

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Dé Céadaoin, 9 Nollaig 2020

Wednesday, 9 December 2020

The Committee met at 4.30 p.m.

MEMBERS PRESENT:

Deputy Colm Burke,	Deputy Marc MacSharry,
Deputy Matt Carthy,	Deputy Imelda Munster,
Deputy Cormac Devlin,	Deputy Verona Murphy.
Deputy Alan Dillon,	

DEPUTY CATHERINE MURPHY IN THE CHAIR.

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

2019 Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 24 - Justice and Equality

Vice Chairman: Apologies have been received from Deputies Stanley, Sherlock and McAuliffe. The meeting is straddling other business so there may be others unable to attend. We are joined remotely by the Comptroller and Auditor General, Mr. Seamus McCarthy, as a permanent witness to the committee. I remind all those in attendance to ensure their mobile phones are on silent mode, or switched off.

Today we begin the first of a two-day engagement with officials from the Department of Justice and the Irish Prison Service. Before us today, from the Comptroller and Auditor General's appropriation account 2019, is Vote 24 - Justice and Equality.

Tomorrow we will address Vote 21 – Prisons, and from the Comptroller and Auditor General Report on the Accounts of the Public Service 2019, chapter 7 – catering and ancillary services in prisons.

To assist us in our examination of the Department's Vote today, and with regard to public health guidelines, we are joined in person by the following officials from the Department of Justice: Ms Oonagh McPhillips, Secretary General, Ms Martina Colville, assistant secretary, and Mr. Seamus Clifford, principal officer. We are also joined remotely by Ms Oonagh Buckley, deputy Secretary General, Mr. Doncha O'Sullivan, assistant secretary, and Mr. David Delaney, deputy head of immigration service delivery.

We are also joined remotely by Liam Gleeson from the justice Vote section at the Department of Public Expenditure and Reform.

I welcome everyone to the meeting and thank them and the staff in the Department for the briefing material they have prepared for the committee.

Before we start, I wish to explain some limitations to parliamentary privilege, and the practice of the Houses as regards reference witnesses may make to other person in their evidence. Witnesses are protected by absolute privilege in respect of the presentation they make to the committee. This means that they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege and it is my duty as Chair to ensure that this privilege is not abused. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

Witnesses are also reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity, by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory

in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

Members are reminded of the provisions within Standing Order 218 that the committee shall refrain from enquiring 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 are also reminded of the long-standing parliamentary practice to that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

I also ask that members and witnesses remove their masks when speaking to ensure they can be heard, and that when members are leaving and taking their seats, they sanitise their area.

I call on the Comptroller and Auditor General, Mr. Seamus McCarthy, for his opening statement.

Mr. Seamus McCarthy: The 2019 appropriation account for Vote 24 records gross expenditure of €540 million. This was an increase of €84 million, or nearly 19%, on the prior year.

The expenditure was distributed across five programmes. These are defined in terms of strategic objectives, such as: a safe and secure Ireland; and access to justice for all. Within the programmes, in addition to provision for standard administration functions, there are funding lines for key schemes and services operated directly as part of the Department, such as the Probation Service, the Immigration and Naturalisation Service and the Forensic Science Laboratory. Funding is also provided for a number of State bodies that have a separate statutory existence, that operate under the aegis of the Department.

The largest expenditure programme relates to the range of services that together aim to provide an efficient, responsive and fair immigration asylum and citizenship system. In 2019, the total spend for that programme was €223 million. This was up almost €62 million, or 38%, year-on-year. The largest component of this spending related to the cost of accommodation for asylum seekers, which totalled just under €130 million in 2019. The Department has attributed the 66% increase year-on-year in the spending on such accommodation to an increase in the numbers of asylum seekers accommodated, and to significantly greater reliance on more expensive emergency accommodation arrangements.

Members may wish to note that responsibility for asylum seekers' accommodation, along with a number of other subheads, has now been transferred to the Department of Children, Equality, Disability, Integration and Youth. Processing of asylum applications remains the responsibility of the Department of Justice.

I issued a clear audit opinion on the appropriation account. However, I drew attention to disclosures in the statement on internal financial control relating to material instances of non-compliance with national procurement rules that occurred in respect of contracts that operated in 2019.

Vice Chairman: Before I ask for her opening statement, I would like to congratulate Ms McPhillips on her appointment as Secretary General of the Department. While she attended meetings of the previous committee, I understand this is her first appearance as Accounting Officer, and on behalf of the committee, I would like to wish you every success in the role.

Can we have your opening statement please?

Ms Oonagh McPhillips: I welcome the opportunity to meet with the committee on the 2019 appropriation account for the justice and equality Vote.

The Department's Vote covers a wide remit, encompassing both the criminal justice and civil pillars, and a very broad range of offices and agencies across the justice sector. In all, there are approximately 60 individual subheads across five expenditure programmes.

In 2019, the Department completed the largest restructuring in our 100-year history. This transformation programme reshaped the organisation to more effectively deliver our strategic objectives; improve transparency and accountability; and create efficiencies through clearly defined roles and responsibilities. This represented a step-change in how a Department is structured and operates, and turned the traditional Civil Service model on its head.

In the traditional model, the Department was structured by subject matter relating to different parts of the justice and equality sectors. Staff worked across a wide range of activities, continually prioritising a competing variety of tasks, with differing levels of complexity, importance and urgency. The transformation programme moved us from this conventional subject-based model, for instance, policing or immigration, to a functional model where we deal with policy and legislation, facilitating the development of specialisation and expertise.

While the formal restructuring element of the transformation programme was concluded in 2019, additional work continues to support and leverage the full value of our new structure. A subgroup of the management board is developing initiatives to further develop our organisational culture in support of our vision of a safe, fair and inclusive Ireland. We also reviewed the Department's ICT infrastructure and capacity to deliver digital services. Work is under way to implement a new ICT strategy, with digital reform set to be a key priority in our forthcoming strategy statement.

The transformation programme has sought to rebuild the Department to meet the challenges and opportunities of the 21st century. This year's global pandemic has provided a significant test of this new structure. Overall, our functional model has enabled us not only to react but also to respond dynamically to the crisis. Although some service delivery areas have been quite severely impacted, our teams have a more focused remit and despite this unprecedented crisis, our functional structure has provided the capacity to retain a focus on long-term issues. We have been able to refrain from diverting entire teams to crisis response and instead have been able to preserve that focus and keep work going on longer-term issues through our dedicated strategic policy units.

Our legislation functions have been agile in supporting Government to develop and progress proposals. Since the outset of the crisis, our governance functions have played a central role in facilitating and driving collaboration and cohesion between the key agencies in the justice sector, while our operations units supported the establishment of crisis response teams in our key service delivery areas. Our unique transparency function has co-ordinated and managed an unprecedented demand for information throughout the crisis for all our stakeholders and the public.

Regarding the transfer of functions, as the Vice Chairman referenced and as members are aware, the Government established a new Department of Children, Equality, Disability, Integration and Youth, which required a transfer of functions order and the transfer of functions

such as disability, equality, migrant integration, international protection accommodation, which is known as direct provision, and the Irish Refugee Protection Programme. This necessitated approximately 95 colleagues transferring, along with their work, to the newly created Department with effect from 14 October last. A relatively small number of issues relating to youth justice transferred in our direction and are now managed by our criminal policy function. This work mainly relates to the bail supervision scheme, which provides courts with an alternative to remanding a child in detention; a research partnership with the school of law, University of Limerick, which is aimed at the development of effective youth offender programmes; as well as a project under the Dormant Accounts Fund, building on the Greentown report which is developing interventions to protect children from the malign influence of criminal networks.

As members will be aware, there are a large number of agencies under the overall remit, some of which are funded from this Vote. I refer in particular to Forensic Science Ireland, FSI, which had a significant underspend in 2019 relating to the long planned new purpose-built laboratory. I am glad to report that construction started on that building in March and it is well under way, despite the impact of the pandemic on construction activities in the earlier part of the year. This new laboratory will provide FSI with a modern, state-of-the art facility, supporting the highest standards for evidence processing, analysis and storage. The aim is to have a forensic facility meeting all standards for the avoidance of contamination and the recovery, identification and interpretation of trace forensic evidence, including DNA. This represents a significant and important investment in the criminal justice system. The new building is expected to be completed in the summer of 2022.

I will also mention the work of the Criminal Assets Bureau, CAB. While expenditure incurred for the bureau is reflected in the Vote, at €9.860 million in 2019, the other side of the equation is not apparent from the account as the moneys collected go directly to the Exchequer. The money returned to the State as a result of CAB actions was in excess of €3.9 million in 2019, which includes €1.6 million returned under the proceeds of crime legislation, just over €2 million collected under Revenue legislation, and €300,000 recovered in social welfare overpayments. The bulk of these actions related to the proceeds of drug trafficking, followed by fraud and theft.

