

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Déardaoin, 24 Meán Fómhair 2020*

*Thursday, 24 September 2020*

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The Committee met at 10.15 a.m.

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### MEMBERS PRESENT:

Deputy Colm Burke,	Deputy Marc MacSharry,
Deputy Jennifer Carroll MacNeill,	Deputy Paul McAuliffe,
Deputy Matt Carthy,	Deputy Imelda Munster,
Deputy Cormac Devlin,	Deputy Catherine Murphy,
Deputy Alan Dillon,	Deputy Verona Murphy,
Deputy Neasa Hourigan,	Deputy Duncan Smith.

DEPUTY BRIAN STANLEY 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, as a permanent witness to the committee. We have received no apologies.

The minutes of the most recent meeting of 17 September have been circulated. Are they agreed? Agreed. Is it further agreed that, from now on, once the minutes are agreed, that the committee publishes them? Agreed.

I now propose that we go into private session to deal with housekeeping matters before resuming in public session to elect the Vice Chairperson, Leas-Cathaoirleach, and to address the correspondence from the Departments and public bodies. Is that agreed? Agreed.

*The committee went into private session at 10.18 a.m. and resumed in public session at 10.40 a.m.*

### **Election of Vice Chairman**

**Chairman:** We are in public session. The next item on the agenda is the election of the Vice Chairman. As only one nomination has been put forward, I ask a member of the committee to move the nomination of Deputy Catherine Murphy.

**Deputy Marc MacSharry:** I nominate Deputy Catherine Murphy to be the Vice Chairman of the committee.

**Chairman:** I congratulate Deputy Catherine Murphy on being elected as the Vice Chairman of the committee. I have no doubt that she will bring experience to the role and that she will make an excellent Vice Chair. I look forward to working with her.

**Deputy Catherine Murphy:** Thank you very much and I thank colleagues for formally nominating me. I appreciate the support.

**Chairman:** It shows the high standing in which you are held. It was unanimous. I thank Deputy Carroll MacNeill also.

### **Business of Committee**

**Chairman:** Moving on to the financial statements and accounts received, we note the accounts and statements until we consider our work programme. Is that agreed? Agreed. As agreed last week, the secretariat is working to continue the practices of writing to bodies that are late laying statements and accounts before the Houses, and of writing to bodies to explain issues with procurement that have been flagged by the Comptroller and Auditor General.

On correspondence, before we proceed I just want to note that a number of Deputies have emailed their suggestions for the work programme to the Clerk. These items are not included

in correspondence as we have our hands full at the moment with what is in front of us but they will of course be addressed as part of our consideration of our work programme, which I would hope to address at next week's meeting.

Today we are considering the B items of correspondence, that is correspondence from Departments and public bodies. As agreed at last week's meeting, given the volume of correspondence in this category alone, and that we must adjourn at 12.15 p.m., the committee has decided on courses of action in relation to much of the correspondence in advance of this meeting. These items were received since the last meeting of the previous committee on 12 December 2019. I have reviewed the correspondence with the clerk and a list of correspondence with proposed actions was circulated to members earlier this week. Members were requested to respond if they did not agree with the proposed action or would like to suggest an alternative course of action. Members will have noted we are dealing with a significant backlog of correspondence. Some 91 items were included on the B list for today and we will have almost as much for our meeting next week, which is category C, correspondence from and related to private individuals and any other correspondence.

Today's correspondence includes a number of items that were received after the last meeting of the previous committee. They are primarily responses to requests from the committee arising from matters raised at meetings and I commend the previous committee on the work it has done in raising and pursuing matters that require accountability from Departments and public bodies. I hope we will continue with that good work. I propose that we will note and publish all of the correspondence on the list that has been circulated with the exception of No. 2683. For this item, we will publish the covering letter only. The Department of Education and Skills advises the information was provided on a strictly confidential basis, so we will not publish the attachments for this item but we will publish the covering letter. Is that agreed? Agreed.

We will briefly go through the items where further actions are proposed and if we do not get through the list we will take it up at next week's meeting. The full list of correspondence considered by the committee will be published as part of the minutes of the committee's meetings, and any body that has written to the committee can see the action that the committee has taken in relation to their correspondence. The first item of correspondence that has been flagged is No. 2645 B from Mr. Aidan O'Driscoll, Secretary General, Department of Justice and Equality, dated 13 December 2019 providing information requested by the committee on the operation of the Assisted Decision-Making (Capacity) Act 2015 and the 50% of road traffic cases which do not result in convictions, to include a breakdown of the reason for the cases being struck out. Deputy Munster has indicated she wishes to address this item.

**Deputy Imelda Munster:** Looking at the response we had got back in respect of offences that were before the court or the judge for holding a mobile phone while driving, the figures state that there were 3,886 offences that did not result in a conviction. The second paragraph on page 2 is problematic and I will outline why.

First, it says that the Courts Service does not record the reasons for any strikeout. Second, it states that prosecuting gardaí do not offer to the court reasons as to why the matter should be struck out and that a judge may withdraw an offence at the request of An Garda Síochána. It is concerning that the Courts Service does not keep records as to why a case is struck out. We are seeking clarification on the reason the service does not keep those records in the first place. Is it a case that it is just in this instance, or is it more widespread?

There are questions around the issue of a judge being able to withdraw an offence at the

request of An Garda Síochána. No explanation or examples are provided as to what the reason for doing so would be. Perhaps the Comptroller and Auditor General could say whether there is a role here for the Committee of Public Accounts or if there is a way it can be investigated further. I am saying that on the basis that we are all familiar with all of the problems with the PULSE system and penalty points. I do not think that it is as transparent as it ought to be. If there are reasons for striking out cases, they should be outlined, but there are quite a substantial number, and we do not fully understand why an offence can be withdrawn at the request of An Garda Síochána. What would the list of reasons be? Why does a reason not have to be offered to the court?

**Chairman:** Does anyone want to comment on that?

**Deputy Catherine Murphy:** Very often, when we start looking at the financial side of things, other things turn up, and poor processes can be one of those. We can make a real difference in relation to the change in how things happen, and often that is where recommendations come in. There may well be a variety of categories that could generally capture the reasons cases are struck out, but if we are going to have confidence in a system, people have to feel that there is more than just an arbitrary reason for a case being struck out and that it is not because a person happens to know a particular individual or something like that. It does merit some explanation as to why it can be the case that no explanation is given so as to help us understand it better. Obviously, the separation of powers exists, and the striking out of cases is happening in the courts, but we at least need to understand why it is happening.

**Chairman:** Does any other Deputy wish to speak?

**Deputy Colm Burke:** As someone who has worked in the District Court on the criminal side, albeit not a huge amount, in fairness, each court may approach the issue in a different way. If someone comes in to have a case withdrawn, the judge may look for reasons, so it can depend on the way in which it is approached. It is something that could arise, for instance, where a judge raises a technical issue and the Garda will withdraw the offence on the basis of coming back again because it does not have sufficient evidence. There are various reasons cases are withdrawn.

I am not clear that there is a huge volume of cases withdrawn, but I could be wrong on that. It could be a simple case, for instance, that the Garda involved is not available to give evidence, or another similar issue could arise. It can be complex in some cases, and sometimes sufficient reason is not given. For example, a judge could decide that because the case has been adjourned on a number of occasions, he will not allow further adjournment and the case is either dealt with or it is taken off the list. It is complex at times. Maybe we could gather some further information on the number of cases that are withdrawn without explanation. Maybe it is something that should be looked at.

