



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Thursday, 3 November 2005.

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DÁIL ÉIREANN

—————
Déardaoin, 3 Samhain 2005.
Thursday, 3 November 2005.
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Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Requests to move Adjournment of Dáil under Standing Order 31.

An Ceann Comhairle: Before coming to the Order of Business I propose to deal with a number of notices under Standing Order 31.

Mr. Connolly: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the disgraceful use of more than 8,000 An Post pensioners as pawns in the current dispute in that company by the withholding of their due increases under Sustaining Progress for the past two years; the need for the Minister for Communications, Marine and Natural Resources to ensure pensioners are removed from the equation and that their increases and arrears under Sustaining Progress are paid forthwith; and the importance of achieving a fair and equitable resolution of the dispute which threatens to cause widespread disruption to the postal service.

Mr. Healy: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the immediate need for the Minister for Communications, Marine and Natural Resources to intervene in the An Post dispute and to instruct An Post to meet its obligations under the partnership agreement and pay the full increase due under Sustaining Progress to its workers and retired staff.

Mr. Sargent: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the disastrous and unprecedented permission in place for genetically modified oilseed rape GT73, a viable seed, to be imported into Ireland; the need for the Government to implement the safeguard clause to protect Irish agriculture and the future marketing of food in line with the democratic wishes of the Committees on European Affairs and Environment and Local Government and the people of Ireland.

An Ceann Comhairle: Having considered the matters raised, they are not in order under Standing Order 31.

Order of Business.

Mr. McDowell: It is proposed to take No. 9a, motion re proposed approval by Dáil Éireann of the terms of the World Health Organisation framework convention on tobacco control; No. 9b, motion re the report of the independent commission of inquiry into the murder of Mr. Seamus Ludlow; and No. 1, Criminal Law (Insanity) Bill 2002 [*Seanad*] — Second Stage.

It is proposed, notwithstanding anything in Standing Orders or the order of the Dáil of 2 November 2005, that Nos. 9a and 9b shall be taken before Private Members' business and shall be decided without debate, and that Private Members' business shall be No. 40, motion regarding Irish unity (resumed), to be taken immediately after the Order of Business and to conclude after 90 minutes.

An Ceann Comhairle: There is one proposal to put to the House. Is the proposal for dealing with Nos. 9a and 9b, motion re proposed approval by Dáil Éireann of the terms of the World Health Organisation framework convention on tobacco control and motion re report of the independent commission of inquiry into the murder of Mr. Seamus Ludlow, agreed?

Mr. Bruton: Can these motions be taken separately? My party wishes to make comments on both.

An Ceann Comhairle: The proposal is that they be taken without debate. They will be voted on separately.

Mr. Bruton: Will we have an opportunity to comment on both? Our health spokesman, Deputy Twomey, would like to comment on No. 9a and I would like to comment on No. 9b.

An Ceann Comhairle: The question is whether these motions should be taken without debate.

Mr. Bruton: In that event, I wish to comment on both. On No. 9b, what is the reason for the lengthy delay in the production of the report of the independent commission of inquiry into the murder of Mr. Seamus Ludlow? I understand it has been in Government hands for a year. Is there a valid legal reason that the family involved has not been contacted or given access to any of the information in the report prior to its being laid before the Joint Committee on Justice, Equality, Defence and Women's Rights? Can the Minister for Justice, Equality and Law Reform give assurances that there are sound legal reasons

[Mr. Bruton.]

for this and that there is no intention to keep the family out of the loop?

In regard to 9a, there is a general concern that a serious restructuring seems to be taking place within the Department of Health and Children in terms of accountability to the Dáil. It seems the health promotion function, which was heretofore a key ministerial role, is to be handed over to the HSE where there will be limited accountability to the House. There is genuine concern in the House that we are seeing a demolition—

An Ceann Comhairle: The motion relates to the World Health Organisation.

Mr. Bruton: —of democratic accountability in the health sector.

Mr. Rabbitte: The Taoiseach promised last March that the Seamus Ludlow report would be published within weeks. It seems there were difficulties in this regard, perhaps arising from the advice of the Attorney General in regard to named individuals and so forth. Now that it will be released into the public domain through the Joint Committee on Justice, Equality, Defence and Women's Rights, it seems regrettable that the family was not advised of the implications of this and invited to be present for the report's release through the committee. Will the Minister for Justice, Equality and Law Reform initiate contact with the family or its representatives? Mr. Ludlow's family is aggrieved after this long wait that it received no notice of the report's imminent publication.

Mr. Sargent: I regret that these motions will be taken together and that there will be no opportunity for debate. I ask the Government to accede to Members' requests for such a debate as soon as possible. No. 9a, which I called for and am glad is being signed off by the Government, relates to the powerful tobacco industry. Smoking is the leading avoidable cause of heart disease and heart disease is the main cause of death in the country so the issue demands debate.

The Ludlow report equally appears to raise more questions than it answers. Will the Minister agree to a debate on it? The Garda must have the incident fully investigated if we are to ensure confidence in the security forces on both sides of the Border. This is extremely pertinent to the current impasse in the peace process and must be resolved. We call for a debate on, and an investigation of, this issue.

Caoimhghín Ó Caoláin: With regard to the independent commission of inquiry into the murder of Seamus Ludlow, I join my colleagues in expressing concern about the delay in bringing the report forward. However, it was most dis-

turbing to learn from the "Morning Ireland" programme this morning, which featured an interview with Jimmy Sharkey, a nephew of Seamus Ludlow, that the family only learned last night from a member of the media that this matter was being brought before the Dáil today. Indeed, Members of the House only became aware of it last evening. The circulation of the proposition in text form came through after 9 p.m. Explanations are due to the House for this.

There has been gross insensitivity to the family's position in the way this has been brought before the House. Serious issues are addressed by Justice Barron in the report and they merit address by the Members of the House. It is imperative that, if not now, at some time in the near future the Government agrees to facilitate an opportunity for Members to address this important report. Will the Minister explain why it was handled in this way over the past 24 hours? Will he accede to the request to provide an opportunity for Members to address the issues involved in a substantial debate in this Chamber?

Minister for Justice, Equality and Law Reform (Mr. McDowell): With regard to the report on the murder of Seamus Ludlow, it was tendered to the Taoiseach a considerable time ago—

Mr. J. O'Keefe: Fourteen months ago.

Mr. McDowell: —but the reason it was not published earlier is that there were complex issues arising from it. One of them, as Deputy Rabbitte correctly surmised, related to identification of certain parties and factual information relating to those parties. Second, there was an *audi alteram partem* issue. The Government considered that one individual had to be given an opportunity to respond to the matters raised in the report. That was done but it took some time.

It is regrettable that the family of Seamus Ludlow has not been included in the process as openly as one would have wished.

Mr. F. McGrath: Disgraceful.

Mr. McDowell: I made arrangements today for a copy of the report to be sent to them immediately. I have been assured by Deputy Ardagh, who is the chairman of the committee, that he will put the family in the centre of the committee's concerns and will deal with the matter in a way that is fully cognisant of their interest in the matter. As I understand it, the Whips of the various parties agreed last night that this should be dealt with without debate and should be sent to the committee. Some Deputies have asked that it be discussed at some point in the House but that is a matter for the Whips. Let us get it to the committee first and allow the committee to get on with its work.

With regard to the tobacco convention, we face a deadline of 8 November. Today is, effectively, the last occasion on which we can deal with the matter. Again, I understand the Whips agreed to deal with it without debate.

Mr. Neville: The Whips were informed of that.

Mr. Bruton: Factually, the Whips—

An Ceann Comhairle: Are the proposals agreed to?

Mr. Bruton: To be fair to the Whips, a Cheann Comhairle, they were informed that it was proposed to take them without debate. They were not given options.

An Ceann Comhairle: That does not arise. Are the proposals agreed to?

Ms McManus: A Cheann Comhairle—

An Ceann Comhairle: I will put the question. Deputy, there is only provision for one speaker from each party.

Question, “That the proposal for dealing with Nos. 9a and 9b be agreed to” put and declared carried.

Mr. Bruton: I welcome the Minister, Deputy McDowell, to the Chamber. It is almost as rare as a sighting of the brent goose.

Mr. Roche: He is not an endangered species.

Mr. Bruton: The reason the Minister is present is that, unfortunately, the Tánaiste got caught in traffic. It is a rather bad omen on day three of the 21st century transport plan that the Tánaiste cannot get to the Dáil on time. Perhaps the Luas should to be extended to her constituency more speedily.

Yesterday, an interesting report compiled by Deputy Rabbitte was presented by the Committee of Public Accounts. It proposes a new approach to dealing with the Estimates. In that context, when will we see this year’s Estimates? Does the Minister agree with the approach proposed, that Members have earlier sight of the Estimates, such as on a date in September, that there should be greater opportunity to evaluate them through the provision of hard technical information on evaluation and options and that the Dáil should have the power to deal with the Estimates in a more coherent manner?

An Ceann Comhairle: The first question is in order but the subsequent questions are more appropriate for the Minister for Finance.

Mr. Bruton: Let us not forget that a transport plan has been launched which contains none of the evaluation the House seeks. If the Minister, Deputy McDowell, were on this side of the House, he would not stand over such a procedure. Would he propose that we have better procedures in the House in future?

Mr. McDowell: It is intended to publish the Estimates on 17 November. With regard to the report of the Committee of Public Accounts, my colleague, the Minister for Finance, announced in budget 2005 that he intended to consider reforms of the budgetary and Estimates process. He extended an invitation to the House to make suggestions as to how such improvements could be made while maintaining the right and duty of the Government to direct and manage the budgetary process. He has been examining proposals in this regard and the report of the Committee of Public Accounts is a welcome contribution to those deliberations.

Mr. Rabbitte: I join in the welcome to the Minister for Justice, Equality and Law Reform. The Taoiseach had a bad day yesterday but I did not think it was sufficiently bad to put the Minister for Justice, Equality and Law Reform in charge, with all that it might imply.

Mr. Roche: It could be worse, Deputy. It could be you.

Mr. McDowell: That would be much worse.

Mr. Rabbitte: It is a bad omen that the Tánaiste is caught in traffic. I am reminded of the fact that she was helicoptered to a famous opening in north Leitrim not long ago and I am disappointed that the same mode of transport is not available this morning.

Mr. S. Power: Declan Bree was looking for her.

Mr. Rabbitte: I do not know why the Fianna Fáil benches are so happy behind the Minister, Deputy McDowell, when they are so glum behind the Taoiseach.

Mr. Roche: The Deputy would be better off watching his own back.

An Ceann Comhairle: Has Deputy Rabbitte a question that is appropriate to the Order of Business?

Mr. Rabbitte: *Ipsis hibernicis hiberniores.* When will the Abbotstown Bill be brought before the House and will it have the Minister’s full support?

Mr. McDowell: It is due this session.

Mr. Sargent: I wish to take the opportunity of the Minister's presence and the fact that he was previously Attorney General to inquire about the Costello report of 15 years ago, which gave rise to the charities regulation Bill. This legislation is still pending but there is no indication of its publication. Can he throw some light on when we can expect to see that legislation, given that 15 years is a long time, even in politics?

Mr. McDowell: It is not possible to say at this stage when that Bill will be produced. It is substantial in size. It will involve major reform of the statute law and restatement, and also major policy reforms.

Mr. Sargent: Will it ever be produced?

Mr. McDowell: It is being worked on in the Department of Community, Rural and Gaeltacht Affairs and I am not in a position to give a firm date for its publication.

Mr. J. O'Keeffe: Can I raise a hoary old chestnut which has been around since the Government was formed eight years ago, namely the Defamation Bill and the related issue of a press council? The publication date has been put back again, into next year, in the latest legislative programme. Can we get a serious commitment as to what exactly is happening? Bearing mind that I seem to recollect the Minister, in Opposition about ten years ago, producing a Private Members' Bill on this issue, will there be any action on this and when?

An Ceann Comhairle: The Minister, on the legislation.

Mr. McDowell: It is a priority of mine and will be published in early 2006.

Mr. McCormack: Will it be before or after the election?

Mr. McDowell: As regards the Private Members' Bill mentioned by Deputy O'Keeffe, I remember his then leader, former Deputy John Bruton, informing the House that it was not a priority for him.

Mr. J. O'Keeffe: A priority, ten years later.

Ms Burton: Is the fact that Abbotstown is specifically included on the new transport map, although in a rather odd location—

An Ceann Comhairle: It has already been dealt with by your leader, Deputy Rabbitte. I call Deputy Ó Caoláin.

Ms Burton: On the Bill, will the Taoiseach, when he comes to Dublin West on Monday, grant land for the hospice?

An Ceann Comhairle: It does not arise on the Order of Business. I call Deputy Ó Caoláin.

Ms Burton: A hospice has been promised at Abbotstown. I want to know if the Bill will include that.

An Ceann Comhairle: The Bill has already been before the House this morning on the Order of Business.

Ms Burton: Abbotstown has already moved on this map by 20 miles.

An Ceann Comhairle: Deputy Burton, you are being disorderly.

Mr. Rabbitte: That is a virtual Bill.

Caoimhghín Ó Caoláin: I have two questions for the Minister. Have the terms of reference for the inquiry into the tragic death of Mr. Patrick Walsh been agreed and will they be published?

An Ceann Comhairle: Deputy, it does not arise on the Order of Business. I call Deputy Durkan.

Caoimhghín Ó Caoláin: My second question relates to a Bill that was promised for publication in early 2006 in the previous programme but now appears for late 2006. Can the Minister confirm whether the Ombudsman (Amendment) Bill will be published in 2006 and is there any explanation for the ongoing delay?

Mr. McDowell: The Bill will be published in late 2006.

Mr. McCormack: Will it be before or after the election?

Mr. Durkan: I wonder if I could ask the Minister for Justice, Equality and Law Reform whether there is any update, as promised last night in the Adjournment debate, on the dispute in An Post and—

An Ceann Comhairle: It does not arise on the Order of Business. There are other ways of raising that. As you correctly stated, it was discussed on the Adjournment.

Mr. Durkan: —would he convey it to the House as soon as possible.

On promised legislation, and in view of developments taking place in the area of telecommunications, with takeovers already done and intended, could the Electronic Communications Bill be expedited and brought before the House

as quickly as possible in order to procure the necessary debate?

How soon can the Pharmacy (No. 1) Bill, which affects the running of pharmacies by people who have not qualified in this country, be brought before the House?

I also wish to raise the condensation Bill, otherwise known as the business improvements districts Bill, with a view to demisting and demystifying the area surrounding the electronic voting system. Those are all important at present.

Mr. McDowell: The Electronic Communications Bill will be published in 2006 and the Pharmacy (No. 1) Bill will be published in 2006. The BIDs legislation is due next year as well and it has nothing to do with electronic voting.

Mr. Durkan: We will rename it the condensation Bill.

Mr. Sherlock: When is it proposed to restore the Ground Rents Bill? Will the Minister also tell us about the High Court issue which resulted in the Bill being withdrawn in the first instance?

Mr. McDowell: This Bill is not proceeding at present because an important decision which is expected from the Supreme Court may have implications, one way or the other, for the viability of the Bill.

Mr. J. Higgins: I would say the corncrake rather than the brent goose. The difference is we would like to hear more from the corncrake.

An Ceann Comhairle: Do you have a question appropriate to the Order of Business?

Mr. J. Higgins: Yes. It is clear from what the Minister for the Environment, Heritage and Local Government stated yesterday in respect of the issue that Deputy Murphy and I have been raising here, that legislation is needed to void estate management company contracts whereby young homeowners are forced into paying for services which local authorities supply in most other estates. Can I ask the Minister for Justice, Equality and Law Reform when we might see such legislation, which is quite urgent considering that people are being dragged to court?

An Ceann Comhairle: Is legislation promised?

Mr. McDowell: No legislation is promised.

Mr. J. Higgins: How will this mess be resolved?

An Ceann Comhairle: The Deputy knows the ways of raising it, namely through a question to the Minister or whatever.

Mr. J. Higgins: We have been raising it.

Ms Burton: The Minister, Deputy Roche, was on the radio yesterday.

Mr. Stagg: On a point of order, the Minister made a public statement outside the House that legislation was required. That is promised legislation and, according to the Standing Order of the House, the Minister should respond in this House to questions on it.

An Ceann Comhairle: Is legislation promised?

Mr. McDowell: No.

An Ceann Comhairle: No legislation is promised.

Mr. Stagg: He did promise it. Either that or he was telling lies on the radio then. He would want to make sure, one way or the other, which side he is on.

Mr. J. O'Keefe: He was bluffing.

Mr. Stagg: Was he telling lies on the radio? That is a question for him.

An Ceann Comhairle: If the Deputy is not satisfied with the answer he knows how to deal with it. A question to the Minister would be the appropriate way but we cannot have a debate on it on the Order of Business.

Mr. Stagg: The Minister should tell us was he telling lies on the radio then.

An Ceann Comhairle: Deputy Crawford has been waiting patiently to ask a question appropriate to the Order of Business.

Mr. Crawford: These three items are appropriate.

Ms Burton: Let the Minister make a personal statement.

Mr. McCormack: Which story do we believe?

An Ceann Comhairle: Allow your colleague, please.

Mr. Crawford: In light of the differential in fines being handed down by different judges, when will the fines Bill come before the House? On a related matter, when will the enforcement of fines Bill be brought before this House? In light of the power the Medical Council and the Royal College of Surgeons have to close hospitals and do all sorts of things, when will the medical practitioners Bill be brought before the House so that at least we will have a chance of discussing, or changing, the powers they have?

Mr. McDowell: It is not possible to give a date for the fines Bill. The medical practitioners Bill will be published in mid 2006.

I want to say, on behalf of my colleague, Deputy Roche, that he has not misled anybody. What he stated on radio was that if legislation was required, he would bring it in. Therefore, I ask Deputy Stagg to withdraw the statement that Deputy Roche was lying, either then or now.

Mr. Stagg: Shall I tell the editor of the *Evening Herald* as well?

Mr. Roche: Deputy Stagg should withdraw the comment.

Mr. Stagg: Deputy Roche was bluffing like he always is.

(Interruptions).

Mr. Roche: Deputy Stagg should withdraw the comment. He is in control of the council in Kildare. One should judge what Labour is doing in County Kildare.

Mr. Stagg: Deputy Roche should not be telling me that.

Mr. McDowell: It is not possible to state at this stage when the enforcement of fines Bill will be published.

Mr. Stagg: Labour councillors——

An Ceann Comhairle: Allow Deputy Rabbitte without interruption.

Mr. Stagg: Deputy Roche should not be telling more lies now.

Mr. Roche: Deputy Stagg would have kept his mouth shut about it if it were not for Deputy Murphy.

An Ceann Comhairle: Deputy Stagg, withdraw the word lie.

Mr. Stagg: It is withdrawn. Deputy Roche is misleading the House again.

Mr. J. Higgins: They should not play games with this. People are in court next week over this, for services that the local authority should provide.

Mr. Roche: I agree with Deputy Higgins.

An Ceann Comhairle: Deputy Higgins, Deputy Rabbitte has been called. I ask Ministers not to allow themselves to be provoked and to allow Deputy Rabbitte without interruption.

Mr. J. Higgins: Excuse me, it is us who are being provoke, not them.

An Ceann Comhairle: I ask Deputy Higgins to resume his seat.

Mr. Rabbitte: On a number of occasions the Government has promised regulations to provide for a code of conduct for senior public servants leaving the employ of the State. Following a second county manager taking up a position with a prominent developer immediately after retiring, can I ask the Minister for Justice, Equality and Law Reform if the code of conduct is imminent, prepared or likely to be brought before the House soon?

Mr. Ring: They are being given money as a reward but the Government will not tell us how much they are being given.

An Ceann Comhairle: The Deputy should allow——

Mr. Ring: I have gone to the Minister, the Department and the Government. The Minister should tell us what they are getting as rewards. It should not be hidden behind closed doors. Our expenses are open so their expenses should be open.

An Ceann Comhairle: Deputy Ring——

Mr. Ring: Why are county managers and officials protected by the State?

An Ceann Comhairle: To be fair to Deputy Rabbitte, he submitted his question and was called in order. He is entitled to hear the answer.

Mr. Ring: The Government is at it again, protecting the county managers and the officials.

An Ceann Comhairle: I ask the Deputy to be quiet.

Mr. Ring: They are rewarded with taxpayers' money but the Government will not tell us what they are giving them.

Mr. C. Lenihan: We will have to get an injunction against the Deputy.

Mr. McDowell: Deputy Rabbitte puts it far less eloquently than Deputy Ring.

Mr. Ring: He is not as forceful.

Mr. McDowell: Currently, local authority officials are subject to a code of conduct under the Local Government Act 2001.

Mr. McHugh: They should be.

Mr. McDowell: The code includes disclosure requirements concerning employment outside the local government sector and addresses situations concerning conflict of personal and public interests. The issue of senior local government officials accepting outside appointments or consultancies following resignation or retirement is not subject to the present code. I understand, however, that in regard to county and city managers, the Department of the Environment, Heritage and Local Government is in discussion with the managers' association regarding the matter—

Mr. Stagg: For what?

Mr. McDowell: —and that the suggestions in the Standards in Public Office Commission's 2004 annual report are also being considered fully.

Mr. McHugh: They make the rules for themselves.

Mr. Costello: In the context of a code of conduct, when does the Minister for Justice, Equality and Law Reform propose to bring forward the judicial ethics legislation?

Mr. McDowell: The policy decisions on that legislation are well advanced in my Department. I am currently in a process of consulting with the Judiciary. When that process is complete, I will be in a position to give a firm date for publication.

Mr. Costello: Will it be this year?

Mr. M. Higgins: Will the Minister indicate the current position in regard to the promised legislation establishing TG4 on an autonomous basis? Has the Government retreated from its commitment to this legislation or will it be part of the broadcasting authority of Ireland Bill, which is listed with proposed legislation? When will the broadcasting authority of Ireland Bill be brought before the House?

Mr. McDowell: The broadcasting authority of Ireland Bill will be published next year. Whether the particular issue raised by the Deputy will be included in it has not yet been decided.

An Ceann Comhairle: I call Deputy Durkan on a point of order.

Mr. M. Higgins: On a point of order, I asked two questions. The Government is committed separately to introducing legislation to establish the autonomy of TG4. What is the position in regard to that legislation? Is it being prepared or has it been withdrawn? I accept the broadcasting authority of Ireland Bill will probably not be seen

until the end of 2006, if at all. What is the status of the commitment of the Government, as published, to the autonomy of TG4?

Mr. McDowell: As I said, the status of TG4 is a matter which may or may not be dealt with in the context of the broadcasting Bill. We expect to publish that Bill in 2006.

Mr. M. Higgins: The commitment was to publish legislation.

An Ceann Comhairle: I suggest the Deputy submits a question to the Minister on the matter. I call Deputy Durkan on a point of order.

Mr. M. Higgins: There is no question to ask.

Mr. Durkan: Last week, the Ceann Comhairle kindly allowed a question as to whether the Tánaiste would soon approve the funding for the implementation of the final phase of the Naas Hospital development plan. The reply I received was that the matter had been referred to the Health Service Executive.

An Ceann Comhairle: That is not a point of order. I call Deputy Cowley.

Mr. Durkan: It is a point of order.

An Ceann Comhairle: The Deputy has already made a very long contribution.

Mr. Durkan: The question is who determines policy. Does the Minister approve—

Dr. Cowley: A Cheann Comhairle—

Mr. Ring: I want to ask a question also. I put up my hand. I indicated before the Deputy came into the House.

An Ceann Comhairle: I intend to call Deputy Ring a second time this morning. For now, I call Deputy Cowley.

Mr. Durkan: Does the Minister or the Health Service Executive allocate the budget?

An Ceann Comhairle: That is not a point of order.

Mr. Durkan: Who is in control?

An Ceann Comhairle: I call Deputy Cowley.

Mr. Durkan: The Minister for Justice, Equality and Law Reform would know. He is friendly with the Tánaiste. Surely he would know. He should stand up and be counted. We should not have this dodging and diving.

Dr. Cowley: In view of the €200 million earmarked for transport in the BMW region and the omission of the Mayo-Sligo end of the western rail corridor from any possibility of funding—

Mr. Kelly: That is not correct.

Dr. Cowley: —is legislation proposed for balanced regional development under the infrastructure Bill?

An Ceann Comhairle: To what legislation is the Deputy referring?

Dr. Cowley: With regard to promised legislation, I was concerned to hear there will be no move towards introducing an office for public safety to deal with overall public safety.

An Ceann Comhairle: Is legislation promised?

Mr. McDowell: No.

An Ceann Comhairle: No legislation is promised. I call Deputy Ring.

Mr. Ring: A Cheann Comhairle—

An Ceann Comhairle: I thought the Deputy had made his contribution earlier.

Mr. Ring: I make many contributions in the House. The one I will make now is close to the heart of the Cheann Comhairle and that of Deputy Cowley. I had hoped the Tánaiste and Minister for Health and Children would be present because my question relates to doctor only medical cards. Is the Minister aware—

An Ceann Comhairle: That does not arise on the Order of Business. The Deputy should submit a question.

Mr. Ring: Let me finish.

An Ceann Comhairle: I call No. 9a, motion re—

Mr. Ring: This is a very important issue. Community welfare officers will not process the doctor only medical card because their unions have instructed them not to do so.

An Ceann Comhairle: I call No. 9a, motion re proposed approval of Dáil Éireann of the terms of the World Health Organisation framework convention on tobacco control, without debate.

Mr. Ring: The doctors have got their share. Now, the community welfare officers are looking for their share. What will the Government do about it?

United Nations Conventions: Motion.

Minister of State at the Department of the Taoiseach (Mr. Kitt): I move:

That Dáil Éireann, in accordance with the requirements of Article 29.5.2° of Bunreacht na hÉireann, approves the terms of the World Health Organisation Framework Convention on Tobacco Control done at Geneva on the 21st day of May, 2003, a copy of which was laid before Dáil Éireann on the 15th day of April, 2005.

Question put and agreed to.

Independent Commission of Inquiry: Motion.

Minister of State at the Department of the Taoiseach (Mr. Kitt): I move:

That Dáil Éireann requests the Joint Committee on Justice, Equality, Defence and Women's Rights, or a sub-Committee thereof, to consider, including in public session, the Report of the Independent Commission of Inquiry into the murder of Seamus Ludlow, and the observations made thereon by former Commissioner Wren and Mr. Justice Barron, and to report back to Dáil Éireann by 31st March, 2006 concerning:—

- the Report of the Independent Commission of Inquiry into the murder of Seamus Ludlow and the observations made thereon by former Commissioner Wren and Mr. Justice Barron for the purposes of making such recommendations as the Committee considers appropriate and any changes to legislative provisions; and
- the legislative and other changes, if any, required in relation to the notification to the next of kin of inquests in relation to murders or deaths in suspicious circumstances.

Question put and agreed to.

Private Members' Business.

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Irish Unification: Motion (Resumed).

The following motion was moved by Deputy Caoimhghín Ó Caoláin on Wednesday, 2 November 2005:

That Dáil Éireann:

- re-affirming its support for the Good Friday Agreement as endorsed in referendums by the people of Ireland North and South;

- recognising the political progress brought about by the peace process and the Agreement, benefitting all the people of Ireland; and
- reiterating its appreciation of the work undertaken to date by the North-South Ministerial Council and the North-South bodies;

resolves to:

- work for the full implementation of the Agreement in all its aspects and for the re-establishment of the institutions of the Agreement at the earliest date;
- promote all-Ireland policies and strategies, benefitting all parts of the island;
- actively seek to persuade Unionists, through dialogue, of the advantages of unification for all the people who share this island, in their diversity; and
- prepare politically, economically, socially and culturally for Irish unification, identifying steps and measures, including a Green Paper, which can assist a successful transition to a united Ireland.

Debate resumed on amendment No. 3:

To delete all words from and including “promote all-Ireland” in the fifth paragraph and substitute the following: “promote the full development of strands one, two and three of the Agreement so that decisions in relation to North-South as well as East-West and Northern concerns are taken on a sustainable basis at the lowest effective level and in a way that respects diverse political aspirations and devolved decision making as provided for in the Good Friday Agreement.”

—(Deputy Sargent.)

Minister for Justice, Equality and Law Reform (Mr. McDowell): As I have said on many occasions, I am a republican and proud to be one. I would be surprised if many Members in the Chamber do not profess to be republican. However, I am a republican who believes in the rule of law and who stands by the Constitution, Bunreacht na hÉireann. I believe in democracy and believe that the people are entitled to hold different views to my own. I believe that everyone has a right to live without fear, intimidation or violence. I believe in an Ireland that is liberal, successful, confident and caring.

It is the responsibility of all genuine republicans to make a stand for the Republic to ensure that our birthright is no longer regarded as the preserve of one political party or movement. We have demonstrated that this Republic can be a self-confident, dynamic and progressive nation. It is in many respects the envy of Europe and a

model for many emerging democracies. We must now apply that same self-confidence to tackling the major outstanding task, namely, of reconciling orange and green, in other words, giving effect to the symbolism of the Irish flag.

Just as I have on many occasions objected to the Sinn Féin Party attempting to arrogate to itself the mantle of republicanism, I equally strongly object to that party’s ludicrous claim that only through it is the aim of Irish unity to be realised.

Caoimhghín Ó Caoláin: That is absolute nonsense. We welcome any sincere efforts the Minister would employ but he would have to demonstrate them.

Mr. McDowell: My goal and the stated goal of the Government is to secure lasting peace in Ireland through the implementation of the Good Friday Agreement and, ultimately, to achieve a united Ireland. I noted the publication of a recent article in *The Irish Times* by a member of the Cadogan group stating that it is not helpful to talk about the unity of this country. I thoroughly and profoundly disagree with that statement.

Caoimhghín Ó Caoláin: We welcome that.

Mr. McDowell: However, the unity that must come must do so through choice — through the principle of consent as set out in the Good Friday Agreement and as endorsed by the people of this island in two separate referendums.

I note that the Private Members’ motion as put down by Sinn Féin urges that we should “actively seek to persuade Unionists, through dialogue, of the advantages of unification”. I welcome that Pauline conversion but, goodness, it has been a long time coming. “Dialogue” is not a fair description of what the Provisional movement engaged in for 30 years. Murder, crime, cruelty, arson, kidnapping, torture — this was the process by which the Provisional movement then sought to realise its aims. It is worthwhile repeating that although it is now receding into the mists of our memories, there was a time when bodies were found on the Border, their hands tied behind their backs, bullet wounds to their heads and signs of extensive torture. We now know from revelations about the provisional republican movement that these atrocities were committed under the guise of courts martial conducted by the movement. Frequently, those who were tortured and left in a ditch in such terrible circumstances were persuaded through torture to taping confessions of collaboration with the security forces in Northern Ireland. The tapes were then sent to their relatives as justification for what had happened to them, although the tapes were extracted from them on the condition that the torture would stop if a confession was made.

[Mr. McDowell.]

The point we must remember with regard to this set of transactions is that these courts martial under the rules, if I may use those terms, of the provisional movement had to be confirmed by the Provisional IRA army council. Each member of the army council during that period bears direct personal and moral responsibility for each of those acts of torture and the ensuing killing. When I hear some of those army council members now appearing in public as champions of human rights, I wonder how hypocritical can one be. How can one parade the world, talking about human rights, when in secret one was authorising the torture and the killing of individuals in such circumstances, extracting taped confessions to be sent to their families to justify their fate? Every member of the army council who did that bears direct personal responsibility for those acts. The rules of the organisation they participated in required their direct consent to those events. They now strut the world. In South Africa, they shake hands with the statesmen who liberated that country when most of them are more Mugabe than Mandela.

These people, secretly in the murky recesses of their past, have such a personal history, it would not even be worthwhile establishing tribunals to discover what they were up to. There is no reason for Mr. Justice Barron to attempt to uncover one hundredth of the cruelty, cowardice and murder they perpetrated. Yet these people now posture as statesmen and write books about their views on the future of Ireland. I noted some of them were distinguished guests in the Houses yesterday. The one thing that distinguishes them is an absolute and radical inability to tell or acknowledge the truth.

Caoimhghín Ó Caoláin: The Minister's contribution is as usual——

Mr. McDowell: In building a united Ireland——

Caoimhghín Ó Caoláin: This is typical.

An Ceann Comhairle: Deputy Ó Caoláin will allow the Minister without interruption.

Caoimhghín Ó Caoláin: Why does the Minister not talk to the motion?

An Ceann Comhairle: Deputy Ó Caoláin, please.

Ms O'Donnell: The Deputy cannot handle it.

Mr. Grealish: The truth hurts.

Mr. McDowell: In building a united Ireland what is needed to be done is to reconcile the orange and green traditions on this island. I find

it strange that the provisional movement comes to the Dublin Government asking for its assistance in establishing a dialogue with the orange tradition in Northern Ireland. The truth is that persuasion for Irish unity is the vocation of every republican in this House and elsewhere.

Caoimhghín Ó Caoláin: The Minister is not a fit person to say that.

An Ceann Comhairle: Deputy Ó Caoláin will allow the Minister without interruption.

Mr. McDowell: Bringing together the orange and green traditions on this island to create a genuine republic, not a sectarian society, requires a statesmanship of which the provisional movement have shown it is entirely incapable.

Caoimhghín Ó Caoláin: There is not a drop of it in the Minister.

An Ceann Comhairle: Deputy Ó Caoláin, please.

Mr. McDowell: Some good signs recently have been that Sinn Féin rejects violence and that it now understands that persuasion through peaceful and democratic means is the only way forward. However, those people who in the past authorised the use of massive violence against the Unionist community in Northern Ireland——

Caoimhghín Ó Caoláin: That is not the case.

Mr. McDowell: ——must now labour under the disadvantage of trying to create a basic elemental trust required for dialogue out of which persuasion can come.

Caoimhghín Ó Caoláin: A Cheann Comhairle, on a point——

An Ceann Comhairle: I ask the Deputy to resume his seat.

Caoimhghín Ó Caoláin: On a point of order. I roundly reject the Minister's accusations——

An Ceann Comhairle: This is not a point of order. I ask the Deputy to resume his seat.

Caoimhghín Ó Caoláin: It is a point of order to me to put on the record that I roundly reject——

An Ceann Comhairle: If Deputy Ó Caoláin continues to interrupt, he will have to leave the House. The Minister is entitled to the same courtesy as the Deputy was afforded last night.

Caoimhghín Ó Caoláin: He is being inflammatory and this is a typical McDowell diatribe.

An Ceann Comhairle: He is entitled to make his contribution without interruption. If there are further interruptions, the Deputy will have to leave the House. The Minister to continue without interruption.

Mr. McDowell: I believe——

Caoimhghín Ó Caoláin: This is too much.

Mr. McDowell: There is an example of free speech.

Ms O'Donnell: The Deputy is very democratic.

Mr. McDowell: I believe a united Ireland will come about.

Mr. F. McGrath: I did not hear the Minister refer to loyalist sectarian violence.

Mr. McDowell: The economic and political future for the people of Northern Ireland lies with interaction and involvement with the people of this State. The future prosperity of Northern Ireland is far better guaranteed by the connection of Northern Ireland economically with the Republic than with the rest of the United Kingdom, despite both being members of the EU. Increasing economic mutual dependence between both parts of this island will lead to a political transformation.

Looking at the politics of the United Kingdom and this State, the Unionist people could have a far more effective say in their own future in an all-Ireland dispensation than they could have in Westminster, where holding the balance of power is an unlikely event considering its electoral system. As an Irish republican, I believe the underlying logic of Irish unity is there for us all to acknowledge and to work towards by peaceful and democratic means.

We must acknowledge that the first actions must be to seep out the hatred and lance the enmity that exists.

Caoimhghín Ó Caoláin: Will the Minister start with himself?

Mr. McDowell: The first action is to create among the people on this island a sense of trust.

Mr. Rabbitte: Hear, hear.

Mr. McDowell: Trust means that one tells the truth. If one was or is a member of the IRA, one says so. If one's movement killed Detective Garda Jerry McCabe, one says so. If one's movement raided the Northern Bank, one says so. Denying matters that are known as obvious truths, undermines the credibility of those engaged in this type of mendacity.

If Sinn Féin is in the business of creating an elemental trust, not a high moral trust or total reconciliation but a basic building block of interaction with the Unionist community, it must first start by telling the truth. Until it can face up to this, it is going nowhere because it simply will not be believed. It has achieved what it set out to do, namely the polarisation of Northern Irish politics and pressurising the position of the middle ground to make it the weakest it has ever been in decades. Now, the responsibility lies with those who have driven this process forward to make the huge leap to engagement with the other community based on trust and truthfulness. I believe in Irish unity, based on consent and persuasion. I believe in the long run the Unionist people in Northern Ireland will find, in an all-Ireland political and economic accommodation, autonomy and fulfilment. The biggest set-back for the process of persuading them to that end has been 30 years of Provisional IRA violence.

Mr. F. McGrath: Why did that happen?

Caoimhghín Ó Caoláin: How did that come about, Minister?

Mr. McDowell: I welcome the fact that has come to an end but we have paid a very heavy price for it.

Mr. F. McGrath: The Minister is being selective.

Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan): I was pleased to see Mr. Adams and Mr. Doherty here yesterday. It would be better, however, if they applied their time and effort to restoring the institutions and a relationship with the Unionist community in the North by forming the assembly and executive that are so necessary.

The amended wording proposed by the Government addressed clear gaps in the text of the motion proposed to the House by Sinn Féin. I was struck in particular by the absence of any reference in that motion to the Patten reforms and to the central importance of policing in a civil society. The amendment before the House calls on all parties to strengthen policing reforms and accountability by taking their places on the policing boards without delay. The extensive reforms to the Police Service in Northern Ireland that have been carried out in the past five years have brought the Patten vision of a human rights-based, community police force much closer to fruition.

The police reform programme in Northern Ireland is now regarded as a model of its kind internationally. The process of reform is being overseen and validated by an eminent Canadian police officer, Mr. Al Hutchinson, whose twice

[Mr. C. Lenihan.]

yearly reports as independent Oversight Commissioner have provided a detailed description of the pace and extent of the reforms to the PSNI. He has described the process under way as “unprecedented in the history of democratic policing reform”, which is a significant statement.

In June this year, he found that 114 of the 175 Patten recommendations had been fully implemented. Complaints against the police have fallen by almost 20% in the period from 2001 to 2005. The historic problem of Nationalist under-representation is being progressively redressed, with more than a doubling in the proportion of Nationalists serving in the police force since 1999 and ongoing progress towards Nationalist numbers being fully reflective of the community as a whole. The establishment of district policing partnerships at local level has led to a new productive dialogue among local representatives, the police and civil society. These partnerships have not been without their difficulties, most notably thuggish intimidation from people who are locked in the past. For example, the members of Strabane DPP, to name but one, have experienced ongoing acts of intimidation. This negative mentality was most recently witnessed in Derry where the vice-chair of the policing board, Mr. Denis Bradley, was viciously attacked. The efforts of all those who prefer fundamentalist and negative doctrines to the more creative business of dialogue, arbitration and compromise want to bring this island back to the dark days, but they will not succeed.

The Oversight Commissioner has referred to the exemplary work being carried out by both the policing board and the Police Ombudsman. Both the policing board and the Ombudsman have the full backing of the Government and, I am sure, of this House as they go about their hugely important work. The overall result of the combined work of the policing board, the ombudsman and the district policing partnerships is that, in the words of the Oversight Commissioner, the PSNI is now one of “the most overseen and accountable police agencies anywhere”. However, the Oversight Commissioner has identified one major obstacle to the full introduction of the Patten report. He puts it starkly when he says that “politics has failed policing in Northern Ireland”. This failure is twofold. On the one hand, there is a failure of political leadership on the Unionist side that saw the marching season degenerate into appalling violence in September 2005. On the other hand, there is the ongoing abdication of responsibility by Sinn Féin in its refusal to endorse the new police service and to work the institutions of Patten which were set up specifically to enable elected and community representatives to hold the police to account. I condemn its refusal to do so as it is essential to any peaceful and democratic society that police have

the allegiance of all those who wish to be part of that democratic dispensation.

Local communities on the ground in Northern Ireland, whether affected by petty crime or more serious offences such as rape or assault and murder, want to see an end to fear as a driving force in society. Effective, accountable policing is the only way to achieve that and Sinn Féin has so far singularly failed to explain why it is not in a position to participate in the police boards. Its failure to do so has ill served the communities it represents. It has also ill served the wider political process. By withholding support for policing, Sinn Féin has undermined the process of building trust across the political spectrum and across the religious and political divide in Northern Ireland. For the sake of the communities it claims to represent and for the benefit of the wider political process it is time Sinn Féin endorsed the new beginning to policing which is now being rolled out and co-operate with the police service, and that its members take their rightful places on the policing boards and district policing partnerships.

