

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Dé Céadaoin, 4 Samhain 2020

Wednesday, 4 November 2020

The Committee met at 4.30 p.m.

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 BRIAN STANLEY IN THE CHAIR.

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

Business of Committee

Chairman: We are joined remotely by the Comptroller and Auditor General Mr. Seamus McCarthy as a permanent witness to the committee.

Apologies were received from Deputy Neasa Hourigan.

The minutes of the meetings of the 21 and 22 October have been circulated. Are the minutes agreed? Agreed. As previously agreed, the minutes will be published.

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

The committee went into private session at 4.32 p.m. and resumed in public at 5.25 p.m.

Chairman: Members are reminded of the provisions of Standing Order 218 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policies. Members also are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

The first group of correspondence for discussion is correspondence from Accounting Officers and-or Ministers and follow-up to meetings of the committee. Nos. 151B and 171B, from the Ceann Comhairle, dated 12 and 20 October, respectively, concern the leaving certificate calculated grades system, which we discussed at our meeting on Wednesday, 7 October. It is proposed to note it formally now.

On the basis of that correspondence we decided to write to the Committee on Procedure, and No. 171B is the response to our correspondence and concerns the wider issue of the committee's orders of reference. In summary, the response does not accept this committee's request for an extension of its remit by way of amendment to Standing Order 218. The response points to Standing Order 218(10) as the path for the committee to request an extension to its remit. Standing Order 218(10) provides for the Committee of Public Accounts to make a submission to the Committee on Procedure for an extension to its remit and to make the case that a specific examination does not have to take place in the context of the work of the Comptroller and Auditor General. The letter of the 12 October stated that a decision will issue within one week from receipt of any such submission. It is also proposed to note this item.

Deputy Catherine Murphy has raised this item of correspondence. I suggest that we put this to the test. A situation has arisen with the national children's hospital where the Minister for Public Expenditure and Reform expressed doubts yesterday about the timeline for its completion. We are being told clearly that if we make a submission, it will be considered by the Committee on Procedure. While we do not agree with having to go through this route, we are left in a position where a major issue is happening. There is a public expectation that we can deal with it. We are being told that there could be delays in the national children's hospital and there is no information on the timeline. The Government and its representatives are expressing doubts that it can be delivered on time. There was substantial engagement with the previous Committee of

Public Accounts and it is important that we be able to deal with this. The strictures being laid down to us might mean that we would have to deal with some minor or major matter from 2018 or 2019 but not the here and now where there is a major matter of public interest on the spending of public money which we need to be able to deal with. I suggest the committee makes a request to the Committee on Procedure that we be able to bring in the HSE and the chairperson of the board of the national children's hospital under this Standing Order, and that we use this method to see whether we can achieve that. I think it is very important.

Deputy Catherine Murphy: We had several hearings with different entities on the children's hospital. I raised this last week with the Secretary General of the Department of Public Expenditure and Reform. This change is fundamental. Value for money cannot just be about the past. If we are to learn, surely we have got to look at where there is a process failure. One of the aspects we dealt with when we had hearings here was the double tender process and what a failure that was. The idea that we cannot track this in real time is nonsensical. Granted, we have the handcuffs on insofar as our having to look for an extension of our remit but it really highlights the difficulty this committee is going to have.

Deputy Marc MacSharry: I agree 100% with that. I propose we write to the Committee on Procedure and ask them to outline precisely the process for amending Standing Orders of the House. When we get that answer, members of the committee can consider through our own parties and groups whether we seek to do that. Like Deputy Catherine Murphy, I agree that the Kerins ruling has been applied overzealously to try to shut down this and indeed other committees. This is proof of it now, where, as Deputy Catherine Murphy has said, we had the national children's hospital people in previously very specifically about current matters. In fact, they advised us in writing at a later date that they would never be in a position to tell us how much it would cost. Equally, I would say that when we ask them the question of when they will be finished, the next reply that will come will say: "We haven't a clue". Therefore, either we seek to change this Standing Order through our own political groupings or we write to the Committee on Procedure asking that it consider renaming this committee to something like the committee for after the horse has bolted. I also want to put on record that I understood I was being put on the Committee on Procedure but it seemed that changed once this matter emerged. I am also aware that existing members of the Committee on Procedure who are members of this committee were advised to recuse themselves. I think that is questionable, to be honest. We are all Members of the Oireachtas and I do not at all like the level of prescription that is seeping into our work as Oireachtas Members. It undermines the mandate each Member has received. Certainly, from a Fianna Fáil perspective, there are no internal party rules that dictate in this manner as to how we go about our work.

Chairman: There is a clear case here that where a serious situation is rising again regarding the children's hospital and there are very few forums where this issue can be dealt with. The one forum where it can be dealt with is here and if a body within the Oireachtas wants to hopefully approve that, if they want to deny that request, let us see what happens but we need to test this. We cannot sit back here and allow the situation out at the children's hospital to continue to drift. There are major issues there with what is being described as a double contract, a stage contract. The cost overruns are enormous and then there is the speed at which it is being built. There is no doubt it is needed but I am very concerned by the revelation yesterday that we do not even have a timeline for completion or delivery of that project.

