

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Dé Máirt, 9 Feabhra 2021

Tuesday, 9 February 2021

The Committee met at 1 p.m.

MEMBERS PRESENT:

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

DEPUTY BRIAN STANLEY IN THE CHAIR.

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

National Paediatric Hospital Development Board: 2019 Financial Statement

Mr. David Gunning (*Chief Officer, National Paediatric Hospital Development Board*) called and examined.

Chairman: I welcome everybody to this online meeting. Due to the current situation regarding Covid-19, only the clerk, support staff and I are in the committee room. Members of the committee are attending remotely from within the precincts of Leinster House. This is due to the constitutional requirement that members must be physically present within the confines of the place in which Parliament has chosen to sit, namely, Leinster House or the Convention Centre Dublin, in order to participate in public meetings. I will not permit a member to participate if he or she is not adhering to this constitutional requirement. The Comptroller and Auditor General, Mr. Seamus McCarthy, is a permanent witness to the committee and he is also attending remotely.

Today, we are engaging with officials from the National Paediatric Hospital Development Board to discuss its 2019 financial statement. To assist us we are joined remotely by the following officials from the National Paediatric Hospital Development Board: Mr. David Gunning, chief officer; Mr. Phelim Devine, project director; Mr. Jim Farragher, finance manager; Dr. Emma Curtis, medical director; and from the Department of Health by Mr. Greg Dempsey, deputy secretary general. I welcome you all to the meeting.

When we begin to engage, I ask members and witnesses to mute their computers when not contributing so we do not pick up any background noise or feedback. I also ask that contributors use the button to raise their hand when they wish to contribute and that they remove their masks when speaking to ensure they can be heard properly. As usual, I remind all those in attendance to ensure their mobile telephones are on silent mode or switched off. When they finish speaking they should take down their hand signal.

I also wish to explain some limitations to parliamentary privilege and the practice of the Houses as regards references witnesses may make to other persons in their evidence. The evidence of witnesses physically present or who give evidence from within the parliamentary precincts is protected by absolute privilege, pursuant to both the Constitution and statute. However, a number of today's witnesses are giving their evidence remotely, from a place outside of the parliamentary precincts, and as such may not benefit from the same level of immunity from legal proceedings as a witness physically present does. Such witnesses have already been advised that they may think it appropriate to take legal advice on this matter.

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

Members are reminded of the provisions of Standing Order 218, that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of

the Government or the merits of the objectives of such policies. Members 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.

To assist our broadcasting and debates services, I ask members, where possible, to direct their questions to a specific witness. If a witness has not been referred to, I ask the witness to state his or her name before responding.

Before I ask for the witnesses' opening statements, I must make members aware that on Friday I received correspondence from the interim Secretary General of the Department of Health, Mr. Robert Watt, concerning the difficulty in discussing cost and timelines for completion of the hospital until the board and the Department finalise an analysis of these matters, which is currently ongoing. I responded that the matters raised by the interim Secretary General could be addressed as part of today's opening statement. The correspondence will come before the committee on Thursday.

I invite the Comptroller and Auditor General, Mr. Seamus McCarthy, to make his opening statement.

Mr. Seamus McCarthy: The National Paediatric Hospital Development Board is a special purpose public body established in 2007. It is responsible for the planning, design, construction and fit-out of a new children's hospital located at the St. James's Hospital campus in Dublin and of two new paediatric outpatient and urgent care centres based at Tallaght and Connolly hospitals. Following completion, the hospital and the units will be operated by a separate agency, Children's Health Ireland, which was formally established on 1 January 2019.

It is noteworthy that the new outpatient and urgent care centre located at Connolly Hospital has been commissioned and became operational in mid-2019.

The National Paediatric Hospital Development Board is funded by State grants provided by the Health Service Executive. In 2019, such funding amounted to just under €200 million. The board's statement of financial position indicates that, as at the end of 2019, the cumulative value of the assets under construction was €422 million, inclusive of VAT. This was the position after transfers valued at €34.9 million and €2 million to the HSE and Children's Health Ireland, respectively. These relate to the transfer to the HSE of the newly constructed building housing the outpatient and urgent care centre, located at the HSE's Connolly Hospital, and the transfer of specialist equipment in the Connolly unit to Children's Health Ireland.

The 2019 financial statements were certified by me on 17 June 2020. The financial statements were qualified on the basis that, following the directions of the Minister for Health, the hospital development board accounts for pension liabilities only as they become payable. This does not comply with the requirements of the financial reporting standard, which requires that financial statements recognise the full costs of retirement benefit entitlements earned in the period and the accrued liability at the reporting date. Other than the pension accounting, the financial statements give a true and fair view of the board's financial position at the year end, and of the transactions during 2019.

Chairman: I thank Mr. McCarthy and now ask Mr. Gunning, on behalf of the board, for his opening statement.

Mr. David Gunning: I thank the Chair and members of the committee for their invitation

to discuss the 2019 accounts. I am joined by Mr. Phelim Devine, Mr. Jim Farragher, finance officer, and Dr. Emma Curtis, medical director, all of whom are on the National Paediatric Hospital Development Board.

The board was appointed to design, build and equip the new children's hospital on a campus shared with St. James's Hospital in Dublin 8 and the outpatient and urgent care centres at Connolly Hospital in Blanchardstown and Tallaght University Hospital. In December 2018, the Government approved an investment decision of €1.433 billion for the project. As has been stated since the outset of the project, there are a number of items not included in this investment figure as there was no price certainty for them and nor can there be for the duration of the project. These include construction inflation, statutory changes, any change in scope resulting in healthcare policy changes and the employment order. From August 2019, in accordance with the contract, the contractor has recovered the cost of national construction inflation in excess of 4%. The inflation payment to the main contractor for the period of August to December 2019 was €1.6 million including VAT, paid in July 2020.

The board's 2019 accounts were audited and approved by the Comptroller and Auditor General on 12 June 2020. The expenditure as of 31 December 2019 for that year on the design and build of the hospital was €199,622,610. This spend was against budgeted spend of approximately €262 million. This underspend in 2019 is primarily due to the fact that the main contractor did not advance the construction of the build against the planned original programme. This lack of advancement of programme is primarily due to under-resourcing of the project by the main contractor, a situation that has been in place since the beginning and which continues. By way of an example, at the end of December 2019, the year in question, the contractor had progressed 8.5% of the works by value when it should have progressed 22% of the works by value and this delay has continued to grow month on month. An analysis of the expenditure to December is set out in the table in the document provided to the committee. I do not propose to read out the numbers as I presume members have them in front of them.

Moving on to the programme timeline, the construction contracts for the project were awarded in August 2017 and the construction completion date for the new children's hospital set out under the terms of the contract was August 2022. When the construction is completed, the hospital will be handed over to Children's Health Ireland for a period of commissioning ahead of opening. When we last presented to the Committee of Public Accounts in November 2019 and to the Joint Committee on Health in 2020, we informed both that the project was behind schedule. Since then, the delay has been exacerbated as a result of the Covid-19 crisis and ongoing issues with resourcing on the site.

The outpatient and urgent care centre at Connolly Hospital Blanchardstown was completed in May 2019 and successfully handed over to and opened by Children's Health Ireland in July 2019. The 4,600 sq. m paediatric outpatient and urgent care centre at Tallaght University Hospital was contractually scheduled to be completed this month. However, the contractor has advised us that construction will not complete before September. The building will then be handed over to Children's Health Ireland in order that it can open the facility after an eight-week period of operational commissioning and equipping.

The National Paediatric Hospital Development Board tracks progress and performance on a weekly and monthly basis and continues to engage with the contractor in an attempt to make up lost time. The contractor is contractually obliged to provide the development board with a compliant programme of works which sets out its approach to delivering the new children's hospital in accordance with the contract. However, since the agreement of the programme as

part of the phase B instruction, the programme updates provided by the contractor have not been compliant with the contract. As a result, the development board is currently withholding 15% of monthly certified payments until such time as a compliant programme is submitted. This is one of the levers permitted to the board under the contract to incentivise the contractor to deliver on its contractual obligations.

While the contractor has been underperforming as regards project execution, it has been extremely assertive as regards claims, as has been indicated at previous meetings of the Joint Committee on Health and the Committee of Public Accounts. Since the commencement of this project, there has been a significant number of claims of a very substantial value. There is an agreed dispute management process in place under the contract. As matters stand, claims are active at all levels of the dispute management process, which involves the employer's representative, the project board, conciliation and adjudication. One of the cases has reached the High Court. We have also been involved in a number of adjudications. The board is defending each claim robustly in order to manage the cost of the project and defend the public purse. However, the sheer volume and nature of claims on the project is consuming a significant amount of executive and project team time and incurring significant costs.

Updates on timeline challenges and the associated impact on cost have been shared with all key stakeholders through the established reporting and governance structures, primarily the children's hospital project and programme steering group and the children's hospital project and programme board, which has members from the Department of Health, the HSE and Children's Health Ireland. In addition to the regular reporting, the development board has undertaken a detailed review of progress on the project. The objective of this report is to provide as much clarity as possible to all stakeholders on the implications of any delay, both in terms of the ultimate delivery date of the hospital and the forecasted impact on cost. The development board's analysis has been submitted to the Department of Health and we continue to work closely with our colleagues in both the Department and the National Treasury Management Agency, NTMA, as the analysis submitted is now subject to a robust, independent review and scrutiny. We look forward to returning to the committee in due course to discuss the final details of this report upon its completion.