A lot of guff has been spoken about a united Ireland. All the parties in this State subscribe to a republican philosophy and the ideal of a united Ireland. As James Connolly said, it is necessary to unite the peoples of Ireland. Ireland cannot be united by a piece of rhetoric but must be built at a practical level between peoples and institutions, and central to it is an acceptable police force throughout the island. Sinn Féin must rise to that challenge by participating in policing rather than delivering lectures in this House about a united Ireland.

Mr. Carey: I support the amendment. Fianna Fáil entered the peace process as leaders of Nationalist Ireland and has tried to bring all strands of Nationalist Ireland together to our analysis of Irish unity and partition. For the past 20 years Fianna Fáil and other parties in this House have tried to convince the Provisional IRA that a united Ireland can never be delivered down the barrel of a gun. For 20 years we told the Provisional IRA that its military campaign was pushing the day of Irish unity further into the future. The IRA has finally decommissioned its weapons which means it has finally accepted our analysis. It is a pity that 3,500 lives were lost before that analysis was accepted. The months ahead will see difficult discussions on how to move the process forward and it is of the utmost importance we do not lose sight of the need to uphold all aspects of the Good Friday Agreement, consolidate the progress already made and seek to achieve its full implementation.

With previous speakers I wish to see a climate created on this island where a consensus develops around a united Ireland. Like previous speakers I know this will not be achieved simply by persuasion and preparation. It will require full

acknowledgement that relationships on this island and between these islands are complex. These relationships need to be developed and nurtured if we are to develop the trust and confidence stressed by previous Government speakers and others.

Co-operation has developed under the aegis of the British-Irish Interparliamentary Body, of which I have the honour of being the current joint chair. Interparliamentary links have been important and valuable in fostering the climate of partnership and mutual understanding between the two Governments and between parliaments and elected representatives of the people of these islands. The British-Irish Interparliamentary Body continues to play a significant role in facilitating ongoing contact between all our parliaments, both on developments in Northern Ireland and the wider and evolving ambit of British-Irish relations. It is worth recalling how far we have travelled since the body first met 15 years ago. From a position where there was virtually no contact between the British and Irish Parliaments, Members now meet on a regular basis in both plenary and committee form to discuss matters of mutual concern. The closeness of relations between the two Governments is clearly evident in our continuing efforts and shared determination to achieve lasting peace and stability in Northern Ireland. Contacts between British and Irish parliamentarians made through the body have reinforced the broad, popular cross-party support which exists for the Good Friday Agreement and for its full and complete implementation. We have witnessed extraordinary developments over the past 15 years, and the fact that so much progress has been made brings into sharp contrast the absence of our colleagues from the Northern Ireland Assembly. We look forward to the early restoration of devolved government in Northern Ireland and an assembly which can embrace, represent and serve the interests of all sides of the community.

Ms O'Donnell: I wish to address the issue of reunification and in particular my perception of what it and the new nationalism should constitute following from the Good Friday Agreement. Last night Deputy Ó Caoláin stated that there could be no possible excuse for the DUP not engaging with Sinn Féin, as the decommissioning of weapons has commenced. This is perhaps five weeks after the IRA eventually decommissioned its weapons. It now expects the DUP and the Unionist community in Northern Ireland to completely change their trust perspective and forget the past 30 years of history, which included breaches of promises from Sinn Féin during the peace process.

It is important that we have this debate and that it should be respectful and honest. The new nationalism is quite different from Sinn Féin's

version. Having read the Sinn Féin Green Paper on reunification and listened to its contributions last night in the House, it appears the party's version of nationalism has gone out with button boots. It is backward looking, narrow and self-deluded. As the Minister for Justice, Equality and Law Reform, Deputy McDowell, stated, it is dishonest, sectarian and everything that the Good Friday Agreement is not.

The new nationalism embraces all the diversity in the new Ireland. This includes Chinese and Polish people as well as the Unionist community in Northern Ireland. All these people are minorities on the island, and the new nationalism must take account of this progressive new Ireland. New nationalism should not deny what we know is a tragic history. However, this history, along with the Good Friday Agreement, must be built upon. New nationalism should look to the future positively.

All Deputies will agree with the Minister's comments that reunification is a legitimate aspiration, but it should not be an aggressive policy for any Government. The deal contained in the Good Friday Agreement recognised that the constitutional future of Northern Ireland is in the hands of the people there. This principle of consent was fundamental to the agreement, and if it did not exist, the agreement would not have been possible even with moderate unionism. It is important that those of us who aspire to the reunification of our people respect the unique sensitivity among Unionists on this issue. It is not appropriate to air the issue at this time, when we have so recently and eventually dealt with the matter of arms. We do not have the institutions envisaged under the Good Friday Agreement running, and we do not have Sinn Féin participating in policing in Northern Ireland.

None of these factors is occurring, yet Sinn Féin is aggressively pushing forward the unification of Ireland. This was stated in the Good Friday Agreement to be a legitimate political aspiration, but one to be achieved over time. A mechanism exists in the agreement for the matter to be worked on when the time is right. It is important that this is communicated honestly to Sinn Féin at this stage. We should not have to receive lectures from Sinn Féin—

Caoimhghín Ó Caoláin: Or from the Deputy, with due respect.

Ms O'Donnell: —about the meaning of nationalism. I will tell the Deputies what nationalism is or is not.

Aengus Ó Snodaigh: We do not want the Deputy's view of it.

Ms O'Donnell: We do not want the import of sectarianism or horrible parades on O'Connell Street with people banging drums or dustbin lids.

Caoimhghín Ó Caoláin: Sinn Féin rejects sectarianism absolutely. The Deputy is herself being sectarian.

Ms O'Donnell: That type of tribalism has been dreadful to witness for years in Northern Ireland, and we do not wish to see this type of nationalism on the streets of Dublin. The constitutional parties in this House have worked hard to bring about a peace process and we will continue to have our view of nationalism. We will not take lectures from Sinn Féin.

Caoimhghín Ó Caoláin: Or from the Deputy.

Mr. Blaney: I thank the Government speakers for sharing time. I agree with most of the Private Members' motion, particularly the reaffirmation of support for the Good Friday Agreement as endorsed by the people of the island of Ireland. Part of the motion is premature, as the agreement reaffirms the principle of unity by consent.

As a republican from County Donegal, which shares only 9 km of its border with the South, I am well aware of the benefits North and South of the reunification of the island. This is ultimately one of the main goals of my organisation. All elements of the Good Friday Agreement must be in place, with all institutions and the assembly up and running. When all parts of the agreement are in place, a collective approach by all political beliefs, North and South, should decide a way forward for the island of Ireland.

When the time is right, the reunification will not be achieved until the British Government declares an intent to withdraw from the Six Counties at some future date. I cannot see the reunification occurring until all parties see no alternative but an agreement on an all Ireland approach. We are at a crossroads and the implementation of the Good Friday Agreement is paramount and vital to bringing all political and religious beliefs forward in unity.

We should return to where we were before the Northern Ireland Assembly was unlawfully brought down. The motion as stated puts the cart before the horse. I commend the motion as amended. It is regrettable that some Deputies only see one party as the problem in Northern Ireland. It is time that Deputies see the whole picture and stop the criticism of Sinn Féin. The party should be commended for its steps so far. All parties involved in Northern Ireland matters should be brought forward collectively, and we should be more positive on the issue.

Mr. Rabbitte: Having regard to the terms of the Government amendment, which I support, I

will not be moving the amendment tabled in my name and those of my Labour Party colleagues. Having regard to the Sinn Féin motion, it seems the party still lives in an alternate reality, with its own timeline and its own rules of cause and effect. In our reality, the Provisional movement failed to live up to its obligations under the Good Friday Agreement and failed to deliver decommissioning by May 2000. It was that failure that undermined the working of the Agreement and its institutions. It ensured that the institutions of devolved government never got a real chance to become firmly bedded down, and it led to the suspension of those institutions and the present impasse.

In the Sinn Féin view, the party has been godfather and chief promoter of what it calls the Irish peace process. It believes the party has always been a fan of the Agreement, even though it has yet to sign it. Moreover, according to this motion, it seeks the re-establishment of the institutions of the Agreement at the earliest date, conveniently ignoring that these institutions have suffered almost terminal harm as a result of the procrastination and cynical manoeuvring of the Provisional movement itself. At the present time, when those of us in the real world are hoping that the institutions of devolved government in Northern Ireland may be restored, with luck, at some stage next year, Sinn Féin has decided, as Deputy O'Donnell stated, that the time is right to press for Irish unity.

My view is that Sinn Féin's current strategy is not primarily about the return of the institutions in the North. It is not about power sharing or the restoration of the assembly. Sinn Féin's strategy is about its own political gain and winning concessions from the two Governments. It is also about causing division within the Irish Government in order to proclaim itself the only party truly committed to Irish unity.

Sinn Féin sees political capital and seat gains in maintaining a sense of permanent crisis in the peace process to keep itself centre stage, domestically and internationally.

Caoimhghín Ó Caoláin: That is absolutely bizarre and the Deputy knows it.

Mr. Rabbitte: It is that sense of permanent crisis, however, that makes normal politics impossible and allows extremism to thrive. In this motion, Sinn Féin calls for the re-establishment of the institutions of the Agreement at the earliest date and the Labour Party supports that call. However, given recent and not so recent events, it is reasonable to conclude that Sinn Féin's political agenda is not based, even on an interim basis, on power-sharing within Northern Ireland or the re-establishment of the executive and assembly. These are merely the hostages it takes and for which it demands a ransom in the form of con-

cessions on issues such as the “on the runs”, restorative justice projects and so on.

If Sinn Féin really wanted to defend the Good Friday Agreement, why did it negotiate a deal with the DUP last year that compromised the integrity and balance of the strand one power-sharing arrangements that were agreed by all parties when the Agreement was negotiated? If Sinn Féin truly believed that a cross-community government for Northern Ireland was one of the key elements in combating sectarianism and developing reconciliation, would it first insist on deals for “on the runs”, further amnesties for prisoners and face-saving community restorative justice projects to hide a future climb-down on their policing stance, before agreeing to re-enter the assembly or executive?

Mr. Morgan: Of course we would.

Mr. Rabbitte: Sinn Féin has never demonstrated any real interest in a workable devolved government for Northern Ireland. It barely involved itself in the negotiations of the strand one arrangements of the Good Friday Agreement. It has shed crocodile tears about the lack of an assembly. Participating in a “partitionist” assembly is largely irrelevant to its main project, namely, the drive for Irish unity.

Mr. Morgan: Yes.

Mr. Rabbitte: Its tactics are mistaken for at least two reasons. First, as regards Irish unity, as the Minister for Justice, Equality and Law Reform has stated, I too am a supporter. Partition has been disastrous for this country, on both sides of the Border. It generated two dysfunctional and confessional entities which at times were almost mirror images of each other. As the events of last week have demonstrated all too clearly, in this Parliament we still struggle with the ugly aftermath of three quarters of a century of clerical supremacy.

Mr. Morgan: And misrule.

Mr. Rabbitte: While the consequences of partition for the North were uglier and more violent, this was only because the numbers stacked up very differently and because there were those who believed the Border could be eradicated from the map through terror, destabilisation and economic misery. Although I favour the unity of all Irish men and women within a polity generous enough to accommodate them all, I share the Taoiseach’s analysis on the timing. I agree with him that we will not see Irish unity in our lifetime. An eventual Sinn Féin acceptance of that reality will be as seismic for that party as was the realisation by Fianna Fáil that the days of single party government are over.

The reasons for that timeframe are plain enough for all with eyes to see. I repeat again my central critique of Sinn Féin’s position and note that its members daily confirm the validity of that analysis. Sinn Féin’s myopia prevents it from seeing that the real problems on this island will not be cured by an end to partition between North and South. They derive from the endemic partitions within Northern Ireland itself. Sinn Féin members have said and done nothing to demonstrate awareness and acknowledgement of the crisis around them, namely, the cantonisation or even Balkanisation of Northern Ireland. Moreover, they have done nothing to persuade the people of the South that the best solution to Northern Ireland as a failed political entity would be to collapse that failed, dysfunctional and still violent entity into this State. If the communities that make up Northern Ireland cannot function together, why should we believe they would function better by smothering them within a largely uninterested Southern embrace?

On any rational analysis, Northern Ireland as a demonstrably functioning entity must be shown to exist and have the capacity to exist on an ongoing basis before anyone thinks about Irish unity, rather than the proven failure of the North being a reason for thinking about the unity of this island as a whole. The reality is that even with most guns silenced for most of the time, Northern Ireland is a bitterly divided society and is becoming ever more so. There is increasing evidence of a hardening of separateness between both communities and of a society that is becoming more divided by tribal identifications. In parallel with efforts to restore the political institutions, we need a real effort on all sides to tackle the sectarian divisions that have increased rather than diminished since the Good Friday Agreement of 1998.

A devolved government and assembly may contribute to normalisation but of themselves cannot provide a comprehensive solution. That requires time, patience and space, as other Members have noted. It will be at least a generation before we see a loosening of the grip on the North of the legacy of sectarianism and its bitter and corrosive divisions. Hence, talk of Irish unity before that first happens is absolute hogwash.

I repeat my belief that Sinn Féin and the IRA have a genuine contribution to make to political progress on this island. However, that contribution involves not simply the delivering up of arms, seven years late, that should never have been acquired or used in the first place, it also requires a genuine commitment to reconciliation between neighbours. If republicans want to unite this country, they must recognise as a task for them the need to address rather than exacerbate the structural divisions within Northern Ireland, such as where people live or where they send their children to school.

[Mr. Rabbitte.]

However, instead of recognising the depth of the challenge presented by deepening sectarian division, Sinn Féin has decided that now is the time to launch its Thirty-two County campaign to “rally for Irish unity” and “make partition history”. It is bizarre that the movement that has done most in this country’s history to cop-perfasten partition should consider itself in any way suited to set about the task of uniting this country and making partition history and that its members, of all people, could now remove all those bitter and enduring consequences of the IRA’s campaign of violence and destruction and of enduring and ever more entrenched divisions. The campaign to “make partition history” is calculated to increase the trend towards inter-communal hostility which makes power-sharing within Northern Ireland difficult, if not impossible and, consequently, it further delays the day of Irish unity.

The second reason the present Sinn Féin strategy is wrong is that, as the SDLP pointed out in its document, *A Better Way to a Better Ireland*, the best model for the political institutions of a future united Ireland must involve two Governments on the island. In this way, if and when the people of Northern Ireland vote to secede from the United Kingdom in any future referendum, sovereignty for Northern Ireland will merely switch to the Irish Government, with all the institutions created under the Agreement remaining with the Irish, rather than the British, as the ultimate sovereign authority. Therefore, this is all the more reason to concentrate on bedding down those institutions as in any scenario they are here to stay. However, I repeat the basic point that speculation about events that will not happen for quite some time does nothing to address the immediate challenges we all face in resolving conflict, combating sectarianism and establishing reconciliation between all people in the North.

In general, there has been a strong bipartisan approach to the issue of Northern Ireland in this House, especially since the signing of the Good Friday Agreement. The principal Opposition parties have never sought to make political capital out of Northern Ireland, although we have largely been kept in the dark by the Government about its approach to developments recently. Against this background, I must record my disappointment at two recent initiatives on the Taoiseach’s part, namely, the use of a political platform at the Fianna Fáil Ard-Fheis to unilaterally announce the reintroduction of military parades to commemorate 1916 and the premature, inappropriate and divisive invitation to elected representatives from the Northern state to sit in this Chamber as if, for all practical purposes, they had been elected to it.

While it is worth considering how we should commemorate the birth of this State, and a military parade through O’Connell Street may well be one option, there are also other possibilities.

Ireland is an odd country in many respects, one of which is that most Irish people would be baffled were one to ask them what was our independence day. When did our State come into being? A brief version of the long answer is that we have had three States since independence. The present State came into being on 27 December 1937, 180 days after the enactment of the Constitution by the people in that year. Saorstát Éireann existed up to that date, having been set up in 1922 under the terms of the Anglo-Irish Treaty. Before that the Irish Republic was established by a resolution of the First Dáil on 21 January 1919, which many people may regard as being our true independence day. A belief I share with most of my fellow citizens is that we in this House are successors to those who met in the Mansion House in 1919. It is ironic that while the armed uprising of 1916 is widely and extensively commemorated every year, the historic exercise in self-determination by the elected representatives of the people is largely ignored.

Regarding the second issue, the provision of speaking rights to Northern public representatives in the Dáil, I can do no better than put on the record the contents of my letter of reply to the Taoiseach, which I sent to him on the date I received his letter:

Dear Taoiseach,

Thank you for your letter of 26 October regarding the recommendations of the seventh report of the All Party Committee on the Constitution. As you know, I am already on the record as having expressed concerns regarding claims made by Mr. Gerry Adams about the nature of the commitment he said that you had given him and your failure to consult with the Dáil on a matter of such national importance. Having received your letter I now, at least, have a clearer understanding of your thinking but I have to express my serious reservations about the course that you are proposing the Dáil should take. While the Labour Party favours the closest possible relationship between democratic institutions on the island, we would be concerned at any plans to go beyond the very tentative recommendations made in this area by the All Party Committee on the Constitution in its seventh progress report in 2002 and the context in which the committee envisaged any progress being possible.

It is very important that nothing should be done that would compromise the role of the Oireachtas as the sovereign Parliament of the State and it is equally important that nothing should be done that would threaten the resto-

ration of the democratic institutions in Northern Ireland provided for under the Good Friday Agreement. You yourself draw attention in your letter to the view expressed by the committee in its seventh report that any such participation by any elected representatives from Northern Ireland in the Oireachtas: "Should take place on a cross-community basis with parity of esteem for the different communities in Northern Ireland."

Clearly, there would be a great danger in proceeding with any proposal that would be likely to be taken up by representatives of only one political tradition in Northern Ireland as this could create further political polarisation and potentially jeopardise future political progress. It is clear from representations we have had from political representatives of the Unionist tradition in Northern Ireland that they would have no interest in availing of such a facility and would regard such a move as potentially damaging to general political progress in Northern Ireland. I understand that similar views have been conveyed to the Fianna Fáil party.

This was certainly the case when I and some of my colleagues met the new leader of the Unionist party, Sir Reg Empey, and his colleagues, for example. He made his view clear and my understanding is that he was taking part in a round of meetings with the parties generally. My letter continued:

I believe that the absolute priority for all democrats on this island should be the earliest possible restoration of the democratic institutions provided for in the Good Friday Agreement. It is my strongly held view that proceeding with your proposals would not only make more difficult the restoration of the democratic institutions in Northern Ireland but might well make that objective politically impossible. In this regard, can I specifically ask you would you envisage proceeding with this proposal if it were clear that any offer of participation would be taken up by political representatives of the Nationalist community only?

It should also be noted that the Good Friday Agreement provides for a number of possible initiatives that would allow for closer interaction between members of democratic institutions on the island. Paragraph 18 of strand two of the Agreement said that the Northern Ireland Assembly and the Oireachtas should: "Consider developing a joint parliamentary forum, bringing together equal numbers from both institutions for discussions of matters of mutual interest and concern." The Agreement also envisaged the establishment of an independent consultative forum "representative of civil society" in both jurisdictions. Clearly, the restoration of the institutions in Northern

Ireland could open the way to progress on both of these proposals. I believe that the best way to proceed might now be for you to convene a meeting of the leaders of the parties in the Dáil to discuss this issue further and to consider how the House as a body might contribute in general to closer North-South relations.

That remains my position and I still look forward to receiving the Taoiseach's response to my proposals for a meeting of party leaders.

With decommissioning achieved, we must not assume that all else will now fall automatically into place. We must not lessen our resolve to see the institutions re-established and the political vacuum filled. We must not shirk the challenge of creating a peaceful, democratic and lawful society in Northern Ireland. We must all hope that Sinn Féin has now decided to contest the democratic space on the same basis as the other parties in this House.

Mr. Morgan: The Deputy knows we are gaining all the time.

Mr. Rabbitte: Now that they have finally decommissioned their weapons, republicans must follow the example of all other democratic parties North and South and commit themselves to creating a fully lawful and democratic society in Northern Ireland, one where the rule of law dominates and where all criminal activity is at an end.

It is simply unacceptable to have a significant political party organised on both sides of the Border, the growth of which has come almost exclusively as a result of the peace process—

Mr. Morgan: Does it have nothing to do with hard work or policies?

Mr. Rabbitte: —not participating in or supporting policing arrangements in Northern Ireland. Sinn Féin members are always quick to tell us about the sacrifices they have made and the difficulties they have faced each time they are dragged forward for the sake of political progress. However, they must recognise that, in doing so, they have benefited immensely, often at the expense of true democrats from political parties whose commitment to peace, reconciliation, justice—

Caoimhghín Ó Caoláin: The Deputy should dry his tears.

Mr. Rabbitte: —and a lawful society is beyond question.

Caoimhghín Ó Caoláin: This is rubbish.

Mr. Rabbitte: Sinn Féin must now commit to supporting and playing an active role in the

[Mr. Rabbitte.]

policing structures in the North. The 14th report of the policing Oversight Commissioner has again vindicated the stance of parties such as the SDLP, which took the brave decision to support the PSNI when republicans refused to do so. It is now clear that the overwhelming majority of the Nationalist community supports the PSNI but the void left by the attitude of republicans towards the police in places such as west Belfast and south County Armagh must no longer be filled by the local provo bully boy wielding his own type of community justice.

Sinn Féin has historically positioned itself at the heart of the problem. The opportunity now presents for Sinn Féin to become part of the solution but it will not dictate the content or timing of the solution. This will be a collective exercise and will be one to which that party is ill suited, as it will require patience, discretion, reasonableness and a desire to accommodate the needs and aspirations of others rather than an insistence on overwhelming and defeating those who it has always regarded as historic enemies of fellow nationals and inhabitants of our shared island. I support the Government amendment.

Mr. Boyle: I wish to share time with Deputies Connolly, Cowley and Catherine Murphy. A motion such as this at any time in the House is a useful means of discussing how we got to where we are and the sacrifices and changes that have been made. Recognition and acknowledgement must be given to those who have chosen to go down a fully political route. The unfortunate nature of this debate not only concerns the movers of the motion but also the reaction it has stirred in those who oppose it directly and means we might be going backwards in terms of our approach to this issue.

The Good Friday Agreement is the template that has been agreed by all political parties on this island. While it is a flawed agreement in many respects, having been born out of compromise, it is that by which we have all agreed to go forward. The Green Party believes that any attempt to pre-empt that agreement, or seeking to change its nature or content will be met with an opposite reaction by other communities on this island who feel the Good Friday Agreement is a compromise too far for their traditions.

The Green Party proposed an amendment to the second part of this motion only, as all Members of this House can readily agree with the first part. The difficulty we must

12 o'clock acknowledge in the legitimate aspiration held by many in this country for a unitary state is what the reaction of ordinary Irish citizens would be to such a state coming into being. Some work has been done by economic consultants on what the cost would be. We must recognise that the Northern Irish statelet is heav-

ily subsidised by the British Government. A united Ireland any time in the foreseeable future would mean enormous changes and sacrifices in the economic life of this country.

I believe all political parties in this House hold this legitimate aspiration, and they must be honest with themselves and ask whether they are prepared to put that price tag on achieving it. Are they prepared to state what the higher taxes are likely to be in the event of a unitary Ireland? Are they prepared to state how services will be compromised to deal with a population of 5 or 6 million as opposed to 4 million? These are the hard questions that must be asked even before we get to the stage of considering how we can make hearts and minds coalesce with each other.

That is the difficulty the Green Party sees with this motion. It is a difficulty with the use of language and the failure to recognise other traditions on the island sufficiently in considering how to achieve this legitimate aspiration. Fortunately, the use of force has been forsaken. However, the danger is that political torment may be stirred up. Who can say whether violence will be used to prevent the achievement of this legitimate aspiration within Northern Ireland or throughout this island?

My party recently decided to organise itself on an all-island basis. That was not without its birth-pains. It was agreed by Comhaontas Glas, and also by the Green Party in Northern Ireland at a recent gathering. It was not done in the context of creating a one-nation party, rather in recognition of synergies in organising rules of political engagement on this island and our shared needs in the environment, agriculture and tourism. It also recognises the tenet of the Good Friday Agreement that not only should there be such synergies on a North-South level, those synergies should also be encouraged on an east-west level. As a third phase of that process, the Scottish Green Party will meet this weekend to discuss its links with the Green Party in Northern Ireland and how the three different groups can promote our common political agenda, taking full cognisance of the historic relationship that exists.

As the peace process progresses, I hope the situation becomes less contentious. Unfortunately because of our electoral cycle and that of the British, we will be engaged in a war of words on many of these issues. I will conclude with an appeal that as we progress on this issue, more thought is given to the effect of pursuing legitimate political aspirations in a way that will not affect the competing traditions that live on this island.

Mr. Connolly: I welcome the opportunity to speak on this Private Members' motion. The word "united" appears in the script of the motion on quite a few occasions. It almost gives the impression that only one party wants unification.

I certainly wish to see a united Ireland. If I were examining it from the viewpoint of a Northern Protestant, I would be highly sceptical of the motion. It would confirm my previous intransigence and resistance to the agreement and would leave me highly apprehensive and suspicious about the motive behind it. I regret that is my reading of this motion.

I and another Deputy recently attended a meeting of Co-operation Ireland. I was struck forcefully by the fact that during the Troubles in Northern Ireland, there were 18 peace walls in Belfast whereas now there are 33 and the number increases by the day. That is not the way we want to go. The right message regarding unification, coming together and moving the right way is not being sent.

We heard the Good Friday Agreement described as the only show in town. It was historic in terms of the compromise reached between Nationalism and Unionism. It seems that is becoming the preserve of a single party, which is not what the Good Friday Agreement is about. It belongs to us as a nation, and is our map forward. It has been endorsed by the majority of people on this island, North and South. It afforded them the opportunity to transform the face of Ireland for the better after three decades of conflict. This Agreement, forged between the North's political parties and the London and Dublin Governments, paves the way for an end to violence and civil unrest. It also signals the restoration of political evolution in Northern Ireland and increased co-operation between North and South.

This North-South dimension of the Agreement was of crucial importance and was best exemplified by the establishment of successful cross-Border bodies. A number of other issues are more urgent, such as tourism, agriculture, transport, infrastructure and health care, and we should be seen to work together on them. We could first work on them in the Border hinterland, and establishing bodies there would lead us to the type of country of which everybody wants to be part, without forcing ourselves into situations. In tourism we see the benefits of Fáilte Ireland marketing Ireland as an entire island, from the Glens of Antrim through Kavanagh country and down to the lakes of Killarney, and including attractions such as the Shannon-Erne waterway. I would like to see that fully restored and see the benefits it brings to both our societies in the hinterland of Ulster on the divide line.

The land is divided and so are the people. If people across that divide see us in a better way, they may look more favourably on us and want to join us. I believe that is the way it should be. The former Deputy First Minister of Northern Ireland, Mr. Seamus Mallon, famously described the Good Friday Agreement as the Sunningdale Agreement for slow learners. People are probably learning fast and perhaps that is as it should

be. In 1973, Ulster hostility and intransigence put paid to the initial groundbreaking experiment in which Unionists, the SDLP and the Alliance Party shared power and self-government for the first time in Northern Ireland. That sowed the seeds for devolution and showed another way forward existed.

Back in those days, Sinn Féin would settle for nothing less than a total British withdrawal or a declaration of intent to do so, together with a 32-county sovereign country. It was utterly dismissive of the SDLP's conciliatory strategy based on the consensus approach to politics in Northern Ireland. It has ceased to ridicule the SDLP for its perceived give and take attitude. Such an attitude as taken by the British Government and the Unionist community has got us to where we are today. Sinn Féin was steered in the right direction by the former SDLP leader, Mr. John Hume, who initiated the Hume-Adams talks. I remember the risks taken in those talks. Talks were the only way to resolve this centuries old conflict. The moderate and anti-violent strategy of the SDLP was a beacon of light in the darkest days of the North's conflict. Mr. Hume's greatest achievement was to internationalise the conflict in Europe. We must also recognise the involvement of former President Clinton. He put pressure on Downing Street which successfully resulted in the Downing Street Declaration in 1993, the first IRA ceasefire in 1994 and ultimately the signing of the Good Friday Agreement in 1998.

We must not be exclusive and we cannot drag people kicking and screaming in here. We must show it can work and establish cross-Border institutions and progress in that way.

Dr. Cowley: Like everyone in this House I favour Irish unity but it will not happen overnight. It will take time as there is a lot more persuading to be done. However this is a goal that is worth achieving and in time it will be achieved. This is, after all, a small country. Membership of the EU has caused borders to become blurred. The larger EU community has made us realise we are a small country and community.

The only difference between the South and North of the country often boils down to the colour of the post boxes or the post offices. Galway, Dublin, Derry or Belfast have the same shops such as Marks and Spencer and McDonalds. Urbanisation has created a sameness and many built-up areas look alike on the surface.

All communities have the same need for proper services and the need for older people to be cared for within their community if at all possible. People North and South have much in common. The Troubles have been a great source of worry to people in the South and they have held back the development of the North.

I visited the North during the first ceasefire and it was a wonderful feeling to be able to drive over

[Dr. Cowley.]

the Border unchallenged in our own country. There is a need for co-operation between the two parts of our country and the Good Friday Agreement created progress in that regard. This needs to be continued. A very sad aspect of the breakdown was that over time many of these North-South bodies did not achieve their full potential. I hope they will achieve that potential in the fullness of time.

We have problems in common, given that we are a small nation. I noted on my visit to the North the disappointing lack of tourism facilities, such as bed and breakfast accommodation, which are widely available in the South. The Troubles have held back the development of the North.

I was proud to visit Stormont some years ago. I was involved in spearheading the campaign for a helicopter emergency medical service which I believed should be set up in a North-South context. This is the only country in Europe which does not have this facility as it does not exist in the South or the North. I have met various Ministers for Health on this issue, such as Deputy Noonan and Deputy Martin, and I also met the Minister for Health in Stormont, Bairbre de Brún. It was a very proud occasion for me when I walked up the steps of Stormont, the bastion of discrimination with its associated bad history, and was able to speak in Irish to the person who was the Minister for Health at that time. It was a very useful meeting. I also spoke to the North-South body dealing with emergency facilities which was set up under the Good Friday Agreement. I believe Irish unity is achievable but a lot of water needs to flow under the bridge and a lot of persuasion will be needed. Go raibh maith agat.

Ms C. Murphy: I do not believe the people who voted in the 1998 referenda in both the North and South believed they were doing anything other than participating in or commencing a process which is still ongoing. The fact the Assembly is not functioning, that the arms on the loyalist side have not been put beyond use — although there have been some welcome developments in recent days in that regard — and that the policing boards do not include all parties, indicate the process has not concluded. These must be the focus of the work to be done.

This is a fragile peace. While like most others I desire a united Ireland, my price, like that of most others, is that peace must be achieved by consent which is the only way to ensure a lasting peace. We witnessed the mayhem of the 1970s, 1980s and 1990s and the daily reports of murder and mayhem, where hundreds of thousands were forced to live or to grow up in a dangerous and violent environment where hatred was the currency. Many are damaged by that experience; they must be in our thoughts when this issue is being debated as a return to that situation is sim-

ply not acceptable. Will the Sinn Féin motion move the process forward? Will it persuade and build confidence within the Unionist community or will it widen the divide?

While there has been undoubted leadership within the republican movement from Sinn Féin to gain acceptance from the IRA of the need for removal of the guns and I acknowledge the significant progress made, I wish to refer to the issue of leadership. I attended an event in Newcastle, County Down, at which a former White House adviser spoke about the issue of leadership and peace building. He said leadership was all about delivering loss and he repeated this sentence many times. It is a significant summing up of leadership. It is easy to tell people what they want to hear and it is easy to build confidence within one's own community. The real challenge is in taking on board the concerns of the other side, as is the case here.

It is easy to ask this House to persuade Unionism of the advantages of Irish unification but the real challenge will be for Sinn Féin to do that by its actions, by making the Northern institutions work and by demonstrating that Unionism has nothing to fear. I do not believe Unionists are at all concerned or feel threatened by Fine Gael, the PDs, Fianna Fáil, the Labour Party or those of us on the Independent benches and this tells a tale. There is no group in society more dangerous than a group with nothing to lose. Building peace is also about offering hope. It is essential the Unionist community feels a sense of hope for its future and does not believe that every gain for Sinn Féin is a loss for them as this is a recipe for conflict.

The South has seen some dividends which are not very tangible and I will cite some examples. Right through the 1970s and 1980s the Tricolour was not flown anywhere except on public buildings because people felt that by doing so they were in some way endorsing the IRA campaign. Attitudes have changed since the Good Friday Agreement and there is a fresh pride evident.

There is a new confidence in dealing with our history. My grandfather took part in the Easter Rising and he was interned for six months in Wales. Most of the internees kept diaries which when compared to those kept in 1922 are in marked contrast. Those written in 1916 were to do with patriotism and idealism which were also evident in the diaries written in 1922 but they also included an attitude of realism. It is valid for us to learn from that era of history and from people who were direct witnesses. This is not to do with revisionism. The focus must be on building peace in the North.

Minister of State at the Department of the Taoiseach (Mr. Kitt): I welcome the opportunity to restate the reasons for the Government's amended motion. As my colleagues have stated,

the Government's approach to this question is that which is set out in the Good Friday Agreement, no more and no less. That approach, which enshrines the principle of unity by consent, has a powerful endorsement from all communities on both parts of the island. It is an approach built, first and foremost, on rebuilding trust and confidence in the political process and on re-establishing the institutions of devolved government. We should all deplore the fact that trust and confidence were allowed to break down in the first place but this is not the time to revisit these issues and we must begin from where we are.

The Government amendment puts trust and confidence firmly at the centre of its approach. This is vitally important and it is a great deficiency in the Sinn Féin motion as originally tabled. The Government amendment acknowledges the importance of restoring devolved government on an inclusive basis. This is truly the great challenge in the coming months, to restore confidence and rebuild the political momentum needed to bring back a devolved government working in the best interests of both communities. Working with the political parties, both Governments will be making every effort to ensure that all the institutions are restored at the earliest possible date. We recognise that devolved Government, established on a partnership basis, and working within the framework established by the Good Friday Agreement, is in the best interests of all the people of Northern Ireland and in the interest of peace and stability on this island as a whole. It would be strange if the House were to overlook that crucial fact.

Many preceding speakers have addressed the issue of unity. With all members of the party I represent in government, I am firmly committed to creating a climate on this island in which unity can become a reality. No single party in the House can claim to be sole standard bearers for a united Ireland. In the case of my party, we have pursued the cause of unity since our foundation through exclusively peaceful means and have led where others, at last, have thankfully followed.

In the debate last night, Deputy Sargent stated the Sinn Féin motion put "the cart before the horse" on this issue. I fully agree with him and, therefore, urge his party to lend its support to the Government's amended motion. I also welcome support for the amendment from Deputies Jim O'Keeffe and Rabbitte.

In addressing this vital issue, the House cannot and should not overlook other realities. The motion adopted by the House must acknowledge the fundamental requirement that all paramilitary and criminal activities be brought clearly to an end. In that context, it must address the need for all parties to co-operate with the Independent Monitoring Commission. It must address sectarianism, condemning it wherever and whenever it occurs. It must acknowledge the need to

strengthen policing reforms through full participation on the policing board. The greatest risk to the tremendous progress made is that it could be endangered by those who refuse to put their support behind policing.

The motion must also acknowledge the need to push resolutely ahead with the development of an all-island economy with benefits for all. The Taoiseach this week announced a transport plan which can transform infrastructure on the whole island if both its parts pool their thinking, planning and resources to ensure the potential of this opportunity is maximised. It must acknowledge the need to reach out to all communities to ensure none is left behind. As we speak, the Taoiseach is in Belfast reaching out to both communities.

The motion must also acknowledge the role of the United States and the European Union. As Deputies will be aware, the Minister for Foreign Affairs, Deputy Cowen, is in the United States today.

The Government amendment addresses each of these needs. It is a full and accurate reflection of the path set out in the Good Friday Agreement. Pádraig Pearse spoke of a "noble" republic. His dream and the dream of Robert Emmet, Wolfe Tone and others is our dream too. There can be no more noble aspiration than that of an agreed Ireland, a country united in hearts and minds and not only territory, and in which subjugation and superiority, threat and torture hold no part of the developing political landscape. We could do worse than to reflect Pearse's dream of a free Ireland. Would he not be proud of the achievements, particularly of the past ten years or so, when, through the absence of violence and violent conflict, gains have been made which hardly seemed imaginable 20 years ago and could never have been made down the barrel of a gun? Would he not also be proud of how we, collectively in this part of the island, have toiled endlessly to enable this great nation to blossom economically and socially and gain such respect internationally for doing so?

While this part of Ireland has had the opportunity and freedom to blossom and grow, conflict, mistrust and polarisation of society has meant Northern Ireland has not had this same opportunity or freedom to develop. This economic and social entrapment can now be finally ended as a result of the political developments of recent years and we, on this part of the island, should grasp this opportunity and strive to work more closely with those in Northern Ireland to ensure it prospers and develops, bringing benefits to all its people.

On the issue of participation in the Oireachtas by elected representatives from Northern Ireland, the Taoiseach has done exactly what he consistently indicated he would do. In line with the report of the all-party committee of March 2002

[Mr. Kitt.]

and the motion adopted by the House in May 2003, he has sought the views of all parties and made clear that this matter will, properly, be for the Dáil rather than the Government to determine.

Mr. Crowe: Standing here today I am convinced we are closer than we have ever been to reunification. I have no doubts about this and, as an active Irish republican, I am more interested in what type of united Ireland will emerge. Will it be an inclusive Ireland in which the natural resources and enormous wealth of the country will be used for the benefit of people regardless of class, creed or where they reside?

There are those who argue that advocates of Irish unity should remain silent about our political objective. They claim that even to state this objective is unhelpful and would increase tensions as efforts are made to restore the institutions established under the Good Friday Agreement. I do not agree with this position. It is imperative that we are open in the debate in the House and in wider engagement with all those who live and share space on this island. Only on the basis of real and meaningful engagement can we make progress on peace and reconciliation and resolve our differences.

Sinn Féin wants all those who say they believe in Irish unity to begin the important work to persuade the Unionist community of the advantages of reunification. I say this in the knowledge that much work lies ahead and respecting the right of the Unionist community to maintain its British identity. It is obvious there is a considerable gulf of distrust and misunderstanding on all sides. More than a decade into the peace process, with all the initiatives taken by republicans and policy changes they have made, Unionists remain sceptical about our sincerity. As to how much of this is due to the failure of the leaders of unionism over the past ten years, that is a matter for debate.

There is no doubt that many Unionist leaders are either opposed to change or reluctant to embrace it. They do not encourage dialogue between communities. There is also no doubt that many of those with whom Sinn Féin engages are much more open-minded about the need for change and dialogue than their political leaders. This proves the potential for change which will emerge once real dialogue takes place. While Sinn Féin is committed to developing dialogue, I am struck by the unfortunate blind spot among all shades of unionism about their role in the conflict. They do not appear to realise the impact on Northern Catholics and Nationalists of the years between 1920 and 1969 when a Protestant and Unionist state was imposed on us and those who lived through those years, not to speak of the role of unionism up to this day.

In our journey towards real equality in the North, those within unionism who previously prospered during the years of discrimination and injustice will feel threatened. In some cases this sense of alienation has been exacerbated by the collapse of traditional Unionist industries such as shipbuilding. However, none of this can be an excuse for further stalling the process of change or delaying the basic rights and entitlements required under the Good Friday Agreement.

These are the difficult realities we must address. Irrespective of how difficult are the obstacles to dialogue, they need to be tackled and overcome. Republicans know this task is not an easy but a formidable one. We are trying to unravel centuries of conflict and living separately on a small island. We know it will take time and political change before we arrive at a satisfactory point at which we can state we have really begun the journey of genuine national reconciliation.

I speak from this Chamber specifically to the Unionist community. I ask for endorsement of the fact that Sinn Féin is committed to building peace, promoting national reconciliation and developing our party's consciousness and structures in a manner which will enable us to genuinely reach out to Unionists and the broader Protestant community. When Sinn Féin speaks of Irish unity we mean more than the removal of partition, we also mean the unity of the people of Ireland and we seek a process of national reconciliation, an end to sectarianism and unity of purpose.