**Chairman:** Fifty per cent is very high. Has Deputy Munster a suggested course of action?

**Deputy Imelda Munster:** I asked when I raised this initially whether there might be a role in it for the Committee of Public Accounts. I ask the Comptroller and Auditor General the same question. How would we investigate this? If there is simple clarification, fair enough, but 49% is high and the reasons are not crystal clear. As I said, given all the problems we had with the PULSE system, penalty points and so on, there is a need for someone somewhere to clarify this. Perhaps the Comptroller and Auditor General will be able to tell us whether there is a role for-----

**Chairman:** I will ask the Comptroller and Auditor General to come in at this point to clarify what way he thinks it should be.

**Mr. Seamus McCarthy:** We have found that paucity of information on strikeouts and reported on it on a couple of occasions. One of the difficulties we have found is that there is a limit to the amount of work we can do within the courts system. We do not make recommendations as to what judges should do and so on. One idea that has been there for a number of years is that there be a unified system from An Garda Síochána through to court cases and on into the prison system in order that there would better quality information available. In the past the systems have not spoken to one another. They have had all sorts of different numbering systems. The Garda has one case number, a court case has another number, and then the service of convictions follows another numbering system. There has been an idea that the justice system should develop a unified system to track any offence through.

As for recording the reasons, I would certainly be in favour of understanding more about why strikeouts happen. As Deputies have said, the reason a case may be struck out can be an inefficiency on the Garda side in prosecuting it, the judge may be left with no option, or it may be a direction of the court. To understand even those basic questions, we could start looking at the process more within An Garda Síochána if that is where the problem is or if there is some kind of technicality in the law that is causing the strikeouts. We have recommended and favoured that there be better quality information. I think it could lead to better administration and better use of funds.

**Deputy Jennifer Carroll MacNeill:** What Mr. McCarthy said about the paucity of information coming from the Courts Service is frustrating in many different ways. One of the other resource implications of what we are discussing is the man hours taken by the Garda for one, two or three days, potentially, and not being clear why a case has been struck out. There are therefore resource implications in more than one direction, not just revenue-generating but also the use of resources. I think it is worth investigating. It may also be a signal to the Courts Service from this body that there needs to be a tighter approach to record-keeping on what is coming out of the courts.

**Chairman:** I ask Deputy Munster to make a proposal on actions to be taken.

**Deputy Imelda Munster:** Would it be worthwhile to have the Department before the committee to start the ball rolling and get it to examine how procedures could be put in place and a unified approach taken right through the whole system?

**Chairman:** The Deputy is proposing that we invite in the Department of Justice and Equality.

**Mr. Seamus McCarthy:** There is a project already under way to try to unify the information systems, so the obvious place to start would be with the Department and the Secretary General.

**Chairman:** Is Deputy Munster proposing that we write to the Department to invite it before the committee?

**Deputy Imelda Munster:** Yes, I am. There are a number of different issues we could invite the Department in to discuss, if the committee is in agreement with that proposal.

**Chairman:** We will include this as one item. I call Deputy Mac Sharry.

**Deputy Marc MacSharry:** I agree with that but I do not have my notes to hand. Late during the final session we brought forward legislation which most people would have supported, involving the introduction of measures so that people, instead of having to go prison for non-payment of a fine where somebody could not afford to pay it, community service and other measures could be considered. As I recall everybody was supportive of this at the time. There was an inadvertent outcome to that which I just cannot remember the detail of offhand, but I did raise it here and perhaps the Comptroller and Auditor General may be able to recall. We did not have time to get into it. There was an anomaly in it where if somebody chose not to pay a fine through wilful neglect, the system could not follow up on that person without holding additional court hearings which were going to clog up the whole court system with thousands of such hearings. We could usefully explore that issue too.

The only other thing I would say about the Department of Justice and Equality is that it has many seasoned public servants who work very hard and they are good at attending this committee but if we are not very specific about what we want to discuss at a given meeting, they will not discuss it. The Chairman will then be forced to say that we invited the Department to talk about X, therefore we will not talk about Y. As a general point when we are inviting representatives from the Department of Justice and Equality or indeed any Secretary General or their Accounting Officer, we propose that these are the list of five or six items, so that we are making maximum use of the time, and that there are no responses to the effect that the Department does not have the right people with them, or that they do not want to address a particular item on the day. The Chairman will then be forced, given the Kerins judgement, to say that the invitees were invited to discuss X and we must discuss X and nothing more.

**Deputy Catherine Murphy:** It might be useful in the first instance to write to seek an update on this particular aspect see what comes back as it could be a while before we timetable the Department in again and there may well be other issues that we may want to discuss with it. This might shortcircuit things. Is the Courts Service doing a separate piece of work? If it is it would be useful to ask it the same questions.

**Chairman:** Are the members in agreement that we write to these parties in the first instance asking it to outline the reasons for this and highlighting our concerns, as it does not include a breakdown and there is not procedure for this or do members want to invite the Department in to attend in the first instance? That is the question.

**Deputy Imelda Munster:** I think it might be an idea, as Deputy Murphy has said, firstly to see what the response is. I have no doubt that we will have to invite the Department in following the response. It did not offer any clarity of any description or outline exactly what the reasons were in this. It might be no harm to look for an update and to be specific about what we want exactly. We can invite them in further then on a number of issues after that.

**Chairman:** Will the committee write to the Courts Service, as well?

**Deputy Imelda Munster:** Yes, there is no harm in writing to both bodies.

**Chairman:** We will write to both bodies then to look for specific information.

**Mr. Seamus McCarthy:** It is the Courts Service, Chairman, that we refer to on the point made by Deputy Mac Sharry. The issue was that after a change in the law to allow for instalment payment of fines, effectively, the collection of fines dropped very significantly. I cannot remember the exact figures but it was of the order of 40% or 50%.

**Deputy Marc MacSharry:** Some 11 million-----

**Mr. Seamus McCarthy:** Yes, it was something like that. It is the Courts Service that handles the collections of fines and the remitting of same to the Exchequer.

**Deputy Marc MacSharry:** In order to collect these fines, because of an anomaly in the legislation, if I, Marc Mac Sharry for example, was done for a fine and did not pay it, the court would have to bring me back to have additional hearings in order for me to then say that I cannot afford to pay it. I could then be given community service, which is going to clog up the whole Courts Service. The service then is therefore not going to call the person back and we are going to end up with many strikeouts again and presumably we will not be given the reason for them. The reason is that there is an anomaly in the legislation that, instead of the defendant being able to stand up at the opening hearing and say "I cannot afford this", it can be then said that the person can do his or her 20 hours community service or whatever it is in lieu. The fines have dropped because nobody is in a position to follow up. Unscrupulous people who should be paying fines are wise to this now and are not paying them and the system will not pursue them because it is too-----

**Chairman:** This is very high, and it is not acceptable. The clerk to the committee will write on that specific matters seeking information on it.

The next item of correspondence is No. 2649 from Deputy Paschal Donohoe, Minister for Finance and Public Expenditure and Reform, dated 16 December 2019, responding to the recommendations in the periodic report No. 6 of the committee. Deputy Munster has indicated that she wishes to discuss this item and I ask her to be brief as there is a lot of correspondence to be dealt with.

**Deputy Imelda Munster:** I have highlighted several items on several pages that require clarification, on foot of the recommendations made by the committee. I will give a couple of examples. Recommendation A.1 reads: "The Committee recommends that the Department immediately improves the system to provide comprehensive information in respect of all housing provision and that this information is published on a monthly basis." The response received from the Department focused on the monthly reporting issue rather than the fact that the committee found the data to be unsatisfactory.

Recommendation A.2 states that the spending on the housing assistance payment, HAP, and the rental accommodation scheme, RAS, "does not represent value for money". The Department dismissed the argument made by the committee in that regard. The Department did not answer or address many of the issues. There is a list but I will not delay the meeting.