Notwithstanding the fact that there are delays to the programme, the building is taking shape, as committee members will see from the images distributed in the briefing pack. Over 90% of all concrete has been placed and we have been advised by the contractor that the concrete frame will be complete by the end of this quarter. The stone and glazed facade to the south fingers, the south elevation and part of the east elevation is well advanced, with the first finger block at the Rialto bridge now completed. The main mechanical and electrical plant at basement level is nearing completion, with the primary distribution under construction up through the building. The fit-out of the south fingers comprising outpatients, cardiology wards, therapies, etc., is progressing well and the fit-out of the hot block, which comprises the emergency department, critical care and theatres, has already commenced.

The development board is aware of how badly needed the new children's hospital is and of the impact that further delay will have on the children and young people, their families and the staff who are waiting for it to open and indeed on the residents who live close to the site. Everyone working on the project is focused on making the new children's hospital a reality as soon as possible. I look forward to answering any questions the committee might have on the project.

Chairman: I thank Mr. Gunning. I now open the floor to Mr. Greg Dempsey from the Department for his opening statement.

Mr. Greg Dempsey: I thank the Chairman and Deputies for inviting the Department to join the National Paediatric Hospital Development Board in assisting the committee in its examination of the 2019 annual financial statements. My name is Greg Dempsey. I am the deputy secretary responsible for the governance and performance division in the Department of Health. This includes the newly created strategic capital investment directorate, which has responsibility for major capital investments, including the new children's hospital.

The national paediatric hospital project is the most significant capital investment project ever undertaken in Ireland's healthcare system. The development of the new children's hospital is a Government priority project and will bring together the services currently provided at three children's hospitals into a modern, custom-designed, world-class, digital hospital to deliver the best care and treatment for Ireland's sickest children. As well as playing a central role in the provision of excellent paediatric healthcare services, it will be the primary centre for paediatric education, training and research in Ireland. The project comprises the new children's hospital at St. James's Hospital as well as outpatient and urgent care centres located at Connolly Hospital Blanchardstown, and Tallaght University Hospital. The construction project forms one of three inter-related elements of the new children's hospital programme for the delivery of a new paediatric model of care in Ireland, the others being the ICT infrastructure and the operational integration of the three existing children's hospitals. The National Paediatric Hospital Development Board, or the development board, is established under a 2007 ministerial order and has statutory responsibility for planning, designing, building and equipping the new children's hospital and the two satellite centres.

Under that same order, the development board is charged with keeping all proper and usual accounts and all special accounts as the Minister may from time to time require and, additionally, to submit an annual financial statement to the Comptroller and Auditor General for an audit report to be carried out in accordance with the Comptroller and Auditor General (Amendment) Act 1993. The board's annual financial statements for 2019 were submitted to the Department on 11 August 2020, following the completion of the Comptroller and Auditor General's audit. They were then laid before the Houses of the Oireachtas on 13 August, pursuant to section 11 of the 1993 Act.

The board receives its capital funding for the project from the HSE as the sanctioning body for the new children's hospital programme. As set out in the 2019 financial statements, costs of €199.6 million were incurred by the board in 2019. I am satisfied by the Comptroller and Auditor General's note as to the completeness and accuracy of the accounts and by my Department's internal review of same.

I will take this opportunity to thank the board for the work it has conducted since it was last before this committee with the Department, including the completion of the additional governance systems and increased resourcing and expertise recommended by the 2019 PricewaterhouseCoopers, PwC, report. This puts the board in a strong position to deliver the project to completion.

I will also take this opportunity to acknowledge and thank the outgoing chair of the board, Mr. Fred Barry, for the work he has done in the past few years leading the board and this project. I must not forget the sterling work of the other members of the board. For the Department of Health, finding a replacement for Mr. Barry is an immediate priority and officials have already initiated the process to seek to appoint a new chair through the Public Appointments Service. This may take time but it is considered important that we cast the net wide to find the right candidate for this challenging role. In the meantime, and to ensure continuity and leadership, the

Minister is likely to seek an interim chair for the board.

I note the significant progress that has made to date on the St. James's Hospital campus despite the challenges that Covid-19 has imposed on us all. The board advises that it has already submitted a progress update to the committee illustrating the activity to date and it is welcome to us all that the distinctive design of the building is now beginning to take shape.

I am aware from the invitation to today's meeting that, in addition to the task of examining the 2019 annual financial statements, committee members have expressed an interest in the timeline and projected costs for the completion of the hospital. The Department acknowledges the responsibilities and duties of the committee and the interest of members in such matters.

A thorough analysis of the project was sought by the Minister in the summer of 2020 and the Department and other stakeholders have been working closely with the development board in the intervening period. The development board and the Department are nearing finalisation of this long and detailed analysis, which includes a determination of potential updates to the timeline and costs of the project. A submission was recently received by the Department and is now subject to review by departmental officials, together with a robust and thorough independent analysis and scrutiny. This is an important quality assurance step to be able to provide assurance as to the validity of the modelling used by the development board to the Government and other stakeholders, including this committee. This detailed analysis is nearing finalisation. Following its completion and submission to the Minister for Health, who commissioned it, an update on the position will be provided to the relevant stakeholders.

It is anticipated to have a final determination before the end of February or in early March. The Department and the development board would be pleased to return to appear before this committee early next month to address the areas of interest to it and will be in a much better informed position at that stage to do so.

Chairman: I thank Mr. Dempsey. The first committee member to contribute today will be Deputy Munster, who has 15 minutes. I will give her a reminder after 12 minutes. She might unmute her microphone. We will give her a moment but if she is not available, we will have to move on. The Deputy seems to be having technical issues.

Deputy Imelda Munster: I am sorry. I have it now.

Chairman: The Deputy is in. I was about to move on to the next Deputy.

Deputy Imelda Munster: I will ask my first questions of Mr. Gunning. In his opening statement he said that the paediatric outpatient and urgent care facility in Tallaght was originally due to be completed this month. In November, he told the Joint Committee on Health that it was running seven months behind schedule. He said here that it would not be completed before September 2021. Is September 2021 the definitive completion date or could it take longer than that?

Mr. David Gunning: I thank Deputy Munster. We have a high degree of confidence in the September 2021 date. We are in good shape on September.

Deputy Imelda Munster: Can Mr. Gunning be fairly definitive about that?

Mr. David Gunning: The contractor is advising us that we are in good shape on that. We see good progress and that is the position.

Deputy Imelda Munster: At the same meeting of the health committee in November, Mr. Gunning said his working assumption and guidance to Children's Health Ireland was that he was continuing to work towards the contract timelines until such time as there was a change in programme. At the time one of the members described that as delusional. Is he still working under the assumption that the construction will be completed in August 2022?

Mr. David Gunning: I will give a little background. I will use a particular point which is the time that the site closed due to Covid in March of last year. The accumulated delay at that time was five months. In other words, the contractor at that stage was five months behind the committed programme timeline. As of today, the contractor is guiding us that they are ten months behind the committed programme timeline. That is the position in terms of the timeline. As Mr. Dempsey has pointed out, we have gone through a lot of detailed analysis of the programme. We have a recent submission from the contractor in relation to their assessment of the programme from now until the end. That is currently under review. All of these are set out in the analysis that has been submitted to the Department. So, I would expect out of this there will be a reset of the timelines, but I cannot particularly say until there are further discussions with the Department on that.

Deputy Imelda Munster: If we are 10 months behind from August 2022, we would be looking at June 2023 and then I understand there is a service activation period.

Mr. David Gunning: Let me just also add on-----

Deputy Imelda Munster: It is my understanding that there is a service activation period, which takes about nine months. Is it right that it would take nine months on top of that?

Mr. David Gunning: I will make just one point. August 2022 was the original contractual date. Because of the Government-mandated close-down due to Covid of seven weeks, that contractual period gets extended by approximately 8 weeks. So, the contractual date now is October 2022, just as a particular data point.

Deputy Imelda Munster: We know that. Is Mr. Gunning still realistically sticking to that date of October 2022?

Mr. David Gunning: No, that is the contractual date. As I have mentioned, the contractor is in ten months' delay. Our analysis looks at this in a lot of detail. We will be in a position to share quite a bit more detail on this and give the committee the benefit of our analysis once we have completed this work with the Department which is-----

Deputy Imelda Munster: Was that work, which the National Paediatric Hospital Development Board is carrying out with the Department, the same report Mr. Gunning was talking about to the health committee last November?

Mr. David Gunning: Yes, I indicated to the Oireachtas Joint Committee on Health that we would be submitting a report around the January timeframe, which we have-----

Deputy Imelda Munster: That is what I was going to say. Mr. Gunning did give a commitment. So four months on, the board is no further and Mr. Gunning still cannot give a commitment for the completion date. In respect of the service activation period, am I right in saying that would last about nine months so one adds those nine months on again?

Mr. David Gunning: Correct.

Deputy Imelda Munster: Are we talking realistically about the national children's hospital not being open until 2024 at the earliest given that we are now in February 2021?

Mr. David Gunning: Certainly when one adds up all those delays, that is the obvious conclusion. However, I would say that we are analysing the detail of the programme and will come out with something more definitive than I can say to the Deputy today. I am not in a position to give a definitive answer to the Deputy's question today but-----

Deputy Imelda Munster: Realistically, given the delays outlined by Mr. Gunning, the setbacks and the fact that the service activation period is nine months, we could be talking about having to wait until at least 2024 before we get our national children's hospital.

