

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Dé Céadaoin, 7 Deireadh Fómhair 2020

Wednesday, 7 October 2020

The Committee met at 4.30 p.m.

MEMBERS PRESENT:

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

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 this morning by the Comptroller and Auditor General, Mr. Seamus McCarthy, as a permanent witness to the committee. No apologies have been received, except from Deputy Verona Murphy who may be late due to a bereavement.

The minutes of the meetings of 30 September and 1 October have been circulated. Are the minutes agreed? Agreed. As previously agreed, those minutes will be published.

I propose that we go into private session to deal with some housekeeping matters before resuming in public session to deal with correspondence and to address our work programme. Is that agreed? Agreed.

The committee went into private session at 4.32 p.m. and resumed in public session at 4.56 p.m.

Chairman: The first category of correspondence is A, briefing documents and opening statements. There are a number of briefing documents that were submitted in relation to our meeting with the HSE and the Department of Health last week. We will note and publish all of those. Opening statements for tomorrow's meeting have been added to the meetings folder, as well as briefing material from the National Asset Management Agency, NAMA. These will be published following tomorrow's meeting. Is that agreed? Agreed.

The next category of correspondence is B, correspondence from Accounting Officers and Ministers and follow-up from Committee of Public Accounts meetings. We will note and publish these items. Is that agreed? Agreed.

The last category of correspondence is C, correspondence from and related to private individuals and any other correspondence. Members have flagged a number of items for further consideration and we will focus on those. The first three items were held over from our meeting on 30 of September to give Deputy Carthy the opportunity to address them. The first item of correspondence is No. 2676C from Deputy Catherine Connolly, dated 18 December 2019, regarding a report by the Charities Regulator in relation to the Galway University Foundation. Is it agreed that we note this item? Deputy Carthy has indicated that he wishes to speak on this item.

Deputy Matt Carthy: This related to the previous Committee of Public Accounts, of which I understand Deputy Connolly was a member. There was a particular issue that had arisen with the Charities Regulator's report into the Galway University Foundation and a number of breaches were outlined. It might be prudent if we were to write to the foundation to ask for a detailed response to the report and to ask it to describe what, if any, actions have been taken with regard to the issues that had been raised.

Chairman: Is that agreed? Agreed. I will ask the clerk to the committee to do that. The next item of correspondence is No. 2678C from Deputy Catherine Murphy, dated 20 December 2019. It is a request for the committee to include the Office of Government Procurement in the committee's 2020 work programme. We will note this and I propose that Deputies Catherine Murphy and Carthy address this when we move to the discussion in public session of our work

programme. Is that agreed? Agreed.

The next item of correspondence is No. 061C, from an individual dated 2 April 2020, making an allegation about information provided to the deposit interest retention tax, DIRT, inquiry. It is important to note that the allegation has not been substantiated. It had been proposed to note this correspondence. Deputy Carthy indicated that he might wish to speak on this issue.

Deputy Matt Carthy: There is not a huge amount of detail within this correspondence. The name is very similar to one that is high profile and it would indicate a knowledge of these areas. I wonder if it is worthwhile for the committee to respond, asking for elaboration in regard to the points made.

Chairman: Does any other Deputy wish to come in on that issue? Are we agreed that we take that course of action and that we seek expansion of the points raised in the letter or further information? Agreed.

Correspondence item No. 117, dated 17 September 2020, from Deputy Marc MacSharry, is a request for the committee to include the following bodies in its work programme: the board of the National Children's Hospital; the Prison Service; An Garda Síochána; and the University of Limerick. Is Deputy MacSharry happy to address this when we come to the work programme?

Deputy Marc MacSharry: Yes.

Chairman: Correspondence No. 131, dated 22 September 2020, is from an individual requesting that the committee examine Caranua's financial statements report before the fund closes. Caranua was formally known as the Residential Institutions Statutory Fund. It is proposed to request the Department of Education and Skills and Caranua to provide an information note regarding the arrangements and timeframe for winding up Caranua, and dealing with any outstanding liabilities and cases that have not been finalised.

I will open this to the floor as a number of members have indicated they wish to address this. It is certainly an issue that I would flag as one that needs to be addressed. Caranua did not file a financial report for 2019 and it is still outstanding, although it should have been filed before 20 March. Significantly, Caranua has announced that it will close shortly. My understanding is there is some €1.3 million left in the fund. We have a letter from a solicitor who acts for the applicants. The Department of Education and Skills confirmed to the Committee of Public Accounts that transitional arrangements would be put in place to deal with outstanding liabilities. On 6 August 2020, the Department confirmed to that solicitor that it will not have any transitional arrangements in place to deal with the outstanding liabilities. There are also questions in regard to Caranua's use of preferred suppliers. Overall, there are matters to be examined. I call Deputy Carthy.

Deputy Matt Carthy: Will the Comptroller and Auditor General indicate whether he has carried out any examination of Caranua in the recent past and whether he feels it would be appropriate for this committee to delve further into the issues that are raised? They appear to be quite significant on the basis of the correspondence we have received.

Mr. Seamus McCarthy: For the information of the committee and contrary to what is in the correspondence, the financial statements for 2019 have been signed off on by me and I have certified them. Caranua would be due to come to the Oireachtas before 8 or 9 November. We have always looked at the control system within Caranua and it has itself disclosed that there are weaknesses in its control systems. It may not address specifically the things that are raised

in regard to the two cases that are mentioned here. These would be expected to be the last financial statements of Caranua because it is winding down and any residual assets or liabilities would be transferred to the Department of Education and Skills. There is still an opportunity for the committee to call Caranua once the financial statements are submitted.

Deputy Matt Carthy: On that basis, I think we should do that because, clearly, if the liabilities are also going to transfer over to the Department, we could have a situation where there are liabilities that were accrued in error, or for other reasons that do not fully fit into prudent public expenditure. If so, perhaps this committee would be in a position to examine some of that before it becomes a burden on a Department that is already overstretched, as we know.