Deputy Matt Carthy: We could bamboozle people with reference to the Committee on Procedures and standards and committees and all of this type of thing. Essentially, the procedures

and Standing Orders which are in place state the Committee of Public Accounts cannot discuss a pertinent, ongoing, current situation without the approval of Government. That undermines exactly what the Committee of Public Accounts should be doing. It should be independent of Government. It should be apolitical in that sense. We are of course all political elected representatives but the current situation is farcical and it undermines the purpose of a Committee of Public Accounts. I am not aware of a single other parliamentary accounting oversight body in the world that is expected to operate under the procedure we have here to such an extent as we have been. We had the Department of Education before us and we had to skirt around what was a pertinent current issue as if we were not aware of it, as if we were living on different planets. We could conceivably have the Office of Public Works, OPW, in next week, for example, and there could be a front-page story about a very pertinent issue where we find out that the HSE has got itself into a melee that has cost taxpayers millions of euro and yet the OPW could refuse to answer and the Chairman would be expected to intervene. That is just lunacy.

The Standing Orders need to be revisited. To give the benefit of the doubt I am not sure if that was the intention of those people when they first started approaching it. I am being generous in assuming this is an unintended consequence because it would be a very serious matter if this was the intention of the drafters. The proposal in the first instance is fine and the children's hospital is absolutely something that is clearly in the public interest and clearly has an impact on the public accounts so therefore it would be interesting. I am assuming nobody could argue against the Committee of Public Accounts but I hope the very fact we have to request that would enlighten the members of the Committee on Procedure and others of the farcical nature of the current situation. As such, let us absolutely put in the request. I agree with Deputy MacSharry. It would be more of a game changer if his colleagues on the committee, as opposed to mine, came to a position where they were willing to agree to a commonsense approach to all of this. That is not to say this committee has nothing to learn from previous issues and particularly from the Kerins judgment. We all accept we do but this is very much a case of throwing the baby out with the bathwater and undermining public accountability.

Chairman: Absolutely. I call Deputy Colm Burke.

Deputy Colm Burke: I seek clarification on a point. If a contract is entered into by a Department, there is the issue of procurement. Are we now saying we cannot look at that process until such time as the accounts for the end of the year are produced?

Deputy Marc MacSharry: In two years' time.

(Interruptions).

Chairman: Hold on. Remarks should be made through the Chair.

Deputy Colm Burke: I just want clarification to get my own-----

Chairman: Yes, Deputy Burke. One can look at the accounts as audited for 2018 and 2019. One can therefore be left standing at the station but the train has long gone through it. That is the problem.

Deputy Colm Burke: Is it not the argument that if I have entered into a contract, there is now a legally binding agreement there? If I have an issue about how the process was dealt with, is that not what the Committee of Public Accounts is about? Is it not about ensuring that proper procedures and proper mechanisms were used in arriving at a decision on awarding a contract? Is the Chair now telling me I must wait until the audited accounts for that particular organisation

or public body are published in 12 months' or two years' time?

Chairman: That is the problem with Standing Order 218, as it has been changed. There are two proposals here. One is we invite in the board of the national children's hospital and the Secretary General of the Department of Health. The second is we write to the Committee on Procedure requesting information from it as to how Standing Order 218, or any other Standing Order, can be changed. It has been pointed out that each of the groups here has people on that committee and it is up to each of us to do our homework to ensure they are enlightened about our request and where we are coming from with it. There is a public expectation out there, and rightly so. We are elected. The point has been made about how the Committee of Public Accounts has always been a little bit too removed from Government to scrutinise Departments and I think everybody here would agree with that, and so it should be. However, we now have a situation where not alone does it have to go through the Committee on Procedure but it also has to go before the Dáil. I am not being factional about it, but a majority in the Dáil can stop it as well. That is my understanding.

Deputy Colm Burke: Taking the example of the children's hospital and money spent in 2018 and 2019, in what way is the Committee of Public Accounts limited in examining that area because the money has been already expended?

Chairman: In the case of the children's hospital, a Secretary General or another official could do what has been done here. They could say they were brought in to discuss the spend for 2018 and 2019 and could refuse to answer, according to the interpretation we are being given, which I do not accept. It has been suggested that we make a request to the Committee on Procedure to have those representatives brought before this committee on here and now matters, before the horse has bolted, and await the outcome in that regard.

The other suggestion that has been made is that we request information from the Committee on Procedure in regard to the process for amending Standing Orders. If that is agreeable, we can do that. Are members happy for the committee to do that?

Deputy Catherine Murphy: It is a matter for the Dáil reform committee. That is from where the Standing Orders emerge.

Chairman: I suggest that a copy of the letter to be sent to the Committee on Procedure. Does Mr. McCarthy want to come in on this issue?

Mr. Seamus McCarthy: My understanding is that the Committee on Procedure acts as the oversight committee, not the Dáil reform committee. Has that changed?

Deputy Catherine Murphy: No. The Dáil reform committee proposes changes to the Standing Orders. The Committee on Procedure will-----

Chairman: The Committee on Procedure is the filter that this committee must go through.

Deputy Marc MacSharry: There is nothing to stop us coming up with our own suggested Standing Order. It is a matter for the weight of our individual self-interests and our political groups as to whether our parties will back that at the reform committee.

Chairman: They have to be adopted by the Dáil. Within parliamentary democracy there is nothing preventing the Dáil amending a Standing Order. That can be done and I think we should do that. We can seek the information in regard to the process for drafting a Standing

Order.

Deputy Marc MacSharry: I agree.

Chairman: We can then draft a Standing Order. With regard to the children's hospital on foot of what took place yesterday - I am sure every Member of the Dáil, whether on the Government benches or the Opposition benches is concerned about this matter - we will make the request to the Committee on Procedure and await the response.