In addition, the value of assets frozen during the year was €64.9 million, which is a very significant figure, compared with €8.4 million in 2018. That increase is due in the main to a significant seizure of cryptocurrency to the value of €53 million. There were 326 individual assets frozen, including financial assets, property, vehicles and jewellery. In all, CAB brought 31 new proceeds of crime proceedings before the High Court in 2019, the largest number of new cases commenced by the bureau in a single year. At an international level, CAB has maintained strong links and continues to liaise with law enforcement and judicial authorities throughout Europe and worldwide.

The work of the Legal Aid Board is also funded from this Vote. The board operates a total of 30 full-time and 12 part-time offices. It employs approximately 420 staff and provides services both via directly employed solicitors and panels of private practitioners who are engaged to provide services such as Abhaile and to service District Court family law matters. The board also provides free family mediation services in 16 family mediation offices, some of which are co-located with their law centres.

In the context of the pandemic and the need to prioritise services and safety for our most vulnerable citizens, the Department developed an inter-agency action plan to help support people at increased risk of domestic abuse during this period. Members will have heard about

the Garda Operation Faoiseamh, most recently this morning. This was supported by priority measures across the entire system, including by the Legal Aid Board and the Courts Service, for domestic abuse, sexual assault and child protection cases. The Legal Aid Board help line is helping to deliver prompt legal advice and legal representation in court. I will leave it at that, although I am happy to go into further detail if members wish me to do so.

Vice Chairman: I thank Ms McPhillips. We have a rota of speakers and unfortunately the first two speakers on it are not present. I am third on the list but I will contribute last, as is traditional for the Chair. Deputy MacSharry will be-----

Deputy Marc MacSharry: I do not have questions at the moment. Tomorrow will be more my day in terms of preparation for questions.

Vice Chairman: In that case, Deputy Munster will contribute now.

Deputy Imelda Munster: The briefing notes the number of people in direct provision accommodation. Is it correct that the annual cost per individual works out at approximately €15,000?

Ms Oonagh McPhillips: That is not really how we calculate the cost. We tend to calculate it on a person per day basis. At the moment, I believe it is about €45 a day per person.

Deputy Imelda Munster: Does Ms McPhillips have any idea of the cost per person per year?

Ms Oonagh McPhillips: I might have to resort to asking my colleagues that.

Deputy Imelda Munster: I want to find out how much of that figure was spent on accommodation, how much was spent on catering and where the remainder goes. Could we get those figures first?

Mr. David Delaney: If I could come in on that, the Deputy's figure of around €15,000 would be broadly accurate based on the daily rate the Secretary General quoted. On the breakdown in terms of what we spent on accommodation and providing food and the like, effectively it is an all-in day rate to provide those services, full stop. We would not break it down by those categorisations and we would not be able to get those figures, unfortunately. That is because that is the way the contract is negotiated; it is an all-in figure for an overall service as such.

Deputy Imelda Munster: When it comes to tenders, is there an amount the Department pays per person in each tender?

Mr. David Delaney: Correct. As the Secretary General mentioned, there is a general rate we could quote as an average but different tenders would come to different rates depending on many variables.

Deputy Imelda Munster: Could we get an example of those to have a rough idea?

Mr. David Delaney: I could get back to the Deputy on that because, in fairness, there is a variance between different scenarios and situations, depending on what is being provided. I could give an inaccurate or misleading example as opposed to clarifying the situation.

Deputy Imelda Munster: Vice Chairman, I would have hoped we would have had access to those figures.

Ms Oonagh Buckley: If I might come in to assist my colleague, because we are simply paying for a managed service, the State-owned facilities come in at less than €20 per head per night - €19.50 is the figure I have in my head. I am talking about 2019. Regarding the older facilities where they were providing the full service but not providing access to independent living and to the better services required under the McMahon standards, we are averaging at around €35 per head per night. Obviously, with the introduction of the McMahon standards and because we were procuring accommodation in the middle of a very tight accommodation market, the prices did go up and so the figure quoted by Mr. Delaney of €45 per head per night is roughly the figure we were achieving in our contractual negotiations around the new procured properties with higher standards. They also required capital works to bring them in line with what was necessary under the proposals of Mr. Justice McMahon.

Deputy Imelda Munster: Is that figure inclusive of accommodation and catering needs?

Ms Oonagh Buckley: It is inclusive of those needs. In the context of independent living in particular, there is on-site shopping and food is provided for the residents to cook. Slightly more than 50% of residents currently have access to their own cooking facilities.

Deputy Imelda Munster: In light of the widely reported deficiencies in direct provision, does the Department engage with the management of each centre? Given the reports of drastic failings in some direct provision centres, how does it gauge whether standards are met? What supervision is in place in terms of public money being spent? How does the Department know that standards are kept up? What is its procedure in that regard?

Ms Oonagh Buckley: There are three standard inspections per year, two of which are carried out by staff who are now part of the Department of Children, Equality, Disability, Integration and Youth but previously worked in the Department of Justice and Equality, including in 2019. The other standard inspection is carried out by an independent inspection company. They do a thorough inspection of all the standards. We also invite residents to report any issues they may have regarding food or difficulties with the local manager. Of course, they also have access to the Ombudsman and the Ombudsman for Children. There are a variety of routes through which people can come to us if there are issues and we can test and seek to examine what is going on in a centre.

Deputy Imelda Munster: What procedures follow on from an inspection if a centre is not up to standard? What happens if that is the case? What does the Department implement? Are penalties imposed, for example?

Ms Oonagh Buckley: We inspect the facility. If there is a deficiency, we expect it to be remedied. That is what happens commonly. We can send another official to check that whatever is imperfect, such as a problem with showers, for example, is remedied. Ultimately, if the issue is not resolved for some time, we will end the contract. That is the biggest issue. That would only be done after we had worked hard with the operator to ensure it brings standards up to speed because, particularly in 2019, we needed to ensure we had as many beds as possible available to us in order that we were not putting people into hotels as an alternative.

Deputy Imelda Munster: It would be helpful for the Department to provide the committee with details of the number of inspections, the results of each inspection, the findings, any follow-up action taken, the procedures that needed to be carried out, the penalties imposed, if any, and the contracts that were cancelled.

Ms Oonagh McPhillips: There is a system whereby the reports are published. There is a gap before publication but they are published regularly. There needs to be a gap because sometimes there are commercial issues that arise. The reports are published regularly.

Vice Chairman: I ask Ms McPhillips to send those details to the committee.

Ms Oonagh McPhillips: Absolutely. We will draw the attention of the committee to those reports.

Vice Chairman: That would be useful. It is important to get that information in light of responsibility having been transferred to another Department.

Ms Oonagh McPhillips: The other thing to highlight in that regard is that it is open to residents to resort to the Ombudsman and the Ombudsman for Children. That is important in the context of standards.

Vice Chairman: Deputy Munster will have time to come back in on the second round. I call Deputy Colm Burke.

Deputy Colm Burke: I was delighted to hear that construction of the new Forensic Science Ireland, FSI, laboratory is proceeding. What is the timescale for it to be completed and fully operational?

I understand that tied into that is a proposal relating to, for instance, unidentified human remains. There is no central database within the Department or the forensic science area in that regard. In other words, if remains are found in Cork, the information stays in Cork. If remains are found in Dublin, the information remains in Dublin. Are there proposals to incorporate such a central database into the new development of the FSI laboratory?

On the issue of asylum and those coming here to seek asylum, this will continue to be an issue with which we must deal. Has a plan been made by the Department in the past ten or 12 years in respect of the purchase of permanent support locations rather than locations being rented? Is there a proposal relating to capital expenditure in this area? Why has such a strategy not been adopted at any stage in recent years? This is not an issue that will change. We need to have a more permanent structure in place for dealing with it.

I refer to an issue relating to the €53 million of frozen assets. At what stage is it likely that a conclusion will be reached on those moneys being released into the jurisdiction or the control of the State in real terms such that it can be used for the benefit of the State?

Ms Oonagh McPhillips: The new FSI laboratory is due to be finished in July 2022. At the moment, in spite of the pandemic, it is probably on track for completion on that date. The building is flying up.

On the Deputy's point regarding unidentified remains, obviously this is a very difficult issue for the families involved. The DNA database that the FSI operates has made significant strides in this regard in recent years. Unidentified remains are now routinely examined for DNA and those records are retained in the DNA database at the FSI laboratory. On National Missing Persons Day, the FSI routinely invites families to come forward and give samples of their DNA such that if it is possible to make a match in the future, that is done.

Deputy Colm Burke: There have been cases in the past 12 months involving families that waited for 12 years in one case and 17 years in another to be notified regarding remains that had

been identified. The bodies had been identified but the process of identification had not been completed.

Ms Oonagh McPhillips: Had the remains been identified?

Deputy Colm Burke: In one of the cases, the person drowned in County Limerick but the remains washed up in County Clare. It took 17 years for the records to be matched up. The other case involved a person who went missing in County Dublin and was washed up in County Louth. It took 12 years for the records to be matched up. My understanding is that the delays occurred because there was no central database whereby missing persons could be checked against bodies that are found.