Deputy Marc MacSharry: Was it presented, as suggested here, as just one set of accounts for the two years?

Mr. Seamus McCarthy: No, it is just for 2019.

Deputy Marc MacSharry: It states they were before the Cabinet for some time. Is that the case?

Mr. Seamus McCarthy: I do not believe that is either necessary or usual practice. I would think they are just making their way through. They have to go from Caranua to the Department and then from the Department to the Oireachtas Library.

Deputy Marc MacSharry: In the last Committee of Public Accounts, this was a recurring theme. I think Caranua should be invited in to explore these issues. I would fear for individual applicants who are awaiting a process if it goes into a large Department with competing priorities. The solicitor's clients, and presumably people who are perhaps represented by others, are entitled to some level of peace of mind as to when they are going to be dealt with, if they are going to be dealt with and who is going to deal with them. There is also the fact there are no transitional arrangements in place. If that is the case, which it is according to this correspondence, then that is a problem. I support Deputy Carthy and think we should bring them in.

Deputy Imelda Munster: We had Caranua in last year and there were serious issues of concern. If memory serves me right, there were 22 applicants who apparently had missed the deadline. Nevertheless, they were deemed eligible at the time and there was still substantial money left in the pot. When Caranua representatives were asked about this, they did not really have answers and said it was under review. All of that is still up in the air. I would support Deputy Carthy's request for Caranua to come in.

Deputy Catherine Murphy: I looked for this to be discussed. I doubt there will be any surplus and we are more likely to be looking at liabilities. Part of the reason this was a recurring issue was because there was concern it was going to be a limited fund and we wanted to ensure that limited fund was wholly spent in the way it was intended to be spent, which was to spend it on very vulnerable people. We had valid concerns in regard to the setting up of the organisation and the money that was expended at that point.

This has to be dealt with as a matter of urgency and it is not something we can push off into the future. It has to be dealt with before it ends up in the Department of Education and Skills. One issue we had with the Department of Education and Skills, which is associated but is not the Caranua fund, is that of the disposal of assets from religious institutions. The Department of Education and Skills was still dealing with some of those disposals some 15 or 20 years after there was an agreement that they would be part of a settlement. Therefore, I would not

be encouraged as to how the Department of Education and Skills will deal with this and I have serious concerns about that.

Deputy Cormac Devlin: I have had dealings with this group. A considerable amount of money would possibly be left over, according to this correspondence, whether that proves to be the case or not. I support the call to bring them in. I believe it is important for the committee and particularly for those who are potentially eligible for this fund that we ensure people who apply are in receipt of what they are entitled to. As I said, I have already come across problems myself, and I think it is appropriate to bring them in.

Deputy Neasa Hourigan: It seems there is a real time-sensitive issue here. The fund is closing towards the end of this year, which means those funds will be moving almost immediately. Whatever we decide to do, it needs to happen right at the beginning of our work.

Chairman: My concern is that there are still some survivors without outstanding calls for the money. They have made applications. Two of them are listed in the correspondence but there are probably several more. I have come across some of the survivors, as, I imagine, have other Deputies. I have a question for the Comptroller and Auditor General. It is important that, insofar as we can manage it, their needs are met because of their experiences. Is there any notion of how much may be in it?

Mr. Seamus McCarthy: I cannot recall what was on the balance sheet at the end of 2019. Obviously, there have been further transactions of the board since then. A wind-down process is planned. I do not have the detail at the moment. The Department or Caranua should be able to provide a fairly-----

Chairman: The correspondence mentions a figure of €1.3 million. We do not know whether that is accurate.

Deputy Colm Burke: I wish to ask about all the issues about liabilities. Rather than the Department taking over - it will only prolong the process if the Department takes over without getting it resolved beforehand - why can some of these issues not be resolved at this stage?

Mr. Seamus McCarthy: The point is that there is a structure in place - a whole organisation - that would effectively exist and continue to pay salaries and so on for a small number of transactions if Caranua remains in place. The idea is that now that the substance of the business has been completed, with a few transactions yet to be processed, it could be done. The idea is that the board would wind down and the final transactions would be effected by the Department. They will not be continuing the business because all of that will have been completed. I have said that assets and liabilities are transferring. If cash is transferring, the expectation is that there would be matching liabilities not additional liabilities. Once the body closes its business, there will be no more applications and no further claims will be admitted for payment.

Deputy Colm Burke: Could the liabilities not be discharged before the handover to the Department?

Mr. Seamus McCarthy: In some cases, the applications are estimates of works to be completed. The applicant may not be in a position to complete these in advance. The payment will not be made until such time as there is a contract in place to deliver goods or, for example, to complete works on someone's house.

Chairman: The issue is what we do from here. We can look for information from Caranua

regarding how many outstanding valid applications have not yet been provided for and how much remains in the funds. Would that be helpful at this point? We could discuss further our next move. We can ask the clerk to seek that information from Caranua.

Deputy Marc MacSharry: I do not want to be in conflict with the Chairman. I want to be supportive of anything he wants to do, but I think we should press ahead and bring in the Caranua representatives. We can ask them those questions when they are here.

Chairman: We can discuss that in the context of the work programme, if people want to do that. There is no question that this matter needs to be resolved. It is simply a question of how to resolve it. This is only from the point of view of efficiency. It would be useful if we actually knew what we were dealing with, how much money there is and how many outstanding applicants there are. At this point it would be useful to get that information while we are waiting to get them in. We should seek that in any case.

Deputy Catherine Murphy: Can we find out what the wind-down costs are and the categories where they anticipate there will be costs?

Deputy Matt Carthy: I do not believe that there needs to be conflict between what the Chairman is proposing and what Deputy MacSharry is proposing. We should write to the Caranua representatives immediately, informing them that we intend to invite them to a hearing of the committee, but we should give them the opportunity to correspond with us in the short term. Perhaps they can address our concerns through correspondence. Then we may decide that we do not need to invite them to a meeting. The premise will be that is our intention at the moment.