Recommendation A.5 by the committee seeks value for money "where emergency accommodation is required". The Department did not mention or address the key value for money issue, which is the length of time that families remain in emergency accommodation. I have quite a few issues with the response from the Department. The Department has skirted around or dismissed some of our concerns and ignored specific recommendations. All of these matters must be rectified when the officials are here again.

**Deputy Catherine Murphy:** Every Committee of Public Accounts operates differently but I will outline what we did in the past. A comprehensive report is produced following a body of work. In some cases, Departments say they have noted our recommendations but we all know that means they accept what we said, they say they have heard it and they will keep things under

review but then they do nothing. We all know the language. It is fine when we reach the point where they accept a recommendation.

There is a suggestion that recommendation A.6 is unclear. This is one that comes up repeatedly when there is an underspend by the Department of Housing, Planning and Local Government on Traveller-specific accommodation. Anybody who has been a member of a local authority will know very well that moneys provided for Traveller-specific accommodation can only be spent in a very defined way and not on traditional housing. Every year there is an underspend, yet there is a group of people who find it almost impossible to find accommodation. Indeed, a report was released in the last few days that shows people's attitudes to the Traveller community. I am surprised that the Department does not understand our recommendation. I think we need to go back on that if the moneys cannot be spent in a particular way. Every year, it looks like the local authorities do not deliver Traveller-specific accommodation. We should begin by discovering, for example, whether the Traveller community wants certain types of accommodation. If the money is there for a halting site or a particular group housing scheme, for example, it can be spent on it. Every year, however, there is an underspend and I am not happy that the Department is coming back and saying it is unclear.

There are a number of other recommendations in the report regarding, for example, the Analysys Mason report on the metropolitan area networks. We spent much time on broadband and on the metropolitan area networks contract. A report sat for a couple of years on the Minister's desk. When he came into the Committee of Public Accounts, a reduction in the cost of broadband was announced the same day. Therefore, that report was important in having an effect on the price of broadband. It was to be reviewed within a period of two years. That was in 2017, and we see here that the answer to the recommendation is "No". There either is or is not going to be a review. It was an important recommendation.

A number of things in this report would merit a detailed amount of discussion. In fact, these kinds of reports would often have taken up most of the time for correspondence at a particular meeting. When we have done a body of work, we look for action to be taken. Having taken the trouble to do a report and write to the Department to seek its response to it, we want our work to have an effect or an outcome. I do not believe we can just make a recommendation and move on because there are many elements in this report we could go back to the Department on.

**Chairman:** One other speaker has indicated. I call Deputy Hourigan.

**Deputy Neasa Hourigan:** To be honest, Deputy Murphy has covered most of what I wanted to say. I will add that this report throws up many issues. I can think of several questions I would like to pursue on every recommendation. It deserves merit, even on how we assess the levels of need regarding emergency accommodation and housing and homelessness. We know that in Ireland, we do not do this in line with best practice in other countries. A number of issues here are worthy of further consideration.

**Chairman:** Deputy Munster has raised a substantial number of issues in connection with the report. Perhaps the most practical thing is for this to be deferred until the Deputy puts together a list. She has flagged the item, which is also of concern to other members. Maybe they could draw up a list of the matters on which they want clarification and further information, and those they want acted on, and we will bring it before a future meeting. Is that acceptable? Are members happy with that? Okay.

**Mr. Seamus McCarthy:** For the information of the committee, next week one of the reports



I will be publishing deals with the housing programme and, specifically, how we monitor the performance of the housing programme. It is a large area of spending. I am trying to draw attention specifically to whether we have the right kinds of measures and we understand the relationship between the funding and the targets that are being set. That will obviously be an issue in the future, if the committee wishes to examine it. Outstanding concerns from the minute might be addressed in that context.

**Chairman:** I thank Mr. McCarthy. I ask Deputies to put together and review the documents. We will agree at a future meeting which ones we want clarification and further information on, and which ones are to be acted on, and we will send that back to the Department.

The next item of correspondence is one I am noting myself, No. 2658 from Mr. Alan Wall, chief executive of the Higher Education Authority, HEA, dated 19 December 2019. It provides information requested by the committee with regard to recurring deficits in third level institutions and the impact of cuts in funding for the third level institutions. As well as noting and publishing this item, I propose to include the HEA in our work programme to discuss this and related matters in the context of its latest financial statement. Deputies will have seen the correspondence, No. 2658, from it. There are major issues with the 20% decrease in public funding between 2015 and 2018 while the number of students has increased by 30%. In recent weeks people in the sector have highlighted that they are facing major funding challenges. I propose we include the Higher Education Authority in our work programme to discuss all of this and related matters in the context of its financial statement. The numbers attending third level institutions have been increasing dramatically and will increase again this year, which is good. However, the funding issue needs to be addressed and cannot be ignored. Is it agreed that we include it in our work programme? Agreed.

The next item has been flagged by Deputy Carthy. No. 2660 is from Professor Phillip Nolan, president of NUI Maynooth, dated 20 December 2019 providing a response to matters raised with the committee. It is a detailed and comprehensive note on 12 matters. Deputy Carthy has suggested that we request from NUI Maynooth the potential cost to it if all relevant staff were to submit claims for the maximum period in the past and if the university will commit to put in place a process to automatically ensure staff receive their entitlements.

**Deputy Matt Carthy:** This correspondence, dated 20 December 2019, outlines the practice this committee had previously highlighted whereby university staff need to make a claim to get paid holidays, which seems to be unusual. I suggest that we get a sense of any cost associated with that. Considering the length of time since that correspondence, we need to get clarification from the university as to whether it has addressed this practice through its own procedures.

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

**Deputy Catherine Murphy:** We had many hearings into the university sector which stood out in the Committee of Public Accounts of the previous Dáil. There is a high degree of casualisation of work, including by people who are giving lectures, which might be even more precarious now. In that context we asked some of these questions. In some instances people told us that they had been paid in book vouchers. They had very precarious situations. It was not unique to one university and several universities had problems. In looking at this, we need to look at not just holidays in line with legal requirements. I believe we asked this college this question. If somebody spent four years doing casual work, that is very different from somebody doing it for six months. That is why we looked at it over a period of time. There appears to be a problem across the board. It was brought to our attention by individuals who were working

in various universities and colleges.

**Chairman:** Are we agreed on the course of action as set out? Agreed.

No. 2677 B is from Mr. Nicholas Meehan, Department of Public Expenditure and Reform, dated 19 December 2019 providing information requested by the committee on the procedures and policies regarding appointments to the Civil Service of those with a knowledge of Irish. Can we agree to forward a copy to the correspondent who raised the matter?

Deputy Carthy has suggested that we request equivalent up-to-date information for 2020 to date and to request total figures - not just for Irish language posts - for the same years by grade. Is that agreed?

**Deputy Matt Carthy:** Citizens have a right to liaise with Departments and statutory bodies through our native language if they so wish. I am simply requesting that we get an update on the position, not just in respect of Irish language posts specifically but also appointments where the successful applicant would be deemed to have a knowledge of the Irish language so we can get a sense of where we stand in terms of meeting one of our obligations.

**Chairman:** Okay. Are we agreed?

**Deputy Neasa Hourigan:** This speaks to diversity and equality within our Civil Service. I am sure this is based on a previous piece of work that has been done. Is it possible to broaden it to include other metrics of diversity? The Civil Service has a responsibility for persons who are disabled in their employment and other metrics of diversity. Is it possible to broaden the new information to include issues like that? Is a note of them made?

