

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 10 Nollaig 2020

Thursday, 10 December 2020

The Committee met at 11.30 a.m.

MEMBERS PRESENT:

Deputy Colm Burke,	Deputy Neasa Hourigan,
Deputy Jennifer Carroll MacNeill,	Deputy Paul McAuliffe,
Deputy Matt Carthy,	Deputy Marc MacSharry,
Deputy Cormac Devlin,	Deputy Imelda Munster.
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 21 - Prisons

Chapter 7 – Catering and Ancillary Services in Prisons

Vice Chairman: We are joined remotely by the Comptroller and Auditor General, Mr. Seamus McCarthy, as our permanent witness to the committee. I have received apologies from the Chairman, Deputy Stanley, and from Deputies Verona Murphy and Colm Burke. I remind all those in attendance to ensure their mobile phones are on silent mode or switched off.

Today is the second day of a two-day engagement with officials from the Department of Justice. Officials from the Irish Prison Service are also in attendance today to assist us in examining the following: from the Comptroller and Auditor General's appropriation account for 2019, Vote 21 – Prisons, and from the Comptroller and Auditor General's report on the accounts of the public service 2019, Chapter 7 – catering and ancillary services in prisons.

With regard to public health guidelines, we are joined in person by Ms Oonagh McPhillips, Secretary General of the Department of Justice and Accounting Officer for Vote 21 - Prisons, Ms Caron McCaffrey, director general of the Irish Prison Service - it is all very female today - and Mr. Fergal Black, director of care and rehabilitation in the Irish Prison Service.

We are also joined remotely by Mr. Don Culliton, director of human resources in the Irish Prison Service; Mr. Derek Caldbeck, director of finance and estates in the Irish Prison Service; Mr. Doncha O'Sullivan, assistant secretary at the Department of Justice; and Mr. Liam Gleeson, from the justice Vote section at the Department of Public Expenditure and Reform.

I welcome all the witnesses to the meeting and I thank them and the staff in the Department of Justice for the briefing material they have prepared for the committee. Witnesses are protected by absolute privilege in respect of the presentation they make to the committee. This means witnesses have an absolute defence against any defamation action for anything they say at the meeting. Witnesses, however, are expected not to abuse this privilege and it is my duty as Vice Chairman to ensure this privilege is not abused. Therefore, if witnesses' statements are potentially defamatory with regard to any identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that witnesses comply with any such direction.

While we expect witnesses to answer questions asked by the committee clearly and frankly, witnesses can and should expect to be treated fairly and with respect and consideration at all times, in accordance with the witness protocol.

Members are reminded of the provisions within 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 are also 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 Houses or an official either by name or in such a way as to make him or her identifiable.

I ask that members and witnesses remove their masks when speaking to ensure they can be heard, and that when members are leaving and are taking their seats that they sanitise their area. I call on the Comptroller and Auditor General, Mr. Seamus McCarthy, to make his opening statement.

Mr. Seamus McCarthy: The Irish Prison Service is formally part of the Department of Justice but is funded and accounted for separately through Vote 21. While the Secretary General of the Department is the Accounting Officer for Vote 21, the Prison Service is headed operationally by its director general.

The 2019 appropriation account for Vote 21 - Prisons records gross expenditure of €358 million. More than two thirds of the expenditure, totalling €255 million, relates to pay. The remainder is spread across a range of areas, including maintenance and improvements to the prison estate, equipment purchase, education and services for prisoners and other operating costs.

I issued a clear audit opinion in relation to the account. However, I drew attention in my report on the audit to material instances of non-compliance with national procurement rules that occurred in respect of contracts operating in 2019.

I will turn now to the report on catering and ancillary services in prisons. Catering in prisons is a significant operation involving the preparation and provision of meals every day to an average of nearly 4,000 prisoners at 12 locations across the State. A number of related services also operating within prisons are not funded by the Irish Prison Service. These include mess committees operating staff catering services and prison shops whose profits are transferred to a separate fund for the benefit of prisoners. The report examined the controls over all of those services.

With regard to catering, our focus was on controls over food purchases and food stocks. The Irish Prison Service has devised a 28-day menu plan which is used in all prisons. In 2019, the Irish Prison Service incurred expenditure of €8.2 million on catering purchases. We found that the cost of providing prisoner meals ranged from a low of €4.54 per prisoner per day in Wheatfield Prison to a high of €7.27 in Portlaoise Prison, a variance of 60%.

A review of items charged to prisoner education and training budgets noted some non-standard high value food items repeatedly purchased in one prison. These items were not called for in the standard prisons menu plan. I understand the governor of the prison in question has been investigating the circumstances surrounding that expenditure.

The scope of the examination also included a review of the operation of voluntary mess committees in most prisons, which co-ordinate the running of canteen facilities for prison staff. The committees use kitchen facilities provided in prison premises free of charge. The food is prepared under a training regime for prisoners. The committees can purchase food from approved suppliers at prices agreed under Irish Prison Service contracts. The prices charged for staff meals are set by the committees with the aim of recouping the costs of the inputs.

The relationship between the Prison Service and the mess committees is not covered by a written agreement. While the Irish Prison Service has issued some governance guidance to the committees, it did not seek formal assurances that the guidance was being followed. Overall, we found that the Irish Prison Service did not have adequate processes in place to ensure there is no unintended subsidisation of food costs for the staff committees.

Each prison operates a shop facilitating the purchase by prisoners of a range of items, including confectionary, cigarettes, soft drinks and toiletries. With a small number of exceptions, stock items are procured from an approved central supplier at wholesale prices. Payment for shop sales is deducted electronically from funds held in the respective prisoners' personal money accounts, which are managed by the Prison Service. Until April 2019, staff were also allowed to make cash purchases from the shops, which resulted in cash handling and additional control needs. In 2019, gross profits of just over €1 million were generated from sales of nearly €7 million in the shops across all prisons. Gross profit margins ranged from 8% in the Midlands Prison to 21% in Castlerea Prison.

The examination raised a number of issues in respect of the operation of the prison shops, including weaknesses in controls over stock and cash purchases and delays in the submission of accounts and bank reconciliations. Profits from shop sales in each prison are transferred to dedicated funds, known as prisoner assist programme funds. These are intended to be used only for the benefit of prisoners. Our examination found some examples where expenditure from the funds was not in accordance with procedures set out by the Prison Service. This included a number of payments for the benefit of staff and some payments related to the operation of the prison that should instead have been charged to the Vote.

I made a number of recommendations for improvements in controls, all of which have been accepted by the Prison Service.

Vice Chairman: In advance of inviting Ms McPhillips and Ms McCaffrey to make their opening statements, I wish to agree the speaking rota. I am down as the first member to speak but I will drop to the end, as is the tradition for the Chair. I propose that Deputies Munster and MacSharry move up to first and second places, respectively. Is that agreed? Agreed.

I invite Ms McPhillips and Ms McCaffrey to make their opening statements.

Ms Oonagh McPhillips: I welcome the opportunity to meet the committee on the 2019 appropriation account for the Prisons Vote and chapter 7 of the Comptroller and Auditor General's 2019 report, which deals with catering and ancillary services in prisons. I propose to keep my opening remarks brief and then hand over to the director general of the Prison Service, Ms McCaffrey.

The Prison Service is a key component of the criminal justice system and its voted expenditure is directed towards one strategic programme: provision of safe, secure, humane and rehabilitative custody for people sent to prison. The gross expenditure under the Vote in 2019 was €357.9 million, of which 71% related to payroll costs, 22% related to non-pay current expenditure and 7%, or €26.6 million, was capital related. The Prison Service operates 12 prisons. There were 8,939 committals to prisons, with a daily average of 3,971 prisoners in custody, during 2019. In total, there were 3,405 full-time equivalent staff in the Irish Prison Service, IPS, at the end of 2019.

The IPS is an executive office of the Department of Justice and operates within policy

parameters established by the Minister as well as within statute, such as the prison rules. The Secretary General of the day is the Accounting Officer for the Vote and the director general and her team, including prison governors, manage the day-to-day operation of the 12 prisons around the country and the IPS's headquarters in Longford. The governance relationship between the Department and the IPS is underpinned by an oversight agreement between us in line with the code of practice for the governance of State bodies. The current agreement runs from 2020 to 2022, with provision for review and amendment annually as required. It sets out the respective roles and responsibilities of both parties, along with the key corporate governance compliance and reporting obligations of the IPS. It also provides for a minimum of four formal governance meetings per year, which are chaired by the assistant secretary with responsibility for governance of criminal justice bodies.

The difficulties of managing Covid-19 in institutional settings throughout the country have been particularly challenging. This has been accentuated in the high-risk, closed environment of our prisons. A significant amount of work has been carried out by the IPS to address this challenge. The measures taken have been informed and guided by the advice provided by the National Public Health Emergency Team, NPHET, and consistent with the prison-specific guidance for the management of Covid-19 issued by the WHO in March and the human rights guidance issued by the Council of Europe.

I acknowledge that, similar to other areas of Irish society, this has been a difficult and worrying time for prison staff, offenders and their families. Great efforts have been made to limit and curtail the spread of the virus in the prisons, including close co-operation with our health service colleagues on outbreak control and the establishment of a robust contact tracing model, which has been acknowledged by the WHO as best practice for prisons worldwide. I am proud of the work the IPS team has done and it and the prisoners themselves are to be commended on the manner in which the challenge of Covid-19 has been managed to date.

I will hand over to Ms McCaffrey.

Ms Caron McCaffrey: I thank the committee for the invitation to meet it today. As Ms McPhillips stated, 2020 has been a challenging year for our service, but I am proud to say that it is a challenge that has been embraced by our staff and those in our care. We have worked together to chart our way through this pandemic successfully. Critical to our success has been our experience in dealing with previous outbreaks of infectious diseases in prisons, including tuberculosis. We have used those lessons to build robust infection control structures at national and local levels. This work forms a small part of a broader agenda of enhanced risk management within our service.

Deputies will be aware of the recent report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT, following its visit to Ireland in 2019. I welcome the CPT's acknowledgement of the ongoing positive steps that were taken by our service since its 2014 visit. The IPS has been on a journey of transformation, and this transformational journey touches all facets of our organisation, including security, prison regimes, governance, risk management and financial control.

In September, the Comptroller and Auditor General published the report on the accounts of the public service, which included a chapter on catering and ancillary services in our prisons. I thank him for this important and valuable piece of work. The report made a number of recommendations, and I wish to mention some of the actions we are taking in that regard.

The provision of high-quality, nutritious food for prisoners is an essential operation within our prisons on a daily basis. The total annual catering cost for prisoners in 2019 was €8.5 million. The average daily cost of food per prisoner has changed little in recent years from €5.41 in 2016 to €5.66 in 2019. This differs little from costs incurred ten years earlier in 2009 when the average cost for per prisoner per day was €5.67. Prison demographics, such as age, addiction levels, fitness, poverty and homelessness, can influence quantities consumed by people in custody.

