurance award, do the parents not get that money to look after the child? Can that money be used in the intervening years for medical purposes until the child becomes an adult?

**Ms Angela Denning:** The compensation is payable to the child for his or her injury and suffering so it is protected until such time as he or she is 18. However, applications can be made to court - and to the Master of the High Court in the case of High Court awards - for payments out from time to time for the benefit of the child. One would regularly see-----

**Chairman:** Who does that?

**Ms Angela Denning:** Next of kin. The parent can do it. He or she can come in and make an application. He or she can write in. We regularly see cases, for example, a child going into fifth year in school looks for a laptop to help him or her with his or her studies. The payments are decided on a case-by-case basis. Sometimes a regular payment is put in place. I remember

one instance where a grandparent was looking after a child and a regular payment-----

**Chairman:** Ms Denning seems to know a bit about this. Was she in there?

**Ms Angela Denning:** I was the master's registrar for three years. People would come in from time to time looking for a payment out for the benefit of the child but it must be to the benefit of the child. It cannot be for the normal upkeep of the child.

**Chairman:** How many of the 16,000 cases would go through each year? I am trying to get an idea.

**Mr. Seán Quigley:** I do not have a number but we can come back to the Chairman.

**Chairman:** Is the Courts Service allowed to send us a note on that?

**Mr. Seán Quigley:** Absolutely. That is part of the administration.

**Chairman:** Could the Courts Service send us an information note on all of that? I think the witnesses from the Courts Service have dealt with what happens if there is a capacity issue.

**Ms Angela Denning:** If there is a capacity issue involving somebody over 18, it would normally be recorded in the court order that when he or she reaches his or her majority, the question of his or her capacity should be looked at. Usually at that point, the president of the High Court would direct that a wardship application be made. At the time the case is settled, there is usually a proviso in the order that a wardship application should be made and one does not necessarily have to wait until the child reaches 18. That is usually done immediately after the settlement.

**Chairman:** How many cases, approximately, are there per annum of people who had been made wards of courts where it is agreed that they be released? The Courts Service can send that information on to us.

**Ms Angela Denning:** It would involve very few people. From practice during my time in the central office, I remember one person making an application to be released from wardship. It is a jury trial to be released from wardship. It does happen from time to time.

**Chairman:** It happens through a jury trial. I thought that if there is medical assessment, the medical assessor might-----

**Ms Angela Denning:** That can happen but there is a fairly high threshold to bring people into wardship.

**Chairman:** We spoke about courthouses quite a bit. I understand the different schemes. Am I right in saying that the regional courthouse projects in Drogheda, Letterkenny, Limerick, Wexford, Mullingar and Waterford are up and running?

**Ms Angela Denning:** They are complete.

**Chairman:** Moving on to the next batch, Ms Denning mentioned further new or refurbished courthouses in regional cities and county towns where facilities remain substandard, including Galway city, Wicklow town, Portlaoise, Tralee and Roscommon. Regarding further potential locations, she mentioned Dungloe and Tuam. We will go through these one by one. Where are we with regard to Galway?

**Ms Angela Denning:** We are in discussions regarding Galway. The Land Development

Agency and the council have identified a site as a civic site on Dyke Road in Galway. It is very close to the existing courthouse and we would like part of that site. Discussions between the OPW and the Land Development Agency as to which portion of the site will be allocated to us are ongoing.

**Chairman:** Will these go individually or will they be a PPP?

**Ms Angela Denning:** At the moment, it is a PPP but it is a moveable feast. In the event that an opportunity arises to do them individually, we would be willing to go ahead.

**Chairman:** What about Wicklow town?

**Ms Angela Denning:** Wicklow town is a PPP. We are waiting on the OPW. Works must be done at the back. There is a modern extension at the back that needs to be knocked down because it has a fungus. The OPW must seek planning permission to demolish that extension, which is the first step. Again, that is part of the PPP.

**Chairman:** How old is that extension?

**Ms Angela Denning:** I think it dates from the mid-20th century.

**Chairman:** When Ms Denning said “new”, I was wondering whether it was built ten years ago.

**Ms Angela Denning:** It is newer than the front of the courthouse.

**Chairman:** That has quite a bit to travel if it has to go through planning.

**Ms Angela Denning:** Yes, it has.

**Chairman:** The building will require architectural and heritage reports and so on.

**Ms Angela Denning:** I am told that the timing of funding is the issue when it comes to progressing all the projects even where we must purchase the site.