Deputy Paul McAuliffe: It is important that we make the point to the Committee on Procedure that a failure to allow any forum for these issues to be debated will inevitably add to the debacle we have every week of additional time being sought in the Dáil Chamber to deal with these issues. The Committee on Procedure needs to be mindful that if no forum is provided, it will move the issue back to the Dáil Chamber. There is a second matter which it should consider. The Joint Oireachtas committees of the Houses have a direct relationship with officials in their line Departments and they are progressing policy. The Committee of Public Accounts has no interaction with line Departments and there is no fear or favour in that regard. The Committee on Procedure needs to consider that in regard to any failure to allow this committee to raise a matter.

I would like to make a final point in regard to an issue mentioned by Deputy Colm Burke. My recollection of what the Secretary General of the Department of Education said on this matter is that he asked for direction from the Chairman as to whether he should answer the question as it relates to the current specific issue. My recollection is not that he refused but that he asked for advice from the Chairman as to whether he should or should not answer.

Deputy Marc MacSharry: Others have.

Deputy Paul McAuliffe: Perhaps. Is there any reason to believe that if we sought attendance in regard to the children's hospital without reference to the Committee on Procedure that we would be refused?

Deputy Imelda Munster: It is important the invitation is issued, and as fast as possible, in order that we can test how restricted or otherwise we will be in the context of Standing Order 218. If it stands, it leaves us with our hands tied behind our backs. I am curious to know if this matter was discussed recently at the Committee on Procedure and if we have an update-----

Chairman: It fell at that committee. The majority of the committee did not support the request to change the Standing Order or this committee's question in regard to bringing in the Department of Education on the procurement on calculated grades. That is my understanding of it.

Deputy Imelda Munster: Was there a vote?

Chairman: I do not think so. I am not on that committee but my understanding is that the matter did not make its way through that committee, unfortunately. Obviously, there is work for the parties to do to make sure that any further requests get a fair hearing at the Committee on Procedure.

Deputy Imelda Munster: I do not know if minutes are taken at meetings of the Committee on Procedure, but I presume that happens. Can this committee request a copy of the minutes of that meeting?

Chairman: I presume it can.

Deputy Imelda Munster: I suggest that the committee do that.

Chairman: The suggestion is that this committee put to the Committee on Procedure a proposal to bring the Chairman of the board of the national children's hospital before it, along with the Secretary General of the Department, to update us on the current situation with the hospital.

Deputy Imelda Munster: That is fine. That should be done.

Chairman: The other proposal is that we request the information from the Dáil reform committee and the Committee on Procedure regarding the process for amending the Standing Orders.

Deputy Imelda Munster: The committee should also request a copy of the minutes of the meeting that was held to discuss this matter.

Chairman: We will request the minutes.

Deputy Colm Burke: There is a difference between bringing in the children's hospital and departmental officials and bringing in the Department of Education on the issue of calculated grades. The difficulty in regard to the calculated grades is that there are court proceedings in train but I am not aware of any difficulty in regard to the children's hospital, unless there is an aspect of it that cannot be discussed with us because there may be a dispute resolution going on or something like that. As far as I am concerned, in terms of all other aspects we are entitled to discuss them in the public domain. This is taxpayers' money and therefore taxpayers are entitled to know what is happening. The calculated grades issue is a little different in that there is ongoing litigation and there is a difficulty for the Department in that regard.

Chairman: I would like the committee to know where the hospital is at the moment.

Deputy Cormac Devlin: The issue arising in regard to any public body that the committee wishes to bring lies is one aspect. Is there a weekly meeting of committee chairpersons and, if so, could this matter be discussed at that forum as well? I note from the Ceann Comhairle's correspondence to the committee that another issue has arisen, I presume, because of Standing Order 218. It appears certain committees feel that the PAC should not be inviting in certain bodies that it is within their remit or purview to interview. Have the committee chairpersons discussed this matter? I accept the proposal regarding this committee making a suggestion about Standing Orders but perhaps a representative of this committee should present to the Committee on Procedure on the issue. There seem to be a few unintended consequences arising in regard to the Standing Orders, which present serious issues for this committee going forward and we should try to tease out the matter a little more. I am conscious that correspondence is going to take a long time.

Deputy Jennifer Carroll MacNeill: My point is that it is a total over-correction. Testing it in the way that has been suggested, such as writing out questions to it, may elicit a quick resolution of the issue. While I accept Deputy Burke's point in regard to the Department of Education, if this committee were to take a collective approach on a given matter and ask different questions and challenge and test it we might get a very quick resolution of the matter.

Chairman: There will be a letter issued in regard to the two requests.

Mr. Seamus McCarthy: I would like to make an observation in regard to Standing Order 218(1). As I understand it, its wording has not changed. Therefore, there should be no change

in the relationship between the committee and witnesses appearing before it. It has been standard for Accounting Officers and chief executives appearing to discuss ongoing programmes and projects, exactly as Deputy Burke suggested. There would otherwise be no reason to bring in the paediatric hospital board in particular, given that its sole purpose is the delivery of the hospital project. It would not make sense for it to appear and not be in a position to discuss the progress that is being made. If it were the case that there was a difficulty around a commercial or litigation aspect, there is provision in the Standing Orders to brief the committee privately on that matter or to withhold information if a body judges that the appropriate course to take.

As I understand the matter, the new Standing Order, which I believe is 218(10) or 218(11), is intended to bring those who are in receipt of public moneys but not within my remit before the committee if a case can be made for doing so. My understanding is that this was to be an exceptional circumstance rather than a procedure that the committee would go through regularly in respect of specific issues. Obviously, I am open to correction on that, but it may be better to seek to bring the hospital board and the Department in and see whether they will answer the questions. If they are using the provisions as a reason for not answering, the committee could then seek an extension.

