DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 3 Iúil 2025

Thursday, 3 July 2025

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Catherine Ardagh,	Deputy James Geoghegan,
Deputy Grace Boland,	Deputy Eoghan Kenny,
Deputy Joanna Byrne,	Deputy Paul McAuliffe,
Deputy Catherine Connolly,	Deputy Séamus McGrath,
Deputy Albert Dolan,	Deputy Joe Neville.
Deputy Aidan Farrelly,	

DEPUTY JOHN BRADY IN THE CHAIR.

The committee met in private session until 9.56 a.m.

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

Business of Committee

An Cathaoirleach: Before we proceed with the rest of the meeting, members are reminded of the long-standing practice and ruling of the Cathaoirleach to the effect that they should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable. Members are also reminded of the provisions within Standing Order 226 that the committee shall refrain from enquiring into the merits of a policy or policies of the Government or a Minister of the Government, or the merits of the objectives of such policies.

We will now examine accounts and statements, correspondence and some information as regards the work programme. We will then suspend for five minutes and resume with engagement with Children's Health Ireland and the National Treatment Purchase Fund. The committee has agreed its work programme until the summer recess. The committee is scheduled to return on 18 September. The first item is correspondence and accounts and statements. Thirteen sets of accounts and financial statements, which were laid between 23 June and 27 June 2025, are due to be considered today. I will ask the Comptroller and Auditor General, Mr. Seamus McCarthy, to introduce these before opening the floor to members.

Mr. Seamus McCarthy: First, we have the accounts of the Market Cap Fund. This is a new fund, which was established on 17 November 2023. The accounting period covers from the date of establishment to 30 September 2024. That received a clear audit opinion.

No. 2 is the financial statements of InterTradeIreland, which is one of the North-South bodies. These are the financial statements for 2023. It received a clear audit opinion. However, I will just draw the committee's attention to the fact that the accounts were certified on 10 December 2024, but they were only presented on 24 June, so they were late. The committee's policy is to follow up with the Department concerned with regard to the late laying.

No. 3 is University College Cork for the period of account 2022-23. These received a clear audit opinion. However, I drew attention to a number of matters. First, I drew attention to €2.1 million of professional fees expenditure that was written off after the dental hospital and school construction project did not proceed to development. Second, I drew attention to weaknesses in financial oversight, which resulted in a deficit of €8.6 million for the year end September 2023 not being identified until December 2023. That points to a weakness in its financial oversight systems. I also drew attention to a material level of procurement non-compliance. Finally, I drew attention to the resolution of a long-standing pension liability dispute between the university and the HEA where UCC received €3.225 million in December 2023, pursuant to a settlement agreement.

No. 4 is the University of Limerick's financial statements for 2022-23. It received a clear audit opinion. However, I drew attention to an impairment of €8.269 million on properties acquired by the university in 2019 and 2023. I reported in a special report on that matter, but the financial statements took longer than expected to complete. No. 5 is the University of Limerick's financial statements for 2023-24. It received a clear audit opinion.

No. 6 is the financial statements of An Foras Teanga, or the language body. This is one of the North-South bodies. These are the financial statements for the period of account 2022. It took a long time to get that set of financial statements produced. I signed the audit certificate on 24 September and I gave it a clear audit opinion. They are only being presented now, however, so it may be of interest to the committee to follow up to get an explanation for the further delay in presenting the financial statements.

No. 7 is Údarás na Gaeltachta. These are the financial statements for 2023. It received a clear audit opinion. Again, there is a similar delay from certification in December to presentation more than six months later. An explanation might be sought.

The remaining accounts and statements are all National Asset Management Agency subsidiaries. I can run through the names of them but they are all of the same nature. They all received a clear audit opinion. The groups' financial statements for the agency have already been presented and noted by the committee.

An Cathaoirleach: I thank Mr. McCarthy. Do members have any comments to make?

Deputy Eoghan Kenny: In relation to University College Cork, the Comptroller and Auditor General has said that there was expenditure of €2.1 million in relation to the dental hospital and that, basically, there is an €8.6 million deficit as well for the year end September 2023, which had not been identified until December 2023. The lack of financial oversight is quite worrying for University College Cork. I will open up to other members on what their belief is in terms of writing to University College Cork for a complete explanation.

An Cathaoirleach: Do any other members wish to comment on that?

Mr. Seamus McCarthy: There is further information in the financial statements in the statement on internal control, which may be helpful to the committee. After examining that, if the committee was minded to seek further information, it could write to it.

An Cathaoirleach: We will examine that first. Maybe at next week's meeting we will return to it to decide on a course of action. Do any other members wish to speak on any of the other financial statements?

Deputy Catherine Connolly: With regard to the University of Limerick and the impairment of more than €8 million, I see there is a note there. I have not got a chance to look at it.

Mr. Seamus McCarthy: Last summer, I produced a special report regarding those impairments. They relate to the Dunnes Stores site and the houses at Rhebogue. There is substantial detail in the report. It was examined by the previous committee in September 2024.

An Cathaoirleach: Do any other members wish to speak? No. The Comptroller and Auditor General identified a number of areas where reports were furnished late. In the first instance, I propose that we write to those bodies whose statements the Comptroller and Auditor General identified to seek an explanation for their delay in publishing. Is that agreed? Agreed. Are members happy to move on? Okay.

We will now discuss correspondence received from the Departments and bodies under the committee's remit. First is No. R0167, correspondence from the National Gallery of Ireland. We discussed this in our private session. I propose we note and publish that. Is that agreed? Agreed.

Second is No. R0175, correspondence from the Arts Council. This was discussed earlier. Is it agreed to note and publish that correspondence? Agreed.

No. R0153 is from the Department of Education and Youth. This was discussed earlier. Is it agreed that we note and publish that correspondence? Agreed.

No. R0155 is from the City of Dublin ETB, which was again discussed earlier. Is it agreed to note and publish the correspondence? Agreed.

No. R0159 is from the OPW. It was discussed earlier. Is it agreed to note and publish the correspondence? Agreed.

No. R0162 is from the Department of Transport. Is it agreed to note and publish that correspondence? Agreed.

Are there any other actions relating to the correspondence that members wish to propose? No.

We will move on to our work programme. The following meetings were agreed. Next week, 10 July, we will have the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation with representatives from the National Shared Services Office. On 17 July, we will have the Health Information Quality Authority. The committee will return after the summer recess on 18 September, when it will consider the accounts and statements laid over the summer and the correspondence received by the committee during the recess. For next week's meeting, I propose we bring forward a proposed schedule for the remainder of the year. We can discuss and agree our work programme at that stage. Is that agreed? Agreed.

Are there any other items the committee wishes to discuss? No.

I wish to flag an item we discussed in private session regarding the Garda Commissioner's appearance at this committee last week. We discussed this earlier in private session with specific reference to a line of questioning from Deputy Bennett to the Garda Commissioner. She asked the Commissioner whether An Garda Síochána has any concerns that arms are being routinely smuggled through sovereign Irish airspace. The Commissioner said he was not aware of any reports made that An Garda Síochána could investigate. Deputy Bennett further asked An Garda Síochána whether it had checked any of these airlines, to which the Garda Commissioner stated that he had no information that would lead it to undertake such checks. It has been brought to my attention over the course of the week that *The Ditch* has run a piece on its publication which seems to dispute some of the comments made by the Garda Commissioner. It is only fair and appropriate that we write to the Garda Commissioner to ask him to clarify some of the comments he made because the information *The Ditch* has alleged certainly seems to dispute some of the remarks made by the Commissioner. I propose we write to the Commissioner to give him an opportunity to clarify the remarks he made. Is that agreed? Agreed.

I thank members. We will now suspend until we resume in public session at 10.30 a.m.

The committee suspended at 10.10 a.m. and resumed at 10.28 a.m.

Financial Statements 2023 - Children's Health Ireland

Financial Statements - National Treatment Purchase Fund

Ms Lucy Nugent *(Chief Executive Officer, Children's Health Ireland)* called and examined.

Mr. Don Gallagher *(Chairman, National Treatment Purchase Fund)* called and examined.

An Cathaoirleach: Today we will engage with Children's Health Ireland, CHI, and the National Treatment Purchase Fund, NTPF, to discuss CHI's financial statements for 2023 and the financial statements of the NTPF. I welcome Ms Lucy Nugent, chief executive officer; Mr. John Fitzpatrick, interim chief financial officer; Ms Eilish Hardiman, strategic programme director; Ms Julia Lewis, transformation director; and Ms Paula Kelly, clinical director, CHI. I welcome Ms Fiona Brady, chief executive officer; Mr. Don Gallagher, chair; Mr. Seán Flood, director of finance; and Ms Bernadette Weir, director of commissioning, NTPF board. We are joined by officials from the Office of the Comptroller and Auditor General, including the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness to the committee, and Ms Paula O'Connor, deputy director of audit.

I will explain some limitations to parliamentary privilege and the practice of the Houses as regards reference they make to other persons in their evidence. The evidence of witnesses physically present or who give evidence from within the parliamentary precincts is protected pursuant to the Constitution and statute by absolute privilege. This means they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege and it is my duty as Cathaoirleach that this privilege is not abused. 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 such direction.

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

I ask Mr. Seamus McCarthy, the Comptroller and Auditor General, to now make his opening remarks.

Mr. Seamus McCarthy: The National Treatment Purchase Fund board has responsibility for the management of a range of activities within the healthcare system. Its main activity comprises identification of and payment for treatment or assessments to assist in reducing inpatient and outpatient waiting lists in public hospitals. The board also has an important function in assessing and approving the scope and level of charges for long-term care in private nursing homes for people availing of the Health Service Executive's fair deal scheme.

The board's financial statements for 2023 record an effective break-even situation with total income and total expenditure of slightly more than €190 million. Almost all of the board's income comes from Vote 38 - health. The board's income and expenditure have both grown rapidly in recent years. To illustrate this, the board's expenditure in 2023 was almost three times the expenditure of €64.8 million incurred in 2019. The board secures treatment and assessments for waiting list patients in private hospitals and in public hospitals which offer space capacity to

provide required patient care. In 2023, payments made to private hospitals amounted to €107 million, while payments to public hospitals amounted to €72 million. This represents a reliance of 60% on private healthcare providers and 40% on public healthcare providers in 2023. Note 3(b) to the financial statements analyses the payments by medical specialty, indicating the range of areas in which care is purchased. Payments to individual hospitals are not shown in the financial statements. The board's payroll costs and other administrative expenditure amounted to €11 million in 2023. Included in this are costs of slightly more than €1 million in respect of the board's price negotiation function with private nursing homes.

I issued a qualified audit opinion in respect of the agency's financial statements for 2023, but only in respect of the accounting treatment of retirement benefit liabilities for the board's staff. This is not in line with standard accounting practice, but does comply with the accounting directions of the Minister for Health, which are common to a number of health sector bodies I audit. The 2023 financial statements were certified on 30 September 2024. Members may wish to note that I certified the financial statements for 2024 last week. I understand the process for presenting those financial statements is in train with the Department.

I outlined the key financial results for the 2023 year of account when the representatives of Children's Health Ireland, CHI, were last before the committee on 22 May and I do not propose to repeat that presentation this morning. Since the meeting of 22 May, details of an internal examination undertaken by CHI in 2021-22 have come to public attention. As I have previously explained to the committee, my office was not provided with a copy of that report at the time it was finalised or when the audit of the hospital's financial statements for 2021 was being undertaken. My office has in recent weeks received a copy of the report. While the main focus of the internal report is personnel management concerns in a clinical department in part of the hospital, it also raises some concerns around a number of financial risks, including controls over claims in respect of care paid for by the National Treatment Purchase Fund. Due to the report's findings with regard to those financial risks, the hospital should have brought the report to the attention of the audit team in the course of the audit of the 2021 financial statements. The control implications of the report's findings will now be considered as part of the audit of the hospital's 2024 financial statements, which is currently ongoing.

An Cathaoirleach: We will now move to the opening statements of the other witnesses. As set out in the letter of invitation, they have five minutes to make their opening statements. I now invite Ms Nugent, chief executive, to make her opening statement on behalf of CHI.

Ms Lucy Nugent: I thank the committee for the opportunity to again address it and to give a further update on work that is happening across our children's hospitals and commissioning programme for the new children's hospital. I am the CEO of CHI and I am joined by my colleagues Mr. John Fitzpatrick, interim chief financial officer; Ms Julia Lewis, CHI's transformation director; Ms Eilish Hardiman, strategic programme director; and Ms Paula Kelly, clinical director.

I have now been five months in this job and despite the various challenges we have had - and I will speak about those later - I reiterate that I am proud to represent our almost 5,000 staff, who work diligently at the front line of paediatric healthcare provision in CHI at Temple Street, Crumlin and Tallaght, and at our urgent care centre at Connolly Hospital. Across 39 specialties, we provide exceptional care to children and young people in old buildings that are not fit for purpose. We continue to lead on paediatric research and innovation on an international stage because, as I have said many times before, our children and young people deserve the best that medicine and science can offer. When we discuss the challenges and mistakes of our organisa-

tion, let us not forget the remarkable work that our staff do to care for children, young people and families every day.

With regard to recent clinical issues raised, I again give full recognition to the families affected by the recent HIQA report, the developmental dysplasia of the hip, DDH, report and the unpublished internal report. On all these issues, on behalf of CHI, I apologise unreservedly. Children, young people and their families were failed and we need to rebuild trust in CHI.

I will speak briefly about the issue of publication of the various reports and the suggestion that CHI has been evasive in reporting or commenting on these issues. CHI is a statutory body and must respect the legal advice we receive, not to mention the moral imperative to protect the confidentiality of patients. We also have a duty to see that matters are properly investigated and that due process is carried out. This can sometimes mean that we cannot comment on matters, even if they are reported in the media or elsewhere. This does not mean that we are not mindful of the great upset that such reports cause parents and children, and the gravity of the issues. However, I assure members that this is never the intention. Our intention is always to ascertain the facts and take steps to fix the issues, while at the same time telling parents and children what we are doing.

In my first five months, I have worked with the board and my executive colleagues to enhance our governance structures and stabilise the executive management team with the hiring of a permanent director of people and culture, a deputy chief executive officer and a chief operations officer. The recruitment of a chief finance officer and a director of quality, safety and risk management has commenced. I am delighted that these high-calibre, new colleagues have chosen to join CHI.

I will update Deputies on recent reports regarding CHI and the National Treatment Purchase Fund, NTPF. There was some misunderstanding in media reports about NTPF payments to a CHI consultant. I can confirm that the clinics at the centre of the reports did not take place in the consultant's private rooms. They occurred in a public clinic in one of our hospitals on a Saturday. It was a waiting list initiative for outpatient appointments only. A longer term, sustainable solution for referral management was put in place and the roll-out of this system is ongoing. All services will be on this central referral system in the coming months.

CHI will move into the newly named national children's hospital Ireland. In May, we updated the committee on plans to undertake a programme of commissioning to see our services - finally - move into a building worthy of the children of Ireland, that is operational to international standards. For the past six years, we have been building our organisation for that moment. We are integrating our teams. We are integrating our ways of working and we are integrating and improving our culture. This is complicated and difficult, but vital.

In conclusion, CHI fully acknowledges that we have fallen short of the high standards children and families deserve. We are deeply sorry for the harm and distress caused. We want to do better and we are committed to building an organisation defined by openness, compassion and learning. As a learning organisation, we will take inspiration from leading international children's hospitals which have demonstrated that safety and trust are built on three pillars. First, under a culture of continuous learning and development, we will create an environment where every staff member feels safe and supported to speak up when things go wrong, and where we act quickly to learn and improve. We want a true partnership with children and families and will put children and families at the centre of all decisions about their care. This means working with parents as equal partners, ensuring they are informed, respected and empowered to shape

services. We want transparency and accountability. We are committed to being open about our challenges as well as our successes. We will publish regular updates on our progress in reducing waiting lists, improving outcomes, safety and strengthening our governance. We recognise that rebuilding trust will take time, but we are determined to ensure that every child who comes to CHI receives the safest, most innovative and compassionate care possible. We will get there, and CHI has the determination, skills and ability to see the new hospital project to completion and beyond.

An Cathaoirleach: I thank Ms Nugent. I now ask Mr. Don Gallagher, chairman, to make his opening statement on behalf of the National Treatment Purchase Fund.

Mr. Don Gallagher: I thank the Chair and the Committee of Public Accounts for today's invitation to discuss the role of the National Treatment Fund as part of Ireland's public health system. I was first appointed to the NTPF board in March 2021 and became chair in July of that year. I was reappointed as chair last March for a second term. I am an experienced chief executive who most recently managed the Health Insurance Authority before retiring and have served on the boards of State organisations and international insurance companies.

I am joined by the NTPF's CEO, Ms Fiona Brady, who was appointed to the role in July 2023. Ms Brady was previously CEO of Our Lady of Lourdes Hospital Drogheda and Louth County Hospital for five years and has first-hand knowledge of the workings of the acute hospital system relating to scheduled and unscheduled care.

As the committee will be aware, and as already mentioned, the NTPF has three key responsibilities: commissioning inpatient and day-case procedures, outpatient appointments, gastrointestinal scopes and diagnostics for the longest waiting public patients; collecting, collating and validating public hospital waiting lists; and negotiating the maximum price of long-term residential care under the fair deal scheme. The third is a vitally important task, in terms of nursing home residents and for national finances. The NTPF concluded 300 negotiations with individual nursing homes last year.

For the purpose of today's meeting, I will focus on the NTPF's commissioning role as part of the multiagency strategic approach to improve health outcomes for patients, explaining our approach and impact. I will also address the actions the NTPF has taken in recent weeks following allegations of misuse by public hospitals of funding provided for approved insourcing initiatives.

On the commissioning front, the NTPF ensures public patients get faster access to timely care through insourcing arrangements with public hospitals and outsourcing arrangements with private hospitals. Outsourcing arrangements involve the NTPF procuring treatments and care for public patients in private hospitals. Every year private hospitals tender to offer care across a wide range of specialties. We select the hospitals with available capacity and suitability of location, giving the NTPF options to offer treatment and care across almost all specialties, from cataracts and hip replacements to scopes and first-time consultations.

We review hospital waiting lists regularly, enabling us to identify the longest waiting patients for certain specialties. Working with the referring public hospital, we offer patients the option of treatment or care in a private hospital. The welfare of the patients is always of the utmost importance, with only patients confirmed as clinically suitable for outsourcing by their hospital offered treatment.

Patients must also agree to the treatment. If a patient declines an offer, we will call them to see if there is anything we can do that would make the treatment offer a possibility for them. The patient will always receive a full episode of care. For example, if they have a knee replacement, we will also arrange a full programme of follow-up physiotherapy and consultant reviews at the same hospital. Only when the patient is fully discharged is payment made to the private hospital. It is important to note that the NTPF pays the treating hospital, not the consultant.

Outsourcing with private hospitals accounts for approximately 70% of our commissioning work. The remaining 30% is focused on insourcing initiatives, which have been at the centre of recent media discussion. Insourcing is where the NTPF provides funding directly to public hospitals for treatment or outpatient consultations seen outside core activity, that is, additional to the activity funded by the HSE. Insourcing means we can maximise the existing resources in the public hospital system.

The process involves senior management in public hospitals applying to the NTPF to secure funding, outlining their opportunity to get long waiting patients treated faster and providing a specific treatment plan and solution. The application is reviewed by our commissioning team and then forwarded to NTPF senior management for approval.

The NTPF has strong financial oversight procedures and processes in place to administer insourcing funds. It only makes payment in respect of specific, named patients who have been on a public hospital waiting list, and then only on receipt of detailed invoices from the public hospital confirming that care is fully complete and the specific named patient has been discharged. Payments are made only to the hospital and never to any individual consultant or staff member. Internal governance on the management of the insourcing work remains with the referring public hospital, with the agreement under the NTPF's memorandum of understanding that the funding is used as specified and agreed.

On the impact on patients, the NTPF's approach to commissioning front-line care has been overwhelmingly successful in ensuring public patients get access to quicker treatment over the past number of years. Since 2019, the NTPF has arranged surgery or care for almost 1 million public patients, helping the system move closer to Sláintecare waiting times targets. Over the last two years, almost 500,000 public patients received their surgery, consultant appointment, scope or diagnostic scan faster because of the NTPF.

Last year, the NTPF exceeded its patient treatment targets set out in the 2024 waiting list action plan by over 10%. This year, it is again ahead of its set treatment and care targets for 2025. Last year, NTPF activity between commissioning and validation accounted for the removal of over 317,000 public patients from the scheduled care waiting lists.

Turning to the allegations of the misuse of funds, the NTPF and its board have been deeply concerned by recent allegations of breaches of its processes by public hospitals concerning insourcing initiatives. The NTPF first learned of the internal CHI report outlining the misuse of NTPF money in CHI through the media. We immediately placed a temporary pause on all insourcing work with CHI and initiated a review of this work. Both parties worked closely together, and on receipt of the appropriate assurances by CHI management confirming its ongoing compliance with existing NTPF procedures, we recommenced insourcing work. The engagement of the CHI senior management and CEO, Ms Lucy Nugent, greatly expedited the process, thereby minimising the impact on patients.