Ms Oonagh McPhillips: I am open to correction, but I think what the Deputy is referring to is probably the historical situation. If a body is found now, it would immediately be DNA tested. In fact, FSI has now connected-----

Deputy Colm Burke: I am aware of that. The issue is that the DNA of missing persons is not checked against the DNA of remains that are found.

Ms Oonagh McPhillips: The FSI takes DNA samples from the families of missing persons. That was not done 17 years ago as the technology did not exist.

Deputy Colm Burke: This was an issue as recently as 12 months ago.

Ms Oonagh McPhillips: I am happy to follow up with the Deputy on the issue.

Deputy Colm Burke: I would appreciate that because it is an important issue, especially in the context of the new laboratory being set up.

Ms Oonagh McPhillips: It is a priority for FSI, which puts a significant amount of effort into it. If there are any gaps in the process, we are happy to look at that.

On the issue of accommodation for asylum seekers and State-owned accommodation, I think there are currently four State-owned centres. The question of capital expenditure and whether there should be more State-owned centres will be a matter for the newly expanded Department of Children, Equality, Disability, Integration and Youth which has taken on responsibility for this area. I understand that issue will be part of its consideration.

On the €53 million seized by CAB under proceeds of crime legislation, under the current legislation it must retain those moneys for seven years. There is an ongoing review of the proceeds of crime legislation to see whether that period can be reduced. There are legal issues around so doing which must be considered in great detail.

Deputy Colm Burke: Is there a specific reason for it being a seven-year period?

Ms Oonagh McPhillips: That is the period that was set originally.

Deputy Colm Burke: What are the criteria in other jurisdictions?

Ms Oonagh McPhillips: Ireland is the leader in this. We had proceeds of crime legislation before anyone else. I am not quite sure what it is like elsewhere but I know CAB is still the envy of many other countries as to how it operates. One of the reasons is because it is not a criminal but a civil process. One has to take a great deal of care and ensure there is sufficient room for people to challenge it. That is what keeps it strong and upheld. We are looking to see

if it can be reduced in any sense because there is a cost for CAB.

Vice Chairman: I am afraid the time is up.

Ms Oonagh McPhillips: Just to clarify, seven of the 44 premises providing accommodation for asylum seekers are State-owned.

Deputy Matt Carthy: I also want to raise the issue of housing for people seeking asylum. There has been a bit of a conversation around direct provision, a system which is an abomination. The fact that we are still utilising it all these years later is a scandal and a testament of a failed policy.

I note over the past three years there has been an increasing dependency on emergency accommodation which falls outside of the direct provision system. How much was paid for emergency accommodation in 2019? What is the expected outturn in 2020?

Ms Oonagh Buckley: I do not have an expected outturn for 2019 because responsibility was transferred from the Department of Children, Equality, Disability, Integration and Youth. Some €35 million was spent on emergency accommodation in 2019, approximately 25% of the overall cost of accommodation for asylum seekers.

Deputy Matt Carthy: That is a lot of money and a big outlay to carry out an important role. Essentially that money is going to private companies to house people for whom we have an international obligation to provide shelter while their asylum process is ongoing.

What level of inquiry does the Department make when entering into contracts with people providing emergency accommodation as to their track records, suitability and technical expertise in taking on the role of housing a vulnerable group of people?

Ms Oonagh Buckley: When we call it emergency accommodation, what we are talking about is hotel rooms. It is not dissimilar to the way in which people who are homeless and who are Irish natives are accommodated. We have been consistent on the record saying it is a sub-optimal approach to the housing of asylum seekers. However much one might criticise direct provision centres proper, they have facilities provided in them and they are a much better set-up in terms of people's capacities. Then, as we had to do for all of 2019, we had to rent hotel rooms and put people in them when they arrived in the country.

In terms of evaluation, they were procured under an expressions of interest process. The accommodation was assessed based on various norms. The persons running them would have had to meet requirements like having tax clearance and so forth. It was never the intention that they were going to be run like direct provision centres. It was only ever that we were effectively renting rooms in hotels. That is what emergency accommodation is.

Deputy Matt Carthy: Is it fair to say that the use of some hotels for this purpose has become, in some instances, almost a singular use of those hotels and that has been the case over a prolonged period of time?

Ms Oonagh Buckley: Yes, in some instances, particularly for smaller hotels while during the pandemic even in large places.

Deputy Matt Carthy: In some cases I understand there is a third party, a cog in the wheel between the Department and the hotels. Is it individuals or companies that the Department would work with on a contract basis to find suitable accommodation?

Ms Oonagh Buckley: Some of this predates my time in the Department, so I am reading on the basis of what was done. In essence what happened was that in September 2018, we got to the point of running out of accommodation in formal centres. There were a few instances where some people could not be accommodated which was not appropriate or in compliance with our obligations. At that point, I understand the Department approached the Dublin Region Homeless Executive which had used the services of a company in the previous summer. That company was suggested by the Dublin Region Homeless Executive as a suitable way of trying to find accommodation in short order.

Deputy Matt Carthy: Has only one company been given that role?

Ms Oonagh Buckley: No. Subsequently, I believe other companies were used. I would not have all of that information before me, primarily because responsibility for this area has largely moved on to our colleagues in the Department of Children, Equality, Disability, Integration and Youth. We could, if the Deputy wishes, source the names of those companies and come back to him.

Deputy Matt Carthy: That would be useful. Ms Buckley mentioned that this was primarily hotel accommodation. Is it not fair to say that in some cases it involves dwellings, for want of a better term, in remote areas? In other words, houses would be used for the purposes of emergency accommodation.

Ms Oonagh Buckley: No. Generally, it might be small but it would be specific *vis-à-vis* guest houses.

Ms Oonagh McPhillips: We were at 44 emergency centres earlier in the year. It is now down to 27, meaning it is coming down.

Deputy Verona Murphy: I congratulate Ms McPhillips on her appointment.

The main role of the Probation Service is to protect the public and create safer communities by helping offenders to desist from committing more crime. In that, it is trying to reduce reoffending and manage offenders' safety in the community by reintegrating prisoners after release while providing an effective and efficient value for money service. What portion of the €41 million budget in the Probation Service involves a restorative justice approach?

Ms Oonagh McPhillips: I cannot answer that off the top of my head but I can get an answer for the Deputy. A number of particular restorative justice projects are funded from the Probation Service. A significant proportion of the budget, around €16 million, goes to fund grant-aid bodies which provide services. Some of these are traditional bodies such as addiction services and so forth. There is a long list of them which I can provide to the Deputy. To some degree, some of that would be in the restorative line.

Deputy Verona Murphy: Is there room for expansion?

Ms Oonagh McPhillips: Yes, we are always trying to expand that.

Deputy Verona Murphy: Is there an issue with funding? Are we putting enough money into this? Are we getting value for money for what is there?

Ms Oonagh McPhillips: We get good value from the Probation Service. It is always an area in which we seek to increase funding because we get a return from it. The recidivism figures are good for the Probation Service. They are much better than other sanctions.

Deputy Verona Murphy: Is it possible to provide those figures to the committee?

Ms Oonagh McPhillips: Yes.

Deputy Verona Murphy: What percentage of offenders have been given community service sentences versus incarceration?

Ms Oonagh McPhillips: I will come back to the Deputy on that, if that is okay. I have the figures here somewhere.

Deputy Verona Murphy: I would like to know on what basis they are given. What are the top offences where offenders have not been incarcerated?

Ms Oonagh McPhillips: The courts, in particular, with respect to more minor offences that would attract a lower sentencing rate generally would refer an offender like that to the Probation Service for assessment as to whether the person was suitable for a community service order and depending on how that assessment went the court would decide to assign it. It can vary quite a lot.

Deputy Verona Murphy: Typically from the time a community service order is handed down, how long would it take for a person to get into the Probation Service? Is there a time-frame?

Ms Oonagh McPhillips: It would have slowed down a little this year because community service, in particular, was hit by the pandemic. The nature of the schemes and so forth do not really lend themselves to operation with social distancing, etc. They have had some difficulty this year but, generally speaking, they are relatively efficient and have a relatively good spread around the country in terms of availability.

Deputy Verona Murphy: Are we talking in terms of months or weeks?

Ms Oonagh McPhillips: It is probably more like months than weeks.

Deputy Verona Murphy: Now.

Ms Oonagh McPhillips: Yes.

Deputy Verona Murphy: What would the normal timeframe be? If somebody was told they were for release on a community service order, would they be waiting for a month in normal times, outside of Covid, for example, in 2019?

Ms Oonagh McPhillips: I do not have that to hand but I will get it for the Deputy.

Deputy Verona Murphy: Is Ms McPhillips happy with the number of officers within the service?

Ms Oonagh McPhillips: The Probation Service definitely has recruited a lot in recent years and we have invested in that. Forty three successful candidates were placed on a panel during 2019. Seven of those took up their positions that year and roughly ten took up positions this year. We would hope to further increase that next year.