The IPS has introduced a range of measures to strengthen and enhance the oversight of food procurement and supply. In 2019, in order to strengthen controls, I reintroduced a catering supervisory grade with direct responsibility for food ordering, stock control, compliance and prisoner training in all closed prisons. The service is also developing a new procurement requisitioning system, which will go live in early 2021 and will deliver a better segregation of duties in ordering, delivery and payment. Further enhancements, including the introduction of food usage reports and more detailed expenditure reports, have also been introduced on a monthly basis and are being monitored by our headquarters. These actions will greatly enhance the oversight and monitoring of catering and food usage in each location.

Regarding voluntary mess committees, we have recently completed a governance review of their operation and are implementing stronger governance arrangements, which includes the signing of an annual service agreement. This agreement sets out clear arrangements, including the provision of an annual statement of compliance and the preparation and submission of annual audited accounts.

The report has made a number of recommendations on the operation of prison tuck shops, including the updating of shop accounting systems, and work is ongoing in this regard. A tender for a new inventory management system, which will integrate with our financial and reporting systems, will be published before the end of this year. The new system will automate stock management processes, thereby delivering better stock controls and providing management information to allow for better analysis of stock purchases.

The report made recommendations about the operation of the prisoner assist programme funds. I wish to advise the committee that, earlier this year, I decided to eliminate this programme and replace it with a centrally managed Vote-funded programme for prisoner initiatives. This will eliminate the need to run prison shops on a profit-making basis and allow the introduction of a new pricing system, which will see all non-tobacco products sold at almost-cost price. This will benefit prisoners and their families greatly and eliminate the need to increase the prisoner gratuity payment, which has not been increased for a significant time. Separately, profits from the sale of tobacco-related products will continue to provide funding for a new prisoner hardship fund, which will be managed by governors and administered through the prisoner account management system.

The Secretary General and I will be happy to take whatever questions committee members may have on the 2019 appropriation accounts and the chapter in the Comptroller and Auditor General's report.

Vice Chairman: I thank our witnesses. Deputy Munster has 15 minutes, Deputy Mac-Sharry has ten minutes and everyone else has five minutes in the first round.

Deputy Imelda Munster: Are both witnesses familiar with the report produced by Judge William Early in 2016?

Ms Oonagh McPhillips: I have not read it recently but was familiar with it at the time.

Deputy Imelda Munster: Right. What about Ms McCaffrey?

Ms Caron McCaffrey: Yes, I am familiar with it.

Deputy Imelda Munster: Following the publication of that report, the *Irish Examiner* reported that the prison officer involved received apologies from the Department and the IPS. Do the witnesses accept that the apology was justified?

Ms Oonagh McPhillips: Just to halt the Deputy there for a second. That report is from 2016 and it is a report into a specific case-----

Deputy Imelda Munster: Yes but I am not talking about any ongoing investigations. I am just asking about the report. Does Ms McPhillips accept that the apology was-----

Ms Oonagh McPhillips: I want to be as helpful as possible but the report relates to something in 2016 and it is a specific case. I do not want to comment in any way on an individual case. Obviously, the Protected Disclosures Act-----

Deputy Imelda Munster: So Ms McPhillips will not say whether the apology was justified. What about Ms McCaffrey?

Ms Caron McCaffrey: I am not in a position to comment on any individual case.

Deputy Imelda Munster: That is disappointing. The Department and the IPS were reported to have made an apology but the witnesses are not willing to stand over that and are not prepared to comment on whether those apologies were justified.

Ms Oonagh McPhillips: It is not that I am not standing over it but-----

Vice Chairman: In my opening warning, I said that people are not to be named.

Deputy Imelda Munster: I did not name anybody in particular. I was talking about the judge's report and the findings in same. This relates to the issue of protected disclosures and the hell that some prison officers reported being put through having made such disclosures. Do I take it that the witnesses are not going to comment at all on that particular case?

Ms Oonagh McPhillips: It relates to an individual case so I am not in a position to comment.

Deputy Imelda Munster: Okay, and the same applies to Ms McCaffrey. I ask about the situation in the IPS today in comparison to when the complainant first raised issues, which were subsequently ignored? What can be said about reform since then?

Ms Caron McCaffrey: I take it the Deputy is talking about our protected disclosure policy. We introduced a protected disclosure policy in 2015 and an amended policy in July 2018. There are significant differences between the original and the new policy. The new policy aims to ensure that staff have confidence and feel comfortable to make a disclosure and it provides for a full, independent investigation at every stage of the process. Where a person makes a disclosure, the assessment of that disclosure is made independently, outside the organisation. Where that is determined to require investigation, the investigation is also done outside the organisation. Where a person is dissatisfied with the outcome of that investigation, the 2018 policy provides for a review, which is conducted external to the organisation. If a person makes a

claim of penalisation in respect of having made a protected disclosure, the policy provides for an investigation outside of the organisation.

Deputy Imelda Munster: I thank Ms McCaffrey for that. Has any member of the IPS been disciplined as a result of a protected disclosure?

Ms Caron McCaffrey: I can give the Deputy some information relating to protected disclosures and their outcomes---

Deputy Imelda Munster: I am interested in whether any member of the service has been disciplined as a result of a protected disclosure.

Ms Caron McCaffrey: I am not aware-----

Deputy Imelda Munster: Nobody?

Ms Caron McCaffrey: I do not have specific information on whether disciplinary action-----

Deputy Imelda Munster: Surely Ms McCaffrey would be aware-----

Ms Oonagh McPhillips: Is the Deputy referring to the discloser or to other staff?

Deputy Imelda Munster: I mean staff-----

Ms Caron McCaffrey: I can give the Deputy some statistics on disclosures made in 2018.

Deputy Imelda Munster: I just want to know if any member has been-----

Ms Oonagh McPhillips: The outcome of the investigation is relevant to the Deputy's question.

Ms Caron McCaffrey: We had eight disclosures made in 2019, one of which was transferred to the Department of Justice. Seven disclosures were sent for external investigation and three of those have been concluded. One of the investigations was terminated by the investigator as there was insufficient evidence to complete the investigation and three are ongoing. In relation to the three disclosure investigations that have been completed, the disclosures were partially upheld and recommendations were made on foot of those disclosures on policy and procedures within the IPS.

Deputy Imelda Munster: Okay. That was in 2019.

Ms Caron McCaffrey: Yes, that is in respect of 2019.

Deputy Imelda Munster: If we go back to 2018, has any member of the IPS been disciplined as a result of a protected disclosure?

Ms Caron McCaffrey: I will ask the director of HR to respond to that question.

Mr. Don Culliton: Obviously the IPS has, until quite recently, operated under the prison officer's disciplinary code. In 2019, there was a significant number of disciplinary cases against staff, totalling in the region of 40-plus. I cannot answer the Deputy's question as to whether any of those related to a particular protected disclosure issues but certainly we take disciplinary action seriously in the IPS and we utilise the provisions of the various disciplinary codes to deal with any performance or disciplinary issues.

Deputy Imelda Munster: Mr. Culliton is not aware of any member being disciplined as a result of a protected disclosure-----

Mr. Don Culliton: I am not aware-----

Deputy Imelda Munster: That would stand out, I imagine. If there was a protected disclosure and then disciplinary measures were taken against a member, that would be to the fore.

Mr. Don Culliton: In fairness-----

Ms Oonagh McPhillips: We can check that.

Deputy Imelda Munster: Okay, the witnesses can check that but we will presume for now that there are none, until we are corrected. Otherwise-----

Ms Oonagh McPhillips: We can check it for the Deputy. She is referring to 2018 and the information we have to hand refers to 2019.

Deputy Imelda Munster: One would imagine that it would be something-----

Ms Oonagh McPhillips: It is a big service.

Deputy Imelda Munster: Yes, but we are here today to discuss-----

Ms Oonagh McPhillips: 2019.

Vice Chairman: Deputy, we are here to discuss the 2019 accounts.

Deputy Imelda Munster: Yes, but I said “since” 2018, which obviously includes 2019.

It was reported in the media that the IPS directed legal firms to cease all investigations on the basis of Covid-19. Have those investigations resumed?

Ms Caron McCaffrey: Yes, and just to clarify, when our prisons went into lockdown earlier this year, and again more recently, it unfortunately had an impact on some investigations. Some of those were category A investigations where an external investigator is called into the prison to deal with a complaint made by a prisoner. Investigations undertaken by the Inspector of Prisons in relation to deaths in custody may also have been impacted. There was no cessation of protected disclosure investigations. There was a misinterpretation of the inability of people to enter prisons by a member of staff in the protected disclosures unit-----

Deputy Imelda Munster: When did they resume?

Ms Caron McCaffrey: They were never ceased. I can give the Deputy some statistics on expenditure for protected disclosures.

Deputy Imelda Munster: No, sorry, I just want to know when the investigations resumed.

Ms Caron McCaffrey: Protected disclosures investigations did not cease.

Deputy Imelda Munster: When did the other types of investigations resume?

Ms Caron McCaffrey: They resumed as soon as our prisons were reopened, when the country transitioned from level 5 back to level 3.

Deputy Imelda Munster: So they resumed earlier in the year.

Ms Caron McCaffrey: Yes, absolutely.

Ms Oonagh McPhillips: The Deputy will understand that investigations can be at different stages. It is not all just about entering the prison. An investigation could be at the writing the report stage, for example, and obviously that work can continue in the context of the pandemic. Various investigations were at various stages.

Deputy Imelda Munster: I refer to the issue of staff mess. The Committee of Public Accounts made a recommendation at the beginning of 2019 on this but again it appears from the Comptroller and Auditor General's report that the Government's advice to the mess committees does not constitute a formal agreement. It does not, for example, set out that the Prison Service can get assurance that none of the food used in the provision of staff meals is a charge on the prisons Vote, that good accounting records are maintained or that prices are set at a level to recover costs. That recommendation was made by this committee almost two years ago. We are talking here about a mess committee. We are in here year on year having to spend considerable time discussing these matters. I do not know whether the witnesses feel it is not an important issue, that it will go away or that we will not keep coming back to it. However, it is important in the sense that there are so many questions and so many irregularities are arising. The substantive issues the Committee of Public Accounts has raised concerns about have not been dealt with. Why is that?

Ms Caron McCaffrey: I assure the Deputy that we have taken action in relation to mess committees. One issue raised by the Committee of Public Accounts at our last hearing concerned whether or not those activities were subject to VAT. We had extensive engagement with the Revenue Commissioners on that. It was, unfortunately, a protracted engagement. The Revenue Commissioners have confirmed to us that they are not VAT-related activities. In addition, we have undertaken our own governance review on the operation of the mess committees. That review has made a number of recommendations, on foot of which we have taken action.

Deputy Imelda Munster: I have read the recommendations but I am going on what the Comptroller and Auditor General said and on the fact the substantive issues raised in this committee have not been addressed. I have what appears to be an invoice here for an order with specific instructions. It is for food that would have been charged to the prison itself. The instructions on it are to leave the invoiced food at the gate of the canteen. The canteen is the prison officers' mess, is it not?

Ms Caron McCaffrey: It is.

Deputy Imelda Munster: There are specific instructions on this invoice to leave at gate at canteen. How do we know this is not happening at the moment?

Ms Caron McCaffrey: We have taken steps in relation to enhancing governance. We have annual service agreements that will be in place for our mess committees for 2021, which clearly set out the arrangements that pertain to their operation. We are also putting in place annual statements of compliance with our mess committees. They will be required to provide audited accounts with information on food purchases and analysis of meals. They will also be required to provide a statement of assurance that no food item for prisoner use and paid for by the prison service has been used in a mess committee.