**Deputy Matt Carthy:** Under the Disability Act, each Department has a responsibility to employ 2%-----

**Mr. Seamus McCarthy:** The figure is 3%.

**Deputy Neasa Hourigan:** Only 3%?

**Mr. Seamus McCarthy:** Yes, 3%.

**Deputy Matt Carthy:** -----of people with disabilities within the ranks. People have been very fluid with what they deem to be a disability in that regard in order to fulfil the criteria. It is a separate, but important, question.

**Deputy Neasa Hourigan:** If we are writing to Departments to ask for this sort of information, we can include that.

**Mr. Seamus McCarthy:** The Department of Public Expenditure and Reform has responsibility for the composition of the Civil Service and policies on Civil Service recruitment. I understand its representatives are due before the committee in a number of weeks. A better starting point might be to have a discussion and then follow it up with a request for specific information when the members are aware of what it already does and what information it already has.

**Chairman:** Okay. That is agreed. The next item of correspondence is one flagged by me.

**Deputy Catherine Murphy:** What have we agreed? Have we agreed to write-----

**Chairman:** We have agreed to request the relevant up-to-date information for 2020 to date and to request the total figures for the same years and grades. It was also proposed and agreed that we would also include the number of people with disabilities.

No. 2688 B is from Mr. John McKeon, Secretary General of the Department of Employment Affairs and Social Protection, dated 7 January 2020. It provides information requested by the committee on the following: the welfare cheats cheat us all campaign; the number of people in each year who were referred to JobPath and kept a job for more than 12 months; the length of time for the processing of appeals for domiciliary care allowance; and, a note on the cost of delivery of training by external companies. I propose that we also include the Department of Employment Affairs and Social Protection appropriation account 2019 once it is published in our work programme and include JobPath in agenda. Is that agreed? Agreed.

The reason I am highlighting this is that the figures that came back are very stark. Of 251,890 people who went through JobPath in a five-year period, only 18,291 people retained employment after 12 months. I am flagging this because it shows that the outcomes of the Job-Path programme are very poor despite a lot of money being put into it. I thank members for their co-operation with that.

The next piece of correspondence is No. 2690 B from Mr. Jim Breslin, Secretary General of the Department of Health, dated 7 January 2020. It provides an update requested by the committee on the Farrelly commission of investigation established to investigate the care and protection of “Grace” and others in former foster homes in the south east. Deputy Carthy and I propose that we write to the Department of Health and request confirmation that the phase 1 report of the Farrelly commission was provided by the outlying date in 2020. Does Deputy Carthy wish to comment?

**Deputy Matt Carthy:** Members will recall this case and the severity of it and it would be appropriate that this committee is proactive in ensuring the answers in relation to the commission of investigation are made public as soon as possible. There is a huge public interest element in this and we need to ensure this committee is seen to hold to account those who need to be held to account and that answers are forthcoming as quickly as possible.

**Chairman:** The next item has been flagged by Deputy Munster. No. 2692B, from Mr. Ray Mitchell of the Health Service Executive, HSE, dated 7 January providing notes requested by the committee on the geographical spread of the 127 primary care sectors, which is something that has come up in the past; the additional 1 million extra home help hours approved in budget 2020; and details of the retendering of the contract for delivery of private ambulance services. Does Deputy Munster wish to address this item?

**Deputy Imelda Munster:** I do. It has furnished us with a list. This is, perhaps, not for the Committee of Public Accounts as such but reference was made to the fact it has a home support pilot scheme. Going through the list, there are many areas that do not yet have a primary care centre. As it included it in the report, can we write to it to get an update on its home support pilot scheme?

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

No. 2705B has been flagged by Deputies Munster and Carthy. It is from Mr. Ray Mitchell, assistant national director of the HSE, dated 10 January, providing a brief note requested by the committee in relation to non-compliant procurements. Myself and the two Deputies have

flagged this because it is of serious concern. Deputy Carthy has suggested that the committee requests further information as to why the HSE is unable to furnish this information and why the timeline for correcting this is so extensive. Four years is excessive to try to correct a serious matter like this. From my point of view, the correspondence from the HSE is wholly unsatisfactory. The HSE does not have a single procurement system. It operates several legacy systems, it is unable to provide full visibility on how procurement is done and, over a four-year period, there were examples given by the Comptroller and Auditor General of up to 49% non-compliance with procurement. This body will spend a €17.4 billion budget this year and the extra spending put in for Covid. We are talking about huge sums of money and the really concerning thing is that the HSE says it cannot correct this until quarter 1 of 2024, which is four years from the date of this letter. What it says is that the HSE has a plan to have 80% value of the HSE health spend covered by a single national finance and procurement system by 2024. I suggest that it is totally unacceptable to the committee, and that it would be totally unacceptable to the general public, that public funds cannot be accounted for more efficiently.

**Deputy Imelda Munster:** I have a question for the Comptroller and Auditor General. Given that the HSE is one of the highest-spend groups, what is normal practice in relation to procurement? What does it have in place in comparison to other Departments?

**Mr. Seamus McCarthy:** Year on year, we have reported consistently that the HSE has not been competitively procuring a significant proportion of its procurements of goods and services. The figures that are included relate to samples that we took. In other words, we looked at these samples. We cannot take a representative sample. Every year, the samples we take consistently indicate that there is a significant amount of non-competitive, non-compliant procurement happening. Effectively, because the HSE never built a single financial system or a single procurement system it has a decentralised procurement system. Many parts of the HSE are undertaking procurement and a lot of it is not compliant with normal rules. By comparison, in other organisations which have simpler structures than the HSE, there would be better visibility of procurement and expenditure because, effectively, they are operating on one accounting system or one financial management system. We are better able to take a sample from that system on a random basis. More recently, many of the Departments have developed a comprehensive database of all the procurement they undertake and they signal on it whether procurement was competitively or non-competitively procured and, in the latter case, the reason for non-competitive procurement. As a result, they are better able to manage and account for the compliance of the procurement they are undertaking. Undoubtedly, the HSE is one of the biggest and most complex organisations in the country but this is a problem that we have been signalling for nearly a decade at this stage. Some progress is being made, but there is certainly a lot more scope for improvement.

**Chairman:** I am surprised to hear that this issue was flagged ten years ago. It is totally unacceptable that it has been indicated in the communication to this committee that it will take another four years to resolve. The samples taken by the Office of the Comptroller and Auditor General showed a non-compliance rate of 49% in 2016 and 36% in 2017. For any public organisation, that is wholly unacceptable. We need to bring in the HSE on this issue. I call Deputy Matt Carthy.

**Deputy Imelda Munster:** I want to follow up on an issue with the Comptroller and Auditor General.

**Chairman:** I will allow a brief question.

**Deputy Imelda Munster:** What are our options? Do we leave this matter with the HSE or should it be taken in charge elsewhere?

**Mr. Seamus McCarthy:** There is further information in the HSE annual financial statements by way of the statement of internal financial control. If that could be circulated to Deputies, they would get a more comprehensive picture than is included in the report. It also indicates the steps that the HSE is taking. The HSE has acknowledged that there is a problem and is trying to improve the situation, but it is happening very slowly. It is a matter that Deputies can raise with the HSE. As stated by the Chairman, with the step-up in procurement in 2020 and the circumstances of that procurement, there is likely to be a very significant increase in the amount of non-competitive and non-compliant procurement. However, the emergency circumstances is an allowed circumstance.

**Chairman:** I can understand that but a lot of money has been budgeted for it. It is taking almost 14 years to correct the problem. Surely, the HSE can put in place a model to correct this within a 12-month period. Any other organisation would be expected to do that. I call Deputy Carthy, to be followed by Deputies Catherine Murphy and MacSharry.