On learning of potential issues in regard to NTPF-funded insourcing work at Beaumont

Hospital, the NTPF immediately suspended all insourcing work and payments at Beaumont and informed the Department of Health and HSE of its concerns. The HSE's internal audit is currently carrying out a detailed review in Beaumont. We are ready and willing to recommence insourcing once we receive the necessary assurance regarding the appropriate use of NTPF funds. We are working closely with the HSE regional executive office on this matter.

The public must have full confidence and trust in the insourcing process. We are working alongside the Department of Health and HSE to increase governance and oversight across our insourcing work with public hospitals. As part of this process, the NTPF CEO has written to all hospitals which participate in insourcing initiatives funded by the NTPF to seek assurances of full compliance with our memorandum of understanding. We are now assessing the responses received and will provide a comprehensive report to the Department of Health and HSE.

Looking to the future, the board and executive of the NTPF take their responsibilities to the public taxpayer very seriously. We will take whatever actions are necessary to ensure our spend is fully protected for the benefit of public patients and taxpayers. While waiting lists remain a challenge for the general hospital system, our priority for the remainder of the year is to continue to work with the Department of Health and the HSE to get long-waiting public patients access to treatment and care and keep overall waiting times as low as possible as we continue to work to achieve our Sláintecare targets. I thank the committee.

An Cathaoirleach: I thank Mr. Gallagher. We now move to our speakers. We will suspend at approximately 12 noon for a short break and resume shortly thereafter.

I now open the floor to members. The lead speaker today is Deputy Grace Boland. She has 15 minutes for questions and answers. All other members will have ten minutes. If time permits, I will allow members to come back in for a second round.

Deputy Grace Boland: I thank the witnesses for attending today. While this committee tends to focus on figures and finances, we need to remember that behind every number is a child, a patient, a family and a story. We cannot lose sight of that. I welcome Ms Nugent's comments today about wanting to do better, putting children first and putting families at the centre of decisions. Communication is really key to that and we need to see improvements in that area.

I understand CHI has accepted the DDH audit findings and that a review of patients is under way. CHI's position is that the review is comprehensive. I have been contacted by several constituents with queries and concerns about the review. One example is a mother who recently contacted me. She has two daughters, one aged seven and the other aged five. Both had the surgery in recent years. One surgery was done in Temple Street hospital and the other was done in Cappagh hospital. One of her children has been included in the review while the other child has not. The mother has tried to get answers as to why the other child has not been included in the review. The response she got was that her other daughter was excluded because she has additional health issues. To my mind, that child is actually more vulnerable and should be included in the review. Will Ms Nugent confirm if that is the case? Has there been an error here? Can we be certain that every child who has had this surgery is included in the review?

Ms Lucy Nugent: I am very happy to get the name of that family afterward and look into it for the Deputy. A total of 2,259 children and families were written to regarding this audit. If that family wants their child reviewed, I do not see any reason we could not include her. I will be happy to revert to the Deputy in that regard. Some children have ongoing long-term surgery management in relation to additional comorbidities. That may be the reason. I may defer to my

colleague Ms Kelly in that regard to provide further information.

Deputy Grace Boland: I do not want a child who has a very complex need to be filtered out of a review because that is the opposite of what we should be doing.

Ms Paula Kelly: The audit only included children who had stable hip dysplasia and no other comorbidities. The audit only included those children. Children with other associated comorbidities were not included.

Deputy Grace Boland: Every child has the right to safety. Every family has the right to peace of mind as to what has happened here. If complexity is being used as a filter, that is just discrimination.

Ms Paula Kelly: The initial concern was raised around children who had Salter osteotomies for hip dysplasia without any other comorbidity. If concerns come up about children with other comorbidity, we would absolutely look at that.

Deputy Grace Boland: The mother was not contacted at all regarding her second daughter. She and families like her are left in a vacuum. Children who really are more vulnerable are not being included in the review. I find that baffling.

Ms Paula Kelly: The initial report only included children with no associated morbidity.

Deputy Grace Boland: Will that be looked at?

Ms Paula Kelly: That will have to be looked at once the results of the full examination of the current children under review are through. The HSE, as the Deputy knows, is committed to a full review of children who have had hip dysplasia surgery.

Deputy Grace Boland: Have the families who have not been included in the review been written to or communicated with and offered the opportunity to be included in the review?

Ms Paula Kelly: Not to the best of my knowledge.

Ms Lucy Nugent: As I stated at a meeting of the Joint Committee on Health two weeks ago, if any family feels their child should be involved in the review, we are very happy for them to contact us. The details are on our website and we will follow up with them.

Deputy Grace Boland: I appreciate that, but it does not scream "patient-centred approach" to me. I have an issue with that and with the lack of communication with the families. Some families may not even fully realise. There needs to be much more communication with this family. This is only one family who have come to my attention in recent days. I have serious questions and concerns about this. It is not good enough, to be honest. If we are looking at a patient-centred approach, we need to do better. I urge Children's Health Ireland to do that.

Are all of the consultants involved in the surgeries, particularly in Temple Street and Cappagh hospitals, still employed and working with CHI?

Ms Lucy Nugent: Yes.

Deputy Grace Boland: Have any issues been referred to the Medical Council? Have any assessments been done at this stage?

Ms Lucy Nugent: We are in a process. The most important thing in the beginning was to

review the children and make sure they were all right and the status of them-----

Deputy Grace Boland: Some of the children.

Ms Lucy Nugent: The second element is the expert panel the HSE is setting up and commissioning to assess the decision for surgery in that regard. Until that process is completed, we will have to see the outcome of that.

Deputy Grace Boland: The NTPF has clearly played a vital role in tackling waiting lists and has removed more than 370,000 public patients from waiting lists. In light of recent revelations, it is important that we take a closer look at how the funding has been applied. No fewer than three hospitals have had funding ceased due to concerns regarding the misuse of those funds. The Minister and Bernard Gloster are hoping to remove insourcing, although if I have read the accounts right, the funding going into insourcing has only increased in recent years. It is hard to wade through all of the information we have been given and the media reports. Have more than three hospitals been flagged regarding potential misuse of NTPF funding?

Ms Fiona Brady: The Deputy is aware of the Beaumont Hospital issue and the CHI issue. Naas General Hospital was mentioned during yesterday's health committee meeting. The NTPF did not cease funding for Naas General Hospital. The hospital had full disclosure with the HSE and with me. Of its own volition, the hospital decided it would cease all insourcing temporarily while we waited on Mr. Gloster to send in the HSE internal auditors to review. We did not cease funding; the hospital itself did it.

Deputy Grace Boland: Have any other hospitals flagged such issues?

Ms Fiona Brady: As Mr. Gallagher mentioned in his opening statement, after the issues arose in Beaumont Hospital and CHI, I carried out a national assurance review. That is due to close tomorrow evening. We have sought further clarification from two hospitals. They have until the close of business to provide that clarification. I will then provide a full and comprehensive report to the Department of Health and to Mr. Gloster.

Deputy Grace Boland: I found the idea of insourcing and the prolonged use of it baffling. It took me a while to get my head around the fact that we were paying people in the HSE not just overtime rates but going around the system and using HSE facilities to pay them a huge premium to do work at the weekends or through the NTPF. I would like to see the insourcing model phased out over the next couple of years. I note the Minister's comments wanting to see it phased out very quickly.

In terms of the money given to private and public hospitals, as the Comptroller and Auditor General highlighted, it is not clear which hospitals are at the top in terms of being funded through the NTPF for public or private treatments. Will the witnesses tell us what the top two private and public hospitals are?

Ms Fiona Brady: We have that information. I will hand over to my director of finance, Mr. Flood.

Mr. Seán Flood: In terms of payments, the top two private hospitals for last year were Kingsbridge Hospital North West in Derry and the other Kingsbridge hospital in Belfast.

Deputy Grace Boland: Those were the private hospitals. What about the public hospitals?

Mr. Seán Flood: The top two public hospitals were Cappagh and the Mater hospitals.

Deputy Grace Boland: What kind of surgeries are happening in the North? What is the general nature of the surgeries happening there? Do the witnesses know? Why are patients going up to Derry?

Ms Bernadette Weir: They are doing a range of surgeries and initiatives for us. They provide outpatient appointments for us across orthopaedics, general surgery and gynaecology. That is just a flavour of it. They also provide follow-on surgery if it is required.

Deputy Grace Boland: Is that arrangement on an annual basis? Is there a contract for a period?

Ms Bernadette Weir: We have established a panel of hospitals. That normally runs for three to four years and then we tender for procedures on an annual basis.

Ms Fiona Brady: For further clarification, we have an all-Ireland approach to how we manage waiting lists. Dublin and the midlands are well served with private hospitals but the west of Ireland is not. That is why it is really efficient to use Kingsbridge for those patients, just so nobody is disadvantaged.

Deputy Grace Boland: The NTPF first found out about the alleged misuse of its funding through the media. Why did CHI not raise this issue with the NTPF?

Ms Lucy Nugent: As I said earlier, this was a report that was done in 2021-22. While the allegations and statements were unsubstantiated, in hindsight we should have engaged with the Comptroller and Auditor General and the NTPF in this regard.

Deputy Grace Boland: With regard to the consultant who was deemed medically unfit to do on-call hours but was flying through patients on a Saturday, can Ms Nugent tell us if he is now working on-call hours?

Ms Lucy Nugent: I will clarify. The individual was reviewed by the occupational health department and was deemed not fit to do on-call. This does not mean not doing day-time hours. It is really about if you get a call in the middle of the night to operate on a sick baby or treat a sick baby, you need to be in the full of your health. This is the element of on-call that was the issue. The individual was fulfilling the normal day-time hours in that regard.

Deputy Grace Boland: Except we were paying for a locum to cover the on-call hours-----

Ms Lucy Nugent: The on-call element, yes.

Deputy Grace Boland: -----and then he was obviously getting additional payments for work in the Saturday clinics, which were funded by the NTPF. The taxpayer was being hit on every side, which does not seem very efficient or to be value for money.

Ms Lucy Nugent: The individual would not have got their on-call payment because they were not working those hours so it would have been cost neutral in that regard.

Deputy Grace Boland: We were paying more to a locum to cover the on-call hours. Are there any other consultants in that position who are not doing on-call hours? Is there a figure?

Ms Lucy Nugent: I would not have a figure off the top of my head but if someone is returning after having surgery, they would have a period where they would not be on call, etc. We have an occupational health department that would sign off and review all of those cases. Our

clinical directors would be aware of them to support the individual back to full hours and on call.

Deputy Grace Boland: Is NTPF funding incentivising workarounds where core public duties are de-prioritised in favour of better paid insourced clinics?

Ms Lucy Nugent: The first step we take when we are considering an NTPF proposal is to ensure that core activity is maximised. That is the first step. It is about making sure that we fully utilise our outpatients, theatres, etc. We also now have a central referrals office. Referrals come in through that and they are equitably distributed among specialties so we do not have huge variance in waiting lists per consultant. There will, however, always be some variance where a specific specialised service may be needed in one particular department and maybe only one or two of those colleagues could do that.

Deputy Grace Boland: Do we think that the patients who have been waiting the longest have been de-prioritised or in-----

Ms Lucy Nugent: No. We prioritise our waiting list in relation to clinical need. Unfortunately, it does mean that some of the lower complex conditions may be waiting longer and that is obviously a concern.

Deputy Grace Boland: The last time Ms Nugent was before the committee, I highlighted that paragraph 8.4 of the code of practice for governance of State bodies provides that a State body "should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice ...". I asked Ms Nugent to provide us with the grounds on which the legal advice was provided that led CHI to decide to enter into a non-disclosure agreement with its former CEO. Will Ms Nugent tell us here today now what those grounds were?

Ms Lucy Nugent: I will defer to Ms Hardiman in that regard.

Ms Eilísh Hardiman: This is an employment law matter. Obviously, the board of CHI can appoint the CEO with the approval of the Minister for Health. The board, in October 2023, sought a third term after my two previous consecutive five-year fixed-term contracts. It is Government practice and policy for non-commercial State board CEOs to be appointed for no more than two concurrent five-year terms. The Minister applied that policy, which is within his right to do, and that was accepted by the board. Because it is an employment matter and because it was two fixed terms, the contract automatically became a contract of indefinite duration. The board then determined that there were some strategic projects that needed to be prioritised given that the new children's hospital is progressing and-----

Deputy Grace Boland: I am running out of time. I appreciate Ms Hardiman's answer. On the NDA specifically, why was it deemed that we needed to have an NDA? If there is no issue or nothing to hide-----

Ms Eilísh Hardiman: There is no-----

Deputy Grace Boland: -----both Ms Hardiman and CHI could have waived it.

Ms Eilísh Hardiman: I was not the CEO at the time that was done. There was agreement and a mediation process this covered.

Deputy Grace Boland: Would Ms Hardiman be happy and confident that both she and CHI

can both waive the NDA so that we have full transparency in relation to any settlement?

Ms Eilísh Hardiman: There are three parties to the NDA.

Deputy Grace Boland: All three can waive it. If the NDA is not required, if there is nothing to hide, it can be waived.

Ms Eilísh Hardiman: I do not have anything to hide.

Deputy Catherine Connolly: Cuirim fáilte romhaibh. The witnesses are all very welcome. I really appreciate their presence. It is important that we have trust in public bodies. I am a firm believer in public bodies and also in doing the best we can to hold them to account, which is not very good in the ten minutes I have. I have read all of the documentation. I realise the volume of patients that CHI and its staff put through CHI hospitals every day of every year.

I will deal with CHI first and then come to the NTPF as best I can. When Ms Nugent was last here she talked about openness and accountability. I went back over her statement. I am not going to be personal in any way but honestly I have no idea how she did not highlight the internal report from 2021-22. Why did Ms Nugent not do that?

Ms Lucy Nugent: That is the unpublished report that I refer to in my statement-----

Deputy Catherine Connolly: I am just asking a specific question. Ms Nugent knows well which report I mean and it was not referred to. Ms Nugent did not refer to it. I have it here in front of me. We have a summary of it and we have legal opinion. I am not going into any of that. I am asking why Ms Nugent did not refer to that report when she was before us.

Ms Lucy Nugent: The last time? I did not know about it.

Deputy Catherine Connolly: Ms Nugent did not know about it at all.

Ms Lucy Nugent: No.

Deputy Catherine Connolly: No. When did Ms Nugent find out about it?

Ms Lucy Nugent: I found out about it when the media query came in.

Deputy Catherine Connolly: That is very significant really. We have all read the report as best we can and the bits of it we have seen are absolutely damning in terms of culture. I do not have the time to read it out but Ms Nugent can take it that I have read every single bit of it. Multiple legacy and deep-rooted issues existed but they were not addressed and so on. Two senior examiners were appointed. Who can tell me about that report and why Ms Nugent was not informed about it?

Ms Lucy Nugent: I suppose it was originally a HR report.

Deputy Catherine Connolly: Ms Nugent did not know it. Is there anyone here who can tell me why Ms Nugent did not know about this very important report?

Ms Eilísh Hardiman: I can help the Deputy to answer that. A lot of the issues that were raised in that report had actually been addressed, so many of those issues were actually resolved and completed.

Deputy Catherine Connolly: Ms Hardiman obviously had a handover period in relation

to Ms Nugent. Was she not informed about all these legacy issues and that some of them were ongoing?

Ms Eilísh Hardiman: We were just starting, to be quite honest, in relation to that and I was not in the CEO position since October 2023.

Deputy Catherine Connolly: There was somebody acting as the CEO-----

Ms Eilísh Hardiman: There was somebody else in the-----

Deputy Catherine Connolly: Why did it not happen with that person?

Ms Eilísh Hardiman: I cannot comment on that.

Deputy Catherine Connolly: I want to stand reassured but I do not take reassurance. Do you know what I do? I take the reports from the Comptroller and Auditor General and his staff. We read them and then we highlight what has been highlighted to us in order to get reassurance that the procedures and practices are not just in place but working. Clearly they were not working and there is nobody here today to tell me why the new CEO was not aware of this report which has ongoing consequences. Even the NTPF is mentioned in that. Ms Nugent did not highlight that and she did not know about it. It took the media and all of this. I will just park that for the moment.

This is a shocking report. I will not go into whether it should be published in full. What I have is utterly shocking. Even the training was stopped because the culture was so toxic. How can CHI have openness and accountability? There was a high turnover of staff, no trainees were allowed, training stopped, there was a bullying and toxic culture and Ms Nugent does not know about that and was not made aware of it. Really?

How many reports are there now arising from that toxic culture and failure of governance? I will help the witnesses. We have lots of internal reports, we have HIQA and then we have the report on the unnecessary hip surgery - I cannot pronounce the word - and we are waiting on a third report. Is that right? What is the nature of that report?

Ms Lucy Nugent: That is a HSE-commissioned report called the Nayagam report regarding-----

Deputy Catherine Connolly: When is that coming?

Ms Lucy Nugent: It is a HSE-commissioned report so I do not have the timeline.

Deputy Catherine Connolly: What is that report on?

Ms Lucy Nugent: It is a review of spinal cases done by a specific surgeon.

Deputy Catherine Connolly: Would Ms Nugent admit, given those reports, all of the internal reports and not to mention the NTPF which we will come back to and will have another internal report, that something is seriously amiss, notwithstanding the great work being done? I acknowledge HIQA said there was a burden on management that was not tolerable. Those are my words; I am paraphrasing. In the meantime, this is the legacy: unnecessary surgery being done, delayed spinal surgery and implants going in that were not suitable. Does Ms Nugent agree that this is intolerable and unacceptable and that the procedures have utterly failed? She came in here to reassure us but she is not aware of it. Is it not difficult to get reassurance from

that?

Ms Lucy Nugent: To reassure the Deputy, in the handover I had from the previous interim CEO they highlighted cultural issues and challenges and that is why it is a focus for us moving forward.

Deputy Catherine Connolly: I understand that an external review of the effectiveness of the board of management was carried out in 2024.

Ms Lucy Nugent: That would have been the review done by Bob Semple.

Deputy Catherine Connolly: Was it done by somebody external?

Ms Lucy Nugent: Yes.

Deputy Catherine Connolly: How much did that cost?

Ms Lucy Nugent: I do not know.

Deputy Catherine Connolly: Does anybody know? No. Ms Nugent might come back with that information. How many recommendations were there?

Ms Lucy Nugent: There were a number of recommendations related to housekeeping-----

Deputy Catherine Connolly: How many recommendations were there?

Ms Lucy Nugent: I do not know. I did not see the full report.

Deputy Catherine Connolly: These are the things would reassure us, honestly. If the witnesses could tell us about the report, what the recommendations are, the status of the recommendations and their implementation, that would be very helpful. CHI's financial statement states that an external report should be carried out every three years. Has a report on the board's effectiveness been done every three years in the past?

Ms Eilísh Hardiman: Yes, there is an annual internal-----

Deputy Catherine Connolly: No, external reviews.

Ms Eilísh Hardiman: External reviews would be every three years. I would have to look for that information.

Deputy Catherine Connolly: Again, it would be very helpful for us if the witnesses could say that they have carried out an external report as per their duty and obligation, that they have done it every three years and that these are the results. That information is not coming from them. We are going through all of this and that information is not coming.

I am watching the time so I will move to the NTPF representatives. Is the NTPF planning for its own demise?

Mr. Don Gallagher: Ultimately, the Deputy is absolutely right.

Deputy Catherine Connolly: Is the NTPF planning for its own demise? When is the NTPF planning for it and what steps is it taking?

Mr. Don Gallagher: I will hand over to Ms Brady in a minute, but ultimately the game plan

is to reduce waiting lists to the extent that eventually the HSE will not need us.

Deputy Catherine Connolly: I know that. The NTPF has been in existence for a quarter of a century. Obviously, there is something wrong. The NTPF is simply implementing Government policy. I am not criticising it at all. I will go back to some constructive criticism about the failure of the NTPF's procedures to detect what was going on, but the NTPF is implementing policy. Presumably, the NTPF was to be a short-term measure but a quarter of a century later the costs and the numbers availing of the NTPF are rising exponentially, are they not? Mr. Gallagher might not agree with the word "exponentially" but they are rising.

Mr. Don Gallagher: They are rising.

Deputy Catherine Connolly: The Minister has clearly said she wants to reduce this. Has she been in touch with the NTPF in regard to that?

Mr. Don Gallagher: We had a meeting earlier this week.

Deputy Catherine Connolly: Good. Will there be follow-up meetings to plan for when the NTPF will no longer be necessary and at what point in time that will be the case? It has not happened yet.

Mr. Don Gallagher: No, it has not.

Deputy Catherine Connolly: What were the results of the NTPF's own review of the effectiveness of the board?

Mr. Don Gallagher: We do this every year.

Deputy Catherine Connolly: What issues, if any, were there? Did the board get a clean bill of health?

Mr. Don Gallagher: No major issues emerged.

Deputy Catherine Connolly: Were there any minor issues? The review of the board is done to find out the issues. What are the issues?