Chairman: Is it agreed that we will look for answers to those three questions and discuss them under the work plan? We want to know how much money is in it, the number of outstanding applicants and the projected wind-down costs.

Deputy Marc MacSharry: I apologise for being difficult. Would it be okay if, on reflection, we had questions and then, by a given time tomorrow, we could send them to the clerk and he could include them, if appropriate? I imagine that if there is a problem with any of them legally, he will tell us.

Chairman: If members want to do that and they can be facilitated by the clerk, I have no difficulty with it. We will hold for 24 hours and if members submit questions that, legally and in every other way, are sound, then I do not see any reason it should not happen. Do members want that facility? That is agreed.

No. 113 is correspondence received from Deputy Hourigan, dated 24 September 2020, with suggestions for a work programme. We will consider that when we come to the work programme. Is the Deputy happy enough with that?

Deputy Neasa Hourigan: Yes.

Chairman: No. 135 is correspondence from Deputy Munster, dated 1 October, requesting that we include additional witnesses at our meeting next week with the National Treatment Purchase Fund. We had a discussion about it. I propose to discuss the matter as part of the work programme. Is the Deputy happy enough with that?

Deputy Imelda Munster: That is okay.

Chairman: No. 136 is correspondence from Deputy Catherine Murphy, dated 1 October. She has suggested priorities for examination in respect of the Comptroller and Auditor General Report on the Accounts of Public Services 2019. I suggest the best way of dealing with it is when we are dealing with the work programme.

No. 137 is correspondence from Deputy MacSharry, dated 1 October, asking the committee to consider requesting the Secretary General of the Department of Education and Skills to appear before the Committee of Public Accounts. We can discuss it with the work programme. Deputy Carthy has also highlighted his concerns regarding the system of calculated grades for the leaving certificate. Are members happy enough that we will deal with that under the work programme when we come to it presently?

Deputy Matt Carthy: Yes.

Chairman: No. 140 is correspondence from Deputy Catherine Murphy, dated 29 September, containing proposed actions relating to Periodic Report No. 6. I propose that we request the Department of Public Expenditure and Reform to provide further updates relating to the matters raised by the Deputy. Is that agreed?

Deputy Catherine Murphy: Yes. I outlined a number of items on the list rather than the whole report, for what it is worth.

Committee Work Programme

Chairman: That concludes our correspondence.

Next on the agenda is the financial statement and the work programme. We will move on to the financial statement and accounts received. Three have been laid before the Dáil between 5 September and 2 October, all with clear audit opinions. Can we agree to note the accounts and statements? Is that agreed? Agreed.

The secretariat is continuing the practice of writing to bodies that are late laying their statements and accounts before the House. The secretariat writes to bodies to explain issues with procurement that have been flagged by the Comptroller and Auditor General. Do members wish to raise any other item relating to financial statements and accounts?

The next item is the work programme. In recent weeks, members have raised their priorities with the committee on the work programme for the coming months. They have been compiled by the secretariat and a discussion document has been circulated to members.

I will explain the process to assist those watching who might not be familiar with the terminology we use. Dáil Éireann provides money for ordinary services of Departments and offices. Expenditure is provided under what are termed “Votes”, with one or more covering the functions of each Department or office. At the end of each financial year, each Department or office is required to prepare an account known as the appropriation account for voted services administered by it. The Comptroller and Auditor General audits these accounts. Once presented to the Dáil, the committee can then examine them. The Comptroller and Auditor General also prepares a report on the accounts of public services. This sets out issues that in his opinion merit consideration by the committee. The committee is also empowered to examine these matters.

We will move on to the first matter we need to address, which relates to our priorities for the first Departments with which we will be engaging, namely, the Department of Public Expenditure and Reform, on 22 October, and the Department of Finance, on 5 November. Given that these engagements will be limited to two hours, I suggest that we have no more than two or three items for discussion with each set of officials. If there is more ground that members wish to cover, it may be best to schedule another engagement rather than trying to fit too much into one meeting.

On the Department of Public Expenditure and Reform, I propose that the agenda include the Department's 2019 appropriation account for Vote 11, which is the Department's Vote; Vote 12 on superannuation and retired allowances; and chapter 3 from the Comptroller and Auditor General's 2019 report, which concerns Vote accounting and budget management. There are also two related chapters from the 2018 report on accounting for capital assets and accounting for allied services.

There is also a chapter on the implementation of financial management shared services. The office was set up within the Department of Public Expenditure and Reform but as the Accounting Officer is the head of the National Shared Services Office, I propose that we address that Vote and chapter separately.

That would not cover the Office of Government Procurement Vote but in light of Deputy Catherine Murphy's correspondence relating to the Office of Government Procurement and the recurring issues we see with procurement, I also propose that we have a separate engagement on procurement with the Accounting Officer and the Office of Government Procurement in the new year. Is that agreed? Agreed.

On the Department of Finance, there is a significant volume of material available to the committee. Again, given that we will only have two hours for our sessions, I suggest that we limit the engagement to the Department's Vote, chapter 1 of the Comptroller and Auditor General's report on the Exchequer financial out-turn for 2019 and the finance accounts, and chapter 17 on the Ireland Apple escrow fund. A number of Deputies, including me, have raised these matters. Is that agenda agreed? Agreed.

Deputy Marc MacSharry: I do not disagree with anything on the agenda but it goes back to the education element. I know we will get to that specifically. We must have a general conversation about the implications of Standing Order 218(1). By this time next month, 50 matters will occur in respect of the Department of Finance and the public will expect some of them to be raised when the Secretary General comes before us. We will be told that, under Standing Order 218(1), we are not entitled to ask certain questions because the committee will have invited the Secretary General before it specifically to discuss two or three matters. When the Kerins judgment emerged, I said that it would be dressed up in such a way as to nobble the work of committees, and that is precisely what will happen. We will get to it on the education side in a moment. If it is the case that something major happens on a morning when we have Department of Finance officials before the committee, including the Secretary General, Mr. Derek Moran, and Deputy Matt Carthy asks a very pertinent question that 5 million people are screaming to have answered, the clerk would be obliged to say, "Sorry, due to the Kerins judgment, that is not in order". That is not what the Kerins judgment stated.