When Sinn Féin tells Unionists that it unashamedly advocates a united Ireland, we do not do so to antagonise them but because it makes economic and social sense, not only for republicans but for all the people of Ireland, North and South, east and west, Catholic, Protestant and dissenter, Muslim and Jew, agnostic and atheist. Sinn Féin has consistently urged an island-wide approach in key policy areas, including the economy, health, education, employment, agriculture, arts and tourism, but this approach must be allowed to develop in a real and meaningful way.

Unionists should not underestimate the political clout they will have in a united Ireland. Their status will change from that of a tiny minority to approximately 20% of the population. Surely a united Ireland would constitute a real opportunity for Unionists to exert real control over their destiny. In stark contrast to their current position those from a Unionist background will be significant players in any new Ireland. They will have the ability to implement coherent social and economic policies on the basis of the country as a whole, rather than have them decided in Westminster where their interests must be negotiated with Britain.

The cultural identity of unionism would be welcome in the new Ireland and would add to the

diversity and vitality of our culture. The new Ireland republicans envision is all-inclusive and will be a place in which all will be cherished equally, both individually and collectively. We have shown by our actions that it is not mere rhetoric. Alex Maskey, in his role as lord mayor of Belfast, led the way in reaching out to unionism. Equality for all and inclusiveness were the hallmarks of his term in office. No one was excluded, and City Hall was truly open to everyone. Mr. Maskey strove to represent all the people of Belfast, and not just republicans, as his laying of the wreath at the cenotaph testified. Civic leaders throughout this island also have a role to play. Previous mayors of this city, from the various parties in Leinster House, have in the past, with varying degrees of success, made a conscious effort to reach out to civic leaders of the Unionist persuasion in the North. That work should be commended by all here today.

Unionists have nothing to fear and everything to gain from Irish unity. It is inevitable, and we ask them to join us as partners in building a new Ireland. Sinn Féin believes that planning for a united Ireland should begin now.

Mr. Morgan: The usual tedium associated with scrutinising and trying to amend legislation in this extremely dreary place can, like today, have its rare moments, in this case offering us an opportunity to debate such an important motion. The Dáil has seldom taken the time to debate what this State needs to do to prepare politically, socially and economically for Irish reunification. The Irish Government has a particular responsibility to commence planning for reunification. That is vital if we are to have a successful transition to the united Ireland the majority of parties in this House profess to support. As Deputy Ó Caoláin said last night, we must strengthen and build upon the all-Ireland aspects of the Good Friday Agreement. Central to that is the need for the Government to initiate and sustain a planned programme of all-Ireland social and economic development that aims to remove the obstacles created by partition.

We must integrate the economy. An all-Ireland economy would serve business and the people of this island better. That is recognised by the business community, including by many Unionists. The IBEC-CBI joint business council is currently promoting 20 key North-South actions to increase our economic co-operation on the island. Those moves are to be welcomed. The Sinn Féin motion is succinct and straightforward. There was not one word in it to which any reasonable person could object, let alone those who claim to be committed to unity. This motion was tabled in a spirit of constructiveness, with the aim of achieving a consensus among the parties in this House that have vowed to support unity regarding how this

State prepares politically, socially and economically for Irish reunification.

Why is it that Fianna Fáil in particular are running away from a constructive debate on Irish unity? All reference to unity is absent from the amendment put forward by the Government. Will the Taoiseach live up to the ideals of Patrick Pearse, whose picture adorns the wall of his office? I refer directly to the Government amendment, and in particular “opposes any political move or initiative which would increase tensions between the two main traditions on this island”. That absurd notion would see the process stagnate and make it dependent on the response of rejectionist unionism. Arguably, to advocate the restoration of the institutions is enough to increase tensions among some Unionists. Who could accept that element of the Government amendment?

In response to the Minister for Agriculture and Food, Deputy Coughlan, there is nothing simplistic about seeking to persuade Unionists of the benefits of a united Ireland. There is nothing simplistic about preparing for Irish unity. I was disappointed by the negative tone of her contribution. In reference to our motion, she used words such as “distraction”, “damaging”, and “destabilising”. I defy any reasonable person who has read the motion to react so negatively.

Last month, the Minister for Transport, Deputy Cullen, claimed that Fianna Fáil should not be ashamed of saying that it still wants a united Ireland and that it should not frighten Unionists. From last night’s contributions and the Fianna Fáil amendment, he appears to be alone, certainly on the Front Bench if not the entire parliamentary party, in holding that view. In the absence of any strategic preparation for unity, the supposed new-found republicanism of the larger Government party rings very hollow. Although plans for an annual event to commemorate the men and women of 1916 are welcome and long overdue, it would be a greater honour to their memory if this State produced a Green Paper on Irish unity identifying steps and measures that could promote and assist a successful transition to a united Ireland.

I urge grass-roots members of Fianna Fáil to step back and appraise what is being done to achieve their aspirations regarding Irish unity. They should ask themselves whether they are satisfied with the empty rhetoric. It is not matched by actions. Are they happy that the Progressive Democrats and the Minister for Justice, Equality and Law Reform, Deputy McDowell, have a veto on the Government’s Northern policy? Are the Progressive Democrats to be allowed to dump the Taoiseach’s proposal for very limited participation by Six Counties MPs in the Oireachtas? I once again urge the Taoiseach to press ahead with that proposal. It seems that, for Fine Gael and the Progressive Democrats, to

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seek to unite Ireland by peaceful means is inflammatory and will destabilise unionism. To invite any MPs from the North to participate in the Oireachtas, even in a very limited way, will offend Unionists.

However, it seems that it does not matter that the refusal to work for Irish unity will disappoint nationalists in the Six Counties. It does not matter that Fine Gael, Labour and the Progressive Democrats have slammed the door in the faces of the SDLP and Sinn Féin, the representatives of Northern nationalists. That is what those parties' opposition to the Taoiseach's proposal means. The sensitivities of nationalists mean nothing to them. The contributions made by Deputies Allen and Jim O'Keefe on behalf of Fine Gael, quite simply, do not merit a response. However, I acknowledge the sincerity of the contribution from Deputy Crawford.

I am surprised that the Labour Party, which claims to follow in the footsteps of James Connolly, is willing to take its policy lead on this issue from a right-wing party such as Fine Gael in opposing even limited Northern representation in the Dáil. I know that many members of the Labour Party aspire to Irish unity and are genuine in their adherence to the ideals of Connolly, who vociferously opposed any partition of Ireland and warned of what he called the "carnival of reaction" that would follow its being cut "to pieces as a corpse would be cut upon the dissecting table". Clearly, James Connolly, like Sinn Féin, is completely at odds with the wholly partitionist view repeated here this morning by the Twenty-Six Counties Labour Party leader.

On demilitarisation, some progress has been made, but the pace is too slow.

An Leas-Cheann Comhairle: The Deputy should conclude.

Mr. Morgan: I will do so. Unfortunately, I had nothing like the time I imagined I would have.

I thank everyone who has participated in this debate. We have placed Irish unity firmly on the agenda once again, and we intend to keep it there. I urge all Deputies to support the motion as tabled. A united Ireland is our common future. Let us work together to achieve and build it, making this a country where we can all live as equals and at peace.

Caoimhghín Ó Caoláin: Maith thú.

Amendment put and declared lost.

An Leas-Cheann Comhairle: As amendment No. 3 has been defeated, I call on the Minister of State formally to move amendment No. 1 in the name of the Minister for Foreign Affairs, Deputy Dermot Ahern.

Minister of State at the Department of the Taoiseach (Mr. Kitt): I move amendment No.1:

To delete all words after "Dáil Éireann" and substitute the following:

- re-affirms its commitment to the Good Friday Agreement endorsed by the people of this island speaking freely and collectively in referenda held on 22 May, 1998;
- re-affirms its view that this Agreement is the basis of a lasting settlement in Northern Ireland;
- re-affirms the right to self-determination of the people of the island of Ireland to be exercised in the manner provided for in the Good Friday Agreement;
- re-affirms its commitment to the principle of unity by consent as set out in the Agreement and endorsed by the people of this island;
- re-affirms its belief that the restoration of devolved Government on an inclusive basis is in the best interests of all communities in Northern Ireland and acknowledges that this requires the restoration of trust and confidence in the political process;
- acknowledges the significance of the IRA statement of 28 July and the potential it offers for political progress;
- welcomes the statement by the IRA that it has decommissioned all its weapons as confirmed by the IICD and urges all other paramilitary groups to engage with the IICD for the purposes of decommissioning their weapons;
- recognises the determination of the two Governments to work with the political parties to continue to restore confidence and to rebuild political momentum;
- re-affirms the total and absolute commitment set out in the Agreement to 'exclusively democratic and peaceful means of resolving differences on political issues' and in this context, calls for an end to all paramilitary and criminal activities;
- opposes any political move or initiative which would increase tensions between the two main traditions on this island, in light of the clear need to restore trust and confidence in the political process;
- supports efforts to reach out to all communities so that the peace process can

move forward in a manner which leaves no one behind;

- condemns the ongoing sectarian attacks on both communities and calls on all political representatives to take a proactive stance on this issue;
- urges the authorities on both sides of the border to ensure that the full rigours of the law are used to counter those who engage in the destructive agenda of paramilitarism and sectarianism;
- calls on all parties to strengthen policing reforms and accountability by taking their places on the Policing Boards without further delay;
- notes the Seventh Report of the IMC and awaits the findings of the next IMC Report, due in January, to assess whether paramilitary groups have ceased paramilitary and criminal activity;
- calls on Sinn Féin to co-operate with the IMC;
- commends the on-going work of the North-South bodies and recognises in particular the potential benefits of all-island co-operation in the economic and social area;
- welcomes the continued and valued support of the President of the United States;
- notes the determination of the two Governments to intensify dialogue with all the Northern Ireland political parties; and
- expresses its full support for the ongoing efforts of the two Governments to bring to completion the full implementation of the Good Friday Agreement.”

Amendment put.

Deputies: Vótáil.

An Ceann Comhairle: Will the Deputies claiming a division please rise?

Deputies Ó Caoláin, Ó Snodaigh, Crowe, Morgan, Ferris, Gregory, Joe Higgins and Finian McGrath rose.

An Ceann Comhairle: As fewer than ten Members have risen I declare the question carried. In accordance with Standing Order 68 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Amendment declared carried.

Question put: “That the motion, as amended, be agreed to.”

Deputies: Vótáil.

An Ceann Comhairle: Will the Deputies claiming a division please rise?

Deputies Crowe, Ferris, Gregory, J. Higgins, Finian McGrath, Morgan, Ó Caoláin and Ó Snodaigh rose.

An Ceann Comhairle: As fewer than ten Members have risen I declare the question carried. In accordance with Standing Order 68 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Question declared carried.

**Criminal Law (Insanity) Bill 2002 [Seanad]:
Second Stage.**

Minister for Justice, Equality and Law Reform (Mr. McDowell): I move: “That the Bill be now read a Second Time.”

I am pleased to open the Second Stage debate on the Criminal Law (Insanity) Bill 2002. The Bill was presented in the Seanad on 10 December 2002, considered in Committee on 7 and 8 April 2004 and passed by that House on 19 April 2005 following detailed discussion on its provisions. Significant amendments were made to the Bill in the Seanad and I will deal with those changes later.

This is an important Bill in many respects because it deals principally with that area of the criminal law which is concerned with rules governing the criminal responsibility of mentally ill persons who may have committed criminal offences. It has been suggested that the defence of insanity raises the social protection role of the criminal law. The issue to be determined in these cases is the insanity of the accused person at the time the offence was committed. If accused persons are found to have been insane at that particular time, they will be subject to a special regime of detention, until such time as they no longer pose a danger to themselves or to society. Currently, this means the accused will be held in the Central Mental Hospital. This illustrates the first burden on the State in these cases. However, the State also has to balance this duty of protection with its responsibility to preserve and protect the rights of the accused person who has committed no crime in law. These are just two of the fundamental social and moral implications that arise in this area.

There is a third consideration which goes right to the heart of any debate on insanity and the criminal law. This is the moral distinction that

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must be drawn between those who are “bad” and those who do not have the mental capacity to commit crimes. This is where an important issue of policy comes into question and it is something that is at the centre of this Bill. This point has been expressed by two noted legal commentators, Finbar McAuley and Paul McCutcheon, in their work entitled, *Criminal Responsibility*. They state:

Legal and medical evaluations of the conditions that might properly attract the label of “insanity” can differ profoundly. The law regards several conditions, such as epilepsy and hypoglycaemia, that medical professionals do not classify as mental disorders, as a basis for the insanity defence. This highlights the different perspectives of the relevant disciplines and it should be realised that the defence raises a legal question of responsibility, not an issue of medical diagnosis and classification. Nevertheless, it is invariably the case that medical evidence is adduced at trial and, it can be assumed, is taken into account in the determination of the defendant’s sanity. Thus, while a degree of congruence between the medical and legal evaluations can be expected, the ultimate resolution of the issue is one of law, not medicine.

This is a fundamental point and it illustrates why the Bill adopts two different definitions of “mental disorder”, one for the purposes of the criminal law and the other for the purposes of dealing with the accused person following the court’s arrival at a verdict of not guilty by reason of insanity or unfitness to be tried on the basis of the definition in the Mental Health Act 2001. As such, the defence of insanity raises complex issues involving the overlapping disciplines of law and medicine. In this jurisdiction, those rules are founded mostly in judicial decisions going back to the 19th century, with additional jurisprudential layers added in the meantime.

It is not surprising therefore that many calls have been made for clarity and legislative reform by judges, legal practitioners, legal commentators, academics and the medical profession, particularly those practising in the field of psychiatry. However, while the legal and medical definitions which apply here are not co-extensive, the approach adopted in the Bill takes into account the overlap between the criminal justice elements, and the need to have regard to the treatment aspects of mental health legislation. This arises particularly at the stage where a court, having arrived at a verdict of “unfitness to be tried” or “not guilty by reason of insanity”, is considering the options available to it in a case. Incidentally, both terms will replace the existing verdicts of “unfitness to plead” and “guilty but insane”.

The defence of insanity is, in fact, an acquittal but it is important to note that the plea is unique amongst the defences available to a person on a criminal charge in two important respects. First, the accused person bears the burden of establishing the defence. Second, even though a person is acquitted by reason of insanity, he or she nevertheless loses their liberty because up to now, they will invariably have been detained in the Central Mental Hospital. This will change when the Bill becomes law as it provides for detention in designated centres other than that institution. As the two commentators I have mentioned state: “The defence marks a crucial boundary between those whom the law considers responsible, and therefore answerable for their conduct, and those who are not responsible but require treatment.”

I will now deal with the provisions of the Bill. To appreciate fully the importance of and need for this legislation, it should be noted that most of our legislative provisions dealing with criminal insanity date back to the 19th century, some to the early 1800s. The main purpose for introducing this legislation is to clarify, modernise and reform the law on criminal insanity and fitness to be tried and to bring it into line with the jurisprudence of the European Convention on Human Rights. The Bill, as introduced, contains extensive new provisions dealing with fitness to be tried and new rules relating to appeals against such findings; a statutory definition and restatement of the test of criminal insanity as it is understood in common law; a new verdict of “not guilty by reason of insanity” and a new plea of “guilty but with diminished responsibility” in cases of murder; and the establishment of a new review body — the Mental Health (Criminal Law) Review Board.

The Bill implements the main recommendations of the third report of the interdepartmental committee on mentally ill and maladjusted persons, the Henchy committee, which was published in 1978. Given that it is now 2005, it has taken some time to develop the proposals in that report and convert them into law. Deputies will be aware that a Bill was appended to the back of that report and might wonder why it was not enough to produce an earlier result. Some explanation for the delay can be attributed to the fact that priority was given by successive Governments to making fundamental changes in the civil law relating to mental illness as ultimately expressed in the Mental Health Act 2001.

A person’s state of mind in criminal law proceedings is relevant in two ways. First, the person must be mentally fit to plead to the charge. If it is shown that the person, because of insanity, is unable at the time of the trial to understand the charge against him or her, the difference between guilty and not guilty or is unable to instruct counsel or to challenge jurors, the trial cannot proceed, essentially because its fairness cannot be

guaranteed due to the person's condition. The test at common law to be followed in such instances was laid down by the Supreme Court in the State in *Coughlan v. Minister for Justice* in 1968. This test is not limited to any particular definition of insanity. It simply assesses the person's ability to comprehend what is going on at the time of the proceedings. If the person is found to be unfit to plead, section 17 of the Lunacy (Ireland) Act 1821 provides that he or she should be detained in strict custody until the pleasure of the Government be known.

Second, where the person is found fit to plead, the trial will proceed but the person may raise the defence of insanity. The law will presume that the person is legally sane and, if over the age of 14, is fully accountable for his or her actions. However, if the person is able to show, on a balance of probabilities as opposed to beyond reasonable doubt, that at the time the offence was committed, he or she was legally insane, he or she will have a defence to the charge. In these circumstances, the person will be deemed to have lacked the necessary *mens rea* or mental capacity to commit the crime as charged and will not, therefore, be held accountable. The test applied here is based on the M'Naghten Rules, which were originally laid down in 1843, and subsequent case law. At present, the law requires that it must be shown that a person must have suffered, at the time of his or her act, from a defect of reason due to disease of the mind so that he or she did not know what he or she was doing, or did not know that it was wrong.

I will now provide Deputies with an overview of the provisions of the Bill. Section 1 deals with definitions and two matters are particularly worthy of special mention. The first concerns the definition of designated centre which is further explained in section 2. This section follows section 5 in the draft Bill proposed by the Henchy committee and it provides that it is a matter for the Minister for Health and Children in consultation with the Mental Health Commission, or the Minister for Justice, Equality and Law Reform in the case of the designation of a prison as such a centre, to decide where is the most appropriate place for the treatment of persons committed to detention under the Bill. The designation of a prison as a designated centre, which was not recommended by the Henchy committee, is included to cater for rare and exceptional situations where it might be considered appropriate in all the circumstances to detain a person in a prison rather than in a psychiatric hospital.

Section 2 was amended in a number of respects in the Seanad. First, it now provides that the Central Mental Hospital is a designated centre for the receiving, detaining and providing care or treatment to persons under the Bill. Second, it now covers inpatient facilities which are not necessarily hospitals. Third, the section now requires

the Minister for Health and Children when designating a centre other than a prison to consult the Mental Health Commission. Senator Henry in the Seanad suggested that that Minister should consult the Inspector of Mental Health Services but, following consultation with the Minister for Health and Children, we opted instead for the commission as the most appropriate body in these cases.

The second issue arising from section 1 concerns the definition of the term "mental disorder" which is defined for the purpose of findings of "unfitness to be tried" in section 3, "not guilty by reason of insanity" in section 4 and "diminished responsibility" in section 5. It is a definition for the purpose of establishing criminal liability. It is not the civil definition for the purpose of detaining somebody in or committing somebody to a mental hospital. It includes a person suffering from a mental illness or handicap, dementia or any disease of the mind but excludes intoxication by alcohol or other substances. While the definition is not fully inclusive, the essential element for the court, for example, where criminal insanity is pleaded, is whether the accused had the *mens rea* to commit the offence for which he or she is charged. The definition of mental disorder plus the criteria in section 4 are intended to be the test for the court in coming to a decision on that issue.

The definition of "mental disorder" was the subject of lengthy debate in the Seanad where strong views were expressed that the definition should be the same as that provided for in the Mental Health Act 2001. I went to great lengths in that House to explain why this could not be so and I have no doubt that I will have to repeat myself in this House. While I will not get into the detail, I profoundly disagree with the proposition that there should be an alignment of the two definitions. The purpose of the Mental Health Act 2001 is to govern the circumstances in which people can or cannot be admitted to psychiatric institutions against their wishes and to set a framework for the treatment of patients with mental illnesses. The purpose of this Bill is radically different in that it seeks to establish a mechanism for decisions by the courts that people are to be excused criminal responsibility in certain circumstances and to deal with other issues such as inability to plead and so on. There should not be any spillover effects between the two areas of law.

If the two definitions were aligned, a judge in a civil matter, dealing with whether somebody was properly committed to prison and interpreting the law in that context, would in effect be deciding what the law meant in the context of a defence of diminished responsibility or a plea of not guilty by reason of insanity or a decision as to whether a person was fit to plead. The idea that the two definitions should be used does not

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withstand much argument on close examination. We are talking about two different things and there are reasons, as is clear from the report of the debate in the Seanad, that in some respects the legislation would be unworkable if there were the same definition for both purposes.

Section 3 deals with the issue of fitness to be tried. This term is being adopted instead of the term fitness to plead which is used in the relevant provisions of the Lunacy (Ireland) Act 1821 and which are being repealed. The section contains a new statutory definition of fitness to be tried based on the existing common law on which I have already commented. It provides that the question of fitness to be tried will in future be determined by a court, including the District Court, without a jury. It does not relate to the guilt or innocence of a person. If the person is found unfit to be tried, the proceedings will be adjourned and the court will then determine how the person should be dealt with until such time as he or she has recovered, if ever. As the person will not have been found guilty of any crime, he or she will only be detained if he or she is likely to be dangerous to himself or herself or to others, or in need of in-patient treatment.

Safeguards are provided in the section to reduce the possibility of persons found unfit to be tried being detained unnecessarily under the criminal law. In effect, these provisions provide that where, despite the fact that the accused is unfit to be tried, the court is satisfied that there is a reasonable doubt that he or she committed the act alleged, it will acquit him or her. In other words, a person who is clearly before a court in circumstances where unfitness is an issue can nonetheless be acquitted of the offence if the court decides that on the facts the person would, if he or she were fit to plead, be entitled to acquittal in any event. It will then be a matter for the relevant authorities, under the civil law, the Mental Health Act 2001, to take whatever measures they may deem necessary in the case of the person concerned.

The provision was amended in the Seanad by including a new ground for unfitness based on a person's inability to elect for trial by jury in a case involving an indictable offence. An amendment was also made to reduce from a period of 28 days to one of 14 days the initial holding period for assessment in section 3(6)(a)(i). Also in section 3, following a point made by Senator Tuffy in the other House, two further subsections (9) and (10) were added to protect an accused person by providing for the non-publication of a report or evidence in a case where a court decides not to order their discharge in circumstances where the procedure laid down in subsection (8) is applied.

Section 4 provides for a new verdict of not guilty by reason of insanity to replace the existing special verdict of guilty but insane and sets out

the parameters of the test for insanity which is based on the existing common law position including recent Irish case law. The existing phrase guilty but insane has always been regarded by lawyers as an acquittal despite the language which very much gives one the other impression. I emphasise again that the test to be applied will be related to the time of the alleged commission of the offence and not the time of the trial.

The section also provides that after a verdict of not guilty by reason of insanity is returned, the court will then consider the mental condition of the person by reference to the Mental Health Act 2001 to determine whether he or she should be released or detained on the grounds that in-patient treatment is required or because the person may be dangerous to himself or herself or to others because of his or her mental condition. This approach is in accordance with obligations arising under the European Convention on Human Rights. Once one is acquitted the test as to what is done with one then is dealt with on the same basis as a decision would be made as to whether to commit one to a mental hospital under the ordinary civil law.

Section 5 introduces the concept of diminished responsibility into Irish law. It is only being applied in the case of murder, which carries a mandatory sentence of life imprisonment. Obviously one could apply it to other serious offences but since sentence is variable in those cases, there is no requirement to do so because the judge can take it into account by varying sentences, which are left in his or her discretion. There is no need to apply the concept in the case of other crimes because there is no mandatory sentence in those cases. In those instances the judge can at present take into account the mental condition of the convicted person when considering what sentence to impose.

The effect of this new rule will be that if diminished responsibility is successfully pleaded, a conviction for manslaughter will be recorded, with the sentence, at the discretion of the court, being any term up to imprisonment for life. The availability of the diminished responsibility verdict provides an alternative for juries and should reduce the danger that a jury will return an insanity verdict when faced with a person whom they regard as not being completely sane, even if he or she does not meet the legal criteria for acquittal on grounds of insanity.

Sections 6 and 7 deal, respectively, with the question of appeals to higher courts from decisions of lower courts that a person is unfit to be tried or is not guilty by reason of insanity. Under existing law findings of unfitness to plead/fitness to be tried or verdicts of guilty but insane are not regarded as convictions and consequently there is no provision for a person to appeal against them.

Section 8 provides that appeals may be made by the defence or the prosecution against a decision of the court of trial to order or not to order the detention of a person in these cases.

Section 9 provides for the establishment day in so far as it relates to the establishment of an independent Mental Health (Criminal Law) Review Board provided for in section 10 and Schedule 1 to the Bill. The title of the board was amended in the Seanad to include the words “(Criminal Law)” so as to distinguish it from the new oversight bodies established under the Mental Health Act 2001, namely, the Mental Health Commission and the Mental Health Tribunals.

The background to these provisions is that the Court of Human Rights has ruled that on the detention of persons of unsound mind, whether under the civil or the criminal law, the availability of some independent system of review of the lawfulness of detention is required to comply with the provisions of the Convention on Human Rights. The Mental Health (Criminal Law) Review Board as proposed in the Bill, will replace the existing *ad hoc* advisory committee which works to the Minister for Justice, Equality and Law Reform and, to comply with our obligations under the convention, will act independently of the Executive in future. It will no longer be an advisory committee giving the Minister for Justice, Equality and Law Reform its opinion for him to decide whether he accepts it. The review board’s main function will be the regular review of the detention of persons found not guilty by reason of insanity or unfit to be tried, who have been detained in a designated centre by order of a court.

The board will be made up of a chairperson, who must be a practising barrister or solicitor of not less than ten years’ experience or a judge or former judge of the Circuit Court or superior courts, and such other number of members as the Minister in consultation with the Minister for Health and Children shall appoint, at least one of whom must be a consultant psychiatrist. The term of office of members is five years and provision is made for reappointment. It is provided that the Minister may appoint the staff of the board under the usual conditions and that such staff shall be civil servants.

Section 11 sets out the various powers of the board. Those powers include the power to hold sittings, take account of court records, assign a legal representative to the person seeking review, require the attendance of such person before it, obtain evidence and demand the production of information and documents, pay the reasonable expenses of witnesses and administer oaths. The failure of persons to attend before the board or to comply with requests by the board for information or documents, or where a person is in contempt of the board, are offences punishable by a fine not exceeding €3,000 or imprisonment for a

term not exceeding 12 months or both. Therefore, the board has teeth.

Section 12 deals with the various ways in which the detention of persons found not guilty by reason of insanity or unfit to be tried, whether they are in a prison or other designated centre, including persons detained under military law, may be reviewed. This applies, in the case of a prison, to the governor who shall act on the advice of an approved medical officer, and in the case of, for example, a psychiatric hospital, the chief medical officer. The review board has the responsibility for ensuring that the detention of such persons is reviewed six monthly or at such lesser intervals as it considers appropriate. In cases where a person who has not been acquitted is no longer unfit to be tried, the court of committal has to be so informed and shall order that the person be brought before it to be dealt with as the court thinks proper. In the case of detention under military law, the appropriate authority has to be similarly informed so that the court martial shall be reconvened.

Section 13 provides for the temporary release and transfer of and other matters related to detained persons. The purpose is to arrange for such matters without the need to apply to the review board every time. It is provided that the consent of the Minister must be obtained to ensure that the public interest is safeguarded. The Minister for Health and Children might also have an interest, particularly in the case of transfers to another designated centre, and that is also covered in the section. The wording of section 13(7) was amended in the Seanad so as to place a positive obligation on the Garda to arrest persons unlawfully at large. I am not prepared to remove from the Bill the discretion regarding the arrest of a person allowed to the staff of a designated centre in such circumstances, in line with section 27 of the Mental Health Act 2001. It may well be the case that practicality, expediency or the common good may require them to act also, having regard at all times to any risk to their own safety.

Sections 14, 15 and 16 were inserted in the Bill in the Seanad. Sections 14 and 15 relate to the complex question of transferring persons suffering from a mental disorder from places of detention to the Central Mental Hospital for treatment and back again, and matters related thereto.

An important point must be made in this regard, namely, that this area of the Bill is designed to deal principally with persons who have been found guilty by a court of committing a crime or who will be in the initial stages of the criminal justice process. The onset of their mental illness will have arisen during their period of imprisonment and is not a matter that will have had to be addressed during their trial. The provisions are expressed to apply to persons who are in prison on foot of a sentence of imprisonment,

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on committal awaiting trial, on remand or otherwise. In other words, such persons will be involved in the criminal justice process in the ordinary way, namely, on the basis that the question of their sanity, and thus their legal capacity to commit a crime, will not have been in issue.

This has been a matter of concern to me and my Department for some time and it was my original intention to deal with it in the Prisons Bill, which was recently published. However, as the matter is appropriate to this Bill, the Government decided to include the appropriate provisions in it to ensure their earlier enactment into law. The current procedures involve certificates by psychiatrists, processes of certification and de-certification and the making of transfers by the Department from prisons to the Central Mental Hospital. These procedures are out of date and confusing in their operation, to say the least, and need to be regularised. The three new sections inserted in the Bill are intended to deal with the shortcomings of the existing arrangements by streamlining the administrative formalities.

I will not go into any more detail at this time as there will be ample opportunity to discuss these issues on Committee Stage. However, I emphasise that the present situation is indefensible and unworkable. It must be the case that if a person becomes psychiatrically ill while in prison, there is an effective and speedy transfer of that person to appropriate therapeutic conditions. I have personal experience of seeing people lying in padded cells while their fate is being cogitated upon. It is not a happy sight. While padded cells will be gone from every institution in the State by March, nonetheless, the notion that people can be in some kind of limbo while others argue about which institution should accommodate them is not acceptable and was the subject of negative commentary from the Committee for the Prevention of Torture which visited Ireland.

Section 16 provides for the mechanism by which the case of a person who develops a mental illness while in prison can be reviewed by the Mental Health Review Board. This may be requested by the Minister for Justice, Equality and Law Reform or by the person themselves or on the initiative of the review board itself.

The purpose of section 17 is to ensure that evidence as to the mental condition of an accused person shall not be raised by the defence during the course of a trial unless notice of intention to do so has been given to the prosecution in accordance with rules of court. This is designed to ensure that neither the prosecution nor the court will be ambushed by the surprise production of such evidence at a late stage in the trial process.

Section 18 applies the provisions of the Bill on the review of detentions to persons already in detention before the Bill comes into operation. Persons for whom I at present exercise responsi-

bility, advised by a committee, will come under the new system.

Section 19 deals with consequential technical changes to the relevant provisions in military law — the Defence Act 1954, as amended — to maintain consistency between courts martial and the non-military criminal law. Section 20 is the usual expenses provision. Section 21 provides for grants to be made to the review board established under section 10. Section 22 is a repeals and transitional provision to be read in conjunction with the Second Schedule while section 23 provides for the Short Title and commencement of the Act. The First Schedule sets out the provisions applicable to membership of the Mental Health Review Board and its procedures. The Second Schedule provides for the necessary repeals.

The Bill is an important step in the development of statutory rules and guidelines in a difficult and complex area of the law. On my appointment as Minister in 2002, I decided that this matter would be finally dealt with during my tenure as Minister. The issue has been in the broader legislative process for too long — a quarter of a century or more — and now is the time to bring it to finality.

The Bill seeks to achieve a fine balancing act between the need to protect society at large while also seeking to protect members of society who suffer from mental disorder so that they will not be answerable for crimes which they had not the mental capacity to commit. The Bill also seeks to ensure that those detained under the provisions of the legislation have access to a body independent of the Executive of the day and independent of the pressures that weigh on members of the Executive through newspaper coverage, from victims' relatives and the like, which will ensure that those detained have an objective and dispassionate mechanism to help them to arrive at decisions. This independent body will keep their detention under continuing regular review and, in doing that, will ensure that our international human rights obligations in this sensitive area are respected. At present, the existing informal arrangement is our best effort in a bad statutory situation to accord international human rights standards to people caught up in the process in the way referred to in the Bill. The Bill is urgently needed. I commend it to the House.

Mr. J. O'Keefe: On behalf of the Fine Gael Party I am glad to support the Bill. It is not before time that we have the opportunity in the House to debate this complex area and the modernisation of our law. As a law student I was indoctrinated in the principles of the M'Naghten rules which dated back to the early part of the 19th century. It does us no credit as a Legislature that it is only now that we are updating the law in this regard. In the meantime, the courts have

developed jurisprudence in this area which has softened the harshness of the old common law.

The Bill can be considered in a non-political context as it does not involve party politics. Therefore, any comments I make are not made from a party political perspective, although the following might be construed as such.

I note the Bill was originally circulated in 2002, which raises the question of why it should take so long — almost three years — to reach the floor of the Dáil. One of the reasons I make this point is owing to an appreciation of the pressures on Dáil time. Every year when we adjourn for the Christmas or summer recess, there are ritual protestations on the length of time of the adjournment. To make a serious point, if the problems in regard to Dáil time are the reason for not having serious, complex Bills of this nature dealt with by the House, we must in a non-political way stand back and consider the ridiculous number of days for which the Dáil sits. I say this apart from the ritualistic formulae that are produced when we are all rushing home for Christmas.

Mr. McDowell: I agree.

Mr. J. O’Keeffe: As legislators, we should be permitted to take our job more seriously. Decent time should be allowed in the Dáil for proper consideration of complex, non-party political Bills of this kind. This time is not available.

I accept the broad thrust of the Bill in so far as it affirms and codifies common law decisions on criminal insanity. What is attempted in the Bill, building on the Henchy report of more than 25 years ago, is an attempt to put into law a more understanding approach to the problem and one grounded on more modern medical and legal knowledge. These issues are dealt with in the Bill in so far as is possible. However, it is a complex area. There is a question in many instances of balancing the situation between the condition of the person accused of a crime and the position of the victim. Having been somewhat critical of the legislative process, I note the Bill was carefully teased out in the Seanad with some useful additions to its provisions. However, having looked at the Official Report of the Bill’s deliberations in the Seanad and the observations of the Irish Human Rights Commission, it is difficult to see how far the concerns expressed have been reflected in the Bill as amended.

I was particularly taken by Senator Henry’s contribution, who has a major insight into these issues. She pointed out that while we are focusing in the area of diminished responsibility on matters going before the Central Criminal Court, should a similar plea be permissible in other courts. The Minister stated that in the case of a verdict of diminished responsibility, which I support as we are really bringing ourselves in line with other countries, it is confined to murder.

Should it be so confined? I accept murder carries a mandatory life sentence and if successfully pleaded under diminished responsibility, a conviction for manslaughter will be recorded. However, there must be other criminal cases where the accused has diminished responsibility. I am not sure it is enough to say that the judge can take that into account. Is there a case for providing for such a plea of diminished responsibility in other criminal cases as it puts an unfair onus on the judge?

The plea of diminished responsibility will be decided by a jury and it is a matter for the jury then to decide if there was diminished responsibility leading to the possibility of the conviction of manslaughter rather than murder. The Minister stated that this will not be applied in other cases because the judge will have the opportunity of taking diminished responsibility into account when sentencing. The onus is put on the judge to deal with a matter of fact which indicates a murder charge could be decided by a jury. There is a growing tendency for judgments to be criticised in the media. Sometimes the criticisms, on the face of it, appear to be justified. In other instances, as the Minister is aware, the full facts of the case are not recorded in the media, leading to unfair criticisms levelled against judges. Do we accept this situation should continue, particularly in a case where a judge may take into account diminished responsibility when sentencing?

Senator Henry touched on the plea of irresistible impulse, which struck a chord with me. I have always had reservations about the defence of irresistible impulse. How, in the name of goodness, can anyone come to a decision as to whether an act was committed by way of irresistible impulse? I am sceptical of such a notion as an easy way out for an individual accused of a serious crime.

Will the Minister clarify the make-up of the mental health review board? I note the explanatory memorandum suggests the Bill has no significant financial or staffing implications. An advisory board already exists and it would be helpful to know to what extent it will have extra staffing. What are the projected costings for the new board as opposed to the existing *ad hoc* advisory committee? If a mental health review board is to be established, which I agree with, it must be done properly.

In October 2003, the Irish Human Rights Commission produced a major paper on the Bill’s provisions. Some of the issues raised by the commission were taken on board on Committee Stage in the Seanad. Will the Minister indicate why other commission recommendations were not taken on board?

I am not sure how politically correct it is to raise the following issue but I will. On the one hand, there must be a major focus on the medical condition of an individual accused of a crime to ensure he or she is treated properly in a way sym-

[Mr. J. O’Keeffe.]

pathetic to his or her condition. Victims of the activities of those so accused must also be taken into account. Crimes committed by those deemed to have been cured or fit for release must also be of concern to us. It is a complicated area and the Bill rightly focuses on treating such people fairly.

On the other hand, I have always operated on the principle of *salus populi suprema lex* or “the safety of the people is the first law”. We must also consider the protection of the public. Has this been fully taken on board in the framing of this Bill? There have been instances of murders and serious crimes committed by former inmates in psychiatric institutions or by those who had been released from the Central Mental Hospital. It is important for the public and ourselves to be aware of that side of the coin, to ensure as far as possible that the proper balance is achieved between dealing with somebody who has committed a crime while psychiatrically ill and the protection of the public from further such crimes.

This Bill is a worthwhile advance on existing law. It has benefited from its time in the other House and the 139 amendments tabled there, which were an indication that it underwent major Committee Stage scrutiny in an effort to improve on the original as much as possible. Our job is to get the Bill to Committee Stage as quickly as possible, to consider further amendments to improve it and to ensure it is passed into law without delay.

Mr. Costello: I welcome the Minister. As he said, the purpose of the Bill is to modernise the law and to bring it into line with the new jurisprudence in the form of the European Convention on Human Rights which Ireland incorporated into domestic law in 2003. The main provisions of the Bill are to replace the concept of fitness to plead with the concept of fitness to be tried, to provide for a statutory definition of criminal insanity, a new verdict of not guilty by reason of insanity, which replaces guilty but insane, and a new plea of guilty with diminished responsibility, which would reduce a murder charge to one of manslaughter.

The European Convention on Human Rights prevails by requiring that a provision be made for the establishment of a review mechanism. This will take the form of a new body known as the Mental Health Review Board which will formally review and investigate cases where people have been detained under the provisions of the new legislation and will replace the present *ad hoc* review mechanism.

The Bill provides for designated places of detention for persons with a mental illness or disorder who have come before the courts. It is difficult enough to define mental illness, either medically or legally, but mental disorder, the term used for determining criminal liability, is even

more complex. We may need the professional knowledge of Senator Henry, who made an interesting analytical contribution to this legislation in the Seanad, to take us through all the terminology in the Bill. We will have the benefit of Committee Stage to tease out the nuances in the medical and legal terminology.

The Minister quoted with approval the work of Professor Finbar McAuley and Professor Paul McCutcheon. I have great admiration for their document on criminal responsibility. In particular, the Minister approved of their final lines stating that “while a degree of congruence between the medical and legal evaluations can be expected, the ultimate resolution of the issue is one of law, not medicine”. As professional practitioners in the legal arena, one would expect them to so conclude but it is important to realise that medicine and law are overlapping areas and it would be wrong to make either paramount since that has caused the problems of the past. Criminal law had overriding strength and often those sentenced to designated centres of detention were neglected, so I am concerned we might take that approach too far. We need, however, a definition of mental disorder that will assist criminal law in dealing with the accused following a court verdict. The key to a successful approach is to marry the subsequent medical treatment to the criminal process.

As Deputy O’Keeffe said, this legislation has been some time in gestation. It first appeared in the distant past of 2002, shortly after the Minister became Minister for Justice, Equality and Law Reform and was a swashbuckling liberal full of intentions to introduce reforming legislation. If I remember rightly, the legislation was introduced on International Human Rights Day, 10 December 2002. That was shortly before we incorporated the European Convention on Human Rights into our legislation. I regret that the Minister’s blast of reforming zeal was short-lived and that he was diverted to bogus asylum seekers where he has spent his energy for the past two and a half years. The Criminal Law (Insanity) Bill 2002 has limped through the Oireachtas since then, finally seeing the light of day on 19 April 2005 in the Seanad. Now as we approach International Human Rights Day again, three years after the publication of the Bill, it is about to begin its passage through the Dáil. At least the Minister has acted where previous Ministers have done nothing, although professionals in the legal and medical field have long agreed that existing law on insanity is outdated. Mr. Justice Henshy, a former Supreme Court judge, provided the Government of the day and successive Governments with a comprehensive report and a draft Bill, however inadequate, 27 years ago. The wheels of justice move slowly, especially for those with a mental illness or disorder.