Deputy Marc MacSharry: I support the course of action that the committee has decided. I agree with the Comptroller and Auditor General that there is no change, but the additions prescribe every opportunity we would otherwise have had to discuss other issues. The proof is in the pudding. A substitute clerk was in attendance on the day, but he also happened to be the previous clerk to the committee. Deputy Carthy alluded to something that happened at the meeting. When I speculated about next year's leaving certificate, that being, something yet to happen, I thought the clerk was going to pass out from his enthusiasm to advise the Chairman that doing so was out of bounds. The Secretary General was wondering whether he was allowed to test that. I will not guard my language like others have kindly done by saying "unintended consequences". These were intended consequences, meant to shut us down. That is a fact.

Deputies Catherine Murphy and Munster may remember when the committee brought the Department of Public Expenditure and Reform before us. We specifically wanted the head of procurement in the Department to be present, but the Secretary General attended and said that he would decide who would appear because he should be the one to answer the questions. We had a good reason for wanting the head of procurement, given that he had also been put on the board of the hospital. We could have asked pertinent questions in the public interest.

All of these steps are being taken to shut that approach down. The basic rule has not changed, but the practice has been substantially prescribed so as to exclude the kind of freedom and plenipotentiary status we had to use common sense in questioning. When there was someone in the room and something was on the front page that day, we would ask the question. The way I see it, Marc MacSharry and all of us in this room are here to represent the people. I am not here to protect the system. That is how I see this interference.

I thank the Chairman. I will not speak again.

Chairman: I call Deputy McAuliffe briefly, as we must conclude this matter.

Deputy Paul McAuliffe: I am conscious of the Comptroller and Auditor General's contribution. I agree with Deputy Carroll MacNeill that it is worth testing the issue, but based on the Comptroller and Auditor General's response, are we laying down the beginnings of a precedent? By seeking permission, are we laying a precedent that we must seek permission on

all occasions? Perhaps I am wrong, but the Comptroller and Auditor General seems to be suggesting that we should first seek to get the information and, if we fail at that point, we should seek permission.

Mr. Seamus McCarthy: That is what I am suggesting.

Chairman: If the committee so wishes. My opinion is that this is a live issue in the here and now. If the Committee of Public Accounts cannot shine a light on this question and get information for other Members of the Parliament, for the public at large and for the public service, who can?

Deputy Paul McAuliffe: We should proceed with our job in that regard.

Chairman: We would literally have both hands tied behind our back if we let this stop us. How we proceed is for the committee to decide. If the committee wants to test the matter with a direct request to the board of the children's hospital and see what happens, we can do that. We could also take the other route.

I will allow one or two more Deputies to contribute briefly.

Deputy Matt Carthy: To clarify, what we did in respect of the Department of Education is what we are now agreeing to do. We wrote to the Department asking it to attend. I do not know what the mechanism was, but through that process the committee received a letter from the Ceann Comhairle informing us in blunt terms that we were not to discuss the issues in respect of which we had invited the Department. We could discuss the 2018 and 2019 accounts. Is there clarification on how that happened and whether-----

Chairman: We wrote to the Ceann Comhairle. His two replies were clear, prescriptive and lengthy.

Deputy Matt Carthy: Did we write to him first?

Chairman: Yes.

Deputy Matt Carthy: Would we be obliged to do so if we followed the Comptroller and Auditor General's proposal?

Chairman: We can take two routes. We can write to the Committee on Procedure, which is the body that we are being told to go through, or we can directly invite bodies to attend, but by taking the second route and notwithstanding what has been stated by the Comptroller and Auditor General, others and me, we might be presented with a situation where an official appearing before us tells us that he or she will discuss last year and the year before but will not discuss the here and now. However, it might be the here and now that we need to discuss. That is the problem.

How we approach this matter is a decision for the committee. One proposal, which I believe we accept, is that we write to the Dáil reform committee and the Committee on Procedure about making a change in the Standing Orders. There seem to be two views on the second proposal.

Deputy Verona Murphy has not spoken on this issue yet, so I will call her now.

Deputy Verona Murphy: If I understand Deputy Burke correctly, there would be no situation in which an official could not answer the questions, given that there was nothing legal in

being. The procurement contract tendering process would still be under way. In the case of the Department of Education, however, it was possible that ongoing legal cases could have been interfered with. If we are testing the process, what questions will officials not answer and on what basis?

Chairman: Are members happy to instruct the clerk to write to the board of the national children's hospital and the Secretary General of the Department and see how that goes? If we fail, we can take the other route. Is that agreed? Agreed. The two Accounting Officers in questions would be the Secretary General and the cathaoirleach of the hospital board. I thank members. That was a lengthy discussion.

Deputy Munster raised the matter outlined in item No. 152 B, correspondence dated 12 October from Mr. Derek Moran, Secretary General of the Department of Finance, in reply to our correspondence regarding NAMA on its policies and procedures in respect of promotions. It is proposed to note and publish this correspondence. Does Deputy Munster wish to speak? Given that there is so much correspondence, I will ask for members' co-operation.

Deputy Imelda Munster: I will be brief. Can we clarify that the committee requested a report? There is none that I can see in the correspondence. We only received a couple of pages. Will the Department send that report as previously requested, please?

Chairman: We will ask the clerk to do that.

Next is No. 163 B, correspondence dated 15 October from Ms Angela Denning, CEO of the Courts Service, providing information requested by the committee regarding traffic cases that do not result in convictions. It is proposed to note and publish this item. Deputy Catherine Murphy raised this matter.