The Kerins judgment was very specific in stating that it is important to stick to the agenda so that the level of privilege which applies is not qualified. The relevant applicant in that court case was not representing a body audited by the Comptroller and Auditor General in the first

instance. We are dragging it out now and choosing to interpret it as being a major issue if we are dealing with a direct employee of the State, such as an Accounting Officer of a State agency or Department. I can be very critical and robust in questioning public servants who work extremely hard but I am sure it is music to their ears that we accept that.

Standing Orders 281 is dated from July and it has been fabricated to mean something that the Kerins judgment did not dictate. It will nobble the work of this committee and undermine our ability to respond as this committee has since the foundation of the State to issues that arise. The idea is that when The Comptroller and Auditor General and his office have audited the accounts for 2019 and the horse is long gone, we can talk about the horse then. I always felt we had the capability to identify where money might be lost or where poor practice might be at the expense of the taxpayer. We could highlight matters on which the Comptroller and Auditor General would work. The implication of what is being said is that when the Comptroller and Auditor General has finished with a matter, we can talk about it then. That is when the subject will be in the history books.

The clerk has kindly pointed out that if we feel there is a matter of public interest of the day, we can apply to put that into an administrative merry-go-round, involving a committee of oversight that has yet to be established, so it can decide whether it is appropriate for us to look at such a matter. I do not know who would be on such a committee of oversight and whether it would include civil and public servants, Members of the Oireachtas or personnel from the Oireachtas legal office. I am very uncomfortable with the idea, no matter who is on the committee, that we would have to go through this additional layer, not foreseen in the Constitution by de Valera when it was written in the 1930s and which has nothing to do with the Kerins judgment.

Our advice is clear. We must show dignity and respect to witnesses. We were told last week there is no problem with robust exchanges but we must stick to the items on the agenda, which is perfectly fair. To narrow the ditches so much, however, will ruin this and other committees. It was mentioned that in the interim and before the administrative merry-go-round is set up we can write to the Ceann Comhairle. Even when it comes out of this committee of oversight, we have been told a motion must be passed in the Dáil to permit the Committee of Public Accounts to look at it.

I am sure other members can go back over years to pick out thousands of items where the Committee of Public Accounts intervened on a given day and things happened. We are destroying the process. I appreciate that this is contained in Standing Orders but perhaps we can be advised what options are open to us to strongly object to those Standing Orders. We should ask whoever wrote this to reverse from it so we do not close the entire process of transparency that is facilitated by the Committee of Public Accounts and the committee system. This is so we can prescribe what is done and when and nothing more.

Chairman: I thank the Deputy. The document is of major concern to me and I have discussed it with some staff. We would only be able to deal with historical matters but major concerns could arise that could not be dealt with under such an interpretation.

We should object to these Standing Orders. We should not be afraid to ask any public official before us, pending this matter being resolved. If they want to refuse such a request, senior officials can explain why they are refusing to come here to account. Ultimately, this is the Committee of Public Accounts and the people who are public servants or in receipt of public funding must account for themselves here. If they want to refuse to do so, we should not be afraid to

challenge them. I have major concerns about these matters and this committee should reject these instructions. We should seek to have those Standing Orders unwound.

Deputy Matt Carthy: Between the Chairman and Deputy MacSharry, a number of the points I was going to make have been crystallised. This is a significant matter that must be addressed. I welcome that Deputy MacSharry in particular, as a Government Deputy with experience on the committee, has stated categorically that the response to the Kerins judgment is over the top and disproportionate. If we were to proceed along the lines that these Standing Orders suggest, the Houses would have the most restrictive committee regime arguably in the Western world. I was a Member of the European Parliament where, on a monthly basis, there was massive frustration in respect of the limits on committees, particularly investigative committees. However, the restrictions they were adhering to were not as robust as what is proposed for us. I absolutely support the call that this committee lead a charge in respect of a number of points that have been made. We can all have our own views on the Kerins case but the judgment has been passed down. Even within that judgment, there is great scope for us to be able to adhere to all the parameters laid out by the court without placing the restrictive measures on the committee that are being proposed. I also agree that we cannot compare somebody from a third-party organisation, regardless of the fact that they may be expending public money, with somebody who is a direct employee of a Department. If they were not accountable to the Committee of Public Accounts, to whom would they be accountable? We have seen this historically and I think that people from all political parties and all shades of opinion and none would recognise the value of Committee of Public Accounts hearings over the years. There is an onus on us not to allow that to be thrown out with the Kerins judgment bath water.

If I can put it in the context of the request by Deputy MacSharry and me to have a hearing with the senior officials and Accounting Officer from the Department of Education and Skills, it is crazy to suggest that we would wait until the 2020 accounts are audited by the Comptroller and Auditor General before the Committee of Public Accounts would have an opportunity to discuss it. This is money that could be leaking away right now and we could be in a position to advise the Department and ensure that it stops. There are also serious potential issues with regard to the procurement process the Department operated and the particular preference that seems to exist with the use of one particular company in this instance. The public good is absolutely served by those issues being teased out in a committee structure with the Secretary General of the Department and the senior accounting officials, in way that is quite clearly based on the correspondence that has been received by the committee, to try to extrapolate the information. The public would be absolutely astounded to hear that this committee is planning to discuss this in, perhaps, 12 or 14 months' time. I do not think that would be acceptable to the committee or that it is in line with the Kerins judgment.