Mr. David Gunning: We will be in a position to give the Deputy a more definitive answer than I can give today in the not too distant future.

Deputy Imelda Munster: I have a few questions about the cost. It was originally budgeted as costing €650 million. It was only when the price shot up to in excess of €1.7 billion that the Committee of Public Accounts took note of the matter. The latest estimates I see reported are in excess of €2 billion. The PwC review recommended that comprehensive plans should be developed to mitigate the residue risks identified. Did the board do that?

Mr. David Gunning: The board acted on all of the recommendations within the PwC report.

Deputy Imelda Munster: So it did.

Mr. David Gunning: Yes. Each one of those-----

Deputy Imelda Munster: Does Mr. Gunning accept that there was clearly a failure given the ongoing spiralling costs? We will get to those in a moment.

Mr. David Gunning: We are analysing the costs-----

Deputy Imelda Munster: As they are spiralling.

Mr. David Gunning: We have looked at all of the residual risks mentioned by the Deputy. The PwC report sets out very clearly the risk of schedule adherence, which is delay. That is very real to us.

Deputy Imelda Munster: But the costs are still spiralling.

Mr. David Gunning: There is no doubt that delay will give rise to cost. We have contractor claims that are giving rise to-----

Deputy Imelda Munster: I want to ask about those claims. Can Mr. Gunning clarify that the 600 claims and the costings of €200 million are up-to-date figures?

Mr. David Gunning: They were the figures I shared at the November meeting of the Oireachtas Joint Committee on Health.

Deputy Imelda Munster: Can Mr. Gunning give me an update because at that time, he said "as of now" so I am wondering whether they are the up-to-date figures or whether he can furnish us with the up-to-date figures?

Mr. David Gunning: I can. I am sorry if we are talking over each other. I am about to give

the numbers. There are more than 700 claims and the amount associated with those is in excess of €300 million.

Deputy Imelda Munster: My goodness, that is really shocking.

Mr. David Gunning: If I get back to the-----

Deputy Imelda Munster: It is in excess of €300 million for claims.

Mr. David Gunning: If I get back to the cost issues, to be very clear-----

Deputy Imelda Munster: Now that we are up on €300 million, how many of those claims have been made by the contractor and have been won by the board? Does Mr. Gunning have a breakdown of those? How many were made by the contractor? What were the values in total-ity?

Mr. David Gunning: A dispute process is laid out in the contract and there are at least four steps in that dispute process. Many of these claims are at various stages of the process. I will ask my colleague, Mr. Devine, who works on this area closely, to answer that question for the Deputy.

Mr. Phelim Devine: As Mr. Gunning outlined, there have been more than 700 claims made by the contractor to date, of which 466 have been determined through the contract. Of those 466, the net position is that they have been determined for minus €1.4 million. A number of savings have also been determined to offset any increases.

In terms of the overall position, some provisional sums have been agreed through the contract process and they amount to plus €1.9 million. The overall position, as of today, that has flowed through the contracts is an increase in the construction guaranteed maximum price, GMP, of €0.5 million, which represents 0.1% of the overall contract sum.

Mr. Gunning also mentioned conciliations or dispute management. An unprecedented number of those claims have been disputed by the contractor at conciliation, amounting to 70%. That is a thorough process and is in the early stages of flowing those through to a conclusion.

Deputy Imelda Munster: Given that the number of claims has jumped from 600 to 700 since November and the costs from €200 million to €300 million in three and a half months, the witnesses cannot give any assurances to the committee that the cost will not increase beyond the figures reported today.

Mr. David Gunning: The focus of the development board on these claims has been to put in place a strong and robust defence of every claim. That is our approach.

Returning to the Deputy's question on cost, delay causes cost and the exceptional cost of defending these contractor claims, in terms of legal and specialist advisers, will also contribute to the increase in costs.

Deputy Imelda Munster: There were 600 cases at a cost of €200 million and now we have an additional 100 cases at an additional cost of €100 million. Can Mr. Gunning explain that?

Mr. David Gunning: It is about the distribution of the claims. We have a large number of claims that are relatively small money. What can change things is if one or two claims are for a number of millions. Within the population-----

Deputy Imelda Munster: It is 100 additional claims costing €100 million.

Mr. David Gunning: I am commenting on the nature of claims. There are claims for €10,000 and claims for tens of millions of euro. What happens-----

Deputy Imelda Munster: What sort of claims would they be?

Mr. David Gunning: There are claims for different types of delay on the projects. That would be the generic term. They can be-----

Deputy Imelda Munster: Will Mr. Gunning give us an example? It is very difficult doing this virtually. Will Mr. Gunning give an example of one of the larger of the 100 claims that have amounted to an additional €100 million?

Mr. David Gunning: We have about six claims of the order of €40 million or thereabouts each. I will ask Mr. Devine, who works closely on the details of this on a daily basis, to pick out one of those and describe it.

Deputy Imelda Munster: Just one example, Chair.

Chairman: Will Mr. Devine come in briefly? The Deputy has less than half a minute left.

Mr. Phelim Devine: One of the claims relates to the delivery of the design information for the facade. The facade is an element that is the contractor's responsibility and the contractor claims that information was issued late by the development board or design team. We disagree with that. That has been determined by the employer's representative at nil cost and nil time but they have disputed that at conciliation. That alone is worth €45 million and it all has to do with the cost of the delay.

Chairman: The time is up.

Deputy Imelda Munster: How many minutes did the Chair say I have left?

Chairman: I will let the Deputy back in again at the end. Hopefully, we will have time.

Deputy Imelda Munster: Sorry, I did not hear the Chair say when I had three minutes left.

Chairman: There was a problem with the IT.

Deputy Imelda Munster: Could I just say-----

Chairman: Very briefly.

Deputy Imelda Munster: Here we are and there is still no definitive timeframe for completion or no idea whatsoever of total costs. All we know is there continue to be further delays, further claims, possibly more High Court cases and spiralling costs. It is fair to say, given what I have heard thus far, that the National Paediatric Hospital Development Board has made a complete hames of it. The management of the project has been an absolute shambles.

Chairman: I thank the Deputy.

Deputy Imelda Munster: People would be justified in thinking the new children's hospital, as feared, will be the most expensive children's hospital in the world because the witnesses have done absolutely nothing today to allay those fears.

Chairman: I call Deputy MacSharry who has ten minutes and I will give him a reminder after seven minutes.

Deputy Marc MacSharry: I thank the Chairman for the opportunity to ask a few questions. I will focus on Mr. Gunning and he can defer to others as required. The finish date, by my calculation, is May 2024 from what he has outlined, which will be news to a lot of people but that is how he outlined it. He also said earlier, in his presentation, that in terms of the execution of the value of the bill there has been 8.5% done as opposed to the 22% that was expected. He also used the phrase “rising month on month”. Does this mean the level of delay and the lack of targets being met are widening each month?

Mr. David Gunning: I thank the Deputy. We will produce something more definitive on the schedule. That is the key point.

Deputy Marc MacSharry: No, that is not the question I asked.

Mr. David Gunning: That was the first part of the question the Deputy asked about May 2024.

Deputy Marc MacSharry: That was a statement.

Mr. David Gunning: I am responding to that bit.

Deputy Marc MacSharry: No, Mr. Gunning does not need to respond to that. I was just adding up what he already told us.

Mr. David Gunning: I apologise.

Chairman: One speaker at a time.

Deputy Marc MacSharry: It is very difficult in a virtual setting, and we both probably sound really bad speaking over each other. The question I am asking is whether the delay is getting worse month by month because Mr. Gunning indicated this in his opening statement.

Mr. David Gunning: It is fair to say that has been the situation up until relatively recently.

Deputy Marc MacSharry: In his opening statement, Mr. Gunning said it is rising month on month. He did not say this was up to recently. What are we losing per month? Are we losing a month per month or a day per month? Will he put some flesh on these bones for us?

Mr. David Gunning: Let me put it in terms of a cash flow summary. By the end of November 2020, we should have spent almost €600 million on this project. We actually spent €338 million. The delta that was unspent was €258 million. That delta has been increasing. When I say that of late things have improved in the resourcing of the site by the contractor, the numbers on-site have been increasing but they are still not at the level the contractor had set out in the contractor’s own resource programme and resource plan for the project. I do not think it is possible for me to say that it is a week a month because it has varied. At present, it is improving somewhat. At the moment the contractor has had more than 1,000 people on-site, which is the highest level of resources it has had on the site since the project began. That is encouraging, but it will not be enough to recover the delay that has accumulated to date.

Deputy Marc MacSharry: I am clear on that. Pending a more detailed report that Mr. Gunning hopes to be in a position to give us, using the benchmarks he set it will be May 2024

or later when the project is completed. I want to park that for a second.

Deputy Munster asked a question and I would like it to be answered in the way I think she asked it. Of the 700 claims or 466 second claims, rather than the net gain or loss to the project I want to know how many of the 466 claims did the State win and how many did it lose?

Mr. David Gunning: With the permission of Deputy MacSharry I will ask Mr. Devine to deal with that question.

Mr. Phelim Devine: I do not have information on the exact number of cases that we won and lost. I can only tell him that of the 466 claims that have been determined through the contract the net position-----

Deputy Marc MacSharry: We know that. I received those figures. I do not want to cut Mr. Devine off, but I have very limited time.