Schedule 2 to the Bill deals with the repeal of enactments that will become redundant when the legislation is enacted. The Acts to be replaced cover a period of 200 years, including the entire Criminal Lunatics Act 1800, aptly described, to the repeal of section 4A(1)(c) of the Criminal Justice Act 1999. In essence, there are repeals of modern and older legislation.

I received yesterday documents from Mr. Mannix Flynn, a well-known actor and writer under the alias of James X. I do not know if the Minister has had the opportunity to peruse those rather appalling records of his life and times. The material documented the sad life of a young boy growing up in the Dublin slums in the 1950s, 1960s and 1970s. He spent years in industrial schools as a young boy. By the age of 16 he had graduated to St. Patrick's Institution for juvenile offenders. On 19 May 1973, two medical doctors certified him as insane under section 2 of the Criminal Lunatic (Ireland) Act 1838. This section is happily one of those being repealed by this legislation.

In 1971, as a boy of 14 years of age, he had already run the gamut of industrial schools under the aegis of the Department of Education. In a private and confidential letter to the Secretary of the Department of Education, stamped "not to be read in open court", the psychiatric consultant gave his view of the young man from the Dublin slums. It states:

James X, aged 14, 2 Connolly House, Dublin, care of Marlborough House, Department of Education. I examined the above boy as requested. The reason for the request was that he had attempted to escape from Marlborough House, been obstructed and had put his hand through a glass window since admission yesterday. He is on remand for a week because of being charged with loitering with intent. This boy has been a problem since at least the age of three, when he commenced school. I first saw him in 1965 for the court. He spent a period both in Daingean and Letterfrack. James, who is a tall, fair-haired, blue-eyed boy, has badly bitten nails and cuts on his face and right hand at the moment. He is functioning at the level of dull average intelligence.

Mr. Mannix Flynn would not like that. It continues:

He denies having any problems other than that he might as well continue his life of delinquency as "the guards are down on him anyway". In my opinion this boy is in need of a period in a unit under the jurisdiction of the court, where he could have intensive investigation, treatment and rehabilitation. I think, in the absence of such a facility, and if he cannot be contained in Marlborough House, perhaps a period in Mountjoy might be considered.

It seemed that the power of judge, jury and executioner lay in the hands of the professional psychiatrist from Fitzwilliam Square.

The psychiatrist's wish was soon granted of course. Mr. Mannix Flynn was next reported in Mountjoy Prison at the age of 16 years, where he served three months detention for the "larceny of a purse, valued 50p, and £15 cash". Four days after his arrival into St. Patrick's institution, two medical doctors examined him and issued their official verdict in what illustrates the mechanism used under the legislation. The verdict stated: "We hereby certify that he has become insane and we are of the opinion that his case may be considered as likely to derive benefit from being placed in the Central Mental Hospital."

In this way, the full force of the State's power was brought to bear on a vulnerable child of Dublin's slums. These include the Garda, the courts, the industrial school system under the Department of Education, St. Patrick's juvenile institution and finally, the Central Mental Hospital in Dundrum. All were employed to control an unruly child.

The industrial and reformatory system did not end until 1979, and only now are we abolishing some of the worst excesses of the Victorian and pre-Victorian panoply of rules, practices and laws governing those who are mentally ill and may have committed a criminal offence. Thankfully, modern psychiatry has moved on and troublesome children are no longer certified by doctors as insane for the purpose of transferring them to the Central Mental Hospital and decertified as sane for the purpose of transferring them back to an institution. Social engineering is no longer such a blatant part of the process and there is greater understanding of the underlying causes of mental illness and its associated conditions. With regard to detention, however, we recently saw how 147 children were detained in prisons since January 2005. Much still has to be done in dealing with the issue of incarcerating young people.

The Central Lunatic Asylum (Ireland) Act 1845 remains intact. It is the commonly used legislation under which adult prisoners are transferred to the Central Mental Hospital. I hope the Act will be included later in the Minister's list of legislation to be abolished. The Minister is admirably abolishing the scandalous padded cells in prisons, but it is necessary to have the appropriate legislative mechanism in place to do so. It is time to address this antiquated procedure and reform antiquated legislation. I will carefully scrutinise amendments taken on board by the Minister in the Seanad to consider if they go far enough in this respect.

Currently, an acquittal based on a guilty but insane verdict results in detention in the Central Mental Hospital in Dundrum. Detention probably also awaits a person with the change of verdict to not guilty by reason of insanity. Regret-

[Mr. Costello.]

tably, it remains in the public interest to curtail the freedom of the person until he or she no longer poses a threat to society. Reform of the M'Naghten rules and repeal of the Trial of Lunatics Act 1883, which provide for the guilty but insane verdict, are greatly enhanced by the establishment of the important quasi-judicial independent review board introduced in this legislation. Real protection occurs in that there is now a substantial onus on the State to protect the fundamental rights of the person. This will be carried out whatever detaining mechanisms are put in place through regular revision of the person's detention.

It is surprising that prisons are included in section 8 within the definition of designated centres for the detention of persons committed under the Bill. Mr. Justice Henshy, who chaired the interdepartmental committee on mentally ill and maladjusted persons which produced the main recommendations that are the substance of the Bill, did not recommend that prisons be designated as such. Will the Minister elaborate on his thinking in this matter? It seems that the detention of people in prisons is contradictory if they may or may not have been convicted of a crime but have a primary need of treatment for a mental illness or disorder.

It is difficult to envisage a situation where it is more appropriate, as the Minister commented, to detain a person in a prison rather than a psychiatric institution. It may be more suitable for the Minister, but it is unlikely to be more suitable for the patient. There is a danger, in taking on board what Mr. McAuley and Mr. McCutcheon stated on the primacy of the law, of recognising prisons as designated centres. The revolving door process of transfer and retransfer could thus continue unabated after this legislation is passed. It appears to be in breach of the principles and purpose of the European Convention on Human Rights. If the Minister persists with this type of designation, I imagine it will give rise to some legal challenges in the future.

I will refer briefly to the Minister's purchase of Thornton Hall for €29.9 million. While I will continue to refer to it as a waste of taxpayers' money, it is also questionable, in terms of penal policy, as to whether it is appropriate to construct prisoner accommodation housing more than 1,000 inmates. The construction of a super prison and a new central mental hospital on the same site is a recipe for disaster. It will not matter whether the mental hospital is to be cheek by jowl with the prison or will be separated from it by a hedge, fence or a mile-wide *cordon sanitaire*. Prisoners will be inappropriately transferred to the mental hospital and patients could be inappropriately transferred to the prison. I imagine the new prison will be designated as a centre for the pur-

poses of this Bill. While I am uncertain about this, given that the two institutions will be in such close proximity, I imagine the temptation to designate the new prison as an appropriate centre for detention of people under this proposed legislation will be too much for any Minister to resist.

It is necessary to make a clear distinction between the purposes of imprisonment and of the detention of a mentally ill person. Imprisonment is to deprive sane people convicted of criminal offences of their liberty and is imposed as a punishment for their offences. The purpose of detention of a mentally ill person in a designated centre is primarily for inpatient treatment. At all times, treatment for mental illness or disorder should be paramount in people's detention, regardless of whether they have been found guilty of any crime. I do not believe the legislation is clear as to how these designated centres will operate *vis-à-vis* the people who will be committed to them.

As far as expenditure is concerned, reform of the law is of little value if money is not spent on resourcing the associated structures and services. Mental health is the Cinderella of the health service and since the foundation of the State, has always been under funded. People with a mental disorder were locked away out of sight and out of mind in overcrowded Victorian institutions and were stigmatised by their illness and circumstances. The Central Mental Hospital requires a modern, bright and airy campus to enliven and not to depress and we certainly need a new one.

However, as money has poured into the bottomless pit of the health industry with the provision of large annual increases, the percentage expenditure on mental health has decreased, from a paltry 9% to an even smaller 6% in the past five years or so. The provision of community care, community hostels, community services, community psychiatric nurses and community psychiatrists can prevent situations whereby vulnerable people fall foul of the law and end up before the courts and in institutional designated centres of detention. Money spent on preventative measures is money well spent. We already know of those people with mental health problems who are out roaming the streets. Eventually, they may end up committing offences and will be brought before the courts in the context of this legislation. Hence, prevention is the key.

Moreover, legislation like the proposed Bill is worthless unless adequate funding is provided to resource it. Designated centres of detention require modern professional security and care which can no longer be provided cheaply. If it does its work properly, the review board will be extremely active and will have regular review hearings, investigations and sittings. It must be properly funded and resourced to be able to operate in the manner envisaged by the European Convention of Human Rights. The board should be boosted by the appointment of a

2 o'clock

second psychiatrist, as was recommended by Mr. Justice Henchy 27 years ago. The Mental Health Act 2001 has suffered in its implementation through a lack of proper resourcing.

These proposals have been before the Oireachtas for three years to date and on the shelf for 27 years. It is time for the Minister to do the job properly.

Dr. Cowley: I also wish to share my time with Deputies Cuffe and Ó Snodaigh.

Acting Chairman (Mr. O'Shea): Is that agreed? Agreed.

Dr. Cowley: This is a very important Bill. I know that major difficulties have been encountered by courts and juries. As the Minister has observed, the legislation goes back to the M'Naghten rules and the issue of the *mens rea* or the will and the intention to murder. Frequently, juries that knew all was not right, were confined by the finding that they should find a person guilty but insane. As the Minister has pointed out, that meant an acquittal with the result that such a person could walk away from the court. This Bill is a step in the right direction, although as the Minister has admitted, it has not come before its time. The new plea of diminished responsibility will give more discretion to juries and will allow a lesser sentence to be imposed in cases with a mandatory sentence, such as murder. Hence, it will allow a more humane situation to prevail.

The point has been well made that this Bill is necessary. The Minister has stated that section 20 contains the usual reference to expenses. That tells the full story because the difficulty with the psychiatric services is that they have been starved of funds. The percentage expenditure on mental health is now 7% which is not adequate, when the number of suicides in Ireland, which are in their hundreds and are equivalent to the number of road traffic fatalities, are considered. Nevertheless, the budget for suicide prevention is something like €1.5 million. This Bill is necessary but also underlines the deficiencies in our system, particularly in respect of the requirement to match it with the requisite resources.

A criticism of the Bill in its initial stages related to the emphasis whereby one would have mental illnesses treated in institutions on an inpatient basis. This was seen as the consignment of people to a prison or to the Central Mental Hospital without alternatives. Alternatives should be provided and for that to happen, adequate resources must be provided for both inpatient and outpatient services. This would enable the courts to determine that someone could receive treatment in his or her community from the support staff, rather than to be taken away and confined for X number of years.

There have been major problems in the past whereby people were consigned to institutions for many years and deprived of their liberty with no hope of a review. This was addressed by previous legislation such as the Mental Health Act 2001 and the situation changed, which is to be welcomed. However, having visited Cloverhill Prison for the majority of days during which the Rossport five were held there, I have seen how the prison services work. I have seen the good work done by prison officers and other prison staff. There are also deficiencies in the system, in that the inmates are too often mentally disturbed or mentally disabled and really require help, which is not always available to them. The Minister made the point that some people enter prison in need of psychiatric care rather than a padded cell, which is currently the only option available to them. This must be addressed. I hope the Bill will go towards relieving that situation to a major extent.

The number of people in our prisons who are psychiatrically ill or have intellectual disabilities is quite high and it is important that we have the services to ensure they are rehabilitated. The point was made that prisons confine people in a space and deprive them of their liberties to protect the public but perhaps it is more important to think outside the box and about the needs of these people, so that those who are in need of psychiatric services receive treatment. Too often, people in prisons do not get these essential services.

This legislation relates to the Lunacy (Ireland) Act 1821 and the Juries Act 1976 and the lack of a statutory definition of fitness to plead. The test for insanity as a defence under criminal law has its origins in the M'Naghten rules of 1843. These rules are very restrictive and confine a defence to narrow limits. They apply to a person suffering from insanity that manifests in insane delusions yet they were accepted as the general test for insanity in Irish law despite doubts being expressed about whether they represented a comprehensive statement of Irish law on the issue.

I hope the necessary resources will be made available. The existing general adult psychiatric units catering for mentally disordered offenders should be able to cater for people of all ages, in particular patients diverted from the courts system. There are financial implications, which is contrary to the statement in the Bill which limits resources according to the discretion of the Minister for Finance. To give people the same opportunities, rights and treatments as the general population is a question of resources.

This Bill is certainly a step in the right direction and has not come before its time. That someone can be deemed to be guilty but insane is a contradiction in terms. Now, when a person who is burdened with an illness and does not know what he or she has done or its effects or seriousness is

[Dr. Cowley.]

acquitted, he or she will not be deemed to be guilty. This is an important point to make. The word “insanity” in the title of the Bill should be changed to something that is more in line with modern thinking and I hope there will be an amendment to this effect.

Acting Chairman: The Deputy has used nine minutes of his speaking time.

Dr. Cowley: I am glad to have spoken on this Bill and will give it every support.

Mr. Cuffe: I generally welcome the Bill which moves in the right direction. However, there are a number of points I wish to make on the language of the Bill, the designated centres, the Central Mental Hospital in Dundrum, the position of the mental health review board and the links between mental health, homelessness and crime.

The Bill will update the legislation in this area but should perhaps have gone further. Most of the current body of legislation on the Statute Book concerning crime and mental illness originates from the 1800s and clearly must be updated or removed. Our understanding of mental illness has changed dramatically over the past 100 to 200 years. I hope that, along with the recommendations of the Human Rights Commission and other like-minded bodies, the Bill will be the first in a long line of reforming legislation. We have dragged our feet and must move with more speed.

On the issue of language in the Bill, we still use the phrases “mental handicap” and “insanity”, a type of phraseology with which I am not happy. We go through a cycle of changing the language we use when we refer to something we are unhappy with. For example, in the case of the word “lunatic”, we move on a revolving door basis through the language we use. Taking a snapshot of 2005, “mental handicap” and “insanity” are not the right type of words to use and we should look towards using better language. These phrases were used in the past to stigmatise and marginalise people suffering from mental illnesses or intellectual difficulties and we should reconsider them.

On section 2, the Bill gives the Tánaiste and Minister for Health and Children the power to designate a psychiatric centre at her discretion. This worries me as the Bill also states that, with the consent of the Minister for Justice, Equality and Law Reform, she can designate a prison or a part thereof as a centre. This sends out all the wrong signals on the issue, which is the kernel of this Bill. We want to put a considerable distance between places for holding people against their will in a prison context and addressing the issue of mental health, even though this Bill attempts

to address the mental health issues associated with criminality.

Regarding the Central Mental Hospital in Dundrum, it is important to use this opportunity to highlight the appalling conditions still being endured by its residents. The 2004 annual report of the Mental Health Commission revealed the extremely poor and dirty conditions at the Central Mental Hospital. Patients are basically living in squalor. The commission’s report listed inadequate sanitary facilities in both male and female wards, the continued practice of slopping out, no household or domestic staff to take care of cleaning the hospital and the poor quality of food. This is similar to the type of report we would have read 150 years ago on workhouses and is unacceptable. I accept that the Minister for Justice, Equality and Law Reform wishes to move the hospital out of that building but I am not sure he is going in the right direction by doing so. He should concentrate in the short term on improving the appalling facilities in Dundrum. I refer to the inappropriate use of seclusion and the lack of provision of up to date written information for patients regarding their rights, which is seminal information that should be available to every citizen. Regardless of whether this Bill is passed, we must address the current conditions in that facility. The Minister wishes to move the Central Mental Hospital to the new Mountjoy Prison complex at Thornton Hall. I repeat my criticism that, even though they are separate institutions, they will be on the same campus and it does not make sense that someone in the mental hospital will look out the window at a prison. It does not send the right signal. Nor does it make sense to relocate an institution that should be a strong part of our capital city to a greenfield site.

We often wish to put out of sight and out of mind that with which we are unhappy. The Minister is doing this by moving the facility ten miles away from the city centre to Thornton Hall. It is wrong no matter what criteria one uses to examine the matter. It means more travel time for staff and people wishing to visit clients. Concentrating mental health and criminal detention facilities in the same area sends out the wrong signals. It must stop now. International practice in this area, such as the United Nations document Principles for the protection of persons with mental illness and the improvement of mental health care, strictly prohibits the use of prisons or sections of prisons as places of detention for persons suffering mental illness who have committed an offence. The Minister is not taking the correct action. It comes down to a matter of semantics as to whether they are part of the same institution. They are on the same site. It is wrong and it is not how we should act.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment attaches particular importance to

regular visits to psychiatric establishments by an independent outside body responsible for the inspection of patients' care. While the Bill makes provision for the mental health review board, I am concerned it may not be completely independent. The review board will determine its procedures but with the consent of the Minister for Justice, Equality and Law Reform. It puts too many aces in the Minister's hand. I would like to see some deep blue water between the mental health review board's actions and procedures and the Minister for Justice, Equality and Law Reform, to ensure complete independence from him and to allow it to function effectively.

During the past couple of years Amnesty International concentrated much of its research in Ireland on examining the strong links between homelessness, crime and mental health. Addressing homelessness is not an issue of simply providing a roof over a person's head. It is about addressing the needs of those who find themselves homeless. A large amount of people in that situation have psychiatric illnesses and other mental health difficulties. One in four of the prison population of 3,200 was homeless on committal, and of those two thirds had spent time in a psychiatric hospital. Clear intertwined links exist between mental health, homelessness and crime. A real difficulty exists in the revolving door system in our prisons which involves throwing people back on the street. These people will often find themselves homeless, and the underlying issue faced by an individual is not dealt with. The Bill could do much more in this area.

I commend the Irish Penal Reform Trust on the work it has done in this area. In September it won the right to represent mentally ill prisoners in legal proceedings against the State, who are claiming damages for breach of their constitutional rights. We must examine that judgment carefully. The World Health Organisation Health in Prisons Project stated: "It is important for the rights of the prisoner that time in custody is used positively for the prevention of disease, the promotion of health and that negative effects of custody on health are reduced to a minimum". That phrase should be the watchword of any legislation in this area. I am not convinced the Bill does enough in that direction. It updates the law in some areas but we must do much more for those with mental illness, particularly those who are in custody.

Aengus Ó Snodaigh: We have consensus amongst the relevant sectoral groups that the Criminal Law (Insanity) Bill 2002 is to be generally welcomed as a concerted effort to reform this previously neglected area of law, which dates from the 19th century. The groups I refer to include Schizophrenia Ireland, the National Disability Authority, the Human Rights Commission, Mental Health Ireland, the Mental

Health Commission, and Mental Health Nurse Managers Ireland. On behalf of Sinn Féin, I also welcome this legislative initiative to progress the state in addressing the needs of mentally disordered offenders.

Leagfaidh mé roinnt de na gnéithe amach atá ag déanamh buartha dom maidir leis an Bhille seo níos déanaí. Tá a lán acu ardaithe cheana féin ag na grúpaí a luaigh mé agus grúpaí eile nach iad. D'ardaigh siad an cheist leis an Aire go díreach conas is féidir an Bille seo a leasú.

Tosóidh mé ar bhonn dearfach — deis nach mbíonn agam go ro-mhínic le reachtaíocht ón Aire seo. Tá sé go maith go bhfuil athrú ag teacht air. Measaim go bhfuil sé tábhachtach go bhfuil an Bille seo os ár gcomhair agus gur féidir linn déileáil leis chomh tapaídh agus is féidir. Tá sé sin tábhachtach, agus tá gá leis láithreach; ar ndóigh, bhí gá leis le tamall maith de bhlianta.

A number of elements of this Bill are welcome, including efforts to align civil and criminal law provisions on mental disorder, affirming and codifying common-law decisions on criminal insanity, providing a framework for determining fitness to be tried, setting up a standard for the ongoing review of the need to detain those who have offended while suffering from a mental disorder and the stated intention to bring the State more in line with its obligations under the European Convention on Human Rights. I also welcome the fact the proposed legislation is applicable to existing detentions and that the Bill appears to protect the right of persons to fair proceedings, effective remedies and to challenge detention as set out in the Constitution and in articles 5, 6 and 13 of the European Convention on Human Rights. Furthermore, the recommendation of the Human Rights Commission, that the initial period of detention applicable to someone who is found not guilty by reason of insanity be reduced from 28 to 14 days is included in the Bill as passed by the Seanad. For once, the Minister appears to have listened to the Human Rights Commission.

That said I have a number of concerns, some of them serious, about a number of aspects of this Bill. The key concern for Sinn Féin is that the implementation of this Bill must not be reduced to a component part of the Minister's fundamentally flawed broader agenda for prisons. People suffering from mental illness must not be held in prisons. A judgment of the European Court of Human Rights on the matter is unequivocal in requiring that, where a person is detained for mental illness, he or she must be held in a clinic and not in a prison. The UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care also clearly prohibits the use of prisons or parts thereof. The spirit of this clearly implies that locating people suffering from mental illness on the site of a prison is also inappropriate, as my colleagues

[Aengus Ó Snodaigh.]

already stated. All references to prisons in the provisions for the designation of centres must be removed from the Bill, in line with the Human Rights Commission's recommendations.

My second major concern about this Bill stems from the chronic under-resourcing of mental health care services. The Bill must be amended to ensure its implementation will not result in any negative impact on non-offending people suffering mental illness, as a consequence of increased security measures in their treatment facilities. In my area, I have campaigned for Ballyfermot Mental Health Centre to be replaced with a new facility. The conditions there are Dickensian. I hope joined-up thinking will take place between the Ministers for Justice, Equality and Law Reform and Health and Children to ensure the provision of proper resourcing and funds so that those suffering from mental illnesses are properly catered for within the community before they end up in court and in some type of detention as a result of court proceedings.

If more money, investment and thought was put into addressing mental care facilities throughout the island, people with mental illnesses ending up in court may not be as major an issue. I ask the Minister to discuss this with the Tánaiste and his colleague the Minister for Finance to ensure the Estimates and the budget see money invested in the first port of call for many suffering from mental illness.

I suggest the Bill be amended to provide alternatives to committal to a designated centre. According to the Mental Health Commission, a wider range of options should be open to the Judiciary to ensure the most appropriate intervention is offered to the person. This might be where additional investment in local community mental health centres is available so that a judge has the option to refer those persons to specialised treatment in those centres.

Schizophrenia Ireland has argued that the thrust of modern health treatment recommends such treatment in the community as the preferred option and that inpatient care should be regarded as a last resort. Treatment in the community is pointless if the facilities are Dickensian, decrepit or falling down around the workers, or the patients and families who use them. An investment in facilities is urgently required.

If the Minister is on the Ballyfermot Road at any stage, just left before Cherry Orchard hospital he will see the state of the Ballyfermot Mental Health Centre. I have heard that its condition is not dissimilar to other centres.

Schizophrenia Ireland stated that in specifying inpatient care as the only form of care, the Bill is at odds with the central philosophy of community care. An additional concern of mine relates to the language of the Bill and this has been referred to by other speakers. A number of sectoral groups,

in particular, have expressed the view that terms such as "insanity" and "mental handicap" are archaic and unacceptable in contemporary practice, due to the potential to demean and stigmatise individuals suffering from mental illness or disorders and persons with an intellectual disability. The Human Rights Commission has recommended that the terms "insanity" be replaced by the term "mental disorder" and "mental handicap" by "intellectual disability". This would also facilitate legislative consistency. Hopefully the Minister will take on board the recommendation from the Human Rights Commission, since he is in that mode at present regarding this Bill.

Some groups have already criticised this Bill on the grounds that some aspects of it are inconsistent with the Mental Health Act 2001. We need to ensure consistency in Bills dealing with similar areas. Some sections of the Bill will require amendment if they are to comply with the provisions of the Mental Health Act. As the Bill is currently drafted, the operation of the proposed mental health criminal law review board shall have regard to the welfare and safety of the person whose detention it reviews under this Act and to the public interest. The Human Rights Commission has recommended that this be replaced by the formulation adopted in the Mental Health Act 2001 which states that the best interests of the person shall be the principal consideration, with due regard being given to the interests of other persons who may be at risk of serious harm if a decision is not made.

Fáiltíonn Sinn Féin roimh an Bhille seo mar chéim chun tosaigh i bpróiseas leasaithe atá thar am. D'ainneoin sin, beidh mé ag cur na leasuithe atá luaite agam, a bhaineann leis na gnéithe sin atá ag déanamh buartha dom agus do ghrúpaí eile, os comhair an Aire. Tá súil agam go nglacfaidh sé leo roimh i bhfad. Tá súil agam freisin go mbeidh muid ag teacht ar ais anseo ag deireadh an phróisis reachtaíochta seo le Bille a bheidh i bhfad níos fearr, ar féidir linn bheith bródúil as, agus go gcuideoidh sé leo siúd — seachas cur ina gcoinne — atá gafa le galar intinne nó a leithéid. Ba cheart dúinn bheith in ann bheith bródúil as agus tairbhe éigin a bhaint as. Bheadh an deis againn ansin seasamh suas os comhair an domhain seachas os comhair chúirt an domhain agus a rá gur seo an bealach chun cinn ar chóir do thíortha eile a leanúint.

Mr. G. Murphy: This legislation is long overdue. As the Minister pointed out during the debate in the Seanad, it is 25 years since Mr. Justice Henchy first commenced his work in this area. During Report Stage of the Transfer of Execution of Sentences Bill, Deputy Costello and I proposed amendments which we believed would make that Bill more understandable and clear for the lay person trying to read it. On that occasion,

the Minister rejected the amendments as unnecessary. However, in his contribution in the Seanad on the Criminal Law Insanity Bill 2002, he insisted this must be commonsense legislation and understood by all. He stated the Bill should not approximate how psychiatrists would write law. If that were to be the case, God forbid, even the lawyers and the judges might be confused as are many lay people, by the legal terminology used in other Bills.

The Minister explained his position during Report Stage in the Seanad by stating he did not agree that he should adopt the same attitude to every Bill that comes before the House, calling such an approach a tyranny of consistency.

Whatever the Minister says about his differing approaches to legislation, this Bill will still be very difficult to understand in layman's terms. However, in general, it gets the balance right between the duty to protect the citizen and the community and the duty to protect the human rights of those persons who are accused of committing a crime but because of their mental capacity cannot be dealt with within the scope of the normal criminal law.

The central plank of the Bill is the new definition of what constitutes an excusing mental disorder, such as mental illness, mental handicap, dementia or other diseases of the mind. In reality, marginal cases will exist in all these instances. Doctors will disagree and some diagnoses will prove incorrect. These inconsistencies and possible mistakes will from time to time cause anxiety in the public mind but this is not, nor will never be, an exact science. The Bill will provide a clear legal framework for dealing with people with mental disorders who are accused of a serious crime.

The Bill is equally clear that it does not include intoxication as a legitimate reason for a plea of not guilty by reason of insanity or a plea of diminished responsibility.

The debate in the Seanad seems to clarify that the term "intoxication" not only refers to drink but also to so-called social drugs. Some clarification on Committee Stage may be required to explain the difference between so-called social drugs and drugs prescribed by a doctor for medical purposes.

I ask the Minister to clarify whether a plea of diminished responsibility is now unacceptable in the case of intoxication or whether from now on, a judge cannot under any circumstances allow for the state of intoxication when considering a case. On rare occasions there may be circumstances when young people are given drugs or duped into taking drugs that may have a serious impact on their behaviour. Drug pushers are ruthless in pursuing young people in an effort to get them addicted. I suggest that in exceptional cases, a judge should have some discretion for taking this into account.

Section 1 of the Bill deals with designated centres and provides that it is a matter for the Minister for Health and Children, with the consent in certain cases of the Minister for Justice, Equality and Law Reform, depending on which Minister has jurisdiction, to designate a prison or part of a prison or to designate a psychiatric centre for the reception, detention and, where appropriate, care or treatment of persons committed under this Bill. Serious concerns have been expressed about these provisions, for example, as to whether they are compatible with United Nations Resolution 46/119 on the principles for the protection of persons with mental illness. I ask the Minister to address this question in greater detail.

Resources are the central part of the problem. The Minister is constantly reviewing and renewing legislation, much of which is welcome, but legislation is largely ineffective without the allocation of resources. By introducing this legislation, the Government is trying to give the impression that much more is being done in the sphere of mental health. According to Mental Health Nurse Managers Ireland, existing resources for mental health services are overstretched and any additional burden on resources would have significant implications for clinical effectiveness.

The current structures are wholly inappropriate for violent offenders. The Minister should make clear that the use of divisional systems should apply to non-violent offenders only and that provision for violent offenders is dependent on the development of regional secure units. If the Minister is to approve units outside Dublin, it is likely such centres will be located in acute admissions units based in general hospitals, which are not designed to provide a secure environment. The Minister should rule out the use of such centres as any change in their status brought about by increased security would change their entire ethos and would have a significant impact on the rights and civil liberties of other patients residing in the acute facilities in question. A number of regional intensive care units with modern forensic expertise and under the management of multidisciplinary teams in regional locations are required.

Section 3 deals with the issue of "fitness to be tried", a concept adopted in place of the term "fitness to plead". The section provides that fitness to be tried will be decided by a District Court without a jury. The court will also have the power to acquit a person if it believes there is a reasonable doubt that the defendant committed the alleged act. The effect of this provision is to remove the case from criminal jurisdiction to the jurisdiction of the Mental Health (Amendment) Act 2001. While this change is to be welcomed, it creates a conflict which the Minister must resolve. Does the fact that a person is not acquitted

[Mr. G. Murphy.]

denote a strong suspicion of guilt by the court on the defendant? Could this be viewed as prejudiced to any case which may be taken against the defendant in future in circumstances in which the mentally ill patient is deemed to have recovered from his or her illness?

Section 4 provides for the verdict of “not guilty by reason of insanity” to replace the existing special verdict of “guilty but insane”. The explanatory and financial memorandum states the reason for this change was criticism of the latter verdict on the basis of its provocative connotations. While this change is to be welcomed, the Minister does not appear to have been as sensitive in terms of the wording used in the Title, the Criminal Law (Insanity) Bill 2002. According to many experts, the terms “insanity” and “mental handicap” should be disregarded because of their stigmatising effect, which should not be underestimated. This and similar terminology should, therefore, be regarded as outdated. It has also been suggested that the terms “mental disorders” and “intellectual disabilities”, which are in line with the wording used in the Mental Treatment Act, would be more appropriate in this context.

Section 5 introduces the concept of diminished responsibility. I agree that the availability of a verdict of diminished responsibility should reduce the danger that a jury will return an insanity verdict when faced with a marginal case. The Minister stated this provision is only needed in the case of murder, which carries a mandatory sentence, and that judges have the discretion to decide otherwise in other cases. Is he certain that all members of the Judiciary will interpret the provision in the manner he envisages? Is it not possible that a judge will decide that if the Legislature wanted diminished responsibility to be taken into account in other offences, the law should specifically say so, particularly now that it will specify one crime for this purpose. In future, if the Oireachtas introduces a mandatory sentence for any other offence, will it be necessary to make an automatic amendment to the Bill?

The Minister rubbished concerns expressed about imposing mandatory sentences on conviction for drug trafficking. His stance was that people who sell drugs are drug pushers and, as such, that is the end of the story. The law must, however, cover every eventuality. Is it not possible that a mentally ill person could be manipulated by drug traffickers and could get caught up in circumstances where all the evidence indicated that he or she was a drug pusher? In such circumstances, is it the Minister’s position that a judge could not use his discretion under the Bill? Drug trafficking is a ruthless business and those involved in it are capable of anything, including manipulating and controlling a person with a mental disability. Will the Minister assure the

House that judges will have discretion in such circumstances?

The appeals process introduced in section 6, which allows for appeal against a fitness to be tried decision of a lower court, is welcome. The establishment of the mental health review board in compliance with regulations under the European Convention on Human Rights is also welcome. The board will independently review, on a regular basis, the detentions of persons who are being detained in a designated centre by court order having been found not guilty by reason of insanity or unfit to be tried. Various suggestions have been made to the Minister on the composition of the board, the most valid of which is that two consultant psychiatrists should be appointed to it to ensure no decision is ever made without at least one of them being present. Section 11, which gives teeth to the board, is an essential provision.

Section 13 deals with the temporary release and transfer of prisoners. Under this section, the Minister for Justice, Equality and Law Reform or the Minister for Health and Children, depending on jurisdiction, will decide on transfer arrangements. A transparent procedure should be in place to establish what exact consultation the Minister has with the receiving service or agency to ensure appropriate services are available at the new location and to ensure the new service provider can show it has the resources and services to deal with the person being transferred.

Temporary or general release can be a sensitive matter. The thrust of modern mental illness treatment is such that care in the community is the preferred option. The Health Service Executive is doing tremendous work in this field with outreach programmes, accommodation and follow-up work by community psychiatric nurses. Again, however, resources can be a problem. Many people released from mental health facilities become homeless owing to the nature of their illness. On occasion, they can be accommodated by voluntary housing agencies, which are capable of providing housing but incapable of providing the back-up services currently provided by the Health Service Executive and associated agencies dealing with mental illness. The same is true of people released into private accommodation. Is it the case that release should be considered only where there is a responsible receiving agency such as the health board that can guarantee the Minister or an independent group that it has an outpatient resource service to provide the necessary back-up for the patient? Many patients feel that they no longer need to take medicine after release, so without the proper back-up there is a danger that their situations could deteriorate. That is a catastrophe not only for the patient but also for the confidence of the public, which must be maintained since its co-operation will always

be needed in facilitating the return and integration of former patients into the community.

The section of the Bill dealing with financial or staffing implications clearly demonstrates the attitude of the Minister and the Government. It is not anticipated that the proposals in the Bill will have significant financial or staffing implications. In such circumstances, it should be clearly understood that the Bill is purely legalistic and will do nothing to improve general mental health services. Some of the Bill's provisions will take further from the general budget provided for mental health if the Department of Health and Children is to build and run regional secure units. According to the first Inspector of Mental Health Services, forensic mental health services nationally are seriously underdeveloped. Services remain inadequate at both hospital and community level. She goes on to say the following:

The Central Mental Hospital (CMH), a facility providing medium and high security beds, is the only designated forensic unit available nationally but has long been recognised as providing accommodation that is of a totally unacceptable standard.

The inspector goes on to point out that because the Central Medical Hospital is the only forensic unit, persons are detained there who could be discharged into a less secure unit or even back into the community. However, that cannot be done because of a lack of facilities, both institutional and community, outside Dublin. I was glad to see that the Minister accepts that view and favours the sale of the site of the Central Medical Hospital and the building of a state-of-the-art centre in Dublin, which one hopes would be followed by the roll-out of similar, smaller facilities at a regional level.

The Minister, like the rest of the Government, has now been in power for eight years. If the solution was so painfully obvious to him, for God's sake why do he and the Government not get on with the job? Why do they not sell the site and build the new facilities? If the Minister and the Government were half as good at producing results locally as they are at producing legislation or commissioning consultant reports, after eight years in power one would expect to see some real progress from a purely practical perspective. I presume it is too much to expect from the Government. We must content ourselves with dealing with this purely legalistic Bill. We welcome the general thrust but hope that the Minister will reflect on some of the amendments made in the Seanad, which will be repeated and added to in this House.

Mr. Neville: I welcome the opportunity to speak on the Criminal Law (Insanity) Bill 2002 which we have awaited for some considerable time. Now that it has come, it is welcome. It is

required to bring the approach towards criminal insanity and the treatment of people incapable of facing court to answer for deeds done or who were not in command of their faculties when a crime was committed into the 20th and, one hopes, the 21st century. Most of the relevant regulations have been in place since the 1800s.

It is a very difficult area. A person who suffers from a serious psychiatric illness raises questions, especially in the area of criminal responsibility. However, we must all be answerable to society for our actions. There are degrees of responsibility in that area, from being without any responsibility because of a psychiatric condition to being a marginal case with some alleviating factors regarding criminal responsibility when the act occurred. The Bill recognises that capacity. The present verdict of guilty but insane has consequences for a person subject to a special regime. Both society and the person are protected until he or she is no longer a threat to society or to himself or herself. The Bill modernises and reforms the law on clinical insanity and fitness to stand trial.

Psychiatry has changed immensely in the last 100 to 150 years since the basis of the current legislation was introduced. We must recognise the developments in it over the period. I know that the Minister has used the word "insanity" in the Bill. Perhaps he might address why that word has been retained. Some people have expressed concerns that the term "insanity" is still being used. I find it difficult to deal with. Someone who is insane has a serious psychiatric illness. Why do we not say that? "Insanity" has connotations of asylums and words still unfortunately used in law in certain circumstances such as "lunatic". They seriously stigmatise people with a psychiatric illness. There must be some legal reason for continuing to use the word rather than some of the more modern terms for those with a serious mental illness.

A person's inability to understand the difference between guilty and innocent, to instruct his or her counsel, or comprehend what is happening in a trial has serious implications for his or her human rights. The person would be unable to defend himself or herself, advise others on how to do so, reply to questions or relate to what is happening. The new verdict of not guilty by reason of insanity will allow people to be examined under the Mental Health Act 2001. Perhaps I might ask the Minister of State a question in that regard. I am glad that it is he.

Mr. B. Lenihan: I am following the Deputy in great detail.

Mr. Neville: This is another problem that I have in the area. The Central Mental Hospital, as the name suggests, is a hospital. The Minister of State is responsible for health, yet the entire

[Mr. Neville.]

responsibility for answering to the House rests on the Minister for Justice, Equality and Law Reform, Deputy McDowell. Perhaps I might expand on that. I have been questioning the fact that patients in the Central Mental Hospital do not receive disability allowance. If they were in a mental hospital under the control of the Minister of State's Department, they would do so. Those entitled to disability allowance in the Central Mental Hospital do not receive it. Unlike patients in other mental hospitals throughout the country, they will not receive refunds. While the Department of Justice, Equality and Law Reform must have some involvement in running the forensic mental health service, the Department of Health and Children should have equal responsibility in managing such places as the Central Mental Hospital.

The new concept of diminished responsibility applies only to murder. When someone was found to have committed a murder, the mandatory sentence was for life. Even though a judge in passing sentence may say there are special circumstances as regards a person's mental condition which should be taken into consideration, he or she cannot do so, and is obliged under law to give a mandatory life sentence.

Under this Bill a jury may bring in a verdict of manslaughter as regards a person with diminished responsibility, thereby having discretion in the level of sentencing up to and including a life sentence. It is not a question of reducing the sentence for a person in such circumstances. Rather, it gives the court the discretion to take into account the area of diminished responsibility.

I want to deal with the whole area of the needless criminalisation of mental illness. The abysmal failure to build adequate and appropriate community psychiatric and psychological services has resulted in mental illness becoming criminalised. People who urgently need medical attention go unnoticed in society and are left unattended for years. Many become homeless, some die by suicide and many end up in prison. I often say that people born today, because of their circumstances and life opportunities or who perhaps suffer from attention deficit hyperactivity disorder, ADD, have three chances in life: they will become homeless, take their own lives or end up in prison. These are the life opportunities on offer to them. Most of those who end up in prison are there for petty crimes rather than very serious offences, with sometimes a high level of recidivism, in that they become institutionalised. They are not a threat to society, but they are persistent criminals because of their life opportunities and conditions. They might have been involved at an early age in drug and alcohol abuse.

The son of a constituent whom I have known for many years suffered from attention deficit dis-

order. The family tried everything to get treatment for him. As a young teenager he got involved in drug abuse and petty crime. The attention deficit disorder condition was not treated and he grew more violent. Unfortunately, the family had to get a barring order against him, but that did not stop them from still trying to alleviate his problems. Eventually the young man ended up in prison. At one stage a young psychiatrist visited him and prescribed Ritalin for the treatment of his attention deficit disorder. The father visited him in prison and found a new young man who said he would go back to school on coming out and have a different lifestyle, following the treatment. Within weeks, however, psychiatrists in charge at the prison withdrew him from the treatment on the grounds that Ritalin was an addictive drug, and he went back to his old problems.

Three or four weeks ago, that young man was charged in connection with injecting another person on the streets of Limerick, who subsequently died. I cannot say what the precise charge is but it has to do with the taking of a life. It is sad when, despite all the efforts made, the system lets down a young man such as this, and his family. His life is now ruined.