Mr. Don Gallagher: The issues always happen around the degree to which we devolve responsibility to the CEO and management team. Consideration is given to whether the right balance is struck, for example.

Deputy Catherine Connolly: Did any issue come up about how money was being spent from the National Treatment Purchase Fund in hospitals? Did any of that come up proactively from the NTPF's review or from its internal mechanisms?

Mr. Don Gallagher: No.

Deputy Catherine Connolly: No. Does Mr. Gallagher think that is acceptable? Reflecting on that as a board, are there some issues there for the board, from the audit and risk committee and the patient committee? No issues emerged related to any of these matters.

Mr. Don Gallagher: In relation to the issues that are currently out there now, no.

Deputy Catherine Connolly: That is a cause for reflection, is it not? Does the NTPF learn from the media about the difficulties with the funding and how it is being used?

Mr. Don Gallagher: We are concerned with the implications of our memorandum of understanding and how that works, absolutely.

Deputy Catherine Connolly: I understand and I read that. Is there more than one or do I have repetitions of them? Is there more than one memorandum of understanding?

Mr. Don Gallagher: We have a memorandum of understanding with each hospital.

Deputy Catherine Connolly: Obviously it was not complied with. Is that not right, from what we know?

Mr. Don Gallagher: Absolutely.

Deputy Catherine Connolly: Now we have a review by the HSE to try to find out the issues with the hospitals and how widespread this is. I will go back to Ms Nugent. She took great care to tell us that the media reports were wrong and that this did not happen in a private clinic. Personally, it is immaterial to me. What is important is that the consultant was doing this in a clinic in a public hospital, privately.

Ms Lucy Nugent: Sorry.

Deputy Catherine Connolly: Ms Nugent is shaking her head so I will simplify it. Public patients are seen by a consultant on a Saturday though the National Treatment Purchase Fund. Is that right?

Ms Lucy Nugent: It is organised by CHI operations involving other CHI staff such as nursing and administration staff.

Deputy Catherine Connolly: Was that one of a number of consultants?

Ms Lucy Nugent: We have quite a number of clinics.

Deputy Catherine Connolly: Were the other consultants involved in that work on a Saturday?

Ms Lucy Nugent: We would have varying clinics on Saturdays. In this individual, specific clinic in the report, it was one consultant who did five clinics.

Deputy Catherine Connolly: I thank the Chair.

Deputy Joanna Byrne: I thank all the witnesses for joining us here today. Many apologies have been issued in Ms Nugent's opening statement. She has said "sorry" a good few times to the families affected. Of course this is needed due to the trauma of the scandals that have come out. The test of those apologies will be the lessons that are learned going forward. I note that Ms Nugent admitted to a colleague earlier today that, in hindsight, she should have consulted the Comptroller and Auditor General and the NTPF on the unpublished report. She has claimed that the HSE was aware of the existence of this report since March 2022. The HSE has denied this. As recently as yesterday at the health committee Mr. Bernard Gloster, head of the HSE, firmly denied it. It is his view that this report was never brought to the attention of the HSE. How do we have a situation where CHI can say it sent on this very serious report with very serious issues in it - Mr. Gloster has accepted there are very serious issues in it - and Ms Nugent claims CHI sent this report back in March 2022, yet there is no evidence of this? Can Ms Nugent provide evidence of this?

Ms Lucy Nugent: This was discussed at the performance management review monthly meeting in March 2022. I will hand over to my colleague Ms Hardiman in that regard.

Ms Eilísh Hardiman: The position we were taking was that this report was never intended to be shared so it-----

Deputy Joanna Byrne: I accept that and we will come to that in a moment but we are tight on time. Can Ms Hardiman provide evidence?

Ms Eilísh Hardiman: I can say that because the issues were happening in 2021, the matters and issues in the report were known to management and they were raised with the HSE through the appropriate channels. Several of them were raised before the report was finalised. While the report itself was not shared because it was confidential and was regarded as that, what is most important here, particularly around patient safety matters, is that the matters were raised through the appropriate channels, thankfully, and we worked with the HSE to address the key risk issues involved.

Deputy Joanna Byrne: We are saying clearly today that the information that was originally put out was incorrect, that this report was not-----

Ms Eilísh Hardiman: No, I am trying to be really accurate here.

Deputy Joanna Byrne: No, I understand what Ms Hardiman is trying to say. The issues were-----

Ms Eilísh Hardiman: The report was never intended to be shared so it had not been shared at the time but the matters in the report were brought up through the relevant levels. Those issues were brought up in 2021 and 2022.

Deputy Joanna Byrne: We can take from that what it is. Coming back to Ms Nugent, sections of this report have been referred to the Garda for potential misuse of public funds and it was the HSE that actually referred them. CHI did not refer the report and sat on it despite the timeline outlined here going back to 2021. CHI never sought an opinion from the HSE or the Department despite clear evidence of unnecessary clinics and, to us, misuse of public funds that happened in CHI Crumlin. It seems that even after the HSE sent the report to the Garda, CHI continued to oppose this. It was mentioned that it did not meet the threshold. Is that correct?

Ms Lucy Nugent: That is correct and we respect the HSE's position. On examination, in relation specifically to the unsubstantiated statements in that report, they were investigated. As I said, the actual clinic proposal to the NTPF was done by the operations team, based on the fact that there were long waiting lists in 2021, which was post Covid-19. The individual consultant was asked, as were many consultants post Covid-19, to get involved in doing NTPF clinics to try to address the waiting lists. As I said, the individual did this above his contractual hours and was paid through the HSE-----

Deputy Joanna Byrne: I accept all that. My concern is that if it did not meet CHI's threshold to report to An Garda Síochána but it did meet the HSE's threshold, are the organisations working to different thresholds?

Ms Lucy Nugent: We have to await the outcome of the Garda investigation.

Deputy Joanna Byrne: It is bizarre that the HSE, out of an abundance of caution, did the right thing, which was to refer this matter to the Garda for a determination, but CHI took it

upon itself to do the Garda's work for it and decide the matter did not meet the threshold for investigation. Even after this came out and blew up publicly, CHI has still held that view. That does not attest to the new culture of transparency that was outlined on multiple occasions in Ms Nugent's opening statement. In fact, it does quite the opposite. I ask Ms Nugent to answer "Yes" or "No" to the following question. Does she still believe that the potential misuse of public funds does not merit a Garda investigation?

Ms Lucy Nugent: I do not think there was misuse of public funds, so that would have to be the answer.

Deputy Joanna Byrne: As I have said, although I cannot take it as certain, it seems that in all these instances the HSE is doing the right thing. It wanted this report to be published. It wanted the misuse of public funds to be investigated by the Garda but CHI was not on board with that. CHI has opposed publishing the report in full and it is still not published. Only a sanitised and editorialised, if that is the word you want to use, version has been published. The head of the HSE is not resiling from his view that an anonymised version of this report could and should have been published. Here we have a situation whereby the head of the HSE has a fundamental difference of opinion with CHI on this point. CHI chose not to publish the report. Does Ms Nugent's view remain that it should not be published?

Ms Lucy Nugent: We redacted a version of the report to see if it would make sense to our stakeholders. It did not make sense. We wanted to go further and state what we did on receipt of the report. The 32 recommendations, bar two, have been closed and can only be closed when we move to the new children's hospital. We are trying to provide further assurance and not just a blacked-out and redacted report. It was primarily a HR report. The 45 staff who participated and were interviewed did so on the basis of confidentiality so they could be open and transparent, and give the information we needed to find. From that perspective, we stand by our decision.

Deputy Joanna Byrne: In answer to the next couple of questions, perhaps we could keep as closely as possible to yes-no answers. There are several examples of substandard care in this report. In any of those instances, were the parents made aware at the time?

Ms Lucy Nugent: No, because they did not meet the threshold. I will hand over to Ms Kelly who can give the Deputy a very good description.

Deputy Joanna Byrne: No, that is fair enough. I heard Ms Kelly's response at a previous committee meeting so I am aware. When the Dixon report was completed nearly a decade ago, it identified a cohort of children with spina bifida who had fallen through the cracks and were receiving suboptimal care. If we fast forward five years to when this review was done, CHI could not even tell the reviewer how many children were affected. Their care plans were never changed and this review found that those children were still receiving suboptimal care. We are talking about the families of 38 orphaned children in this instance. Were their parents notified?

Ms Lucy Nugent: I will hand over to Ms Kelly.

Deputy Joanna Byrne: Could we keep the answer to ten seconds, please?

Ms Paula Kelly: A total of 254 children currently attend CHI's spina bifida service. I would be assured that the teams who are looking after those children are of high value. They have a multidisciplinary-----

Deputy Joanna Byrne: That is not what I am asking. I am asking whether the parents were notified.

Ms Paula Kelly: The parents of which patients?

Deputy Joanna Byrne: The ones identified in the Dixon report and those identified five years later when this report was done. These are the orphaned children.

Ms Paula Kelly: It is an awful term. The children who were identified in that report, to my knowledge, were children who did not have a specialist looking after them at that time in CHI. All of those children now have a specialist looking after them. As to any historical issues those children still have, I am not aware at this stage.

Deputy Joanna Byrne: There is no culture change here. Weeks and months ago, we had not learned lessons from ten or five years ago. It seems there is still no culture change.

Ms Paula Kelly: I assure the Deputy that the children now under the care of CHI are getting the absolute highest standard of care from a committed and compassionate team of clinicians and from the multidisciplinary team. I assure the Deputy of that.

Deputy Joanna Byrne: When Ms Nugent was asked that question previously, she said that these families, parents or guardians did not meet an open disclosure threshold.

Ms Lucy Nugent: Is the Deputy asking about the unpublished report?

Deputy Joanna Byrne: Yes.

Ms Lucy Nugent: I will again hand over to Ms Kelly. She will give the Deputy a very good answer. We want to explain the position.

Ms Paula Kelly: A total of 179 children were seen through that initiative we spoke about. Those children had already been waiting an average of 19 months. That was post Covid-19. The initiative was introduced to see those children quickly. Of those children, 51 required additional treatment. That treatment was completed within four months. By September 2022, all children completed their treatment. Actually they were seen quicker-----

Deputy Joanna Byrne: Ms Kelly must be aware that spina bifida advocate groups and many of the parents of the affected children have been asking for this information. It is not necessarily about open disclosure and CHI having to decide whether to reach out to them or whether a threshold is met. They have reached out to CHI and have got nothing. They have been stonewalled. To refer again to Ms Nugent's opening statement, she said, "Our intention is always to ascertain the facts and take steps to fix the issues, while at the same time telling parents and children what we are doing." That is not the case. We must ask what is going on. The witnesses are talking about accountability. They have multiple reports, including the unpublished one and the digital one. Those reports have identified a bunch of children with spina bifida who are receiving suboptimal care. Their parents know these reports exist and have contacted CHI. They are being absolutely stonewalled.

Ms Lucy Nugent: Contact was made with the families at the time of the Dixon report. There was a working group between the two entities to go through some of the recommendations. My colleague, Ms Hardiman, can come in. There was engagement with families at that time.

Deputy Eoghan Kenny: I welcome the witnesses. I will first discuss the CHI consultant at the centre of the review. Was the then chief executive of CHI aware he was doing the weekend work?

Ms Eilísh Hardiman: Not specifically. That would have been by the operations team.

Deputy Eoghan Kenny: Did Ms Hardiman know?

Ms Eilísh Hardiman: I knew that we had long waiting lists and there was an initiative by the operations team to-----

Deputy Eoghan Kenny: Did Ms Hardiman know this consultant, in particular, could not carry out the out-of-hours work?

Ms Eilísh Hardiman: I knew he was not doing on-call duty, but he obviously could do, and was doing, outpatient clinics.

Deputy Eoghan Kenny: I do not understand that. If he was unable to do on-call hours, why was he able to see twice the number of patients he would be able to see during the week?

Ms Eilísh Hardiman: The issue is that being on call might involve being called at 4 a.m. and coming in to see really sick children. That was the advice given by occupational health and we followed that through. That does not mean consultants were able to see, work and do outpatient-----

Deputy Eoghan Kenny: Did Ms Hardiman bring to the attention of occupational health that this consultant was also carrying out work at the weekends? Did she not ask at the time how he was able to carry out work at the weekends even though he could not carry out-----

Ms Eilísh Hardiman: We were advised that the only thing he could not do was on-call duty. Everything else, he could do. In respect of the numbers in the clinics, those other clinics were longer than our normal clinics because they had lots of room to themselves. The patients who were taken off the list were probably less complex because they were at the end. Inevitably, they could be seen quickly. The original clinics were supposed to be off site because of Covid-19 and the restrictions in our hospitals at the time. That meant the patients that could be called did not need to have X-rays and could not have phlebotomies or laboratory work. That restricted the types of work we could do and numbers of patients we could see. There are circumstances around here-----

Deputy Eoghan Kenny: Ms Hardiman will appreciate that I am asking this question because €450,000 was spent on a locum doctor.

Ms Eilísh Hardiman: That was required-----

Deputy Eoghan Kenny: That was public money.

Ms Eilísh Hardiman: I agree.

Deputy Eoghan Kenny: He was being paid with public money through the NTPF as well.

Ms Eilísh Hardiman: We needed to have a safe service whereby we had an on-call consultant. We had him across three sites. It was one of the issues we were trying to address at the time. It was a significant burden to that team.

Deputy Eoghan Kenny: Has Ms Hardiman ever heard the phrase "running with the hound and hunting with the dog"?

Ms Eilísh Hardiman: I have.

Deputy Eoghan Kenny: He seemed to be doing a bit of that.

Ms Eilísh Hardiman: Is the Deputy talking about the consultant or the locum?

Deputy Eoghan Kenny: The consultant.

Ms Eilísh Hardiman: I do not think so. To be honest, the operations team at the time sought with the consultants across CHI to do clinic initiatives because the numbers had increased significantly during the pandemic. This matter came up in 2021 and was addressed, to ensure that we had good internal processes. The NTPF audited us in 2021 and we were compliant at that stage.

Deputy Eoghan Kenny: I will move on to the board's effectiveness, because of the time. Regarding the internal report that was carried out, Ms Nugent said that an anonymised report would not make sense. Why?

Ms Lucy Nugent: Because it would involve anonymising the individual's identities and the quotes from them because they would be identifiable or the service would be identifiable.

Deputy Eoghan Kenny: Give me an example of a quote that would have been identifiable.

Ms Lucy Nugent: If a trainee spoke about their experience of a specific episode, that would be identifiable. The health community is very small and if the trainee was talking about a colleague, that colleague would be very identifiable, by the nature of the procedure they were doing or something like that.

Deputy Eoghan Kenny: What is Ms Nugent's opinion of the HSE, the Minister for Health and the Taoiseach saying that this report should be published?

Ms Lucy Nugent: I respect their opinions. I have to balance that with the legal advice-----

Deputy Eoghan Kenny: While Ms Nugent respects their opinions, does she believe they are wrong?

Ms Lucy Nugent: I respect everyone's opinion, so I am not saying that they are right or wrong. I also have the balance of the legal advice we were given and to provide fair procedures for my staff and to maintain the confidentiality of the process. I am trying to rebuild a positive culture and having staff feeling they can speak openly and speak up is important. That is another factor.

Deputy Eoghan Kenny: I question the effectiveness of the external evaluation, considering that a number of people have since stepped down from the board. Would Ms Nugent not question that?

Ms Lucy Nugent: That would be a board matter. It is not for me to comment on.

Deputy Eoghan Kenny: Would Ms Nugent question the effectiveness of the external evaluation herself, perhaps?

Ms Lucy Nugent: That would not be for me to comment on.

Deputy Eoghan Kenny: Has the board discussed this?

Ms Lucy Nugent: I am sure it has. The board always has board-only time where it discusses-----

Deputy Eoghan Kenny: Have any members of the board brought to Ms Nugent's attention in conversation that the external evaluation might not be fit for purpose, considering that a number of people have stepped down from the board since?

Ms Lucy Nugent: No.

Deputy Eoghan Kenny: Nobody at all? I will move on to the settlement to the former CEO, which is quite important and was brought up here previously. I appreciate that Ms Hardiman is in the room and that is important to point out. What is Ms Hardiman's job? What is she doing right now?

Ms Eilísh Hardiman: My title is strategic programme director. The board determined that certain policy and strategic elements needed to be progressed, with everything else that we are trying to do in CHI, run hospital services, merge and work with the development board with the new children's hospital. Given that the new children's hospital is near to being handed over to us, it was important that these strategic projects were implemented. For example, I worked on the setting up the all-island congenital heart disease network, that is very successful. Last year, I set up an all-island complex pain management service

Deputy Eoghan Kenny: Was this role specifically created just for Ms Hardiman?

Ms Eilísh Hardiman: No, the board determined, quite rightly, that there were strategic projects that needed to be progressed and I was-----

Deputy Eoghan Kenny: When did the board determine this?

Ms Eilísh Hardiman: I was offered the role in April 2024.

Deputy Eoghan Kenny: Ms Hardiman was offered the role in April 2024 and she had stepped down as CEO in October 2023. Is that correct?

Ms Eilísh Hardiman: I had sick leave, due to surgery.

Deputy Eoghan Kenny: Ms Hardiman took on her new role in April 2024. What is her understanding of when the board decided this role was needed? Was it discussed while Ms Hardiman was CEO?

Ms Eilísh Hardiman: The projects were definitely identifiable and were there.

Deputy Eoghan Kenny: But was this role identified?

Ms Eilísh Hardiman: No, but the work was. If one looks at the strategic objectives for CHI from 2021 to 2025, it is very clear that there are some very big strategic priorities. I accept that we had two very abnormal years with Covid and the cyberattack, which impacted us.

Deputy Eoghan Kenny: On the role itself, does Ms Hardiman find it difficult to be still on the senior management team, considering the number of scandals that happened while she was

CEO?

Ms Eilísh Hardiman: The team is collegiate and I am very committed to the project.

Deputy Eoghan Kenny: I do not doubt that.

Ms Eilísh Hardiman: I also think we are very professional. There is a huge amount of work to be done to achieve what is needed.

Deputy Eoghan Kenny: How did CHI pay for the legal costs that were incurred?

Ms Eilísh Hardiman: I do not know who paid for it but I do know the costs.

Deputy Eoghan Kenny: Does Mr. Fitzpatrick know?

Mr. John Fitzpatrick: I understand it was settled by the Chief State Solicitor's Office.

Deputy Eoghan Kenny: Does Mr. Fitzpatrick know how much that was?

Mr. John Fitzpatrick: Yes.

Deputy Eoghan Kenny: What was it?

Mr. John Fitzpatrick: Including VAT, it was €123,000.

Deputy Eoghan Kenny: That was €123,000 to the taxpayer.

Mr. John Fitzpatrick: CHI did not bear the cost.

Deputy Eoghan Kenny: CHI did not bear the cost. Sorry, will Mr. Fitzpatrick repeat who bore the cost?

Mr. John Fitzpatrick: I understand it was settled by the Chief State Solicitor's Office.

Deputy Eoghan Kenny: Interesting. The issue of confidence in CHI comes up quite regularly. It came up the last time the witnesses appeared before this committee. After that health committee meeting the witnesses attended, I was not satisfied that there was a change in the culture of CHI. Will Ms Nugent give one or two examples of how the culture has changed in CHI, since she took over?

Ms Lucy Nugent: As CEO, I have positively engaged and I have received positive feedback. We are engaging very proactively with our staff with townhall meetings and face to face on site. The online townhalls are very well attended, with several hundred staff. I met the joint medical board last week. A total of 128 consultants engaged with me.

Deputy Eoghan Kenny: Very good. That is a couple of them. Well done.

The issue of out-of-date claims to insurers was brought up previously as well. There was €250,000 worth of out-of-date claims in 2023 and €183,686 in 2022. What was the figure for 2024?

Mr. John Fitzpatrick: It was €200,000, and the-----

Deputy Eoghan Kenny: The amount was €200,000. So, €250,000 plus €200,00 equals €450,000, plus approximately €183,000, in three years.

Mr. John Fitzpatrick: Yes. For 2023, the €250,000 represented 70 invoices which were raised-----

Deputy Eoghan Kenny: Where does the accountability lie here?

Mr. John Fitzpatrick: In CHI, all of those invoices were raised in a timely manner, usually days following discharge but we can only ensure, accept and pay them if they are part of a fully collated claim. That involves getting the paperwork from-----

Deputy Eoghan Kenny: What is the required timeframe?

Mr. John Fitzpatrick: For the hospitals, it is usually up to a year. For the participating other third parties, primarily the consultants, it can be up to three years.

Deputy Eoghan Kenny: Whose desk does this lie on now, in terms of accountability?

Mr. John Fitzpatrick: On my own desk in terms of ensuring that these claims get submitted and-----

Deputy Eoghan Kenny: Is Mr. Fitzpatrick taking accountability here?

Mr. John Fitzpatrick: It is not within our gift to submit them all. We need the third parties to engage with us.

Deputy Eoghan Kenny: Within whose gift is it?

Mr. John Fitzpatrick: Well, it is ours to drive it through.