Deputy Verona Murphy: Were there people who were never given release under a community service order on the basis of the pandemic whereby the service could not manage that or how did it manage that?

Ms Oonagh McPhillips: The ones who are on a waiting list for community service are still on a waiting list to some degree.

Deputy Verona Murphy: Could those figures be forwarded to the committee as well?

Ms Oonagh McPhillips: Absolutely. We will get them for the committee, no problem.

Deputy Verona Murphy: Thank you.

Deputy Cormac Devlin: I welcome the witnesses. I note Ms McPhillips in her opening remarks stated that the Criminal Assets Bureau, CAB, had collected €1.6 million under the proceeds or crime legislation and €2 million in Revenue seizures, and assets of €64.9 million were frozen in 2019, €53 million from crypto-currency, compared to €8.4 million in 2018. Have there been specific new targets from CAB from 2018 to 2019? It appears all these figures have increased. Ms McPhillips might give the committee more information on that.

Ms Oonagh McPhillips: CAB has developed this skill. It would be a leader internationally. It would get many delegations from other countries to see how it does things. In particular regarding crypto-currency, it developed a skill around that during the past few years and it has given talks to Europol and Interpol on that. It would be developing targets all the time. We would not have sight of that. That is an operational matter. It does that itself.

Deputy Cormac Devlin: Ms McPhillips said there were 31 cases in 2019. Is that the largest to date brought forward by CAB?

Ms Oonagh McPhillips: Those were the proceedings brought before the High Court. That was the largest.

Deputy Cormac Devlin: I would like to focus on two other items. In the Appropriation Accounts there are a number of headings detailing different programmes from Ms McPhillips's Department. When she is corresponding with the committee, I would appreciate if she could give us more information on each of those. It is those mainly where there are significant variations. If Ms McPhillips could detail those because we would like to know more about many of those schemes and projects.

Also, one of the briefing documents states that the Department is compliant with the exception of 22 contracts to a value of €5.7 million. It also states these contracts are considered non-competitive and non-compliant as they were extended beyond the original contract date without a new competitive process, the details of which are as follows: four contracts with a value of €1.06 million; 16 contracts with a value of €4.08 million; and two contracts with a value of €558,000. What happened in those instances?

Ms Oonagh McPhillips: Regarding the first bundle of contracts the Deputy mentioned, 18 of those are being or have been progressed to contract placement since then. To some degree, we are reliant on and have a partnership with the Office of Government Procurement, OGP, and sometimes we have to roll over a contract while we are waiting for an OGP framework to come into place. Some of the larger contracts are routinely challenged now so there can be delays. Quite a significant number of them have been.

Deputy Cormac Devlin: What about the other four?

Ms Oonagh McPhillips: Those 18 break down as nine that are now in place and nine that are planned or under way. With respect to the other four, we are waiting on an OGP framework.

Deputy Cormac Devlin: Is that tranche of contracts something that would recur annually because the Department is waiting on the new framework? Is that more or less how that happens?

Ms Oonagh McPhillips: It would not be the same contracts every year-----

Deputy Cormac Devlin: No. Obviously, not.

Ms Oonagh McPhillips: -----but there would be those situations every year.

Deputy Cormac Devlin: I would hope there are procedures in place to try to minimise that.

Ms Oonagh McPhillips: Absolutely and to try and anticipate it.

Deputy Cormac Devlin: It is a sizeably amount of money and it has been flagged.

Regarding the justice and policing transformation programme, I note there was an estimation provision of €10 million and only €6.1 million was spent. Can Ms McPhillips elaborate on why that was underspent?

Ms Oonagh McPhillips: Originally when we went into the transformation process that was recommended in a report by the effectiveness and renewal group of the Department, it advised us to make a provision that was quite generous in terms of buying-in expertise to assist us. We were buying boots on the ground to help us with the transformation. As it happened, that contract did not cost as much as was originally estimated.

Deputy Cormac Devlin: There is a considerable underspend under crime prevention measures. A estimated provision of €1.19 million was due to be spent for 2019 but the outturn was €411,000. What was the discrepancy there? Why was the full budget not spent?

Ms Oonagh McPhillips: Would Mr. Clifford like to take that question?

Mr. Seamus Clifford: As far as I am aware, there were a number of projects during 2019 which were not sufficiently advanced to draw down the funding.

Deputy Cormac Devlin: The intention was to spend that provision. Spending under that category would impact many communities across the country.

Mr. Seamus Clifford: Absolutely.

Deputy Cormac Devlin: Thank you.

Deputy Alan Dillon: I thank the witnesses for taking time out to be here with us. Regarding legal aid, expenditure in 2019 was in the region of €68 million. It is a demand-led scheme. The fees and expenses due to legal practitioners are in accordance with the terms and conditions of the scheme under the Criminal Justice Act. The Judiciary is responsible for granting legal aid. What controls has the Department over the expenditure of legal aid and custody issues? If it is a demand-led scheme, who is responsible for its oversight?

Ms Oonagh McPhillips: The way it works is that if a person appears in court tomorrow morning and is granted legal aid by the judge, the staff in the court office will sign off on that. Those claims will go to our accounts branch in Killarney for payment. There is a check in the court office and in Killarney. The other check on it is that often they are mirrored by the payments the Director of Public Prosecutions makes, so we match those up to make sure those are

in line as well and, obviously, there is auditing from time to time.

Deputy Alan Dillon: Is there a panel of solicitors?

Ms Oonagh McPhillips: Yes, there is a panel of barristers and a panel of solicitors.

Deputy Alan Dillon: Is that reviewed annually?

Ms Oonagh McPhillips: Yes. They must be tax compliant etc., and properly qualified and certified by the Law Society or Bar Council.

Deputy Alan Dillon: Do they undergo proper procurement in terms of value for money? I am sure different firms charge different costs.

Ms Oonagh McPhillips: There are no different charges because there is a set scale of fees and they are paid the set fee depending on whether it is the District Court, Circuit Court or criminal court. They get a larger fee with the Central Criminal Court. There is a standard set of fees.

Deputy Alan Dillon: Does that list change much?

Ms Oonagh McPhillips: I do not think it does. People are added to it as people qualify or leave it because they go into a different branch of law, but it generally stays fairly static.

Deputy Alan Dillon: In addition to the €68 million spend, there were *ex gratia* payments of €1.7 million in respect of the non-statutory Garda legal aid advice scheme. How many cases were covered under that figure of €1.7 million?

Ms Oonagh McPhillips: I will get that figure for the Deputy.

Deputy Alan Dillon: Has the Department considered putting that Garda legal aid advice scheme on a statutory basis? Is that something that is being thought about?

Ms Oonagh McPhillips: It is working relatively well as it is, but obviously there are a range of other entitlements that people may acquire under statute, so possibly at some time in the future there will be a decision to put it on a statutory basis. For the moment, it works pretty well.

Deputy Alan Dillon: Going back to the accommodation centres to house asylum seekers, I know that, in 2020, the Department informed the committee that it had begun a regional recruitment process. This was due to be completed in quarter two of 2020 but the onset of Covid has delayed the process. Does the Department have an estimated time for when that will be completed?

Ms Oonagh McPhillips: As I mentioned earlier, this has now transferred to the new Department of Children, Equality, Disability, Integration and Youth, but that procurement was completed and I understand that accommodation is being drawn from it, so accommodation was opened in Galway during the summer and towards the end of the summer, and more recently in Donegal. They were both drawn from that process.

Deputy Marc MacSharry: I have one question because we have done most of the preparation for tomorrow. Is it correct that when a protected disclosure comes directly, for example, it is addressed to the Minister or Ms McPhillips, which is allowable under the 2015 Act?

Ms Oonagh McPhillips: Yes, the 2014 Act.

Deputy Marc MacSharry: The Department as the recipient would then send it for external review. Is that right?

Ms Oonagh McPhillips: Yes.

Deputy Marc MacSharry: Does the Department write the terms of reference for the external reviewer?

Ms Oonagh McPhillips: No. First of all, a protected disclosure would go for an assessment as to whether it is one. That is done by an external process as well.

Deputy Marc MacSharry: Are they given terms of reference?

Ms Oonagh McPhillips: No. They then refer back to the Department, which refers it to the reviewer. My understanding is that the terms of reference are determined there.

Deputy Marc MacSharry: By whom?

Ms Oonagh McPhillips: I think it is done by the reviewer.

Ms Martina Colville: The investigation services and the reviewers are drawn off an OGP framework. As part of that, the Department of Public Expenditure and Reform did the terms of reference for the people on it. There are set terms of reference for the review so they are not set by the Department.

Deputy Marc MacSharry: It is the same set of terms of reference.