The Irish Penal Reform Trust estimates that almost 40% of the prison population may be suffering from some level of psychiatric or psychological illness or disturbance. Mr. John Lonergan, the Governor of Mountjoy would confirm that statistic. He repeatedly says that over 40% of inmates in his prison have suffered from attention deficit hyperactivity disorder as young children. I have heard him make that statement on several occasions. A considerable number of people suffering from psychiatric disorders, who have offended and are in prison, are there for very minor crimes which are likely to be related to mental or psychological disturbance. The mentally ill prisoner should be treated in an appropriately secure psychiatric or psychological setting. The prison environment, as currently structured, does not allow for adequate observation, medical or otherwise, of mentally ill prisoners. Many are locked up for as long as 23 hours a day in solitary confinement in strip cells.

I again quote Professor Anthony Clare, whom I have previously cited in the House:

The mentally ill are not the most systematically stigmatised group in our society. They are the true lepers of today.

This stigmatisation combined with the lack of appropriate care while in detention, means that mentally ill prisoners are among the most discriminated against groups in Irish society. Their human rights are denied on an ongoing basis by the State. For real change to occur, it must come about at society level as well as within the penal system. This again goes back to the discussion

about the whole area of psychiatric services. Nothing will happen until society demands that considerable improvements are made or until we, as politicians, are challenged by the electorate in this regard. That is beginning, but only tentatively as yet. Hopefully our citizens will come to realise that for the one in four who suffer psychiatric disorders — in effect, almost every family — action must be demanded from Government, politicians and the Civil Service if services are to be improved.

For real change to happen there must be society-wide change too. That will involve massive diversion schemes combined with some form of reformatory justice for mentally ill offenders, particularly for those who have committed non-violent crimes. Two distinct but co-ordinating systems have to be established, one outside the prisons in the community, the other inside the prisons. The Irish Penal Reform Trust has called for action to deal more appropriately with psychiatric illness before it becomes criminalised. It is recommended that serious consideration be given to establishing a mental health court system. I will develop this theme, because such courts would be inherent components of a planned co-ordinated monitoring service. Mental health courts might sound like a contradiction in terms, but there are several such models in the United States which have yielded positive results.

Alaska provides a suitable example of what could be established in Ireland. In 1999 the Alaskan courts system established a mental health court project which has five broad objectives: to preserve public safety, to reduce inappropriate incarceration of mentally ill offenders and promote their well-being, to relieve the burden of the Department of Justice as regards correction for inmates with mental disability, to reduce repeated criminal activity among mentally ill offenders and to reduce psychiatric hospitalisation of mentally disabled offenders.

Mental health courts address the need for a more human approach which diverts offenders with mental disabilities from overcrowded prisons in which they are often treated in padded cells. In addition, such courts address the need for a planned and co-ordinated treatment strategy which reduces needless incarceration and suffering among low-risk mentally disabled offenders. All offenders with a history of mental illness would appear before these courts. Dedicated judges, specifically assigned to hear mental health court cases only, would be trained in mental health issues, including some training in alcohol and substance abuse disorders. They would also be primarily responsible for co-ordinating the role of the court with the agencies of law enforcement, prosecution, defence and mental health care.

Since such courts were established in parts of the United States, offenders have the option of

following a carefully monitored individual plan of mental health treatment instead of going to prison. However, a mere courts system will not be sufficient if it is not an inherent part of a well planned and co-ordinated monitoring and service provision programme. In Alaska, for example, a co-ordinated service provision programme of this type is known as the court co-ordinated resource project, CCRP. As its name suggests, it depends upon a centralised co-ordination of court, agency and mental health resources.

Such an approach in this jurisdiction would involve the court system, the Departments of Justice, Equality and Law Reform and Social and Family Affairs, the probation and welfare service, the Health Executive and hospitals for the mentally ill all functioning in partnership. There would also be a need for explicit co-ordination between mental health courts and drug courts. The chief role of the CCRP in Alaska is to expedite and maximise responsible alternative schemes to prison for those who are judged fit to live in the community. A programme similar to this one which addresses both the need for humane treatment of the mentally ill via suitable community schemes and the largely wasteful and ineffective financial and administrative burdens currently placed on the Department of Justice, Equality and Law Reform must represent a better way of reducing crime. Moreover, such a system would be cost effective because it would reduce the cost of prisons by catering for the 40% of those suffering from a psychiatric illness who can be treated outside of prison.

In Alaska, a pilot jail alternative service programme was set up in 1998 for up to 40 eligible defendants. This approach, involving the direct intervention of a court co-ordinator, has had considerable success. The Minister of State, Deputy Brian Lenihan, might say such a system is too advanced for his Department, if not for himself. We must, however, move away from a system where people who are mentally ill, especially those who are not a threat to society, are treated differently from other citizens. Many such persons are imprisoned for petty crimes. They may resort to committing similar infractions upon release in order to return to prison because it is what they know best. Mentally ill offenders should be afforded the option of a treatment programme instead of prison. Failure to complete that programme, however, should mean a committal to prison. They must commit to the programme for an extended period or face imprisonment.

Mr. Deenihan: I take this opportunity to refer to relevant correspondence I recently received from a concerned citizen, a former member of the Garda Síochána who has, in the past, raised his concerns with his superiors. They relate to the serious crimes, including murder, committed by

[Mr. Deenihan.]

psychiatric patients who are released by hospital authorities. In his correspondence, which I have forwarded to the Minister, he is strongly of the opinion that many of these outrageous and horrific crimes could and should have been prevented. He has tried since 2001 to have the matter raised and resolved but to no avail.

Will such matters be covered by this legislation? My correspondent suggests the Department should furnish a record of all murders and other crimes committed by persons in receipt of psychiatric care at the time of the crime. Such information should be readily available. The departmental officials may even be able to provide it for the Minister of State for his reply. I have little doubt that many of the serious crimes committed in the past five years are associated with persons who were in receipt of treatment for mental illness, or should have been.

This former garda refers to a number of the most high profile cases, including the famous incident in Claregalway some years ago, the recent case in Dundalk and the murder of a retired teacher in Galway by a psychiatric patient in 2002. He argues that since the closure of practically all psychiatric hospitals some years ago in favour of a policy of treating psychiatric patients in the community, it seems many murders have been committed by persons who would heretofore have been placed in a secure psychiatric hospital.

I am aware of the success of the programme of treating psychiatric patients in the community. I have seen such programmes in action in my constituency. There must, however, be some demarcation line where certain people should not be allowed into the community because of the genuine concerns expressed by my correspondent. Other members of the Garda would agree with the point he makes strongly that it is now practically impossible to have a person committed to a mental hospital, following certification by a GP. He points out that gardaí are often requested to provide escorts for violent patients certified by local doctors, who have a full history of the patients, only to find that they are released back into society within 24 hours and regularly cause further trouble in the community. This was his experience in his division and it is the experience throughout the country.

He also suggested that the Department of Health and Children should at least be informed by the Garda authorities, via the Department of Justice, Equality and Law Reform, of the situation. Hopefully, this Bill will cause that to happen. This person sent me copies of a number of newspaper articles. One is from *The Irish Times* of 3 April 2003 which states that there is little provision to prevent violent attacks by disturbed young people. The article goes on to describe an attack carried out in St. Stephen's

Green in Dublin by somebody suffering from attention deficit hyperactivity disorder. Perhaps the Minister will discuss those matters when he replies.

Mr. Durkan: I have watched this issue with some interest. I am particularly delighted that Deputy Brian Lenihan, an eminent legal eagle, is present and that the relevant Department is well represented by legal luminaries. Deputy Deenihan referred to a number of high profile cases in recent years. The Minister spoke on 12 December 2002 of the imminence of this Bill. I hope other legislation he suggests is introduced with a little more rapidity than this measure.

Undoubtedly, an updating of the legislation in this area is required. It is overdue. However, intriguing questions arise with these changes. The Minister referred to fitness to plead and the statutory definition of criminal insanity. A new verdict of "not guilty by reason of insanity" is to replace the present verdict of "guilty but insane". In one of the high profile cases much legal argument took place as to whether the person who committed the murder or misdeed was insane at the time it was committed but was perfectly sane beforehand and afterwards. I read the various arguments with interest. I accept that the defendant has a right to make an argument. Otherwise, his constitutional rights would be violated. However, I am not entirely convinced that one can shift, in the space of five or ten minutes, from a state of sanity to a state of insanity and back to a state of sanity. That argument went on for a long time, as the Minister is aware.

Some members of the public would dispute whether it is possible to achieve that condition. It was argued in court that it was possible and that there are circumstances where these things happen. However, there are tragic consequences for members of the public who had no knowledge of their impending doom and did nothing to deserve what happened to them but were just unfortunate to be in the wrong place at the wrong time when this condition affected the person accused of committing the crime.

There was another high profile case which generated a huge amount of debate. The accused left the jurisdiction in unusual circumstances. The same argument was pursued in that case. Again, I respect the right to offer a defence but it is difficult and contradictory to accept the argument that, in a particular case, the person who was perfectly sane and capable suddenly became insane and decided to kill somebody, was perfectly capable again afterwards but had a relapse within a couple of hours and killed somebody else and then was perfectly sane again. Then, to secure release from prison, he decided that the insanity was only a temporary thing which affected him at a particular time, it was now gone and it was

unfair that he should be in prison. That is a very thin argument.

The victims in these cases, however, have a different attitude and are extremely concerned. The person who has been murdered or killed has no defence. Nobody can come forward on their behalf and point out that they were in the wrong place at the wrong time. It is their tough luck. I am not as well versed in legal argument as the Minister but there is an urgent need to recognise that the victims in such cases feel they have an ongoing grievance. I am not attempting to be harsh about this but all Members of the House have received correspondence from relatives of the victims of such incidents. They point out, with justification, that a member of their family was a victim and the perpetrator was able to argue successfully that the incident was only a temporary aberration and that it was unlikely to happen again.

I do not wish to encroach on cases that might be pending or under investigation but there are instances both here and in the UK of serial killers who find it convenient to plead not guilty by reason of insanity or temporary insanity. It is difficult to accept anything other than it is convenient for them to enter that plea. It is not so convenient for the succession of victims. When there is more than one victim it is difficult to accept that this unfortunate person, who obviously has problems, can be temporarily insane on a number of occasions and that the degree to which they can plead that case can result in their freedom.

I recall there was a high profile case when I was not long a Member of this House.

Mr. F. McGrath: The Deputy has been here a long time.

Mr. Durkan: I hope to stay a while longer with the permission of the people. One never can tell, however. They might get tired of me, but hope springs eternal.

Mr. F. McGrath: The Deputy has a safe seat. He will be all right.

Mr. Durkan: I have always had one of those. I recall one case where the person was released after committing a very serious crime. He left this jurisdiction and crossed the Irish Sea where he committed the same crime again, four or five times. He murdered somebody after being deemed fit by the institutions that released him. All the experts said he was fit and rehabilitated.

An Ceann Comhairle: I ask Deputy Durkan to move the adjournment.

Mr. F. McGrath: He is only getting warmed up.

Mr. Durkan: I will return to the matter. The Minister of State, Deputy Brian Lenihan, does not know what I am talking about either.

Mr. B. Lenihan: The people of Kildare do not have to listen to as much hot air.

Mr. Durkan: When it comes to hot air, the Minister of State has the franchise.

Mr. B. Lenihan: I will take that as a compliment.

Debate adjourned.

Ceisteanna — Questions.

Priority Questions.

Easter Rising Commemoration.

1. **Mr. Timmins** asked the Minister for Defence his plans to commemorate the 1916 Easter Rising at Easter 2006; and if he will make a statement on the matter. [31954/05]

Minister for Defence (Mr. O'Dea): I want to outline my satisfaction and that of the Defence Forces with this commemoration of the 90th anniversary of the 1916 Easter Rising and also with the reintroduction of the traditional Easter military parade. The Cabinet has decided that the theme of the parade will be a celebration of Óglaigh na hÉireann, successors to the volunteers, serving a democratic State and engaged, through the UN, in the search for global peace.

Following discussions at Cabinet last July, I brought the proposal to the attention of the Chief of Staff and he has engaged in some preliminary planning in this regard. Around the same time, there were preliminary discussions at a senior level between officials in my Department and the Department of the Taoiseach.

As the Deputy will recall, the Defence Forces staged a highly successful parade through Dublin city in 2001 to mark the return of the last Irish contingent to serve in Lebanon and the experiences from this parade will serve as a basis for the organisation of the Easter parade. The involvement of organisations representing former members of the Defence Forces is also being considered.

As the Deputy will also appreciate, it is not possible at this early stage to go into any detail on the proposed composition, nature, cost, etc. of the parade since the Defence Forces are still at a very early stage of preparation in this regard. However, based on the experience of organising previous events such as the Lebanon parade I just mentioned, I am informed that an Easter parade

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is unlikely to entail significant additional expenditure.

Mr. Timmins: I thank the Minister for his reply. While I support the concept of recognising what the 1916 people did and I welcome the re-establishment of a military parade, I want to ask the Minister a few questions. Is he speaking of only one parade based in Dublin or a parade being replicated at various locations throughout the country? Would the Minister have a view on concerns expressed in some quarters that perhaps the Taoiseach, by making the announcement at the Fianna Fáil Ard-Fheis, might not have chosen the most appropriate place to announce it? Perhaps he should have undertaken all-party discussions on it. Perhaps it is not the type of issue that should be politicised.

If my memory serves me correctly, there was talk of setting up a centenary committee to commemorate 1916. Is that a little premature?

Mr. O'Dea: On Deputy Timmins's first question about whether there will be one parade or whether it will be replicated throughout the country, no final decision on that matter has been taken as yet. It is more than likely that it will involve more than one parade in Dublin and that it will involve various parades throughout the country. As I stated, we are still at the very early stages of planning and we would welcome ideas from all sources, including Deputy Timmins who is a former member of the Defence Forces. Any useful suggestions would be gratefully taken on board.

On the announcement at the Ard-Fheis, I suppose that is as good a platform as any place else to make an announcement like this. Frankly, I was surprised at the publicity generated by the fact that it was announced at the Ard-Fheis because this matter has been under discussion since last July. I remember specifically speaking to the Chief of Staff and various people in the Department of Defence to get the matter under way. Obviously there is quite a number of Army officers who knew or heard about it prior to the Taoiseach's official announcement and I am amazed that it did not leak out into the public domain. I thought I had seen it mentioned on some publication or other. Perhaps I am mistaken.

On the centenary committee, certainly the centenary is a long way off but that does not necessarily mean it is premature to prepare for it now. The sooner we start thinking about this, the better. It is a major undertaking and we are giving ourselves plenty of time to plan it.

Mr. Timmins: Are there proposals to erect some sort of monument prior to this parade or am I mistaken on that?

Mr. O'Dea: No, I am not aware of that.

Mr. Sherlock: May I ask a supplementary question on that?

An Ceann Comhairle: No. It is not in order on a priority question. It is confined to the Member who submitted it.

Defence Forces Inquiry.

2. **Mr. Sherlock** asked the Minister for Defence if he will report on the outcome of his meeting with the family of Private Kevin Barrett who was shot dead while serving with the Defence Forces in Lebanon in 1999; his views on the Barrett family's request for an independent inquiry into the death following the unsatisfactory open verdict that was returned at the recent inquest; and if he will make a statement on the matter. [32082/05]

Mr. O'Dea: Private Kevin Barrett died on 18 February 1999 while serving with the 84th Infantry Battalion in Lebanon. His death was the subject of a UN board of inquiry and an Irish contingent board of inquiry as well as a military police investigation. The coroner for north-west Donegal held an inquest into the death of Private Barrett from 5 to 8 September 2005. The jury returned an open verdict.

I met Mrs. Barrett on 4 October 2005. She was accompanied by her solicitor. I listened carefully to what she had to say. During the course of this meeting, I apologised to Mrs. Barrett and her family for the pain and suffering they had experienced since Private Barrett's tragic death. I indicated to Mrs Barrett that I was still awaiting sight of the transcript of the coroner's inquest, which I understand will be available shortly. When I have reviewed the transcript, I will decide what further action to take.

During my meeting with Mrs. Barrett, I also gave her an undertaking to have the interaction between my Department, the Defence Forces, her and Private Barrett's family reviewed by an independent person. I want to ensure that appropriate lessons are learnt for the future. On 28 October 2005 I appointed Mr. Seán Hurley to carry out an independent review of the interaction between the Department of Defence, the Defence Forces and the parents and family of Private Barrett in the aftermath of his tragic death. I anticipate that I will receive the report of this review before Christmas.

Mr. Sherlock: While I welcome the appointment of Mr. Hurley to carry out the independent review of the interaction between the Department of Defence and the family of Private Barrett, one is extremely concerned that the review the Minister has mandated will cover only one aspect of Private Barrett's death, namely, the

manner in which the Department treated the Barrett family in the years since his death. Why has the Minister not at this stage authorised a thorough investigation of the circumstances surrounding Private Barrett's death? This is what the Barrett family seek.

Mr. O'Dea: I thank Deputy Sherlock for welcoming the inquiry I announced. On what the Barrett family seek, I met Mrs. Barrett and her solicitor and we have spoken to them on a number of occasions since. Basically, through her solicitor Mrs. Barrett asked me to do two things: to have investigated the interaction between the family and the Army and Department of Defence, and to organise another inquiry to follow on the inquest into her son's death.

I gave her an undertaking that I would organise the inquiry into the interaction between the Barrett family and the Department of Defence and Army, and I have met that commitment. I explained to Mrs. Barrett and her solicitor that I would need to have sight of the transcript of the inquest before I took a decision on the second request. She and her solicitor agreed that was entirely reasonable. I am sure they will not mind me mentioning it here. Unfortunately, the transcript of the inquest is still not to hand. When I receive it, I assure the House, the Deputy and, through this forum, the Barrett family that I will take a decision quickly on what to do on the matter and the family will not be kept waiting. I assure Deputy Sherlock that I will make a very quick decision on that matter as soon as the transcript of the inquest is to hand.

Mr. Sherlock: Why is it taking so long to get a transcript of the inquest? If the Minister was following this matter as he previously indicated he would be, why is it taking so long to get this? The Minister should remember that there are many questions left unanswered about the manner of Private Barrett's death and this was agreed previously. Consequently, I am a little disappointed that no progress has been made on these issues, the way his body was treated after he died and the reason an open verdict was returned. The original investigation gave the Barrett family absolutely no closure on the death of their brother and son. I am disappointed that little progress has been made on this matter by the Minister.

Mr. O'Dea: I am disappointed that Deputy Sherlock is disappointed, given that Mrs. Barrett is not disappointed, nor is her solicitor, to whom we spoke in recent days. They are quite happy. If Mrs. Barrett's family is happy, I do not know why Deputy Sherlock should be unhappy.

I have absolutely no control over the printing of the transcript of the inquest, which is a matter for the stenographer and the Courts Service.

There is some difficulty, of which the solicitor is aware, in regard to printing the transcript of the inquest in this case. While I am not sure of the details, I am advised that we will have the transcript within the next week to ten days. When I have the transcript, I will move quickly on this matter.

Mr. Sherlock: Is it the Minister's intention to take further steps depending on the outcome of the investigation?

Mr. O'Dea: I will study the transcript carefully. If I conclude that a further inquiry is warranted, I will meet Mrs. Barrett and tell her what I intend to do.

Defence Forces Equipment.

3. **Aengus Ó Snodaigh** asked the Minister for Defence the type of equipment he envisages being purchased for any potential EU battle-group involving Irish troops; and his views on assertions by NATO officials that the battle groups will need to be equipped to go to war. [32209/05]

Mr. O'Dea: I have yet to receive the report of the interdepartmental group which I established to examine all issues relating to battle groups. However, I do not envisage the Defence Forces buying any particular equipment in the context of its possible participation in battle groups. Participation in battle groups will not involve increased investment in the Defence Forces to acquire additional capabilities which are not central or key to our primary tasks in peace support operations, defence of the sovereign territory and support to the civil power and the civil authorities, as set out in the White Paper on Defence. Any offer to a battlegroup will be in the context of these capabilities.

As the Deputy will be aware, significant investment has been made in Defence Forces equipment in recent years to provide them with the most modern equipment to undertake the tasks assigned to them by Government. The upgrading of their equipment, which is continuing, is designed to ensure that the Defence Forces have the necessary equipment to undertake specific roles, including supporting chapter 7 missions under the Charter of the UN, involving robust peacekeeping and peacemaking.

Going to war is not one of the missions contemplated for battle groups, which may only be used for Petersberg Tasks as set out in the Amsterdam treaty. In short, these are humanitarian, rescue, peacekeeping and crisis management operations, including peacemaking. Within the framework of the Petersberg Tasks, battle groups may have to engage in intensive operations to complete their assigned mission. Where there is a need for higher-end capabilities to

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undertake these missions, these capabilities will be provided by those nations which already have them at their disposal within their military forces.

Aengus Ó Snodaigh: The Minister's answer is similar to one he gave me in May last, which is a pity because he has not grasped that operating in EU battle groups will require the purchase of additional equipment. Is the Minister aware of the declaration of the European military capabilities commitment conference which was held in Brussels on 22 November last and the European capability action plan which outlines the deficiencies in existing capabilities of member states? The following are listed as required for participation in EU battle groups: attack helicopters, air-to-air refuelling systems, field artillery battalions, cruise missiles and precision guided munitions. Is this the equipment of peacekeeping?

It must be remembered that battle groups can operate without a UN mandate and that this State is supposed to be neutral. The Minister previously stated that there will not be increased spending because Ireland will buy in bulk. This is nonsense because not only will we buy equipment in bulk but we will buy much more of it. Has the Minister read the documents to which I referred and will he make a statement in this regard? When will the Attorney General report on the question of the requirement for a referendum to precede our participation in EU battle groups?

Mr. O'Dea: The Attorney General's advice on the matter is the subject of a further question which I will deal with in detail when we come to it. I do not claim to know as much about military hardware as Deputy Ó Snodaigh obviously knows.

Mr. F. McGrath: That is below the belt.

Aengus Ó Snodaigh: Did the Minister read the documents? He is the Minister for Defence.

Mr. O'Dea: I have read the documents. I would not like to leave the House with the misleading impression with which Deputy Ó Snodaigh seeks to leave it. The Deputy specifically stated that EU battle groups can operate without a UN mandate. I have made clear to anyone who wants to listen and I will do so again in words of fewer syllabi, if the Deputy wishes—

Aengus Ó Snodaigh: The Minister can use long words if he likes.

Mr. O'Dea: —that if Ireland was to become involved in battle groups, we would not be involved in any specific operation without a UN

mandate. I tell the Deputy this in words as small as I can devise.

Aengus Ó Snodaigh: The Minister can say what he likes, for all I care. I do not trust him.

Mr. O'Dea: If Ireland becomes involved in battle groups, we will not purchase military equipment to contribute to those battle groups.

I do not know if the Deputy is aware of the requirements catalogue for battle groups which will be finalised during the British EU Presidency and which outlines the maximum level of equipment needed for participation in battle groups. Obviously, some of the participating countries will not have all necessary equipment available to them, and if they do not, the position is simple. A multinational battlegroup consists of troops from a number of countries. This is the only type of battlegroup in which Ireland would be involved because it would not be able to contribute 1,500 troops — the highest level we can send abroad at any one time is 850 troops. If, for example, countries A, B and C are involved in a battlegroup and one of those countries has a required piece of equipment, it will be the country to supply it. If none of the three countries has the equipment, inquiries will be made in the other countries contributing to battle groups generally to see if one or more of them have that equipment and would make it available. That is the position. A country can contribute to a battlegroup not only by sending troops but also by contributing logistics and equipment.

An Ceann Comhairle: We move to Question No. 4.

Aengus Ó Snodaigh: I have a brief supplementary question.

An Ceann Comhairle: We have gone over time on the question. Given the time limits, I suggest that if Deputies do not interrupt and are succinct in asking their questions, they will get to ask a supplementary question.

Aengus Ó Snodaigh: If the Minister stuck to answering the question, it would help.

4. **Mr. Timmins** asked the Minister for Defence the air intercept capability the Defence Forces has; and if he will make a statement on the matter. [32081/05]

Mr. O'Dea: The most important defence against any terrorist attack is detection and prevention by the security forces. While the Garda Síochána has primary responsibility for law and order, one of the roles assigned to the Defence Forces is the provision of aid to the civil power, meaning, in practice, to assist, when requested,

the Garda Síochána. The various components of the Defence Forces are active in this regard, providing such assistance as is appropriate in specific circumstances.

The level of any terrorist threat to Ireland is continually assessed. The advice available to me would suggest that while the terrorist threat to parts of Europe is currently high, it is low for Ireland. However, it is prudent that we take precautions and keep matters under continuous review.

The Defence Forces make contingency plans for a range of scenarios where the State may be at risk. An urgent and detailed review dealing with a range of emergencies was undertaken by the military authorities following the events of 11 September 2001. The assets available to the Defence Forces are related to the level of threat and are considered appropriate in this regard. Air defence capability requires the integrated use of aircraft, radar and air and ground based weapons systems. The Defence Forces have a limited ground-to-air capacity — that has always been the position. The new Pilatus trainer aircraft enhances the airborne elements of our air defence capability. However, we will continue to operate a limited air-to-air and air-to-ground defence capability.

It would be inappropriate of me to go into specific details about the readiness, deployment arrangements or speed of deployment or redeployment of defence assets. However, I can confirm that all Air Corps aircraft have adequate numbers of operationally trained aircrew, who can operate from Casement Aerodrome, Baldonnel, and are available on a 24-hour basis, where required. The shortest scramble time applicable in the Air Corps in certain circumstances is two minutes.

Mr. Timmins: The Minister is aware that an air intercept capability was identified as a need in the early part of the decade. Why has this need gone off the radar? I realise such a facility will cost money but as the Minister has pointed out he is chair of the Government task force on emergency planning, established following the events of 11 September 2001 in New York. One area Ireland could be under threat from is the air.

I recently saw a television programme on the genocide in Rwanda between the Tutsis and Hutus while Ireland, a European Union member state, stood by. There is nothing inherently moral about being neutral. What will Ireland do if it comes under threat from the air? Ireland is a neutral country without the capability to protect itself. Will the Minister explain what provisions are in place for an air attack, without telling me the secrets of Fatima?

Mr. O'Dea: The secrets are out already. What happened in New York on 11 September 2001

shows how even a powerful country with a large air force and air protection capabilities cannot guarantee it will not be successfully attacked by terrorists. There is no small state, including Israel, that could be said to have a comprehensive air defence system. The threat to Ireland of an attack from the air is low. The expenditure on air defence is commensurate with that threat. Ireland could opt for an Israeli-type air defence system, costing €4 billion a year, but it may never be used. One wonders if this is the best possible use of resources when other Departments are crying out for resources.

Recently the chief of staff publicly said that if funding for the Department of Defence was increased, expenditure on air assets would be his lowest priority. He is in a better position than Ministers to judge these matters. It is a matter of scale as the level of air protection we have is commensurate with the level of threat. It has improved somewhat in recent years.

Many smaller countries take the approach of having a token air defence system, the “something for everyone in the audience” approach. These are systems that can respond in some way to all possible military situations. The view in military circles is that this is worse than useless. It is better to have a ready response to specific situations, with forces specifically trained to respond professionally to several given situations. This is the position on which we have based our air defence system. It is absurd to pretend that a country the size of Ireland could have a fully comprehensive, guaranteed system to ensure anyone who attacked us from the air could never penetrate our defences.

Mr. Timmins: Do we have any arrangement with our near neighbour where we might be able to give them a telephone call if we were attacked from the air?

Mr. O'Dea: There is no formal arrangement. Ireland might be an island but the world is a small place. If Ireland came under attack from the air, it would present obvious dangers to neighbouring states who would be on high alert.

Overseas Missions.

5. **Mr. Gregory** asked the Minister for Defence if he will have recent research on the Niamba ambush evaluated and the official record updated as appropriate; and if he will consider a special commemorative measure in view of the unique circumstances of the Congo mission. [32304/05]

Mr. O'Dea: Since Ireland took part in its first United Nations mission in 1958, Defence Forces personnel have performed approximately 54,000 tours of duty on 58 peace support operations worldwide. The nine members of the Defence Forces killed in the Niamba ambush were the first

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members to lose their lives in battle while serving on a UN mission. This was the largest single loss of life in any one incident in the history of the Defence Forces' participation on UN service.

All deceased members of the Defence Forces are commemorated in annual ceremonies held throughout the country in November of each year. The 45th annual Niemba commemoration will take place on 5 November at Cathal Brugha Barracks at which the Defence Forces, Óglaigh Náisiúnta Na hÉireann Teoranta and the Irish United Nations Veterans Association will participate. The chief of staff will attend this ceremony which includes a parade to the garrison church followed by a wreath-laying ceremony at the Niemba memorial.

In addition, the 33rd Infantry Battalion Óglaigh Náisiúnta Na hÉireann Teoranta committee has organised a special ceremony to mark the 45th anniversary on 8 November at the UN plot in Glasnevin cemetery. I am supporting this special commemoration with both financial and military assistance.

Neither my Department nor the Defence Forces has a copy of the publication referred to in the question. However, steps are being taken to acquire a copy.

Mr. Gregory: The Minister has repeated the inaccuracy, highlighted in a recent book, that nine members of the Defence Forces were killed in Niemba. This new publication documents that the records in the military archives and in the history of the 33rd battalion state eight members of the patrol died at Niemba and that Trooper Anthony Browne died some days later, nearly three miles away, in a separate incident. The official version, contained in the Minister's reply, is that nine soldiers died at Niemba. However, the historically recorded version in the military archives, for whatever reason, has never been translated into parliamentary replies. Does the Minister accept that only one of these versions of the incident is correct?

It is important as to which version is correct as this was a significant incident, with the largest single loss of life, in the history of the Defence Forces. Will the Minister consider asking an independent historian to examine the issue to verify the correct version and set the record straight? The two survivors of the ambush have maintained that Trooper Browne died elsewhere. Private Tom Kenny has persistently stated he wants the record put straight. If what I have said is found to be correct, will a formal apology be issued to Private Tom Kenny?

Mr. O'Dea: Eight of the nine bodies of those killed were recovered over the course of the two days following the ambush on 9 and 10 November

1960. The ninth body was not located at the time. In the autumn of 1962, the Defence Forces learned that the location of the ninth body was known. A team of officers was sent to meet the Niemba civil administration. After lengthy discussions, the team was brought to where the body lay. The body was removed to Elisabethville from where it was returned to Ireland for burial.

Regarding the point raised by Deputy Gregory, I will look at the archival material and will communicate with him in due course.

Mr. Gregory: I thank the Minister for giving that commitment. It is important for the history of the Defence Forces that this significant incident is recorded accurately. Does the Minister feel that since this was the first major UN operation for the Defence Forces, with the largest single loss of life, the Irish State should demonstrate its respect for the men who participated in the mission by holding something more than an annual commemorative ceremony?

An Ceann Comhairle: The six minutes for this question have elapsed. In fairness to Deputy Ó Snodaigh I must apply consistency.

Mr. Gregory: Can the Minister reply?

Mr. O'Dea: I will consider the Deputy's proposal.

Other Questions.

Avian Flu.

6. **Mr. Boyle** asked the Minister for Defence when the task force on emergency planning which he chairs last met; if the task force is involved in the response plans to a potential avian flu pandemic; and if he will make a statement on the matter. [32040/05]

60. **Mr. McCormack** asked the Minister for Defence when the task force on emergency planning last met; and if he will make a statement on the matter. [31907/05]

Mr. O'Dea: I propose to take Questions Nos. 6 and 60 together.

The Government task force on emergency planning last met on Tuesday, 20 September 2005. The next meeting of the task force is scheduled to take place on 9 November. The task force has met on 41 occasions to date.

Arrangements to deal with any possible flu pandemic fall into two main categories. My colleague the Tánaiste and Minister for Health and Children has lead responsibility for the situation where the avian influenza virus mutates in such a

way that it becomes easily transferable from human to human, and is addressing the various issues that may arise. A detailed plan for response to an influenza pandemic was prepared in 2004. This plan is currently being updated to reflect the most up to date advice of the influenza pandemic expert group and the World Health Organisation. Her Department has established an interdepartmental standing committee on public health emergency planning, which is due to meet later this month.

My colleague, the Minister for Agriculture and Food, has lead responsibility for dealing with the spread of the existing avian flu virus and she continues to reassess the level of risk and to update the contingency arrangements which are in place. Her Department will continue to keep the level of risk under assessment, taking account of the most up to date advice. The Government task force on emergency planning, which I chair, is regularly briefed and kept up to date on these matters.

The office of emergency planning within my Department supports the work of the task force and continues to work with Departments and other public authorities to ensure the best possible use of resources and compatibility between different emergency planning requirements. A key area of activity of the task force is oversight of emergency planning to refine and develop the arrangements that exist, to continuously improve them through regular review and revision, and to generally provide the basis for an increased confidence in the emergency planning process. An interdepartmental working group on emergency planning also exists.

The lead responsibility for specific emergency planning functions remains with the relevant Departments, as do the budgetary and resource management requirements. Emergency plans are co-ordinated by the various lead Departments at a national level and through the local authorities, including the fire service and the Health Service Executive. The Departments and key public authorities involved have particular responsibilities under a number of strategic areas of Government emergency planning and regularly report on developments and progress at meetings of the task force. The objective of the Government is to ensure all State bodies can react quickly and efficiently to any large-scale emergency. Each of the Departments represented at the task force has assured the office of emergency planning that it is addressing its emergency planning responsibilities and that there are plans and response arrangements in place to address large-scale emergencies in Ireland.

As chairman of the task force, my approach continues to be that such responses must be characterised by effective management of all aspects of emergency planning and by a high level of public confidence in all the response arrange-

ments. Review and refinement arrangements will ensure co-ordination of all those responding so that, should we be unfortunate enough to experience a large-scale emergency, we will be in a position to mount a credible response. I will continue to report regularly, on a confidential basis, to Government on emergency planning and it is my intention to bring the next confidential annual report to Government on emergency planning later this month. I am pleased to report to the House that there continues to be excellent co-operation between my Department and all other Departments and public authorities in these vital areas.

Mr. Gormley: Does the Minister share my concern that we do not appear to have a written plan? Even though we are informed that the plans are being revised, we have been briefed on this side of the House by the Department of Health and Children, the HSE and others to that effect. Are there sufficient anti-virals for members of the Defence Forces, who will be on the frontline? What powers will members of the defence forces have in the event of the worst case scenario, a flu pandemic when the disease becomes transmissible from human to human? Will they have real powers to stop crowds from gathering and making the pandemic worse and does he foresee any constitutional difficulties in that? I understand the Health Act 1947 gives the Defence Forces certain powers.

Mr. O'Dea: I assure the Deputy there is a specific public health emergency plan, which has been discussed at the emergency planning task force. It was produced in September 2004 and some changes were recommended last July following further advice and research conducted by the World Health Organisation. Several people were assigned to incorporating those changes in the plan and I expect them to be completed by the end of the month.

We have sufficient anti-virals for the Defence Forces. We will perform better on this issue than our nearest neighbours, the UK. The UK has targeted anti-virals for approximately 25% of the population, as we have. They will not have the stocks fully in place until the end of next year but we should have them by the spring and will have some by the end of the year, some of which will be reserved for front-line staff such as the Defence Forces.

I am assured the Defence Forces will have sufficient powers in the event of an emergency. The Garda Síochána, the Defence Forces and emergency services will have comprehensive powers in that event. This was demonstrated during the recent foot and mouth crisis. The emergency planning task force is meeting next Wednesday and will discuss whether there is a need for legislative changes or to reinterpret any legislation in

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this area. After that meeting I will write to the Deputy on that matter.

EU Battle Groups.

7. **Mr. Stanton** asked the Minister for Defence if he has received any reports from the group examining the cost and any other implications of Ireland's participation in the EU battle groups; and if he will make a statement on the matter. [31947/05]

23. **Mr. Bruton** asked the Minister for Defence if the Government will be bringing forward proposals to allow for Defence Forces participation in EU battle groups; and if he will make a statement on the matter. [31903/05]

30. **Ms O. Mitchell** asked the Minister for Defence if the Defence Forces will be enabled to engage in joint training initiatives with other EU member state forces in preparation for EU battle group participation; and if he will make a statement on the matter. [31904/05]

56. **Mr. O'Shea** asked the Minister for Defence when he expects to bring proposals to Cabinet regarding Ireland's participation in EU rapid reaction forces; the legislative changes that he has recommended; and if he will make a statement on the matter. [32001/05]

65. **Mr. Durkan** asked the Minister for Defence the state of discussions with his EU colleagues in regard to the formation of a European rapid response or battle group force; and if he will make a statement on the matter. [31957/05]

Mr. O'Dea: I propose to take Questions Nos. 7, 23, 30, 56 and 65 together.

The rapid response elements concept, commonly referred to as battle groups, originated at the European Council in Helsinki in 1999. Ireland supports the development of the EU's rapid response capability in support of UN authorised missions and is positively disposed towards participation in the rapid response elements in this regard. However, it is important that the full implications of our participation are assessed and, to this end, I established an interdepartmental group which includes representatives of my Department, the Defence Forces, the Department of the Taoiseach, the Department of Foreign Affairs and the Attorney General's office. This group met in December 2004 and established three subgroups to address the policy, legislative and operational issues arising. The subgroups met on a number of occasions over the summer to progress issues in relation to battle groups.

I recently received the advice from the Attorney General which sets out the legal back-

ground in relation to participation in battle groups. I have asked the interdepartmental group to finalise its considerations, which it could not do until it received the Attorney General's advice, to review all the policy and operational issues in the context of that advice and submit its report to me for my early consideration. I expect to receive the report in the next few weeks. Once I have had an opportunity to consider the report, I propose to bring the matter to Government for consideration on the way forward. In the absence of the Government having had the opportunity to consider the issue, it would be inappropriate of me to comment on the relevant actions which may be taken to facilitate participation in battle groups.

Mr. Timmins: Can the Minister share with the House the Attorney General's advice as to the legal implications? I believe it simply requires the amendment of the Defence Act 1954 and a constitutional amendment is not necessary.

Does he believe he will get the support of his Cabinet colleagues for funding to join these battle groups? He said in an earlier reply that it would not be necessary to increase funding. Can he give an indication of how he sees us joining? I urge the Minister and the Government to adopt a positive approach to these battle groups. The term battle group is unfortunate, and I often call them peace missions or peace assistance groups rather than battle groups. The Minister is a strong defender of the triple lock mechanism, although I believe that it does the nation no favours and that it is morally wrong that the country does not make its own decision on foreign policy and held to ransom by other countries instead. Does the Minister agree that adoption of an approach seeking UN approval rather than a mandate would provide more flexibility and autonomy?

Mr. O'Dea: I will explain the current position, although I expected the process to be further advanced at this stage. The interdepartmental group did not wish to finalise its report, although it had much work done, until it received formal written legal advice from the Attorney General. It was received a fortnight ago, although I expected to receive it sooner. Unfortunately, a number of aspects of the advice had to be returned to the Office of the Attorney General for further consideration as some issues were unclear. We expect clarification next week and the interdepartmental group can then send its report to my Department. I will then go to either the Cabinet or the Cabinet sub-committee on European affairs with certain proposals to ascertain views before going to Cabinet.

Deputy Timmins mentioned the legal advice which came from the Office of the Attorney General. Such legal advice is privileged, as the Deputy is aware. I do not normally mind discussing legal advice in such cases and giving some

indication of the Attorney General's advice. However, as some points have yet to be clarified, I must be careful with the matter. It is clear from the advice that a constitutional change will not be required according to the Attorney General. A number of technical matters must be ironed out.

I cannot anticipate how my Cabinet colleagues would react to anything which I say and they constantly surprise me. Deputy Gormley may argue that this issue will in some way contravene our neutrality. I believe it does not and as far as I can ascertain, it is the opinion of the majority of the Cabinet that it does not. It is an extension of our peacekeeping role. Any battle group deployed by Ireland will be a joint battle group and be subject to triple lock requirements, including a UN mandate. With regard to Deputy Timmins's comments on distancing the country from the UN mandate requirement and just seeking UN approval, it is interesting to note that Norway did not require a UN mandate until a recent change of government. That new government has changed procedure and the country now requires a UN mandate to participate in battle groups.

Later this month I will probably go to the Cabinet sub-committee on European affairs, if not the Cabinet, with the report of the inter-departmental group and the advice of the Attorney General on outstanding issues.

Mr. Gormley: Is the Minister aware that Simon Devereaux, the deputy secretary of the Defence Force's staff representative association, PDFORRA, expressed concern last month at the group's annual conference about the level of funding available to the Defence Forces for the battle groups? He argued that Ireland would carry out the process cheaply. Does the Minister agree with the assessment of Mr. Devereaux and does the Minister concur that the battle groups will require significant extra levels of funding if we are to have the equipment, high readiness and interoperability that is needed?