On the delivery of supplies, deliveries for mess committees are or should be made to a

different area of the prison, with the exception of one prison, namely, the maximum security prison.

Deputy Imelda Munster: How do we ensure that happens?

Ms Caron McCaffrey: We have our annual agreement, our compliance arrangement and we are taking a range of measures to enhance stock control. Stock is purchased for us in the prisons-----

Deputy Imelda Munster: Okay, thanks. It would not instil confidence. I will move on.

On the prisoners' shop, more concerns are raised in the Comptroller and Auditor General report. It seems we are going back and forth with the Irish Prison Service and it is not taking being taken seriously. There are serious questions outstanding. The Comptroller and Auditor General found examples where the prisoner assist programme funds were not used appropriately. I would like the witnesses to follow up and furnish the committee with examples of and details pertaining to such use.

Vice Chairman: Will the witnesses provide that information?

Ms Oonagh McPhillips: We will provide that information. A fair bit of it is set out in the Comptroller and Auditor General's report.

Deputy Imelda Munster: Will the witnesses give us examples?

Ms Oonagh McPhillips: Absolutely. I draw the Deputy's attention to the issue the director general mentioned in her opening remarks about the catering supervisory grade. That was introduced in 2019 and will have specific responsibility for the issue the Deputy is raising.

Deputy Imelda Munster: Recommendations were made by this committee in January 2019 and we are still flagging up glaring issues that have not been addressed. That is the problem. It does not instil confidence and nothing I have heard today instils confidence.

Ms Oonagh McPhillips: I am trying to respond.

Deputy Imelda Munster: I am just making the point that nothing I have heard today-----

Vice Chairman: Can we have the response first?

Ms Oonagh McPhillips: I accept what the Deputy said in relation to January 2019. This report relates to 2019 so in the course of this year measures were being taken by Ms McCaffrey to address those matters. A specific and important development was the reintroduction of that grade which had been abolished during the cutbacks earlier in the decade.

Deputy Imelda Munster: It appears to us that there is a clear issue in the Irish Prison Service around the lack of outside scrutiny. The problem seems to be that there is no independent monitoring of the Irish Prison Service. I recommend that we write to the Minister for Justice and ask her to request that an investigation be carried out by the Inspector of Prisons into all of the issues flagged up here and in the Comptroller and Auditor General report and the ongoing issues from previous witnesses.

Vice Chairman: We would have to be specific.

Deputy Imelda Munster: We can finesse the details but I would like the committee's sup-

port to write to the Minister for Justice and ask her to request an investigation.

Vice Chairman: We will hold that and come back to it towards the end of the meeting.

Ms Caron McCaffrey: I will give some reassurance around scrutiny. We have an internal audit unit in the Department of Justice and our prisons are subject to regular inspection by internal audit. There is also an audit committee that meets regularly with the Irish Prison Service, at least four times a year, on oversight of financial matters.

Deputy Imelda Munster: Yes, but these concerns came up through protected disclosures, in the main.

Vice Chairman: I will move to Deputy MacSharry. We will come back to this and may well get a report from the witnesses into oversight, separate from this.

Deputy Marc MacSharry: I welcome everybody and thank them for taking the time to attend. I thank and congratulate the Department and the Irish Prison Service for their efforts during Covid, which go beyond the call of duty and have kept many people safe. I want to put one thing on the record which I have forwarded it to the secretariat and the Chair. The Chair can decide on it but I want to put it on the record. It is an email to me. It reads:

Dear Mr McSharry

Please let it be known that I am happy for you to share my name in the Public Domain.

Noel McGree

Is Mr. Culliton with us?

Mr. Don Culliton: I am.

Deputy Marc MacSharry: On 17 January, I raised an issue of a potential sexual harassment case against a nurse. Initially, Mr. Culliton said there were no agency nurses and then that there may have been some. It turned out there were. CPL is the company they were from. I suggested that he make contact with whatever agencies the Irish Prison Service had used in recent years and asked if there were instances of sexual harassment, to which I had previously referred. I said I was sure he would like to see that dealt with, if it occurred. He responded that he would. I asked that he do that, he said “yes” and I said “great”. That was on 17 January. Will Mr. Culliton tell us what he did after that in regard to that case?

Ms Oonagh McPhillips: Before Mr. Culliton intervenes, this is correspondence from the Deputy to the Irish Prison Service-----

Deputy Marc MacSharry: It is not. It is on the record of this committee. It is in the public domain.

Ms Oonagh McPhillips: From January of this year?

Deputy Marc MacSharry: No.

Ms Oonagh McPhillips: In January of-----

Deputy Marc MacSharry: It is 2019

Ms Oonagh McPhillips: Okay. It is in relation to a specific case.

Deputy Marc MacSharry: Is it?

Ms Oonagh McPhillips: Is that what the Deputy is saying?

Deputy Marc MacSharry: It absolutely is.

Ms Oonagh McPhillips: We are not in a position to deal with specific cases.

Deputy Marc MacSharry: Why not, when it is in the public domain? I am reading from a publicly accessible document.

Ms Oonagh McPhillips: It is not within our power.

Deputy Marc MacSharry: Will the witnesses provide the Vice Chairman the advice they have from the Attorney General which advised them to come in and stonewall, which is what they are doing and have done to Deputy Munster? They said they cannot answer this and cannot satisfactorily answer that. There is a procedure for everything but what happens is that Deputies, who would be better employed doing constituency work and pursuing policy, are in here to pursue matters of public interest and the interests of the taxpayer. I raised an issue two years ago. There was a court judgment on the issue that said on the direct result of it being raised in this room, someone was penalised and thrown under the bus. All these matters are in the public domain. What we have here is the Secretary General of a Department coming in and saying that there is nothing to see here and that we cannot talk about this. This is totally unacceptable. It is a circling of the wagons and it is most disgusting. We are talking about a case of sexual harassment against a female working as an agency nurse under the auspices of the Irish Prison Service that, according to the court ruling, was thrown under the bus the very day it was raised here. At this stage I want to put on record that-----

Vice Chairman: Deputy, we are identifying an individual here-----

Deputy Marc MacSharry: We are, and it is a person who is well identified in the media as it is. It is a matter of a court case. It was a court case that was relevant to the actions of this committee.

Vice Chairman: The rules of this committee are pretty strict and have become more strict in relation to Standing Order 218-----

Deputy Marc MacSharry: In what way am I breaching that here? I flagged with the secretariat, when inviting the Irish Prison Service, that this issue was coming up.

Vice Chairman: The rules of engagement here are that we do not identify individuals. That is the warning at the beginning of the meeting.

Deputy Marc MacSharry: So, what we are saying here is that when the Department feels that the Committee of Public Accounts, in undertaking its work, when an officer of the court finds that the committee is implicated in that and that someone was penalised in society by the Department of Justice and its agencies, we are not allowed to raise it and not supposed to raise it. What kind of banana republic are we living in?

Vice Chairman: It is a sectoral committee issue rather than one for the Committee of Public Accounts.

Deputy Marc MacSharry: Anyway, if I can I will continue and whenever I say anything

wrong then by all means stop me. The director general stated at that meeting “As director general, I am absolutely committed to not only supporting and encouraging staff to speak up, but also ensuring that the culture in place at a prison level supports staff being able to come forward and raise issues without fear or favour. Ms McCaffrey went on to describe the measures she would roll out that year. How does Ms McCaffrey think that Noel McGree feels about that statement?

Vice Chairman: I am aware that this name is in the public domain-----

Deputy Marc MacSharry: He has given me written permission to mention it here today.

Vice Chairman: We are not permitted to make someone identifiable. While we can deal very definitely with process, when we start to make a person identifiable it is-----

Deputy Marc MacSharry: By way of putting into process and practice the statement of the director general of her unyielding support for people in encouraging them to speak up against wrongdoing, one month after that meeting Ms McCaffrey awarded long service medals to all eligible officers except Mr. McGree.

Ms Caron McCaffrey: Again, I am not in a position to engage in any individual case but I can confirm that I have never refused to award a long service medal to any individual staff-----

Deputy Marc MacSharry: Why did Ms McCaffrey exclude him as the only person?

Vice Chairman: I have to stop the Deputy there.

Deputy Marc MacSharry: I have his permission.

Vice Chairman: I have to stop the Deputy there because it making someone identifiable.

Deputy Marc MacSharry: Is it because it makes the Department and the Irish Prison Service look bad and we cannot have that because the house must always win?

Ms Caron McCaffrey: To be of assistance to the Deputy, perhaps it would be helpful for me to outline some of the steps I have taken, and especially in relation to-----

Deputy Marc MacSharry: I have read all the steps.

Ms Caron McCaffrey: In relation to-----

Deputy Marc MacSharry: My time is so short-----

Ms Caron McCaffrey: In relation to allegations of sexual-----

Deputy Marc MacSharry: I just want to focus on the absolute wrongdoing that we have been able to identify in years of research-----

Ms Oonagh McPhillips: The Deputy is not allowing us to answer.

Deputy Marc MacSharry: I am not allowing the witnesses to talk down the clock when I have very limited time. I put it to the Secretary General that I will not.

Ms Caron McCaffrey: I give assurance to the committee and to all the Deputies that I take allegations of sexual assault against our staff very seriously. In 2019, I engaged with the Dublin Rape Crisis Centre in order that we could improve the way we support people who are subject

to-----

Deputy Marc MacSharry: What did the director general do for this nurse after the meeting on the actual day the issue was raised?

Ms Caron McCaffrey: -----who are subject to-----

Vice Chairman: We are actually talking about an individual here and-----

Deputy Marc MacSharry: We are actually talking about a couple of different cases and I have more to come.

Vice Chairman: But the names are identifiable.

Deputy Marc MacSharry: I have the permission of one person and I have not mentioned another.

Ms Caron McCaffrey: Deputy, I have also-----

Deputy Marc MacSharry: I have mentioned a very serious accusation against the Irish Prison Service penalising-----

Ms Caron McCaffrey: Where a matter is either before the courts-----

Deputy Marc MacSharry: -----a staff member, for which the service was found guilty by a court and now we are hiding and circling the wagons. Is the Irish Prison Service appealing that court decision?

Ms Caron McCaffrey: If I can be allowed to respond?

Vice Chairman: Are these matters before the courts?

Ms Caron McCaffrey: These are matters that are either before the court or a quasi-judicial tribunal. Unfortunately, under those circumstances I am not in a position to discuss them but I can outline the details-----

Deputy Marc MacSharry: Can Ms McCaffrey confirm that the Prison Service is appealing the sexual harassment case?

Ms Caron McCaffrey: I can outline the details and the actions I have taken specifically to deal with issues of sexual assault among our staff. We engaged with the Dublin Rape Crisis Centre. We asked staff to come forward and talk confidentially to the Dublin Rape Crisis Centre to share their experiences so that as an organisation we could learn and put better supports in place. That culminated in a training package for all senior managers. Subsequently, that training package has been rolled out to staff support officers, to chief officers within our prisons and to our HR and governance so that we are in a position whereby if a person is subject to a sexual assault in the workplace, the impact of that is understood, on a man or a woman, and that the person is given the appropriate supports. I am very committed to that.