Mr. Phelim Devine: Okay. I do not have information on the exact number of cases that we won and lost. All I know is that the conclusion is that the figure was less than the claim amount. We made more savings than there have been additions to the project in terms of the claims process to date.

Deputy Marc MacSharry: There are 700 claims at a cost of €300 million at the moment. Are the 466 cases included in the figure of 700?

Mr. Phelim Devine: Yes.

Deputy Marc MacSharry: Okay. In terms of the dispute resolution, what have been the legal costs expended on the 466 cases that have been concluded?

Mr. David Gunning: I will deal with that. As an entity, the legal fees in 2018 were €120,000, in 2019 they were €691,000 and in 2020 they were €466,000. The last figure does not include the costs that we incurred for our High Court case, for a particular reason.

I wish to put down a marker. As we look forward and these claims and the various dispute mechanisms come into play, there will be a significant increase in what I would call our claims defence expenditure. In the face of a €300 million challenge by the contractor, we will spend a considerable amount of money on legal fees and specialist advisers to defend those claims. That is in the plan we have submitted to the Minister.

Deputy Marc MacSharry: This is the detailed plan that I am aware was given to the Minister in recent months. That is not in the public domain, is that correct?

Mr. David Gunning: Absolutely not. The Deputy will be aware that the conciliation process, for example, is a confidential process. The sharing of that information from a commercial sensitivity point of view is not permitted under the contract. We can share the aggregate type information that we are sharing with the committee today.

Deputy Marc MacSharry: What is the estimated cost of legal fees per annum?

Mr. David Gunning: Again, that will be part of our proposal and is set out in the report. It is still to be debated with those in the Department and their advisers. That will form part of the overall figure quite soon. When we were asked for this information previously, we put a price on the implementation of the PwC report, which involved my appointment and a bunch

of other changes that happened. We put a total cost of about €27 million on the PwC report implementations. Included in that was approximately €18 million or €19 million for legal and claims defences for the period from the end of 2019 to mid-2022 when the project was due to be completed. That is a benchmark. If we roll that forward over a longer period to take account of the delays in the project, it helps inform us what we think the costs will be.

Deputy Marc MacSharry: It is €10 million per year.

Mr. David Gunning: We get claims and we have no other option but to defend these claims. We may successfully defend them. However, if the contractor decided not to pursue the claims in the same way it is pursuing them, we would not be incurring the legal fees and costs of claims defence. Currently, these are essential and necessary costs that we incur.

Deputy Marc MacSharry: I have a final question for Mr. Gunning but the Comptroller and Auditor General may have a word on it too. Before phase B, as it was known, proceeded - I certainly would have had an issue with going with the existing contractor at the time without having a second tender process - I put on the record of the committee that the contractor in question was in litigation on nine other projects with the State. I know if I were building a house and the developer sued me, one could chalk it down that the developer would not be building my next house.

This is an important point. Why would we go with somebody who has form and is suing us left, right and centre as it is? It is said the definition of true insanity is to do the same thing again and again and expect a different outcome. Is it Irish law, European law or both that forces us to engage somebody with whom we had a bad experience in the past? Was it just our own stupidity?

Mr. David Gunning: This is where I get to say that I joined the entity in September 2019 and that was before my time. I know from my own analysis and research that what was done was in compliance with public procurement requirements and law. That is the position.

Deputy Marc MacSharry: The point is whether we must amend it.

Mr. David Gunning: It is European legislation and that is a matter for legislators. We are here to implement the law that is currently in place. I am afraid I cannot answer more than that.

Deputy Neasa Hourigan: National governments have a role to play in procurement and tendering and it is not all handed down from the EU.

I have two areas I want to cover so I hope it is okay that I will be going at breakneck speed. I will first touch on transfer of building and equipment costs as they relate to Connolly Hospital. In particular, what is the length and cost of the lease agreement between the HSE and Children's Health Ireland for the outpatient and urgent care centre at Connolly Hospital? Will Children's Health Ireland ever own that building or is it envisaged it will always be leased from the HSE?

Mr. David Gunning: I am out of my depth here. These are matters between the HSE and Children's Health Ireland that I have no knowledge of. I have no information on those questions. I do not know if Mr. Dempsey has any knowledge of it.

Mr. Greg Dempsey: Unfortunately, I am not aware of it either. We can chase that up with the HSE and see if we can get a response to the committee.

Deputy Neasa Hourigan: Okay. I have something more specific for the board of the Na-

tional Paediatric Hospital Development Board. It still relates to Connolly Hospital but is more concerned with the contract. There was a notice of dissatisfaction issued by the board on the back of the conciliator's recommendations relating to the main contractor's claims under the contract for Connolly Hospital. What was the outcome of that?

Mr. David Gunning: The notice of dissatisfaction is the outcome of a particular conciliation. That was issued and it is fair to-----

Deputy Neasa Hourigan: Was there a response?

Mr. David Gunning: That is the response and there is no further step. The effect of the notice of dissatisfaction is to effectively vacate the recommendation of the conciliator. Then we go on to the next step. The next step is the final account, which still remains-----

Deputy Neasa Hourigan: Can the board provide the committee with an update on the final costs of the outpatient and urgent care centre in Connolly Hospital?

Mr. David Gunning: That final account has not yet been done but I can ask Mr. Devine to give the committee a quick update on where things actually stand and how we expect them to close out.

Mr. Phelim Devine: The budget, including VAT, for the Connolly Hospital project is €29.4 million. As Mr. Gunning said, we are waiting for the final account. One or two snags remain to be closed up by BAM and we will get to these at final accounts stage. It is probably trending at approximately €29.6 million, slightly over the budget. That is what we believe it might be, pending, as Mr. Gunning says, the final account and if the contractor seeks to claim or put in a last claim on that final account.

Deputy Neasa Hourigan: I have another set of questions. I also sit on the Joint Committee on Health. I realise what Mr. Gunning is trying to say and that a report is coming. However, I find the lack of numbers really frustrating to deal with as well as the lack of surety on this project and the related projects. It is incredibly frustrating when it comes to giving any meaningful oversight.

I want to return to something that was mentioned in the opening statements, which is the resignation of the chair of the board. I want to understand a little about the process to appoint a new chair of the board. What is the timeframe for that? What is the timeframe for the interim chair?

Mr. Gunning touched on a related issue in that he joined in 2019. I am aware that in the process of large projects and contract implementation institutional knowledge of what has happened and what has been said in rooms is really important. I would like to understand this in terms of the board. We lost a specialist in procurement in October 2019. We lost an academic who was an expert in corporate governance in December 2019 and we have now lost the chair of the board. How many on the board now were in place when the board was put together? How many of those had some involvement in the project or some knowledge of the project, for example, in July 2016 when it began on-site?

Chairman: Mr. Gunning, please keep your answer concise and direct.

Mr. David Gunning: I would have to go back and research who was there at the time. I was not there at the time. I cannot answer that straight up. The process for the appointment is

a matter for the Department or the Minister. I do not really have any say in terms of the board members.

Deputy Neasa Hourigan: There is no timeframe for the replacement of the board. Is that correct?

Mr. David Gunning: It is not within my responsibilities. It is the Minister's responsibility.

Mr. Greg Dempsey: The Department will run the process to offer the new chair to the Minister. We will do that with the Public Appointments Service, PAS. We have already engaged with that body to let those responsible know that we will be seeking to appoint a new chair and what the skill sets and competencies we require. The PAS is engaging with us in terms of a process to ensure we cast the net as wide as possible and attract a wide range of applicants. Then, there will be a process that will culminate in a recommendation or a number of recommendations to the Minister. That can take six to eight weeks, but we have started that process. In the meantime, as I said in my opening remarks, it is possible that we will appoint an interim chairperson from the current board, but we will have to talk to the individuals.

Deputy Colm Burke: My thanks to the witnesses for their presentations today. I wish to go back on the €300 million in claims because I want clarification on this. My understanding is that 466 claims have been dealt with and this leaves 235. What is the value of the 466 that a decision has been made on?

Mr. David Gunning: It is important to understand that there is a process here. The first step in the process is that the claim goes to the employer's representative, which the Deputy is familiar with. The employer's representative makes a decision, which either party can accept or reject. If that is referred to the next stage and not accepted, it goes to the project board. After that, it goes to conciliation and if it is not accepted in conciliation, it may be rejected or it may end up in the High Court. The process involves that set of stages so until they come through, I would not definitively say the 466 are now done. They are not. There has been an employer's representative determination but some of them continue to the next phase and several hundred of them have been referred to conciliation. Only a small number have gone through the conciliation process.

Deputy Colm Burke: The question I am asking is about the value of that 466 out of the €300 million. I accept it is not fully signed off on or finalised and there are other processes, but what is the value of the 466 cases?

Mr. David Gunning: I refer the Deputy to my colleague, who will answer that question.

Mr. Phelim Devine: The sum is €230 million for the 466 claims.

Deputy Colm Burke: Out of that €230 million in claims, the development board has come out on the plus side rather than the negative side. Is that correct?

Mr. Phelim Devine: That is correct. There have been savings determined by the employer's representative which are in excess of those awarded to the contractor.

Deputy Colm Burke: I move on to the work done to date. Will Mr. Gunning give us a guideline as to what percentage of the work from the overall contract is completed? Figures have been given, but can he give us a percentage? Is it 10%, 15% or 20%?