Deputy Eoghan Kenny: Did Mr. Fitzpatrick do so?

Mr. John Fitzpatrick: Yes, and we are continuing-----

Deputy Eoghan Kenny: Not enough, I presume.

Mr. John Fitzpatrick: We are continuing to improve the practice in that regard. We are meeting on a weekly basis the relevant participating third parties and the submissions are improving.

Deputy Eoghan Kenny: I wish everyone the best in their roles. Confidence in absolutely paramount here and I hope the public get the confidence they need. I am quite doubtful about it, but I wish everyone the best in their roles.

Deputy James Geoghegan: I thank the witnesses for attending. Ms Nugent said that in hindsight, CHI should have engaged with the Comptroller and Auditor General and the NTPF on these issues. Ms Hardiman has confirmed that the report was not furnished to the HSE and mentioned the loose language that was used in a letter to the Minister for Health regarding the level of engagement with the HSE on the matters contained in the report. In hindsight, should Ms Nugent have done more in her engagement with the HSE?

Ms Lucy Nugent: Back in 2022?

Deputy James Geoghegan: Yes.

Ms Lucy Nugent: Yes, I do.

Deputy James Geoghegan: Regarding the Garda referral, Ms Nugent is familiar with what the threshold is for referral. I presume it is under the Criminal Justice Act 2011. Ms Nugent has said that CHI should have referred it to the Comptroller and Auditor General, the NTPF and the HSE. Should it have referred it to An Garda Síochána as well?

Ms Lucy Nugent: In hindsight, what should have happened is that all unsubstantiated statements should have been investigated and validated as true or otherwise. On subsequent examination of the report in relation to the allegations made about the individual consultant regarding misappropriation of funds, etc., that was not the case. When a report is commissioned and a report is given, it needs to be interrogated. Unfortunately, it did not happen on that occasion.

Deputy James Geoghegan: Just to be clear, it is the job of An Garda Síochána to investigate matters. There is a report and the threshold is exceptionally low. Ms Nugent has been very clear, in hindsight, on the others. Should it have been referred to An Garda Síochána, all things being equal, right now.

Ms Lucy Nugent: Not on the legal advice we received.

Deputy James Geoghegan: I am not talking about the legal advice. I am asking Ms Nugent's opinion. It is not about legal advice. It is about the facts on the reports, the information in front of Ms Nugent. She has been exceptionally clear that more should have been done in every other entity. What about An Garda Síochána? What is Ms Nugent's own view?

Ms Lucy Nugent: I do not think the individual did anything wrong in that regard.

Deputy James Geoghegan: That is not the question. Should the report have been referred to An Garda Síochána or not? Yes or no?

Ms Lucy Nugent: I think the statement made said that if it was substantiated that this person had misused-----

Deputy James Geoghegan: That is not my question. It is really a yes-no question. Should it have been referred or not? The witness has been very clear-----

Ms Lucy Nugent: No.

Deputy James Geoghegan: No, it should not have been referred. Okay. It is a bit of a whitewash in terms of the approach adopted under Ms Hardiman's reign in respect of all of these issues. The current CEO has made clear a whole host of entities were not appropriately engaged with, leaving aside the Garda Síochána issue. Why did Ms Hardiman commission this report in the first instance?

Ms Eilísh Hardiman: That is an important question. When Children's Health Ireland was established in 2019 it was clear, through 2019 and 2020 - less so in 2020 because of the Covid pandemic - that there were issue with this particular service. It seemed to be different issues were coming up through different members of the executive and things in hand. Most of them seemed to be around operational matters. In 2021, we decided to assign an operations person to this service to try to address the issues-----

Deputy James Geoghegan: Okay, but factually, you were nervous about something going on in the hospital. You got a whiff of something and you proceeded with an examination. Is that right? I only have a limited amount of time.

Ms Eilísh Hardiman: We did know and we put somebody in. She came back and said there is more to this, it needs to be opened up and there is a lot of team dynamics issues-----

Deputy James Geoghegan: The report was concluded and according to the information supplied to us today, it was presented to an *ad hoc* meeting of the board. Instead of the ordinary meetings of the board-----

Ms Eilísh Hardiman: It was a single item.

Deputy James Geoghegan: The board specially convened. Was it just to examine the full report or what did the board do? There are some reference to a report of the report. Was it the full report the board examined on that date?

Ms Eilísh Hardiman: That was the report the board received and the recommendations by the executive.

Deputy James Geoghegan: Did the witness or the board have a view as to what level of engagement from that moment on should have taken place with the NTPF, the C and AG, the HSE or An Garda Síochána?

Ms Eilísh Hardiman: The issue with the clinics happened in 2021. There were extensive engagements with the NTPF by the ops team at the time.

Deputy James Geoghegan: That is not the question. My question is really clear. On those four entities, did the board have a discussion asking whether the board should tell the HSE or the NTPF more about this? Did it have a discussion on whether it should it be discussed with the C and AG and whether there should be a Garda referral?

Ms Eilísh Hardiman: At board level, yes, there was the issue of engagement with the NTPF. Regrettably, that did not happen. That was raised with the board. The others were not raised at board.

Deputy James Geoghegan: They were not even discussed or deliberated.

Ms Eilísh Hardiman: The issues in the report that the biggest concerns were about concerned the culture of HR and the team dynamics issues. There is a lot of research to demonstrate good team dynamics is important for patient safety. There was a particular patient safety risk issue that was a single point of failure. That was the highest risk issue. From the recommendations they were rated as to what were the immediate ones that need to happen. There was extensive and ongoing engagement with the NTPF in 2021 around these clinics. This matter should have come up then and it did not. I regret that. The focus was on the patient safety and risk issues. They took the priority going into 2022.

Deputy James Geoghegan: In Ms Hardiman's testimony today she implied it was an obligation of the interim CEO to fully brief Ms Nugent, the new CEO, in respect of this internal report which she only became aware of because of media coverage. Was the interim CEO fully aware of this report and its contents and had Ms Hardiman discussed this with her?

Ms Eilísh Hardiman: No, because I think I went-----

Deputy James Geoghegan: Why then did Ms Hardiman imply it was the interim CEO's responsibility to brief Ms Nugent?

Ms Eilísh Hardiman: I am being clear about it here. I went out on sick leave and was expecting to return. There was a hand-over. She was a deputy CEO at the time. She understood a lot about the issues. Regarding CEO to CEO hand-over, that did not happen because of the nature of my absence.

Deputy James Geoghegan: How could Ms Nugent possibly have known about this issue? Other than Ms Hardiman, who could have informed here about these issues?

Ms Eilísh Hardiman: The issues were addressed, the recommendations out of that have actually been addressed and the risk issues and the patient safety issues had been addressed. This is a better team. These services are safer because of the interventions. A lot of issues were happening.

Deputy James Geoghegan: This is with the benefit of hindsight but that is what we are here to do. Clearly, Ms Hardiman's intentions were good in terms of trying to identify challenges within the culture and this individual but the outworkings of the report produced a whole other host of stuff that the CHI effectively just ignored. It did not carry out any further due diligence on the issues of the NTPF. It is only now, all these years later, because the NTPF issue has been published that we are seeing this unravelling into other hospitals like Beaumont Hospital, Naas hospital and two unidentified hospitals. This is where transparency matters. I am unbelievably frustrated with the responses relating to open disclosure and that there was no scientific evidence to tell these parents. I am the parent of three children. If my child was entitled to be treated in a hospital in accordance with the waiting list and they were not treated in that time, you should bloody well tell them. Why have the witnesses not told the parents of these children that they did not get the operations in the time they should have because there was a rogue individual involved in using waiting list initiatives in a way that should not have been done?

Ms Eilísh Hardiman: There are several questions to unpack there. If we go back to the NTPF, I do regret we explicitly raise this issue.

Deputy James Geoghegan: I accept that.

Ms Eilísh Hardiman: Since then, and because we raised it with the board, the auditing committee did put the auditing of our waiting list procedures on its audit plan. That is part of what was done in 2023. It started in 2023 and was completed in 2024. The board did actually respond to that and demonstrate we have robust processes.

Deputy James Geoghegan: Why not tell the parents of these children who did not get the treatments when they should have? Why not just do that?

Ms Eilísh Hardiman: The issue of open disclosure is a separate matter.

Deputy James Geoghegan: I am asking, factually, right here. Why not just tell the parents they did not get the treatment they could have got because of governance issues in Ms Hardiman's hospital? What is the problem with just telling parents this?

Ms Eilísh Hardiman: I am trying to answer the Deputy's questions.

Ms Paula Kelly: The children who were treated through the NTPF clinic that was established as extra-core activity for that consultant were children who would otherwise not have been treated and were on a long waiting list within the public system.

Deputy James Geoghegan: Yes, and skipped the list. We know this. This is what the

report found. Am I wrong on this? Children were treated ahead of other children who should have been treated.

Ms Paula Kelly: The lower complexity children treated in that clinic were treated in an appropriate time.

Deputy James Geoghegan: There were children who were bumped up a list and treated in a quicker way than they should have been treated. That is what the report says. Am I not right in that?

Ms Paula Kelly: This is an additional work at the weekend so it did not affect the core activity during the weekday.

Deputy James Geoghegan: It is not about the effect. It is about the idea of transparency.

Ms Paula Kelly: What about the effect on the children?

Deputy James Geoghegan: It is about parents knowing this. It has come out and now they want clarity. I do not think that is unreasonable. In the report that Ms Nugent supplied to us, she mentioned she had engagement with the Medical Council. What does that mean? Has she referred the individual subject of this investigation to the Medical Council?

Ms Lucy Nugent: Yes. I have had two meetings with the Medical Council and this matter is now closed.

Deputy James Geoghegan: What does that mean?

Ms Lucy Nugent: There is no further action being taken.

Deputy James Geoghegan: Should Ms Hardiman have referred this to the Medical Council? Did that come up in any discussions at the time with the board at the *ad hoc* meeting?

Ms Eilísh Hardiman: No.

Deputy James Geoghegan: How is this possible? This individual was the subject of this review, which we keep being told was a HR review and nothing to do with macro issues and cannot be shared. At the heart of it is an individual, which is a HR issue, and how is it possible that a decision was taken to not refer the individual to the Medical Council?

Ms Eilísh Hardiman: The matters out of this report went through the appropriate HR processes. I cannot get into them any further because of the confidential nature of that.

Deputy James Geoghegan: The new CEO decided three years later this is an issue that should be referred to the Medical Council.

Ms Eilísh Hardiman: If I may, Ms Nugent wanted to talk to the Medical Council on this so I will hand back to her.

Deputy James Geoghegan: I am right. That is why she referred it.

Ms Lucy Nugent: I wanted to close it out that matter.

Deputy Aidan Farrelly: In his opening statement, Mr. Gallagher said the NTPF has strong financial oversight procedures and processes in place to administer insourcing funds. I assume by including that in his opening statement he fully stands over that.

Mr. Don Gallagher: That is right.

Deputy Aidan Farrelly: When was the last time the NTPF audited the CHI?

Mr. Don Gallagher: We do not audit the CHI. That is not our responsibility.

Ms Fiona Brady: I might just interject. Relating to waiting list management, the last time the NTPF audited the CHI was 2024 and that was CHI at Connolly where they do the central referral system.

Deputy Aidan Farrelly: Is that the entirety in terms of funds allocated to CHI?

Ms Fiona Brady: No. Just in relation to its waiting list management. We have no legal basis to go in and audit any acute hospitals from a financial perspective.

Deputy Aidan Farrelly: Even when there is insourcing taking place.

Ms Fiona Brady: Correct.

Deputy Aidan Farrelly: How can the NTPF have strong financial oversight procedures if it is not checking the financial insourcing agreements?

Ms Fiona Brady: I might just talk the Deputy through the process of how we manage insourcing.

Deputy Aidan Farrelly: Briefly, please.

Ms Fiona Brady: Outsourcing is very different. When an initiative comes in from an acute hospital, the commissioning team reviews it and we make sure it is the patients who have been on the waiting list the longest who have been requested to be seen. We always check that our MOU was signed, and in relation to the process of our MOU, that this is going to be done outside of core activity and that they will pay the consultant and any ancillary staff that may be involved in the initiative overtime rates as per MOU. We then agree in principle. We only pay-----

Deputy Aidan Farrelly: I understand that. Regarding strong oversight, what is happening in Naas hospital?

Ms Fiona Brady: I mentioned earlier to Deputy Boland that I was doing a national assurance review as to what the compliance was like in respect of our MOU. Naas made a full disclose. When we agree a price per patient, that covers the consultant pay, the clerical staff pay, the nursing pay - the whole lot. We do not pay consultants directly, only the hospitals, and then they pay the individual staff. In Naas hospital, they had been paying the consultant per patient, which is against the rules of the MOU and the national financial regulations.

Deputy Aidan Farrelly: How can that happen in a context of strong oversight? How can that be allowed to happen?

Ms Fiona Brady: As I said, we pay the hospital and the hospital then pays the individual staff. We never pay individual-----

Deputy Aidan Farrelly: So it is the hospital's fault.

Ms Fiona Brady: I am not saying that. It was a decision that they made. We stood by the

agreement we made with Naas General Hospital in respect of the initiative. Some €200 per patient will cover everything you need related to that patient. Unfortunately, it would appear that Naas General Hospital paid the consultant per patient. We have no oversight of how payments are made at hospitals.

Deputy Aidan Farrelly: What are the consequences for potentially breaking an MOU like that? Do they lose funding?

Ms Fiona Brady: To be fair to Naas General Hospital, they contacted me immediately and they were very concerned about it, and I had discussions with them. The manager of Naas General Hospital stepped in immediately and said that he needed to review what was going on and he was going to stop all insourcing, and I agreed with him in that regard. It was escalated to the HSE and Mr. Gloster, as he disclosed yesterday, has sent in the internal auditors to review the situation.

Deputy Aidan Farrelly: To the best of Ms Brady's knowledge at this point, until close of business tomorrow, she is not aware of anything other than what has been reported already in terms of the three. She does not believe there are any other incidents of concern at this point.

Ms Fiona Brady: Nothing else has been disclosed to me apart from the two hospitals that we are seeking further clarification on. I expect to get those by close of business tomorrow. We will then compile a report and send it to the Department of Health.

Deputy Aidan Farrelly: I thank Ms Hardiman for appearing today. I appreciate her being here alongside her colleagues. I ask the representatives from CHI whether anyone from the board was invited to attend this morning.

Ms Lucy Nugent: Yes, the former board chair was invited, Dr. Jim Browne. He sent his apologies. Unfortunately, he had a prior commitment. He asked me to say that he would be happy to attend in the future if the committee so wished.

Deputy Aidan Farrelly: Anybody else? Current board members? Was that a specific invitation?

Ms Lucy Nugent: No other invitation was received in that regard.

Deputy Aidan Farrelly: If Ms Hardiman does not mind me asking, in the process of the last couple of years, did she request for this role to be developed when she became aware that her role as CEO was not going to be extended?

Ms Eilísh Hardiman: No. What I am aware of is the strategic objectives that the board had and was working towards.

Deputy Aidan Farrelly: Ms Hardiman mentioned this earlier. She was managing those in her role as CEO at the time.

Ms Eilísh Hardiman: We were identifying them. There was an awful lot happening. The priorities were services, issues, post-Covid and all of those things-----

Deputy Aidan Farrelly: Was she consulted on preparing the business case?

Ms Eilísh Hardiman: No.

Deputy Aidan Farrelly: At all. The job description, nothing like that.

Ms Eilísh Hardiman: There was a mediated process in getting to agreement on what the role is. I think the board determined the strategic elements that this role could focus on. It was already work that was required to do and it determined that assigning somebody senior to it would bring value to progress those, as well as everything else we are doing within CHI-----

Deputy Aidan Farrelly: I understand that.

Ms Eilísh Hardiman: -----because there is a lot of-----

Deputy Aidan Farrelly: In terms of the board suggesting that and acknowledging what needed to be done, did that come before or after the board unanimously supported and requested the Minister for Health to extend Ms Hardiman's role for a further five years?

Ms Eilísh Hardiman: No. The board in October 2023 sought to extend the role of the CEO.

Deputy Aidan Farrelly: When the Minister said "No" and they went back and sought that again-----

Ms Eilísh Hardiman: That happened in February or March 2024.

Deputy Aidan Farrelly: And then the business case gets put forward to the Department.

Ms Eilísh Hardiman: I was not part of that but it must have been in that period because it concluded by April.

Deputy Aidan Farrelly: Was there a recruitment process as part of that role?

Ms Eilísh Hardiman: No. This is an employment law matter. A contract of indefinite duration is automatically given because I had two five-year fixed-term consecutive contracts.

Deputy Aidan Farrelly: There is merit to the role but also it appears there was an entitlement to the role as well.

Ms Eilísh Hardiman: Yes. The fixed-term workers Act is very clear that there is automatically a contract of indefinite duration after two five-year fixed-term contracts have been awarded.

Deputy Aidan Farrelly: I am curious as to Ms Brady's and Mr. Gallagher's thoughts on potential conflict of interest with regard to the reporting this week that there are members currently working in the public sector who are directors of private companies, essentially being paid twice to do the job. A very simple approach would be to ask why one would work to reduce a public waiting list when one is financially incentivised to not do so?

Ms Fiona Brady: Mr. Gloster mentioned that yesterday, and that is part of the national review that he did. That is in relation to third-party providers. The NTPF does not engage with any third-party providers. We only engage with acute hospitals.

Deputy Aidan Farrelly: At all.

Ms Fiona Brady: At all.

Deputy Aidan Farrelly: I emphasise my thanks for Ms Hardiman coming back a second time. It is beneficial for us to have this opportunity to speak once again. I will finish by giving her the opportunity to recap where things are now in respect of confidence in the institution,

confidence in the transition and confidence in the future of CHI. Many people have communicated with me their abject lack of confidence in the institution. That is not the workers or the experience for children who are able to access the services but for what the future looks like in a transition period of such importance. I want to give Ms Hardiman the floor for the remaining time I have, to share what the future might look like for CHI under her leadership.

Ms Lucy Nugent: For clarity, the Deputy said "Ms Hardiman" but I assume he meant me.

Deputy Aidan Farrelly: I apologise to Ms Nugent. That is my fault.

Ms Lucy Nugent: No problem at all. I fully recognise that we have to rebuild both our reputation and the trust that we need – that of the public, our patients and our staff. The future is bright. We have an amazing building, but a building does not deliver care, the people do. The most important thing is to ensure that we attract, retain and develop the best staff that we can to provide the best care that we can. That is just not what we are doing now; it is what we can do in the future. There is the opportunity to bring together all these fantastic staff from multiple sites into one location and two satellite centres. That will enable us to repatriate some things that are sent abroad from a diagnostic or care point of view. That is important because having to travel when you have a sick child is stressful even if it is from Donegal or Cork, let alone getting on a plane or boat.

We want to expand and develop our services. We want to have research and innovation at the centre of what we do. Medicine and healthcare continues to evolve at a rapid pace and I want to make sure our staff are aware of what we can offer our families in a safe way and in a quality-driven way to drive outcomes. We are focusing on that more. We are learning how we can do better. Our parents, children and young people are part of that process, as well as everyone around this table.

As I said, I could talk about the transformation programme, but I think we are running out of time. There is an extensive transformation programme led by my colleague, Ms Julia Lewis, which ensures that staff are ready. This is a unique and transformational opportunity for the State and for us in CHI. We are merging three entities with three cultures but with shared values. We are going into an amazing building. We will be fully digital. That is challenging but we are up for that challenge. Equally, we are being well prepared through our Eolas education and training programme. There is a tried and tested methodology. For example, one is called a go-live readiness assessment. I would hand over to Ms Lewis, but we have run out of time.

An Cathaoirleach: I know you could talk all day about it, and I appreciate that, but unfortunately the clock is against us.

Sitting suspended at 12 noon and resumed at 12.18 p.m.

An Cathaoirleach: Our next speaker is Deputy Dolan.

Deputy Albert Dolan: I want Ms Nugent to set out clearly what has changed since witnesses from CHI were last here, which I am conscious was just over a month ago. What concrete improvements have been delivered and where can we now show that the issues raised here have been addressed or are in the process of being addressed? We need evidence of progress; we do not need the same problems. Families and children depending on CHI's services deserve nothing less. I thank Ms Nugent, the CEO, for being here. Could she please outline what CHI has done in the month since she was last here?

Ms Lucy Nugent: In relation to our actual governance structures, when I took up my role initially, the clinical director role was such that clinical directors had site responsibility and were not with their actual teams. We have rearranged that and we have also taken site responsibility from the clinical directors. No disrespect to my colleagues, who are fantastic, but they would not necessarily have the skill set. Also, they have enough to do in the clinical director role. In this regard, they have a bit more time now to engage with our clinical colleagues.