Deputy Catherine Murphy: I have serious concerns about how limited the Committee of Public Accounts will be under this new regime. The previous committee discussed and had hearings on a range of different topics, sometimes over a couple of days and not just as a segment of a meeting. We had hearings on matters such as gardaí in Templemore, housing and value for money, the national broadband plan and the national children's hospital and the procurement process relating to it. All of those discussions post-dated the Kerins judgment and I have concerns that the Standing Order that was adopted in July of this year predated the setting up of this committee. Perhaps people did not appreciate and would not have been in a room to discuss exactly what the impact would be. At the heart of this we are going to have to go back and deal with the issue of that Standing Order because it is going to be the impediment.

The Committee of Public Accounts is the only committee that really has an overview of all the sectors. There can be competing issues in respect of some of the other sectoral committees from time to time. If a matter was going to be debated or considered by one of the other sectoral committees, either education or higher education, as would be appropriate, if they are even set up, that might be a separate issue. I am not sure where we are on that. Already today we talked about the winding up of Caranua. That falls into the current issues yet none of us was constrained by that. That is the kind of thing that will routinely come up. We are going to have to be careful about not straying into other areas in terms of the work of the committee. Where another sectoral committee is taking on work, we should not be competing with each other. However, I do not think any of us would have anticipated that this Standing Order was going to limit us in the way that appears to be the case.

Deputy Marc MacSharry: I do not want to get into the education issue because we had not got there. This is relevant to everything we are going to discuss about the work programme. It is the single most urgent matter to be dealt with by the committee. If that rule stands we may as well bring in board games, lads. We will not be able to function in the effective way this committee has in the past. Mistakes were made regarding Kerins and we know all of that story. The Kerins judgment, as I predicted, has been dragged out by whoever wrote the Standing Order to say, “Now we have them where we want them.” The ditches have been narrowed. I agree with Deputy Catherine Murphy that we do not want to step on others’ toes and at times the committee has done that, which causes tension with other sectoral committees. In our requests, Deputy Carthy and I were very specific on the financial implications. We know the procurement was wrong and time did not allow. What was the price? Did we indemnify them against litigation? That is a key question. I would sadly say we probably did and that is an issue that needs to be highlighted or whatever. I do not want to get into how the algorithm was done or anything like that. That is most certainly for the education committee. If we do nothing else for the next week the single most important thing is to get this matter relating to the Standing Order resolved.

Deputy Cormac Devlin: There are two issues. One is the request for the Department to come in, which I support. That is essential. Conflated with that is the Standing Order we have inherited. Perhaps the Chair could see if that could be addressed for the next meeting in private session. Clearly, the Standing Order needs to be tweaked because it does not meet the requirements of the committee. For me, as a new Deputy to this committee, I would certainly hope that we would have a much broader remit but this seems to put shackles on that. Whatever we can do within and recognising the current judgment, we cannot be hamstrung by this. On Deputy MacSharry’s point with regard to looking retrospectively at previous accounts only, it does not make sense. If there is something current and in the public interest, we should be able to amend our work programme, bring them in, whoever they are, and ask them the pertinent questions. I do not think we should deviate from that.

Deputy Colm Burke: The whole idea of the Committee of Public Accounts is that there is accountability in the same way as the Department is accountable to the Minister and the Minister to the Oireachtas. However, the Committee of Public Accounts is about making sure that there is full compliance and accountability on every cent of taxpayers’ money that is collected. If in any way our powers as a committee are restricted, then there is not accountability. The Standing Order we are talking about certainly seems to be restricting powers that we should have. I know that the Kerins judgment has put some limitations on us but it should not prevent answers from being obtained when serious questions are being asked. We should be able to get answers when there is a need for full disclosure, but this is now going to restrict that.

Chairman: There is not much point in getting answers after the ship has sailed. In terms of the provisions set out, there is an option to refer matters to the committee for remit and oversight but that committee has not even been established yet. The matter would then have to go before the Dáil. It could take a long time for a matter to go around the Houses, which is not acceptable. I propose that, under the work programme, if we decide to invite the Department of Education to come before us, for example, we should do so regardless of what is in this document. In the meantime, if the committee is agreed, I will speak with the staff on Standing Order 218 and will ask the parliamentary legal adviser what we can do about it. I will convey the view of this committee that our hands are being completely tied, our work is being hampered, public accountability is being denied and the purpose of this committee is being undermined. Are members happy with that? I think we are all agreed that this needs to be put to one side for now and we will move on.

After 5 November, we will have five or six public engagement slots left until the end of the year. As a starting point and in light of the priorities members have indicated, I suggest that we use those slots to engage with various entities. There are several options set out in the list I have before me but I ask members to bear in mind the discussion we have just had. That issue must also be factored in. It arose after this list was put together. The first option is the OPW to discuss a number of issues raised by members. The next option is the Department of Housing, Local Government and Heritage in the context of the publication last week of a report of the Comptroller and Auditor on the land aggregation scheme. There is land available for social housing that is not being utilised and members might be interested in discussing that issue further. A number of members raised issues regarding the Irish Prison Service and the Department of Justice and Equality, while others raised the Department of Employment Affairs and Social Protection and the issue of JobPath. Another option is to invite the Revenue Commissioners to discuss the issue of bogus self-employment. The next option on the list is to discuss procurement and agency staff with the HSE. These are some of the issues that have been raised by members. I propose that we discuss the items on the list and try to reach agreement.

Deputy Matt Carthy: I have no difficulty with any of those issues. I wish to return to the points made earlier and our discussion about the Department of Education and the leaving certificate. There may be occasions when our work plan will have to be amended in order to facilitate that type of hearing. I ask the Chairman to clarify whether there is scope for additional meetings on Thursday afternoons or Friday mornings, for example, if necessary, to deal with issues of an urgent nature. Will it be possible to call a meeting to discuss a particularly urgent matter without knocking any of the other issues off track, some of which have been of concern to members for quite some time?