Deputy Marc MacSharry: What policy exists within the Prison Service to protect a discloser or complainant against reprisals?

Ms Caron McCaffrey: Our protected disclosures policy is very clear on penalisation. Where a person makes an allegation of penalisation it is subject to external investigation. Un-

der the Act there is also the opportunity for a person to take a complaint of penalisation to the Workplace Relations Commission, WRC.

Deputy Marc MacSharry: Does the Prison Service appeal those cases as a matter of form?

Ms Caron McCaffrey: Well, obviously in conjunction with the State's legal advisers we would review an outstanding case-----

Deputy Marc MacSharry: Okay, so if it is winnable let us win it.

Ms Caron McCaffrey: -----and make a decision as to whether or not a case should be appealed.

Deputy Marc MacSharry: Has the Prison Service ever not appealed a case?

Ms Caron McCaffrey: Yes, but I might ask our director of HR to come in at this point. He manages our-----

Deputy Marc MacSharry: We do not want him to mention any individual case if there was just one.

Mr. Don Culliton: Obviously, as the director general has said, we examine all cases and we engage with the State's legal advisers, the Chief State Solicitor's office and so on. If the advice is that matters should be appealed, they are. If the advice is that matters should be compromised and settled, then this is the advice we follow.

Deputy Marc MacSharry: Is the word "compassion" ever considered?

Mr. Don Culliton: Compassion is always considered and, as the director general has said, we have a range of measures in place to support staff who are the subject of these complaints. The complainants have available to them staff support officers. At prison level we have a range of measures under our own employee assistance programme. In addition, where staff are in extreme difficulty, we have engaged the external service of Inspire Workplaces solutions, which provides psychological therapy for individuals who require that type of intervention.

Deputy Marc MacSharry: I will come in again later.

Vice Chairman: We all have a frustration around protected disclosures. It is not exclusive to the Department of Justice or to the Irish Prison Service. There appears to be a general pattern right across the process whereby people find engaging with protected disclosures can be very unsatisfactory with regard to career progression and the feeling that people cannot go back to work without there being a consequence. We definitely all wish to see an overall review in that regard because whistleblowers play a very important part and should be encouraged and not penalised. We all have significant frustrations about the process. The problem is that very often those frustrations come about by people identifying themselves and their dissatisfaction with the process. Sometimes that is the only sight we have of it. The learnings are the important thing and most important is that people do not feel it is to their disadvantage that they come forward. We all feel this acutely. We will come back to that.

Ms Caron McCaffrey: We take the confidentiality of our processes very seriously. We have a full-time protected disclosures manager. This is the person who engages individually. The name of the discloser is not disclosed outside of the process. I do not see protected disclosures when they come in. The only sight I have is of the high level summary where an investigation

has been completed. Where recommendations are made, those recommendations are brought to my attention to ensure they are fully implemented. There is full confidentiality within those processes. We take it very seriously. It does mean we are not in a position to discuss individual cases because we have an obligation under our own policy and under the Act to protect the identity of the discloser and to ensure we do not provide information of a disclosure that could lead to a person being identified and I take that obligation very seriously.

Deputy Neasa Hourigan: When I joined the committee and we all agreed to Standing Order 218, it was not just that we would not identify people but that we would set out the terms of every session and try to stick to them as best as possible.

I have no idea what that discussion was about and, therefore, I cannot contribute in any meaningful way to a session that concerns itself with that issue. There is enough in the accounts we are looking at today to be dealing with in a two-hour session, unless we believe €8.2 million in public funds is not worthy of a discussion, which I believe it is. I have to say grandstanding, showboating, not allowing witnesses to speak and shouting women down is unhelpful to this session.

Deputy Marc MacSharry: Can I come in there just for a second-----

Deputy Neasa Hourigan: Sorry, Deputy MacSharry, this is my time.

Deputy Marc MacSharry: -----and just point out-----

Deputy Neasa Hourigan: This is my time. This is my five minutes.

Deputy Marc MacSharry: It is a point of order. I am sure Deputy Hourigan will be allowed the time. There is no shouting down.

Deputy Neasa Hourigan: You did not allow other people to speak so I would like my four minutes.

Deputy Marc MacSharry: Two things as a matter of fact. First of all, Committees of Public Accounts run from term to term so the records of previous committees stand. I am a former member, as is the Acting Chairman, as is Deputy Munster. We raised very important issues here to do with sexual harassment of women-----

Deputy Neasa Hourigan: We have no briefing in this session for that-----

Deputy Marc MacSharry: -----and we are entitled to follow up on it. If Deputy Hourigan does not have a briefing on it, it is a matter for her to read the transcript.

Deputy Neasa Hourigan: That negatively impacts the work of this committee-----

Vice Chairman: Deputy MacSharry-----

Deputy Marc MacSharry: To come in here to grandstand and participate in throwing somebody who was sexually harassed under the bus, and people who are being abused who have put in protected disclosures-----

Vice Chairman: Can we have a bit of order here please? Deputy Hourigan has five minutes.

Deputy Marc MacSharry: Read the transcripts of other meetings if you want to brief

yourself.

Deputy Neasa Hourigan: Perhaps brief members before you bring up other issues.

Deputy Marc MacSharry: No, I will not. I am not responsible for your inability to check transcripts. Sort your own work out in advance. I flagged at our very first meeting this matter was coming up and so it has.

Deputy Neasa Hourigan: Maybe spend your time talking to your colleagues instead of grandstanding.

Vice Chairman: Deputy Hourigan has five minutes.

Deputy Neasa Hourigan: I want to speak about the briefing we received and the work of the Comptroller and Auditor General, particularly relating to the issues around the mess and the tuck shops. We have seen the coverage of this story in the press in recent weeks. It is a huge amount of money to have so little information about in terms of receipts. I see the Prison Service brought back the supervisory grade and that is to be commended but we are lagging in terms of change.

The knee-jerk reaction to these issues in the media will be for people to see things such as prisoners ordering steak and prosciutto and for it to be quite divisive. I will not do that. One of the points I want to make before going to the questions is that training people in catering is useful and has been a success in the Prison Service. Particularly in the workforce in Ireland, we need catering staff and it is a constant lack in our workforce. Therefore, I commend the Prison Service for focusing on it. I do not think anybody wants to see money being spent on items such as steak and prosciutto but within reason it should be supported. One of the points I want to make is that I hope these processes and a new focus on procurement do not begin a race to the bottom and cost-cutting in areas that would affect the training because it is very important that it is supported.

One of my questions is on the new procurement and requisitioning system. Where is the progress on this? We have been given a number of details on how it would look. One of the issues in dealing with the level of supplies the Prison Service will be looking at is local purchasing processes and issues such as community wealth building. Within these new procurement measures, has the Prison Service considered issues such as community wealth building and local buying? There is a large prison in my constituency of Dublin Central and it is embedded in the community. It does have a huge impact on the local community. Has this been considered?

Ms Caron McCaffrey: Approximately 95% of the food purchased, particularly for the tuck shops, comes from a central supply in place through an Office of Government Procurement contract. Some purchasing does take place locally for approximately 5% of all of the items bought for the tuck shop, such as newspapers, fresh fruit, birthday cards and such items. We are bound by procurement rules and we do go to tender on those contracts and draw from an approved supplier list. With regard to the new purchase requisitioning system, effectively what happens at present is that food is ordered locally. The new system will mean the order is generated locally but it will be approved centrally before that order is placed. The order will also be from an approved catalogue. The Deputy pointed to issues in the Dóchas Centre, which constitutes one 20th of our overall catering budget so we need to keep it in context. There will be much tighter arrangements on buying from approved product lists and people will not have the ability to buy off-contract items without approval from headquarters.

Deputy Neasa Hourigan: I want to flag that the Minister of State, Deputy Ossian Smyth, is introducing new green procurement and it might be something to consider in future with regard to local support for local food.

Ms Caron McCaffrey: If the Deputy has time I will ask Mr. Black to come in on the training aspects.

Deputy Neasa Hourigan: Absolutely. I have one more question so perhaps 30 seconds.

Ms Caron McCaffrey: I will ask Mr. Black to speak about the local connections. There are some good connections between some of our prisons and their localities.

Mr. Fergal Black: The area of working with prisoners to improve their employability is key. Within the Prison Service, approximately 300 prisoners a day are engaged in catering and culinary skills courses and training. The reintroduction of the supervisory grade will improve the number of people who are trained. In Loughan House in County Cavan, we have our own barista coffee shop which the prisoners operate. Members of the public come in, buy their coffee, have their scones and get the car washed. It is an enterprise. We have engaged with the Probation Service in a social enterprise and have secured funding from the dormant account funds to ensure we can provide prisoners with employment after release. The transition from custody to community is extremely difficult. We have made significant progress in the areas of getting them an income, a medical card and accommodation but employment-----

Deputy Neasa Hourigan: I will stop you there because I have 10 seconds.

Mr. Fergal Black: Employment is a key issue.

Deputy Neasa Hourigan: We saw from the 2019 transcripts that a low number of doctors and medical staff are available to the Prison Service at present. The opening statement mentioned the pressure that prisons have understandably been under during the Covid crisis. Where are we in terms of the roll-out of giving prisoners the vaccine? Will it be a tiered delivery as in the general populace whereby we go to vulnerable prisoners first? Will it be across the board? What plans are in place?

Vice Chairman: We are out of time so a very quick reply.

Mr. Fergal Black: We have made approaches to the national immunisation committee. We regard people in custody as members of society so the fewer than 4,000 people in custody should be treated in an identical fashion to persons outside. People over the age of 65 in prison should receive the vaccination at the same time as those outside.. We have measures in place to provide the vaccination. To go back to the first point, we recently completed a competition to recruit prison doctors and we are very hopeful, as we have a panel formed, that we will see a transformative effect in leadership in primary care at prison level from next year.

Deputy Matt Carthy: I thank our guests for coming before the committee and I ask them to convey our thanks to all of the staff in the Prison Service for the work they do. Particularly during the pandemic, I have to say the record of the Prison Service was exemplary and something that should rightfully be a source of pride.

One of the questions I have, and perhaps it is in the accounts as a line item but I did not see it, is with regard to psychologists. Do the witnesses have a figure for how many psychologists were employed in 2019 and the costs associated with this? Do they have corresponding esti-

mates for 2020?

Ms Caron McCaffrey: I can give the Deputy our staffing numbers that are current to today.

Deputy Matt Carthy: That is fine.

Ms Caron McCaffrey: We have 15 grade 2 psychologists in place, ten grade 1 senior psychologists in place and 12 assistant psychologists. They make up our psychology team. I do not have a cost for it so if it is okay with the Deputy we will come back to the committee with the costs on this.

Deputy Matt Carthy: How are they distributed throughout the prison system? Are psychologists generally assigned to a prison, region or the entire service?

Ms Caron McCaffrey: I ask Mr. Black, director of care and rehabilitation, to give more detail.