**Deputy Matt Carthy:** Everybody who has seen this correspondence, in particular first-time members of this committee, would have been struck by the audacity of the suggestion to the Committee of Public Accounts that within four years the HSE will resolve an issue that was highlighted over a decade ago. One cannot help but be mindful of those organisations, including local disability organisations, that are put through the mill in terms of procurement rules and processes to get what are in the grand scheme of things minuscule amounts of moneys to provide good public services. It is just not an acceptable proposition that this committee can be told that bad practice has been identified for this length of time and that the HSE will take another four years to resolve it. I understand that and I was going to make the point that the Comptroller and Auditor General just made that we know, this year, that the amount of non-compliant expenditure will probably be greater than ever, because quite understandably, PPE, for example, had to be purchased at very short notice. However, if there is an emergency proposition on top of a bad practice scenario, then it creates all sorts of problems as to whether we are losing potentially millions of euros from our health services, just as a result of not having the correct procedures in place.

As my proposition states, the committee needs to get clearer information as to why the HSE has not been able to address this issue to date. It is something that we need to keep on the agenda of this committee, including requesting a meeting and a hearing with the appropriate officials within the HSE.

**Chairman:** I call on Deputy Catherine Murphy.

**Deputy Catherine Murphy:** It is an old chestnut for those of us who have served previously on the Committee of Public Accounts. First, I find the situation unacceptable and we need to get the best value for money. This cannot be done unless there is a system in place to do so. We need to understand that the way the HSE has developed over the years, with chopping and changing, from the old health board system to the HSE, including changes at the institutional level, is part of the reason that this has happened. The other reason it has happened is that the HSE was not funded to have a co-ordinated system. It is only in recent years - I think in the past two or three years - a specific amount of money was allocated to IT systems that are essential to delivering this kind of outcome. It has to be seen as an investment rather than a cost, because ultimately we are going to pay the price for not having done that. We are appalling at institution

building, and we do it in a very fragmented way. We must understand that there is a price to be paid for not getting these things right in the first instance. The additional correspondence will be of assistance in understanding the historical reasons, because we will make these mistakes again if we do not learn from those already made.

**Chairman:** I call on Deputy MacSharry.

**Deputy Marc MacSharry:** I agree with everything that has been said. I would like to ask the Comptroller and Auditor General a question. Obviously if one were to set up a company, one would not structure it like the HSE at all, because it is too big and unwieldy. However, is it possible to have one accounting system and one procurement system in the HSE, or is the answer to that question that this option was priced but it would have cost, for example, €2 billion to buy the computer system to run it?

**Mr. Seamus McCarthy:** There is no doubt that big computer and IT systems are extremely expensive-----

**Deputy Marc MacSharry:** Sure, but obviously it pays-----

**Mr. Seamus McCarthy:** Having said that, one needs infrastructure to run a business.

**Deputy Marc MacSharry:** Obviously it has been going on for maybe ten years, and probably at every second meeting of the Committee of Public Accounts over the years it is an issue that has come up in some way or another in terms of the HSE. Does the HSE have a plan? Is there company designing a system for the HSE which will be in place-----

**Mr. Seamus McCarthy:** I would have to refresh my memory and look at the statement on internal financial control, but progress is being made and there is a plan in place. I cannot recall off-hand what systems the HSE is aiming to use. However, turning a big ship around, particularly when there are so many legacy systems, is going to be difficult and expensive.

**Deputy Marc MacSharry:** It is more like turning a planet than turning a ship. When the officials from the HSE appear before the committee, the focus should be on its management system in terms of procurement. I suppose it is impossible to have a totally perfect system and that there are not going to be exceptions. In the post-Covid period, for whomever sits on this committee, there will be a few tough meetings looking back at this period, because probably everybody has been forced to make emergency purchases for PPE and all the rest of it.

**Mr. Seamus McCarthy:** Exactly.

**Deputy Marc MacSharry:** There is a level of understanding. It would, however, be useful to get an update from the HSE as to when it will have one integrated system that is clearly navigable for people who are looking in, such as members of the committee, or its own internal or external auditors to be able to see that these things are done.

**Chairman:** The fact that Mr. McCarthy's office flagged this up ten years ago and that nothing was done and that the HSE is telling us that it will take a full 14 years to do this is totally unacceptable. We will request further information as to why the HSE is unable to furnish this information. We also need to point out, in reference to this correspondence, that we are not happy about the fact that this was flagged up all of ten years ago, and to ask why it is going to take a full 14 years. There is €17.4 billion, substantial funding, going into the health service, and rightly so. In comparison with the other OECD countries, we are well up there as one of the

highest in Europe for the average spend on health per head of population but we do not yet have a national health system. Deputy MacSharry asked whether the HSE has a plan in this regard. The problem is that there is no single system. That is the nub of it.

**Deputy Alan Dillon:** The HSE employs more than 135,000 people. The fact that its own internal audit and risk management committees have not identified this or presented adequate information on the inadequacies around financial management and good governance in respect of procurement is something that the committee probably needs to evaluate. Every organisation upgrades its systems. We are in a digital age in how we manage procurement. I am sure, with all the co-operation in this country, that there are management tools available. As the Comptroller and Auditor General discussed, the point is to get the knowledge on these tools in order that, however long this committee remains in session over the term of this Dáil, we get visibility on how progress is going. If that starts at a community level or a primary care level or on a phased basis, we need to be aware of that. It would probably make our lives a lot easier. As Deputy MacSharry said of the procurement contracts that went out in the early part of the Covid pandemic, we are talking about billions of euro spent on PPE. Again, the value for money in those contracts needs to be assessed.

**Deputy Jennifer Carroll MacNeill:** I agree with the points that have been made but also wish to make the observation that while the HSE takes a substantial proportion of our budget and is a substantial employer and a large organisation by Irish standards, it is not a large organisation by international standards, whether the UK or the European Union, and has good links in through all the different networks we have throughout the European Union to be able to have a single integrated finance system. It is not the biggest thing in the world, and it is unacceptable that it would take this long to get it together.

**Chairman:** There could be some copying and pasting with best practice in other countries.

**Deputy Marc MacSharry:** There is on every piece of legislation; I am sure it can be done in respect of accountancy.

**Chairman:** I suggest that the committee keep an eye on this and follow up on these figures because it is a really serious issue and involves a big spend. The HSE is a big employer, as Deputy Dillon said. The amounts of money involved are huge, and 14 years is not good enough. We will pursue this with the HSE, request further information as to why it is not able to do this and point out that we are not happy about the fact that it has been flagged up for ten years and that it will be four more years before the HSE gets it in place. Even at that, we need to ask why there will be only 80% compliance with proper procurement practices. We will see what the response is. Following that, we will need to get representatives of the HSE in before the committee to address this. I think we need to have a specific session on this if that is agreed by the committee. That is agreed.

The next item of correspondence that has been flagged is No. 002 B, from Mr. Maurice Buckley, chairman of the Office of Public Works, dated 27 January, providing an information note requested by the committee on the number of contracts that were non-compliant with procurement guidelines in 2018, the amount of each and the reason for non-compliance. Deputy Munster has indicated that she wishes to discuss this briefly.

**Deputy Imelda Munster:** This might be something or nothing, and somebody might be able to explain it. I refer to the contracts that were non-compliant. According to the list furnished by the OPW there were eight individual projects and each was called security private

residents but the total amount was €374,000. Does anybody know who or what that would be? Perhaps it can easily be explained. It is as I described and it amounts to quite a substantial sum of money. If it is or could be something none of us are aware of, should we be concerned about it? If we do not know, can we write for clarification on exactly what it is? Has anybody come across this before?

**Chairman:** I ask the Comptroller and Auditor General to comment briefly.

**Mr. Seamus McCarthy:** My understanding, and I cannot speak to any individual item there, is that it would usually be, for example, judges who are dealing with criminal cases where security arrangements have to be put in place around their homes. It could also be, let us say, a Minister or a person in the public eye who, by virtue of their employment, had a threat against them. That could be the circumstance.