We are rolling out our clinical specialty leads programme, so each speciality will have a lead. This is moving away from the traditional advocacy role concerning resources, etc., to managerial and leadership roles. We provide the job description and our colleagues are being interviewed. How someone takes on the role involves an open and transparent process. In relation to the executive management structure, I have advised of the posts that I have filled. This is going to give stability to our executive management team. We have also streamlined how we do our business. Those new processes-----

Deputy Albert Dolan: On how CHI does its business, how is it planned to change the culture within CHI? The culture being toxic seems to be the number one issue pervading all reports, all media and presentations to us.

Ms Lucy Nugent: The culture is largely positive. There are pockets of culture that are not working, but that is not across the entire organisation. I would be doing a disservice to my colleagues if I said otherwise. There are a number of cultural programmes under way. Some of my colleagues are down in Dr. Steevens' Hospital as we speak. We will be joining them afterwards. We are doing a full-day workshop with the HSE about the national culture programme it is rolling out. We have put our hands up to engage in that.

Staff need get to know me. I am new, so I have made it my business to have the engagement sessions I was talking about. However, we also need to listen to the people who use our services. That is important. We are lucky that we have the youth advisory council. It is made up of young people who are either current patients or immediate past patients of CHI.

Deputy Albert Dolan: I really appreciate that and the engagement with the HSE to try to improve the culture because that is a serious concern.

I raised a matter previously and asked CHI to review it. CHI said that the consultant who had caused a lot of this havoc was out on paid leave and that it was voluntary. I thought it was wrong that that person was still being paid and that it was voluntary leave. What is the status of that individual? Is that individual still being paid to this date?

Ms Lucy Nugent: I am going to hand over to my colleague in regard to that.

Mr. John Fitzpatrick: I understand the individual is on administrative leave and being paid.

Deputy Albert Dolan: To clarify, is there a difference between administrative leave and voluntary leave?

Mr. John Fitzpatrick: I do not know what the technical difference is.

Deputy Albert Dolan: Did the individual go by choice or was that person told to go?

Ms Lucy Nugent: If I may intervene, there is a HR process ongoing. I am cognisant of not saying anything to jeopardise that process.

Deputy Albert Dolan: Okay. The next question should not jeopardise that process. Do the witnesses know how much the person is being paid monthly even though that person is not there?

Mr. John Fitzpatrick: I do not. I would not be in a position to comment on any one individual. The person will be paid in accordance with the approved consolidation pay scales.

Deputy Albert Dolan: The person is still on the full pay scale as if showing up at work even though that person is not. A HR process is ongoing.

Ms Lucy Nugent: Yes.

Deputy Albert Dolan: When Ms Nugent said it was completed with the Medical Council, are we talking about the same individual?

Ms Lucy Nugent: No, that is a different individual.

Deputy Albert Dolan: I thank the witnesses.

If possible, will Ms Hardiman provide me with an outline of how she came to be appointed to the strategic director role?

Ms Eilísh Hardiman: It was an employment law matter. The board of the CHI appoints the CEO in accordance with the Act and with the approval of the Minister for Health. I had two fixed-term contracts. That was part of the hospital group structure. I was in the HSE before the board was established in 2019. I transferred to the CHI as part of that legislation. The board then asked and recommended that I be extended for a third term. The Government policy position on this is that non-commercial State board CEOs are appointed for a five-year term up to two consecutive periods.

Deputy Albert Dolan: For clarity, when Ms Hardiman realised the Minister was not going to approve her reappointment as CEO, did she take legal action at that point to secure her future in the organisation?

Ms Eilísh Hardiman: The issue was that we needed to reach an agreement.

Deputy Albert Dolan: Did Ms Hardiman take legal action?

Ms Eilísh Hardiman: Yes, I did, and it went into a mediation process.

Deputy Albert Dolan: Why did Ms Hardiman feel the need to take legal action? Had she not served her time in the ten-year period she was there?

Ms Eilísh Hardiman: No, it was the fact that it was a contract of indefinite duration. It was a follow-through on that legal element of it.

Deputy Albert Dolan: Ms Hardiman was then selected for the role of strategic director on the exact same pay as the CEO. What strategic gaps existed that justified the creation of that position?

Ms Eilísh Hardiman: Just to go back, it was an employment law matter. The last contract automatically becomes a contract of indefinite duration. That is the law.

In relation to-----

Deputy Albert Dolan: That legal issue cost the State €120,000.

Ms Eilísh Hardiman: The agreement to conclude things was why the mediation was-----

Deputy Albert Dolan: The Chief State Solicitor had to pay €120,000 to rectify the legal issue that was brought forward by Ms Hardiman, which led to the mediation and ultimately led to her being put into a role-----

Ms Eilísh Hardiman: To resolve it. To get an agreement to the mediation process. That is where the costs are.

Deputy Albert Dolan: The Chief State Solicitor's office paid €120,000 for that.

Ms Eilísh Hardiman: I understand that was the fee. I did not know about that. As to the role, the work was always there, just to be clear. There were very clear strategic objectives that were outlined-----

Deputy Albert Dolan: Who was in that role before Ms Hardiman?

Ms Eilísh Hardiman: No, it was not. The work maybe did not get the focus that it was getting because-----

Deputy Albert Dolan: This was a new role.

Ms Eilísh Hardiman: This was work that needed to be done.

Deputy Albert Dolan: Was it a new role?

Ms Eilísh Hardiman: Yes. The board determined that I be assigned to this.

Deputy Albert Dolan: Was the board influenced by the fact that it had been dealing with Ms Hardiman for the previous ten years?

Ms Eilísh Hardiman: I cannot comment for the board.

Deputy Albert Dolan: The last time the CEO, Ms Nugent, was here, I asked her whether she felt that Ms Hardiman had the same responsibility now as the latter did when she was CEO. Obviously, as a strategic director, Ms Hardiman does not have responsibility for the thousands of people or more than €600 million budget. Does Ms Hardiman feel her wage is justified?

Ms Eilísh Hardiman: It is an employment law matter. The law is the law, and the employer and employee have to follow through on that. I am totally committed to the projects we are doing. They are very important. It is good they are getting this emphasis. For us to leverage this new children's hospital, we need to move on some big strategic projects. I can bring-----

Deputy Albert Dolan: I appreciate Ms Hardiman attending and I know it is an employment law matter, but it is really hard for the public to accept that somebody who was in the CEO role for ten years had finished up her duty and has now come back in a strategic director role. It does not aid the image of CHI or the culture that we have issue with.

Speaking of CHI, something that is of major concern for me - I need reassurance around this - is the transition team. When that hospital, please God, gets handed over on 30 September from BAM to the CHI transitioning team and the NPHDB, will the transition team ready to rock?

Ms Lucy Nugent: Absolutely. I would like to give my colleague a chance to tell the committee some of the fantastic work the team is doing.

Ms Julia Lewis: We are ready to go. We were expecting the building on 30 June this year, so we were ready to go on 1 July, which was this week. We have all our planning done in terms of the operational commissioning period, which will take nine months. That will put in over 60,000 major pieces of equipment. We will then have to integrate with the electronic healthcare record and train all the staff.

Deputy Albert Dolan: I have one question. What are the biggest issues facing the transition team now before handing over the keys and how is it planned to resolve those before getting the keys?

Ms Julia Lewis: Our biggest issue and the first issue on our risk register is the fact that we have no defined substantial completion date. That is the single biggest issue for CHI. While we have all our plans in place, we cannot attach a date to them to actually make them run.

Deputy Catherine Ardagh: I thank Ms Nugent and Ms Hardiman for attending the committee. Ms Hardiman is a previous CEO and has done a lot of work, especially in terms of getting the children's hospital to where it is. The opening of the hospital will be a very proud day for her. That work has to be acknowledged.

I do not know whether someone is here from the Department of Health who can answer this but in relation to the HIQA report on the use of springs, is there no one who can answer how much that cost? The last time we had a Department of Health official here, but there was no contribution from CHI to that report.

Ms Lucy Nugent: HIQA, as a regulating body, did the report.

Deputy Catherine Ardagh: Yes, I know that. Did CHI not contribute to the payment for that report?

Ms Lucy Nugent: Pardon?

Deputy Catherine Ardagh: On the last occasion, we had Department of Health officials and they were able to answer that. I do not believe Ms Nugent can answer that question for me.

In relation to surgeon A referenced in that report, is that the same surgeon we have discussed previously who is on administrative leave?

Ms Lucy Nugent: That is right.

Deputy Catherine Ardagh: That surgeon is on paid administrative leave.

Ms Lucy Nugent: I will ask my colleague to answer that.

Deputy Catherine Ardagh: When did the paid administrative leave start?

Mr. John Fitzpatrick: I do not have those details.

Ms Lucy Nugent: It started in October 2023.

Deputy Catherine Ardagh: We heard evidence from Bernard Gloster on Naas General Hospital yesterday. He was unable to give us specifics but Ms Brady was. Two other hospitals

have been mentioned. Is Ms Brady able to give us any more specifics on National Treatment Purchase Fund irregularities at those hospitals?

Ms Fiona Brady: Unfortunately, I am unable to do so today. My closing date for receiving further clarification is tomorrow evening. I will then put the report together.

Deputy Catherine Ardagh: Could Ms Brady furnish the committee with an answer to my question the day after tomorrow, so we may have it at our next meeting?

Ms Fiona Brady: As soon as I get the clarifications I am looking for, I intend to speak to Mr. Gloster about them.

Deputy Catherine Ardagh: It is alleged that some of the medical care was conducted within normal working hours. Is that one of the themes Ms Brady is seeing across the board or was that an irregularity when it came to Beaumont Hospital?

Ms Fiona Brady: It was an irregularity specific to Beaumont Hospital.

Deputy Catherine Ardagh: It is an isolated incident and Ms Brady has not come across it since.

Ms Fiona Brady: As I mentioned earlier on, I completed a national assurance review and did not come across it again.

Deputy Catherine Ardagh: I think Ms Brady said Kingsbridge Hospital in Belfast was one of the NTPF's major benefactors.

Ms Fiona Brady: From a private hospital perspective, it is.

Deputy Catherine Ardagh: How much would that hospital group receive annually?

Mr. Seán Flood: Kingsbridge was paid €21.9 million last year.

Deputy Catherine Ardagh: I want to move on to the NTPF's funding and support of the fair deal scheme. I know from the Comptroller and Auditor General's report that the NTPF has responsibility for negotiating pricing with nursing homes when it comes to the fair deal. What checks does the NTPF undertake when setting the price paid to an individual nursing home under the fair deal scheme?

Ms Fiona Brady: Mr. Flood is the director over the fair deal scheme.

Mr. Seán Flood: The process is not a procurement one. It is a negotiation process. When we engage with a nursing home we send out a renewal pack. It fills in all of the operational and financial data. We also get its financial statements which have been audited or signed off by an accountant. We also carry out our own financial analysis. It is all part of the process. We do it under four criteria. One of those is the cost reasonably incurred and value of money to the State. We make an offer and it is then a decision for the nursing home whether or not to accept it. We do a detailed financial analysis of each nursing home.

Deputy Catherine Ardagh: Does the NTPF carry out checks after the agreement is reached to ensure the prices are adhered to?

Mr. Seán Flood: We do not because we do not make the payments to the nursing homes. We notify the HSE what the prices are and it makes the payments to the private nursing homes.

Deputy Catherine Ardagh: If there is overcharging, does it come back onto Mr. Flood's desk?

Mr. Seán Flood: What does Deputy Ardagh mean by overcharging?

Deputy Catherine Ardagh: If the nursing home increases the fees subsequent to the negotiation does Mr. Flood revisit that?

Mr. Seán Flood: As I said, it is a negotiation process. We agree a maximum price and it would bill the HSE. We notify the HSE about the price. All of the rates for all of the private and voluntary nursing homes are on the HSE website. Once the price is agreed, it is published. The nursing homes invoice the HSE for their fair deal residents and they are paid by the HSE.

Deputy Catherine Ardagh: What if a nursing home charges over the maximum allowable price and has it happened?

Mr. Seán Flood: It cannot. It can only charge the maximum price under legislation. We inform the HSE about the maximum price.

Deputy Catherine Ardagh: Does the NTPF have a role in assessing whether the appropriate level of care is being given in a nursing home?

Mr. Seán Flood: We do not. Our remit is specific. It is to agree the maximum price. We are not a regulatory body. That role is for HIQA.

Deputy Catherine Ardagh: A lot of us watched the recent "Prime Time Investigates" programme on nursing homes. If the NTPF hears that a nursing home is not providing adequate levels of care and it receives substantial funding from the NTPF, the NTPF has no role in withholding funding.

Mr. Seán Flood: We cannot because we do not make the payments.

Deputy Catherine Ardagh: Does the NTPF have any monitoring or oversight role at all?

Mr. Seán Flood: Again that is a regulatory role and it is one for HIQA. It is not our remit.

Deputy Catherine Ardagh: We know about all of governance irregularities and clinical discrepancies at CHI and as my colleague pointed out earlier it is the child and their family who are at the centre of it. We are here today trying to disclose facts. We are not trying to prosecute. However, it is important the families remain our sole motivator to ensure that children get the best care possible and that the taxpayer does not overpay. It is important that staff in CHI and other hospitals work in environments that are transparent, well-run and fair to them. That has to be the core mission for Ms Nugent and her team. We are going to see a move to the new hospital soon. It is a really big project. It is one of the biggest projects ever undertaken by the HSE. It is a huge amount of work for the CHI team. The public wants to ensure there is transparency and as politicians we also want to see transparency. Ideally we will not have to ask representatives from CHI in again because of something we have read in the newspaper. We do not like working reactively. We like to have a work programme. It is unfortunate that we had to ask it in again but we are happy that the witnesses have co-operated with us and have come in again. It is the children and families who have to be at the centre of what we do and everything the CHI does. If any of the witnesses from CHI wish to comment, I would be grateful.

Ms Lucy Nugent: I agree with everything Deputy Ardagh said. The reason our staff get

out of bed everyday and come in is that they are committed to providing excellent care that is patient centred. As I said before, we want to make sure that we are transparent and engaging. A family advisory network was established in 2023 with families who attend CHI. We intend to expand that programme. Our youth advisory council is fantastic. Giving young people a voice is important. Sometimes people think that because of their age, they do not have an opinion. We are all guilty of it. They have an important voice. This is reflected in the design of the new children's hospital.

People have to trust that when they are handing over their child to us, they will receive the best care as if they were our own children, so I 100% agree with the Deputy. Everyday our staff come into work to do a good job. We have failed on occasion. We are going to learn from that. Healthcare is a risky business. Can I say it will never happen again? I would love to say 100% that something will never happen again. Unfortunately given the nature of our business sometimes things go wrong. What I can guarantee is we will learn from it and hopefully that things will not go wrong again. It might be something else. We are a learning organisation. We are very cognisant of the privilege we have in respect of the young people and their families.

Deputy Joe Neville: I thank the representatives from the different organisations for coming in to discuss quite complex issues. There is a lot of learning to be done. Could Ms Hardiman establish a timeline for me? When was she appointed CEO and when did she go on sick leave? When was the interim CEO appointed and when did the new CEO come in?

Ms Eilísh Hardiman: I have been CEO since October 2013. My contract was renewed in October 2018. In October 2023 I had planned medical leave for some surgery.

Deputy Joe Neville: Can I clarify, was Ms Hardiman finishing up in October 2023?

Ms Eilísh Hardiman: Correct.

Deputy Joe Neville: Was Ms Hardiman on sick leave when she finished or go on sick leave after?

Ms Eilísh Hardiman: No, I took sick leave which was arranged the week beforehand.

Deputy Joe Neville: So, Ms Hardiman went on sick leave a week before she was due to finish her five years.

Ms Eilísh Hardiman: Correct.

Deputy Joe Neville: Okay.

Ms Eilísh Hardiman: There was a deputy CEO who acted up during that period of sick leave.

Deputy Joe Neville: How long did that sick leave last?

Ms Eilísh Hardiman: Until January-----

Deputy Joe Neville: Two months.

Ms Eilísh Hardiman: ------ of 2024.

Deputy Joe Neville: Two months.

Ms Eilísh Hardiman: Yes, about that. I think it was ten weeks.

Deputy Joe Neville: There was an interim CEO.

Ms Eilísh Hardiman: There was an acting CEO. As the board had received communication from the Minister to say that the Government policy was being implemented and that the CEO should only do two terms, we went into a mediation to actually-----

Deputy Joe Neville: When was that?

Ms Eilísh Hardiman: That would have been February, March-----

Deputy Joe Neville: So, Ms Hardiman had come back-----

Ms Eilísh Hardiman: No, I was not back.

Deputy Joe Neville: Was Ms Hardiman on sick leave? She said that was up in January.

Ms Eilísh Hardiman: Then it was administrative leave while this was going on.

Deputy Joe Neville: So, Ms Hardiman went on sick leave and then administrative leave.

Ms Eilísh Hardiman: Correct. The interim CEO was put in place by the board. I returned in May 2024. The interim CEO was in place.

Ms Lucy Nugent: I took up my position on 20 January this year.

Deputy Joe Neville: January 2025. So, the deputy was there for a year, pretty much. It was 14 months.

Ms Eilísh Hardiman: Correct.

Deputy Joe Neville: I just wanted that clarified. Ms Hardiman is saying that the legal situation was that because she was there ten years, five years in a previous role and then that role for five years, she essentially had a guaranteed contract. Is that what she is saying? Is that the trusted legal case?

Ms Eilísh Hardiman: Yes, it is. There has been a Supreme Court hearing in relation to this.

Deputy Joe Neville: Does that mean that is the case with all five year contracts? Is it because she had five years or because she had ten? Does it draw a question mark over all five-year contracts we have with CEOs or what is the situation?

Ms Eilísh Hardiman: It is the fixed-term Act.

Deputy Joe Neville: What is the term to allow a fixed term?

Ms Eilísh Hardiman: If you have two consecutive contracts of over four years. Those are the legal parameters on this.

Deputy Joe Neville: In her current role, has Ms Hardiman a team?

Ms Eilísh Hardiman: No, I work with all the executives on the particular strategic roles and-----

Deputy Joe Neville: Is Ms Hardiman still on the senior management team?

Ms Eilísh Hardiman: Yes.

Deputy Joe Neville: Do they meet regularly with weekly senior management meetings?

Ms Eilísh Hardiman: Ms Nugent has set up the structures that are now in place.

Deputy Joe Neville: Is Ms Hardiman on that senior management team? I presume she meets the senior management team weekly.

Ms Eilísh Hardiman: Not the operations one.

Deputy Joe Neville: Not the operations but Ms Hardiman is-----

Ms Eilísh Hardiman: No, because the projects I am doing are of a strategic nature, so I am not involved in operations.

Deputy Joe Neville: Okay. Returning to this infamous report in 2021-2022 was it because Ms Hardiman had questions on what was happening? She had concerns.

Ms Eilísh Hardiman: Yes. We did have concerns.

Deputy Joe Neville: She had concerns which is fair. So, she did a report and she is saying she acted on that and was happy to leave it aside.

Ms Eilísh Hardiman: We put it together particularly around the patient safety and risk issues. There was what we call a management intervention action plan whereby we were very clearly stating to this team that they needed support and help-----

Deputy Joe Neville: And to clarify-----

Ms Eilísh Hardiman: -----and we reported-----

Deputy Joe Neville: To clarify, was the consultant referred to at the centre of some of these questions highlighted in this report?

Ms Eilísh Hardiman: Is the Deputy talking about the consultant commented on who is on administrative leave?

Deputy Joe Neville: Yes.

Ms Eilísh Hardiman: No.

Deputy Joe Neville: Were there any issues in that sphere?

Ms Eilísh Hardiman: It is a different-----

Deputy Joe Neville: I know. Had they popped up prior to then? I know there are a lot of reports bouncing around.

Ms Eilísh Hardiman: I am trying to understand which consultant the Deputy is talking about, just to be clear.

Deputy Joe Neville: The consultant where we have issues. Either of the consultants, I suppose.

Ms Eilísh Hardiman: No.

Deputy Joe Neville: Any issue that Ms Hardiman might have had-----

Ms Eilísh Hardiman: Two separate services and two separate -----

Deputy Joe Neville: Were there any issues highlighted in that report that were not actioned fully and that were actioned later?

Ms Eilísh Hardiman: No, there was-----

Deputy Joe Neville: That is what I am asking.

Ms Eilísh Hardiman: They were not related to that, no.

Deputy Joe Neville: Related-----

Ms Eilísh Hardiman: Just to be clear, we had a management intervention. There was a whole action plan team. There was consistent reporting back to the board in relation to this. Most importantly then, the actions were taken using the appropriate HR processes to actually address the concerns, because they were very serious concerns and it was quite shocking to get that report. We genuinely engaged with the staff to say, "We're here. We're going to listen and we're going to act. Please tell us what you need and what are the issues and concerns". I think we demonstrated here that we were not afraid to act and that the staff have trusted us in raising those and some were terrible to hear but I give assurance those were addressed. Ms Nugent has met the teams since and they are in a much better place.

Deputy Joe Neville: I will jump across to Ms Nugent. With the person on administrative leave, what exactly are they on administrative leave for?

Ms Lucy Nugent: I am not at liberty to discuss this as it is an ongoing HR issue and I do not want to jeopardise that process. I am not being evasive but I do not want to jeopardise it.