Mr. Fergal Black: To answer the Deputy's question, psychologists are assigned across the service. We undertook a root and branch review. We got an international expert, Dr. Frank Porporino, from Canada to look at our psychology service in 2015. Our agenda going forward from that was to grow the psychology service and look at more specialist activities. Obviously psychologists now are more embedded within our organisation. They fundamentally deal with risk information and offending behaviour but they also deal with mental health. They are the two streams that they work in but within that we now have specialist services for lifers, violent prisoners serving over two years and sex offenders. We have moved to specialise our interventions and moved away from just one to one or very extensive group work to ensure that we provide a much broader service to prisoners.

Deputy Matt Carthy: Has the service moved from one to one work to group work?

Mr. Fergal Black: No, we have both. In the past we might have had a situation where individual offenders could have 50 sessions with a psychologist and other groups have no sessions. We have looked at ensuring that we have a breadth of interventions that we engage with offenders. Obviously we are engaged with the parole board and with probation.

Psychology is a very important service in terms of addressing the risk factors associated with offending. For instance, I managed the national violence reduction unit and within that we have a governor and a senior psychologist managing people who are the most challenging, violently disruptive offenders. It is a psychologically informed approach to address the risk factors associated with those offenders.

Deputy Matt Carthy: The prison service is unique in that if the job is ultimately successful then one does not have recidivism.

Mr. Fergal Black: That is correct.

Deputy Matt Carthy: Clearly, psychology services are an important part. Is it proposed to expand services?

Mr. Fergal Black: No, we have been expanding. As the director general has said, we have ten seniors. We only had six a number of years ago and we secured some funding through this year's Estimates. We are on a growth path to ensure that we develop the psychology service and our goal is to have one psychologist for every 150 offenders. Currently, we are at one per

190 offenders so, by my reckoning, we need another five psychologists to meet our objective.

Deputy Matt Carthy: Is one psychologist per 150 offenders international best practice?

Mr. Fergal Black: Yes. That was the view of Dr. Porporino when he conducted a review for us.

Deputy Matt Carthy: Do the figures given to us by Ms McCaffrey refer to inhouse psychologists?

Mr. Fergal Black: Yes. The psychologists are all employed by the Irish Prison Service and operate across our 12 prisons.

Deputy Matt Carthy: Is there interaction? I mean in terms of the rapport and experience that psychologists will have developed when dealing with individual prisoners in terms of post-release programmes for prisoners. I presume that there is sometimes a psychology aspect to the work done by the parole and rehabilitation services. Is there co-ordination between the two units?

Mr. Fergal Black: There is co-ordination. It would be fair to say that we do not provide post-release work, as a general rule, of psychologists with offenders. However, we work very closely with our colleagues in probation. That kind of co-ordinated approach ensures that for the programmes that are run in the community, say for sex offenders, there is linkage between the individuals, who have engaged in psychology work and probation work in prison, so that continues while they are released. For the transition from custody to community, we are very anxious to ensure that we link people in. Whether it is psychology, mental health or addiction, we have a very clear objective in that regard.

Vice Chairman: We will probably have time for a second round of questions.

Deputy Jennifer Carroll MacNeill: I thank the witnesses for coming in and thank them for all of the work that they do. I apologise for not being here yesterday but I had to attend the conference centre.

I am glad that Deputy Hourigan mentioned the tuckshop issues so I can set my questions on that aside and ask questions on other matters. I have worked on prison and penal reform for a very long time. I am really interested in the topic, particularly in the community release projects and the work done to help train and develop people thus giving them real rehabilitation opportunities.

I wish to check the following with the witnesses as my information might be slightly out of date. How is the community release programme going? How many people participate in the programme? The last I heard about the programme was that it was 90% successful, which is fantastic. What is its current success rate?

Ms Oonagh McPhillips: The numbers are great and I ask Ms McCaffrey to comment.

Deputy Jennifer Carroll MacNeill: Are the terms the same?

Ms Caron McCaffrey: We have made one slight amendment. The programme is one of the most successful ones that we have introduced.

Deputy Jennifer Carroll MacNeill: Yes.

Ms Caron McCaffrey: Prisoners can swap prison time for time spent in the community, under probation and supervision, doing very important community service work. The levels of engagement and adherence to the terms continue to be very high so we still see a 90% success rate in completion. Where somebody does not complete the programme he or she can be recalled to custody.

We did make one change. We found that in 2018 and 2019 our prisoner numbers were growing. The way the scheme works at the moment is that if one is serving between one and eight years one becomes eligible at half of the full sentence. We changed that for prisoners serving between one and three years so that they can become eligible at half of their remitted sentence thus potentially avail of an earlier release and engage at community level because we know where people go out, particularly under probation supervision and where they have support, they are less likely to reoffend and we are less likely to see them return to custody.

Deputy Jennifer Carroll MacNeill: Yes. Perhaps we can discuss the following issue another time. As the scheme has operated for so long has the service analysed the long-term rates of recidivism and so on?

Ms Caron McCaffrey: We have engaged with the Central Statistics Office, CSO, on that so we get statistics on recidivism. The CSO does quite a significant amount of work both the Irish Prison Service and the probation service. We have engaged with the CSO to look specifically at particular programmes and whether or not a prisoner's involvement in that programme has reduced reoffending.

Deputy Jennifer Carroll MacNeill: Yes, but there are plenty of other factors as well.

Ms Caron McCaffrey: Community return is one. Another programme that we are looking at is the very important Red Cross programme. I must credit all of the Red Cross volunteers who work in the prisons in terms of Covid-19 because they have been central to our success.

We are engaging with the CSO to see if a person's engagement - training with Red Cross, acting as an advocate and a peer mentor within in a prison - has a positive impact. I can only imagine that it does when they go back to their communities.

Deputy Jennifer Carroll MacNeill: The last time I was in Mountjoy Prison a fantastic prisoner advocacy programme had been introduced whereby training and information was provided about preventing and treating Hepatitis C.

Ms Caron McCaffrey: It is a phenomenal programme. I pay credit to the Red Cross and its volunteers for the work that they do at the moment within our communities around infection control and ensuring prisoners are informed about what is going on.

Deputy Jennifer Carroll MacNeill: I, too, congratulate the Red Cross.

Ms Caron McCaffrey: The work of the Red Cross has been critical to our success in keeping Covid out of the prisons.

Deputy Jennifer Carroll MacNeill: Mr. Eddie D'Arcy runs a SOLAS Compass project that provides training in bicycle repairs to young offenders in Wheatfield Prison. I am concerned about the 18 to 24-year age group due to their potential to reoffend. Conducting a SOLAS project in the community is one thing but continuing it in Wheatfield is important. Has any progress been made?

Mr. Fergal Black: We have engaged with the SOLAS project. We have brought them in for the last number of years, engaging with Eddie and his team, and worked with those groups. Wheatfield is our designated centre to receive transfers from Oberstown. We see it as very important that the transition is handled well and we have staff that are skilled up to work with that particular group of young offenders because when they come over from Oberstown they are very young.

Deputy Jennifer Carroll MacNeill: They are children.

Mr. Fergal Black: The Department is now looking at the whole area of a youth justice policy and the prisons are directly involved in that. What we want to ensure is that we continue to develop bespoke programmes for young offenders and up to 24 years, ideally. That does require an intensification of resources. It does require a changed regime within the prison, and a higher emphasis on family support and education but it is something that we are committed to. I am sure that the Secretary General will say that it is a particular objective that is currently being rolled out by the Department.

Deputy Jennifer Carroll MacNeill: The scheme is more expensive and the witnesses may be asked about it at future meetings held by the Committee of Public Accounts. In my view, it would be money very well spent and I thank the witnesses for their responses.

Deputy Alan Dillon: I thank the witnesses for taking time out today and I thank them for everything that they done within the prison services.

I want to bring the attention of the witnesses to the catering and ancillary services. The Comptroller and Auditor General highlighted issues with the approved suppliers for game consoles, Xboxes and games. Who is the approved supplier?

Ms Caron McCaffrey: I might just say, in relation to Xboxes generally, we operate an incentivised regimes policy within our prisons, so the more appropriate a prisoner's behaviour in custody and the more he engages positively with services, the more benefits he gets. It is the case that some prisoners in custody can have Xboxes. We do not buy the versions currently on the market. We buy second-hand versions and ensure that any ability to operate Wi-Fi or engage online is decommissioned. I can come back to the Deputy about where purchases have been made from. There are security reasons as to why we buy the older versions. Work is then done internally to ensure that they meet our security parameters and cannot be used to communicate with people on the outside. I do not have that specific piece of information that the Deputy has asked for, but we will commit to coming back to him on that.

Deputy Alan Dillon: I would appreciate that. What happens to the consoles when the prisoners are released?

Ms Caron McCaffrey: They are purchased by the prisoners themselves through the tuck shop so they are the property of the prisoner. Prisoners receive gratuities while they are in custody. They are also supported by their families and, on average, prisoners receive between €20 and €30 a week into their personal accounts from family members. Prisoners would have to save to purchase an Xbox. They would purchase it through the tuck shop and it would be their property. When prisoners leave custody, they take their property with them unless they decide to give items of property to other people who are remaining in custody. That would be the normal practice.

Deputy Alan Dillon: The Comptroller and Auditor General also notes payments from the

shop account for diesel and parking fees in the accounts of Portlaoise and Cork prisons. Those fees were incurred on journeys made to purchase stock from local suppliers and were to be reimbursed as staff costs. Why was the reimbursement of diesel and parking fees allowed from the shop accounts in the two prisons mentioned in the report?

Ms Oonagh McPhillips: I think a number of items were incorrectly charged to different accounts and those may fall into that category.

Ms Caron McCaffrey: As we mentioned before, 95% of the items in the tuck shop are purchased from a contract list. In some circumstances, items are purchased from local shops downtown. I might ask our director of finance if he can be of assistance on that point.

Mr. Derek Caldbeck: On the car parking, there was one particular prison where the tuck shop officer went into town to source the products. Parking in the city cost approximately €6 per week or per delivery. He would have needed cash to go down and pay the car parking fee. That would previously have been paid from cash that was in the tuck shop by way of staff sales, which were actually removed in April 2019.

Deputy Alan Dillon: Is that common practice in all prisons?

Mr. Derek Caldbeck: No, that only happened in one prison.

Deputy Alan Dillon: Was this picked up by the internal audit system?

Ms Oonagh McPhillips: It was picked up by the Comptroller and Auditor General.

Deputy Alan Dillon: It was not picked up by the internal system.

Ms Oonagh McPhillips: I do not think it was.

Mr. Derek Caldbeck: It was not. It was such a small amount that it would have been included as a purchase in the tuck shop accounts.

Deputy Alan Dillon: Are controls on that in place at present?

Ms Caron McCaffrey: We have now tightened up the tuck shop so the only items that can be bought from that account are for resale. I think there were other items, for example, trolleys for the management of goods within the tuck shops. We have now made it clear and amended our procedure. Any of that expenditure would be Vote expenditure, and the only items that can come from the tuck shop account are items that are bought for resale to prisoners.

Deputy Colm Burke: I apologise for being late. I was at the convention centre earlier because the Minister for Justice was before the Dáil. I am sorry for not being here for our guests' presentation.

I wish to quickly raise three issues. The old prison in Cork has been closed and a brand new one built. It was a very good project and well delivered. What is the plan for the old prison? Are plans already in place there?