Deputy Colm Burke: I wish to refer briefly to the HSE. I have raised previously the fact that an enormous number of organisations benefit from the HSE. In fairness to them, they are providing a service. Approximately 2,500 organisations are in receipt of somewhere between €3.7 and €3.8 billion per annum from the HSE. I would like to know whether the HSE has carried out an assessment in respect of this area. Could we be delivering the same services more efficiently with fewer organisations or with the merger of some organisations? Perhaps this is going a bit beyond our remit but it is something that we need to examine. This week we learned that one organisation is handing over all of its work to the HSE which begs the question as to whether this will arise with other HSE-funded bodies. Now is the time to be looking at this and determining whether a more planned approach to service provision by the HSE might be beneficial from the perspective of public accounts and value for money. We are talking here about 2,500 organisations and while I am not questioning any one of them regarding the services they

are providing, I am wondering if that service provision can be done in a better way. Should the HSE be looking at that issue?

Chairman: Is the Deputy suggesting that we include that issue in our discussions with the HSE on procurement?

Deputy Colm Burke: Yes, absolutely.

Deputy Neasa Hourigan: I agree with Deputy Carthy that this is a list of great work and all of the options would be worthwhile. I am particularly interested in looking at the Department of Housing, Planning and Local Government and the Department of Justice and Equality in the context of direct provision, but I wish to make the case now for a piece of work on the OPW and flooding works. In November 2019, the OPW reported a budget overrun of €15 million and the Bandon flooding project was over by €7.5 million. In the past decade we have spent almost €450 million on flooding works but conservative estimates suggest that we will spend around €1 billion in the next decade. This is not something that has been looked at in any great detail previously so I would like to make the case for its inclusion in our work programme.

Deputy Catherine Murphy: There is very little on the list that one would disagree with in terms of inclusion in our work plan. Very often the least amount of time is devoted to examining the largest spending areas and in that context we should deal with the housing issue relatively early because value for money will make such a difference to what we will get in actual housing stock. Previous work indicated that some very expensive options were dominant in the housing area.

Regarding the State Claims Agency, one of the issues of concern for the previous Committee of Public Accounts was that there is over €3 billion in liabilities-----

Mr. Seamus McCarthy: Yes.

Deputy Catherine Murphy: -----much of which is related to medical claims.

Mr. Seamus McCarthy: Yes, it is certainly of that order.

Deputy Catherine Murphy: It was not obvious when we had hearings with the State Claims Agency that there was any real movement towards open disclosure. A great deal of money is being spent on legal bills but open disclosure might reduce that. It is really important that we do not lose sight of this. I would like the committee to do work on that as soon as possible. As I said earlier, there is very little on this list that I would disagree with; the question is one of scheduling.

Deputy Jennifer Carroll MacNeill: I support Deputy Catherine Murphy. One of the difficulties with the State Claims Agency is that it is not participating in collaborative law projects with other organisations, particularly on the medical negligence side. This is an area that is very difficult for parents and a collaborative approach can make a big difference in terms of levels of anxiety for families. There may be very good reasons for this and one could argue that the agency is protecting the interests of the State and so on but at the very least this committee should be having a conversation with the agency about it. Is it appropriate to mention something else?

Chairman: Of course.

Deputy Jennifer Carroll MacNeill: An issue I have flagged relates to Tusla and the pro-

vision of funds for domestic violence services. Many service providers have raised issues with me regarding ambiguities and process difficulties, which is why I flagged it. Of course, everything is urgent. I would like to see this included on the work programme but I am not demanding that it be given early attention.

Chairman: Does anyone else want to comment on the items listed or on items that they submitted? I have read out the list and, as I said, we have six meetings. My apologies, Deputy Devlin wishes to speak.

Deputy Cormac Devlin: I thank the Chairman. I wish to make two points. This touches on our discussion of Standing Order 218 and its implications. I know that Standing Order 218 is interlinked with Standing Order 93. I would like to direct this question to the Comptroller and Auditor General. Would we be able to bring the new Department with responsibility for further and higher education, research, innovation and science before the committee? There are no previous accounts to look at because it is a brand new Department. What would happen if we were to apply the Kerins ruling to that? Moreover, I recommend including the Property Registration Authority in the work programme as well.

Mr. Seamus McCarthy: The new Vote is basically a carve-out from the Education and Skills Vote. Part of the Education and Skills Vote for 2019 has been moved with the transfer of responsibilities. As such, the current Accounting Officer will be able to deal with the committee's questions in that regard.

Chairman: There is a long list of items that have been raised. I wish to raise very quickly an item for which several Members have expressed a desire to call witnesses. The question is how we manage this. We have six priorities. Are members happy enough with the six priorities? We have to deal with the issue of education. I suggest that we either hold a separate hearing on this matter or move one of the proposed items to another slot. We must do one or the other. Like Deputies MacSharry and Carthy, I am anxious to ensure that the Department of Education and Skills comes before the committee to discuss the issue of calculated grades.

Deputy Marc MacSharry: I agree with Deputy Carthy on that. I know we are in the Covid-19 era, but I ask the clerk to the committee to determine whether second sessions can be held. The availability of rooms was an issue from time to time, even in pre-Covid-19 times, but in some weeks we managed to have three or four meetings. Holding two meetings certainly was not a problem. Whether we are discussing education or other issues that may arise, the committee may seek to deal with a matter urgently. The scope exists, but are the Houses willing to make that step?

Deputy Alan Dillon: National Broadband Ireland is featured on the work programme. Broadband is the one issue everyone in rural Ireland is talking about. It really needs to be accelerated. We really need to investigate how many data connection points are being connected every week or month. This needs to be scrutinised. Surveys are being conducted, but what is visible in towns and villages on the ground is not being reported to the Oireachtas. There has been huge investment in this. I refer to enterprise hubs, remote working and remote learning. We do not know how long Covid-19 will be with us and we really need to start focusing on the national broadband plan. I would like to see that put forward as an urgent item.