Ms Oonagh McPhillips: Is the Deputy talking about the terms of reference for the individual inquiry rather than-----

Deputy Marc MacSharry: The protected disclosure goes in and alleges whatever it alleges. We send it for an assessment to make sure it is a protected disclosure under the Act. Once that has been determined, it is sent to an external reviewer who is drawn from a panel. He or she operates the review to a set of terms of reference. What the witnesses are saying is that those terms of reference are uniform, be they to the Department of Justice, Seán Ó Foghlú, Secretary General of the Department of Education, or somebody else.

Ms Martina Colville: That is my understanding.

Deputy Marc MacSharry: Does it specifically exclude criminality? Does it stipulate that the external reviewer should not consider issues to do with criminality being alleged?

Ms Oonagh McPhillips: I do not know. I would have to check.

Deputy Marc MacSharry: Could we check that for tomorrow? It is just that as part of my own research, I have come across the suggestion that a disclosure can go in, get assessed, be a disclosure and go out to the external reviewer with a set of terms of reference that preclude the reviewer from considering any matters to do with criminality.

Ms Oonagh McPhillips: Thinking it through now, it stands to reason that an external reviewer is not a court of law or a member of An Garda Síochána so he or she could not-----

Deputy Marc MacSharry: I understand that. We do not want the reviewer to judge it, but if an external reviewer had a term of reference to exclude that, it might prevent the Department

from referring that to An Garda Síochána after the fact, which is actually a condition of the Act. Is that not the case?

Ms Oonagh McPhillips: I will check it.

Deputy Marc MacSharry: It is just that I have a particular protected disclosure in mind where I will be alleging tomorrow that this happened, so it would be useful if we had those details.

Vice Chairman: Protected disclosures are one of the areas I wanted to look at. In a reply to a parliamentary question, I was informed that a number of protected disclosures that were made to the Department of Justice concerning the Prison Service but some of them were made to the Department of Justice and while others are made to the Prison Service. They are not operated the same. My understanding is that there is a different set of rules around each of them. Does the Department always use an outside investigator or are any of them investigated internally?

Ms Oonagh McPhillips: Up to a certain point, we investigate them internally. Our internal audit unit set up a special process in 2015 to deal with these, and we put it in internal audit because it has a certain independence from the Department. This enabled it to follow issues through even where a finding was not made. If it found things that needed to be picked up on, it followed them through in its audit. Since 2017 or thereabouts, we have referred them for external assessment to give us that arm's length from the Department.

Vice Chairman: Does the Department put in a timeline? I know that there is always a forward and back with these things and it is a case of how long is a piece of string, but at the same time, very lengthy processes are sometimes very off-putting to somebody making a complaint. What is the experience there?

Ms Oonagh McPhillips: I fully agree with the Vice Chairman. Sometimes it takes too long and the process can become very protracted and a bit too legalised. I do not think this was what was envisaged under the Act. Obviously, the ideal is that we do not reach a protected disclosure process at all because employees feel empowered to speak up, make their views known and raise concerns within the organisation. That is really important. I think some of the processes take too long.

Vice Chairman: When we ask other Departments the same question about protected disclosures, they might have very small numbers. There were a total of 13 in 2019 while there were 20 this year, which seems high. Are there threads that run through both? Where would I find the cost of the external investigations?

Ms Oonagh McPhillips: I can give the Vice Chairman the costs. Regarding the numbers, one thread that does run through it is that we tend to get a lot of issues relating to other Departments, so when they are assessed, they are not actually protected disclosures for the Department of Justice. It is just that the title of the Department almost attracts people to write to us raising their issues, so we would refer those to the appropriate body. To date, the costs over recent years have been roughly €228,000.

Vice Chairman: Over how many years?

Ms Oonagh McPhillips: Since 2018.

Vice Chairman: It is a sizeable amount of money.

Ms Oonagh McPhillips: It is.

Vice Chairman: It is a sizeable amount of money, but if it is well spent and lessons are learned, it may well be an investment. That might be something we can explore.

Ms Oonagh McPhillips: I am happy to do that.

Vice Chairman: On the forensic science laboratory, I acknowledge the project is under way. I pass it twice a day so I am keeping an eye on it.

Ms Oonagh McPhillips: People tell me it is going up quickly.

Vice Chairman: I will be watching to make sure it is delivered on time. Will it be delivered on budget?

Ms Oonagh McPhillips: Yes.

Vice Chairman: To return to the assets that were frozen in relation to cryptocurrency and CAB resources, has CAB sought additional resources and, if so, have they been provided?

Ms Oonagh McPhillips: CAB sought additional resources in this year's Estimates and I understand it has been allocated an additional €1 million or thereabouts in the Estimates for 2021. I understand it received a bump in 2019 into 2020.

Vice Chairman: Did it get what it looked for?

Ms Oonagh McPhillips: Yes. This year, it definitely got what it looked for.

Vice Chairman: I want to return to the expenditure on direct provision. When we learn of problems in this area very often it emerges in the public arena or people make contact with us. We saw some very unsatisfactory cases this year, with one group of people having to move from one hotel to another owing to a Covid issue. These people were moved from a hotel in Dublin to a hotel in Kerry and there followed quite a large outbreak of the virus which drew attention to the facilities in this area. Another situation that emerged was also very unsatisfactory.

This committee monitors value for money. The Comptroller and Auditor General has done a paper for the committee on how we define value for money, which is more than just about the financial in that it is about good outcomes as well. Sometimes it is very difficult to figure out why something is so unsatisfactory. One situation emerged that was very unsatisfactory in terms of the length of time it took to be resolved. It is okay saying that people can engage with the ombudsman and so on but that takes time and people are living their lives, perhaps, in very overcrowded facilities. In some situations, there was no door on a room and, as such, no privacy. All of this information was in the public arena earlier this year. I do not understand why that took so long to resolve.

Ms Oonagh McPhillips: In March, we had to move very quickly to procure over 800 beds in order that people could be separated because of the issues raised by the Deputy. We were very concerned in terms of Covid to ensure that people were distanced to the greatest extent possible. We had to procure 850 new temporary beds for direct provision in the space of weeks in March. Very good work was done in that regard. The proof of the pudding is that people were kept safe. While some people did obviously, unfortunately, get sick from time to time, nobody got very seriously ill.

Vice Chairman: It is fair to say there was a fairly large outbreak in one facility.

Ms Oonagh McPhillips: Yes, but that is what the work being done was trying to avoid and, largely, it did. In terms of the overall population, the number was small but very unfortunate for the people who got sick. The objective was to try to prevent spread and, by and large, that worked fairly well, especially with co-operation from our colleagues in public health.

Vice Chairman: There was a miscommunication between the HSE and the Department of Justice in regard to the HSE not notifying the Department of the situation. Was that resolved in a manner which ensures it will not happen again?

Ms Oonagh McPhillips: I am not familiar with that. As the pandemic continued, communications improved and early warnings and so on were put in place.

Ms Oonagh Buckley: The issue was less than a miscommunication. The rules in place in the HSE at that time concerning who needed to be communicated with if there was a positive case did not include the people who were residents in that particular hotel, which was, in fact, an emergency centre, because they were not close contacts of the person who was the positive case. The HSE has consistently said in the hearings that there would not have been any circumstances in which it would have been felt necessary to communicate that information to the Department of Justice.

As the Secretary General said, we are no longer responsible for this area but up to the point for which we were responsible for it, we worked extremely closely with the HSE, the Department of Health and public health colleagues in the context of the Catherine Day proposals and the development of the White Paper, which is now being led by the Minister for Children, Equality, Disability, Integration and Youth, in terms of how to improve, among other things, the health services being offered to asylum seekers.

Vice Chairman: I thank the witnesses. I call Deputy Munster.

Deputy Imelda Munster: On serial testing in direct provision centres, this did not commence until September despite the fact that there had been discussions on it since the early summer? Why did it not commence until September?

Ms Oonagh McPhillips: We are dependent on our colleagues in public health. I thought it had commenced a little earlier than September. I will ask Ms Buckley to come in on this point.

Ms Oonagh Buckley: It was planned from August. It was agreed at NPHE's request that the HSE would do a round of serial testing, bearing in mind that in any case where there were suspected cases or positive cases there would have been extensive testing in individual centres. In terms of serial testing across the direct provision system, that was organised over the space of a few weeks. We had to co-operate very closely with the HSE to get it done. It raised technical issues for the HSE that were difficult. It was rolled out very intensively. There were very limited positive results from it. Many thousands of people were tested as part of that serial testing but the rates found were not sufficient and the HSE subsequently recommended to NPHE, and it was agreed, that it would not be an exercise that would be repeated.

Deputy Imelda Munster: There was no-----

Ms Oonagh McPhillips: I am not aware of the current position because we have not had this responsibility since the beginning of October.

Deputy Imelda Munster: On the maximum number of people who are not related sharing a room, it is recommended that not more than three people who are unrelated share a room in a direct provision centre. To what extent is that adhered to and can Ms McPhillips provide statistics in that regard?

Ms Oonagh McPhillips: I can not.