I also raise the matter of healthcare costs in prisons. I understand that quite a number of people in prison have hepatitis C. I understand that there is a healthcare programme over 12 weeks that can leave prisoners completely clear of hepatitis C if they stick to it. I understand the programme has now been introduced in Cork. The product involved is also manufactured in Cork. Are we doing enough for the healthcare of prisoners? Some people are in prison for

six months, 12 months or three years. A 12-week programme of constant treatment can resolve an issue for them forever.

I will also touch on a matter relating to compensation and legal costs for claims. The figures for 2018 and 2019 are set out in the report. There were 94 claims by prison staff. I am not sure when those claims were made. Were they actually made in 2019 or were they finalised in that year? There were 26 claims for criminal injuries compensation, and 175 claims arising out of injuries and other actions involving prisoners. There were 40 claims from members of the public. We are only given the number of claims per year in this report because it deals with the financial aspect. Will our guests give us an idea of what numbers, on average, we are having in claims per annum from prison officers, prisoners and members of the public? Over the next few years, are we going to have an increase in the level of compensation in this area? Our guests might give us some details on that.

Ms Caron McCaffrey: If it is okay with the Deputy, I will take that last item first. As the Deputy has pointed out, there are different types of legal cases that can give rise to compensation within the Prison Service. Those figures relate to claims that were settled in the particular year, so the 2019 figures relate to claims that were settled in that year. I do not have figures for the claims that have been made, but we will certainly send them to the committee before the end of the day.

I should say that we have quite a good engagement with the State Claims Agency, which is responsible for managing slips, trips and falls in personal injury claims. It is also responsible for managing claims relating to slipping out. We are doing extensive work with the agency to identify the reasons behind those claims and understand why issues are arising, and then to take the appropriate action to ensure they do not occur again. I mentioned in my opening statement that we have had some historical claims relating to tuberculosis. There were 99 claims relating to an outbreak in Cloverhill and 44 relating to an outbreak in Shelton Abbey. As a result of that, we have done extensive work on infection control so that we are now in a position to keep our prisons effectively free of Covid-19. We learn from claims and analyse their causes. We have a dedicated health and safety team at a headquarters level and are always seeking to understand the reason a claim occurred and trying to ensure that we can drive down the level of claims that are made.

Deputy Colm Burke: Could we have a list of the number of claims in each category over a five-year period?

Ms Caron McCaffrey: Absolutely.

Deputy Colm Burke: What we have is only a guideline. We have figures for only two years. It might be helpful if we were given a full list of the number of claims over a five-year period.

Ms Caron McCaffrey: We can provide the number of claims made and the number of claims settled in a given year.

Deputy Colm Burke: I agree.

Ms Caron McCaffrey: The Deputy mentioned the old Cork prison, and we have built a new prison in Cork which is operating very well and has massively transformed the provision of services to prisoners and the conditions in which they live and in which staff work. We have decommissioned the old prison, although it remains our property. At this stage, we have no

particular plan for its future use. It remains part of our portfolio, and consideration could obviously be given in time, subject to the availability of capital resources, for potential development on that site. We do not have any plans at the moment.

Deputy Colm Burke: Any premises that is decommissioned and left vacant for a considerable period of time is likely to deteriorate. Is now not the time to look at a possible purpose for that building? It is a substantial building.

Ms Caron McCaffrey: The quality of that building was exceptionally poor.

Deputy Colm Burke: Absolutely.

Ms Caron McCaffrey: It was one of the reasons we invested in a new prison. I do not think it could ever be used again as accommodation for prisoners. That is not to say the site could not be used for different forms of accommodation for prisons. We built Cork Prison because of the inadequacy in the infrastructure and it really would not have been appropriate of us to use it in its current state.

Vice Chairman: We must move on because we are tied to time.

Deputy Colm Burke: Perhaps the witnesses might come back to me on that matter.

Deputy Cormac Devlin: I welcome the witnesses. Are the visiting committees still operational?

Ms Caron McCaffrey: Absolutely.

Deputy Cormac Devlin: How often do they visit the prisons?

Ms Caron McCaffrey: On a scheduled basis they visit once per month and there are also unannounced visits during the course of the month.

Deputy Cormac Devlin: Why is it the case that the last report I could find from the Irish Prison Service was from 2014? Are there not more up-to-date reports?

Ms Caron McCaffrey: Visiting committees are appointed by the Minister and they report to the Minister so those reports would be published on the Department's website.

Deputy Cormac Devlin: Why is there such a backlog of reports?

Ms Oonagh McPhillips: I will check that for the Deputy.

Deputy Cormac Devlin: The last one I found was from 2014 and it would have been helpful today to have those. I would like the witnesses to revert on that.

Ms Oonagh McPhillips: Others have been published but perhaps they are just not on the website.

Deputy Cormac Devlin: They may be published but they are not on the Irish Prison Service website. The two organisations might revert on that. I thank the witnesses for that.

Figures were given for the number of prisoners currently in custody, which is 3,971, and it was also mentioned that there were 8,939 committals. How many prisoners are on remand versus committed by the courts?

Ms Caron McCaffrey: As of yesterday we had 3,770 in custody, with 677 people on remand across the prison estate. We have seen an increase in the number of prisoners on remand. Over a three-year period, the number of people on remand has increased by 57%.

Deputy Cormac Devlin: Basically, on those figures, what is the number of prisoners who are typically in a cell?

Ms Caron McCaffrey: With regard to cell occupation, 52% of prisoners occupy a single cell and 749 cells accommodate two prisoners. There are a number of prisoners required to share three-man cells. The construction of the remand prison is based on a three-man cell model, so the majority of cells at Cloverhill Prison have three-person occupancies.

Deputy Cormac Devlin: I thank the witness for the figures. How many cells, in percentage terms, are overcrowded?

Ms Caron McCaffrey: There are 52% of cells accommodating one prisoner but it is important to stress that where a cell hosts two prisoners, there is international guidance relating to cell size in square metres. Where we have a double cell it would meet that guidance.

Deputy Cormac Devlin: It would not be classified as overcrowded.

Ms Caron McCaffrey: It is not overcrowded as it meets international guidelines.

Deputy Cormac Devlin: Are the three-person cells overcrowded according to international standards?

Ms Caron McCaffrey: As far as I am aware, and I will come back on this if necessary, they meet the guidance with respect to square metres of space. From our perspective, we have an ongoing capital programme and we are investing in accommodation.

Deputy Cormac Devlin: I understand that.

Ms Caron McCaffrey: We have referenced Cork and we are doing construction in Limerick. There is an ongoing programme to improve prisoner accommodation.

Deputy Cormac Devlin: I thank the Comptroller and Auditor General for his report. Chapter 7.11 relates to catering, indicating €5.66 as the average cost of a meal in 2009. Depending on age and gender, I presume, there are considerations of the volume of food needed. It specifically states that in the Portlaoise prisons, some prisoners have extra menu options available by long-standing arrangement, including historical and political reasons. Why does this apply to only some prisoners and those in Portlaoise? Why are the extra options not available to the rest of the cohort?

Ms Caron McCaffrey: That specifically relates to Portlaoise and the category of prisoner accommodated there specifically in the E block, which accommodates subversive prisoners. There are historical arrangements in place. There are kitchens on the landings, for want of a better phrase, with additional foodstuff provided to that category of prisoners that they can cook and consume from those individual kitchens.

Deputy Cormac Devlin: Would the mess committee cover the E block in Portlaoise?

Ms Caron McCaffrey: The mess committee provides food for staff and this relates to food for prisoners.

Deputy Cormac Devlin: Okay. Is it purely because these prisoners are accommodated in the E block and the reason they are being detained that these prisoners get extra options?

Ms Caron McCaffrey: There are historical arrangements in place that go back to the 1990s whereby prisoners are given additional food items they are entitled to cook.

Deputy Cormac Devlin: In other prisons, including Mountjoy, are there any additional options for prisoners? What I am trying to decipher is whether a prisoner is better off being accommodated in some prisons? Ideally, a person would not need to be accommodated in any prison but would a prisoner be better off in terms of catering facilities in some prisons? Are some prisoners treated better than others?

Ms Caron McCaffrey: First, I give assurance that we provide high-quality nutritional food to everybody within the estate.

Deputy Cormac Devlin: I get that.

Ms Caron McCaffrey: There is an independent living unit at Wheatfield, for example, where prisoners are in a position to prepare some of their own meals. There is a medical unit at Mountjoy that is dedicated to drug treatment. As part of a programme, prisoners might have items like chicken that they would cook themselves as part of a lesson.

Deputy Cormac Devlin: What about the menu?

Ms Caron McCaffrey: It is a 28-day menu across the estate and I absolutely assure the Deputy that everybody is given appropriate quantities of nutritious, high-quality food.

Ms Oonagh McPhillips: The visiting committee reports are published to 2018 on the Department of Justice website.

Deputy Cormac Devlin: Okay. Perhaps the Irish Prison Service will update us on that.

Ms Caron McCaffrey: We can send a link.

Deputy Paul McAuliffe: I welcome Ms McPhillips, Ms McCaffrey and all those who are joining us from another room. As a new member of the committee I look forward to working with the witnesses over the course of the Dáil term and being fair and frank when both characteristics are required.

A number of matters are in the Comptroller and Auditor General's report. The history of the Thornton Hall site is well understood and my question at this point is what happens next. Today we will see passage of legislation relating to the Central Mental Hospital and the possible provision of 1,500 homes on State land while embedding affordability into the city. Is that an option for the Thornton Hall site? Has the Department and the Prison Service decided that building a prison on the site is no longer an option?

Ms Oonagh McPhillips: No. As the Deputy knows, it is a very large site. It is a strategic asset for the State and we have made it known to the Land Development Agency that there is a portion of it in which we would not have a strategic interest. In the medium to long term, our preference is to retain a portion as an option in case we need it. Our development potential around other prisons is very limited, as the Deputy knows, and he is familiar with some of those in the city centre, for example. It is not possible to develop around them.

Deputy Paul McAuliffe: The accommodation issues in Mountjoy were one reason for the development at Thornton Hall. What has changed or could a smaller prison be accommodated on the site?

Ms Oonagh McPhillips: We have no immediate plans.

Ms Caron McCaffrey: We have reviewed the site and identified a potential area of the site that could be available for other State development, as Ms McPhillips mentions. We have engaged with the Office of Public Works and the Land Development Agency on the potential for the site. I am very concerned about retaining a portion of the site. It is over 40 acres and needs to be retained for future prison buildings. I mentioned earlier that prison numbers have been increasing and in 2019 we saw a 10% increase in the numbers of people in custody.

Before the pandemic our prisons were full, I regret to say, and unfortunately we were accommodating prisoners on mattresses on a floor. Much work has been done in the Department in examining alternatives to custody, particularly with people serving short-term sentences. Over 70% of people coming to custody in 2019 came for less than 12 months. I know Deputies have mentioned Cloverhill Prison and depending on our capital budget in future, I would not rule out the potential of either a closed prison or a different type of accommodation model.

Deputy Paul McAuliffe: The witnesses mentioned contact with the Land Development Agency but have they indicated what percentage of the site should be retained? How many units or homes could be developed on the other portion of the site? Has any work been done on that?