**Chairman:** It is mainly for security arrangements. Does the Deputy want the committee to write seeking further information or is she happy with the answer given by the Comptroller and Auditor General?

**Deputy Imelda Munster:** Yes, I suppose it gives a certain bit of clarity. I still think it would do no harm to write to them. We are not looking for whose house it was or what their position was, just a breakdown of the circumstances that would allow this. We do not want to know where they are or who they are, rather a category of what the spend was on.

**Chairman:** We agree that the secretariat will look to receive information on the matter. The next item is in the name of Deputy MacSharry. Perhaps he will be back to the meeting, so I will hold that and revert to it.

Deputy Carthy has flagged the next item of correspondence, No. 008 B, which is from Ms Louise O'Meara, head of policy and secretariat, Garda Síochána Ombudsman Commission, dated 20 January 2020, providing an update requested by the committee on the investigation regarding EU funds for training purposes in relation to the Garda College, Templemore. Deputy Carthy has suggested that we request an update from GSOC on the status of the investigation with regard to recent reports in the media that it may be impacted by delays.

**Deputy Matt Carthy:** Members will recall the debacle on the misspending of EU funds for training purposes at the Garda College. The correspondence that the Garda Ombudsman sent to the committee on 20 January 2020 indicated that the investigation was at an advanced stage and should conclude in the near future. Recent media reports suggest that a retired Garda who, apparently, was subject to this cannot facilitate GSOC in terms of questions due to a medical condition, and we wish them well. Could we write to GSOC asking for an update, considering the public outrage that occurred when this case was at its height? We would benefit from an update.

**Chairman:** Are members happy enough with that action, to request an update from GSOC on the status of that investigation with regard to those media reports? Agreed.

**Deputy Catherine Murphy:** I have no issue and an update is fine, but are there boundaries with the likes of GSOC, the Director of Public Prosecutions, DPP, and others? Maybe the Comptroller and Auditor General might give us some sort of an indication on it.

**Mr. Seamus McCarthy:** Certainly there are boundaries for any organisation like this, and particularly where it refers to actions of individuals, they may be limited in the information they



can give. I would imagine that until the report is finalised, all the information they can give is about the progress of the investigation. I think that is what the Deputy was asking.

**Deputy Matt Carthy:** If I recall correctly, and obviously I was not a member of the committee, but the Garda and-or the Department indicated that they would not fulfil the financial element of their examinations entirely until GSOC had completed its report. That is why the committee had contacted GSOC for an update in the first instance. Considering they said in January that they were at a latter stage of their investigation, it is appropriate that the committee would write in September to ask where they are at with it.

**Chairman:** We are seeking an update from GSOC if the committee is agreed on that? Agreed. I am going to bounce back now to Deputy MacSharry, who had to leave the room unavoidably.

**Deputy Marc MacSharry:** Is this on the OPW?

**Chairman:** It is No. 007B. We have correspondence from Mr. Maurice Buckley, chairman of the Office of Public Works, dated 17 January 2020, providing an update requested by the committee on the outcome of discussions with the landlord of Miesian Plaza, Baggot Street, Dublin 2. Deputy MacSharry has suggested adding the OPW to the work programme. Does the Deputy want to come in briefly on that?

**Deputy Marc MacSharry:** I am aware Deputy Munster has an issue on the OPW so I do not know if the committee decided to bring it in on that basis. I think we should bring it in on this anyway. Miesian Plaza is where the Department of Health is located, in the former Bank of Ireland building on Baggot Street. The basic story is that the OPW did a deal with the landlord and, despite being advised by its internal personnel, used an old measurement mechanism to denote the square footage. That was incorrect. I think it ended up paying about €300,000 extra per annum in rent or €10 million over the course of the entire lease. We had a hearing here from the chairman of the OPW at the time who said it was this extraordinarily complex process of measurement that has changed. As an auctioneer, I can tell the committee it is not. Any of us in this room could probably manage to measure it. There was internal advice that highlighted the danger in mixing up the two measurement standards yet they still went ahead. The follow-on was that they were then going to go to the landlord and say they made a mistake and ask to be let off, which I doubt will happen. This update from 17 January last seems to indicate that they had a meeting and a discussion and were hoping to have another meeting. My best guess is they are not making any progress. At the committee meeting at the time, I asked if there was any disciplinary process afoot. The answer was “No”, it was not a disciplinary matter. I asked why and they said, “Oh, well, it is complex” and so on. This is the classic thing from us all, whether politicians or public servants at a senior level. There are no consequences for our actions. There are no outcomes. When we do eventually spend €300,000 on some external report, the inevitable answer as prescribed by the hand of the terms of reference will be cultural or systemic failure. Nobody gets punished, there is no outcome, even when it costs the State €10 million. I have a problem with that. It is endemic across many of our Departments. I would like to have the OPW in to ask it precisely what is going on and at this late stage, having had more than a year to reflect on it, if there is any disciplinary action or if such mediocrity is accepted policy.

**Chairman:** On a point of information, I have a memory of this coming up at the committee before when the Deputy was here and I think he indicated that it was an issue he dealt with. What was the issue in respect of the measurements? Presumably they went in and measured offices and worked out the square feet or square metres. Anybody who has been to national

school can do that. What was the nub of it?

**Deputy Marc MacSharry:** It used to be wall to wall. Maybe I am mixing things up. One measurement system was wall to wall and the other one is window to window, glass to glass. Over a very large building, that can mount up. One system included pillars and one did not. One system included the void spaces like stairwells, lift shafts and so on. That was it.

**Chairman:** That would be indicating that the windowsills could be utilised as part of the office space and one pays for them.

**Deputy Marc MacSharry:** Yes. The landlord, far from being unscrupulous, is in business and is not going to say, "If that is the rent you are happy to pay, I am happy to accept it." The OPW was to go back after the fact when a lease was signed and say it was paying €10 million too much and ask if there is any chance of a reduction. Fair play to the landlord if they do give one but they are not bound to and I do not blame them for not doing so. My issue is that this will all happen again in another six months.

There was another issue with the OPW; while we would be inviting the office to attend in any event, and not being parochial, it concerns a large amount of money. It bought a site for €1.35 million for a new Garda station in Sligo and it was announced by the Government that there would be no Garda station built now. I want to know what that site is going to be used for and the reasons for this. Perhaps the Garda or others are involved but we are going around and dishing out €1.35 million for sites but are not proceeding to build something that we are now saying was not needed within a year. My understanding was that this particular Garda station was in a public-private partnership bundle with new Garda stations in Clonmel and Macroom. Not to be political about it but I highlighted in my run in to the election that this was my fear. It was, of course, all going ahead up to the election and the ballot papers had not gone into storage when it was decided that the Garda station in Sligo would now be done up instead. We now have a €1.35 million site and I do not know what the implications are for the people of Macroom or Clonmel, who I am sure are waiting for their new Garda station. That is another issue that we could deal with when the OPW attends, together with Deputy Munster's item. One will find when we have the opportunity to chat with that office is that there will be plenty of other matters to discuss.

**Chairman:** I suggest that Deputy MacSharry write to the clerk to the committee on this site, and if the committee is agreeable to this-----

**Deputy Marc MacSharry:** I already have.

**Chairman:** Is the committee agreed that we include that item with the other item on the Miesian Plaza? I presume silage was cut on the site this year or cattle grazed on it.