**Chairman:** What about Portlaoise?

**Ms Angela Denning:** I signed a contract yesterday evening.

**Chairman:** What does that mean?

**Ms Angela Denning:** I signed a contract for a site on Abbeyleix Road, I think. It is on the new ring road. I have the address - Kylekiproe.

**Chairman:** I know it well. The Courts Service agreed to purchase this site.

**Ms Angela Denning:** That is the site.

**Chairman:** What is the size of the site?

**Ms Angela Denning:** It is 1 ha.

**Chairman:** The Courts Service has signed the contract and will be paying for that. Only after that, can it start talking about the design.

**Ms Angela Denning:** If we got funding in the morning, we would progress very quickly.

**Chairman:** The Courts Service has not yet done the design or planning work.

**Ms Angela Denning:** We have an outline design.

**Chairman:** Is the OPW doing that?

**Ms Angela Denning:** The OPW provides all the services for us with regard to courthouses.

**Chairman:** How quickly could the OPW progress that to planning application stage?

**Ms Angela Denning:** I am told that if we had funding in the morning, we would apply for planning permission immediately-----

**Chairman:** So the Courts Service has preliminary design.

**Ms Angela Denning:** And go through the planning and not long afterwards, have diggers on site.

**Chairman:** We know that with the best will in the world, all that takes a couple of years and rightly so because it is a big project, there needs to be competitive tendering and builders must be appointed. The construction period could be a couple of years. What about Tralee and Roscommon?

**Ms Angela Denning:** There are four options in Tralee. We could refurbish the existing courthouse, which is the middle of the town. I do not think it will be possible to provide a full range of services if we do that. We are looking at acquiring an adjacent town centre site. Again, we do not think we can get a site at a price that is good value for money for the taxpayer, which is a difficulty. We could build a new courthouse outside the town. The Department of Defence has a site at Ballymullen, which has been considered. Alternatively, Kerry County Council has a town centre site known as the Island of Geese, which is our preferred option. The council is developing a master plan for the site and we have sought another meeting with it in order to progress that further. We bought the courthouse in Roscommon from the council last year or the year before along with an extra plot of land.

**Chairman:** How long has the Courts Service been in the courthouse?

**Ms Angela Denning:** We have always shared the courthouse, which also housed council offices.

**Chairman:** I visited it once and thought it dated from the 19th century.

**Ms Angela Denning:** Most of our courthouses are aged buildings on historic town centre sites. The courthouse in Roscommon is part of the public private partnership bundle. Part of the ceiling in the jury room recently collapsed. We had asked the OPW to look at the mechanical and electrical systems in the building. We thought the renovation would cost approximately €350,000 overall but it will cost a minimum of €450,000 just to upgrade the electrical system. We have a contingency plan in place such that if there is a further problem with the building, as an emergency measure we will move courts to Castlerea and Carrick-on-Shannon. We are in discussion with local users to see whether we can keep the court business in the town in the medium term when we close the courthouse next March for refurbishment. If another ceiling collapses or something else happens in the morning, we have an emergency contingency plan in place.

**Chairman:** We have gone through past events and future planning. I have completed my questions. I thank the witnesses from the Courts Service and the Departments of Justice and Equality and Public Expenditure and Reform for their attendance. I also thank the Comptroller and Auditor General and his officials. It is agreed that the clerk will seek any follow-up information and carry out any agreed instruction arising from the meeting. There is information outstanding.

Our next public meeting will be on Thursday, 21 November 2020. There will be two sessions, the first dealing with the financial statements for 2018 of the Charities Regulator and the second involving a meeting with representatives of the Department of Communications, Climate Action and Environment regarding the Comptroller and Auditor General's 2018 report on greenhouse gas and carbon taxation. That follows on from our meeting with representatives of the Central Statistics Office and the Economic and Social Research Institute.

*The witnesses withdrew.*

*Sitting suspended at 1.32 p.m. and resumed in private session at 2.31 p.m.*

The committee adjourned at 3.49 p.m. until 9 a.m. on Thursday, 21 November 2019.