Deputy Joe Neville: Is that person an employee?

Ms Lucy Nugent: Yes.

Deputy Joe Neville: Are they are also doing third-party work as well?

Ms Lucy Nugent: No. I think the Deputy is confusing that with consultant D.

Deputy Joe Neville: Okay. With consultant D, is that person-----

Ms Lucy Nugent: Sorry, I just want to be very clear. Are we talking about the examination report?

Deputy Joe Neville: Yes.

Ms Lucy Nugent: They are no longer in CHI.

Deputy Joe Neville: They are no longer there. Were they an employee of CHI?

Ms Lucy Nugent: Yes, they were.

Deputy Joe Neville: They were also doing third-party work. Is that how it worked?

Ms Lucy Nugent: By third-party does the Deputy mean NTPF?

Deputy Joe Neville: No. Were they doing outside hours work too? To clarify, I am talking about the consultant who was not fulfilling out-of-call hours but was actually working week-ends as well.

Ms Lucy Nugent: The consultant was signed off from on-call commitments, as we said. Night-time -----

Deputy Joe Neville: Sorry, was that person an employee of CHI?

Ms Lucy Nugent: Yes.

Deputy Joe Neville: He is no longer an employee.

Ms Lucy Nugent: He is no longer-----.

Deputy Joe Neville: Okay. When was that person no longer with CHI?

Ms Eilísh Hardiman: In 2022.

Ms Lucy Nugent: In 2022.

Deputy Joe Neville: Was Ms Brady aware of all that. When did she become aware of that?

Ms Fiona Brady: When it was published in the *Sunday Times.*

Deputy Joe Neville: In June.

Ms Fiona Brady: Yes

Deputy Joe Neville: So, was that report leaked or how did that come about?

Ms Lucy Nugent: Yes, it was leaked.

Deputy Joe Neville: By whom?

Ms Lucy Nugent: It appeared in the *Sunday Times.* I do not know who leaked it.

Deputy Joe Neville: It was leaked from CHI, was it?

Ms Lucy Nugent: I have to only assume. It was a very confidential report so only a small number-----

Deputy Joe Neville: Who had access to that report?

Ms Lucy Nugent: I would have to defer to Ms Hardiman.

Deputy Joe Neville: Was it someone on one of Ms Hardiman's previous teams who would have leaked that or how would that have worked?

Ms Eilísh Hardiman: I do not know who has leaked it but the circulation was limited to the board-----

Deputy Joe Neville: How many people would have had access to that report? Was that done to undermine the management team?

Ms Eilísh Hardiman: I do not know the purpose for leaking but I would say 20 or 22

people might have had it.

Deputy Joe Neville: Does Ms Hardiman think it served a positive purpose for it to be leaked?

Ms Eilísh Hardiman: Obviously, the contents of the report, as we have all read them at the time, are appalling and shocking-----

Deputy Joe Neville: Is Ms Brady happy it was leaked?

Ms Fiona Brady: No, I would have preferred to get a copy myself. In relation to the issues that pertain-----

Deputy Joe Neville: Does Ms Brady feel now it was hidden from her and that it should have been shared? Does she feel the CEO was neglectful in not sharing it with her?

Ms Fiona Brady: I think Ms Nugent has clarified that CHI regrets it had not sent us the report at the time-----

Deputy Joe Neville: Does she feel it was neglectful?

Ms Fiona Brady: -----and I accept that.

Deputy Joe Neville: Sorry, I am asking what Ms Brady's view on it is. I know she regrets it but what does Ms Brady think?

Ms Fiona Brady: Personally, I would have preferred------

Deputy Joe Neville: I am asking the same of Mr. Gallagher. The question is not only for Ms Brady but for both of them.

Ms Fiona Brady: We would have preferred to have got a copy of the report that pertains to the NTPF. It would have been preferable to receive a copy of that.

Deputy Joe Neville: Does someone working out-of-hours use the services provided by the hospital? Do they do it on-site in the hospitals?

Ms Eilísh Hardiman: To be clear, those clinics were supposed to be off-site because of Covid. That limited the type of patient that could be put onto it because there was no X-ray-----

Deputy Joe Neville: Did they use the hospital?

Ms Eilísh Hardiman: Yes, like all the in-sourcing-----

Deputy Joe Neville: Did they pay the hospitals for use? They are private operators, essentially at this stage.

Ms Eilísh Hardiman: That is in the arrangement.

Deputy Joe Neville: So, the arrangement is that they get the money. They do not pay rent, essentially, like a business would. They just get to use the facilities.

Ms Eilísh Hardiman: These are inpatient initiatives that are progressed by the hospital. It is not by the consultant. The operations team and the schedule-----

Deputy Joe Neville: I know but at the same time they are earning money as an independent operator at that point.

Ms Eilísh Hardiman: All of the staff in those clinics are being paid over because they are working outside of their normal contracted hours.

Deputy Joe Neville: To switch back to Ms Brady with one last question, to clarify, did she say that in Naas Hospital that the standard costs are €200? Has NTPF established the standard cost of €200 that should be paid to consultants for seeing a patient? Is that what she is saying?

Ms Fiona Brady: No, not to consultants. We never pay consultants directly-----

Deputy Joe Neville: No, I know it does not but somebody in Naas has.

Ms Fiona Brady: Yes.

Deputy Joe Neville: I know exactly what she is saying. I am just asking has NTPF identified a standard cost of €200? Is that the amount that is being given directly to consultants? Is that what the issue is?

Ms Fiona Brady: Correct. To the best of my knowledge, the hospital paid the consultant directly rather than using the funds from the NTPF to pay all the staff who were involved in the initiative that was agreed.

Deputy Joe Neville: I want to clarify that. Ms Brady is saying that the money should have been given to a team of staff. I just want to find out exactly what the problem is.

Ms Fiona Brady: This is to the best of my knowledge at the moment, Deputy.

Deputy Joe Neville: Ms Brady is not clear either. That is what I am saying.

Ms Fiona Brady: That is further clarification I have sought. We agree the €200, which covers the consultant, the cost of clerical staff who check them in in overtime and potentially nursing staff because a team is needed to run an initiative at the weekend. The €200 goes to the hospital to cover all of them. It is my understanding, to the best of my knowledge today, that the hospital was paying the €200 directly to the consultant.

Deputy Joe Neville: I thank the Chair.

An Cathaoirleach: Deputy Ardagh asked, when that piece of work is completed, that-----

Ms Fiona Brady: It will be public knowledge.

An Cathaoirleach: It will be public knowledge and we will get a copy of it at that point.

Ms Fiona Brady: Yes.

An Cathaoirleach: I thank Ms Brady. Our next speaker is Deputy McAuliffe.

Deputy Paul McAuliffe: Good morning. I thank the witnesses for being here today and for the work they do. As other speakers have said, the scale of even the issues for which the witnesses are here before us is vast. I acknowledge the scale of the work they do outside of all of that. As the nature of this committee is that we focus on things that go wrong, I just wished to highlight that.

It is really unfortunate, as Deputy Ardagh said, that they are here before us today in a reactive way. That is not the way we want to do our work. Unfortunately, CHI has been at the centre of a controversy which involved the implantation of unapproved products in children. It is involved in controversy relating to surgery that may not have been required or was not required for children. It has also been at the centre of the controversy regarding waiting lists and the National Treatment Purchase Fund, which, as Deputy Geoghegan said, has gone on to have broader consequences. There is a broader question about governance, which I will give witnesses a moment to think about. I will return to that question at the end. We have to get CHI right to ensure it is not before this committee again in a reactive way. Like other Deputies have highlighted, that is achieved through transparency. The message for the board of CHI, which is not here, is that when issues come before it, it has an obligation to inform the other partners it works with, such as the HSE, the Comptroller and Auditor General, the NTPF and so on.

Focusing on the issues of the surgeries that took place and the different thresholds used in Crumlin hospital versus Temple Street and Cappagh hospitals, of the cases Ms Kelly mentioned, how many are being reviewed at present?

Ms Paula Kelly: While I am not directly involved in the management of orthopaedic surgery, it is my understanding, in the audit that was published, the HSE has now committed to doing a review of the children who have had surgery since 2010.

Deputy Paul McAuliffe: Do you know that number?

Ms Paula Kelly: I believe it is 2,000.

Ms Lucy Nugent: I can clarify that. There were originally 2,259 children involved. The children who had surgery in Crumlin hospital, bar one patient, were deemed to have compliant surgery, for want of a better word. That consists of 446 children. The only requirement there is that they are followed up to skeletal maturity, until their bones fully mature, which is a routine practice. That is being done in a normal outpatient activity. The remainder of the children are being seen through a multidisciplinary team clinical review to establish the status of the children's hips now. That involves Temple Street and Cappagh children. Subsequent to that will be this expert panel.

Deputy Paul McAuliffe: Can Ms Nugent give me the number of treatments which were deemed to be inappropriate?

Ms Lucy Nugent: There are just over 1,800 children being reviewed. In the cohort of the audit, some of those children in Cappagh and Temple Street hospitals were compliant.

Deputy Paul McAuliffe: My question is about those that were non-compliant. I will give Ms Nugent an opportunity to give me that number, please.

Ms Lucy Nugent: That will be determined because there are only 147 children in the audit.

Deputy Paul McAuliffe: Okay, so it is not yet known.

Ms Lucy Nugent: It is not yet known.

Deputy Paul McAuliffe: Of those treatments which are not yet known to be compliant - this a difficult question to answer - are we examining whether those surgeries were funded by the National Treatment Purchase Fund in any way?

Ms Lucy Nugent: None of those children were funded through the National Treatment Purchase Fund.

Deputy Paul McAuliffe: Okay. Ms Nugent can reassure the committee that there was no perverse financial incentive for these surgeries to be carried out.

Ms Lucy Nugent: I understand why Deputy McAuliffe is asking me this question because there was a suggestion in one of the media articles that this was a driving factor. When that came to my attention, through hospital inpatient enquiry, HIPE, data, we were able to analyse the fact that in one of our institutions, 25% of those patients were private and in the other institution, 26% of patients were private. Under the old contract, consultants are allowed to do between 20% to 30% of their activity as private work, depending on the type of contract they were on. Based on those data, there is no suggestion this was done for financial gain. There was a philosophy-----

Deputy Paul McAuliffe: As part of the review, is that being monitored in any way? We want to have a public airing of the assertion Ms Nugent has said here. We want to ensure there was no financial incentive or misuse of the NTPF in order to carry out surgeries which were deemed to be unnecessary. Ms Nugent will understand why I am asking that question.

Ms Lucy Nugent: I understand why.

Deputy Paul McAuliffe: Is that financial element the subject of the review, or is the review purely clinical?

Ms Lucy Nugent: It is purely clinical.

Deputy Paul McAuliffe: Okay. I will turn to Ms Brady then. It is concerning, given the breaches that have happened in the MOU, that this concern arises. Is there a way the NTPF can establish that there was no perverse financial incentive for operations which were carried out and not needed?

Ms Fiona Brady: Unfortunately, I would not be able to establish whether there were any perverse incentives. I know Mr. Gloster mentioned that yesterday in his internal review. There has to be trust between us and the public hospitals. We trust them to implement the initiatives we have agreed on with the agreed price and to follow our MOU. They, in turn, trust us to pay them for the work carried out. There has to be an element of trust. Unfortunately, I do not-----

Deputy Paul McAuliffe: I do not take away from the fact that at the centre of many of these allegations are individuals who made decisions that are indefensible in many cases. We are not asking Ms Brady to respond on behalf of the individuals who did those wrong things. Rather, we are asking her to respond on the system that can ensure this will not happen again and that checks are in place. She is saying there are no particular checks and that the NTPF relies entirely on the medical and clinical leadership in those hospitals.

Ms Fiona Brady: The operational management of consultants and waiting lists still lies with the public hospitals themselves and the management in the public hospitals.

Deputy Paul McAuliffe: What the NTPF might be responsible for though is any potential conflict of interest. Obviously, Mr. Gloster raised that in his report. What measures has it put in place to prevent conflicts of interest?

Ms Fiona Brady: I am not sure what the Deputy is asking. Is it a conflict of interest-----

Deputy Paul McAuliffe: If someone is managing the flow of work through a public list and there is also a NTPF process where they receive additional payments for work carried out through the NTPF, that is a conflict of interest.

Ms Fiona Brady: From my perspective------

Deputy Paul McAuliffe: If a clinician is managing the flow of treatment in a public list but has an ability to benefit financially by treating that person through an NTPF initiative, I regard that as a conflict of interest. While it may be difficult to avoid that conflict of interest, what steps has the NTPF taken to ensure that management, if you want to use that word, or mismanagement, of the public lists does not take place?

Ms Fiona Brady: It is down to our process. It is about the adherence to our MOU. I might bring my personal experience into this from managing Drogheda hospital for five years. Any initiative that came on my desk that was over and above what we normally asked consultants to do in a core working week, I would have reviewed their work schedules with the clinical director before I would ever request any NTPF activity to be carried out within the hospital. I would have assumed that was happening. I see Mr. Kelly is nodding there. That is what should be happening. We must max out what is happening in core hours. Mr. Gloster alluded to that many times yesterday and I completely concur.

Deputy Paul McAuliffe: The concern lingers in the public, given all of the discussion, that in some way those people who are responsible for managing the flow of work through public clinics are organising that work in a way that other colleagues or they might benefit financially from it. What steps is the NTPF putting in place to make sure that does not happen? While I appreciate that Ms Brady has given me a personal example, does she understand that is a significant concern?

Ms Fiona Brady: I absolutely understand. It was upsetting for us in the NTPF to understand this happened in several hospitals. Apart from the adherence to the MOU, it is my intention now, following my national assurance audit, that if there are any further NTPF initiatives in relation to insourcing - insourcing only - I will write directly to the CEOs and the general managers of those organisations to ask them, before we approve in principle that agreement, to provide me with further assurance that this is all being done out of core hours and in line with the national financial regulations.

Deputy Paul McAuliffe: In some ways, we have discussed a lot of stuff. However, I appreciate the response.

I return to Ms Hardiman's employment contract. It is unfortunate she is here as an individual and is also responding to what I think is a system-wide issue. If someone can accrue a contract of indefinite duration, which they have an employment right to do over two terms, it calls into question the sense of the Minister having the ability to prevent a third term. A scenario is essentially being set up where there is no real benefit to having a term limit, as people automatically accrue an employment right over the ten years. I will clarify one point-----

Ms Eilísh Hardiman: If I may respond to that, we have this as an employment issue within------

Deputy Paul McAuliffe: Of course.

Ms Eilísh Hardiman: There are ways, such as specified purpose contracts, which are not

fixed term contracts and not under the rule. The system has acknowledged there are ways-----

Deputy Paul McAuliffe: Does Ms Nugent have the same type of contract? Will we be facing the same scenario at the end of her ten-year period, should she last or - I apologise - should she serve that term? I apologise for misusing that word. I meant serve that term. I apologise to Ms Nugent.

Ms Lucy Nugent: Let us see how I am.

Deputy Paul McAuliffe: The question was whether she has the same contract.

Ms Lucy Nugent: Yes, I have.

Deputy Paul McAuliffe: There is a system-wide issue for the Department with other public bodies. We are essentially having to resolve what should be a specific purpose contract, because a contract of indefinite duration, CID, is in place.

Ms Lucy Nugent: I will not be eligible for a CID

Deputy Paul McAuliffe: If you were to serve the ten years would you?

Ms Lucy Nugent: I do not think so.

Deputy Paul McAuliffe: I am out of time, unfortunately. I will come back in on the second round.

Deputy Séamus McGrath: I thank all the witnesses for being here. I am the last in the line so I apologise if there is some repetition. I will take a step back to the 2021 report. What sparked the report?

Ms Eilísh Hardiman: I will take that question. During 2019 and 2020, several issues came up around this service. They seemed to be around operations, as in how the services were functioning. In early 2021, we put in an operations manager specifically to work through the issues that were being raised. That manager came back to say there were broader issues, including team dynamics, culture issues and unprofessional behaviour issues.

Deputy Séamus McGrath: Was there specific concern around referrals to private practice?

Ms Eilísh Hardiman: No, it was about how the team was functioning, or not functioning, if I can put it that way.

Deputy Séamus McGrath: Okay, so they were not issues around-----

Ms Eilísh Hardiman: We met the team and asked whether there were issues and they admitted there were, but they were not about to open it. They therefore agreed we do an exploration. They said some of the issues were long-standing and had not been addressed for years and I told them we were committing to addressing them. I said the team had raised them with us in confidence and we would address them.

Deputy Séamus McGrath: When were concerns raised about referrals?

Ms Eilísh Hardiman: This particular issue in the clinic.

Deputy Séamus McGrath: Yes, I am asking about consultants working in the public system and referrals to private clinics.

Ms Eilísh Hardiman: Ms Nugent has clarified this. No private clinic was involved in this. That was not correctly reported.

Deputy Séamus McGrath: However, it was private work.

Ms Eilísh Hardiman: No, it was not private work.

Ms Lucy Nugent: To clarify, it is not an independent third party doing it. When we ask our staff to get involved in a waiting list initiative that is funded by the NTPF, our operations team submits the proposal and so forth. It organises the clinic and the staff are paid through our payroll. They are our staff doing additional hours.

Deputy Séamus McGrath: It is out-of-hours work.

Ms Lucy Nugent: Yes.

Deputy Séamus McGrath: CHI does not classify that as private work.

Ms Lucy Nugent: No, because they are public patients and it is like overtime, as opposed to a private clinic, which would be paid for with a fee per patient.

Deputy Séamus McGrath: Is it not a handy incentive not to reduce the public list, that people will receive out-of-hours work?

Ms Lucy Nugent: No, because staff must fulfil their contractual hours in their workplan before they are eligible to do any additional work.

Deputy Séamus McGrath: The efficiency of that work could be questioned. How many investigations are under way or have been undertaken into this specific issue at this stage? The HSE is looking at it, as is CHI.

Ms Lucy Nugent: Is the Deputy asking about the NTPF?

Deputy Séamus McGrath: Yes.

Ms Lucy Nugent: Mr. Gloster is doing an internal audit of CHI's governance and equity of access to our waiting lists, which we welcome because it will either be a reassurance or we will find areas for improvement.

Deputy Séamus McGrath: Can I get a quantum? What is the value of the insourcing that was done? Going back to the 2021 report, which I understand was not specifically about this issue, what kind of value are we talking about?

Ms Lucy Nugent: CHI has received, from 2020 to 2024, €8.65 million from the NTPF. That has enabled 2,808 children to receive inpatient or day-case treatment and 18,644 outpatient appointments.

Deputy Séamus McGrath: What number of staff are involved? We are not only talking about consultants. We are talking about a range of different staff. What kind of numbers are we talking about involved in the out-of-hours work?

Ms Lucy Nugent: It depends on the type of clinic being held. For example, if it was a cardiology clinic, there would be a cardio-physiologist to do the tests.

Deputy Séamus McGrath: I understand. I am trying to get a sense of-----

Ms Lucy Nugent: On average, there would be a consultant, a nurse and an administrative person.

Deputy Séamus McGrath: In total, are we talking about dozens of individuals?

Ms Lucy Nugent: I do not have that figure.

Deputy Séamus McGrath: We are not talking about the same cohort.

Ms Lucy Nugent: No, this is across a range of specialties, where there are waiting list issues.

Deputy Séamus McGrath: We could therefore be talking about hundreds of different personnel over the years.

Ms Lucy Nugent: I would have to quantify that for the Deputy.

Deputy Séamus McGrath: However, it is not outrageous to suggest that it could involve hundreds.

Ms Lucy Nugent: No, but I would like to revert to the Deputy on that rather than guess.

Deputy Séamus McGrath: On the individual who was deemed not suitable to be on-call, but was deemed suitable to do the out-of-hours work, how long did that last? They were deemed not to be suitable for one form of work, but suitable for another form.

Ms Lucy Nugent: The individual was reviewed by occupational health and signed off not to do on-call work, which involves getting up in the middle of the night to treat patients.

Deputy Séamus McGrath: I understand. How long did it go on for?

Ms Lucy Nugent: I do not know the exact length of time. I think it was in the region of three months, but Ms Hardiman may be able to clarify.

Ms Eilísh Hardiman: I cannot.

Deputy Séamus McGrath: It was a number of months anyway.

Ms Lucy Nugent: Yes, it was a number of months.

Deputy Séamus McGrath: Was only one individual in that position, that is, not suitable for regular work, but suitable for out-of-hours work?

Ms Lucy Nugent: At any point in time, there are a number of staff who may not be able to fulfil their full contractual hours due to a gradual return to work following an illness or due to having an underlying condition that may-----

Deputy Séamus McGrath: Specifically, they are deemed suitable to do out-of-hours work, but not regular work. How many?

Ms Lucy Nugent: It is because it is daytime work as opposed to night-time on-call work. I do not know that figure.

Deputy Séamus McGrath: We do not know whether more than one individual has been in that position over the years.

Ms Lucy Nugent: I do not know.