Mr. David Gunning: There is a month's lag in the programme we have so I will give the

Deputy figures from the end of 2020. The progress to date on the site in terms of value - that is, what we have paid for - is just under 20%

Deputy Colm Burke: So we have only around 20% of the project in real terms completed?

Mr. David Gunning: That is correct.

Deputy Colm Burke: I go on to Mr. Dempsey. He mentioned in his report a “detailed analysis”. What will be the outcome of that? What detailed analysis will be in this report? I am confused as to what the Department is doing on this.

Mr. Greg Dempsey: The two main outcomes we want are an update on the likely cost of the project and an update on the likely timelines. They are two headline figures but, beneath that, we want an analysis of what is driving changes to costs and timelines.

Deputy Colm Burke: I presume a detailed bill of quantities was presented when the contracts were started. It is only as the work goes on that one discovers whether or not it was detailed enough. Therefore, is an analysis at this stage just trying to pick figures out of the air? We are talking about €300 millions in claims and we are only at 20% of the project.

Mr. Greg Dempsey: One of the reasons the process has taken the length of time it has taken is that we were keen to work with the development board to do a deep analysis of where we are and the likely impact on that in the future. The ultimate report probably will not have that level of detail but the numbers and conclusions of the report will be based on a fairly detailed analysis.

Deputy Colm Burke: Does Mr. Dempsey accept that with 20% of the project complete and €300 million in additional claims, multiplied by five it means there could be €1.5 billion in additional claims and that, therefore, any detailed analysis carried out by the Department will not be of assistance in real terms?

Mr. Greg Dempsey: My colleagues from the development board might be able to comment more, but I am not sure it necessarily follows that €300 million of claims will result in €300 million in additional expenditure on the project. I do not believe that relationship exists.

Deputy Colm Burke: I am talking about €300 million in claims with only 20% of the project having been completed.

Mr. Greg Dempsey: I might look to my colleagues in the development board as to whether, at different phases of the project and different parts of the construction project, there will be a different level of claims.

Mr. David Gunning: Realistically, we anticipate and expect that the level of claims will continue, although maybe not at the same level. It puts more and more emphasis on the need for us to robustly defend each of these claims. We will have to continue to do that.

Deputy Matt Carthy: To recap, a project is in place that was originally estimated to cost €650 million. In December 2018, the Government approved an investment decision of €1.433 billion. Those costs appear to have spiralled to the extent that it has been suggested that expenditure may reach anything up to €2 billion. I accept that the board is certain that a report will be furnished next month but we are quite a bit into the lifetime of this contract. Can the witnesses give a sense, say, to the nearest hundred thousand euro, of what the overall cost of this project will be?

Mr. David Gunning: We will have to wait for the report to come out. I am not at liberty to share that information. As a bit of background, if I could-----

Deputy Matt Carthy: On the basis that the report has not come out, can Mr. Gunning give an estimate to the nearest €1 million, if he cannot to the nearest €100,000, or even to the nearest €100 million? Let us be as broad as that. Can we at this stage of the project be given even that information?

Mr. David Gunning: Given the commercial sensitivity, the other issues we are managing and the relationship with the contractor, I cannot possibly share that information.

Deputy Matt Carthy: The Dáil's Committee of Public Accounts cannot even get a figure, to the nearest €100 million, for how much this children's hospital will cost. We learned today that the board has a complex contract in place with a contractor, to facilitate different levels of dispute resolution and conciliation and all that comes with that, yet we heard there have been 700 conciliation claims by the contractor, with a potential outlay of €300 million. We learned that, leaving aside High Court actions, we spent €691,000 and €466,000 on legal costs in 2019 and 2020, respectively. We are learning - the witnesses might tell me if I am wrong - that the number of conciliation claims on behalf of the contractor will only increase. Despite all that, we still cannot get a specific timeframe for when the hospital will be complete.

Mr. Gunning stated on a number of occasions that he came on board in 2019. Who is responsible for this absolutely scandalous debacle, whereby we have a contract built on quicksand, based on what I can see and what the committee has heard today?

Mr. David Gunning: The Deputy has asked a very tough question. We as the development board are responsible for the delivery of this hospital, including design, build, equipping, commission and handover and that is absolutely what we intend to do. We have four main work streams, as I mentioned. The design element is practically complete and we now need to ensure the design is delivered. We are engaged on that. The build element is contracted out to the main contractor. On the equipping element, we have already equipped the centre at Connolly Hospital Blanchardstown and we are in the process of equipping the centre at Tallaght Hospital. We are well advanced in the equipping of the national children's hospital, NCH, at St. James's Hospital. The commissioning work, which is a complex piece of work, is the commissioning of a highly complex digital hospital. The planning for that is well advanced. We are well advanced and we just need to get the project progressing. I mentioned that the last of the concrete will be poured in the not-too-distant future. If one drives past the hospital, one will see the progress that is being made. We are making progress although the Deputy is absolutely right; we are not where we need to be.

Deputy Matt Carthy: Another member gave the analogy of building a house. If Mr. Gunning had contracted a person to oversee the design, building, equipping and all the other planning issues pertaining to building the house and, when 20% of the works had been done, that agent was not in a position to tell him when the job would be completed or what the final cost would be, would he consider that perhaps he had signed a bad contract and that that is where the fundamental problem lies in terms of the delivery of this project?

Chairman: The Deputy's time is up. Does Mr. Gunning wish to come in very briefly?

Mr. David Gunning: I see Mr. Dempsey has his hand up. I do not know whether he was planning to answer that question.

Mr. Greg Dempsey: It is probably worth recognising that, since the 2019 PwC report, strong additional measures have put in place by the development board in order to strengthen oversight of the contractor and its process in terms of claims management. Although there were issues in the past, it is fair for Mr. Gunning and his team to state that they have strengthened their oversight and control mechanisms. There is much uncertainty by the very nature of the cost. We are working through an updated timeline and cost but, in fairness, we should wait until we actually have assessed it and can discuss it confidently. That is why we are proposing to come back before the committee to do that work.

Chairman: I call Deputy Devlin, who has five minutes.

Deputy Matt Carthy: Just before I go, the written statement-----

Chairman: I cannot let the Deputy in because-----

Deputy Matt Carthy: -----the committee received today states that in terms of the approved investment decision of €1.433 billion, the situation as of today is that several items are not included in that investment figure as there was no price certainty for them.

Chairman: I thank the Deputy. He has gone over time.

Deputy Matt Carthy: Therein lies the problem we are now facing.

Chairman: I must bring in the next speaker. I call Deputy Devlin.

Deputy Matt Carthy: Somebody has to be held accountable for it.

Deputy Cormac Devlin: I thank the Chairman. I thank the witnesses for their time and for answering the questions they can answer. I understand that the report to which they have referred is due at the end of the month. It is a pity that it is not available to the committee today because it would help to inform members on many of the questions we have. Notwithstanding that, I understand the report will provide more information on the 700-odd claims that have been asked about already.

On the issue of outpatients and the urgent care centres at Tallaght and Connolly hospitals, Mr. Gunning stated that they are being fitted out. I understand that the centre at Connolly Hospital opened in July 2019. Are there any outstanding claims relating to those centres that are being developed or kitted out or have been opened? Is it the same contractor?

On the issue of the HSE grant, how much is the HSE grant to date? I am not sure whether that is a question for Mr. Dempsey. One of the other witnesses may have that information. I note that the grant had been increasing year on year since the start of the project. I ask the witnesses to inform the committee in that regard.

On the PwC report from April 2019, I note that there are several recommendations in the report. I understand members of the board appeared before this committee previously, although not Mr. Gunning. As I understand it, he started in his role in September 2019. The cost of that PwC report and the recommendations contained in it are of interest to me with respect to the impact they had on the project. I have heard today that, unfortunately, costs may still be increasing every month as well as the timeline for the delivery of this much-needed hospital. Mr. Gunning might respond to those points. I advise the Chair I might come in again in the short period I have remaining.

Mr. David Gunning: I will answer the Deputy's questions in reverse order and then ask my colleague to deal with the details in terms of the centres. Certainly, the required reading when I came on board was the PwC report. It very clearly states the GMP does not provide for an enhanced position in respect of price certainty; it does not present a fixed price. It goes on to state that a number of risk areas remain that have the potential to place further cost pressure on the budget. It goes on to identify each and every one of those and sets out a proposed mitigation for each one of those costs. I reassure the committee that we have implemented each one of those mitigation steps to dimension the scale of challenge each one of those particular risks presents to the overall budget. Those particular numbers are a key part of the submission we made to the Department, which will be shared with the committee in the not too distant future.

In terms of the PwC report, eight particular recommendations applied to the development board and a number applied to the HSE and the Department of Health. For the eight recommendations, there were in the order of 45 specific action items. The development board formed a board subcommittee to supervise the implementation of those actions. Again, I can confirm to the committee everyone of those actions were discharged and the remediation plans were put in place. I will hand over to Mr. Devine who can deal with the Deputy's specific questions on Tallaght and Connolly hospitals.