Deputy Catherine Murphy: I did. My concern is the lack of clarity with regard to how the Courts Service captures the information. I tabled a parliamentary question seeking information, which was disallowed on the basis that it would require the Minister to speculate on the legal situation. The net issue was that, while we know it is an offence for a person to drive while disqualified, gardaí who have been issued these handheld devices were told not to use a particular code. There is doubt as to whether it is an offence to continue driving after disqualification. That does not appear to be an offence. It is very difficult. When people are disqualified from driving, very few licences are surrendered on conviction in the courts. The whole idea of disqualification is to make sure the roads are safe. There is a process problem as to how it is dealt with in practice. Other scenarios than that I have just outlined also arise. There may be an absence of law in respect of one of the offences. I am not at all happy that procedures are in place to capture information in a practical way. I am not sure how the committee should proceed on this matter or whether it is the right committee to deal with it.

Chairman: In the letter, the reasons as to why some cases might be struck out are set out. The Deputy has given further information. The appendix to the letter sets out some figures, numbers and explanations. Perhaps the Deputy could consider this further between now and the next meeting. She may then wish to make a suggestion to the committee when we are dealing with correspondence at our next meeting, if she is happy to do so.

Deputy Catherine Murphy: I am happy to do that. To be honest, the issue does not lend itself to an easy solution.

Chairman: It is not comprehensive enough.

Deputy Catherine Murphy: All I know is that there is a problem in this area, which I believe is acknowledged. Every year we see figures put into the public domain regarding the number of people disqualified and the number of these individuals who have not surrendered their licences. This either works or it does not.

Deputy Colm Burke: An endorsement stays on a person's licence for a number of years. If someone does not surrender his or her licence and goes to renew it, the endorsement then begins from the issue of that new licence. There is a great disadvantage to not handing in one's licence. Unless people can renew their licences in some other way, when they go for renewal the endorsement period will begin with the issue of the new licence, because there is a record. I believe an endorsement lasts for five years. If one's licence lapses after three years and one allows any period to pass before renewing it, the five years will start again from when it is renewed. A great difficulty arises if one allows one's licence to lapse. There are checks and balances in the system.

Chairman: I thank the Deputy for the information.

Deputy Colm Burke: I am open to correction on what I have said.

Deputy Catherine Murphy: I will check it out.

Chairman: Perhaps Deputy Catherine Murphy can reflect on the response she has received, on a way forward and on whether there is a role for this committee in that regard.

Next is No. 164 B from Mr. Seán Ó Foghlú, Secretary General of the Department of Education, dated 15 October 2020. This provides information requested by the committee in respect of media monitoring. It is proposed that this be noted and published. Deputy Carthy indicated that he wishes to speak briefly on this item.

Deputy Matt Carthy: This item arises from previous correspondence the committee received with respect to the Department's accounts. The Department spent something in the region of €33,000 on media monitoring services. I had submitted parliamentary questions on this matter to other Departments, as had Deputy Catherine Murphy. Several Departments employ external media monitoring services. Can the committee secure a report as to the overall cost of media monitoring services across Departments and whether there is scope for savings to be made? As I read the responses I have received to my parliamentary questions, each Department individually contracts companies to carry out media monitoring. Many contract the same company, but they do so on an individual basis. The costs fluctuate greatly. If I recall correctly, the Department of Justice pays the most, approximately €50,000 per annum. Other Departments pay much less and some carry out this monitoring internally. Could a holistic evaluation be carried out? Is that something the Comptroller and Auditor General could do for us?

Chairman: We may be able to seek such information from the Department of Public Expenditure and Reform.

Deputy Matt Carthy: I am just seeking an analysis in the first instance. It may then be something into which we could look further because it appears that a lot of money is being spent in this regard.

Chairman: We will ask the clerk to seek that. We will now move to item No. 165 B, correspondence from Ms Oonagh McPhillips, Secretary General of the Department of Justice dated 15 October 2020. This provides information requested by the committee in respect of the 49%

of road traffic cases which do not result in convictions. It is proposed that this be noted and published. Did Deputy Catherine Murphy wish to come in briefly on this item?

Deputy Catherine Murphy: I would include this in the same category. It is fine. I am okay with it being noted and published.

Chairman: The Deputy is okay with that. The next item is No. 166 B, correspondence from Mr. Robert Watt, who was recently before the committee, Secretary General of the Department of Public Expenditure and Reform dated 16 October 2020. It provides information requested by the committee in respect of on appointments to the Civil Service of persons with a knowledge of Irish as well as information on procedures and policies regarding appointment to the Civil Service of persons with disabilities. It is proposed to note this, but Deputy Carthy raised this issue at our previous meeting and has indicated that he wishes to come in briefly on it.

Deputy Matt Carthy: If I recall the correspondence we sent to the Department correctly, we asked why there was such a small number recruited to Irish language posts. In the response we received, it was clarified that the situation was even worse than had been suggested in the original correspondence. I propose that we bring this matter to the attention of the Joint Committee on the Irish Language, Gaeltacht and the Irish-speaking Community, which deals with these issues. It might be of interest to that committee and it may wish to consider it.

Chairman: Is that agreed? Agreed. We will send it on to that committee.

Deputy Verona Murphy: The correspondence also related to a question on disabilities. Can we scroll back up to that part of the correspondence?

Chairman: Does the Deputy wish to speak on this matter?

Deputy Verona Murphy: There is mention of 4.6%.

Deputy Matt Carthy: It is interesting to see what is defined as a disability in the correspondence.

Chairman: Is it agreed that this section of the correspondence be forwarded to the committee with responsibility for disabilities? Is that okay? That is agreed.