Deputy Séamus McGrath: My next question is for the former chief executive. Deputy Neville asked about the background and clarified some of the issues. On the strategic role she now has, when Ms Hardiman was chief executive, was it documented or recorded anywhere that such a role was to be created during her tenure as chief executive?

Ms Eilísh Hardiman: The board had clear strategic objectives. They were identified and brought to the board. Every year, it was identified what work needed to be done. The role was not specifically identified. The focus and emphasis had been on managing the hospitals and merging them, dealing with the issues we were dealing with and also-----

Deputy Séamus McGrath: When specifically was the idea of creating the position mooted?

Ms Eilísh Hardiman: The board identified that work needed a senior leader to focus on.

Deputy Séamus McGrath: A new position was to be created

Ms Eilísh Hardiman: It is a contractual matter. I had a contract of indefinite duration and it identified, to be honest, the work-----

Deputy Séamus McGrath: It is fair to say, it was through the mediation settlement process.

Ms Eilísh Hardiman: To give due respect, the board said it wanted to retain my skills and expertise to bring to this, because we have a huge amount of work to do with this huge opportunity of the new children's hospital coming on board next year. It is important that some of these big core policies and strategic pressures are addressed.

Deputy Séamus McGrath: To clarify, the issue of the role being created was never documented anywhere prior to Ms Hardiman's settlement process.

Ms Eilísh Hardiman: It was part of work that was there, but there was no role specific to it.

Deputy Séamus McGrath: Ms Hardiman went through a chronology of sick leave, administrative leave and so forth. I presume she was paid her full salary throughout that entire period.

Ms Eilísh Hardiman: Yes.

Deputy Séamus McGrath: Does Ms Hardiman work closely with the current chief executive on a day-to-day basis?

Ms Eilísh Hardiman: Does the Deputy mean with Ms Nugent?

Deputy Séamus McGrath: Yes.

Ms Eilísh Hardiman: I work on the strategic rather than the operational side of things, but on the projects, yes

Deputy Séamus McGrath: But you work closely with her?

Ms Eilísh Hardiman: I am on the executive team-----

Deputy Séamus McGrath: Would you have several meetings a week?

Ms Eilísh Hardiman: We meet at the executive meetings, yes. They are every two weeks

and then there may be other elements, as well, of course, as one-to-one.meetings.

Deputy Séamus McGrath: A close working relationship.

Ms Eilísh Hardiman: We are very professional, I would say, and the fact that we are two women helps.

Deputy Séamus McGrath: I will turn now to Mr. Fitzpatrick. If was clarified earlier in relation to the legal costs for the settlement. I understand you said a figure of €120,000 for Ms Hardiman-----

Mr. John Fitzpatrick: Yes, plus VAT, so it was €123,000 in total.

Deputy Séamus McGrath: That was for Ms Hardiman's legal team. Is that correct?

Mr. John Fitzpatrick: That is correct.

Deputy Séamus McGrath: Can you give us a figure for the legal team on the CHI side?

Mr. John Fitzpatrick: Not specifically, but we can revert to you on that.

Deputy Séamus McGrath: Would it be of that order, do you think?

Mr. John Fitzpatrick: I would prefer to revert.

Deputy Séamus McGrath: Can we get any indication today on the legal costs that were involved on the CHI side?

Mr. John Fitzpatrick: Again, I would prefer to just revert on the specifics.

Deputy Séamus McGrath: Were there other costs involved, like consultancy or mediation services or external, outside services?

Mr. John Fitzpatrick: Not that I am aware of, but-----

Deputy Séamus McGrath: You think the only costs involved in this process were legal fees? Were there other professional services engaged in any way?

Mr. John Fitzpatrick: Not that I am aware of, but that would be part of the mediation-----

Deputy Séamus McGrath: Can anyone clarify that?

Ms Lucy Nugent: Ms Hardiman may be able to but it was a confidential process with the board so executives would not have been privy to it.

Deputy Séamus McGrath: Can we get clarification at a further point on that? It is important. The witnesses revealed over €100,000 for legal fees on one side, but it is important we get the full picture of the costs involved in that mediation and settlement process. Can we have agreement that we will get those figures?

Mr. John Fitzpatrick: Yes.

Deputy Séamus McGrath: Turning now to the new hospital, when the witnesses were here previously, they indicated that the handover between themselves and the development board was expected to be in September of this year, with operation likely to take place in June of 2026.

Are we still on track for that?

Ms Lucy Nugent: We are working to the date that we were given, but obviously we are reliant on the NPHDB and BAM to confirm if there is any deviation from that.

Deputy Séamus McGrath: At this point we are of the same view and are hoping to start treating patients in June of 2026.

Ms Lucy Nugent: We want to treat them as soon as possible.

Deputy Séamus McGrath: I know that. That is not answering the question.

Ms Lucy Nugent: That is the date we are working towards at the moment, yes.

Deputy Séamus McGrath: We are expecting that to come through.

Ms Lucy Nugent: Yes.

An Cathaoirleach: Thanks, Deputy McGrath. I have a number of questions myself. In your opening statement, Mr. Gallagher, you say that the National Treatment Purchase Fund, NTPF, first learned of the internal CHI report outlining the misuse of NTPF money at CHI. Do you stand over that comment? Is that an established fact, in your view, that there was a misuse of the funds?

Mr. Don Gallagher: No, but at that point in time that was our belief. Ms Brady may want to add to that.

Ms Fiona Brady: When we learned about it from *The Sunday Times,* we were very concerned. There was an allegation of misuse of funds and we knew nothing about it. The following day I liaised with Ms Nugent and we had a conversation in relation to the issue. I made a request on the Tuesday for the report or for the part that pertained to the NTPF so that we could get an overview. Unfortunately, Ms Nugent was not able to release that. At that stage, I wrote to her to say I was going to stop all insourcing until I got an idea of what we were talking about.

An Cathaoirleach: Just on that particular word, "misuse", you said that word in your opening statement, Mr. Gallagher. You did not say "alleged misuse". You said "outlining the misuse" of NTPF money. Is it misuse?

Ms Fiona Brady: No. When I got a copy of the redacted report that just pertained to the NTPF, I reviewed it in detail and realised it was not a misuse of the NTPF funds.

An Cathaoirleach: The last time you were here, Ms Nugent, you were not aware of this unpublished internal review. You stated that the first you heard of it was also in the media over the course of the weekend.

Ms Lucy Nugent: I became aware of it when a media request came in on the Friday night or the Saturday.

An Cathaoirleach: Would it be safe to say you were blindsided by this?

Ms Lucy Nugent: Yes.

An Cathaoirleach: Absolutely.

Ms Lucy Nugent: Since then, though, I have asked all of my executive colleagues and my

consultant colleagues if there are any other reports outstanding of which I need to be aware.

An Cathaoirleach: Are there any?

Ms Lucy Nugent: There are some minor HR ones and there are some actual reports where staff have sought international expertise in planning for the new hospital, but I do not think that is relevant to what we are talking about here, but it was good to see.

An Cathaoirleach: Okay. Ms Hardiman, as part of that internal process, have you been asked whether there are any outstanding HR issues, reviews or reports that maybe, in hindsight, should have been brought to the current or the then acting CEO? Are there any other-----

Ms Eilísh Hardiman: No, I have shared with Ms Nugent.

An Cathaoirleach: No one is going to be blindsided at any point.

Ms Eilísh Hardiman: No, they are not. I have told everything I know.

An Cathaoirleach: In relation to the unpublished written review, a number of Deputies have touched on what triggered it. Was it a whistleblower? Was it staff that first raised the issues?

Ms Eilísh Hardiman: Several members of this team were coming to several other members of the executive with issues. They seemed to be predominantly operational and, as I said, we put somebody in to work with them specifically. She came back and said there was more to this and that there were long-standing issues, particularly around team dynamics and unprofessional behaviours that warranted exploration from a HR perspective. That is why we assigned a specialist from HR and operations, because we knew they were connected. That is what led to the review. We agreed the terms of reference with the team of consultants and asked the staff to be open with us because we knew there were issues and we wanted to address them. That was the important trust matter and I think that is where we actually gained their trust, because we acted. We followed up with the HR processes, put in the management intervention plan, addressed the patient safety issues, reported it to the board and took the issues up to the HSE. We did not bring the report itself because we wanted to maintain confidentiality. I can confidently say that was a better-----

An Cathaoirleach: On the issues you say you brought to the HSE, would it be possible-----

Ms Eilísh Hardiman: The HSE helped us. Most of them were investment issues. We needed specific investment-----

An Cathaoirleach: The findings of that review were never furnished to the HSE.

Ms Eilísh Hardiman: They were never meant to be.

An Cathaoirleach: Can we get a copy of exactly what was sent and who it was sent to?

Ms Eilísh Hardiman: Yes, absolutely.

An Cathaoirleach: Thanks for that. In terms of the particular individual, it has been stated that they were operating this system of working on a Saturday and not honouring their contract. That was about three months in duration. Is that correct?

Ms Eilísh Hardiman: Are you talking about how much they were signed off by occupa-

tional health?

An Cathaoirleach: Yes. How long were they-----

Ms Eilísh Hardiman: I would have to find that out.

An Cathaoirleach: We do not know how long-----

Ms Eilísh Hardiman: That was a short period. It was about three months at the end of 20-----

An Cathaoirleach: About three months-----

Ms Eilísh Hardiman: Five clinics, so it was only five Saturdays.

An Cathaoirleach: Has it been established as to what the financial cost of that was? How much did that consultant get paid over that period?

Mr. John Fitzpatrick: For working the additional hours?

An Cathaoirleach: Yes.

Mr. John Fitzpatrick: It was €35,000.

An Cathaoirleach: Was it €35,800?

Ms Lucy Nugent: It was actually slightly less.

An Cathaoirleach: Approximately €35,000, and that is over a three-month period.

Ms Eilísh Hardiman: For additional work, over and above the core hours.

An Cathaoirleach: Working on a Saturday over three months.

Ms Eilísh Hardiman: That is the arrangement of the insourcing that has been referred to across the system.

An Cathaoirleach: So we are looking at approximately €3,000 per week or €7,000 per clinic. Is that right? How much per clinic?

Mr. John Fitzpatrick: The overtime was paid to the consultant in respect of-----

An Cathaoirleach: How much was the consultant getting per clinic?

Mr. John Fitzpatrick: I do not know how much per clinic but in respect of NTPF work over the period-----

Ms Lucy Nugent: It would be in respect of the hours worked.

An Cathaoirleach: How much per hour would-----

Ms Lucy Nugent: I would not have that figure to hand.

Mr. John Fitzpatrick: It would be in accordance with the pay scales.

An Cathaoirleach: Can we get that figure furnished to us?

Ms Lucy Nugent: Yes.

An Cathaoirleach: It has been stated here that the consultant is no longer an employee of CHI. Did that finish in 2021 or 2022?

Ms Eilísh Hardiman: In 2022.

An Cathaoirleach: Was that of that individual's own volition or was that the result of a HR process?

Ms Eilísh Hardiman: We cannot get into the specifics but what I can say is that some staff did leave when HR processes were implemented and others were supported and developed to address issues. In particular, organisational psychologists were put in to get the team dynamics right, to support the team so that it could function better as a team. All of those supports were put in and the relevant HR policies were actually implemented.

An Cathaoirleach: Was there any disciplinary action taken?

Ms Eilísh Hardiman: Yes, that is what I am talking about - grievance, disciplinary, all of those elements - but I cannot get into the specifics because that would be unfair.

An Cathaoirleach: Was it a mutual agreement for that individual to leave?

Ms Eilísh Hardiman: We have HR processes and we have to work through them.

An Cathaoirleach: Okay. Two different percentage figures were given earlier by the Comptroller and Auditor General. I forget who gave the breakdown between public and private.

Mr. Seamus McCarthy: I mentioned a 60:40 breakdown. The chair of the NTPF mentioned 70:30 in 2024. I was talking about 2023 and this was 2024.

An Cathaoirleach: I just wanted to clarify that. I thank Mr. McCarthy. In regard to the 27-month review that was carried out on insourcing, the figure of €100 million has been given across the HSE. Do we know the costs for insourcing in the CHI across that 27-month period?

Ms Lucy Nugent: In which year?

An Cathaoirleach: A review was carried out by the Minister. Mr. Gloster made reference to it. He published the review.

Ms Lucy Nugent: Is this the one that was published on 1 July?

An Cathaoirleach: Yes.

Ms Lucy Nugent: I do not have the breakdown of the figures here with me. If it is useful, I have what we received from 2020 to 2024 by year.

An Cathaoirleach: Okay.

Ms Lucy Nugent: The total is €8.65513. Does Mr. Fitzpatrick want to add anything?

Mr. John Fitzpatrick: We received €8.6 million over 2020 to 2024 for the NTPF. Under access to care we received €28.2 million from 2020 to 2025. I believe it was that expenditure that was the subject of the report the Chair refers to.

An Cathaoirleach: Mr. Gloster and the Minister, and a number of members, have spoken about the winding down of insourcing. June of next year is the date given for that practice to be wound down. Concerns have been expressed about the ability of CHI and other organisations to meet that deadline. The practice has given rise to a lot of concerns due to the issues arising and the pitfalls. Ms Nugent, do you think that target is achievable?

Ms Lucy Nugent: That is something that our new chief operations officer and I are reviewing to see what is achievable.

An Cathaoirleach: Is it achievable, do you think?

Ms Lucy Nugent: I will know when the review is done.

An Cathaoirleach: You might come back to us on that. Mr. Gloster also said there is an overdependency on insourcing. Do you agree?

Ms Lucy Nugent: One of the challenges for paediatrics specifically is that, first, there is very little of it available in the private sector and, second, there is a very limited number of paediatric hospitals in the country. It is slightly different from adult hospitals where there is more choice. That is probably one area where insourcing has supported us in trying to reduce our waiting lists.

An Cathaoirleach: Have audits been carried out on insourcing? If so, what is the nature of them and how often have they been carried out?

Ms Lucy Nugent: The NTPF regularly carries out audits of all the hospitals. We had two in 2021, one in 2023 and one in 2024. As part of our own board's assurance process, the internal audit did an audit in 2024, which found that our waiting list processes were robust and in line with the NTPF guidelines.

An Cathaoirleach: We got examples of two private hospitals earlier relating to funding from the NTPF. It would be useful from the perspective of transparency if the figures all hospitals receive in funding would be published and readily available. Perhaps Ms Brady could answer that.

Ms Fiona Brady: It is not something we do regularly, but I do not see any reason we cannot do it. We have the figures readily available.

An Cathaoirleach: Perhaps you could furnish this committee with those figures for the past five years from 2020 to 2024.

Ms Fiona Brady: That is all public and private hospitals?

An Cathaoirleach: Yes.

Ms Fiona Brady: Yes, I certainly will do.

An Cathaoirleach: Briefly on hip dysplasia, reference was made earlier to surgeons. I do not know if I picked it up right, Ms Nugent, but I thought you said all surgeons are still working. Later, it was said that surgeon A is out on gardening leave.

Ms Lucy Nugent: You are correct in that that individual is on leave.

An Cathaoirleach: In regard to hip dysplasia and parents being offered second opinions,

we have some of the figures for the families and children who are still undergoing review on that. At this stage, how many parents have sought a second opinion?

Ms Lucy Nugent: I do not have that number to hand. As in, external to CHI?

An Cathaoirleach: Yes.

Ms Lucy Nugent: No, at the moment there is a review process and then we have commissioned a secondary expert panel. I do not have that figure to hand.

An Cathaoirleach: Would you be able to get that figure?

Ms Lucy Nugent: I can certainly ask.

An Cathaoirleach: Is funding being put in place so that parents can get a second opinion?

Ms Lucy Nugent: I know Mr. Gloster and Dr. Henry said that funding would be made available.

An Cathaoirleach: You said all of the cases would be reviewed as to whether there was a clinical need for the surgery to be carried out. Are you also looking at whether it was necessary to carry out the surgeries?

Ms Lucy Nugent: This is a HSE-commissioned review to assess the decision on whether or not to have surgery. That is my understanding.

An Cathaoirleach: Is it just to assess the decision for surgery, not to assess whether the surgery was necessary?

Ms Lucy Nugent: It is an interpretation of words, is it not?

An Cathaoirleach: Families need to know whether the surgeries were necessary.

Ms Lucy Nugent: I understand that.

An Cathaoirleach: Families are very unclear about what the process looks like, what is being looked at and what the outcome will be. Clarity is needed on that front.

Ms Lucy Nugent: Two weeks ago in the Oireachtas joint health committee, Dr. Henry advised that the expert panel is being established, the terms of reference are being drafted and he will communicate as soon as that has been finalised.

An Cathaoirleach: I am conscious that members may have supplementary questions. The witnesses are probably under time constraints. With their agreement, I will limit members to three minutes. If any of our witnesses needs a comfort break at any stage there is no issue in that regard. They can just indicate and let us know and we will suspend proceedings at any point. I will go back to our first speaker, Deputy Boland. She has three minutes.

Deputy Grace Boland: As a lawyer, it is really important that I state it is not an absolute employment right that two contracts equal a contract of indefinite duration, in particular if there is an objective justification. I assume, given the hefty amount of the legal fees, that it was not accepted and it was settled on the basis that Ms Hardiman's position was not accepted. Could we just be clear on that? Was that the case?

Ms Eilísh Hardiman: Sorry, Deputy Boland. I am conscious I am talking to a lawyer here.

Could you repeat what you said there?

Deputy Grace Boland: In her evidence earlier, Ms Hardiman said that two contracts equal a contract of indefinite duration. That is not absolutely the case. It is not an absolute employment right. Because she has gone on the record, I just want to make sure that we are clarifying that. There would not have needed to be a dispute that gave rise to Ms Hardiman having €100,000 in legal fees if her position was not disputed.

Ms Eilísh Hardiman: I am just taking the specific guidance that I have been given.

Deputy Grace Boland: It is important to say that.

Ms Eilísh Hardiman: A Supreme Court hearing in 2022 ruled on this matter that was relevant to my role.

Deputy Grace Boland: Sorry, there was a Supreme Court case in relation to your role?

Ms Eilísh Hardiman: No, the posts of group C. That is where this guidance comes from.

Deputy Grace Boland: However, CHI did not accept it, or the Department of Health did not accept it-----

Ms Eilísh Hardiman: No, I think-----

Deputy Grace Boland: -----which is why Ms Hardiman ended up in a mediation.

Ms Eilísh Hardiman: CHI accepted that there is contract of indefinite duration. It was accepted by everybody that there is a contract of indefinite duration. The Act that established CHI states that the Minister has to give consent. The Government policy is that a CEO of a non-commercial State body can do five years and no more than a second term. That is the policy position the Minister was quite right to apply and the board accepted it, so we just needed to resolve the issue then, which was a contractual matter.

Deputy Grace Boland: Okay.

Ms Eilísh Hardiman: I hope that helps.

Deputy Grace Boland: I am not sure, to be honest with Ms Hardiman.

I will ask Ms Nugent about the Children's Health Foundation, CHF. Is CHI responsible for that?

Ms Lucy Nugent: No, it is a separate legal entity.

Deputy Grace Boland: What is the governance with regard to that? Public moneys are given to that foundation and it has quite a significant sum of money sitting there. How does that work in terms of how that money is applied towards Children's Health Ireland?

Ms Lucy Nugent: As I said, it is a separate legal entity with its own separate board. There is a service level agreement, SLA, between the two entities. Basically, there is a process by which CHI can apply for funds for specific projects.

Deputy Grace Boland: In terms of the amount of money, there is over €30 million sitting there.

Ms Lucy Nugent: That is for the CHF to answer, if that is okay.

Deputy Grace Boland: Lastly, Ms Brady mentioned breaches of the memorandum of understanding. Is there any penalty for hospitals that breach the MOU?

Ms Fiona Brady: Not currently, no.

Deputy Grace Boland: Should some penalties be built into it?

Ms Fiona Brady: It has been discussed at the executive and the board, and we are certainly going to discuss it again. It is public money and it is in the public system. It is not something we have made a decision on, but it is going to be discussed at the next board meeting.

Deputy Grace Boland: Does Ms Brady feel the hospitals have breached the NTPF's trust?

Ms Fiona Brady: Certainly, we have felt that; there is no question. However, I will emphasise that there are sterling relationships between the NTPF and the HSE on a daily and weekly basis, and we work really well with them. In the main, while I know we are talking about insourcing and the difficulties, it works really well and there are a lot of patients who have a better quality of life because of it as well.

Deputy James Geoghegan: Everyone accepted that Ms Hardiman had a contract of indefinite duration. What then was the dispute about?

Ms Eilísh Hardiman: We needed agreement on what that contract and role would be.

Deputy James Geoghegan: Why did it cost €120,000 to work out what the agreement was? Was it accepted that Ms Hardiman was entitled to the salary as a CEO? Was there a factual dispute and, if so, what was that factual dispute?

Ms Eilísh Hardiman: No, it was not about that. The contract of indefinite duration was accepted. It was about what is the role and what had to be agreed.