**Deputy Marc MacSharry:** I can assure the Chairman that if that happened, it was not to the benefit of the State.

**Chairman:** I thank the Deputy for clarifying that point.

**Mr. Seamus McCarthy:** I am sorry to interrupt, Chairman, but there is also a chapter from a previous annual report of mine that I do not believe that the committee has examined. This referred to a maintenance contract operated by the OPW where that office exceeded the level of expenditure it advertised that the contract would be used for in a very considerable way. The committee may wish to discuss this item also at the same time.

**Chairman:** Does the committee agree with this proposal? Agreed. We could put in many items on this issue and stay with it for a while. These are three important items to be dealt with. We will ask that the items raised by the Comptroller and Auditor General and Deputy Mac Sharry be included in the work programme and will go ahead on that basis.

The next item to be is from Deputy Munster, correspondence No. R0013 from Mr. Mark Griffin, Secretary General, Department of Communications, Climate Action and Environment, dated 16 January 2020 providing information requested by the committee on the number of contracts that were non-compliant with procurement guidelines in 2018, the amounts for each and the reasons for non-compliance. Deputy Carthy has suggested the following-----

**Deputy Matt Carthy:** I wish to withdraw my request in this matter.

**Chairman:** That is okay. Are members satisfied with this? Agreed.

The next item is in Deputy Carthy's name. Does Deputy Munster want to speak on No. R00013?

**Deputy Imelda Munster:** Is this the correspondence from the Department of Communications, Climate Action and Environment? We all know about the serious concerns around the project but the sums involved here are vast. It is hard to credit. Can the committee ask the Department to attend at some stage for questioning?

**Chairman:** This would usually happen as part of our work programme.

**Deputy Imelda Munster:** Would members agree to this because questions have to be asked about those sums?

**Chairman:** I suggest to Deputy Munster that she submit the proposal to the clerk and to the secretariat for agreement within the work programme and that this matter can be taken as one of the items.

**Deputy Imelda Munster:** Can we take a note of it today with the agreement of the committee?

**Chairman:** Yes. That is okay and agreed.

The next item we are dealing with is No. R0017 referred to by Deputy Carthy and correspondence received from Mr. Sean Ó Foghlú, Secretary General, Department of Education and Skills, dated 20 January providing information requested by the committee on the number of contracts that were non-compliant with procurement guidelines in 2018, the amounts for each and the reasons for the non-compliance. Deputy Carthy has suggested that we request further information on the line item of media monitoring services, the reason the services are used and the information that is gathered.

**Deputy Matt Carthy:** People might argue that it is not a huge amount of money in the overall scheme of things, but it is €25,000 of public money. The employment of media monitoring services by Departments is a bugbear of mine. In addition to its in-house press operations, the Department is asking a private company essentially to monitor the media. The public deserve to know the exact service that is being provided in this regard. We know that this contract was entered into without any competitive process and it would be useful for the committee to get further information.

**Chairman:** It is a €25,000 project.

**Deputy Matt Carthy:** It is a €25,000 contract with a limited supplier. The justification given in the response from the Department of Education and Skills is that there is a restricted market for this service. I would argue that a couple of transition year students would be able to let it know what the newspapers are reporting or what is on other media. Apparently, the Department of Justice and Equality was deploying officials to monitor what political opponents were saying on Twitter or whatever. It would be useful to know the reason the Department of Education and Skills needs an external media monitoring service and the purpose of it. There might be benign and legitimate reasons it would do so but it is important that we would find out.

**Deputy Verona Murphy:** I would like to endorse that on the basis that this is only one Department. Do we know if this is common practice across all Departments? We should examine it and ask about the process.

**Chairman:** I thank the Deputies. We will seek that information.

Deputy Carthy wants to speak on No. 031*b*, correspondence from Derek Moran, Secretary General of the Department of Finance, dated 13 February, providing information requested by the committee relating to NAMA's policies and procedures on promotions. Deputy Carthy has suggested that the Department would furnish the committee with a report on its engagements. Is that correct?

**Deputy Matt Carthy:** Yes, it is as simple as that.

**Chairman:** Are members happy with that? I thank them.

Deputy Munster has flagged No. 052*b* from Maurice Quinn, former Secretary General of the Department of Finance, dated 1 February 2020, providing the information requested by the committee relating to a number of contracts that were non-compliant with procurement guidelines in 2018, the amounts for each and the reasons for non-compliance. Deputy Munster has indicated that she wishes to discuss this item.

**Deputy Imelda Munster:** It is another non-compliant procurement. Could we ask the Comptroller and Auditor General to clarify the response that has been given and make sense of it?

**Mr. Seamus McCarthy:** A couple of points are raised in the response. First, a distinction is made in the note between non-competitive and non-compliant. The standard process is that there should be a competitive tendering process for any sizeable contract. For smaller contracts, quotes might be sought from a number of reasonable suppliers - people who could credibly supply the service - but for a bigger tender one would expect a competition. There is a very complex set of rules deriving from EU law governing how these competitions are to be run. It is onerous but nonetheless it is expected.

Certain exceptions are allowed within the EU rules. For instance, if it can be demonstrated that there is only a single supplier of a particular service or good then it is acceptable that one would look for a price from the supplier but obviously one would have to be satisfied that it represents good value and so on. There are other cases. We have talked about emergency procurements and so on. In such circumstances, that can be an allowable explanation for not having a competitive process.

We draw attention to any situation where an organisation has had non-compliant procurement in excess of €500,000.

It is quite a low threshold for a big organisation so percentage-wise it might not be huge. Over a number of years more discipline has come into the system and there is less likelihood that people will take the easy route and not go for a competitive process.

The 40/2002 circular has been in place since 2002, obviously. It requires a Department to report to me and also to the Department of Public Expenditure and Reform if it has had non-competitive procurement. That is designed to flag to us that it decided not to go the competitive route so that we can know and we can look at the particular instances.

In the statement on internal financial control, which is at the front of each Department's appropriation account, it is supposed to set out the circumstances that gave rise to non-compliant procurement and to explain so that it is transparent why it did not have competitive procurement, why it was sometimes non-compliant and the steps it is taking to remedy it.

**Chairman:** The figure of €25,000 was mentioned. Is that the threshold above which public bodies and Departments are expected to have competitive tendering?

**Mr. Seamus McCarthy:** It is basically the threshold, above which a Department is expected to put its procurement on the eTenders system. The EU has higher thresholds for competition. If something has expected expenditure of let us say €1 million, it has to be advertised across the EU if it is in certain categories. It is very complex. Anyone who has dealt with procurement will know it is a very specialised area.

**Chairman:** I ask the Comptroller and Auditor General to clarify. Below €25,000 they can go for a group of preferred tenders.

**Mr. Seamus McCarthy:** One can go to what I would call credible suppliers and they can be asked to provide quotes.

**Chairman:** Three normally.

**Mr. Seamus McCarthy:** Yes.

**Deputy Verona Murphy:** On the figure Mr. McCarthy mentioned, they can go below what?

**Mr. Seamus McCarthy:** It is €25,000.

**Chairman:** Below €25,000 they can seek it from maybe three local suppliers.

**Mr. Seamus McCarthy:** That is excluding VAT.

**Chairman:** Three people who are in the business.

**Deputy Catherine Murphy:** This comes up from time to time. We want to get best value for money, but sometimes this can be quite a blunt instrument. I use this example. The library service was required to tender, obviously, for the purchase of books. The tender was won by a UK company and many people employed in Ireland, where there would have been a supplier previously, ended up out of work. We are a small country and this is an issue we need to consider. The amount of leakage from the bigger countries is considerably less than it is from countries like Ireland. It is very significant.