The next item flagged by members is No. 167 B, correspondence from Mr. Roland Gowran, commission secretariat manager at the Garda Síochána Ombudsman Commission, dated 16 October 2020. This provides the further update requested by the committee in respect of the investigation regarding EU funds for training purposes in respect of the Garda College, Templemore. This committee has previously carried out extensive work in this area. We have also written to the Policing Authority and to the European Anti-Fraud Office in this regard. It is proposed to note this correspondence but Deputy Catherine Murphy wanted to intervene on it briefly.

Deputy Catherine Murphy: I am okay with it being noted and published.

Chairman: The Deputy is happy enough. She has been busy. The next correspondence item is No. 175 B from Mr. Ray Mitchell, assistant national director of the HSE, dated 23 October 2020, providing further information requested by the committee in relation to non-compliant procurement. It is proposed to note and publish it. Is that agreed?

Deputy Catherine Murphy: Yes.

Chairman: Does Deputy Catherine Murphy wish to speak on it?

Deputy Catherine Murphy: No, there are a couple of other issues I want to raise.

Chairman: The next item is No. 176 B-----

Deputy Catherine Murphy: In fact, I have a comment on non-compliant procurement. The Comptroller and Auditor General did some work on some of this, particularly in regard to the HSE and disability services. Is the Comptroller and Auditor General undertaking any other work, just in case we duplicate work with regard to updating any of that?

Mr. Seamus McCarthy: No, I have nothing specific in mind at the moment.

Deputy Catherine Murphy: We are going to be writing to the HSE on something that arose earlier. The area I am thinking about is where somebody has a disability and the HSE does not directly provide a service but it is outsourced to another entity. Obviously, there is a service level agreement to do that and the level of service that is to be provided to the client arises.

Chairman: The Deputy is going back to correspondence item No. 166.

Deputy Catherine Murphy: Yes. If we are writing to the HSE, we need to-----

Deputy Verona Murphy: Which item was this?

Deputy Catherine Murphy: It was something we dealt with in private session. If we are writing to the HSE in regard to processes, this is one we need to include. We need to know what the service level agreements are, what the oversight is with service level agreements and, when that service is completed, what the completion process is.

Chairman: We will have the agency in sometime in the next five or six weeks, if the Deputy wants to use that opportunity.

Deputy Catherine Murphy: Yes, certainly.

Chairman: Does Deputy Carthy wish to come in?

Deputy Matt Carthy: No, not on that issue. I want come in on No. 175.

Chairman: I will finish with the proposed action in regard to No. 167 B from Mr. Roland Gowran, commission secretariat manager of the Garda Síochána Ombudsman Commission. We have also written to the Policing Authority and the European Anti-Fraud Office in this regard. It is proposed to note and publish this response. Is that agreed? Agreed.

The next item is No. 175 B from Mr. Ray Mitchell, assistant national director of the HSE, dated 23 October 2020, providing further information requested by the committee in relation to non-compliant procurement. It is proposed to note and publish it. Is that agreed? Do members wish to comment?

Deputy Matt Carthy: On that, I just had a quick glance over this. Essentially, this is in regard to procurement. We had asked for a briefing and they sent us a comprehensive response - comprehensive in that it is lengthy. However, it essentially just repeats the information, and its core aspect is that it repeats the lack of appropriate ICT capacity and integration, saying again that this is the key constraint in terms of their ability to accurately and effectively track and

mitigate procurement non-compliance. One would imagine an organisation like the HSE that is dealing with hundreds of millions of euro of public money would do something about a key constraint. I do not see in this briefing anything that sets out a clear indication as to what the HSE is going to do about it, although it sets out the problem. I would like to ask the Comptroller and Auditor General for comment as to whether he suggests there is anything the committee could do in this respect.

Chairman: We had the HSE representatives before the committee recently and it is one of the issues we addressed with them.

Deputy Matt Carthy: This was in response to that, I understand. Their answer is just to say they know what the problem is.

Chairman: It is clear it is an issue we need to make ground on and we need to set that out for them. I will bring in the Comptroller and Auditor General on that issue of HSE procurement.

Mr. Seamus McCarthy: It is an ongoing problem. It is something we are constantly addressing with the HSE. I have reported on it from time to time. They are making progress, although it is slow. I have not studied this document in detail but we will certainly be examining it. If I feel there is a requirement for us to do further work in regard to it, I will certainly consider that. Obviously, if they are in with the committee in the meantime, there may be further information drawn out on that occasion that I will take into account in my consideration of the matter. It is frustratingly slow to get progress on this but we have to keep the pressure on.

Chairman: The reply they gave us when they were in was that it would be 2024 before they have a single unitary system for procurement in place, which is not acceptable. This was flagged by the Office of the Comptroller and Auditor General ten years ago, so it is going to take 14 years to get to a proper procurement system. We got commitments when they were before the committee in terms of trying to expedite this and move ahead with it. Deputy Carthy is right that we need to keep on the case with this issue. When we have the HSE representatives in again, we will use that opportunity to raise it again to see what progress has been made. In the meantime, the Comptroller and Auditor General can do further examination of it.

The next item is No. 176 B from Mr. Philip Nolan, President, National University of Ireland Maynooth, dated 23 October 2020, providing further information requested by the committee in relation to remuneration of staff. It is proposed to note and publish it. If Deputies wish to comment, they should feel free to come in. Deputy Catherine Murphy had indicated.