Ms Caron McCaffrey: We have identified approximately 40 acres and 112 acres that could be used for a potential State development. I am not in a position to give details in terms of-----

Deputy Paul McAuliffe: Certainly 112 acres is a very significant development. It would also would have a significant impact on the surrounding areas. We saw many disputes in respect of the original idea, and I imagine it is something that would have to be handled sensitively. Given the issues around affordability, however, there is huge potential for the Land Development Agency, LDA to develop that portion of the site.

Ms Oonagh McPhillips: We had discussions with Fingal County Council about it a number of years ago, and its view was that the site was outside of its development area for homes, but the LDA is looking at other options in respect of displacing other services, so that may be an option. It is on its radar and I will not put it any further than that.

Deputy Paul McAuliffe: As a representative for the Finglas area, while I am a great fan of the work done by Fingal County Council, I often think that its attention is not drawn to the housing needs in its border area, so I might contradict it on that point.

I want to concentrate on some of the positive work that is going on in within the Prison Service. Last year, with Bohemian Foundation I had the great pleasure of visiting Mountjoy Prison, to talk about some of the educational opportunities that people are taking up. Will the witnesses outline what has been spent on education to support prisoners who perhaps are there for long-term stays?

Ms Caron McCaffrey: Education forms a huge part of the regimes in place in our prisons. On participation rates, over 40% of the prison population engage in education, and this is delivered in a variety of ways. Looking at our prison population today, the average age a person

left school is 13.9 years, so education has a huge role to play. The Department of Education provides us with 220 whole-time equivalent teachers, and that is a huge investment on its part in our prisons. We support education with a budget in excess of €1 million. This is used to buy supplies and whatever might be required to ensure that we have appropriate supplies in place. I have visited every education centre in all of our prisons and they are hugely vibrant learning areas. Our teachers are very committed and they are part of the fabric of our prisons, and the men and women in prison are benefiting significantly from the investment in education in our prisons.

Deputy Paul McAuliffe: I would like to finish with a comment rather than a question on an issue we can perhaps explore on another occasion, which is the safety and security of prison officers and their families, particularly in respect the impact of gangland crime. While spending is always an important issue, I urge the witnesses to do everything they can and to continue to do everything they are doing to ensure the safety and security of those people, who are often very vulnerable in their own communities. Prison officers are doing a huge job of work and they deserve a lot of credit for this.

Ms Caron McCaffrey: Just to confirm, we have put a new pillar in our strategy which is all around the security of our prisons and their staff.

Deputy Paul McAuliffe: I saw the extra spending on that.

Ms Caron McCaffrey: I take the Deputy's point on board on that issue.

Vice Chairman: I have a few points I want to go through. On the issue of Thornton Hall, €30 million was spent on the site itself and an additional €20 million was spent on services such as roads, water etc., so it may well be a strategic asset but it is a pretty expensive one. Could the witnesses show us a map as I think that format might be helpful in seeing exactly what might be available and what uses there might be for the site? There might be discussion around that, so perhaps the witnesses could provide us with that.

Yesterday we talked about an article in *The Irish Times* on the detention of an individual who was refused the right to enter the country. The witness did say that it was an unfortunate case. Since then, I have discovered that, in 2019, somewhere in the region of 500 people found themselves in such a position where they were refused the right to enter the country and were detained as a consequence. Given that we have a prison population of 4,000, 500 is a significant number, even considering the fact that most of them are not detained for a protracted period of time. Can we get some detail on that?

Ms Caron McCaffrey: On the overall number of people held for immigration-related reasons each year, in 2019, it was 480; in 2018, it was 406; and in 2017, it was 397.

Vice Chairman: Do we have ideas about how long they were detained, or could Ms McCaffrey come back to us on that?

Ms Caron McCaffrey: I have statistics. I do not have with them with me, but we can certainly provide those statistics.

Vice Chairman: I ask Ms McCaffrey to provide them to the committee because there may well be a cost-benefit in terms of a different approach. It is that type of information, as well as the humanity of it----

Ms Caron McCaffrey: We can make that information available immediately.

Vice Chairman: And perhaps give us some idea of the cost per detention.

Ms Caron McCaffrey: On the cost per night in terms of our prisons, the full cost per space per year in 2019 was €775,000, so that works out at €206 per night.

Vice Chairman: I ask Ms McCaffrey to provide that to us. I understand that there is no current investigation relating to the mess committees, and an issue was certainly flagged in a high-profile protected disclosure that is now closed and in the Comptroller and Auditor General's report. Will Ms McCaffrey take us through the control systems that have been put in place since the issues were raised? They would not have been put in place if there was not an issue here. She might give us some indication of the issues found which needed to be addressed.

Ms Caron McCaffrey: Mess committees were established in 2012 and have operated since then. Governance guidelines were provided to those committees, but as identified by the Comptroller and Auditor General, there were no written agreements. We have now moved to put in place two things, one of which is an annual service agreement that sets out the rules and responsibilities of each party, the activities to be undertaken, the financial arrangements which must be in place, including establishing or maintaining a secure financial accountable system with accounts for all receipts and records of all moneys expended, and reporting arrangements, including an annual statement of compliance. In respect of the annual statement of compliance, part of that is a requirement to provide audited accounts with information categorised, including an analysis of the number of meals, the average cost, and other performance data. The statement of compliance also requires the mess committee to provide assurance that no item for prisoner use and paid for by the Prison Service is used for mess committees for meals provided, including condiments and disposals. There are also other confirmations that are required related to supplier credit. Those arrangements have been put in place.

Vice Chairman: Was a look-back done and was non-compliance discovered? Will Ms McCaffrey give us her understanding of what the non-compliance was?

Ms Caron McCaffrey: The general concerns raised by the auditor relate to items coming in to prison stores and potentially being diverted to the mess committees. As I clarified earlier, there are separate contracts in place that the mess committees buy from. They are separately paid for and separately delivered to that area of the mess committees, with the exception of our high-security prison. We recently completed an audit on catering activities in three prisons, and we identified one issue in respect of a mess committee, which concerned milk being provided from the prison stores to the mess committee and not being appropriately paid for. That matter has been rectified, and in addition to it being paid for going forward, we have been very clear with the governor and the mess committee that any milk provided and not paid for will be back paid by the mess committee.

Vice Chairman: Were there any consequences of this non-compliance?

Ms Caron McCaffrey: The information provided to us by the governor is that, historically, there was an arrangement in place whereby milk was provided to the mess committee from the prison stores, and paid for. That arrangement ceased a number of years ago, so while there is no disciplinary issue arising necessarily, there is clearly a concern from our perspective in respect of assurance and compliance. Over the past 12 months, on at least three occasions, I have written to governors to remind them of their responsibilities to ensure that any food purchased for

prisons does not find its way to the mess committee, and ultimately that responsibility lies with the governor of each institution.

Vice Chairman: Is a follow-up done as part of the controls?

Ms Caron McCaffrey: Absolutely.

Vice Chairman: On the issue of protected disclosures, there are quite a number of them, both for the Department of Justice and the Prison Service, and I had a reply to a parliamentary question on the issue. When those protected disclosures are completed, irrespective of whether the findings are fully found, partially found or dismissed, what is the follow-up in terms of the learning? Is that shared?

Ms Oonagh McPhillips: It is one of the reasons we manage it out of our internal audit unit. Through audit we feed it into their recommendations across a whole range of issues, so if anything is raised, even if the disclosure itself is not upheld, they can still extract the learnings. Obviously, they safeguard the confidentiality of the process, but they apply it through their audit recommendations and then we take it on board and make sure we have a process to implement the auditor conditions.

Vice Chairman: Realistically, whistleblower legislation is always going to be very difficult. It is always going to be difficult for somebody to go back to work if he or she has disclosed something. What systems are put in place to protect the person? Is there a system that involves some degree of mediation? As I said, this is not exclusive to the Prison Service or the Department of Justice but it certainly impacts people who feel they are disadvantaged. They are perhaps given particular shifts or they are transferred, and there is no explanation for such things happening other than that the person was a whistleblower.

Ms Oonagh McPhillips: It is a very difficult balance. I agreed with the Vice Chairman's point earlier that once one gets into the process it is difficult to get a good outcome for the discloser at the end of it because, between audit and then quite a legalistic process around investigation and so forth, it can become almost adversarial for the person, and that is not what it is supposed to be. I have some reservations about the path we have gone down in terms of independent investigation because I think there is a risk. While it gives us the arm's length and the independence and confidence to which the director general referred, we have to make sure, as the Vice Chairman said, that that kind of mediation approach is our principle concern. How do we safeguard the individual and his or her future within the organisation? So many people are totally committed to both the organisation and their work within it and making the organisation better. How do we uphold and safeguard that? The mediation approach is something HR will look at, as is my suggestion as to how the Department should process disclosures in the near future.

Vice Chairman: I have had several people say to me, "I just want to go back to my life. I just want my job to be as it was before." That is a failure of governance as well because-----

Ms Oonagh McPhillips: We are always trying to learn from this. We work with external advisers to try to see what the best way of dealing with these things is. As I said, we have obligations under the Act in respect of safeguarding, investigating and so on. Trying to balance that with, as the Vice Chairman said, trying to put the person in the best position possible to continue with and thrive in his or her work is crucial.

Vice Chairman: We will go back to the members for another round. Deputy Munster has

five minutes.

Deputy Imelda Munster: I will probably take less than that. I want to come back to the suggestion I made earlier to the committee. I am not confident that the Prison Service has addressed the issues raised by the Comptroller and Auditor General in a timely manner. There are the issues surrounding the staff mess. There does not seem to be adequate record keeping. There is the issue of the funds that should be solely for the benefit of prisoners being used for other purposes. These situations are not ordinary in any organisation, let alone when they carry on for years through subsequent reviews. I therefore suggest that the committee recommend that the Minister for Justice request that the Inspector of Prisons carry out an investigation of these irregularities. Perhaps this time around a final, single report from that office will achieve what the Department of Justice and the Irish Prison Service cannot. As I said, this has been going on for years. We are back here each year raising the same issues. Successive Comptrollers and Auditors General have flagged up the same irregularities. Therefore, for once and for all I would like the committee to support the recommendation that we write to the Minister requesting-----

Vice Chairman: I suggest we bring in the Comptroller and Auditor General, who has quite a bit of oversight in respect of changes and the deficiencies. He might give us some of his thoughts as to what has-----

Mr. Seamus McCarthy: Yes, absolutely. Even in doing the report we could already see some improvements between 2018 and 2019. A number of changes occurred there, including in the prison tuck shops and in the ceasing of sales to staff members in 2019. One can even see the impact on the profits in the year. Certainly, I would welcome the changes that have been outlined by the director general. I think they would represent significant improvement and will make improvements as they are implemented. Finally, we will come back and look at this again in subsequent audits and I expect I will report to the committee again in future on how these recommendations have been implemented. That should give more roundedness and an assurance to the committee that recommendations have been acted on.

Deputy Marc MacSharry: On that, the Comptroller and Auditor General alluded to the fact that the change in profits could be seen. When the controls were put in, did profits go up?

Mr. Seamus McCarthy: I think there is an indication of profitability. It is small but between 2018 and 2019 the average gross profit went up from 14% to 15%. It may be an anomaly but it may also be an indication that a tighter regime and an electronic-payments-only regime can generate better profits.