Deputy James Geoghegan: However, Ms Hardiman can see why people watching or listening are trying to work out why that cost €120,000. Why did she need so many lawyers? If everyone was in agreement that she had a contract of indefinite duration and she was entitled to the CEO salary of an equivalent scale, what was going on in those rooms that it took €120,000 to resolve?

Ms Eilísh Hardiman: There was a mediator process. There is confidentiality in relation to that so I cannot breach that.

Deputy James Geoghegan: That is fair. Ms Hardiman said she would be happy to waive her NDA. Am I correct in that?

Ms Eilísh Hardiman: Yes, and I think it is important-----

Deputy James Geoghegan: Would Ms Nugent be happy for CHI to waive the NDA in relation to this process?

Ms Lucy Nugent: That would be a matter for the board to decide.

Deputy James Geoghegan: Is that a matter she could raise with the board?

Ms Lucy Nugent: I can raise it with the board.

Deputy James Geoghegan: Which is the third entity? Is it the HSE? Ms Hardiman said there were three parties to this NDA.

Ms Eilísh Hardiman: That would be the Department.

Deputy James Geoghegan: Which Department?

Ms Eilísh Hardiman: The Department of Health.

Deputy James Geoghegan: Perhaps we can go back to the Department of Health. Who requested the NDA? Was it Ms Hardiman, the Department of Health or CHI?

Ms Eilísh Hardiman: No, it was not initiated by me.

Deputy James Geoghegan: Who initiated the NDA?

Ms Eilísh Hardiman: I know it was called the NDA. The mediation process-----

Deputy James Geoghegan: No, who requested that there be an NDA? Was it Ms Hardiman, the Department of Health or CHI?

Ms Eilísh Hardiman: No, the mediation process was not requested by me. It was offered to me, and I said yes to that.

Deputy James Geoghegan: I know that. I am just asking about the NDA.

Ms Eilísh Hardiman: As part of the mediation process, an NDA was required.

Deputy James Geoghegan: However, there is an NDA dealing with the whole outworkings of it as well, whereby Ms Hardiman could not discuss what had taken place or what had been agreed.

Mr. Seamus McCarthy: I will maybe just offer something.

Deputy James Geoghegan: Please do. I will get my time back from the Chair, I am sure.

Mr. Seamus McCarthy: Having seen a number of settlements, it is fairly standard and kind of *pro forma*. There is a clause in the template that is used, and I would say that is where the NDA came from.

Deputy James Geoghegan: How does that relate then to the code of practice for the governance of State bodies that we have highlighted in terms of not having NDAs?

Mr. Seamus McCarthy: The wording of it must state that there can be confidentiality because, obviously, there is a HR aspect to it but it cannot exclude. If there is a legal duty to disclose the matter, that must be available under the NDA.

Deputy James Geoghegan: If I could have one more minute, I would really appreciate it. On the Medical Council referral with regard to the individual who was the subject of the examination and ultimately retired, was there a great sigh of relief that he retired from Ms Hardiman and the board? Did they feel very relieved that that was the course of action he elected to adopt for whatever the outworkings of the HR process were?

Ms Eilísh Hardiman: I cannot comment on the outcomes of the HR processes because-----

Deputy James Geoghegan: I am not asking Ms Hardiman to comment. Did she breathe a sigh of relief and did the board breathe a sigh of relief?

Ms Eilísh Hardiman: To be honest, there was an acceptance across the board and organisation that all these issues were being addressed, that they had been brought to the fore and put into a process and that we got the support of the HSE to address some key concerns and issues. This is a team that actually is in a much better place and has done some great innovative work, particularly looking at the model of care. The way in which that team have turned themselves around in those roles has to be commended.

Deputy James Geoghegan: The report recommended that the individual in question be referred to the Irish Medical Council. Is that correct?

Ms Eilísh Hardiman: The threshold for referral to the Irish Medical Council again was not an issue. Remember, this is not about a consultant going off doing something themselves. The arrangements that were put in place were through the operations team. I regret that we did not actually specifically identify the specific issue.

Deputy James Geoghegan: However, the report that has been reported on in news publications expressly states that this could be a matter for referral to the Medical Council. Ms Hardiman, as the CEO, and the board took a decision not to make a referral to the Irish Medical Council.

Ms Eilísh Hardiman: I can just say that the relevant HR processes were put in place and I cannot disclose any further, but it did not require a recommendation to the Medical Council. Thank you, Deputy.

Deputy Catherine Connolly: To go back to Children's Health Ireland and its financial statements, I meant to ask on the previous occasion about legal settlements, but I ran out of time. CHI's financial statements clearly disclose a total sum of €125,500 with regard to the Workplace Relations Commission but they do not give any figures for the claims under the State Claims Agency. Can Mr. Fitzpatrick just clarify that, please?

Mr. John Fitzpatrick: The cost of those claims that-----

Deputy Catherine Connolly: I am asking about the 32 claims that were settled.

Mr. John Fitzpatrick: There were 38 legal settlements that year-----

Deputy Catherine Connolly: I am asking about the 32 claims with the State Claims Agency.

Mr. John Fitzpatrick: We did not cover the cost of that. The State Claims Agency covered the cost.

Deputy Catherine Connolly: Does Mr. Fitzpatrick have any details on the cost? He gave us a figure for the WRC.

Mr. John Fitzpatrick: That would have been a cost incurred by CHI, whereas the cost of the 32 claims settled by the State Claims Agency is not borne by us.

Deputy Catherine Connolly: Does Mr. Fitzpatrick have a figure for those or information on the nature of the cases?

Mr. John Fitzpatrick: I am sure I can get something.

Deputy Catherine Connolly: CHI would be fully-----

Mr. John Fitzpatrick: They would be related to clinical cases because they fall under the State Claims Agency and the costs are covered by the State Claims Agency.

Deputy Catherine Connolly: Will CHI be able to give us figures on it?

Ms Lucy Nugent: Yes, and there are regular meetings with the State Claims Agency-----

Deputy Catherine Connolly: Yes, I imagine so.

Ms Lucy Nugent: -----to advise and also to make sure there are learnings from that.

Deputy Catherine Connolly: It would also be to prevent. That is the reason the figure is not disclosed there. Mr. Fitzpatrick might come back to us with that figure.

Mr. John Fitzpatrick: If I can.

Deputy Catherine Connolly: He might let us know one way or another because we will then pursue it with the State Claims Agency.

With regard to the National Treatment Purchase Fund, consultants cannot refer from public to private. I think the witnesses have excluded that as a possibility, have they?

Ms Fiona Brady: That is correct.

Deputy Catherine Connolly: It cannot happen.

Ms Fiona Brady: Absolutely not. With regard to outsourcing, from a legal perspective, the referring consultant cannot be the treating consultant in any private hospital.

Deputy Catherine Connolly: I was asking about private patients and the failure to collect the insurance, and the seriousness of that concept of having children as private patients. How many patients would be seen as private patients with an income coming in? It is relatively small, I think, because the figure is €14 million or something.

Mr. John Fitzpatrick: The income was €10.56 million, and it is an income that is declining because as more consultants take up the public-only contract-----

Deputy Catherine Connolly: How does that happen? The family have VHI cover or some other insurance and when someone is admitted to hospital, they are asked if they have insurance, which CHI is not entitled to ask.

Mr. John Fitzpatrick: They are asked if they want to use their insurance.

Deputy Catherine Connolly: The question is put like that. What does that entitle them to above a child who does not have VHI or whatever other insurance? What is the advantage?

Mr. John Fitzpatrick: They may have been referred to the hospital through the private clinic and have that relationship with that doctor, so invariably then that doctor or consultant who they-----

Deputy Catherine Connolly: Do they stay in a private stream then all of the time? No. Mr.

Fitzpatrick might just explain to me the difference.

Mr. John Fitzpatrick: We do not have specified private facilities in CHI.

Deputy Catherine Connolly: I would not expect that it does. Explain to me why some people-----

Mr. John Fitzpatrick: Some people have private insurance and they elect to use it when they are-----

Deputy Catherine Connolly: I do not agree. A public hospital should be public. However, I am not here to express my views. I am just trying to clarify. The family have insurance and they are seen. The advantage to the hospital is that it is earning money and that is income, however small relative to its overall budget. What is the advantage for the child? Surely all children are treated the same.

Ms Paula Kelly: There is no difference. Children are not treated any differently, whether they are public or private, within CHI. There is no difference in their treatment.

Deputy Catherine Connolly: That says a lot. It is very good. Yet, we have an insurance system at the same time and they are being asked if they want to use it, even though there are no consequences and no benefits.

Ms Paula Kelly: Those families have the option of using private insurance outside CHI.

Deputy Catherine Connolly: They are getting seen more quickly outside.

Ms Paula Kelly: Possibly, but their treatment in CHI is no different.

Deputy Albert Dolan: On this round of questioning, I would like to speak directly to the NTPF. In the last few weeks, I have undertaken a body of work to write to every single competent authority and State body to see if they are meeting their obligations when it comes to publishing purchase order data on their websites. Is Ms Brady aware of my correspondence to the NTPF on 17 June?

Ms Fiona Brady: No, I am not.

Deputy Albert Dolan: I wrote to the NTPF, and it was not to single it out as I wrote to all State bodies and entities. It has been a very fruitful exercise. Essentially, many of the State bodies have not been publishing their data, the NTPF included. The data may be there but it has not been published on the NTPF website. I appreciate the NTPF coming back and emailing me to commit to publishing this data, which is very important. Where I am going with my question is as follows. Based on prompt payment data, about €345 million may have been spent within the NTPF over the last few years. I am asking this because if no purchase order was published, it leads me to believe one of two things. Either all of the sums or all of the individual payments are less than €20,000, so they fall outside the remit, or else they are just not being published.

Can the NTPF representatives outline who the largest recipients of the NTPF were? I understand from earlier questioning that it would be hospitals. Is it possible for CHI to provide us with a list, from largest to smallest, of the people who were paid out?

Mr. John Fitzpatrick: Is that in relation to our suppliers or to outsourcing?

Deputy Albert Dolan: It is in relation to specific NTPF money. The NTPF money comes

to the hospital. Who did the NTPF pay it out to? Can we get a list from largest to smallest of that? Do the witnesses have a date as to when the NTPF is going to have its purchase order data online? I will say that the NTPF was not the only public body that was not doing it and I appreciate its commitment to do it from now on.

Mr. Seán Flood: We can do that.

Deputy Albert Dolan: Is there a timeline?

Mr. Seán Flood: I would say it will be some time over the summer.

Ms Lucy Nugent: I have asked the question as to whether we can understand who is earning what through the NTPF. The problem is that because it goes to the payroll as overtime, it is hours. It can be done but it is a manual process to do it.

Deputy Albert Dolan: Just so I am clear, nobody is tracking the NTPF money once it hits the hospital.

Ms Lucy Nugent: There absolutely is. There is an internal tracking process with weekly updates.

Deputy Albert Dolan: Nonetheless, right now, Ms Nugent could not tell me who got paid the most money from the NTPF last year. The NTPF can tell me which hospital got paid the most but Ms Nugent could not tell me which individuals got the most.

Ms Lucy Nugent: We can but it is an exercise that we would have to undertake.

Deputy Albert Dolan: That exercise has never been done.

Mr. John Fitzpatrick: I would clarify between the NTPF and what we call access to care, when the Deputy is talking about getting a list of payments to third parties. I want to clarify the request.

Deputy Albert Dolan: Whether it is a company or an individual, it is somebody. There is always a Pareto effect. There is a disproportionate winner out of any outcome. Somebody is getting the most amount of money out of the NTPF, although they may be providing the most amount of services. I will explain what I am trying to get at. The NTPF gets the money from the Government and the NTPF hands the money to the hospitals. I do not know right now who benefited significantly from the NTPF and CHI does not know.

Mr. John Fitzpatrick: The Deputy's question is purely in relation to the NTPF.

Deputy Albert Dolan: I want a list of who the highest earners were from the NTPF right down to the bottom. I know it can tell me which hospitals got the most but I want every hospital to tell me who got the money, for what procedures and how much. That is the governance issue for the NTPF as well. It should look for that back off the hospitals and ask them, since it gave them, say, €20 million or €100 million, where did that go?

I apologise if I have gone slightly over time but this is very important. Ms Nugent referred to overtime and said it goes out in payroll as overtime. If I am a consultant working in a hospital and I decide that I will take on ten surgeries on a Saturday, is that coming into my normal pay packet as overtime?

Ms Lucy Nugent: If they have fulfilled their core hours first. In relation to the NTPF, we

only get paid when the activity is done. It is literally per patient. There is no way that we can get paid if we have not done the activity. In the same way, the nurse, the doctor or the admin person cannot get paid unless they have done the hours, and there is a process for claiming overtime.

Mr. Seamus McCarthy: It may be helpful to understand that there seem to be two models for insourcing. One is as described in CHI, where individual staff members are paid overtime and if there are other expenses, they are covered as part of the normal expenditure of the hospital, but there is also the situation where there are companies that are contracted to provide services. Some of those were mentioned yesterday, I understand, by the chief executive of the HSE. He specifically mentioned two cases in Limerick where there were consultants who have companies that are paid for.

A second point to bear in mind is that there are two sources of funding for insourcing. One is the NTPF but there is also access to care, which is funding within the HSE.

Deputy Albert Dolan: I apologise as I know I am over my time. Are any related party checks performed on companies that are paid to consultants who are already employed within the hospital structure? For example, a consultant is employed in the hospital and that consultant simultaneously has a company. Is that in conflict with their contract? Is that a conflict of interest?

Ms Lucy Nugent: That would all be declared under the standards in public office annual returns. That is the third-party survey that was done. We have no consultant involved in the NTPF who is a director. Does that make sense?

Deputy Albert Dolan: CHI has done that check itself.

Mr. John Fitzpatrick: There was an ask to complete a survey by tomorrow. We had submitted all of the payments to third parties under the access to care initiatives. As a result of that, a questionnaire came back to us asking if we could confirm, for all these companies, that there is no common director or common employees, and we were able to confirm that.

To go back to the question, under access to care, companies come in to undertake work and our employees may sign up to work with them. They would receive a payment in relation to that, not from us, but from that external company in that approved process.

Ms Lucy Nugent: It has ceased. For clarification, back in 2020, post-Covid, the dynamic purchasing scheme was established. A framework was done and third parties could be used to pay staff. Mr. Gloster has asked all entities to cease that unless there is a derogation for specific areas. We have ceased that in CHI.

Deputy Séamus McGrath: I thank all of the witnesses for bearing with us. I want to go back to CHI on the suggestions of a toxic work culture and the concerns raised about the emotional and physical well-being of some members of staff, and so on. How many individuals made bullying allegations during that process of engagement?

Ms Lucy Nugent: I would have to defer to Ms Hardiman.

Deputy Séamus McGrath: Yes, it is probably for the previous CEO.

Ms Eilísh Hardiman: Again, without identifying any of the staff involved, the matter in relation to trainees was definitely one where we put in supports to actively help. By the way,

all of the staff are offered well-being and support, and some of them did take that as part of this process.

Deputy Séamus McGrath: How many staff raised concerns about bullying and inappropriate behaviour towards them?

Ms Eilísh Hardiman: There was one category or group of staff. It is not a big department. It is fewer than five. They are small numbers. It is a small section. There were also a few of the trainees and we raised all of that. Again, we acknowledged that. We engaged with the training body involved. We engaged with the external-----

Deputy Séamus McGrath: Was any disciplinary action taken against those?

Ms Eilísh Hardiman: That is what I am saying. Whatever was appropriate was implemented.

Deputy Séamus McGrath: There was disciplinary action.

Ms Eilísh Hardiman: Whatever the policy. There are different HR policies for grievance, disciplinary and performance management. Whatever was the appropriate policy, was actually implemented.

Deputy Séamus McGrath: Without naming anyone, what forms of disciplinary action are we talking about?

Ms Eilísh Hardiman: You have to work with people, so the issue here is that-----

Deputy Séamus McGrath: It is more like a reprimand.

Ms Eilísh Hardiman: The big thing here was the team and it has to be supported to function as a well functioning team.

Deputy Séamus McGrath: It is more issues being highlighted than anyone facing consequences.

Ms Eilísh Hardiman: Unprofessional behaviours were addressed and not tolerated and there was immediate action.

Deputy Séamus McGrath: No-one lost employment or anything like that throughout the process.

Ms Eilísh Hardiman: Some people did leave but again I cannot get into the details of that. Some people did leave.

Deputy Séamus McGrath: Voluntarily.

Ms Eilísh Hardiman: No, some people did leave due to the processes and I cannot get into it any more because that would not be fair on the staff involved.

Deputy Séamus McGrath: My time is tight. I return to CHI on the issues of the fees throughout the process of mediation and settlement with the former chief executive officer. I find it extraordinary that CHI is not in a position to give us some clarity about the legal fees on that. I want to give another opportunity. They were able to clarify the fees on behalf of the former chief executive, but we cannot clarify the fees in terms of the legal services engaged on

CHI's behalf.

Mr. John Fitzpatrick: The reason is that the C and AG's report refers to a settlement agreement. When we were here last time there was some confusion about whether there was payment. I clarified then whether any fees were paid on Ms Hardiman's behalf. We can get that information.

Deputy Séamus McGrath: We will get that information. I want to clarify that it is not just legal fees. It is also any other external services around mediation or professional services that were involved in that process. Can we clarify the overall cost on that? Deputy Geoghegan made reference to what was effectively in dispute and why it took so long. I do not think it just cost €120,000. It sounds as though it potentially cost a lot more. Finally, I go back to something I want to clarify so I am 100% clear in my own head. It is the individual or individuals who were not deemed suitable for regular work but were deemed suitable for out-of-hours work. Reference was made to potential nighttime calls and so on. Were the individuals in question not working at all during the week?

Ms Lucy Nugent: They were. They were working their full work plan for the week, Monday to Friday. They were just not doing the on-call commitment.

Deputy Séamus McGrath: It was just the on-call commitment.

Ms Lucy Nugent: Just the on-call commitment.

Deputy Séamus McGrath: They were doing their Monday to Friday work, and then doing additional overtime on Saturday. Okay, it was just the on-call commitment. I just wanted to clarify that. I thank the witnesses.

An Cathaoirleach: I have a few concluding questions. On the consultant who was the focus of that review, a figure of €35,000 or thereabouts has been established. Were there attempts to recoup that as part of the process?

Ms Eilísh Hardiman: No, because those were clinics set up in keeping with the NTPF processes. The additional work was done. The kids were brought forward. They were seen earlier and treated, so it was important to those processes.

An Cathaoirleach: Can we get a specific breakdown of that €35,000 in costs? How much was that per clinic or per child seen? I turn to the children. It has been stated that the children are our focus and priority, and they absolutely have to be. However, there have been reports on the impact that process had and the delays in children accessing treatment. Has a review been carried out relating to the impact that process had? A member made reference earlier to people being upped on lists to get access to treatment. Has any review been carried out?

Ms Lucy Nugent: First, to clarify, these were long waiters. They did not jump others in the queue *per se*. On the surgery and the suggestion of it being delayed, Ms Kelly will explain about that specifically. I want to clarify that it is not an SLA we have with the Children's Health Foundation, it is an MOA.

Ms Paula Kelly: It is my understanding that 179 children were seen in those clinics. These were children who were already long waiters, as Ms Nugent said. They had waited an average of 19 months prior to that, ranging from 12 to 35 months. These children were seen at the weekend. They were then brought in for treatment. Fifty-one of those 179 were deemed to

need ongoing treatment. Those 51 children were scheduled for that treatment, all of which was completed over four months. That is an appropriate time for that treatment from the time they were seen.

An Cathaoirleach: Reference was made that that process delayed treatment for some children by up to three years. Would that be accurate?

Ms Paula Kelly: I really cannot see how that makes any sense, because these children were seen in additional clinics at the weekend. They were taken off the regular waiting list to be seen and then treated.

An Cathaoirleach: Ms Kelly cannot see that but has a review been carried out to establish that?

Ms Paula Kelly: That was part of the report done in 2021-22.

An Cathaoirleach: Okay, so there was no impact there. Those are all the questions I have. I thank all the witnesses for coming in today. That concludes our engagement with Children's Health Ireland and the National Treatment Purchase Fund. I thank Ms Nugent and her officials from CHI for attending. I also thank Mr. Gallagher and his staff from the National Treatment Purchase Fund for attending and assisting the committee. Is it agreed that the clerk seek any follow-up information and carry out any agreed actions arising from the meeting? Agreed.

The committee will next meet at 9.30 a.m. on Thursday, 10 July when it will engage with the Accounting Officer of the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation to examine Vote 11 - Office of the Minister for Public Expenditure, National Development Plan Delivery and Reform appropriation account 2023; Vote 12 - superannuation and retired allowances appropriation account 2023; Vote 39 - Office of Government Procurement appropriation account 2023; Vote 43 - Office of the Government Chief Information Officer appropriation account 2023; and the 2023 Report on the Accounts of the Public Services, including Chapter 3 on Vote accounting and budget management.

The witnesses withdrew.

The committee adjourned at 1.57 p.m. until 9.30 a.m. on Thursday, 10 July 2025.