Deputy Catherine Murphy: This is a carryover from the last Committee of Public Accounts. It concerned the broader university sector, where many people are employed on a very precarious basis, with many working a small number of hours. We are being told that the university also engages people on an occasional hourly basis. Obviously, this deals with public holidays and holidays in general, but the point we were trying to get to was what is the ratio of people who are working on an occasional basis, whether that is a very dominant issue and whether it is replacing less precarious work, either in Maynooth or other universities. This is very precarious work. Universities will have a need for guest lectures and all of the rest, but there are also people who routinely provide teaching hours, often on a precarious basis.

We were looking at the ratio of that. It might be worth digging out the original documentation from last year because there was quite a substantial reply from Maynooth in regard to

the number. That number jumped out at me because there are actually quite a large number of people employed on a very precarious basis.

Chairman: It was similar to zero-hour contracts.

Deputy Catherine Murphy: It was, yes.

Deputy Matt Carthy: I agree with everything Deputy Murphy has said. I find the answer concerning. It talks again about the difficulties with ICT and states that while the university is engaging with the vendors to develop a solution for this, it is not clear that a viable software solution will be found. This is a university saying it cannot find a software system that allows people to get paid for their annual leave. I do not think this is an acceptable response. It is blasé. We are talking about workers and their entitlements. As Deputy Murphy said, in some instances these people are on short-term, temporary-type contracts and I do not think it should be up to them to chase their employer to get paid for the time that is owed.

I suggest that, at some point in the near future, we revert back to the university, while recognising that everybody is busy at the moment. I do know if there is a mechanism for us to revert back to this correspondence in January and then perhaps make contact with the university again. Is that a possibility?

Chairman: We are free to write to it at any time.

Deputy Matt Carthy: It is just to seek an update in January or February of next year.

Chairman: The Deputy needs to be clear on the questions he asks to elicit the correct answers or the answers he wants. Meanwhile, I believe Deputy Murphy has suggested we have received a report from-----

Deputy Catherine Murphy: Correspondence from this committee has gone back and forth. That would be helpful in seeing the full picture.

Chairman: That could be examined in the interim.

No. 177B, dated 27 October 2020, is from Ms Anne Graham, chief executive of the National Transport Authority, NTA, and provides further information requested on overcrowding on CIÉ trains and the proposed expansion of the Maynooth line. It is proposed to note and publish this. Deputy Murphy wishes to make a brief comment.

Deputy Catherine Murphy: This relates to Dart west which is a big project. This is precisely the kind of thing we meant when we discussed the national children's hospital earlier. The 41 additional rail cars have been announced three or four times. I do not know if they have been ordered or paid for or what the procurement process was. Deputy Munster and I were members of the transport committee and we have been forward and backward on the purchase of 600 rail cars. We should seek an accurate statement on whether these rail cars have been purchased. The NTA states the new rail cars are in production and will be brought into service in quarter 1 of 2022. I presume they have been purchased. They were supposed to be brought into service this year and there could be reasons that did not happen. There were supposed to be 600 rail cars for the whole system.

Chairman: We will try to get an answer to that question. We will we ask the NTA how many of the 600 rail cars-----

Deputy Catherine Murphy: Yes, we should ask whether they have been ordered and paid for, what the timeline is and what the procurement process is.

Chairman: We will ask those questions.

No. 178B, dated 27 October, has been flagged by Deputy Munster. It is from the assistant national director of the HSE and provides information requested by the committee at the meeting of 1 October 2020 regarding the nursing homes support scheme, also known as the fair deal scheme. It is proposed to publish this. Deputy Munster wishes to comment.

Deputy Imelda Munster: I have a couple of issues with the response received regarding the breakdown of high-dependency patients in public and private nursing homes. In its response, the HSE said it does not centrally retain details of the dependency levels of residents in either public or private nursing homes. I imagine information of that nature should be available to the HSE. Is there any particular reason for not retaining it? It should be a matter of interest to the HSE given its role in the fair deal scheme and public nursing homes. I suggest we ask the HSE if it could keep these records in a way that does not interfere with personal data. It is the type of information that should be collected by the HSE.

Chairman: The Deputy proposes to request further clarification from the HSE.

Deputy Imelda Munster: Yes, and to ask the HSE if it could record high-dependency levels in patients in both public and private nursing homes without interfering with personal data.

The other issue was on the HSE's capital plan. I have a couple of questions on community nursing units. The HSE's 2016 plan refers to 90 centres across the State. I propose that we write to the HSE and ask for more details on its case mix adjusted, CMU, figure. I am aware the figure has increased significantly since 2016. There is more to come as there are delays arising from Covid-19 this year. This is described as public care but public private partnerships, PPPs, are named everywhere. Alternative funding arrangements are also involved, as we are aware. I propose that we ask how many of these units are public and how many are private. When the HSE refers to upgrading, is it referring to public nursing homes that will be upgraded on the recommendation of HIQA? Will the HSE fund them or will they be funded under public private partnerships? Will they be run as public or private entities?

Chairman: The Deputy is seeking clarification. My understanding is-----

Deputy Imelda Munster: I would prefer to have this in writing. When we try to extract answers from the HSE in the committee it can be evasive, to say the least.

Chairman: There are 90 public nursing homes in the capital plan. There are 33 replacements and 57 extension-refurbishments.

Deputy Imelda Munster: Yes, I ask in particular for a breakdown of the numbers of public private partnerships and public projects.

Chairman: We will ask for that breakdown.

Deputy Imelda Munster: As I have stated previously, the use of PPPs for nursing home provision does not make sense. We will all need one at some stage so it is an investment to have public nursing homes. The tax breaks and allowances under the fair deal scheme, the mandatory social programmes and everything else are a long-term expense. I propose that we ask the HSE to set out its reasoning for choosing PPPs as opposed to building public nursing homes.