Deputy Cormac Devlin: I made a suggestion to another committee I am on. Perhaps this is something for committee Chairs to decide. If the Committee of Public Accounts could hold an online hearing, it would negate the need for the two-hour limit. If members and witnesses

were here in the complex, they would be covered by privilege. If witnesses were to join the committee from another room on the Oireachtas campus, a committee room would not have to be available. Perhaps the clerk could see if that is feasible. I am assuming everybody would be on site, including witnesses. If members or witnesses were not on site, they would know that qualified privilege would apply to them. This might allow us to do a lot more work more quickly. Considering the work programme in front of us, we need to be a bit innovative in how we do our own work to ensure we get the maximum amount of time with witnesses over the next several months. Perhaps the Chair could explore that with the clerk on our behalf.

Deputy Matt Carthy: We need to recognise the potential of the Committee of Public Accounts. It is not limited to telling witnesses they should not have done this or that. We can tell them they need to stop doing this or that because they are wasting taxpayers' money. That is a valuable role which the Committee of Public Accounts has played and can continue to play. We need to be very flexible and recognise the public health restrictions on us. If I recall correctly from the day we met in the Seanad Chamber and discussed all of these matters, the timeframe still applies to online meetings because the Chair needs to be in the same room as the secretariat. I am open to correction on that point. Deputy Devlin has a point. A meeting to deal with correspondence, for example, could very easily be held through Microsoft Teams. The same would certainly apply to any private business. I think we need to be in a committee room for hearings with witnesses. I would much prefer to extend those meetings over two separate hearings to allow that rather than trying to hold those hearings online. The interaction just does not work online.

For all the reasons I stated earlier, I think we need to prioritise issues pertaining to the Department of Education and Skills. We have the dates for Thursday hearings here. Do we have corresponding Wednesday sessions to deal with correspondence?

Chairman: At the moment we do.

Deputy Matt Carthy: I ask the Chair and the clerk to find as early a date as possible for that meeting. If necessary it could take place on the Wednesday slot, when we already have a room available. If we are still required to hold the correspondence meeting, it could take place over Microsoft Teams or another online forum, as has been suggested.

Chairman: Alternatively we could use the Thursday of the following week.

Deputy Matt Carthy: If there is no correspondence I would absolutely be open to that, if members are agreeable.

Chairman: I note that we dealt with nine months' worth of correspondence over two weeks.

Deputy Matt Carthy: That is a testament to the Chairman's efficiency.

Chairman: We managed that efficiently with the members' co-operation and the work of the secretariat.

Deputy Matt Carthy: Perhaps some Wednesday slots could be used for a meeting with the Department of Education and Skills. Then we would not be eating into any other member's proposals.

Chairman: There is a possibility that we will be able to do that on a Wednesday. We will work with that. I do not think there is any disagreement on the need to examine education is-

sues. I know members have suggestions but we could have a list of items stretching from here to the Convention Centre, all of which would be very important. As the weeks go by, other items will arise. However, we need to agree on a work programme so that we can move forward and preparations can be made. The clerk is taking note of the issues that have been raised by members. We will try to address issues regarding education and calculated grades for the leaving certificate. We will try to hold a special sitting for that as soon as possible. Is that agreed? Agreed. I thank the members.

It has been suggested that the committee calls on the Office of Public Works in relation to issues raised by several Deputies in recent weeks. We will try to invite its representatives to an early hearing. The committee is happy to give priority to the Department of Housing, Planning and Local Government regarding land, social housing and affordable housing. Do members agree on hearing from the Irish Prison Service and the Department of Justice and Equality?

Deputy Catherine Murphy: There has been a spike in the number of protected disclosures, which implies considerable issues requiring oversight.

Chairman: We will prioritise inviting representatives of the Department of Employment Affairs and Social Protection to discuss JobPath. There is a lot of money being spent on it and some of the outcomes have been questioned. There is the question of Revenue and bogus self-employment, an issue that has often come up in this House and within the precincts of Leinster House in the past year or two. There is also the issue of HSE procurement. We will take note of the other issues, and if something drops out, we will try to move them along or deal with them as we can.

Deputy Catherine Murphy: An issue that is likely to crop up and one that we and the health committee did quite a lot of work on in the previous Dáil, is that of the national paediatric hospital. There was a delay in recommencing when construction workers went back to work after the lockdown, and there was an obvious issue in regard to the contractor. I think this is likely to be one that will jump up out of nowhere, given there was a very flawed procurement process. Even if it is early in the new year or if there is an opportunity before then, we will have to get an overview on that. Perhaps it would be worth writing to the board for an overview of where the matter stands currently. It is likely to become a current issue and maybe that would be a way of dealing with it while we are waiting for it to be dealt with.

Chairman: The staged nature of the procurement is the issue that has come up, and obviously the excessive cost is related to that. Does any other Deputy wish to come in on the issue of the national children's hospital? Are we agreed to put it on the list? Agreed.

Are we happy enough to proceed with those six as the first items? The secretariat has to go away and try to line up the witnesses from the Departments, public bodies and agencies. Subject to their availability, we may have to move these items around. Are we agreed that is the template we will work to? Agreed. Is it agreed that the clerk will compile and circulate a list of the engagements with dates and that we will then agree the agendas for those meetings? Agreed. Is it also agreed that the clerk will include the other bodies that members have raised on a draft work programme for the new year, and sooner if there is a dropout, and that we consider this in due course? Agreed. It is always open to members to propose that we write to Departments or bodies in regard to issues arising from the Comptroller and Auditor General's audits and reports if they would prefer not to wait until they are before us. Are there any other matters that members wish to raise in regard to the work programme?

Deputy Jennifer Carroll MacNeill: On a procedural point, when we were talking about sending those questions to Caranua, for example, as a means of simplifying our work, and recognising we have only a short time to ask questions, it might expedite our hearings if we have the facility generally to ask more targeted questions in advance so we can get some of that work out of the way.

Chairman: We have agreed that we would put those three questions to Caranua.