Could the Minister clarify his opinion on the triple lock mechanism? He has stated in the past that he is committed to this mechanism, as am I and the Green Party as a whole. Other parties in Opposition also concur. Will there be no change in the triple lock mechanism if we participate in battle groups? When can we expect the legislative change spoken about by the Minister?

Mr. O'Dea: That will depend on what the Government decides. I was at the PDFORRA conference referred to by Deputy Gormley and I listened to some of the speeches with great interest. I do not agree with every statement which every official from PDFORRA makes. I disagree with the statement referred to by Deputy Gormley.

The Government is engaged in the modernisation of equipment which forms part of a ten-year

plan running to 2010. We have used savings from downsizing the Army to 10,500 and surplus property has been sold off. This money has gone towards improvement of infrastructure such as barracks and the purchase of modern equipment. I do not understand why people assume that if the country joins battle groups, it will have to invest large amounts of capital into equipment. The only operations in which battle groups will be engaged are Petersberg Tasks. We already engage in these tasks up to and including chapter 7 missions, which could involve separating two standing armies, as would have been the situation in the Balkans, for example.

Battle groups are doing nothing new in participating in the Petersberg Tasks, which range from humanitarian missions to chapter 7 missions. There is a requirements catalogue for battle groups. If, for example, there is a multinational battle group — the only type we would be involved in — one of those countries might be able to supply a particular type of required equipment. This may not even be the framework nation or the nation contributing most troops. However, if the piece of equipment is not available to any of the three countries forming a multinational battle group, it can be accessed from any of the other countries committed to battle groups. Both men and niche capabilities are committed. As I understand it, there is no obligation to spend extra money on equipment even if we join battle groups.

I made it clear in Brussels in May that if Ireland involved itself in battle groups, it would do so on the basis that the country brings the standard of equipment and force protection of our troops to the requisite standard to perform Petersberg Tasks up to and including chapter 7, of which the Liberia mission is an example.

I wish to clarify the triple lock mechanism. This mechanism means that Irish troops under arms will not be deployed abroad on a peacekeeping mission unless there is a mandate of the United Nations, a decision of the Government and the decision of the Dáil. I intend to maintain this position.

Aengus Ó Snodaigh: The Minister has indicated that there will not be increased standing in terms of battle groups. Is he aware of the commitment to develop the necessary military capabilities? He mentioned earlier the requirements catalogue. The definition of battle groups is a buoyant arms battalion-sized force. In all cases interoperability and military effectiveness will be the key criteria. Does the Minister understand the concept of interoperability? Does he understand that we will be obliged to upgrade our arms and *matériel* to ensure its interoperability with those of other participating countries? Otherwise, we would encounter the situation suggested by the Minister, whereby we would send troops on battle

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group missions without training and equipment, which would be loaned by some other country. That would be ridiculous.

The Minister has noted that we would be involved in Petersberg Tasks. Will the Minister define the aspect of the Petersberg Tasks which mentions peacemaking and what is involved? What equipment is required to carry out those duties in battle groups?

Mr. O'Dea: A battle group is defined as the minimum military effective credible rapidly deployable coherent force package capable of stand-alone operations or for the initial phase of larger operations. As Deputy Timmins has rightly noted, the name is a misnomer and they should be called peace brigades. The intention of forming battle groups is that in some cases, because it would take several months to deploy a traditional type of peacekeeping force——

Mr. Gormley: They will be involved in battles.

Mr. O'Dea: ——thousands of people could be killed in the meantime. Members should consider what happened in the Balkans and in Rwanda. In a similar situation, one needs, as Deputy Gormley is aware, to be able to deploy a temporary force quickly to prevent something catastrophic from happening.

Mr. Gormley: We supported it on this side of the House.

Mr. O'Dea: Yes. Almost invariably, it will be followed by the bigger traditional type of peacekeeping force. As I stated previously with respect to equipment, I have made it clear to my fellow Ministers for Defence of those countries which will participate in battle groups that if Ireland is to participate in battle groups, they will be obliged to take us as they find us. I have made the point that we have invested quite a substantial amount of money in modernising our equipment.

Mr. Gormley: Are they happy with that position?

Mr. O'Dea: Yes they are, because apparently unlike some Members, they realise that the intention of battle groups is not to go to war. Battle groups will participate in Petersberg Tasks, which include, as Deputy Ó Snodaigh stated, missions up to and including chapter 7, or peacemaking, missions. That has been decided. Liberia is a chapter 7 mission. When we deployed troops to Liberia, several Members from all sides of the House rightly expressed concern and asked questions as to whether the troops had proper equipment and force protection. In practice it has been demonstrated that they have and that the Army

is as well equipped and armed as any other army participating in such missions. Hence, I cannot envisage how we might be required to pay extra money or what could cost us extra money. We will be taken as we are found and we are among the best.

Mr. Sherlock: Will the Minister tell us if Irish military spending is the lowest in the European Union? That is related to this issue. Does this not severely compromise the Government's plans for Irish participation in EU battle groups? The Minister must also consider the effect on the individual members of the Defence Forces, given the sharp drop in military spending.

Mr. O'Dea: I meet individual members of the Defence Forces as I go around the country and morale is extremely high. This is partially due to the unprecedented amount of money invested in the Defence Forces in recent years.

Mr. Gormley: And because Deputy O'Dea is the Minister for Defence.

Mr. O'Dea: Yes. Between 1985——

Mr. Sherlock: There has been a reduction from 1.3% to 0.7%.

Mr. O'Dea: That does not mean — if Deputy Sherlock can grasp this — that less money is being spent on the Defence Forces, it simply means that GDP has grown enormously. The Government has been spending a great deal of money on other Departments, such as the Departments of Health and Children and Social and Family Affairs, on which the Labour Party constantly calls on us to spend more. I did not know that it was Labour Party policy to——

Mr. Sherlock: There has been a reduction from 1.3% to 0.7%.

Mr. O'Dea: —— increase expenditure on defence. In any case, the Government is increasing expenditure on defence. In 1985 and 1995, during much of which time the Deputy's party was in office, official figures show that expenditure on defence increased by 2% per annum. From 1995 to 2005, it increased by 7% per annum. Since the Government came into office, the increase in the consumer price index has been 43% and expenditure on defence has increased by 68%. Hence, even though GNP is growing enormously, we are investing quite heavily and way above the rate of inflation.

Mr. Timmins: This was achieved through the sale of property.

Mr. O'Dea: Surplus property, which there was no point in retaining, was sold. Was it not better

to use the funds properly? I am committed to continuing the reinvestment programme which will be in place until 2010. I wish to cite one international statistic. Defence expenditure by all governments in Europe has fallen quite substantially since the collapse of the Berlin Wall. It has fallen substantially as a proportion of GNP or GDP in individual countries, and this country is no exception. The only way in which this country differs is that we are beating the rate of inflation and are increasing expenditure in real terms, and we will continue to do so.

Commemorative Events.

8. **Ms O'Sullivan** asked the Minister for Defence the extent and nature of the involvement of the Defence Forces in the proposed annual military parade in O'Connell Street, Dublin, to commemorate the 1916 Easter Rising; the estimated cost of Defence Forces involvement; the numbers required; and if he will make a statement on the matter. [32002/05]

Mr. O'Dea: I would first like to outline my satisfaction and that of the Defence Forces for this commemoration of the 90th anniversary of the 1916 Easter Rising and the reintroduction of the traditional Easter military parade. The Cabinet has decided that the theme of the parade will be a celebration of Óglaigh na hÉireann, successors to the Volunteers serving a democratic State engaged, through the United Nations, in the search for global peace.

Following discussions at the Cabinet last July, I brought the proposal to the attention of the chief of staff and he has engaged in some preliminary planning in this regard. Around the same time, there were preliminary discussions at senior level between officials in my Department and the Department of the Taoiseach.

As the Deputy will recall, the Defence Forces staged a highly successful parade through Dublin city in 2001 to mark the return of the last Irish contingent to serve in Lebanon and the experiences from this parade will serve as a basis for the organisation of the Easter parade. The involvement of organisations representing former members of the Defence Forces is also under consideration.

As the Deputy will also appreciate, it is not possible at this early stage to go into detail on the proposed composition, nature, cost etc. of the parade since the Defence Forces are still at a very early stage in this regard. However, based on the experience of organising previous events such as the parade I mentioned, I am informed that an Easter parade is unlikely to entail significant additional expenditure.

Mr. Sherlock: Does the Minister think it appropriate that such a major announcement would be

made at such a partisan party political event as the Fianna Fáil Ard-Fheis? Why was there no consultation with the Opposition about the best way to commemorate the 1916 Rising? Why was this decision taken unilaterally? Will the first meeting of the First Dáil in 1919 be commemorated?

Mr. O'Dea: I must inquire about the second part of the Deputy's question as I do not have information in that regard. As for the first part of his question, the Deputy asked whether it was right to announce this measure at a partisan political event such as the Fianna Fáil Ard-Fheis. The Fianna Fáil Ard-Fheis, like the Labour Party Conference or the Fine Gael Ard-Fheis will always be partisan, and it was a good platform for the announcement.

Mr. Sherlock: This is a national event.

Mr. O'Dea: Yes, it is a national event. The point is that in order to organise such a commemoration, the Government of the day must take the initiative. It did so——

Mr. Sherlock: Without consultation.

Mr. O'Dea: ——and assumed that it would be widely welcomed by the Opposition, as it has been.

Mr. Timmins: It is bread and circuses. The Taoiseach is like a Roman emperor.

Mr. O'Dea: The Government assumed that this extremely welcome initiative would be embraced enthusiastically by the Opposition and apart from nitpicking objections to the announcement's timing and method, by and large it has been welcomed. It will be a great event and, as I told Deputy Timmins previously, it will involve members of the Irish United Nations Veterans Association and the Organisation of National Ex-Service Men and Women, in addition to members of the Permanent Defence Force. Perhaps we will see Deputy Timmins march and we would be delighted to have him.

Mr. Timmins: Once it does not clash with the parade to be held in Limerick on the same day.

Aengus Ó Snodaigh: I welcome the fact the Government has decided to hold the commemoration of the 1916 Rising once again. Has any consideration been given to including more than just the Defence Forces? Is there a community or public aspect to it other than viewing? Has consideration been given to events other than the military parade that the community could take part in, including educational dramas, so that we can make it a proper celebration that all can take part in? Has consideration been given to re-estab-

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lishing the commemoration committee? It is not in the Minister's exact remit but it was successful for the 1798 and Famine events. Perhaps this could be a role the Government could consider in respect of commemorating 1916 over the next few years.

Mr. O'Dea: I thank Deputy Ó Snodaigh for his unqualified support for this. He is not supporting it and then pretending to be upset about how and when it was announced, which I appreciate. We are in the very early stages of preparation. There is an interdepartmental committee consisting of representatives of the Departments of Defence, Foreign Affairs and the Taoiseach and that I am sure will include a representative from the military. The suggestions that have been made are useful and I will ensure they are given due consideration at the interdepartmental committee.

Mr. Sherlock: Will there be any consultation with the Opposition?

Mr. O'Dea: I would welcome constructive suggestions.

Defence Forces Remuneration.

9. **Ms Enright** asked the Minister for Defence the pay to non-pay ratio in the Defence Forces; and if he will make a statement on the matter. [32018/05]

Mr. O'Dea: The pay to non-pay ratio for Defence Forces expenditure in 2004 was 71:29. The PricewaterhouseCoopers review of the Defence Forces recommended that, in the case of a light infantry based military structure, the balance between pay and non-pay should be 70:30. In 1995, pay accounted for approximately 80% of military expenditure, leaving only 20% for all non-pay spending. Under the White Paper of 2000, the pay savings arising from a reduced Permanent Defence Force strength, together with the proceeds from property sales, were fully reinvested in equipment and facilities for the Defence Forces. As a result of these measures, the pay to non-pay ratio in recent years has been in line with the recommended level of 70:30.

Mr. Timmins: Is the Minister's aim to keep the pay to non-pay ratio in the area of 70:30? Does he believe that to do this, it may be necessary to sell other Department of Defence assets or change the number of personnel in the Defence Forces? Does he believe he can keep the ratio by getting funding from the Minister for Finance?

Mr. O'Dea: It is my intention to keep it at that ratio because it was the ratio recommended by PricewaterhouseCoopers and is generally

accepted as being the proper ratio for a military organisation of the type we have in this country. Regarding selling property, we obviously do not have much property left to sell. If income from that source dries up, we must ensure that the Minister for Finance meets any shortfall. Deputy Timmins mentioned further reductions in the Defence Forces, which is not on. We have agreed that the absolute limit is 10,500 people, below which level it will not go.

Mr. Gormley: How do the pay scales of members of the Defence Forces compare with the pay scales of other EU member states? Are we up to scratch or falling behind?

Mr. O'Dea: I do not have exact information but my understanding is that, following improvements in the early 1990s, we are in line with other countries and are in a good position on the scale. I will get the information for the Deputy.

Defence Forces Recruitment.

10. **Mr. Neville** asked the Minister for Defence the changes he has made to the terms of enlistment for other ranks who joined from 1994 onwards; and if he will make a statement on the matter. [32020/05]

21. **Mr. M. Higgins** asked the Minister for Defence the position regarding the requirement that soldiers in their 30s who wish to renew Army contracts must first prove their level of fitness before being offered a renewal; and if he will make a statement on the matter. [31997/05]

37. **Mr. Costello** asked the Minister for Defence if he will account for his decision to relax regulations within the Defence Forces that stipulated that any member failing to win promotion in their first 12 years of service would not be offered a new contract; the reason for this change in regulations; if the new regulations apply to all or contract soldiers only; if those whom the new regulations affect must subsequently agree to serve on overseas missions; and if he will make a statement on the matter. [31994/05]

Mr. O'Dea: I propose to take Questions Nos. 10, 21 and 37 together.

The unsatisfactory age and fitness profile of the Permanent Defence Force was commented upon by the Gleeson commission in its report in 1990. The age profile was also the subject of severe criticism by PricewaterhouseCoopers which had been engaged by the efficiency audit group, EAG, to conduct an in-depth study of the Defence Forces. One of the key areas identified for urgent action by the EAG was the development of a manpower policy with an emphasis on lowering the age profile of Permanent Defence Force personnel.

In an effort to alleviate the situation, the Government had already decided in 1993, following consultation with the Permanent Defence Force Other Ranks Representative Association, PDFORRA, to enlist personnel on a five-year contract basis with a Reserve Defence Force commitment of seven years. In 1997, agreement was reached with PDFORRA on a new manpower policy for the Defence Forces. This policy, applying to personnel enlisted after 1 January 1994, provided that service for private soldiers would initially be for five years with the option to be extended to a maximum of 12 years in two phases. Extensions from five to nine years and from nine to 12 years were subject to the individual soldiers meeting certain criteria, including standards of medical and physical fitness, conduct and courses attended or period of overseas service.

In 2004, PDFORRA submitted a claim under the conciliation and arbitration scheme for a further review of the terms of service applying to personnel enlisting in the Permanent Defence Force after 1 January 1994. Following detailed and prolonged discussion on this claim, a set of criteria has been agreed. The criteria meet PDFORRA's desire to provide longer careers in the Permanent Defence Force while continuing to address the Government's previously stated objective of having an appropriate age profile to meet the challenges of a modern defence force. The criteria require that any person re-engaging must be able to continue to operate at their current level both at home and overseas on an ongoing basis. Re-engagements will be subject to the individual soldiers meeting specified criteria in respect of physical fitness, medical category, successful completion of military courses of instruction, service overseas and conduct ratings. PDFORRA is in the process of balloting its members on the criteria that have been agreed.

Mr. Timmins: I may have missed some of the Minister's response. If new recruits join and meet various criteria, can they stay for 20 years?

Mr. O'Dea: They can stay for 21 years.

Mr. Timmins: My inclination is to agree with this as, while there are pros and cons, I know the EAG mentioned after its study of the Defence Forces that the age profile was very high. I agree with the Minister's approach in extending this to 21 years because much expertise has been built up. My only concern relates to the likely impact on recruitment and a turnover of personnel that heretofore took place but now might not. Has this issue been examined?

Mr. O'Dea: It will apply to people who came into the new system on and from 1 January 1994. Anyone who is approaching the end of his or her

12 year period will, if they satisfy the criteria, be able to continue in service for up to nine years. We have examined the issue of recruitment raised by the Deputy. We must keep a close eye on the age profile for obvious reasons. The current average age of privates serving in the Permanent Defence Force is 31.3 years. In light of this, we must keep the situation under review. The criteria are detailed and I can send them in circular form to Opposition spokespersons if they so wish. We are satisfied that we will be able to keep a defence force that is quite fresh faced from the point of view of the age profile without losing experience and give people proper careers.

Mr. Sherlock: Is the Minister aware that the Chief of Staff of the Defence Forces has announced that, in future, there would be no place there for soldiers who are unwilling to do overseas duties? If he is, can he clarify whether he shares this view?

Mr. O'Dea: It has been the law since relevant legislation was introduced in the early 1960s. It is a part of one's contract that if one joins the Defence Forces, one must make oneself available for overseas duties. This was updated in 1993 to include the famous chapter 7 missions as only chapter 6 missions were possible until that time. Recruits must make themselves available. We are glad to say that, in the overwhelming majority of cases, people go as volunteers. They must not be dragooned or press-ganged to go overseas.

Mr. Sherlock: If that is the case and it is the law, why did the Chief of Staff state it quite recently?

Mr. O'Dea: I have no idea. I am not familiar with that speech by the Chief of Staff. He did not communicate those sentiments to me. Certainly, it is the law that overseas duty is part of their duty.

Mr. Timmins: The Minister mentioned the obligation on all personnel to serve overseas, whether one is pre or post 1993, depending on the type of mission. Does he agree that due to the commitment we have and the fact that approximately 25% of our force is caught up between overseas rotation and preparation, it places a large commitment on the Defence Forces, particularly on technical members? Has the Minister examined the concept of the Reserve Defence Force serving overseas in some technical appointments, such as occurs in many of our European neighbours?

Mr. O'Dea: There is no question that it is a very large commitment. Until I came into this job I did not realise how large it was. On the surface it appears small, as 10% of the standing Army is involved, but the Deputy mentioned rotation and

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two groups are in training to replace one group overseas.

The idea regarding the Reserve Defence Force is good and other countries engaged in peace-keeping allow their reserves to go on overseas duties. It is under active consideration as part of the reorganisation of the Reserve Defence Force. A number of issues must be worked out, such as security of employment so that people will be able to go overseas and return to a secure job. We are engaged in negotiations with employers' representatives on that. We are also examining what type of reserve personnel will be allowed to go overseas, whether we will confine it to technical trained personnel such as engineers, doctors, cooks and drivers or open it up generally. Those matters are still under consideration. Discussions are ongoing between my Department and the representative association of the Reserve Defence Force. It is a good idea and I hope to be able to implement it.

Mr. Gormley: How often are fitness tests carried out on members of the Defence Forces? Is the Minister happy with the levels of fitness among all members of the Defence Forces? The elite Rangers strike me as being quite a fit bunch but perhaps others do not reach the necessary standard.

Mr. O'Dea: I had better not get into a discussion with Deputy Gormley on what he bases that observation. Fitness tests are carried out annually and if people are not fit they are told what to do in order to get fit. They must reach the required standard within a certain period of time.

Departmental Expenditure.

11. **Mr. Sherlock** asked the Minister for Defence his views on the halving of the national defence budget during the past ten years; if his attention has been drawn to the fact this budget has fallen from 1.3% to 0.7% as related to gross national product in that period; his further views on whether this decrease is compromising Ireland's defence capabilities; and if he will make a statement on the matter. [31990/05]

27. **Mr. Andrews** asked the Minister for Defence the gross annual budget of his Department in 1995, 2000 and 2005; and if he will make a statement on the matter. [31887/05]

Mr. O'Dea: I propose to take Questions Nos. 11 and 27 together.

The gross allocation for the Defence and Army Pensions Votes was €566 million in 1995, €789 million in 2000 and €934 million in 2005. The level of expenditure on defence in any particular country is influenced by a variety of factors, including that country's political and security

environment, its history, demography and economy. While defence spending in this country has fallen as a percentage of GNP in recent years, this is not due to any reduction in the level of defence expenditure, but rather because of the massive increase in GNP.

There has been an unprecedented level of expenditure on infrastructure and equipment for the Defence Forces in recent years. This was made possible by the Government's decision that pay savings arising from the reorganisation of the Defence Forces set out in the White Paper 2000, along with proceeds from the sale of surplus properties, would be fully reallocated for investment in modern facilities and equipment. More than €192 million was spent on the capital investment programme for the upgrade of barracks, accommodation and other facilities between 1997 and the end of 2004. This year's Defence Estimate includes a further €19 million for such capital works.

Substantial progress has also been made in recent years with the acquisition of modern equipment for the Army, Air Corps and the Naval Service. During the past six years, more than €200 million has been expended on the purchase of 65 armoured personnel carriers and the Javelin missile system for the Army, new patrol vessels for the Naval Service and new trainer aircraft for the Air Corps. Last January, I signed contracts for six new helicopters for the Air Corps costing more than €60 million. Planning is well underway on the replacement programme for the next Naval Service ships to reach the end of their economic life and a further 15 armoured personnel carriers, APC, will be added to our fleet. It is expected that the contract for the additional 15 APCs will be signed by the end of the year. Further details of the re-equipment programme are contained in a reply to a later question on the Order Paper.

Mr. Sherlock: I wish to ask a brief supplementary question, and I request a brief reply from the Minister. Is it true that the budget has decreased from 1.3% to 0.7% of gross national product during that time?

Mr. Andrews: Statistics can prove anything and the Minister dealt with this in his earlier comments. Is the reduction in Army personnel which occurred during the past few years a pattern and, as referred to in my question, can the increase in spending be identified during that period? I listened to this debate for the past while. On the one hand the Labour Party calls for increases in defence spending, while on the other hand the Green Party, its purported partner in Government, seeks a reduction in defence spending, and is frightened about the constitution for Europe and battle groups.

Mr. Sherlock: The time for this question is almost up. We want the Minister to reply if he will do so.

Mr. Andrews: It proves a certain amount of incoherence.

Mr. Timmins: The same as between the Government parties.

Mr. Andrews: Is the Minister satisfied that the statement released to the media regarding the Southern Command and activities that occurred during a period of years is the end of the matter? Does he think it more appropriate to carry out an investigation?

Mr. Sherlock: A question was not asked.

Mr. Timmins: The Reserve Defence headquarters will be in Dún Laoghaire.

Mr. O'Dea: The answer to Deputy Sherlock's question is that similar to every other EU country since the fall of the Berlin Wall, our expenditure on defence as a percentage of GDP has decreased. Nevertheless, in real terms, our expenditure on defence has increased.

To answer Deputy Andrew's question during the past ten years we have increased expenditure in real terms by approximately 25% over the rate of inflation. I am not absolutely satisfied by the statement issued yesterday on behalf of the Southern Command. That report has not yet come to my desk. When it does I will decide what has to be done with it, and if I have any suspicion that a crime was committed I will take action and forward the report to the appropriate authorities.

Adjournment Debate Matters.

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Neville — the Irish Heart Alliance position paper on the marketing of unhealthy foods for children; (2) Deputy O'Shea — the need for legislative measures to deal with the anti-social and unlawful behaviour; (3) Deputy Costello — how the Minister plans to respond to the request by the Czech Republic for the arrest and extradition of two of its nationals; (4) Deputy Cowley — to ask the Minister the reason the Government has not acted on the main recommendation of the report, A Review of Public Safety in Ireland; (5) Deputy O'Donnell — to raise with the Minister public concern at the appointment of a former County Manager (details supplied) to a development company; (6) Deputy Healy — the need for the Minister to designate South Tipperary and the south east region Category 1 status under the European Union

Regional Aid for 2007-13; (7) Deputy O'Sullivan — the need for the Minister to have an economic impact study carried out on the Shannon region; (8) Deputy Twomey — to ask the Minister to clarify a recent statement that primary and secondary schools should not be on the same site in Gorey; (9) Deputy Burton — when the Minister will hand over the promised site at Abbottstown adjacent to Connolly Hospital for a hospice; (10) Deputy Sargent — that the Minister implement the safeguard clause as provided for in EU Directive 2001/15/EC; and (11) Deputy Caoimhghín Ó Caoláin — the need for the Minister to undertake a review of road safety in the Border counties. The matters raised by Deputies O'Shea, Twomey, O'Donnell and Sargent have been selected for discussion.

Adjournment Debate.

Anti-Social Behaviour.

Mr. O'Shea: The phenomenon of gangs of hooded youths engaging in serious anti-social, intimidating, dangerous and unlawful behaviour is a serious aspect of urban life today and requires urgent attention by way of appropriate legislation and other measures. This was brought home to me in forceful fashion by events in the town in which I live, Tramore, County Waterford, in the lead-up to and at Hallowe'en this year. Many people in Tramore are left in a state of shock, anger and not a little fear. Tramore is essentially a well-policed law-abiding town not unlike many other towns of its type throughout the country. However, for some reason this year saw a marked increase in widespread serious disorder and anti-social activity.

The following is a description of some of the main aspects of this wholly unacceptable and intimidatory behaviour. Gangs of youths wearing hoods and Hallowe'en masks gathered at street corners and threw eggs at cars. Similar gangs threw eggs and stones at houses in housing estates. Bangers and other fireworks were let off in the public street. I understand an incident occurred where a gate pier outside a residence was damaged when a banger exploded. It was reported that a banger struck a girl on the shoulder and cleared a wall to land in somebody's garden. Gangs of youths threw onions, potatoes, tomatoes and eggs at passing motorists on the Ring Road. A hooded gang of approximately 40 people intimidated motorists by standing in the middle of the road without moving. Objects were thrown at passing cars near a major roundabout. Gangs of approximately 30 youths ran screaming and shouting and threw eggs at passing cars. Rubbish bins were overturned and a supermarket window was broken. It was also reported of gangs

[Mr. O'Shea.]

of up to 60 to 100 youths gathered at different times throughout Hallowe'en night in Tramore.

My recollections of Halloween until relatively recently are of a festival of good natured fun involving all the community, young and old. It used to be a time when young children called door to door collecting fruit, nuts and money and they were warmly welcomed and did their party piece in return. I was horrified to hear today of a six year old who dreads the month of October because of the bangers going off constantly.

Fireworks are an issue which I understand the Minister has indicated he intends to address. They are illegal in this State but are smuggled by the vanload or bootload from north of the Border. Some call for an outright banning of fireworks but I would consider this overkill. What is needed is strict control of their use. I understand that the legislation governing fireworks is 150 years old and that fines are derisory. I further understand that while fireworks can be confiscated from the person in possession of what is an explosive, that person cannot be charged with any offence. I look forward to the early publication of the detailed proposals of the Minister for Justice, Equality and Law Reform on the proper control of fireworks.

The issue of so-called hoodies also requires urgent attention. Many members of the community wear hoods so that there are difficulties in making it illegal to wear them where they are obviously being used to frustrate identification in situations where crimes are being committed or where there are breaches of public order. These hoods, which are as effective as balaclavas, also significantly reduce the effectiveness of CCTV. Ingenious measures are urgently required to curb hoodie activity which is a particularly intimidating and frightening aspect of crime and anti-social behaviour.

I am informed that in the main the gangs I have described are made up mainly of boys and some girls, in the 13 to 16 year old age group. Parents have a major role to play in dealing with the problem of hooded gangs of youths. Parents of children in this age group should ask themselves whether they know where their children are at night. Parents who are aware their children are collecting bangers, fireworks, eggs, onions and potatoes in October and early November should take appropriate action to ensure their offspring do not intimidate or endanger others or damage property. Where parents are clearly in dereliction of their duty in the public conduct of their children, there is a need for appropriate sanctions to ensure that they face up to their responsibilities.

I have described a particular problem in Tramore at a particular time but the underlying problems with the hoodie culture are countrywide and happen all year. The Leas-Cheann Comhairle can verify that on Hallowe'en night a fire tender was

attacked in Kilkenny. The windscreen was smashed and two members of the fire service had to have hospital treatment, albeit for minor injuries.

Enough is enough. Parents need to take responsibility for their children who intimidate others and causing them suffering. If parents do not do so, the State must intervene. The Garda must be given every support by the State, legislative and otherwise, to deal effectively with this serious erosion of the quality of life of many. Restorative justice, where the perpetrators are compelled to restore the physical damage they have done and are also brought face to face with their victims, is an avenue which must be actively pursued. This is about giving communities back to the people and restoring formerly happy occasions like Hallowe'en to what they used to be.

Minister of State at the Department of the Environment, Heritage and Local Government

(Mr. N. Ahern): I am speaking on behalf of the Minister for Justice, Equality and Law Reform who is unfortunately unable to be present. The Minister and I share the Deputy's concerns about anti-social and unlawful behaviour by gangs of youths at Hallowe'en and at other times of the year.

Strong provisions are already in place to combat anti-social and unlawful behaviour. The primary basis for the law regarding public order offences is the Criminal Justice (Public Order) Act 1994 which modernised the law in this regard. Furthermore, because of the Minister's concerns about the abuse of alcohol and its contribution to public order offending and broader social problems, he brought forward tough new provisions to deal with alcohol abuse and its effect on public order in the Intoxicating Liquor Act 2003. One of the provisions of the Act is to broaden the application of the temporary closure order penalty, which was originally introduced to combat under age drinking, to cover convictions for a series of offences, such as a licensee supplying intoxicating liquor to drunken persons and permitting disorderly conduct on the licensed premises.

The Criminal Justice (Public Order) Act 2003 has also been enacted, the main purpose of which is to provide the Garda Síochána with additional powers to deal with late night street violence and anti-social conduct attributable to excessive drinking. It provides for the closure of premises such as pubs, off-licences, late night clubs and food premises where there is disorder or noise on or close to the premises, as well as the making of exclusion orders on individuals convicted of a range of public order offences in addition to any penalty they might receive under the Criminal Justice (Public Order) Act 1994.

The Minister takes great satisfaction in the Government's decision of October last year to

approve the recruitment of 2,000 additional gardaí to increase the strength of the force to 14,000. The additional resources will be targeted at the areas of greatest need, as is envisaged in An Agreed Programme for Government. The programme identifies, in particular, areas with a significant drugs problem and a large number of public order offences. It will also be possible to address other priorities such as the need to increase significantly the number of gardaí allocated to traffic law enforcement duties.

The Garda budget is now at an historic high level of more than €1.1 billion, representing an increase of 85% in the provision since 1997 when the provision stood at just €600 million. The Minister is pleased to note a reduction in cases of assault causing harm in 2004 compared with 2003. This trend has continued in 2005 with a 10.5% reduction in assaults causing harm in the third quarter compared to the same period last year.

The Minister believes the courts can give valuable support and protection to our communities in tackling anti-social behaviour. In this regard he is finalising legislative proposals to provide for anti-social behaviour orders. The Minister also intends, subject to Government approval, to introduce these proposals as Committee Stage amendments to the Criminal Justice Bill 2004.

Anti-social behaviour orders are not a radical new legal concept. It is a deeply rooted principle of our law that persons should be able to apply to the courts for protection against behaviour which interferes with their basic rights. As a principle it is similar to the existing power of the courts to bind over a person to keep the peace and be of good behaviour.

The Minister's proposal will allow the Garda to apply to the courts by way of civil procedure for an anti-social behaviour order which will prohibit the person who is the subject of the order from behaving in an anti-social way. The orders will be civil orders and the question of an offence will arise only if the person in question wilfully defies the order and continues to engage in the anti-social behaviour which is the subject of the order.

The Minister attaches great importance to the development of a real partnership between the Garda Síochána and local authorities on matters affecting policing. His intention and that of the Oireachtas, as set out in the Garda Síochána Act 2005, is that joint policing committees and local policing fora established under them will provide arenas where the Garda Síochána and local authorities can co-operate and work together to address local policing and other issues.

The Minister has already introduced measures to combat the abuse of alcohol and the public order problems to which it gives rise. In addition, the Minister has recently published the general scheme of the intoxicating liquor Bill 2005 which will carry forward this work. The main purpose of the proposed legislation is to streamline and

modernise our liquor licensing laws and will also contain provisions which will combat anti-social behaviour.

I can identify entirely with the points made by the Deputy. Local authorities are being proactive in some areas by providing entertainment or fireworks displays. I agree that it used to be one night but in some communities it continues for a week or a month. I agree with the Deputy's views on the role of parents. The Garda and others can help but some people seem to be of the view that when it comes to 31 October, it is time to go mad. We all have a part to play in getting to grips with this problem. Local authorities can help by trying to focus this energy and attention and have done so in part of my constituency which held a formal, official fireworks display this year. The more significant problem arises later at night when smaller children go home. I agree with the Deputy that serious problems arise in this regard. While much of the legislation is valuable, a more co-operative partnership approach is required at local level to ensure everyone pulls together.

Schools Amalgamation.

Dr. Twomey: The matter I raise revolves around educational needs in County Wexford. Some months ago, we had a discussion with the Minister for Education and Science, Deputy Hanafin, regarding the secondary school in Gorey. This is an interesting case because although the school was built for 900 students, it currently has an enrolment of 1,500 pupils. During our discussions with the Minister, she indicated she did not like secondary schools to have more than 750 pupils and it was not a good idea to have a primary and secondary school located on the same site.

Plans are afoot to build a new secondary school at Kilmuckridge VEC. Even if the school is built, it will not take more than 250 to 300 pupils. The

Minister stated that a second secondary school should be constructed in Gorey to accommodate the additional students, rather than have such a large number of students on a single school campus, and I am prepared to take her word in this regard.

About a month ago, the Minister visited New Ross, a town with educational problems which we are trying to have resolved. The parents of pupils attending primary schools in the town and the boards of management of the schools in question have agreed to amalgamation of the schools, a conclusion also reached by the McCarthy report. As a result, the town is to have a primary school for boys and girls, respectively. During her visit, the Minister stated that all secondary schools in New Ross should be amalgamated and located on the same grounds as the new primary schools. The problem is that New Ross has five secondary schools, one of which has 600 pupils, while another has 800 pupils. The Minister's position on

5 o'clock

[Dr. Twomey.]

New Ross appears to contradict her statement on best practice made in Gorey and directly conflicts with her announcement to her party members. This contradiction has created considerable confusion in County Wexford as to what precisely is the Minister's position on school size.

The McCarthy report, which was published several years ago, has been given no support at Government level, despite representing the preferred wishes of all concerned. One cannot argue in favour of amalgamating secondary schools in New Ross, which combined have approximately 2,000 students, while arguing that another school in Gorey, which has 1,500 pupils, is so large as to require a further secondary school in the town. Will the Minister of State clarify what exactly the Department, under the current Minister, believes is the correct way forward for the educational needs of all students in County Wexford?

We fight constantly to secure an extension, a new school, additional services, resources or equipment and to reduce class sizes in our primary and secondary schools. When the Minister's statements on school crises in two different towns in the same constituency exposes such a major contradiction, it raises the question as to what is Government policy. Will the Government's position be clarified? Will it amalgamate primary schools in New Ross, as recommended in the McCarthy report, in a manner which is safe? Having just completed reading the Ferns report, it is clear children must be better looked after. What will be safe for the young students of New Ross? What is the most appropriate way to move forward with regard to the five secondary schools in the town? Will the Government provide for the building of a second school in Gorey? I hope the Minister of State does not argue the town does not deserve a second secondary school because Kilmuckridge VEC is about to be revamped, as this development will not compensate for the increase in population and rising number of pupils at Gorey secondary school.

Mr. N. Ahern: I thank the Deputy for raising these matters as it provides me with an opportunity to outline to the House the position with regard to the Department of Education and Science policy on multi-school campus arrangements and post-primary school sizes. In the first instance, where possible, the Department favours the development of multi-school campus arrangements. Conceivably, such an arrangement can consist of a primary and a post-primary school, a mix of primary school types, for example, a Gaelscoil and a multi-denominational school, or a mix of primary school types and a post-primary school.

The Department's policy in this area also extends to the development of facilities shared between schools and the development of shared

community facilities in tandem with local authorities where this is feasible. The Department generally seeks to implement this policy where a number of new or replacement schools are required in an area at either or both primary and post-primary level. While this infrastructure policy model applies irrespective of geographic location, it is most advanced in rapidly developing areas such as Dublin 15.

The purpose of this approach to the provision of school infrastructure is to minimise my Department's land requirements, thus reducing spiralling site costs, while at the same time providing local communities with new schools with enhanced facilities. With regard to the size of a new post-primary school, while a school of 750 pupils may be ideal in the view of some observers, ultimately the size of a new school will always depend on the projected level of demand for pupil places. This applies equally at primary level. Demand is established following an examination, usually in consultation with local authorities, of all relevant factors, including demographic trends, housing developments and the capacity of any existing schools to play their role in meeting the demand for places. The towns to which the Deputy referred are different in that New Ross is not expanding to the same extent as Gorey.

Generally, in areas of rapid and significant population expansion we can expect to see post-primary schools capable of providing for 1,000 pupils being built. In areas of lesser growth, school sizes can vary between 500 and 800 pupil places, again, strictly depending on the demographics and the likely pupil output from these demographics. Essentially, the size of a post-primary school, or primary school for that matter, will be unique to the demand emanating from the area in which it is situated. Ultimately, the Department wants to ensure a school is sufficient in size to meet the demand for pupil places in its area and can deliver a broad and balanced curriculum as resources are generally allocated based on enrolments.

With regard to Gorey, the Minister's recent announcement of a new post-primary school for that area is in response to her previous acknowledgements of the town's rapidly developing status. In this regard, the population is expected to double in the next six years. The project will be delivered by way of a public private partnership and steps are being taken to secure a site to enable this development. The emphasis was first placed on post-primary provision because of the relatively unique position in Gorey where inward migration is resulting, initially at least, in greater pressure for places at post-primary level than at primary level.

Having said that, the Minister acknowledged that pressure is being brought to bear on the primary sector in Gorey and the Department is examining long-term requirements at this level.

This examination will be expedited to ensure that, in the event of an extra primary school being required, its delivery can be considered for inclusion in the public-private partnership bundle, which will include the post-primary school. This has already been taken into account in site identification procedures.

The Department would have no objection to both schools being provided on one site if it transpires that an extra primary school is required. It is significant that two new primary schools, a multi-denominational school and Gaelscoil, were recognised in Gorey in recent years. The position with regard to New Ross, where there is no significant population growth, is more complex. The Deputy will be aware that it has been the Department's objective to rationalise both primary and post-primary educational provision in this area for some time. There is general agreement locally to this development at primary level, but there is no agreement at post-primary level. At this point, it is not clear how long it will take to achieve any such agreement, or if agreement can be achieved.

In the circumstances, being aware of the conditions under which the primary schools are operating, and in recognition of their willingness to rationalise, the Department intends to progress developments for the sector if agreement for the post-primary side is not forthcoming in the near future. In the absence of agreement at post-primary level, the Department has no plans for a greenfield site development for that sector in New Ross. I hope that I have clarified the Department's policy.

Local Authority Staff.

Ms O'Donnell: I raise this matter in the light of acute public concern in my constituency of Dublin South. It relates to the fact that the former county manager of Dún Laoghaire-Rathdown County Council, Mr. Derek Brady, has recently taken up a senior position with a development company, Alburn Limited, which is responsible for the former M. J. Flood site in Sandyford Business Estate, where planning permission was granted on 27 July this year for a development, including 259 apartments and a 24-storey tower rising 162 metres over sea level. It will be the highest structure in the south of the county.

This proposal has understandably been highly controversial, resulting in over 100 opposing submissions to the council, including one from me. The matter is now the subject of an appeal to An Bord Pleanála. The basis for the objections, the scale, height and general inappropriateness, were largely ignored by the council, which went to some lengths to facilitate the proposal, including reversing the present one-way traffic system to a questionable two-way flow. Mr. Brady was the ultimate deciding officer at the time when per-

mission was granted. Three months later, he has taken up a senior and highly paid position with Alburn. The perception of Mr. Brady having been in a conflict of interest regarding the development is compelling and requires investigation by the Minister.

The matter arises at a time of great desperation among residents of my constituency about the planning process and their capacity to influence it. It is also a time of massive development there. Several major proposals have been granted permission in the teeth of public opposition, and at times decisions have appeared inexplicable to both residents and elected representatives. Residents and Members are treated with disdain by the council and our views disregarded. Increasingly, Dún Laoghaire-Rathdown County Council appears driven more by revenue and rates than public interest or the proper planning and building of sustainable communities.