Chairman: We will ask for a breakdown regarding the 90 public nursing homes, the number of PPPs it intends to use and the reasoning for that.

Deputy Imelda Munster: We should ask the reason the HSE is using PPPs.

Chairman: I am watching the clock because we are subject to Covid-19 regulations and we have two matters left to deal with.

Deputy Colm Burke: High-dependency is the big argument. The HSE is aware of the high-dependency rate in the public nursing homes. The issue with private nursing homes is that the HSE tends to not want to know because the private nursing homes want remuneration under the fair deal scheme to increase where a patient is deemed to be high-dependency. That issue has not been resolved and has been going on for some time. That is one problem we have. It is convenient for the HSE not to know the high-dependency numbers for private nursing homes.

Chairman: We will seek to elicit that information and the reasoning Deputy Munster seeks from the HSE. I will ask the clerk to correspond with it.

No. 180B, dated 28 October, is from Mr. Colm O'Reardon, acting Secretary General at the Department of Health, providing follow-up information requested by the committee arising from the meeting of 1 October 2020 regarding the nursing homes support scheme. Is Deputy Munster satisfied with that response?

Deputy Imelda Munster: No, because again we ran out of time the last time representatives of the HSE were before us. The answer states that a person's eligibility for further schemes, such as the medical card scheme or the drugs payment scheme, is unaffected by participation in the nursing home support schemes. We know people are being charged. We want to know if the HSE is going to continue to allow this? If it wanted to find out the extent of the practice, all it has to do is invite public submissions. Every other family will tell it that a parent or grandparent is being charged for simple things like wound dressing, creams, incontinence wear and so on which are covered by the medical card and ordinarily covered where a person is living in the community. In my opinion, the HSE is deliberately turning a blind eye to this practice. As we touched upon with the Comptroller and Auditor General, the way in which the contracts are framed is the same regardless of whether one is private or public. However, on medical card items to which residents would normally be entitled, some private nursing homes are charging for items which, if the person was living at home with a family member, would be provided under the medical card scheme. I want the committee to write back to the HSE to ask how it will ensure that this double charging - this is exactly what it is - stops, and what plans it has to prevent it happening. If the HSE is interested in determining the extent of this practice, it could invite people to make submissions and to back it up with proof, for example, invoices charged to their family members, when their family members have a medical card.

Chairman: We will ask the clerk to write to the HSE. We note the fact that it has been brought to our attention that there are cases where people are being charged for those items in private nursing homes, where if they were in the community, the items would ordinarily be available to them free of charge as medical card patients. We will ask what steps are being taken to deal with this issue. Is that agreed? Agreed.

I believe a committee member wants to raise No. 179, or do they want to leave it until the next meeting?

Deputy Catherine Martin: Yes, I wish to leave it.

Chairman: The other item is financial statements and accounts. There were five sets of financial statements and accounts laid before the Dáil between 9 and 30 October 2020. The Comptroller and Auditor General has issued a clear audit opinion in all cases. However, the Athlone Institute of Technology statement on the internal control disclosed a significant expenditure on goods and services that was non-compliant with procurement procedures. We will continue our practice of requesting an explanation for this non-compliance. Is that agreed? Agreed.

Mr. Seamus McCarthy: I wish to put a correction on the record. It was actually Sligo Institute of Technology to which I referred, not Athlone Institute of Technology.

Chairman: I will note that. It is Athlone Institute of Technology on the list I have before me. I thank the Comptroller and Auditor General for the clarification.

In respect of the work programme, and following agreement on the priority engagements at our meeting on 7 October, the secretariat has been working to organise the engagements. We will engage with the Department of Finance tomorrow. On Wednesday, 11 November 2020 we will engage with the Office of Public Works, on Thursday, 12 November we have the Department of Employment Affairs and Social Protection, on Thursday, 19 November we engage with the Office of the Revenue Commissioners, and the week after that, the Department of Housing, Local Government and Heritage has confirmed its availability for 25 and 26 November 2020.

There is a significant amount of material from the 2019 report of the Comptroller and Auditor General which is available to the committee to review. There are four chapters and the Vote itself. Given the amount of material we have to cover, and to avoid having to pick and choose between chapters, I suggest that we invite the Department to appear on Wednesday and Thursday of that week to give the committee two two-hour sessions, or four hours, to examine the matter. I suggest that we cover two chapters in each session, with the Vote itself available for discussion on both days. I also suggest that the committee has lead and second speakers on both days, with the opening statements being delivered on the first day. In other words, there will be only one set of opening statements. Are the members happy with that? Yes. It is to ensure that the material will be given a good airing in more than one session. Is it agreed that the committee invites the Department of Housing, Local Government and Heritage to engage with it on 25 and 26 November 2020? Agreed.

Of the seven priority engagements agreed on 7 October, that leaves meetings with the HSE, Department of Justice and the Irish Prison Service yet to be scheduled. The committee will work with secretariat to organise the other priority engagements. Is that agreed? Agreed.

Do any members wish to raise any other issues? No. Our next meeting is tomorrow with the Department of Finance on its Vote, the audited financial statements of the Exchequer for 2019, and the Comptroller and Auditor General's report on the accounts of the public services 2019. We will be looking at chapter 1, Exchequer financial outturn for 2019, and chapter 17, the Ireland Apple escrow fund.

The committee adjourned at 6.35 p.m. until 11.30 a.m. on Thursday, 5 November 2020.