Ms Oonagh Buckley: I will take this question. Early in the pandemic, the Department of Justice made a decision that we would reduce occupancy of rooms to no more than three non-family members. In the majority of cases, it was down to two following on from the extra capacity that had been brought on board. However, all of those data have now been transferred to the Department of Children, Equality, Disability, Integration and Youth. We can ask it to come back with an estimate of how many rooms still have three non-related persons living in them. It may have a difficulty providing that information because the numbers ebb and flow all of the time. The Department of Children, Equality, Disability, Integration and Youth provided us with global numbers in preparation for this meeting, which have change significantly over the last three weeks in terms of people in emergency centres and people in other centres and so forth. What is provided will be snapshot but we will ask for it to be provided.

Deputy Imelda Munster: Earlier, we discussed inspections of direct provision centres. Are they carried out on request or are they a standard procedure?

Ms Oonagh Buckley: They are a standard procedure normally. During the pandemic, for health and safety reasons, both for the people living in the centres and our own staff, we had to suspend them. We can do them on request. This year in particular we carried out a number of unannounced inspections of centres from which we were getting reports that there were difficulties.

Deputy Imelda Munster: In terms of standard procedure, it is two inspections per year?

Ms Oonagh Buckley: We aim for three inspections per year, two done by Department officials and one by an external company.

Deputy Imelda Munster: Are they all unannounced or are centres forewarned that an inspection is to take place?

Ms Oonagh Buckley: I think one or more is unannounced but I will have to check that and come back to the Deputy on it.

Deputy Imelda Munster: My final question relates to people who are refused entry to Ireland or leave to land. The figures are quite scary. Is Ireland the only country in western Europe that imprisons people who are refused entry? Are we the only country in western Europe that has no proper immigration detention centre?

Ms Oonagh McPhillips: I am not aware of whether other countries have similar issues. Other countries detain immigrants much more routinely than we do. We do it on an exceptional basis, so we have the situation where we do not have dedicated facilities-----

Deputy Imelda Munster: Why is that? It causes severe distress for people. It is shameful that we do not have a proper immigration detention facility.

Ms Oonagh McPhillips: One of the things we try to do is avoid detaining people at all, as much as possible, and-----

Deputy Imelda Munster: We certainly do it, based on the figures for this year, and we put them into prison.

Ms Oonagh McPhillips: We have to do it from time to time, but we try not to do it as much as possible.

Deputy Imelda Munster: The Department has made no effort, however, to ensure that we have a proper immigration detention centre?

Ms Oonagh McPhillips: A specific block in Cloverhill Prison was going to be used specifically for this purpose, with a different regime etc. When Covid hit, the Prison Service had to use that for isolation purposes. It was to come into being this year. Also, a new Garda station has been constructed at Dublin Airport and that is to be used for this purpose on a short-term basis.

Deputy Imelda Munster: The Garda has stated it is not for that purpose.

Ms Oonagh McPhillips: It has not yet been used for this purpose-----

Deputy Imelda Munster: The Garda has stated it is not a dedicated immigration centre but a fully operational Garda station.

Ms Oonagh McPhillips: It would not hold people over a long period, but on a short-term basis, where people are held pending being turned around and returned quickly, they will be held there.

Deputy Imelda Munster: There is nothing. There is no proper immigration detention centre in this country.

Ms Oonagh McPhillips: No, there is not any dedicated facility at the moment.

Deputy Matt Carthy: I return to the issue of emergency accommodation. We talked about the cost of €35 million. I am trying to get a sense of the role of the intermediary. I do not know whether the witnesses have to hand the names of the companies that the Department has contracted to identify emergency accommodation. Of the €35 million, how much was paid to those companies in 2019?

Ms Oonagh McPhillips: I will ask my colleagues to come in on that. I apologise.

Ms Oonagh Buckley: Again, I am afraid we will have to ask the Department of Children, Equality, Disability, Integration and Youth to provide that information because the data have transferred to that Department. I can give the Deputy only global figures. I do not know how much of that €35 million was paid to an intermediary, as opposed to directly to an hotel, for example.

Deputy Matt Carthy: Without putting the Comptroller and Auditor General on the spot, is there anything in the accounts that would point us to that figure?

Mr. Seamus McCarthy: Not that I am aware of.

Deputy Matt Carthy: I am having visions of when representatives of the new Department appear before the committee and say that in 2019, the matter was under the auspices of the Department of Justice and Equality. Can we ask for that figure to be provided? It was in the public domain but I cannot recall it at the moment. Assuming it is in the millions of euro, what exactly is the role of those companies? Do they identify accommodation and let the Department know,

or does the Department say it needs X number of beds within a particular timeframe? What is the relationship and what are they paid for doing?

Ms Oonagh Buckley: In general, they get paid for sourcing the accommodation and providing and managing the service, in general terms. To explain how we sourced the emergency accommodation, after that initial period at the beginning of 2019, we advertised for expressions of interest. Persons approached us with properties that they felt would be appropriate for use as emergency accommodation. That included hotels and hotel chains, as well as individual properties and properties sourced by individual temporary property providers, some of whom also run permanent centres. They are familiar with the needs of the system-----

Deputy Matt Carthy: They are guys who run direct provision centres. I am trying to figure out the economics of this, given that this is the Committee of Public Accounts. Someone approaches the Department to say he or she will source accommodation for it.

Ms Oonagh McPhillips: We put advertisements in the paper and they respond to that.

Deputy Matt Carthy: Someone sees the advertisement in the paper and says he or she will source 40 beds in rural Ireland for the Department. Does the Department then agree a price with the person? Does it say it will pay a certain amount? Is it accommodation dependent?

Ms Oonagh Buckley: In order for us to enter into contractual negotiations of that nature, the property would need to have been sourced and inspected to make sure it met the standards we needed, even for emergency accommodation. At that juncture, negotiations would be entered. The two variables are the price per day and the length of the contract. Many of the contracts would be much shorter term than the standard contracts that are done under the regional procurement exercise we spoke of earlier.

Deputy Matt Carthy: This is the bit I do not understand. The Department inspects the property and ensures that it is suitable, and the hotel - if we assume it is an hotel - gets a fixed price, but then we decide to pay somebody else in between another couple of pounds along the way. It is more than a couple of pounds, however; in fact, we are talking about tens of thousands of euro. What is the need for that intermediary?

Ms Oonagh Buckley: In general terms, the intermediary would often be running the centre as well. They would source the accommodation and then manage the surrounding facilities that we require, such as the food, the Wi-Fi and all the other bits and pieces that are a necessary part of the provision in the centre. What we can do is get our colleagues in the Department of Children, Equality, Disability, Integration and Youth to explain the purpose and use of those intermediaries, and how they go about it. We can supply that to the Deputy.

Deputy Matt Carthy: I can almost accept the principle of engaging somebody who, apparently, knows what he or she is doing in terms of managing property and dealing with many people. That was the scenario, yet we found out that even the basic human right to get an education was not factored in. In one instance, children went for months without any education. In another, after the Department had gone through this professional body, the residents were lumped onto a bus and taken from one end of the county to the other for a weekend to facilitate a wedding. I would have thought that if we were spending this amount of money on a professional service, the minimum the Department would ensure is that those basic mistakes could not be made. If someone was acting as an intermediary and earning substantial money, there should be a reasonable standard to which he or she is expected to adhere.

Ms Oonagh McPhillips: There is a list of criteria against which the applications are assessed. I can provide that to the Deputy.

Deputy Matt Carthy: What happens if it is found that those standards have not been met?

Ms Oonagh McPhillips: As Ms Buckley said earlier, we would enter into a process very quickly with the vendor or provider if they are not meeting the standards.

Vice Chairman: If the Department provides the committee with the information, that would be very helpful.

Ms Oonagh McPhillips: No problem at all.

Deputy Verona Murphy: I have a brief question on the judicial appointments commission. A little over €250,000 was set aside but the commission has not been formed. Has there been any spend on that to date?

Ms Oonagh McPhillips: No, because the legislation is still not through.

Deputy Verona Murphy: I thought the legislation was enacted in 2019.

Ms Oonagh McPhillips: No, that is the Judicial Council legislation. There are two sub-heads, relating to the Judicial Council and the judicial appointments commission.

Deputy Verona Murphy: That is fine. To return to the legal aid issue, I am a little inquisitive about the Garda station legal aid scheme. Who sanctions that? How is it structured?

Ms Oonagh McPhillips: Solicitors are called to provide a service in a Garda station when someone is detained in relation to specific offences. That is then certified by An Garda Síochána. In 2011 that scheme was transferred to the Legal Aid Board, which administers it on behalf of the Department.

Deputy Verona Murphy: The board administers it on behalf of the Department but it is still sanctioned at the Garda station.

Ms Oonagh McPhillips: Yes.

Deputy Verona Murphy: At what level is this sanctioned? Is it sanctioned by a junior garda or a superintendent?

Ms Oonagh McPhillips: It sanctioned by a sergeant. I would say it is the custody sergeant.