My constituents and I are not against development. They are sensible citizens who in the main are benefiting from our thriving economy and greatly improved infrastructural developments in Dublin South, including motorways and the Luas. However, they have the right to participate in a meaningful way in their area as it develops and modernises. Currently they feel that they have no say and no power, and as their Deputy, I feel the same.

I have written to the Minister in detail outlining my concerns about the scale, density and *ad hoc* nature of high-rise development in Dublin South, particularly in the Sandyford and Stillorgan areas. The Minister's reply, understandably, is to refer me to the local authority. However, in my experience of dealing with the council over the past few years, it has been an exercise in frustration, and that must change. Perhaps the new manager will bring about a new culture of real democratic consultation. However, the appointment of Mr. Brady so soon after he had in his gift the granting of permission to his future employer raises the most serious issues, not least the integrity of the planning process. What are my constituents to think?

This requires urgent investigation by the Minister so that public fears can be allayed. When was Mr. Brady approached regarding his appointment to Alburn? Was it prior to the granting of permission, on 27 July this year? What, if any, was the true relationship between Mr. Brady and Alburn Limited when the application was being considered by him and the local authority? Was it such as to confer favourable status on the development? Is there a link between the granting of permission and Mr. Brady's new job? Does the Ethics in Public Office Act 1995 apply to this matter? Surely the public interest must be protected from such conflicts arising in local authorities throughout the country. Have we learnt nothing from the tribunals?

[Ms O'Donnell.]

As the local Deputy, I formally request that the Minister initiate an investigation into this matter, and I will, of course, accept its outcome. If Mr. Brady and the company in question have nothing to hide, I am sure that they will co-operate with an independent investigation. It is surely not in Mr. Brady's interest to have such a cloud hanging over his long record in public service.

Mr. N. Ahern: I thank the Deputy for raising this important issue. The public is entitled to expect the highest standards of conduct from all local authority employees. It must also be said that local government personnel have, by and large, a long tradition of honest and committed service to their communities. The core values underlying that tradition are integrity, impartiality and dedication to the public interest. The Local Government Act 2001 made provision for a new and comprehensive ethical framework for those involved in local government. That built on much longer-standing ethical requirements on local authority councillors and staff under planning legislation.

Part 15 of the Local Government Act, which entered force in January 2003, provided for the preparation by the Minister of codes of conduct for employees and councillors, which were subsequently developed and published in June 2004 to coincide with the formation of new councils of elected members following the local elections. The code of conduct for employees, which is a major step forward in local government, includes disclosure requirements concerning employment by serving personnel outside the sector and addresses situations concerning a conflict of personal or public interest.

Deputies will be aware that the tenure arrangements for county and city managers were changed in 1991. Managers are now employed on seven-year contracts, with provision for extension up to ten years. That raises the prospect of their retiring at a relatively young age. Therefore, it is to be expected that some managers will seek to pursue a career in the private sector once their terms of employment expire. I am sure the Deputy will agree that there is nothing wrong in that; they must be entitled to pursue employment opportunities after retirement. However, the issue is one of avoiding undesirable conflicts and the perception thereof.

The question of senior local government officials accepting outside appointments or consultancies following resignation or retirement is not subject to the code of conduct at present. Provisions of that kind were introduced to the Civil Service code only in September 2004, that is, some months after the promulgation of the new local government code. The Standards in Public Office Commission has made observations regarding the matter, including a suggestion for

a moratorium on the take-up of employment by senior local authority personnel in consultancies or other areas of the private sector to which they could bring access or information gained in local authority employment.

The code is under active review in the light of experience since its introduction and as part of an assessment of the effectiveness of the regime. It is clearly now appropriate that the review also considers the acceptance by local authority employees of outside appointments and consultancy engagements following resignation or retirement. The Deputy can be assured that the Minister will bear in mind the general concerns raised this evening and that this debate will assist us in the review of the code. Perhaps the public concern, which I understand, will allow the matter to go forward and to be clarified quickly.

Genetically Modified Organisms.

Mr. Sargent: I thank the Chair for the opportunity to raise this matter on the Adjournment. I tried to do so by way of Standing Order 31 several times before the end of last month. This matter is urgent, particularly since we are now in November.

I asked that the Minister for the Environment, Heritage and Local Government, Deputy Roche, implement the safeguard clause provided for in EU Directive 2001/18/EC in line with the unanimous decision in the House in support of Ireland being GM-free in food, seed and agriculture. That decision came from the Joint Committee on European Affairs and the Joint Committee on Environment and Local Government.

I also ask that action be taken urgently, given that live and viable seed, GT73, genetically modified oilseed rape, could germinate here and end our commercially advantageous GM free status. It is due to arrive here if it is decided by the commercial interests concerned to import it. By the end of last month it was possible for them to import it into Ireland. We are living on borrowed time. I ask the Minister of State to take into account the serious impact of this particular issue given that it has far-reaching and permanent repercussions in train for this country. We need an emergency response from the Government to the European Commission decision to legalise the importation of Monsanto's patented GT73 oilseed rape. It is the first live GMO seed to be authorised for use as animal feed in the EU, even though the spilled seed can, inevitably, produce a crop.

GT73 can now be freely imported into the Republic and Northern Ireland. The decision was taken against the wishes of the majority of EU member states. For some bizarre reason which, perhaps, the Minister of State can explain, the Minister for the Environment, Heritage and Local Government, Deputy Roche, abstained on

the matter. If a single shipment of this GMO seed is unloaded on this island, contamination will be inevitable and irreversible. This means that in a few years' time, it may be impossible for Irish farmers to grow GM free brassica crops, including broccoli, Brussels sprouts, cabbage, cauliflower, radish, collards, kale, kohlrabi, mustard, oilseed rape and turnips, because of cross-contamination by seed dispersal and wind borne pollen.

All these contaminated crops will, in effect, belong to Monsanto. Farmers with contaminated land will have to pay royalties or face patent infringement lawsuits. They will have to put GM labels on their produce and may no longer be able to sell it in most EU countries. Many will lose their constitutional right to earn a livelihood as organic farmers. This has already been the case in countries such as Canada where quite an amount of legal precedent has been established to indicate what lies ahead for us unless the Government takes action.

Effectively, we are talking about the death knell for organic farming in Ireland. It is likely that the whole island of Ireland will be contaminated within a few growing seasons. The introduction of live GM seed to Ireland places Irish farmers in danger of being sued for breach of patent by the biotechnology companies should their conventional crops be contaminated by GM material. The risk is much wider than organic farming because of the possibility of legal repercussions for any farmer who has unwanted GM material growing on his or her land. This situation has occurred on numerous occasions throughout Canada, the US and elsewhere.

I again strongly urge the Government to take action by implementing the safeguard clause and to comply with the spirit of the decision taken on 15 June 2005 by the Joint Committee on European Affairs and the Joint Committee on Environment and Local Government. Both of these committees gave unanimous cross-party support to Ireland remaining GM free and for the sovereign right of EU member states to ban specific GM products about which there might be questions of safety. I appeal to the Minister of State to take the decision now. If not, in future people will ask why the Government lay down and rolled over in the face of pressure from companies such as Monsanto.

Mr. N. Ahern: I thank the Deputy for the opportunity to outline the position on the authorisation by the European Commission on 31 August 2005 of Monsanto GT73 genetically modified oilseed rape. The House is already aware from replies to recent parliamentary questions that Ireland was among a number of member states that abstained in the vote at the Environment Council on 20 December 2004 on the Commission's proposal to authorise the product for use throughout the European Community

as animal feed and for industrial processing. It is important to stress that the proposal did not include any provision for cultivation of the variety from seed.

Ireland's abstention at Council had regard to the long-standing positive but precautionary approach to modern biotechnology endorsed by successive Governments, the favourable opinion on the product from the Environmental Protection Agency as the competent Irish authority for the purposes of the directive following the agency's consultations with other relevant State agencies, and consideration of the product within my Department. It also took account of the views of the Joint Committee on Environment and Local Government and the outcome of the earlier discussion of and vote on the product at the June 2004 meeting of the regulatory committee for the purposes of the directive.

Many misleading comments have been made about Ireland's abstention at Council. Among them is a suggestion — not made today — that had Ireland voted against the proposal, the Commission would not have been able to approve the product. This is simply not the case. To achieve a decision under qualified majority voting, 232 votes must be cast either in favour or against a proposal. In this case, 78 votes were in favour, 135 votes were against, and 108 abstentions were recorded. Therefore, Ireland's seven votes could not have tipped the scales either for or against the product. A qualified majority against the proposal could only have been achieved had other abstaining countries, namely, Spain, Germany, the Czech Republic and the UK switched from abstention to negativity.

Mr. Sargent: Ireland might have persuaded them.

Mr. N. Ahern: Another suggestion — this is reflected in the Adjournment motion — is that there will be inevitable and widespread contamination arising from the import of GT73 for animal feed. My understanding is that oilseed rape imported into this country is processed prior to its importation by crushing and its oil extracted. This minimises the possibility of live seed entering the environment.

The Deputy now seeks the invocation of the safeguard clause under Article 23 of Directive 2001/18/EC to prevent the marketing of the product in Ireland. I clarify for the House that there are detailed specified conditions under which this safeguard clause may be invoked. These conditions include the emergence of new or additional information made available since the date of the consent and affecting the environmental risk assessment, or the reassessment of existing information on the basis of new or additional scientific knowledge which provide detailed grounds for considering that the product consti-

[Mr. N. Ahern.]

tutes a risk to human health or the environment. Such conditions have not been fulfilled with the product in question, especially since the date of consent was 31 August 2005. In these circumstances, it would not be appropriate to seek to

invoke the safeguard clause under Directive 2001/18/EC in respect of the importation of GT73 oilseed rape.

The Dáil adjourned at 5.30 p.m. until 2.30 p.m. on Tuesday, 8 November 2005.

Written Answers.

The following are questions tabled by Members for written response and the ministerial replies received from the Departments. [unrevised].

Questions Nos. 1 to 11, inclusive, answered orally.

PDFORRA Conference.

12. **Mr. Broughan** asked the Minister for Defence if he will report on his attendance at the recent PDFORRA annual delegate conference in Athlone; the issues he addressed in his speech to the conference; and if he will make a statement on the matter. [31992/05]

49. **Mr. Gogarty** asked the Minister for Defence if he will report on his attendance at the recent PDFORRA conference in Athlone; and if he will make a statement on the matter. [32045/05]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 12 and 49 together.

On 5 October 2005, as Minister for Defence, I addressed the annual delegate conference of the Permanent Defence Force Other Ranks Representative Association, PDFORRA. I sought to make my address relevant, informative and positive and discussed topics of interest to military delegates, their colleagues and to the wider community. Those topics included the representative process, new terms of contract for post 1994 soldiers, the White Paper on Defence, bullying and harassment, future pay policy, equal opportunity and the review of measures with a view to maximising the number of women applicants into the Irish Defence Forces. I believe my speech was well received by the assembled delegates and I am grateful to the Deputies for their interest in my address which can be accessed from my Department’s website, www.defence.ie.

Among the issues raised by PDFORRA were anti-bullying structures, appointment of an Ombudsman, availability of medical services, the new terms of contract for post 1994 soldiers and affiliation to ICTU. Some of these matters have been raised in other questions today where I will deal with them in greater detail.

Overseas Missions.

13. **Mr. Gilmore** asked the Minister for Defence the level of interest of contract soldiers in serving in the Defence Forces’ overseas missions; his plans to encourage more contract soldiers to serve in overseas missions; the difficulties

this situation is causing for the Defence Forces; and if he will make a statement on the matter. [31995/05]

Minister for Defence (Mr. O’Dea): I have already dealt with the recent changes made in the terms of enlistment of those personnel joining the Permanent Defence Force post 1994 in an earlier question and I would refer the Deputy to that reply.

In 2004 PDFORRA submitted a claim under the conciliation and arbitration scheme for a further review of the terms of service applying to personnel enlisting in the Permanent Defence Force after 1 January 1994. Following detailed and prolonged discussion on this claim a set of criteria has been agreed. The criteria meet PDFORRA’s desire to provide longer careers in the Permanent Defence Force while continuing to address the Government’s previously stated objective of having an appropriate age profile to meet the challenges of a modern defence forces. The criteria require that any person re-engaging must be able to continue to operate at their current level both at home and overseas on an ongoing basis. Re-engagements will be subject to the individual soldier meeting specified criteria in regard to physical fitness, medical category, successful completion of military courses of instruction, service overseas and conduct ratings. PDFORRA is currently in the process of balloting its members on the criteria which have been agreed.

The Defence (Amendment) (No. 2) Act, 1960 provides that an officer appointed or a man enlisted after the date of its passing is liable to serve outside the State with a contingent of the Permanent Defence Force despatched for service with international forces established by the United Nations. With the passage of time since 1960 all personnel of the Permanent Defence Force are now liable for such service. All personnel are therefore obliged to serve overseas as part of a UN Chapter VI peacekeeping operation under their terms of employment.

Under the 1960 Act service with an international United Nations force was confined to a force established for the performance of duties of a police character, Chapter VI. The Defence (Amendment) Act 1993 provided for service by members of the Permanent Defence Force in peace enforcement operations mounted under Chapter VII of the UN Charter. Anyone entering the Permanent Defence Force on or after 1 July 1993 is liable for service under the new arrangements.

Raising troops for overseas missions is the responsibility of the Chief of Staff. While Defence Forces personnel are liable under their terms of enlistment for overseas service, the current system for filling appointments on overseas

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units is generally by volunteers. It is only in circumstances where the requisite volunteers are not available that personnel are mandatorily selected. I am advised that of the 3,371 personnel serving who enlisted for general service since 1994, 2006, 60%, of these have served in overseas missions. A total of 1,042, 31%, have served in overseas missions on more than one occasion.

Defence Forces Recruitment.

14. **Mr. G. Mitchell** asked the Minister for Defence if he has proposals to lower the height requirement for entry to the Defence Forces; and if he will make a statement on the matter. [31905/05]

22. **Mr. O'Dowd** asked the Minister for Defence if there will be an update to the regulations governing minimum height for entry to the Defence Forces; and if he will make a statement on the matter. [31911/05]

31. **Mr. Timmins** asked the Minister for Defence his plans to change the height entry requirement for females and males into the Defence Forces; and if he will make a statement on the matter. [31942/05]

Minister for Defence (Mr. O'Dea): I propose to take Question Nos. 14, 22 and 31 together.

The minimum height requirement for entry to the Permanent Defence Force and the Reserve Defence Force is 162.5cm, 5 ft. 4 ins, for both men and women. This limit was set in April 2002 based on the professional advice of the Medical Corps and the actual experience of training units. The advice at that time was that, having regard to the nature of the job, the duties of military service and the training exercises undertaken by members of the Defence Forces, persons of shorter stature are more likely to incur back and lower limb injuries. A key element in military life is the need for personnel to maintain a level of fitness for combat readiness. Inherent in this physical requirement is the ability to carry heavy loads and execute physically demanding tasks in training and on operations. The personal load carrying equipment and personal weapon place considerable strain the musculoskeletal system. The advice in 2002 was that the recommended height requirement of 162.5cm, 5 ft. 4 ins, for entry is the minimum necessary to meet the demands of military life.

As I indicated to the House on 29 September that requirement is being kept under constant review. I have asked the military authorities to report to me on it. I will review the height requirement in the light of that report.

European Council Meetings.

15. **Mr. Coveney** asked the Minister for Defence when he last attended a Council of Ministers meeting; the discussions held at the meeting; and if he will make a statement on the matter. [31943/05]

45. **Mr. Cuffe** asked the Minister for Defence if he will report on the EU Defence ministerial conference held on 13 October 2005, at RAF Lyneham, Wiltshire, England; and if he will make a statement on the matter. [32042/05]

61. **Mr. S. Ryan** asked the Minister for Defence if he will report on the informal meeting of EU Defence Ministers in the United Kingdom on 13 October 2005; the issues that were raised at this meeting; if any decisions were taken; and if he will make a statement on the matter. [32006/05]

Minister for Defence (Mr. O'Dea): I propose to take Questions Nos. 15, 45 and 61 together.

The Deputy will be aware that there is no Defence Ministers Council formation and that meetings of EU Defence Ministers have informal status.

Two meetings are normally held during each Presidency, one of which takes place as part of the General Affairs and External Relations Council, GAERC. I attended the Defence Ministers informal meeting, as part of the GAERC, in Brussels on 23 May 2005. Ministers discussed military capabilities, rapid response, were briefed by the Head of the European Defence Agency on the activities of the agency since its establishment, and discussed EU operations over lunch.

An informal meeting of EU Defence Ministers was held in the United Kingdom on 13 October 2005. However, due to prior engagements, I was unable to attend this meeting and I was represented by Government Chief Whip and Minister of State at the Departments of the Taoiseach and Defence, Deputy Tom Kitt.

The meeting began with a peace support operation capability demonstration by UK forces. Ministers also witnessed a demonstration of UK air-to-air refuelling capabilities. This was followed by a working lunch at which progress on Operation Althea in Bosnia and Herzegovina was discussed. As the meeting was informal, and not a decision-making forum, no formal conclusions were drawn. The informal meeting was followed by a meeting of the European Defence Agency Steering Board.

Defence Forces Retirement Scheme.

16. **Mr. Noonan** asked the Minister for Defence the cost and other implications in relation to an increase in the retirement age for captains, commandants and lieutenant colonels by two years

each; and if he will make a statement on the matter. [32023/05]

Minister for Defence (Mr. O’Dea): The current retirement ages are 54 for captain, 56 for commandant and 58 for lieutenant colonel. Higher ranks have retiring ages ranging from 60 to 63 years of age. As there are no immediate plans to alter these I have not undertaken a detailed study on the cost implication of any change.

The 2000 White Paper on Defence and the earlier Defence Force review implementation plan, both in the context of a Defence Force personnel management system, recommended reduction to retirement ages and the introduction of short service commissions for some officers in the Defence Force. These measures were designed to address the shortage of junior officers, improve the age profile of officers and ensure mobility.

Any increase in retirement ages would not only have a cost implication but would also impact on the promotion outlets for officers further down the line of officer ranks. While it would permit some officers to lengthen their careers in these ranks it would, in the absence of short service commissions for other officers, also act as a disincentive for the officers who would be required to wait longer for promotion to higher rank. It would also have an immediate impact on the number of cadetships on the positions available to be filled from the annual cadetship competition since the number of cadets offered cadetships are based on the projected number of officer vacancies which occur as a result of retirements, that is, age retirements, voluntary retirements and resignations.

Currently, very few officers retire at age 54 in the rank of captain or at age 56 in the rank of commandant. Officers more commonly retire in the rank of lieutenant colonel at the maximum retirement age for that rank of 58.

The Representative Association for Commissioned Officers has sought a common retirement of 58 for all officers. While this would see an increase retirement age for junior officers it would see a significant reduction in that of senior officers. My Department is looking at this proposal in the context of the implication for promotion arrangement, future intake of both short service and long-term commissions and, most importantly, the operational effectiveness of the Defence Force.

Website Use.

17. **Mr. O’Connor** asked the Minister for Defence if his attention has been drawn to the fact that a website (details supplied) is selling jewellery and other material bearing the title “Óglaigh na hÉireann”; if the owners of the site

have sought permission for the use of the title “Óglaigh na hÉireann”; and if he will make a statement on the matter. [31924/05]

Minister for Defence (Mr. O’Dea): The presence on this website of a range of items for sale bearing the title “Óglaigh na hÉireann” has recently come to the attention of my Department and the Defence Forces. Section 16 of the Defence Acts 1954 to 1998 provides that “It shall be lawful for the Government to raise, train, equip, arm, pay and maintain defence forces to be called and known as Óglaigh na hÉireann or (in English) the Defence Forces”. Accordingly, only the Defence Forces properly established are entitled to use the nomenclature “Óglaigh na hÉireann”.

No permission for use of the title “Óglaigh na hÉireann” on the items featured on the website has been sought from the Department of Defence, nor could such permission be given.

It is a matter for the Garda authorities in consultation with the law offices of the State to determine whether use of the title “Óglaigh na hÉireann” in the manner outlined by the Deputy is illegal. However, as no permission for the use of the name “Óglaigh na hÉireann” has been given, I would invite the leadership of the political party whose name appears on this website to ensure that this material is removed for sale on the site.

Defence Forces Medical Services.

18. **Mr. McGinley** asked the Minister for Defence the current level of capacity at military hospitals or convalescent facilities here; and if he will make a statement on the matter. [31902/05]

26. **Mr. P. McGrath** asked the Minister for Defence if he will report on the state of the medical services available to members of the Defence Forces; and if he will make a statement on the matter. [31917/05]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 18 and 26 together.

The military medical services and their facilities exist primarily to maintain the health of the Defence Forces and to support them in operational and overseas activities.

The reorganisation of the Medical Corps, which was effected as part of the Defence Forces review implementation plan in November 1998, redirected the focus of military medical care from a predominantly hospital based service to one in which, primary, occupational and field support would continue to be further developed.

The Medical Corps facilities are as follows: St. Bricin’s Military Hospital, Dublin; three military medical facilities, MMFs, located in Cork,

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Athlone and the Curragh; and 17 medical centres, one in each of the other permanently occupied military barracks.

St. Bricin's Military Hospital and the three military medical facilities have associated infirmaries for the care of "living-in" personnel, largely recruits and other training course students, who may become injured or ill. There are appointments for a physician as well as x-ray, pharmacy and screening audiometry facilities. Physiotherapy facilities are available at St. Bricin's Military Hospital and the MMF in Cork and the Curragh.

The focus of the military medical service is on primary care, acute trauma management, preventative medical programmes and field medical training. The range of services provided by the Medical Corps includes: a military occupational medical service; a primary medical care service; a secondary medical care service; a preventive medical service; provision of medicines and dressings; dental services; a field medical service; training; maintenance of medical records; and medico-legal services.

The current level of capacity of the hospital and medical facilities is as follows:

Location	Bed Capacity
St. Brickin's	19* & 23**
MMF Cork	10
MMF DFTC	10
MMF Athlone	1

* 19 beds at an acceptable level of equipment and accommodation.

** 23 beds in a closed ward. These beds are not equipped to current hospital-nursing home standard.

Defence Forces Training.

19. **Mr. O'Dowd** asked the Minister for Defence the way in which the closure of the apprentice school has impacted on the performance of the Defence Forces; the way in which technical personnel are sourced; the estimated cost of re-establishing the school; and if he will make a statement on the matter. [32025/05]

Minister for Defence (Mr. O'Dea): The Army Apprentice School at the former Devoy Barracks, Naas was closed in September 1998. There were only 28 apprentices in the school at the time. The annual costs of running the Army Apprentice School were estimated at about £2.85 million in 1998. Therefore, the average cost of training each apprentice had reached a level of £100,000 per annum per apprentice. These levels of expenditure were quite clearly unsustainable. The closure has not impacted adversely on the Defence

Forces. There are no proposals to re-establish an Army apprentice school.

As part of the reorganisation of the Defence Forces in the 1990s, the national Defence Forces Training Centre was established on the Curragh to serve as the main military training centre for the Defence Forces. Apprentices will continue to be recruited for specific trades and crafts within the Army, Naval Service and Air Corps as and when required in response to identified service and skill needs.

More generally, technical personnel are sourced either through in-house technical military training within the Defence Forces or by the 'direct entry' recruitment of persons who are already technically qualified and proficient within the discipline or specialty concerned.

The internal military programme of training for enlisted personnel comprises the technician training scheme and the recruitment and training of apprentices as appropriate. The trainee technician scheme was introduced in 1999 and provides modern technical and technological training to persons who are already serving within the Permanent Defence Force in an enlisted but non-technical capacity. The scheme involves both 'in house' training in Defence Forces establishments and outplacement to FÁS and recognised external third level centres of education such as regional institutes of technology for academic modules of courses. The more traditional format of apprentice training is now largely concentrated within the Air Corps Apprentice School at Baldonnel. Apprentices, like the trainee technicians, undergo a mixture of 'on the job' training within the Defence Forces, FÁS training and external academic modules leading to recognised qualifications. For both groups, therefore, the programme structure provides 'on the job' training within the Defence Forces coupled with 'off the job' external provision of academic and other specialist training by regional institutes of technology, the regional technical colleges and FÁS. In general terms, only very specialised training, which is not available externally from civil sources, is now provided directly by the Defence Forces themselves.

The distinct and different technical training and apprenticeship needs of the Army, the Air Corps and the Naval Service are all kept under regular review by the appropriate military authorities. The types of training to be provided to selected enlisted personnel under the trainee technician scheme, and the needs for apprentice recruitment, are determined by the particular skills requirements of the Defence Forces over time. There are also a small number of civilian technical staff who work with the Defence Forces as civilian employees of the Department.

Military Awards.

20. **Ms Lynch** asked the Minister for Defence if the two surviving Irish soldiers who survived the Niamba massacre in the Congo in November 1960 will receive Army medals, as have been awarded posthumously to the other members of the patrol; the reason for not awarding the medals to these men; and if he will make a statement on the matter. [31998/05]

46. **Mr. Gregory** asked the Minister for Defence his views on the new evidence regarding the Niamba massacre contained in the recently published book, *The Far Battalions*; and if he will make a statement on the matter. [31704/05]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 20 and 46 together.

Since Ireland took part in their first United Nations Mission in 1958, Defence Forces personnel have performed approximately 54,000 tours of duty on 58 peace support operations worldwide. Because UN peacekeepers operate in strife-torn regions, practically every officer, NCO and private who has served overseas has been exposed to the hostile events of one sort or another.

While I fully appreciate that the experiences in the Congo were particularly distressing, it is also the case that many other members of the Defence Forces who have served overseas have been involved in serious and disturbing incidents where death and severe injury have resulted. This is in no way intended to denigrate the distress suffered by those involved. Rather, it is to indicate that service in a war torn region inevitably exposes members of the Defence Forces to the possibility of involvement in incidents of a very serious and distressing nature.

The Defence Forces do award bravery and distinguished service medals in exceptional circumstances. Cases for the award of such medals are examined in great detail having regard to the circumstances pertaining in each particular case and on the basis of comparison with previous similar awards. In 1962 a military board considered the various cases presented in relation to action in the Congo, including the Niamba ambush, and made its recommendations. At that time, 22 cases were made for the award of the military medal for gallantry and only one such medal was awarded. In the case of the distinguished service medal, a military board was convened in 1965 where 120 cases were made for this award and of those, only 24 were awarded. Clearly, such medals are awarded only in rare and exceptional circumstances and the number of personnel recommended for the award of such medals is very small.

There is no award in the Defence Forces for survivors of hostile action. If such an award were to be created, it would have to be extended to all members of the Defence Forces who suffered in a similar way. As I have indicated, so many personnel who serve overseas are exposed to various degrees of hostile action, significant numbers would qualify for such an award.

There are awards made to all personnel who serve on overseas missions, which aim to recognise the contribution made by the members of each contingent serving on the peacekeeping mission and the difficult circumstances in which they have to operate. In this regard, the personnel referred to have received both a United Nations medal, for their service in the Congo, awarded by the UN and the United Nations peacekeeping medal awarded by the Irish Government.

Neither my Department nor the Defence Forces have a copy of the publication referred to in the question and steps are being taken to acquire a copy.

Question No. 21 answered with Question No. 10.

Question No. 22 answered with Question No. 14.

Question No. 23 answered with Question No. 7.

Defence Forces Recruitment.

24. **Mr. Gogarty** asked the Minister for Defence if he will report on plans to recruit non-nationals into the Irish Defence Forces; and if he will make a statement on the matter. [32044/05]

32. **Mr. Hayes** asked the Minister for Defence the steps being taken to broaden the membership of the Defence Forces and to recruit non-nationals to the Defence Forces; and if he will make a statement on the matter. [31916/05]

38. **Mr. Sherlock** asked the Minister for Defence his plans to recruit non-nationals into the Defence Forces to address staffing shortages; the precise areas where staffing shortages exist; when he expects to commence this recruitment programme; the level of uptake and interest he anticipates; and if he will make a statement on the matter. [31991/05]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 24, 32 and 38 together.

Entry to the Permanent Defence Force is either through the cadetship competition, apprenticeship competition, general service enlistment or direct entry competitions which are held to fill vacancies in specialist appointments. All appli-

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cants for each of these entry streams are required to meet qualifying criteria.

The question of the recruitment of foreign nationals to the Defence Forces is not a new one. Defence Force regulations have always allowed for the recruitment of foreign nationals to the Defence Forces. Overall, the number of foreign nationals who apply to enlist in the Defence Forces is quite small. The military authorities advise that their research shown that the reason for failure to enlist in the Defence Forces is as a consequence of not meeting the laid down enlistment criteria.

For a person other than an Irish citizen to be appointed as an officer of the Defence Forces, the special approval of the Minister must be sought. In such a case, and provided that security clearance has been obtained, I would normally recommend that such a person be commissioned to the Defence Forces.

The only area where there are currently staff shortages in the Defence Forces is within the Medical Corps. Three doctors, non-Irish citizens, have been appointed to the Medical Corps, one in 2004 and two this year.

The Defence Forces equality policy, which was produced and formalised some months ago, states the Defence Forces: is committed to the principles of equal opportunities in all its employment policies, procedures and regulations; will operate in an environment without discrimination in areas as provided by the Equality Acts; will ensure that the principles of employment equality are employed in recruitment, promotion, training and work experience; all regulations and administrative instructions concerning service in the Defence Forces shall be set out in a manner consistent with this policy of equal opportunity; and this policy will be reviewed along with the Defence Force regulations on an ongoing basis by the Deputy Chief of Staff, support, to ensure compliance with best practice and to maintain a working environment that treats all members of the Defence Forces in a manner consistent with equal opportunities.

My Department and the Defence Forces are fully committed to ensuring that all who wish to do so are given the opportunity to join the Defence Forces.

Defence Forces Equipment.

25. **Mr. Eamon Ryan** asked the Minister for Defence if a significant increase in defence spending is required for the Irish Defence Forces to ensure the preparedness of troops serving on overseas missions as expressed by PDFORRA; if significant expenditure is required on equipment such as small tanks and armoured personnel carriers;

and if he will make a statement on the matter. [32046/05]

Minister for Defence (Mr. O'Dea): I would take issue with the views expressed by PDFORRA on the subject of defence spending, with particular regard to expenditure on modern equipment. The position is that there has been an unprecedented level of expenditure on infrastructure and equipment for the Defence Forces in recent years. I have seen proof positive of this investment in my visits to military barracks around the country and my experience is that the morale of soldiers is generally very high from the equipment and infrastructural perspective.

The increased level of expenditure on equipment for the Army, Air Corps and Naval Service was made possible by the Government's decision that pay savings arising from the reorganisation of the Defence Forces set out in the White Paper of 2000, along with proceeds from the sale of surplus properties, would be reallocated for investment in modern facilities and equipment.

Investment in new equipment for the Defence Forces is provided for under various subheads of the Defence Vote relating to defensive equipment, mechanical transport, aircraft, ships and naval stores, engineering, communications and information technology equipment etc. All elements of the Defence Forces, the Army, Air Corps, Naval Service and the Reserve have benefited from the investment in new equipment.

Over the past six years, over €200 million has been expended on the purchase of 65 armoured personnel carriers for the Army, new patrol vessels for the Naval Service and new trainer aircraft for the Air Corps.

The programme of investment is continuing apace. Last January, I signed contracts for six new helicopters for the Air Corps costing over €60 million. Planning is well under way on the replacement programme for the next Naval Service ships to reach the end of their economic life and a further 15 armoured personnel carriers will be added to our current fleet. It is expected that the contract for the additional 15 APCs will be signed by the end of the year.

There are also ongoing acquisitions of modern equipment for use by soldiers on operational duties. The individual soldier is now required to carry an array of equipment whilst engaged on such duties. In that regard, one of the essential ongoing equipment acquisition projects relates to the provision of a modern integrated protection and load carrying system for members of the Defence Forces. This involves, *inter alia*, the personal protective equipment consisting of body armour and helmet. The aim is to have a new, lighter protective system, consisting of body armour and helmet, which is compatible with all

current and future systems required for each soldier.

A tender competition is currently in train for the provision of body armour for the individual soldier. It is expected that an order will be placed shortly for 6,000 units. In addition, a separate tender competition for helmets is also currently in train for the acquisition of 12,000 units. It is expected that an order will be placed in the near future. A tender competition for the replacement of the existing FN 9mm Browning automatic pistol within the Defence Forces is also in train. It is expected that an order will be placed in the first quarter of 2006.

The equipment issued to the Defence Forces is in keeping with the most modern requirements and the highest international standards. The ongoing investment in the Defence Forces will ensure that this remains to be the case and that the Defence Forces are suitably well equipped to carry out their roles both at home or overseas.

Question No. 26 answered with Question No. 18.

Question No. 27 answered with Question No. 11.

Overseas Missions.

28. **Mr. Cuffe** asked the Minister for Defence his views on a statement attributed to him on 14 October 2005 in which he said that the key issue in relation to EU crisis management operations was inter-operability and that this goes beyond just equipment, involving training, military doctrine, operating procedures, command and control, culture, and rules of engagement. [32043/05]

Minister for Defence (Mr. O’Dea): When multi-national forces are deployed on peace support and crisis management operations they should be able to immediately commence operations on the ground. If they are to be fully effective, they should operate like a well-oiled machine. The time to start learning about other forces operating procedures, standards, capabilities, rules of engagement etc. is not when one is in the middle of a crisis operation requiring a robust response.

The comments referred to by the Deputy were taken from an interview I gave on the EDA where I was asked about the need for equipment and force co-ordination on EU missions. My comments were emphasising the importance of inter-operability in crisis management operations undertaken by the EU. The requirement for inter-operability, which is but one of the considerations which also include sustainability and survivability, involves common understanding of

doctrine, operating procedures and standards, training standards, command and control etc within the force as a whole. In the absence of such understanding, the force will be unable to operate at its most effective and, potentially, will be exposed to higher risk.

29. **Mr. Ring** asked the Minister for Defence the current level of Defence Forces engagement in Liberia; and if he will make a statement on the matter. [31912/05]

Minister for Defence (Mr. O’Dea): As the House will be aware, a contingent of the Permanent Defence Force has been serving with the United Nations Mission in Liberia, UNMIL, since December 2003. Initial deployment was for one year, an extension of which was approved by Government for another year in December 2004, subject to renewal of the UN mandate and a satisfactory review of the mission. In the near future, I will be bringing proposals to the Government for the continued deployment of a contingent with the mission beyond December 2005.

From the outset my predecessor signalled the Government’s intention that Defence Forces involvement in UNMIL would not exceed two to three years in duration and the United Nations has been advised accordingly. It is now general policy that deployments of Defence Forces contingents to peace support missions overseas should be for defined periods.

Ireland, together with an Infantry Company Group from Sweden, provides the quick reaction force, QRF, to the UNMIL Force Commander. The Irish contingent currently comprises 403 personnel. When it was deployed in late 2003 the initial focus of the unit was to help secure the Monrovia area and to support the disarmament process. However, in recent times the focus of the unit has altered to framework operations in support of the election process.

The United Nations Mission in Liberia, UNMIL, is playing a extremely positive role in ensuring a secure environment for the holding of elections and in the run-up to the installation of the new Government next January. Parliamentary and presidential elections in Liberia took place on 11 October 2005. These elections marked the return of Liberia to a constitutional democracy after 14 years of civil war. As the presidential election did not produce an outright winner, a run-off between the two leading candidates — Ms Ellen Johnson-Sirleaf and Mr. George Weah — will be necessary. This next round of voting is due to take place on 8 November 2005.

While Liberia has made major progress in consolidating peace and in implementing the August 2003 comprehensive peace agreement, the peace process still faces many challenges. These include

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completion of the rehabilitation and reintegration of ex-combatants, reconstruction of the army and police and strengthening of the institutions responsible for the rule of law. Recognising the importance of guaranteeing the security situation in Liberia in the coming months, on 19 September 2005 the UN Security Council extended the mandate of UNMIL until 31 March 2006. Dependent on the political and security situation in Liberia at that time, in March 2006 the Secretary General of the UN is expected to make recommendations to the Security Council on a downsizing plan for UNMIL.

Question No. 30 answered with Question No. 7.

Question No. 31 answered with Question No. 14.

Question No. 32 answered with Question No. 24.

Defence Forces Recruitment.

33. **Mr. Perry** asked the Minister for Defence the steps being taken to increase the number of female recruits to the Defence Forces; and if he will make a statement on the matter. [31915/05]

304. **Mr. Durkan** asked the Minister for Defence if he expects or intends to increase the number of women in the Army, Naval Service or Air Corps; and if he will make a statement on the matter. [32237/05]

Minister for Defence (Mr. O'Dea): I propose to take Questions Nos. 33 and 304 together.

The Government is committed to a policy of equal opportunity for men and women in the Defence Forces, Army, Air Corps, Naval Service, including the Reserve Defence Force, and to the full participation by women in all aspects of Defence Forces activities. In effect, this means that women are eligible on the same basis as men for participation in operational and ceremonial activities, assignment to all military appointments and educational and training courses and for promotion. All female personnel undergo the same training and receive the same military education as their male counterparts.

In order to encourage increased participation by women in the Defence Forces my predecessor decided in March 1998 to reduce the height requirement for all female recruits to 162.5cm, 5 ft. 4 ins. This height requirement now also applies to male recruits.

The Defence Forces actively encourage female applicants, for example, by: Advertising — where possible, all graphical advertisements and book-

lets produced for the Defence Forces show both male and female personnel and emphasise that all applicants are assessed on an equal basis; recruiting fairs — stands at recruiting fairs are generally staffed by male and female personnel; and visits to schools — when the Defence Forces are invited to give talks at all female or at mixed schools, every effort is made to have a female speaker.

Over the past eight years, the strength of female personnel in the Permanent Defence Force has grown from 244 at the end of 1997 to 524 at the end of August 2005. This constitutes an increase of over 100% in the number of females serving over this period.

On 5 August 2005, I wrote to both the Department of Education and Science and the Department of Justice, Equality and Law Reform along with a number of outside organisations seeking their views and recommendations on how more women might be encourage to enlist in the Defence Forces. While to date a number of replies have been received, a number are still outstanding. When these submissions have been received and examined, I propose that officials, both civil and military, of my Department will meet with representatives of each of the organisations who made submissions, along with the Representative Association of Commissioned Officers, RACO, and the Permanent Defence Force Other Ranks Representative Association, PDFORRA, to consider the ideas and suggestions to see what, if any, improvements or changes can be made to the programme of recruitment so as to encourage more females to join the Defence Forces.

Departmental Investigations.

34. **Mr. Timmins** asked the Minister for Defence if he has received a report on the death of Private Kevin Barrett in Lebanon; and if he will make a statement on the matter. [31941/05]

57. **Mr. Hogan** asked the Minister for Defence the position regarding the investigation into the death of Private Kevin Barrett; and if he will make a statement on the matter. [31900/05]

63. **Ms B. Moynihan-Cronin** asked the Minister for Defence if an independent inquiry into the death of Private Kevin Barrett who was shot while serving in the Lebanon in 1999 will be established; when a final decision will be made on this; the scope and remit of any such inquiry; the timescale for the inquiry; and if he will make a statement on the matter. [32000/05]

Minister for Defence (Mr. O'Dea): I propose to take Questions Nos. 34, 57 and 63 together.

Private Kevin Barrett died on 18 February 1999 while serving with the 84th Infantry Battalion in Lebanon. His death was the subject of a UN board of inquiry and an Irish contingent board of inquiry as well as a military police investigation. The coroner for north-west Donegal held an inquest into the death of Private Barrett from 5 to 8 September 2005. The jury returned an open verdict.

I met with Mrs. Barrett on 4 October 2005, accompanied by her solicitor. I listened carefully to what she had to say. During the course of this meeting, I apologised to Mrs. Barrett and her family for the pain and suffering they had experienced since Private Barrett's tragic death. I indicated to Mrs. Barrett that I was still awaiting sight of the transcript of the coroner's inquest, which I understand will be available shortly. When I have reviewed the transcript of the coroner's inquest, I will decide what further action to take.

During my meeting with Mrs. Barrett, I also gave her an undertaking to have the interaction between my Department-Defence Forces and her and Private Barrett's family reviewed by an independent person. I wish to ensure that appropriate lessons are learnt for the future.

On 28 October 2005, I appointed Mr. Sean Hurley to carry out an independent review of the interaction between the Department of Defence-Defence Forces and the parents and family of Private Barrett in the aftermath of his tragic death. I anticipate that I will receive the report of this review before Christmas.