Mr. Phelim Devine: We have covered the situation in Connolly Hospital. We are nearly at final accounts stage so I will not dwell on it. However, in terms of Tallaght hospital, which is an ongoing project and is due to be completed in September this year, there have been 215 claims in respect of sections 1 and 3. Decant and crèche administration facilities were built for Tallaght University Hospital, which was the first phase, followed by an outpatient and urgent care centre, which is the third phase of that procurement. Of those, they have all been determined through the contract apart from six. We are trending slightly above the budget because there have been a number of unforeseen campus infrastructure issues with which we have had to deal, which we have done, and we have improved the infrastructure for the benefit of Tallaght University Hospital and the outpatient and urgent care centre.

Deputy Cormac Devlin: I thank Mr. Devine for that response. Was the unit in Connolly Hospital delivered on budget and on time, or what was the scale with the delivery of that unit?

Mr. Phelim Devine: That is trending about €200,000 over budget. The figure I had previously was €29.6 million versus €29.4 million, which was the figure, including VAT, in terms of its-----

Deputy Cormac Devlin: Was it the same contractor?

Mr. Phelim Devine: It was the same contractor. It was BAM, which was the main contractor.

Chairman: The Deputy's time is up. I call Deputy Carroll MacNeill.

Deputy Jennifer Carroll MacNeill: I thank everybody for coming along. I want to return to the issue of the claims. The number of them appears to be extremely high. Can Mr. Gunning, in his professional experience, advise if 716 claims over that period is standard? Is it high or low and, if so, to what degree?

Mr. David Gunning: In the experience of our team, this is an inordinately high number of claims.

Deputy Jennifer Carroll MacNeill: That was my interpretation of it too.

Mr. David Gunning: I can say that without any hesitation whatsoever.

Deputy Jennifer Carroll MacNeill: Can Mr. Gunning put a bit more colour on the range of the nature of those claims? He said they vary considerably in terms of monetary value but what about the source of them?

Mr. David Gunning: I will ask my project director colleague, Mr. Devine, to cover that, as he deals with that on a daily basis. I will hand over to him.

Mr. Phelim Devine: They vary but if I was to categorise them, there are claims for little things that change. In terms of the design that has been issued for the project, the contractor is responsible for a lot of the design. Bringing the contractor's design and the employer's design together might move something in the building. A rainwater pipe might move and it requires a different box set so there would be a claim for that, and it is a minor claim.

The bigger category of claims is to do with delay. Mr. Gunning has set out that the project is currently in delay by ten months so the contractor will seek to try to recover the cost of that delay. That is where the big money comes in. Some of these claims - the €300 million - overlap so they are all time claims. If one added the aggregated time together, the claim is less than €300 million. If they claim for four or five different things and a time delay, if they seek to win one, which they have not to date, the other ones might fall away. Does that help the Deputy?

Deputy Jennifer Carroll MacNeill: Yes, it does. Mr. Devine said earlier that while there were €300 million worth of claims, he contested that that would be the outlay involved. Does he want to speak a bit more about that?

Mr. Phelim Devine: All we can say to date is that of all those that have been termed contrary to the contract, the guaranteed maximum price, GMP, that was agreed for the construction contract for the children's hospital has risen by €500,000, which is one tenth of 1% of the contract price. That has been the outcome to date of our robustly defending each one of these claims, as Mr. Gunning has set out.

Deputy Jennifer Carroll MacNeill: Mr. Gunning set out the recommendations that have been implemented post the 2019 report. He said that strong additional measures had been put in, and I assume that is what he is referring to. What about the volume of claims since the implementation of that? I am not taking April 2019 as the date of implementation. Surely it takes a period of time to implement that. Can Mr. Gunning provide more information on that?

Mr. David Gunning: I think we need to decouple the issues. The number of claims the contractor submits is not a condition of our control environment or the way this project is run by the development board. That is a decision by the contractor to put in these particular claims and our responsibility is to robustly defend them. There is no correlation or causation between these particular issues.

Deputy Jennifer Carroll MacNeill: Can I ask as well-----

Mr. David Gunning: I am sorry. I cannot hear the Deputy.

Chairman: The Deputy has just over one minute remaining.

Deputy Jennifer Carroll MacNeill: I will conclude in that case. I thank the witnesses.

Deputy Verona Murphy: I welcome everybody and thank them for the presentation so far. I have some questions that follow on from what my colleagues have already asked. I find it incredible that the witnesses would say they are between two to four weeks from presenting a report to the Government on this issue. All that can be left to do is to type it up, yet they cannot give us a figure and are saying it would be commercially sensitive. That makes no sense to me. Two weeks out from submitting the report, if the witnesses are asked for an estimated figure, to within €100 million, for the final cost or at least some part of the final cost, it should be delivered today. They could have saved themselves another trip to appear before this committee.

The dogs on the street were aware that this project would not come in at the projected cost. The original projections were somewhere between €650 million and €800 million. Who projected that figure? Where did it come from and who was responsible for delivering it? I ask the witnesses to respond as quickly as possible as I have a very short time.

Mr. David Gunning: Again, that was before my time. I will ask Phelim Devine to respond to that particular question.

Deputy Verona Murphy: Just the name, please.

Mr. Phelim Devine: The original €650 million and €800 million figures were for the construction cost-----

Deputy Verona Murphy: From whom?

Mr. Phelim Devine: -----while the €1,433 million is the project cost.

Deputy Verona Murphy: No. The question I am asking is who-----

Mr. Phelim Devine: I am getting to that. Those figures were put together with the assistance of our project quantity surveyor or QS.

Deputy Verona Murphy: Is that person now involved in the report the witnesses are going to deliver to the Government? Is that person still involved? Is that system-----

Mr. Phelim Devine: That project QS is still involved. It is important to understand that the-----

Deputy Verona Murphy: No. What is important is what I have to say and the question I want answered.

Mr. Phelim Devine: Yes, but I suppose-----

Deputy Verona Murphy: What I am saying is that if somebody got it that wrong, how can we trust that the figures for the public coffers that are going to be delivered in two to four weeks' time, in respect of which I would imagine that all that is left to do is type the report, are in any way accurate?

Mr. Phelim Devine: When the estimates were done for the construction costs of the children's hospital in 2013 and again in 2014, there was a very significant factor called construction inflation – inflation of build costs in this country-----

Deputy Verona Murphy: At 4%.

Mr. Phelim Devine: No. The inflation costs between 2014 and 2018, when the GMP was

agreed, were reaching an increase more in the order of 40% or 50%.

Deputy Verona Murphy: And we did not have anybody with actuarial experience to come in on that.

I will move on because I need quick answers. In the board's statement, it was said recovery in respect of inflation exceeding 4% is allowable on a contract. Why was it exceeded?

Mr. David Gunning: The contract allows the contractor to recover inflation if the annual inflation exceeds 4%. In 2019, it did exceed 4% to the amount of approximately-----

Deputy Verona Murphy: I thank Mr. Gunning. We are still accounting for the problems that we incurred in 2014. Every way we have to wait to see what construction inflation is so the 4% is possibly only the bare minimum.

Mr. David Gunning: The contract is very clear. Above 4%, the amount is recovered by the contractor. If it is less than 4%, it is at no cost to the State.

Deputy Verona Murphy: That is great. I thank Mr. Gunning.

The other question I have goes back to the claims. We have had 466 claims dealt with so we have just over one-third of claims left. Mr. Gunning is telling us it cost €230 million to deal with two-thirds of the claims. If the expected reserved estimate is €300 million, it means there is €70 million left to deal with one-third of the claims.

Mr. David Gunning: That is not correct.

Deputy Verona Murphy: Could Mr. Gunning explain it to me?

Mr. David Gunning: The €230 million is what the contractor is seeking for those 460 claims. What is there-----

Deputy Verona Murphy: Regarding the question that was asked by Deputy Colm Burke, the cost of the 466 claims was stated to be €230 million.

Mr. David Gunning: Correct. That is what the contractor is claiming but what the contractor has succeeded in getting through the employers' representative is 0.1% of the claimed amount.

Deputy Verona Murphy: It is 0.1% of the claimed amount. What have we left of the €300 million that is estimated regarding the cost of the claims?

Mr. David Gunning: The claims have jumped one fence of the process but generally they go on to another stage so we never say goodbye to them. They just move on to the next stage of the process.

Deputy Verona Murphy: That is not the question I asked.

Mr. David Gunning: Even though the claims have been dealt with, they continue on.

Deputy Verona Murphy: We still have an estimate of €300 million, with one-third of the claims left to settle. Is that correct?

Mr. David Gunning: That is correct.

Deputy Verona Murphy: I have one more question. I know the Chair will come back to me.

Chairman: I will try to allow the Deputy back in at the end because-----

Deputy Verona Murphy: Is the dispute mechanism we are employing causing further delay on top of delay or does work just continue while the dispute mechanism is in place?

Chairman: Could I have an answer of “Yes” or “No” to that because we have gone over time.

Mr. David Gunning: The work continues while the dispute mechanism is in place.

Chairman: I call Deputy Dillon.

Deputy Verona Murphy: Is the dispute mechanism causing a delay?

Chairman: I call Deputy Dillon

Mr. David Gunning: Not a delay in the project, no.

Deputy Verona Murphy: I thank Mr. Gunning. I have another question for extra time.

Chairman: I call Deputy Dillon.

Deputy Alan Dillon: I welcome our witnesses. Could they update the committee on the status of the High Court proceedings against the main contractor on phase B instructions?