Deputy Marc MacSharry: Was Mr. McCarthy in a position to view audited accounts such that he was able to deduce this from each-----

Mr. Seamus McCarthy: We are talking about the turnover in the shops. The accounts are not audited. I think it was mentioned earlier that the internal audit can carry out work in this area. A lot of the work we did here is probably better done as part of an internal audit programme. I would like to see that be one of the improvements as well, that there would be more frequent and more rigorous work by internal audit on these, let us say, non-vote expenditure areas.

Deputy Marc MacSharry: To finish on that point, is Mr. McCarthy talking specifically about the tuck shops as opposed to the mess committees?

Mr. Seamus McCarthy: We did not see any accounts in respect of the mess committees.

Deputy Marc MacSharry: At all?

Mr. Seamus McCarthy: At all.

Deputy Imelda Munster: Enough concerns have been raised here that a report would not do any harm. I think it would also send out a message that where there are these irregularities going on for quite some time, and despite the fact that the Comptroller and Auditor General's report, through the Committee of Public Accounts, has raised them, it has taken this length of time for some to be acted on. There are others that have yet to be acted on. In the interest of transparency, I think it would be wise of the committee to recommend that the Minister ask the Inspector of Prisons to carry out an investigation of these irregularities. That way we would get the one final report that we have not managed to get thus far.

Ms Oonagh McPhillips: I have absolutely no difficulty with any investigation, but the area of expertise of the Inspector of Prisons is human rights rather than audit, so it is a different focus. I have absolutely no difficulty with what the Deputy is suggesting - I will leave it up to the committee - but it is a completely different level of expertise in respect of the issue.

Deputy Imelda Munster: We can leave it up to the Minister to appoint whomever she deems fit if that is the case and if she does not feel the Inspector of Prisons is suitable.

Vice Chairman: I am conscious we have a very small number here. We will come back to that at the very end of the meeting.

Deputy Marc MacSharry: I will finish on the mess issue. We will write to the Minister about it, if the committee agrees. The milk issue bears out the point I have raised. I was accused by the previous Secretary General of not having tested things in advance. We only raise issues if people raise them with us. The milk issue proves that it could happen, and indeed did happen in at least one instance. Some years ago, I raised multiple instances of cross-subsidisation between prison stores and mess stores. We have new controls now, but we have no accounts. After our meeting in 2019, we got a list of balances of accounts and nothing more.

The memorandum issued by the Irish Prison Officers Association, IPOA, seeking approval for the establishment of messes states that 40% of staff spend €10.61 per day. I will quote the IPOA's figures. The State provides €1.4 million of subsidies for staff, equipment, heat, light, etc., and the system works very well. If €10.61 was spent per day by 470 staff members, a substantial amount of money would be raised every day throughout the eight prisons. If we multiply that by 365 and then by seven we arrive at a figure of several millions. I note that these were all cash transactions. I join Deputy Munster in suggesting that we get an external investigator to look through those seven years' figures to ensure the milk issue was a once-off. I hope that would be supported by the Irish Prison Service. In case the IPOA is watching, I want to make it absolutely clear that I am totally in favour of the appropriate supports for hard-working prison officers. Their job is a very difficult one. There is probably an argument for them to be fed and watered free of charge given the dangers of their job. It is not about those facilities. It is about the appropriate oversight of many millions of euro of subsidy during that seven-year period, for which there are effectively no records.

Yesterday, I raised the issue of protected disclosures and the terms of reference of external investigations. Ms McPhillips noted that the terms of reference are prescribed under the Protected Disclosures Act 2014 and are not in her Department's remit. The witnesses were to

check this. What is the situation?

Ms Oonagh McPhillips: It was not me actually. One of my colleagues referred to the generic terms of reference which are made available. Those generic terms are issued by the Office of Government Procurement, OGP, when contracting for the investigation. That body issues a standard set of terms of reference. In each case the independent investigator looks at the generic terms and comes up with a specific set of terms of reference for each individual.

Deputy Marc MacSharry: Did that change? Did that become the role of someone else?

Ms Oonagh McPhillips: Not that I am aware of. The independent investigator only came on board in 2018 when we outsourced the function.

Deputy Marc MacSharry: What about before that?

Ms Oonagh McPhillips: Before that it was investigated by the internal audit unit.

Deputy Marc MacSharry: Were terms of reference not drawn up in conjunction with the internal audit unit and the external investigator?

Ms Oonagh McPhillips: Since 2018 disclosures have first been referred to a different contractor for assessment. The disclosure is assessed to determine whether it is a protected disclosure. If it is, it goes to the independent investigator, who looks at the report and comes up with the terms of reference.

Deputy Marc MacSharry: In what month of 2018 did that change?

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

Deputy Marc MacSharry: I have read about disclosures with terms of reference relevant to March. I am raising them because the terms state that no finding is to be made on the merits or demerits of potential or possible criminal conduct. That excludes any determination by the independent investigator that this matter should go to An Garda Síochána. Is it correct that the Act itself prescribes that if there is any suspected criminality, a matter should be referred to the Garda?

Ms Oonagh McPhillips: It is referred to the Garda.

Deputy Marc MacSharry: In at least one instance it was not. Is that correct?

Ms Oonagh McPhillips: Not that I am aware of. I am aware of several instances where things were referred to the Garda, both by the Department and by the investigator.

Vice Chairman: We will have to wrap this up soon because I have to allow Deputy Cormac Devlin to comment.

Deputy Marc MacSharry: The previous Chair of the Committee on Public Accounts, Deputy John McGuinness, furnished a disclosure to the Department which alleged misappropriation or theft. That was not referred to the Garda.

Ms Oonagh McPhillips: I cannot go into detail on a case.

Deputy Marc MacSharry: I am trying to make that clear. The paper trail I have in front of me suggests that the internal audit unit and the external examiner agreed terms of reference

which specifically excluded any consideration of the criminal issue.

Ms Oonagh McPhillips: As we said yesterday, the external-----

Deputy Marc MacSharry: The criminal issue was not referred to the Garda.

Ms Oonagh McPhillips: The external investigator cannot examine a criminal issue, as the Deputy agreed yesterday.

Deputy Marc MacSharry: This is the problem, is it not? Who makes the internal decision on whether or not to refer to An Garda Síochána? In this instance, a decision not to do so was obviously made. According to the paper trail, the terms of reference were drawn up by the internal audit unit and the relevant external investigator. The investigation was boxed off.

Ms Oonagh McPhillips: I am not in a position to comment on an individual case. I am not familiar with the case the Deputy is talking about.

Deputy Marc MacSharry: I have two more questions.

Ms Oonagh McPhillips: The Deputy is incorrect in saying-----

Vice Chairman: We are limited to two hours for this hearing.

Deputy Marc MacSharry: I have 20 questions which, with the permission of the committee, I will send in writing. We might get answers in writing.

When Ms McPhillips was last here we were talking about external surveillance. There have been reports on that issue since then. A letter came back to us after a previous meeting. It was determined that sums of money were paid to two private security companies. The letter stated: "It is not possible from the information available to determine if these payments relate to the surveillance of prison staff". Have we found out anything more since?

Ms Oonagh McPhillips: If I recall correctly, the Deputy is referring to something that happened some time between 2010 and 2012.

Deputy Marc MacSharry: This letter followed the Department's last appearance before the committee. I appreciate that there has been a change of personnel, but this is our first and only opportunity to ask this question. The letter from the then Secretary General said that one private company was paid €9,586.59 in 2011 and €8,641.68 in 2012. A second company was paid €10,774.12 in 2011. Ms McPhillips's predecessor stated that it was not possible from the information available to determine if these payments related to the surveillance of prison staff. If Ms McPhillips does not have the information today, I ask her to come back to us a specific answer.

Ms Oonagh McPhillips: What is the question?

Vice Chairman: We are very tight on time. Deputy MacSharry might put that question in writing so that what we are looking for is absolutely clear.

Deputy Marc MacSharry: I will put that in writing. I will conclude by saying that it is a matter of huge regret that my experience with at least two protected disclosures has shown that the system is designed to circle the wagons and the victims comes last.

Ms Oonagh McPhillips: I cannot agree with the Deputy.

Deputy Marc MacSharry: That is a matter for Ms McPhillips. She controls what she says, I control what I say. To me, the evidence is clear. Stonewalling is permitted under the rules. We are asking pertinent questions that relate to victims.

Ms Oonagh McPhillips: The Deputy is asking about individual cases.

Deputy Marc MacSharry: Absolutely. They are in the public domain.

Ms Oonagh McPhillips: It is not possible for me to comment.

Deputy Marc MacSharry: I am a messenger of the people, a Teachta Dála. I am not a protector of the system. I want to highlight things that are wrong with the system and help us weed them out if we can. Sadly, after 19 years my experience is that the system circles the wagons to the detriment of the victim on almost every occasion.

Vice Chairman: There is a fundamental disagreement here.

Deputy Marc MacSharry: I have given my view.

Vice Chairman: We will have to conclude pretty soon. We have a two-hour timeframe. We have a proposal to write to the Minister for Justice. We have to be very specific about what we are writing about. We might accept that the Inspector of Prisons might not be the appropriate person to nominate as an investigator.

Deputy Imelda Munster: We might need a different investigator.

Vice Chairman: I am also conscious that there are not many members present at this hearing.

Deputy Imelda Munster: We have a quorum.

Vice Chairman: That is true. Does Deputy Munster wish to put her query in writing?

Deputy Imelda Munster: Yes.

Vice Chairman: We will address it on Wednesday then, if we agree to do it.

Deputy Imelda Munster: I have already flagged the issues, including irregularities regarding staff, the lack of adequate record-keeping and funds that are not spent for the intended purposes. I refer to all the irregularities and issues raised in the Comptroller and Auditor General's report.

Deputy Cormac Devlin: Could the relevant authority, maybe the Irish Prison Service, revert to me with the method by which the prisoner welfare accounts are distributed. I understand there was a reference to the governor. The witnesses might revert to us on that, the sums of money involved and the number of complaints received. I will examine again the information on prison committees. I am aware that 2014 was the starting year but I am looking for the number of complaints received in 2019. That would be appreciated. I thank the witnesses.

Ms Caron McCaffrey: Is the Deputy asking for information on hardship payments to prisoners?

Deputy Cormac Devlin: Hardship payments, yes.

Ms Caron McCaffrey: It is all managed through the prisoner account management system

so it is all done electronically. There are full records. I can absolutely give the Deputy the information.

Deputy Cormac Devlin: I thank Ms McCaffrey.

Vice Chairman: Is it agreed that we write to the Minister for Justice? Agreed. The clerk has picked up on the specific points.

I acknowledge the work that has been done, particularly during the Covid pandemic. There was a good relationship between prisoners and prison staff on this, which certainly helped in establishing a model in relation to how to contain the virus.

I thank the witnesses for joining us and for the information provided for today's meeting. I also 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 required and carry out any agreed actions arising from the meeting? Agreed. Is it agreed that we note and publish the opening statements and briefing material provided for today's meeting? Agreed.

The witnesses withdrew.

The committee adjourned at 1.32 p.m. until 4.30 p.m. on Wednesday, 16 December 2020.