Deputy Verona Murphy: Does Ms McPhillips have any idea of how many cases were covered by that?

Ms Oonagh McPhillips: No. I can state the expenditure but I do not know exactly how many cases it refers to.

Deputy Verona Murphy: The expenditure is about €1.7 million

Ms Oonagh McPhillips: Yes.

Deputy Verona Murphy: That is significant. What controls are in place to oversee that expenditure?

Ms Oonagh McPhillips: There are controls at the Garda station level and within the Legal Aid Board.

Deputy Verona Murphy: So there is a form of control.

Ms Oonagh McPhillips: Yes. Expenditure decreased by quite a bit between 2018 and 2019.

Deputy Verona Murphy: Has any consideration been given to putting this on a statutory footing? Would Ms McPhillips recommend doing so?

Ms Oonagh McPhillips: I think it operates quite successfully. It is necessary for people to have recourse to legal advice when they are in detention.

Deputy Verona Murphy: I appreciate that, but it is not on a statutory footing. Should it be?

Ms Oonagh McPhillips: Several schemes operate on an *ad hoc* basis. By and large they operate quite successfully and get quite a lot of attention from the Legal Aid Board.

Deputy Verona Murphy: Expenditure on training and development is almost double the sum in the Estimate. What contract services were included in the additional €2 million worth of costs incurred by the Department in 2019? The Estimate called for €3.8 million. That figure was budgeted for. The real expenditure was €6.8 million.

Ms Oonagh McPhillips: I will ask my colleague, Ms Martina Colville, to comment on that.

Ms Martina Colville: That subhead covers more than training and development. It also includes incidental expenses.

Deputy Verona Murphy: What were the incidental expenses?

Ms Martina Colville: Several legal fees were charged to that subhead.

Deputy Verona Murphy: I thought legal fees were already accounted for. Perhaps the Comptroller and Auditor General could comment on that.

Mr. Seamus Clifford: If it would help I can provide a breakdown of the expenditure under that subhead. As the Secretary General said, it covers much more than training and development. The two biggest items of expenditure are contracted services which the Department avails of in two main areas, namely, the Department's internal audit unit and the administration of EU funds. In the EU funds unit, the Department engages about six contract staff-----

Deputy Verona Murphy: I do not wish to cut the witness off. I understand that the subhead includes more than training development. The heading refers to incidental expenses. The budget was €3.8 million and the expenditure was €6.8 million. For the benefit of the better understanding of the committee, Mr. Clifford might submit a breakdown of that.

Mr. Seamus Clifford: Absolutely. Of the €6.8 million the Deputy refers to, €4.4 million mainly relates to contracted services. Another €1.5 million is accounted for by legal costs.

Deputy Verona Murphy: Can Mr. Clifford provide a breakdown?

Mr. Seamus Clifford: Absolutely.

Deputy Verona Murphy: I thank the witness. If expenditure runs over by €3 million it is best for the Committee of Public Accounts to know why.

Vice Chairman: I have a few quick questions. One subhead deals with coroner services in Dublin only. Why is that the case? I am sure the reasons are historical.

Ms Oonagh McPhillips: That is actually relatively recent. The Dublin District Coroner's Office transferred to the Department in 2017. The rest of the coroners around the country operate under the local authorities. The Dublin office is much bigger operation. It has a full-time office and a lot of staff and serves a very big population.

Vice Chairman: Is there any proposal to change the remit for the sake of consistency?

Ms Oonagh McPhillips: The Department has proposed a new coroners Act. The overall structure can be examined in that context.

Vice Chairman: The Courts Services around the country used to be under the remit local authorities for historical reasons. That changed.

There are several areas where funds have not been fully drawn down. They include areas where we know resources are needed. I refer for example to a certain item funded by the Dormant Accounts Fund. Some €7 million was available and the expenditure was €5.1 million. The difference amounts to quite a lot of money.

Ms Oonagh McPhillips: Which one is the Vice Chairman referring to?

Vice Chairman: The subhead entitled, "Social disadvantage measures (Dormant accounts funded)". Is the process too onerous? Is this an impediment to drawing down funds? Does information need to be packaged differently for these groups to alert people to the fact that this money is there?

Ms Oonagh McPhillips: We have put quite a lot of work into this in recent years. We have set up a dedicated funds unit and gathered up grant schemes and projects from various units throughout the Department. They have now been centralised in one unit with that objective in mind. We want to make the process as accessible as possible while meeting the very onerous standards imposed by the EU in order to recoup as much as possible from EU funds. Our funds administration unit has been successful in increasing that drawdown in recent years.

Where funds are not used it generally means that a project is not ready or has not been up and running for a full year. Expenditure catches up in the following year. One example is the Garda youth diversion programme. Sometimes a staff member has not on been a salary for a full year and expenditure has not been made.

Vice Chairman: The Judicial Council was set up. We are still waiting for the judicial conduct committee. Where is that funded? Does it come under the budget of the Courts Service or the Department of Justice?

Ms Oonagh McPhillips: Somewhat oddly, it is within the Department's Vote. Expenditure is very small at the moment. It was only set up in December 2019. It did not draw down its full funding in that year. It will spend slightly more in 2020. As it gets up and running over the next few years we may consider separating it, but at the moment it is so small that it does not warrant a separate Vote.

Vice Chairman: How much was provided for and how much was drawn down?

Ms Oonagh McPhillips: In 2019 €750,000 was provided and €250,000 was drawn down. The figure for this year is €250,000.

Vice Chairman: I imagine the judicial conduct committee is likely to be a more active committee.

Ms Oonagh McPhillips: Funding has been allocated for quite a few staff. We hope they will be recruited in the coming months and will be in place for 2021.

Vice Chairman: Will that funding come through the Department?

Ms Oonagh McPhillips: Their pay will come out of that subhead but the Judicial Council will recruit them.

Vice Chairman: We were all aware of the very significant changes in the Department. Somebody from one of the consultancy firms was brought in. Is that person or group of persons still in place?

Ms Oonagh McPhillips: No. That contract ran for nine months in the course of 2019. At one point we had 28 people from the successful tenderer supporting us. This gave us boots on the ground to support our own staff in carrying out the transformation.

Vice Chairman: Is there a review of that for the benefit other Departments? Is it a transferable skill?

Ms Oonagh McPhillips: We took a lot of learning internally. There was an internal team led by Ms Colville, so I should ask her to speak about it. We gathered a skilled team internally and then they managed the consultants very actively.

Ms Martina Colville: We have been sharing with colleagues. We have gone to various Departments and shared what we learned from the process and what we got from the consultants. Internally, we have built a capability that was not there before. Other Departments are examining their functions internally to see what the potential for restructure is.

Vice Chairman: The officials drew attention to the improved transparency and accountability. Are there particular examples they would like to highlight to help us understand what they mean by that?

Ms Oonagh McPhillips: I mentioned the strength it gives us across a number of functions. For example, let us take the work on domestic abuse during the pandemic, where the Department led work across the agencies but also within the Department itself. That was a multi-functional team drawn from policy, transparency, and our law side and they worked together with the agencies to put together the work on domestic abuse. It worked very much with the NGO sector in bringing forward the awareness campaign. That was done in weeks. It was a very risky situation which is very difficult for people facing that but the Department, working in partnership with stakeholders, has managed it pretty well.

Vice Chairman: The review of the Department's ICT infrastructure and the capacity to deliver digital services was timely. Did it highlight the need for much additional ICT services and facilities?

Ms Oonagh McPhillips: That will be our next transformation project. We have a huge road to travel in digital services, particularly in immigration, which is largely paper-based, with very old disjointed systems. There is a lot of work to do there. Digital delivery for the public is a priority for the Minister. There is an ICT strategy and funding for 2021 to invest in it. We are also investing in a very senior post to lead it.

Vice Chairman: Presumably, the Department has done a business case on this.

Ms Oonagh McPhillips: Absolutely.

Vice Chairman: Is that available to the committee or is it internal to the Department?

Ms Oonagh McPhillips: I can send the Vice Chairman something.

Vice Chairman: Okay.

Deputy Verona Murphy: Was the Comptroller and Auditor General going to come in on the legal fees question?

Mr. Seamus McCarthy: The Deputy might have been thinking of note 6 on legal costs. I do not think it is anywhere else in the appropriation account.

Deputy Verona Murphy: Okay, I thank the Comptroller and Auditor General.

On non-compliance with procurement, the Accounting Officer stated that the Department complied with procurement guidelines through 2019. However, there are 19 instances of non-competitive procurement with payments that total almost €3 million. Under EU procurement law, non-competitive procurement is permitted in some circumstances where it can be demonstrated that there is an urgent requirement that could not reasonably have been foreseen. Can that be demonstrated in these 19 instances?

Ms Oonagh McPhillips: There are reasons in each of the cases. I am happy to send the Deputy a note on that if it helps.