Mr. David Gunning: I thank Deputy Dillon. The discovery phase of those proceedings is currently being discussed between the lawyers for both parties. Assuming there is some agreement, we will be back in front of a judge to have that agreement sanctioned or approved, possibly in the month of February. That is where things are.

Deputy Alan Dillon: Mr. Gunning mentioned previously that the legal fees in 2018 were €128,000, in 2019 they were €691,000 and to date for 2020 they are €423,000. With regard to the High Court legal fees, Mr. Gunning previously stated at the Oireachtas Joint Committee on Health that there would be an additional €15 million to pay on legal costs, specialists, programme and quantum. Since the number of claims by the contractor has also jumped from 600 to 700, can Mr. Gunning provide an update to this committee on what he expects costs to total by the end of this project?

Mr. David Gunning: I made a short comment earlier that the €15 million was for legal costs to cover the period from the end of 2019 to what we assumed then was the completion period, which was August 2022. We therefore expect there to be a greater increase in those legal costs as the project delays further and the substantial completion date is pushed out. We will announce the date when we are comfortable with that. Therefore, the legal estimates are all part of, shall we say, our adding up what we anticipate the total cost will be. We will have and will make that information available following our engagement with the Department, which is currently ongoing.

Deputy Alan Dillon: Is that €15 million the actual cost to date with 20% of the project completed?

Mr. David Gunning: No, it is not. That was the forecast for the period from the end of

2019 to the middle of 2022.

Deputy Alan Dillon: Had Mr. Gunning factored in that he would have 700 claims to date?

Mr. David Gunning: That is certainly factored into the new forecast, which we are putting together at the moment, in terms of assessing the costs. I have given and the Deputy has refreshed the actual costs we have spent. Those costs, however, are increasing with the number of adjudications, conciliations and High Court actions that we anticipate. We will have that information for the Deputy in the relative short term.

Deputy Alan Dillon: I have another question regarding the board cutting BAM's monthly payments by 15% due to the absence of the updated work programme. I am sure, and Mr. Gunning will be well aware, that the mechanism allows this within the contract. An enormous value of money is at stake here, however. How are relationships moving forward? What efforts are being put in place to ensure BAM provides an updated programme? Has that been provided to date which incorporates both the Covid-19 delays and the rows on extra costs?

Chairman: The Deputy has one minute left.

Mr. David Gunning: We have relatively recently received a new submission from BAM regarding its programme. That is currently being reviewed. Since the very early stages of this project, we have not had a compliant programme that sets out what needs to be included for us to monitor BAM's progress or for BAM itself to monitor its progress. Therefore, we are withholding the 15%. It is the only mechanism allowed to us under the contract and hence our reasons for implementing it as the incentive for the contractor to provide us with a fully compliant programme.

Deputy Alan Dillon: Does Mr. Gunning not feel that has a direct correlation to the number of claims BAM is presenting to the board as a result?

Mr. David Gunning: We can get into game theory discussions here on responses and actions and responding actions. I try not to get into that. We have clear responsibilities under the contract. There are clear remedies, under the contract, allowed to us. We are seeking to implement it in accordance with the contract while holding the contractor responsible for all their rights and obligations under the contract. We do not have anywhere to go other than through the contract.

Deputy Paul McAuliffe: We have learned today that the new date of completion in May 2024. What we have not really nailed down is what the additional costs associated with that delay is so let me ask that question directly.

Mr. David Gunning: We are not in a position to say. We are in a process, Deputy McAuliffe, in relation to that. Even though he has said we have named the date here, I have very deliberately not said that that is the date so I think there have been certain assumptions made. I just want to say that we will provide guidance in relation to the schedule, and in relation to the budget, once the process that we are engaged in currently, which has been going on for some months, has concluded. I know that we offered via the letter last week to come back in in four weeks or the end of February-early March to set out these particular issues, Deputy, so I hope to be in a position to do that.

Deputy Paul McAuliffe: Does Mr. Gunning have parameters for us on the minimum or maximum amount that that might cost?

Mr. David Gunning: I do not because that just starts to feed into the speculation. We have had a lot of speculation around this project right from the start. I will say, if I can be very brief, there will be costs associated with the delay because of the delayed time. There will be costs associated with dealing with and defending the claims. There will be costs that have been identified in the PwC report as residual risks and we have put numbers on each of those, including the bigger issue of inflation and some other matters, including provisional sums. We will be including all of those particular cost categories. We have gone through everything. It has been an extremely thorough analysis. We think we will arrive at a particular point that we can have confidence in.

Deputy Paul McAuliffe: I appreciate the process that the board is in at the moment. It is well known that construction companies often tender for a job and make their money on their claims so I appreciate the robust response that the board is taking to claims. It does have an impact on the legal costs of that process too. Mr. Gunning has just discussed the following issue. Can he outline what measures have been taken to ensure that legal costs are kept to a minimum and, equally, the professional fees that we have seen increase from €130,000 in 2019 to €700,000 in 2018 and up to 2019? Perhaps he can give us a flavour of how he tried to ensure that the necessary work of robustly defending claims has been managed and, equally, how legal costs have been kept to a minimum.

Mr. David Gunning: I can assure the Deputy and members of the committee that we are acutely aware of the value of these public moneys. I guess we need to look at it as follows. With this level of claims we need an appropriate response and the return on the investment has got to be significant, we have got to get value from the investments that we make here. We are subject, obviously, to all the normal procurement rules. So all the moneys that we spend have got to be tendered publicly and, therefore, we get the benefit of the value that comes through that. We are also managing the procurement process very, very closely in terms of case management, in terms of the decision-making that happens on each one of these cases. So there is a full and complete process. There are individuals teams allocated to each particular challenge, each particular claim and we are working these like a military operation from start to finish.

Deputy Paul McAuliffe: Of those claims, 466 have been dealt with and 234 remain. Does Mr. Gunning believe that the contractors are operating in good faith? In terms of the claims that are being put forward, can he talk to us about those that are reasonable that have been dealt with so far? There is the possibility that almost in a process of attrition there is an attempt to wear down resistance to claims. Can he talk about his assessment of the claims that have been dealt with so far?

Mr. David Gunning: The process has been robust to date. We are dealing with each one of these claims. Each one is almost like a mini trial. There is also a lot of contact between ourselves and the contractor and we are seeking that the smaller value claims might be handled in a more expedited-type fashion, rather than going through the arduous process-----

Chairman: The time is up.

Mr. David Gunning: -----and incurring legal costs. We have exchanged some proposals, shall we say, with the contractor on how these might be more expeditiously dealt with. That would be good for us from a value for money perspective, in that we would not incur a lot of the costs while at the same time would not be acceding to, shall we say, claims that do not have merit. It is as such a balance and we have that balance right. However, the big money is in a small number of large claims that are very significant. That is where we have to put our big

guns.

Chairman: Deputy Sherlock has five minutes.

Deputy Sean Sherlock: I have a question for Mr. Gunning. He mentioned the issue of compliance by the contractor with the programme. Presumably this is a programme of work, an agreed workflow chart, to use vernacular, non-technical language. Where stands the work programme at present? I ask Mr. Gunning to please answer in layman's terms, not in technical speak. What is the work programme's status?

Mr. David Gunning: The status is that I cannot comment on the most recent submission because it is still live and being reviewed by our experts. If I could just briefly summarise that, of the submissions we have had, they tend to be incomplete. They do not necessarily have all the activities mapped out sufficiently that will take the project to completion.

Deputy Sean Sherlock: That is okay. I thank Mr. Gunning.

Mr. David Gunning: That is one issue.

Deputy Sean Sherlock: I thank Mr. Gunning.

Mr. David Gunning: There are the other things about logic and all that-----

Deputy Sean Sherlock: I thank Mr. Gunning. Turning to Mr. Dempsey, the next question is for the Department of Health. Is there a representative of the Department on the board? That is the first simple question.

Mr. Greg Dempsey: Not on the development board.

Deputy Sean Sherlock: There is not. However, presumably the Department of Health, *ergo* the Minister, *ergo* the taxpayer, has some mechanism by which it can express an opinion on the level of claims. I refer both to the cost of those claims and the number of those claims. In other words, has there ever been an expression of worry by anybody in the Department of Health, at a sufficiently high level - right up to the Minister - in respect of the level of claims?

Mr. Greg Dempsey: An expression of worry to-----

Deputy Sean Sherlock: An expression of worry or-----

Mr. Greg Dempsey: To whom?

Deputy Sean Sherlock: -----or fear as to the cost of claims and the escalating cost of claims. I am trying to understand why we are at the position we are at now.

Mr. Greg Dempsey: I may not be understanding the question properly but there is a governance structure around the process, where the Department, the HSE and the CHI are represented to get updates on the project, the build, the ICT and the integration projects. Thus we do get an update there in terms of the level of claims. Obviously we would, at stages, question whether - a little bit like what a Deputy asked earlier on - this level of claims is usual and what is being done about it. We are seeking an update, which will include a projection or a judgment on the actual expenditure that might have to be incurred against those claims. That is part of it.

Deputy Sean Sherlock: Without putting words in the witness's mouth, it is reasonable for me to assume from his response that there would have been an expression of worry for the

process around claims.

This leads me on to the next question. In his opening statement, Mr. Dempsey stated “The development board and the Department are nearing finalisation of this long and detailed analysis, which includes a determination of potential updates to the timeline and costs of the project.” To what extent is the claims process mapped onto that “long and detailed analysis”? If I understand the previous witnesses correctly, it seems to me that if one was trying to map who is winning the battle of the claims war, the board is about a nose ahead at present but in the long-term analysis, it could be that the contractor might come out on top from a financial point of view. In other words, is there a deeper analysis of this taking place around the claims process?