Deputy Jennifer Carroll MacNeill: Precisely. It might be a template that would be useful to apply more broadly, given our restricted time.

Chairman: Of course.

Deputy Catherine Murphy: I want to raise an issue under any other business. Irish Water is not under the remit of the Comptroller and Auditor General, an issue on which I put down a parliamentary question recently. Irish Water is responsible for a lot of money. Legislation is needed and there is some dialogue with the Office of the Comptroller and Auditor General. I ask that we get an idea of where that dialogue stands.

Mr. Seamus McCarthy: Because it is a legislative matter, it is for the Department to bring the legislation forward. We met it on two occasions in September and there is another meeting due on 15 October. We are working through this and providing information as best we can in regard to the complexity of the legislation. That is all I can say.

Deputy Imelda Munster: I did not realise we had skipped off the work programme. We had said we would discuss my request that additional witnesses be brought in with regard to the National Treatment Purchase Fund, specifically from Nursing Homes Ireland. One of the items on the agenda is the nursing homes support scheme, the fair deal, and the Comptroller and Auditor General's report on the National Treatment Purchase Fund. There are so many questions and outstanding issues, for example, the National Treatment Purchase Fund negotiating the contract of care with Nursing Homes Ireland and the link between the two. I would see it as very relevant to invite them both in for that meeting.

Chairman: The issue is how we bring them in. We would have just short of two hours for the meeting with the National Treatment Purchase Fund and there is the question of how also to fit in Nursing Homes Ireland, given they are coming from very different positions. We need to get them in but it is a matter of how we fit that in. Members may have suggestions around that. Is Deputy Munster suggesting we bring in Nursing Homes Ireland at exactly the same time as the National Treatment Purchase Fund?

Deputy Imelda Munster: Yes, I would suggest they be at the same meeting because there are so many things that connect the two of them. The questions need to be answered, given the fact they are in receipt of almost €650 million of public funds. It is all in regard to the contract of care that was originally drawn up, the market price applied by the National Treatment Purchase Fund and the questions surrounding all of those issues. I think the connection is such that it warrants bringing them both in at the same time.

Chairman: Does anyone else wish to comment on the issue of how we deal with the National Treatment Purchase Fund?

Deputy Colm Burke: I agree with the Chairman that two hours is a very short time in which to have both organisations in at the same time. There may be a presentation from both

sides and then questions to both sides, and I do not believe we can do that in two hours.

Chairman: The National Treatment Purchase Fund financial statements are also on the agenda. It is question of how we fit this in. Would Deputy Munster be happy if we tried to facilitate it by having an extra hearing, rather than trying to get too much into that meeting and not achieving what we want to achieve?

Deputy Imelda Munster: I understand the time limit but, ideally, I would have preferred to have both in together. If we agree to a separate meeting, I would not want it to be put on the long finger and would want it right up there on the work programme that Nursing Homes Ireland be invited in.

Deputy Colm Burke: Deputy Munster referred to the €650 million. An element of that issue is that 40% of the funding goes to the public nursing homes, which are providing care for 20% of those in nursing homes. There are two elements to that whole issue. About €1 billion is going in under the fair deal scheme, with 60% of that amount going to look after 80% of those in nursing homes, whereas 40% is going to look after 20% of those in nursing homes. This debate has come up at the Covid committee as recently as yesterday evening in regard to the fact that care in the public and private homes is comparable although funding to the private sector is 40% less. It is something to keep in mind when dealing with this issue.

Deputy Cormac Devlin: I want to follow on from what Deputy Munster was saying about the two-hour limit. I return to my original point about the online session and I take on board what Deputy Carthy said about the limitations for the Chair and the clerk to the committee. It could be possible, although it is not ideal, but it would allow us to have an extended period where the meeting was chaired from a committee room, for example. Whichever room it was would need to be a little smaller than this room. If the rest of us were online and the witnesses were as well, there could be a short break to change venue and room. Even one of the meeting rooms would be sufficient. I am simplifying it but once one has a computer, and one is on the complex, one could continue to chair that session and we could have a four-hour session. I ask the clerk to the committee and the Chair that we would be as imaginative as possible to ensure we can get as long as possible with as many witnesses as possible.

Chairman: We have the submission and this is an issue for members. We can put this matter on the list to see how we can fit it in as early as possible because I know there is an issue with it that members are concerned about. We will seek to do that. Is Deputy Devlin happy enough with that? The problem is that we are faced with a long list of issues and we have limited opportunities. I am not taking from the Deputy's suggestion of using Zoom or whatever else. At the first meetings of the committee, we agreed that where possible we would try to have the witnesses in the one room to have proper exchanges with them. Zoom has its limitations for this type of meeting. Physical meetings work better if we can do that.

Deputy Imelda Munster: I refer to the suggestion that Deputy Carthy made about the correspondence being done from our offices. That would free up the additional time we are using today. The work programme is so packed that this measure would allow us to get through twice as much in one week as what we are doing now. We need to do that, otherwise we will just be going around in circles here. I do not blame anybody but matters have been put on the long finger because of it.

Chairman: I know. There is a pressure on time.

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Deputy Imelda Munster: If we can set one goal for today, it should be to organise that the correspondence be done remotely from within campus and that we focus on today's schedule and tomorrow's schedule so we can get through two issues a week of the work programme. Nursing Homes Ireland will certainly be on that.

Chairman: We will see if we can work out the nuts and bolts of dealing with the correspondence via video link. That would free up space for issues such as that.

Deputy Imelda Munster: Perhaps we could be notified as soon as possible whether that can be implemented from next week.

Chairman: That is the work programme.

There are no matters members wish to raise under any other business.

Our next meeting will be tomorrow with the National Asset Management Agency on its financial statements for 2019. In particular, we will be dealing with the Comptroller and Auditor General's special report 109 on NAMA's management and disposal of what is referred to as the Project Nantes loans.

The committee adjourned at 6.14 p.m. until 11.30 a.m. on Thursday, 8 October 2020.