I would like to return to something she mentioned earlier regarding the Probation Service. The total number of people dealt with by the service in 2019 was 16,600 of whom 2,791 were given community service orders.

Deputy Verona Murphy: Regarding the community service orders, are statistics available for reoffending? That is really the question I was asking in respect of restorative justice.

Ms Oonagh McPhillips: The Central Statistics Office, CSO, is undertaking a very useful longitudinal study on recidivism. I am happy to forward it to the Deputy.

Deputy Verona Murphy: I would appreciate that so we can see for ourselves. Ireland is not as big on restorative justice as other EU countries and it would be useful to measure it.

On procurement and the non-competitive aspect, will the Department send the committee a report of how this has now been rectified?

Mr. Seamus McCarthy: I would like to make a point about urgency. In a situation where there is genuine urgency in a procurement, we would regard that as compliant once the urgency is demonstrated. In a situation where something becomes urgent because it has not been planned for properly, that could be treated as a non-compliant procurement. None of the

instances included as non-competitive and non-compliant met that standard as far as we were concerned.

Deputy Verona Murphy: I thank the Comptroller and Auditor General. That puts a different interpretation on this.

Ms Oonagh McPhillips: My colleague has helpfully given me a note. For example, a specialism is required in some items. A number of specialist services are made available to the work on the location of victims' remains, which is a very sensitive project that has been ongoing for some years. A number of contractors provide very specialist services, which are not widely available elsewhere.

Deputy Verona Murphy: Again, is it possible to furnish a report on all that for the committee's benefit? There are 16 contracts totally €4 million.

Deputy Matt Carthy: There is a note on the financial implications of the Department's Covid-19 response. I cannot see where it covers the cost of the monitoring of social media accounts that was undertaken in the Department. Where is that in the accounts? Is a cost associated with it?

Ms Oonagh McPhillips: There is no specific cost. It is simply part of the work of an executive officer who monitors all types of media, including newspapers and television. It is part of our communications and is standard operating procedure in communications.

Deputy Matt Carthy: According to the *Irish Independent* report on the freedom of information request, the surveillance of social media started in March of this year.

Ms Oonagh McPhillips: That is correct.

Deputy Matt Carthy: So it is not standard; it is a new measure that is being taken.

Ms Oonagh McPhillips: It is a standard communications tool, that people would read social media about what is being written.

Deputy Matt Carthy: And monitoring and reporting on what people are saying on direct provision, in particular. Does it happen in the Prison Service? Does somebody monitor tweets whenever anyone mentions Irish prisons?

Ms Oonagh McPhillips: I do not know; we can ask them tomorrow. Generally press officers look at media - social, traditional, broadcast and newspapers. That is what happens in a press or communications office generally.

Deputy Matt Carthy: People will keep an eye on them, but for someone to spend part of their working day ----

Ms Oonagh McPhillips: I do not think that it takes up that much time, to be honest.

Deputy Matt Carthy: It must take some time to go through tweets, identify tweets that relate to a particular issue, compile them into a report, including how many retweets it got, the engagement it received. That takes time, I would have thought.

Ms Oonagh McPhillips: It takes time but I do not think that it is at all unusual. If one went out to any company in the world, they take an interest about what is said about it on social media. Another point is that when people put things on social media, they want people to read it,

so that is what the Department was doing; it was reading it.

Deputy Matt Carthy: The Department believes it is providing a service to Hozier when he puts up a Tweet on direct provision and the Department indulges him by ensuring that officials read it. The official is an executive officer.

Ms Oonagh McPhillips: I think the official is an executive officer.

Deputy Matt Carthy: It is someone at EO grade. This is someone who, I presume, climbed all the way up the ranks from clerical officer grade. The person is congratulated for reaching EO level and is then asked to look at Twitter and find out what people are saying about direct provision. What else does media monitoring work entail?

Ms Oonagh McPhillips: The press office generally gets questions from the media and the staff answer them. The same applies to social media. They look at what is happening on social media and respond to it in some shape or form or it feeds into what is happening in the Department. I imagine the same is true in most organisations.

Deputy Matt Carthy: I do not know if it is, actually. I am not aware of any other Department that monitors a particular issue where there is political commentary in respect of the actions of a Minister *per se* in this area of policy. Are there other areas where there are specific social media reports conducted by the Department? Are there reports in a written format that could be secured under the freedom of information process in respect of monitoring?

Ms Oonagh McPhillips: I am not 100% certain, but, for example, over the past weekend I took an interest in what was happening from a social media point of view in respect of entertainment. I wanted to see what happened when we opened up and how the Garda was responding to that.

Deputy Matt Carthy: Did Ms McPhillips compile a report on that?

Ms Oonagh McPhillips: I did not do so myself but certainly I arranged for staff to have a look.

Deputy Matt Carthy: Is there a written report on that?

Ms Oonagh McPhillips: I do not think there is a written report but staff were certainly keeping an eye on it.

Deputy Matt Carthy: Ms McPhillips is asserting this is simply part of general media monitoring as such. Is that the case?

Ms Oonagh McPhillips: I think if Twitter was reflecting a view and we were not aware of it, the Deputy would probably be asking me questions about that. We have to live in the 21st century, so we do.

Deputy Matt Carthy: I find it strange because the Department does not need Twitter to tell officials the views of many people in respect of the direct provision system. They have heard the views at numerous committees in the House and from the floor of the Dáil. There is a well-established public position relating to the utilisation of private companies to provide accommodation to the most vulnerable people who happen to be in our country. There are certainly areas where every Department would probably benefit from hearing messages on social media, but the message has been given loud and clear from all these people.

I will move on from that a little. We have an EO carrying out media monitoring and social media monitoring.

Ms Oonagh McPhillips: I am sure the staff do other things as well.

Deputy Matt Carthy: Then why did the Department pay €32,000 up to August this year on a private company to monitor the media?

Ms Oonagh McPhillips: Again, that is drawn from an Office of Government Procurement framework. That is a service provided across Government.

Deputy Matt Carthy: The Department of Justice spent substantially more than most other Departments on that service.

Ms Oonagh McPhillips: I do not know whether that is the case but I can check it - that is no problem. I do not think it could be more than other Departments.

Deputy Matt Carthy: The Vice Chairman will confirm that parliamentary questions she and I submitted across all Departments showed that the Department of Justice is among the highest in respect of expenditure by Departments on media monitoring.

Ms Oonagh McPhillips: If I could, perhaps I will correct myself. Our media read-out is probably far greater than most Departments. We have many topics that are of interest to the public and there is a great deal in the newspapers every day about them. I imagine that is where it comes from.

Vice Chairman: I wish to refer to training and development and incidental expenses. There is a reference to contracted services and an additional €2 million in expenditure. Is that for one particular company? Is that across a range of different services?

Ms Oonagh McPhillips: Under contract services there is a figure of €2 million for external services. The largest user of that within the Department, as my colleague said earlier, is internal audit. That figure was €1.7 million. The funds administration unit that I mentioned expended €678,000. The companies that received those payments were under contract. KOSI Corporation received €956,000 and Ernst and Young received €681,000.

Vice Chairman: One point raised earlier related to people who were refused entry. If there is no immediate flight available, they are held in prisons. There was a high-profile case at the weekend. Does the Department look at the cost of this, apart from the human cost to individuals? I understand the young woman was ten days, if not two weeks, in the Dóchas Centre. Obviously, there is a cost associated with that. I understand that the cost of flights is borne by the carrier. I found that out today and it came as a surprise. Is that calculated? Is it simply part of the Prison Service?

Ms Oonagh McPhillips: The cost is not be broken down or separated out.

Vice Chairman: How much does it cost to keep someone in Dóchas or Mountjoy Prison, for example?

Ms Oonagh McPhillips: I will come back to you on that tomorrow, Vice Chairman, because we will have the prisons to hand.

Vice Chairman: I can raise it in that context.

Ms Oonagh McPhillips: I have no wish to comment on a particular case but what happened should not have happened and we have put systems in place to ensure that will not happen again.

Vice Chairman: Many people who arrive do not arrive from the EU. The Department maintains they are arriving from outside the EU. Many countries outside the EU will not have direct flights into the country. I presume they come through another country.

Ms Oonagh McPhillips: There are direct flights outside the EU as well.

Vice Chairman: Yes.

Ms Oonagh McPhillips: Although not as many as there would have been this time last year, perhaps.

Vice Chairman: We are all looking forward to when we can get back to normal from that point of view. I can assume we have concluded at this stage.

I thank our witnesses for joining us today and for the information provided for today's meeting. I thank the Comptroller and Auditor General for attending and assisting the committee today. Is it agreed that we request the clerk to seek any follow-up information and carry out any agreed actions arising from the meeting? Agreed. Is it also agreed that we note and publish the opening statements and briefing provided for today's meeting? Agreed. At tomorrow's meeting we will examine matters relating to the Irish Prison Service.

The witnesses withdrew.

The committee adjourned at 6.20 p.m. until 11.30 a.m. on Thursday, 10 December 2020.