Mr. David Gunning: I will respond to that for Deputy Sherlock. The answer is “Yes”, there is a detailed analysis happening on the claims. We cannot ignore the impact of Covid in this regard on the whole project, on contractors, on sub-contractors and on others. That is another issue that will have to be understood and experienced.

Deputy Catherine Murphy: I want to address some issues in the board’s minutes. On 12 August, the board discussed the current design format of the project and its compatibility with future hospital designs to manage future pandemic-type viruses. The board discussed potential design modifications to take place post completion and noted that industry guidance would have to come in time. Have we a reason to be concerned about design? Is the hostile claims culture of the developer an impediment to doing things in real time as opposed to retrofitting afterwards?

Did we have to change any of the specifications, for example with insulation, as a consequence of the Grenfell Tower fire or other UK examples? If so, was there a cost implication?

On the time overrun, is there a potential for a counterclaim for non-adherence to the contract obligation in respect of the delivery time? Has this been considered or is it something that the board will consider?

Mr. David Gunning: I will answer that part first and I will then ask Dr. Emma Curtis to answer Deputy Murphy’s question on pandemic issues.

On the counterclaim, there is a mechanism in the contract for penalties to be paid, which is called liquidated damages or liquidated and ascertained damages. Those penalties apply after a certain time has elapsed from the contractual completion date. We will seek to apply those through the contract. That is one aspect. Counterclaims also arise on other matters and the development board has issued a number of counterclaims to the contractor to recover costs on some other activities of the contractor. Those activities are clear and the contract is clear on them.

Deputy Catherine Murphy: Do we know the monetary value of those counterclaims?

Mr. David Gunning: If the Deputy does not mind I do not want to cover that at the moment, but I will be able to set that out at another time. I would like to introduce Dr. Emma Curtis to talk about the Deputy’s question on the changes, and Mr. Phelim Devine will cover the issues that arose due to Grenfell Tower.

Dr. Emma Curtis: I thank Deputy Catherine Murphy for the question. Interestingly, at the time we were designing the children’s hospital, it coincided with the Ebola outbreak and the significant concerns that Ebola might be imported into the country. It is a highly infectious

disease. We were aware that we had to factor in something like Ebola. Obviously, we did not know about Covid-19 then. We had to design with the potential and possibility of that kind of infection in mind. We needed to future-proof the building. The infection prevention control measures taken in the design of the building were extremely comprehensive. To reflect what is in it, there is 100% single rooms in the general wards, the emergency department and the intensive care unit. For example, at that time there was a request that there might be open provision in some of the intensive care units for various logistical reasons but we-----

Chairman: I remind the witness that there is only one minute remaining in regard to this section.

Dr. Emma Curtis: -----decided we would not do that. We have fully single rooms in all aspects of the hospital. There is excellent provision of sophisticated isolation rooms and double entry streams into the emergency department. This would be the ideal hospital in which to be providing care in the current Covid pandemic.

Deputy Catherine Murphy: There is an outstanding reply.

Mr. Phelim Devine: The construction of the children's hospital was fully compliant with all the building regulations. The fire certificates and all of the health technical memoranda, HTMs, in respect of the fire compliance of the building were granted.

Deputy Catherine Murphy: Was there a specification change?

Mr. Phelim Devine: In 2017, post the Grenfell accident, we upgraded six of the hospital building facades. This was wrapped up as part of the Government decision around guaranteed maximum price.

Chairman: Deputy Murphy's time has expired but I will allow a brief question.

Deputy Catherine Murphy: Is there a working assumption in regard to the final cost of the hospital? On the previous occasion the witnesses were before this committee, following some effort, we got a one-page breakdown of costs, including a final cost figure of €1.7 billion as of 2018. I appreciate there are other issues that will need to be factored in, but what is the working assumption today in respect of the cost of the hospital?

Chairman: I will allow a brief response.

Mr. David Gunning: I respectfully suggest that we share that information with Deputy Murphy in a number of weeks when the process is completed with the Department.

Chairman: I have a number of questions for Mr. Gunning. On the cost, there seems to an assumption of a final cost of approximately €2 billion. There are 700 claims, of which 466 have been processed. Mr. Gunning mentioned earlier that we are only 20% into the construction process in terms of the value. As such, we have 80% of the way to go. At this point, is he confident that the final cost will not exceed €2 billion?

Mr. David Gunning: As the Chairman will be aware, we are working on that with the Department. I do not think I can comment or give guidance like that. It would be against the advice to do that.

Chairman: I will rephrase the question.

Mr. David Gunning: We will have that information for the committee in a matter of weeks.

Chairman: Will Mr. Gunning confirm that he and the board are confident that the cost will not exceed €2 billion?

Mr. David Gunning: I am confident that we will have an answer to that question for the committee in the very near future.

Chairman: The overall price is extraordinary in comparison with the cost for much larger hospitals built in the past five or ten years. For example, in Chicago a 664-bed hospital was built for €541 million and in Atlanta a 402-bed hospital was built for €499 million. The cost here appears to be extraordinary, and rising on the basis of what we are hearing today in regard to the 700 extra claims from the contractor. As I said, we are only 20% of the way into it.

I will move on to legal costs. There are obviously ongoing legal issues between BAM and the board regarding these 700 claims. Mr. Gunning has outlined some of the legal costs involved. On the situation relating to the first lockdown, the contractor could have been back on-site in mid-May but did not come back until mid-July. There is potentially a big claim and there is a dispute between the contractor and the board. How much is that estimated to come to, and is that added onto the 700 claims already mentioned at a cost of over €300 million? In other words and to put it very simply, is it €300 million plus whatever it takes to cover the compensation for phase 1 of the lockdown?

Mr. David Gunning: I will try to answer that. The contract is relatively clear on this particular issue. In the event that there is a Government-mandated closedown, our view, or the view in the contract, is that for every day of that closedown, the contractor can get an extension of time. It was seven weeks for the Government-mandated shutdown, and that seven weeks can be extended onto the contract completion date to give a new contract completion date which does not attract penalties or anything like that for the contractor. For the time that the contractor remained closed, in our view, there certainly can be no compensation or no reward for the contractor's behaviour at that particular time. There was no reason the contractor should not have been back on-site and working at that particular time. There are a number of Covid claims within the claims we have talked about and they will be dealt with in the course of the process that is set out in the contract for dealing with these claims.

Chairman: Will Mr. Gunning clarify whether the contractor has made a claim or indicated that it is making a claim for that period?

Mr. David Gunning: The answer is that there has been a claim and we are dealing with it.

Chairman: Will Mr. Gunning clarify the following with a "Yes" or "No" answer? If there is a claim and if there is a hit in terms of compensation for that, will that be in addition to the 700 claims we have already discussed?

Mr. David Gunning: The claim is one of the 700 or so claims that I mentioned.

Chairman: It is within that figure of an estimated €300 million. Is that correct?

Mr. David Gunning: That is it, yes.

Chairman: On the PricewaterhouseCoopers report, there were a number of recommendations in it that caught my eye. Mr. Gunning said today that they have all been implemented in full. One of them was around the commercial capability and capacity of the board and the ex-

ective. The report recommended that it should be strengthened to be more self-sufficient and less reliant on external advisors. I must bear in mind that we have only a short time remaining and I do not want to be abrupt with Mr. Gunning. However, I am tied to Covid guidelines and as we have the Department of Health in the room, we have to abide by them. In this regard, is Mr. Gunning confident that the board has been sufficiently strengthened and is less reliant now on external advisers than it was a year or two years ago?

Mr. David Gunning: I would say that the answer to both of those questions is “Yes”.

Chairman: Mr. Gunning is confident the board has achieved that.

Mr. David Gunning: I think we have a very strong team in place.

Chairman: On the completion timeline, my calculation is that the board is looking at spring 2024. Does Mr. Gunning agree with that? He said the contractors are now ten months behind and there is also a nine-month phase to crank up operations and test operations. Is that correct, when we add that 19 months to the revised time of August 2022?

Mr. David Gunning: I cannot fault the Chairman’s mathematics. However, let me say that we will be coming out with something more substantive following this deliberative process that is under way. It is not going to be that far away. I do not want to confirm or set out anything that may not be the way things end up when we finish our process with the Department. That is what we have been saying, and I respond to the question respectfully in that fashion.

Chairman: As soon as the findings of that report are available, I ask that they be forwarded to the secretariat of the committee. I thank Mr. Gunning. We are out of time unfortunately. I thank our witnesses for joining us and for the information with which they have provided us. I also thank the Comptroller and Auditor General, Mr. Seamus McCarthy, for attending and assisting the committee.

We are working in difficult circumstances in respect of the timeline and working remotely. The technology and the whole situation can be challenging, but we are doing our best. Is it agreed to request that the clerk to the committee will seek any follow-up information to carry out any agreed actions arising from today’s meeting? Agreed. Is it also agreed that we will note and publish the open statements and briefings provided for today’s meeting? Agreed.

The witnesses withdrew.

Sitting suspended at 3.06 p.m. and resumed in private session at 3.20 p.m.

The committee adjourned at 4.40 p.m. until 11.30 a.m. on Thursday, 11 February 2021.