**Mr. Seamus McCarthy:** It is significant.

**Chairman:** The point the Deputy is making is that it can be very damaging. I have seen some public bodies that were forced to discontinue sourcing goods and services from local suppliers because of that rule. It can be very damaging to local economies. What leeway is there in that regard? Is there a clause there? There could be an environmental reason. In the case of goods, does it make sense to haul them all the way from Germany, France, Poland or elsewhere if somebody locally is producing the same goods? It might come in a few cent a kilo more expensive. Is there leeway in the tendering rules around that?

**Mr. Seamus McCarthy:** Obviously, scale may be an issue for some local suppliers. There is a balance to be struck between the size of the bundles to be put out to tender. There are obviously certain services that can really only be provided locally. For instance, where an education and training board has schools spread across two counties, the bundling of the cleaning service can be achieved in such a way that a service in west Galway, as opposed to one in east Galway, can make competition available to credible suppliers in the region or district. It is quite a complex thing to achieve.

**Chairman:** Can the carbon footprint be a factor? I refer to environmental considerations in terms of goods.

**Mr. Seamus McCarthy:** An organisation can specify what it needs. It could be for the supply of masks for instance. A specification is given but, once it is met, the expectation is that suppliers in Germany or Italy may supply goods of a similar nature if they can ship them.

**Deputy Neasa Hourigan:** May I address that point given that I used to lecture on procurement? Green procurement is incredibly complex. At the moment, we have fledgling items within our procurement structure that mean that regard can be had to factors such as environmental impact, but they tend to be rooted in considerations such as the transport of the good to the site. Something displacing an Irish job could be coming from Italy, but in an electric van, which does not really achieve what we want to achieve.

I am under the impression that the Department of Public Expenditure and Reform may be examining some of these issues in terms of green procurement but we would like to be focusing on subjects like community wealth-building, which accounts for jobs in one's local area and factors that go beyond environmental metrics. I believe, however, this is well worth pursuing.

**Deputy Verona Murphy:** What part of the procurement process takes into account the delivery of the actual product when examining the tender? For instance, through the Road Safety Authority, drivers' CPC cards are issued from the UK but they never arrive on time. As a matter of fact, months may elapse between the application for a renewal and delivery. That impedes the driver in doing his work. He can actually be fined by both the Irish authorities and any other European authority. How is cognisance taken of that?

**Mr. Seamus McCarthy:** My instinctive reaction to it is that it is part of the specification. If something is being supplied from a long distance and the time of delivery is critical, it can be specified that the supplier must have a turnaround time that fits a particular standard. Does that address the point the Deputy is making?

**Deputy Verona Murphy:** That is not happening. I am wondering how it would work if there were an Irish alternative. While an arrangement might be cheaper, it is not more productive.

**Mr. Seamus McCarthy:** That is a discussion that can be had with the Road Safety Authority.

**Deputy Verona Murphy:** The Road Safety Authority would be one such body.

**Mr. Seamus McCarthy:** The Office of Government Procurement could talk more generally about these matters, and its representatives could appear before the committee. If there are specific examples, they can speak to those. These problems are recognised generally in the system-----

**Deputy Verona Murphy:** I thank Mr. McCarthy. I do not want to hold up the meeting.

**Chairman:** I am watching the clock. We have one item of correspondence to deal with after this. The proposal was that we note and publish it. Is Deputy Munster happy with that?

**Deputy Imelda Munster:** Could I ask Mr. McCarthy something?

**Chairman:** The Deputy should bear in mind the Comptroller and Auditor General's suggestion that we have a discussion in the future on public procurement. Would that cover it?

**Deputy Imelda Munster:** I am aware of that. My question was on the particular response on which I had asked for clarity. Is Mr. McCarthy satisfied with the responses furnished?

**Mr. Seamus McCarthy:** Yes. There are some cases where there is significant non-compliant procurement. In this case, however, a general request was made to Departments to write in. Even those that did not have a lot of non-compliant procurement were responding. I am quite happy with the response.

**Chairman:** Item No. 057B has been flagged by Deputy Carthy. It is from Ms Josephine Kelly, a principal officer in the Department of Agriculture, Food and the Marine, dated 4 March 2020. It provides an explanation for the delay in the laying of the 2017 annual reports for the Aquaculture Licences Appeals Board and the Marine Institute before the Houses of the Oireachtas. They should have been laid within three months of the Comptroller and Auditor General signing them off, as per the requirements of Department of Public Expenditure and Reform Circular 7/2015. Deputy Carthy has suggested that we request a status update as to when these will be available. Is that agreed? Agreed.

**Mr. Seamus McCarthy:** I would like to make a point on this. The Department of Agriculture, Food and the Marine is doing what is required in the circular, which is for it to send a communication to the committee. In other circumstances, as the clerk has pointed out to the committee, where there are delays and there is not an explanation already provided, the committee has decided to follow up with Departments when they are late. This is the gold standard. This is what the committee should expect, which is that where there is a problem a Department will tell it.

**Chairman:** It has provided an explanation.

**Deputy Matt Carthy:** It dates back to March and I am seeking an update on it.

**Chairman:** We can seek an update on its status.

**Mr. Seamus McCarthy:** They certainly have been laid since.

**Deputy Verona Murphy:** I apologise because as a new member I was not aware of exactly

what we were doing. Is it possible, or is it too late, to raise the Road Safety Authority, RSA, correspondence that had not been detailed?

**Chairman:** I suggest the Deputy submits it to the clerk. She has flagged this issue with me privately. We will discuss it at a future point. We are under time constraints because of the health regulations.

**Deputy Verona Murphy:** That is no problem. I just wanted to make sure it was not too late.

**Deputy Marc MacSharry:** I support Deputy Verona Murphy on this. There is an issue we might focus on. Obviously Covid has had a huge impact on all aspects of Irish society but one that I do not think is in the spirit of solidarity that we are all embracing is that the RSA has a contract with a company that goes around to check all commercial vehicles. The anecdotal reports coming in are that a budget or contract price was agreed for the year but because of Covid the level of work fell off because nobody was on the road or the company was not allowed to go around. Now there is this mad race to “do” enough people, for want of a better expression, to justify the contract price. There is an overzealous number of checkpoints. I am not supporting rogue drivers but it appears that if these people stop drivers they will find something. Someone could buy a truck one day and the next day the company would find something wrong.

**Deputy Verona Murphy:** There is no appeals process.

**Deputy Marc MacSharry:** The operation of this contract, given Covid, is not in the spirit of solidarity that we have in the country at present. We could usefully look at it as a matter of urgency. I support Deputy Verona Murphy on this.

**Chairman:** If it is submitted to the clerk we will try to get it in as early as possible at a future meeting.

**Deputy Cormac Devlin:** I would like clarification on what the Comptroller and Auditor General just said regarding the correspondence from the principal officer at the Department of Agriculture, Food and the Marine. Is he saying the Department is in compliance, which is why we will see much of this type of correspondence coming to the committee, because it is a requirement for the Departments?

**Mr. Seamus McCarthy:** Yes, the key requirement in the circular from the Department of Public Expenditure and Reform is that accounts should not be held back from the committee and that they should be promptly submitted. Three months is generally taken as the time allowed from when I sign the certificate until the accounts are laid in the Oireachtas Library. If there are circumstances where this cannot be done the obligation is then on the Department to explain why not and to do so spontaneously rather than the accounts arriving six months late, nobody giving an explanation and the committee having to chase it up. That is the point I am making.

**Chairman:** I thank the members for their co-operation. We had a full agenda and we are trying to work in very restricted circumstances. It is important that people are aware we were operating under two hour limits because of the health restrictions. For many members this has been their first public meeting of the Committee of Public Accounts and I thank them for their co-operation on how we have dealt with the business.

The committee adjourned at 12.15 p.m. until 10 a.m. on Wednesday, 30 September 2020.