Defence Forces Equipment.

35. **Dr. Cowley** asked the Minister for Defence his views on whether the air ambulance service provided by the Air Corps should be on more than an as is basis as these new helicopter types will have the capacity of being configured for the ambulance role and in view of the fact that parts of west Mayo have no ambulance base; if he has formalised the arrangements for the provision of the air ambulance service with the Department of Health and Children; and if he will make a statement on the matter. [31721/05]

Minister for Defence (Mr. O'Dea): The Department of Health and Children is responsible for policy formation in respect of pre-hospital emergency care, and the Health Service Executive has statutory responsibility for the provision of ambulance services throughout the State.

A detailed service level agreement for the provision of an air ambulance service by the Air Corps, prepared by my Department and the Department of Health and Children, in consultation with the Health Service Executive and the Defence Forces, who are all signatories to the

agreement, has recently been finalised and signed. The agreement sets out the range of the service to be provided by the Air Corps, specifically inter-hospital transfers for spinal and serious injuries and illnesses, air transport of neonates requiring immediate medical intervention within Ireland, air transport of patients requiring organ transplants in the UK, air transport of organ harvest teams within Ireland and air transport of patients from offshore islands to mainland hospitals where the Irish Coast Guard service is not available.

Both of the new helicopter types will have the capacity of being configured for the air ambulance role and an air ambulance kit is part of the additional equipment ordered with the helicopters. Both kits will be fully certified for airborne use and will enable the transfer of one patient along with up to two medical personnel in the helicopter cabin. Both systems will incorporate basic medical facilities such as electrical power, oxygen supply and suction.

National Emergency Plan.

36. **Mr. Quinn** asked the Minister for Defence if a review of preparedness for a terrorist attack here has been conducted in view of the 7 July 2005 bomb attacks in London; the current level of threat to Ireland from international terrorists; and if he will make a statement on the matter. [32004/05]

Minister for Defence (Mr. O'Dea): The Government Task Force on Emergency Planning has worked, since it was set up in 2001, to co-ordinate emergency planning and response arrangements across those Departments that lead and support the State's response in an emergency. The task force continues to meet on a regular basis.

Potential threats to the State arising from international terrorism are continuously monitored and preparedness reviewed by those involved, principally the Garda Síochána and the Defence Forces.

The current advice available to me is that, while the Garda authorities recognise that the terrorist threat to Europe may currently be high, in relation to Ireland it is low. The awareness that the situation could change rapidly, and with little warning, has ensured that vigilance is maintained. As the Deputy will appreciate, the objective has been, in so far as possible, to confine and control threats before they translate to destructive actions.

Arrangements in relation to security issues that may arise are primarily a matter for the Garda Síochána. Emergency planning preparations are designed to ensure that as far as possible the necessary advance planning is in place to deal

[Mr. O'Dea.]

with the consequences of any incident that may arise.

Question No. 37 answered with Question No. 10.

Question No. 38 answered with Question No. 24.

Overseas Missions.

39. **Mr. Andrews** asked the Minister for Defence the number of Irish troops currently on service on missions in Liberia, Kosovo and Bosnia-Herzegovina; the nature of their duties; and if he will make a statement on the matter. [31886/05]

Minister for Defence (Mr. O'Dea): Ireland is currently contributing 730 Defence Forces personnel to 19 different missions throughout the world. The main commitments are to the United Nations Mission in Liberia, UNMIL, with 403 personnel, to the NATO-led International Security presence, KFOR, in Kosovo, with 202 personnel, and to EUFOR, the EU-led operation in Bosnia and Herzegovina, with 54 personnel.

Ireland, together with an Infantry Company Group from Sweden, provides the quick reaction force, QRF, to the UNMIL Force Commander. The Irish contingent currently comprises of 403 personnel. When it was deployed in late 2003 the initial focus of the unit was to help secure the Monrovia area and to support the disarmament process. However, in recent times the focus of the unit has altered to framework operations in support of the election process. Parliamentary and presidential elections in Liberia took place on 11 October 2005. These elections marked the return of Liberia to a constitutional democracy after 14 years of civil war. The United Nations Mission in Liberia, UNMIL, is playing an extremely positive role in ensuring a secure environment for the holding of elections and in the run-up to the installation of the new Government next January. The Secretary General of the UN has indicated that there will be a review of the UNMIL mission in March 2006, and dependent on the political and security situation in Liberia at that time, a downsizing schedule for the UNMIL mission will be agreed at that time.

The Irish Infantry Group in Kosovo operates as part of a multi-national grouping within the Czech-led multi-national task force centre. It comprises a Mowag APC mounted company together with support and logistic elements. The main tasks of the Irish Infantry Group include the following: provision of general security to all ethnic groups, institutions and cultural sites; provision of support to UNMIK police and other

agencies with security tasks; identification of and reporting on extremist groups and activities; vehicle and foot patrols; vehicle checkpoints; and operation of observation posts.

The role of the Defence Forces personnel serving in EUFOR within the task force, north, is to provide personnel for the headquarters, the military police unit, verification teams and a national support element. Ireland currently acts as the framework nation for the military police unit and verification teams.

The role of the verification teams, established under the Dayton Agreement, is to monitor arms caches and arms movements by the two forces in Bosnia and Herzegovina. The teams are advised as to weapons purchases and movements and they inspect the arms holdings of the two forces and monitor movements to ensure that both sides comply with their obligations under the Dayton Accord.

Commemorative Events.

40. **Mr. Penrose** asked the Minister for Defence the reasons three military aircraft conducted low flights across Dublin city centre on the afternoon of 7 July 2005; his views on whether it may have been inappropriate for such exercises to have taken place on this day due to the morning bomb attacks that had taken place in London; his further views on whether these flights caused some anxiety for the general public; if an investigation has been conducted into this incident; and if he will make a statement on the matter. [32003/05]

Minister for Defence (Mr. O'Dea): The military aircraft in question, three Pilatus PC9-M flown by the Air Corps Flying Training School, were carrying out a rehearsal fly-past over the Royal Hospital, Kilmainham, in preparation for the National Day of Commemoration on 11 July 2005. The National Day of Commemoration is held in honour of all Irish men and women who died in past wars or on peace-keeping duties with the United Nations.

I am advised by the military authorities that the aircraft did not fly over Dublin city centre but remained to the west and south west of the Royal Hospital at all times. The flights were properly authorised and approved prior to the rehearsal fly-past taking place.

Neither my Department nor the Defence Forces have received any complaints concerning the activities of the aircraft on 7 July, and the question of an investigation did not arise.

Humanitarian Assistance.

41. **Mr. J. O'Keefe** asked the Minister for Defence if any Defence Force assistance has been

offered to Pakistan following the recent devastating earthquake in that country; and if he will make a statement on the matter. [31908/05]

53. **Mr. Rabbitte** asked the Minister for Defence the resources he made available to the Governments of India and Pakistan following the 11 October 2005 earthquake; and if he will make a statement on the matter. [32005/05]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 41 and 53 together.

While primary responsibility in this area lies with my colleague, the Minister for Foreign Affairs, Deputy Dermot Ahern, a request for assistance from Pakistan in the aftermath of the South Asia earthquake was received through the European Union Monitoring and Information Centre, MIC, in Brussels. Following consideration by the military it was decided to offer 5,000 meals ready to eat, MREs. However, some of the contents were not suitable for use in the region due to dietary restrictions associated with the religious beliefs of those affected by the disaster. The Defence Forces were not in a position to provide the other items requested such as helicopters or earth moving equipment while the tents in use by the Defence Forces were not suited to the weather conditions that prevail in the region. The Irish Government provided €3 million in humanitarian aid for the region through UNICEF, WHO, UN OCHA, IRC AND NGOs active in the region.

My colleague, the Minister for Foreign Affairs, Deputy Dermot Ahern, has just recently received two further appeals from the UN Office for the Co-ordination of Humanitarian Affairs specifically in relation to shelter, aviation fuel and air traffic control personnel. This appeal specifically stated that non-winterised tents would be acceptable and on foot of this, the Defence Forces offered to provide tents and beds for 500 people. The Department of Foreign Affairs is currently awaiting a response from the UN office as to whether this offer has been accepted.

Defence Forces Equipment.

42. **Mr. Crawford** asked the Minister for Defence the number of nuclear, chemical and biological suits available for use by the Defence Forces; and if he will make a statement on the matter. [31901/05]

Minister for Defence (Mr. O’Dea): The Defence Forces have available to them equipment for monitoring and protecting their members in dealing with nuclear, biological or chemical, NBC, threats identified from time to time. They hold an extensive range of modern NBC equipment that meets their current require-

ments. This range includes approximately 7,000 NBC suits, 1,500 of which were delivered in 2004. A further 1,000 suits have been ordered for delivery later this year and a further 1,000 suits will be delivered in 2006.

Common Foreign and Security Policy.

43. **Mr. English** asked the Minister for Defence if a rapid response to crisis situations, such as the threat of genocide, will be possible through the proposed EU battle group formations; his views on whether Ireland will also be able to respond quickly in such matters as a member of EU battle groups without reform of the triple lock mechanism; and if he will make a statement on the matter. [31914/05]

Minister for Defence (Mr. O’Dea): The battle-group is designed to respond rapidly to the full range of Petersberg Tasks, either on its own or as an initial response pending the deployment of a follow-on force. Potentially, a battlegroup could be deployed to counter the threat of genocide. In such a situation, I would expect the UN to respond with all haste and put in place an appropriate resolution to ensure the protection of those at risk. We could only participate in such an operation if there was such a resolution in place. As I have stated on numerous occasions, our participation in any mission will continue to be subject to the requirement for UN approval, Government decision and Dáil approval, that is, the triple lock.

Defence Forces Equipment.

44. **Mr. O’Connor** asked the Minister for Defence if the Defence Forces will be replacing the existing FN pistols; the stage any such replacement programme is at; and if he will make a statement on the matter. [31925/05]

Minister for Defence (Mr. O’Dea): A tender competition is currently in train to replace the existing FN 9mm Browning automatic pistol within the Defence Forces. Proposals have been received and are under evaluation by a project evaluation team. The requirement is for up to 1,400 new pistols.

It is expected that a contract will be placed in the first quarter of 2006 but this is dependent on how long the technical evaluation and the subsequent field trials of the pistols takes. As the tender competition is in train, the Deputy will appreciate I cannot disclose any further information in the matter at this stage.

Question No. 45 answered with Question No. 15.

Question No. 46 answered with Question No. 20.

Military Police Investigation.

47. **Mr. Gormley** asked the Minister for Defence if an inquiry has been ordered into serious allegations that an Irish soldier in the Rockhill Barracks, Letterkenny stole diesel from army trucks and filled them up with illegal diesel produced by the Provisional IRA; if the soldier has been suspended while the inquiry is taking place; when the inquiry is due to be complete; and if he will make a statement on the matter. [32038/05]

Minister for Defence (Mr. O’Dea): The military authorities advise that there is a Military Police investigation ongoing into the alleged larceny of diesel oil from military vehicles in Donegal. It would be inappropriate to comment on the details of the investigation but it can be confirmed that a member of the Defence Forces has been interviewed in the course of the investigation. As the investigation is continuing and several lines of inquiry remain to be completed, it is not possible to determine when the investigation will be concluded. There is no provision in Defence Force regulations for the suspension of a member of the Defence Forces.

Decentralisation Programme.

48. **Ms Shortall** asked the Minister for Defence the situation in relation to plans to decentralise his Department; the number of applications regarding same; and if he will make a statement on the matter. [32007/05]

Minister for Defence (Mr. O’Dea): The Government decision on decentralisation announced by the Minister for Finance in his Budget Statement on 3 December 2003 provides for the transfer of my Department’s Dublin based Civil Service staff to Newbridge, County Kildare. The number of staff to be relocated to Newbridge is 202.

While the Office of Public Works has identified a suitable site in Newbridge for the Department’s new headquarters, negotiations on the acquisition of the site have not yet been completed. For this reason it is not possible to give a firm date for the move. Every effort is being made to expedite the process. A total of 385 personnel, of whom 59 are currently serving in the Department, have volunteered to relocate to Newbridge.

Question No. 49 answered with Question No. 12.

Defence Forces Medical Services.

50. **Ms Burton** asked the Minister for Defence his views on claims made by the president of PDFORRA that medical services within the Defence Forces are totally inadequate; if his attention has been drawn to claims made at the PDFORRA conference that members of the Defence Forces must use their own money to pay for medical treatments to protect their careers and contracts; his plans to address inadequate medical services for the Defence Forces; and if he will make a statement on the matter. [31993/05]

Minister for Defence (Mr. O’Dea): As part of the modernisation agenda agreed under Sustaining Progress a review, involving the representative associations, of the provision of medical services in the Defence Forces has been ongoing. This review has dealt with, among other things, the level of services to be provided to members of the Defence Forces and the resources required for the delivery of that service. This review, which is being implemented on a phased basis, will be concluded by mid-2006. It has already delivered significant improvements in the delivery of medical services in the Defence Forces. As part of the change process a revised concept document on the provision of medical services and a patient’s charter are being prepared at present. As a result of changes in this area there will be a greater emphasis on the direct provision of medical services, improvements through computerisation in the maintenance and tracking of patients records and on treatment.

The military medical services and their facilities exist primarily to maintain the health of Defence Forces personnel and to support them in operational and overseas activities. Medical treatment of military personnel is carried out as far as possible in a military hospital or other medical facility under the auspices of the Army Medical Corps. If the necessary treatment is outside the scope of the Army Medical Corps, then non-commissioned personnel, including recruits, are referred for treatment under the public health service. Such personnel, in common with all citizens, are eligible for treatment as public patients in public hospitals or to avail of private health care if they so choose. Where Medical Corps doctors are not available, suitable local arrangements are made with civilian medical practitioners to ensure that the appropriate level of professional care is available to members of the Defence Forces. In the event of an injury attributable to service or illness occurring to a recruit and when the public health services required are not available in sufficient time to provide the treatment necessary to allow the recruit to achieve the medical classification code required for final approval, financial sanction may be given

for private treatment. Such sanction will be contingent on the recruit being likely to achieve the necessary medical classification code in sufficient time for final approval. Decisions are made on the individual particulars of each case based on the opinion of the relevant military medical authorities. In these circumstances the question of military personnel paying directly for medical services should not arise.

Official Engagements.

51. **Mr. Coveney** asked the Minister for Defence his plans to visit Irish troops serving abroad; and if he will make a statement on the matter. [31944/05]

Minister for Defence (Mr. O’Dea): In the period 30 May to 1 June, I visited Irish troops serving with KFOR in Kosovo, and EUFOR in Bosnia-Herzegovina. Parliamentary and presidential elections in Liberia took place on 11 October 2005. As the presidential election did not produce an outright winner, a run-off between the two leading candidates — Ms Ellen Johnson-Sirleaf and Mr. George Weah — will be necessary. The next round of voting is due to take place on 8 November. I had planned to begin a visit to Irish contingent serving with the United Nations Mission in Liberia, UNMIL, on that date. As my visit would have coincided with the second round of the presidential elections, I was advised by the United Nations to postpone my visit. I hope to reschedule my visit to Liberia early in 2006.

Defence Forces Strength.

52. **Aengus Ó Snodaigh** asked the Minister for Defence the number of Defence Forces personnel engaged in operational duties relating to the Border each year for the past ten years. [31950/05]

Minister for Defence (Mr. O’Dea): The primary responsibility for the internal security of the State rests with the Garda Síochána. The Defence Forces, pursuant to their role of rendering aid to the civil power, assist the Garda as required. Defence Forces Border operations are undertaken as aid to civil power, ATCP, requests. The Defence Forces also assist the Garda in relation to prisoner escorts, cash escorts and explosives escorts.

The Defence Forces have three infantry battalions and a cavalry squadron tasked with Border security. They receive direct support from explosive ordnance disposal teams and air support from the Air Corps. These units are based in barracks and military posts in Counties Donegal, Longford, Cavan, Monaghan and Louth.

The demands on the Defence Forces in relation to Border duty depend on the nature of the requests for assistance received from the Garda at any particular time. These requests include the provision of armed parties for the purpose of protecting gardaí and the carrying out of duties such as vehicle checkpoints, mobile patrols, specialist search team tasks and explosive ordnance disposal, EOD, tasks. Last year there were 15 requests for EOD assistance and one request for assistance from an engineer specialist search team. During 2003 there were 12 requests for EOD assistance and four further occasions where the Garda requested Defence Forces assistance.

Since the Good Friday Agreement, the level of demand for Defence Forces assistance to the Garda in the Border area has reduced significantly and will be kept under review in my Department in consultation with the relevant Departments as well as with the Garda authorities.

Question No. 53 answered with Question No. 41.

Defence Forces Training.

54. **Mr. Howlin** asked the Minister for Defence if his attention has been drawn to criticisms voiced at the PDFORRA annual conference that the training and planning for Irish troops embarking on overseas deployment is poor; if his attention has further been drawn to the very real problems this can cause; his plans to address same; and if he will make a statement on the matter. [31996/05]

Minister for Defence (Mr. O’Dea): I am advised by the military authorities that the current training for overseas deployment follows a specific training syllabus developed for such missions. Each syllabus is based on comprehensive studies carried out by a number of specialist staffs of each mission area after reconnaissance. All recommendations of these staffs are incorporated into the syllabus and the troops trained accordingly.

I am further advised that these syllabi are reviewed after each deployment and updated. All lessons learned are incorporated into training syllabi to ensure that troops are kept abreast of any developments and requirements in the mission area. All standards applied are in keeping with best international practice and are the subject of frequent and rigorous reviews in order to ensure that the Permanent Defence Force pre-mission training remains at the highest level.

Defence Forces Equipment.

55. **Mr. Durkan** asked the Minister for Defence

[Mr. Durkan.]

if he has satisfied himself that the permanent Defence Forces are sufficiently equipped in terms of military hardware to deal with all or likely eventualities in the event of a terrorist attack or natural disaster; and if he will make a statement on the matter. [31956/05]

Minister for Defence (Mr. O’Dea): The most important defence against any terrorist attack is detection and prevention by the security forces. While the Garda Síochána has the primary responsibility for law and order, one of the roles assigned to the Defence Forces is the provision of aid to the civil power, meaning in practice to assist, when requested, the Garda Síochána. The various components of the Defence Forces are active in this regard, providing such assistance as is appropriate in specific circumstances.

The Defence Forces make contingency plans for a range of scenarios where the State may be at risk. An urgent and detailed review to deal with a range of emergency situations was undertaken by the military authorities following the events of 11 September. It included, *inter alia*, an up-date of the threat assessment: intensive contacts with other State agencies, a reassessment of operations orders relating to vital installations, alert systems, the Army Ranger wing, ordnance and engineer aspects in terms of explosive ordnance disposal and specialist search and a review of equipment, including the need for air defence. All matters arising were addressed and all procedures updated as required.

The Defence Forces have available to them equipment for monitoring and protecting their members in dealing with nuclear, biological or chemical, NBC, threats identified from time to time. They hold an extensive range of modern NBC equipment that meets their current requirements. This range includes approximately 7,000 NBC suits, 1,500 of which were delivered in 2004. A further 1,000 NBC suits have been ordered for delivery later this year and a further 1,000 suits will be delivered in 20.

The capacity of the Defence Forces to deal with major emergencies is kept under constant review. Plans and procedures are updated as necessary and such additional equipment as is required to address any perceived deficiencies is acquired on the basis of identified priorities. Training and preparation for such events is also provided for in the Defence Forces annual training plan.

The most important defence against any attack is vigilance, detection and prevention by the security forces. All the necessary resources of the Garda Síochána and the Defence Forces are deployed to this end.

Question No. 56 answered with Question No. 7.

Question No. 57 answered with Question No. 34.

Common Foreign and Security Policy.

58. **Mr. Boyle** asked the Minister for Defence, further to his parliamentary response on 29 September 2005 in which he stated that Ireland supports the development of the European Union’s rapid reaction capability in support of missions authorised by the United Nations, if that indicates that the Government would oppose at EU level the deployment of any EU rapid reaction forces in peacemaking missions not authorised by the United Nations; and if he will make a statement on the matter. [32041/05]

Minister for Defence (Mr. O’Dea): The Deputy cannot take my response to a previous parliamentary question and turn it on its head the way he has done here. As the Deputy is aware, the Government supports the development of the EU’s rapid response capability in support of the UN. This is in keeping with our long tradition and policy of support for the UN, multilateralism and the Security Council as the lead authority for the maintenance of international peace and security. Among the operations on which a battlegroup could be deployed are humanitarian operations such as assisting, if requested, the authorities in a state which has been devastated by a natural or man-made disaster where there is unlikely to be a UN security resolution as it may not involve any security issues. I would consider it unlikely that Ireland would veto such an operation, although any participation by the Defence Forces would have to be examined in the context of the provisions of the Defence Acts. In general, the question of whether an EU battlegroup would deploy in the absence of UN authorisation is hypothetical at this point and the position Ireland would take in the future if such a question were to arise would be a matter for consideration by the Government.

Army Barracks.

59. **Dr. Cowley** asked the Minister for Defence if money will be spent on Castlebar military barracks; if so, the timeframe for same; if his attention has been drawn to the fact that the west of Ireland is the only area in the country with no current facilities for RDF training and that the summer training camps for the RDF are totally overcrowded; his views on whether the minimum spend facility will be up to standard and available for use; and if he will make a statement on the matter. [31722/05]

Minister for Defence (Mr. O’Dea): Castlebar military barracks is primarily a Reserve Defence Force facility and provides training facilities,

office accommodation and storage facilities for Permanent Defence Force cadre and unit personnel of units stationed in the barracks.

The military have costed the refurbishment of some buildings necessary to effect compliance with building, health and safety, and fire regulations to provide permanent accommodation and catering facilities for RDF summer camps. The estimated cost of approximately €4 million raises value for money considerations. Therefore, there are no plans at present to carry out any major building or refurbishment works on the barracks.

Western Brigade is currently well served with training facilities for RDF personnel at Finner Camp, Donegal; Dun Ui Mhaoiliosa, Galway; Custume Barracks, Athlone; Columb Barracks, Mullingar; Connolly Barracks, Longford; and Dun Ui Neill, Cavan where accommodation and training facilities are of the highest standard. The military authorities have informed me that there is no evidence of overcrowding in RDF summer camps in the Western Brigade.

Question No. 60 answered with Question No. 6.

Question No. 61 answered with Question No. 15.

Common Foreign and Security Policy.

62. **Mr. Eamon Ryan** asked the Minister for Defence the section of the Irish Defence forces which will provide the 120 Irish troops being considered for deployment to any future involvement in EU battlegroups; and if he will make a statement on the matter. [32047/05]

Minister for Defence (Mr. O’Dea): The Defence Forces have looked at a number of options in terms of their contribution to rapid reaction forces under the Helsinki Headline Goal. I am not sure where the Deputy got the figure of 120 troops in the context of battlegroups. While I have yet to receive the report of the interdepartmental group, which is examining the issue of battlegroups, my understanding is that the Defence Forces have identified a palette of offers which they could contribute. In the event of a positive decision by the Government to the Defence Forces participation in a battlegroup, it will be necessary to enter into discussions with potential partners in relation to the nature and scale of our contribution. Until then it is impossible to say what the size of the commitment would be and where it will come from.

Question No. 63 answered with Question No. 34.

European Defence Agency.

64. **Mr. Sargent** asked the Minister for Defence if he has received the report presented to the EU by the centre for strategic and international studies, European Defence integration, which is due to be debated in the EU in October 2005 (details supplied); and if he will make a statement on the matter. [32048/05]

Minister for Defence (Mr. O’Dea): As the Deputy will be aware, Ireland participates in the European Defence Agency which is charged with supporting the development of capabilities in relation to battlegroups and the Headline Goal, supporting collaboration and rationalisation in the European Defence equipment market and increasing the effectiveness of European Defence expenditure, particularly in the area of research and technology. The centre for strategic and international studies is a Washington based think tank. It has no connection to the EU and as such its reports are not debated or considered formally by the EU. I have not received the report referred to, which I understand was prepared by two retired NATO generals. However, if there is anything of substance in the report on European defence integration, no doubt the agency will reflect on the views of the centre, as presented in its report, and bring forward its own proposals to the steering board of the agency, if such is warranted.

Question No. 65 answered with Question No. 7.

Overseas Missions.

66. **Mr. Naughten** asked the Minister for Defence the number of Defence Forces personnel currently on service overseas; and if he will make a statement on the matter. [31910/05]

Minister for Defence (Mr. O’Dea): Ireland is currently contributing 730 Defence Forces personnel to 19 different missions throughout the world, full details are as listed in the following tabular statement. The main commitments are to the United Nations Mission in Liberia, UNMIL, with 403 personnel, the NATO-led international security presence, KFOR, in Kosovo, with 202 personnel, and EUFOR, the EU-led operation in Bosnia and Herzegovina, with 54 personnel. Other personnel are serving as monitors and observers with the United Nations, UN, the Organisation for Security and Cooperation in Europe, OSCE, and the European Union. Staff are also deployed at the organisational headquarters of the OSCE, the UN, NATO and the EU.

[Mr. O'Dea.]

Members of the Permanent Defence Force serving Overseas as of 24 October, 2005.

	Number
1. UN Missions	
(i) UNIFIL (United Nations Interim Force in Lebanon)	6
(ii) UNTSO (United Nations Truce Supervision Organisation) — Israel, Syria and Lebanon	13
(iii) MINURSO (United Nations Mission for the Referendum in Western Sahara)	4
(iv) UNMIK (United Nations Interim Administration Mission in Kosovo)	4
(v) MONUC (United Nations Mission in Democratic Republic of the Congo)	3
(vi) UNOCI (United Nations Mission in Ivory Coast)	2
(vii) UNMIL (United Nations Mission in Liberia) FHQ	6
UNMIL 93rd Inf Bn	397
TOTAL	435
UN Mandated Missions	
(viii) EUFOR (EU-led Operation in Bosnia and Herzegovina)	54
(ix) KFOR (International Security Presence in Kosovo)	202
(x) ISAF (International Security Assistance Force in Afghanistan)	7
Total number of personnel serving with UN missions	698
2. EU Missions	
(i) European Union Monitor Mission (EUMM) to the former Yugoslavia	5
(ii) EU's support for the UN authorised African Union Mission in Sudan (AMIS)	1
(iii) ACEH Monitoring Mission (AMM)	3
Total Number of Personnel Serving with EU Missions	9
3. Organisation for Security and Co-operation in Europe (OSCE)	
(i) OSCE Mission to Bosnia & Herzegovina	1
(ii) OSCE Mission in Montenegro	1
(iii) OSCE Presence in Albania	1
(iv) OSCE Mission in FRY	2
(v) OSCE Mission in Georgia	1
(vi) Staff Officer, Higher Level Planning Group, Vienna	1
Total number of personnel serving OSCE	7
4. Head of Military Staff (Brussels)	1
5. EU Military Staff (Brussels)	5
6. Liaison Office of Ireland, P&P (Brussels)	2
7. Permanent Representative to EU (Brussels)	3
8. Military Representatives-Advisers	
(i) Military Adviser, Permanent Mission to UN, New York	1
(ii) Military Adviser, Irish Delegation to OSCE, Vienna	1
(iii) Military Representative to Partnership Co-ordination Cell-Supreme	1
Headquarters Allied Powers Europe (SHAPE), Mons, Belgium	
9. Appointments — UN HQ (New York)	
Officers seconded to DPKO (Department of Peace Keeping Operations)	2
Total Number Defence Forces Personnel Serving Overseas	730

Death Registration.

67. **Mr. Neville** asked the Tánaiste and Minister for Health and Children if there is a procedure to register a death that took place in County

Limerick in 1960 when the record of the cause of death is destroyed and not available. [32290/05]

Tánaiste and Minister for Health and Children (Ms Harney): The administration of civil regis-

tration is statutorily a matter for an tArd Chláraitheoir, Registrar General, of births, marriages and deaths. I have made inquiries with an tArd Chláraitheoir and the position is as set out beneath.

Statutory provision for the late registration of deaths is made under the Births and Deaths Registration Act (Ireland) 1880 and regulations made thereunder. Deaths which have not been registered within 12 months of the date of the death, except in cases where an inquest has been held, require the written authority of an tArd Chláraitheoir before they can be registered. In such cases a statutory declaration is required to be completed by a person who is regarded as qualified to give information about the death including the cause of death. Other documentary evidence may be required depending on the circumstances.

An application to register the death in question should be made in the first instance to the registration office for the district in which the death took place and from which all necessary documentation can be obtained.

Health Services.

68. **Mr. McGinley** asked the Tánaiste and Minister for Health and Children the reason the services of a speech therapist is not being provided for a person (details supplied) in County Donegal; and if she will make a statement on the matter. [32316/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

69. **Mr. P. Breen** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Clare will be facilitated with an appointment for hip surgery; and if she will make a statement on the matter. [32074/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this case investi-

gated and to have a reply issued directly to the Deputy.

70. **Mr. P. Breen** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Clare will receive an appointment for an assessment for hip replacement. [32075/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this case investigated and to have a reply issued directly to the Deputy.

Hospital Waiting Lists.

71. **Mr. P. Breen** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Clare will receive an appointment for hip replacement; and if she will make a statement on the matter. [32076/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this case investigated and to have a reply issued directly to the Deputy.

Adoption Services.

72. **Ms McManus** asked the Tánaiste and Minister for Health and Children the reason two vacancies for social workers in the local adoption service are not being filled in view of the fact that the waiting list in the north east is the longest in the country for inter-country adoption and she has ring-fenced €1 million to help reduce waiting lists for inter-country adoption; and if she will make a statement on the matter. [32077/05]

Minister of State at the Department of Health and Children (Mr. B. Lenihan): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Regional Health Forums.

73. **Mr. Ó Fearghail** asked the Tánaiste and Minister for Health and Children when she envisages the establishment of local health committees; and if she will make a statement on the matter. [32090/05]

Tánaiste and Minister for Health and Children (Ms Harney): Part 8 of the Health Act 2004 makes provision for public representation and user participation in the health system. Section 42 of the Act provides for the establishment by the Minister for Health and Children of not more than four regional health forums. These forums will comprise members appointed from each city and county council within the functional area of the forum. The function of a forum, as provided for in the 2004 Act, is to make such representations as it considers appropriate to the Health Service Executive on the range and operation of health and personal social services provided within its functional area.

Section 42 provides that details relating to the establishment, composition and operation of the regional health forums will be set out in regulations to be made by the Minister for Health and Children, following consultation with the Minister for the Environment, Heritage and Local Government. The Department of Health and Children has prepared a draft of the regulations and has been in consultation with the Health Service Executive on the provisions of the draft regulations. Following completion of that consultation, I will consult with the Minister for the Environment, Heritage and Local Government as required by the 2004 Health Act prior to making the regulations. It is my intention that the regulations will be finalised as soon as possible so as to enable the regional health forums to be established at an early date. The regulations establishing the forums will be laid before both Houses of the Oireachtas as soon as they have been made.

Section 43 of the Health Act 2004 enables the executive to establish advisory panels in order to consult with local communities or other groups about health and personal social services. It is a matter for the executive to determine the terms of reference, the membership and the rules and procedures for each panel. The executive has informed the Department of Health and Children that it has begun the process of examining the different structures that exist in each of the former health board areas for involving consumers at local level and is further developing the consumer panels that already exist. The executive wishes to foster an open approach to service user feedback and comment and is using national and international best practice in developing the new structures.

Departmental Correspondence.

74. **Mr. G. Mitchell** asked the Tánaiste and Minister for Health and Children when a response will issue to correspondence from a person (details supplied) in Dublin 8; and if she will make a statement on the matter. [32091/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Decentralisation Programme.

75. **Ms Shortall** asked the Tánaiste and Minister for Health and Children the offices of her Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32097/05]

Tánaiste and Minister for Health and Children (Ms Harney): All the sections of the Department of Health and Children are situated on the south side of Dublin with the exception of the General Register Office which decentralised to Roscommon town earlier this year.

Proposed Legislation.

76. **Mr. Perry** asked the Tánaiste and Minister for Health and Children if the concerns raised in the correspondence (details supplied) regarding the legislation for the chiropractic profession in the Health and Social Care Professional Bill 2004 will be addressed; and if she will make a statement on the matter. [32110/05]

Tánaiste and Minister for Health and Children (Ms Harney): This Bill shows us the way forward by establishing a framework for the statutory registration of health and social care professionals. The 12 professions selected for inclusion in the Health and Social Care Professionals Bill 2004 were chosen because they are long established providers of health and social care within the public health service and, in most instances, also have experience of self-regulation. In addition, the qualifications of the majority of these professions are already regulated within the public health service.

Section 4 of the Bill provides for the inclusion by regulation of additional professions in the proposed system of statutory registration. This

section also sets out the criteria to which the Minister shall have regard in considering the designation of further professions under the legislation. The Deputy will appreciate that the future inclusion of any profession must be dependent upon its meeting these criteria.

I favour the programmed and orderly inclusion of additional health and social care professionals in this new statutory framework and I will consider the case for chiropractors in that light. By the nature of regulations as opposed to primary legislation, the designation of additional professions by regulation can be progressed speedily, in line with the consultative process set out in section 4 of the Bill and the oversight given by the Houses of the Oireachtas which must pass a resolution approving draft regulations in the matter.

Services for People with Disabilities.

77. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the position regarding protection measures for adults with an intellectual disability in residential care; and if she will make a statement on the matter. [32120/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): All health service providers are required to adhere to the necessary legislative requirements with regard to safe environments. As a further protection, it is the intention of the Department of Health and Children to put in place a statutory inspection provision which would cover, among others, residential services for adults with intellectual disability.

This measure, together with the draft national standards for disability services which have been developed by the Department of Health and Children, in partnership with the National Disability Authority, will provide a quality framework for the protection and promotion of the rights of service users and staff to safety and dignity. A critical element in this process is the expansion of the remit of the social services inspectorate and the establishment of the health information quality authority.

Hospital Services.

78. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the number of patients on trolleys or chairs at Beaumont Hospital on 27 October 2005; and if she will make a statement on the matter. [32121/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility

of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

79. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the position regarding efforts to assist persons (details supplied); and if she will make a statement on the matter. [32122/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Services for People with Disabilities.

80. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the position regarding improving services at a school (details supplied) for the 312 persons on residential waiting lists; and if she will make a statement on the matter. [32123/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act, 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

National Treatment Purchase Fund.

81. **Mr. Ó Fearghaíl** asked the Tánaiste and Minister for Health and Children the number of persons from County Kildare who have received treatment under the national treatment purchase scheme; and if she will make a statement on the matter. [32126/05]

Tánaiste and Minister for Health and Children (Ms Harney): As the Deputy's question relates to the operation of the National Treatment Purchase Fund, the Department of Health and Children has asked the chief executive of the fund to

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respond to the Deputy with the information requested.

Departmental Bodies.

82. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children when the parliamentary affairs division was set up at the Health Service Executive; the cost at which it was set up; the number of staff employed within the division; the salaries of those employed within this division; and if she will make a statement on the matter. [32129/05]

83. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children the reason it was thought necessary to set up a parliamentary affairs division within the Health Service Executive; the issues, which will be her responsibility in terms of answers to parliamentary questions; and if she will make a statement on the matter. [32130/05]

84. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children the time constraints that the parliamentary affairs division of the Health Service Executive observe; if these differ from the time constraints observed by Departments when parliamentary questions are put to them; if so the reason for same (details supplied); and if she will make a statement on the matter. [32131/05]

Tánaiste and Minister for Health and Children (Ms Harney): I propose to take Questions Nos. 82 to 84, inclusive, together.

Prior to the establishment of the Health Service Executive, parliamentary questions concerning access to services, by individuals or in specific geographic areas, were referred to the chief executive officer of the relevant health board or ERHA for direct reply.

Pursuant to the Health Act 2004, the functions of the health boards and ERHA were transferred to the HSE. Under the Act, the HSE has responsibility to manage and deliver, or arrange to have delivered on its behalf, health and personal social services. The establishment of the HSE brought into being a new unitary system for the delivery and management of health services at local, regional and national level. The move to the new structure presented an opportunity for an improved service for providing information to Oireachtas Members. The parliamentary affairs division of the HSE, which was established last April, provides a central contact for all Oireachtas requests for information relating to matters within the statutory remit of the executive.

The Deputy's questions about the parliamentary affairs division regarding the number of staff,

the set up costs, and the salaries paid, are operational matters, which are the responsibility of the HSE. Accordingly, the Department of Health and Children has requested the HSE to arrange to have the information compiled and a reply issued directly to the Deputy.

As Minister, I am responsible for the legislative and regulatory framework underpinning the delivery of health and personal social services, national policy issues including overall service, human resource and industrial relations, workforce planning, resource allocation, performance management and health service reform issues, and issues relating to the Department of Health and Children. Regarding my replies to parliamentary questions on such matters, where the information concerned is readily available in the Department of Health and Children, it is included in the answer given in the House. Otherwise, the reply advises that the information must be compiled and will be issued to the Deputy concerned as soon as possible after the answer date.

The HSE aims to operate within a timeframe of 20 working days from the date of answer of a parliamentary question for the issue of a final reply to a Deputy. This reflects the arrangements which the former health boards and ERHA had adopted prior to the HSE's establishment. It is a starting point and the HSE is committed to reducing this period as it develops its organisational and information capacity going forward. The Deputy will be aware that parliamentary questions can differ very substantially in the complexity of the subject matter or the extent of the detail sought. The HSE endeavours to provide more immediate responses in instances where the information sought in the question is of a routine nature or is readily available. The key purpose in establishing the HSE's parliamentary affairs division is to provide a strong mechanism, and specific resource, to address the information needs of Oireachtas Members in connection with the discharge by the HSE of its statutory responsibilities under the 2004 Act. The establishment of the division provides, for the first time, a systematic approach to monitoring and improving the performance of the health service delivery system in replying to information requests from Oireachtas Members.

Health Services.

85. **Mr. English** asked the Tánaiste and Minister for Health and Children the number of persons on orthodontic waiting lists in County Meath; the number in categories A and B; the average waiting time involved; the steps being taken to reduce waiting lists; and if she will make a statement on the matter. [32137/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to

the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

86. **Mr. English** asked the Tánaiste and Minister for Health and Children the financial surplus or deficit for Our Lady's Hospital, Navan, County Meath for each of the years 2002, 2003, 2004 and to date in 2005; and if she will make a statement on the matter. [32138/05]

Tánaiste and Minister for Health and Children (Ms Harney): For the years 2002 to 2004, inclusive, it was a matter for the former North Eastern Health Board to allocate its funding between the different programmes of treatment and care within the overall level of funding available, after providing for those specific decisions identified by the Department. The information requested by the Deputy in respect of those years was not routinely collected by the Department of Health and Children. Since 1 January 2005 the management and delivery of health and personal social services are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to have a reply issued directly to the Deputy with the information requested for the period from 2002 to 2004 and to date in 2005.

Health Services.

87. **Mr. English** asked the Tánaiste and Minister for Health and Children the current budget for orthopaedic services for the elderly in County Meath; and if she will make a statement on the matter. [32139/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Accommodation.

88. **Mr. English** asked the Tánaiste and Minister for Health and Children if the full com-

plement of beds is in use at Our Lady's Hospital in Navan, County Meath; if not, the number and percentage of beds in use; the reason for this occurring and when full capacity will be returned; and if she will make a statement on the matter. [32140/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

89. **Mr. English** asked the Tánaiste and Minister for Health and Children the number of elderly persons awaiting allocation of a long-term care place in State nursing homes in County Meath; her plans to provide additional community care units in County Meath; and if she will make a statement on the matter. [32141/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

90. **Mr. English** asked the Tánaiste and Minister for Health and Children the budget allocated to the North Eastern Health Board for the years 1995 to 2004 inclusive; the overrun for each year; and if she will present the findings in tabular form. [32142/05]

Tánaiste and Minister for Health and Children (Ms Harney): The final determination and actual net expenditure for the former North Eastern Health Board for the years 1995 to 2004 inclusive is set out in the following table. Under the 1996 accountability legislation, each health board was required to transfer a deficit or surplus for the preceding year to the following year. Accordingly, health boards included a surplus or deficit, whichever was appropriate, in their planned spending for the following year.

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Year	Determination €m	Net Expenditure €m	(Deficit)/ Surplus €m
1995	131.432	131.013	0.419
1996	132.892	133.412	(0.520)
1997	174.559	176.837*	(2.278)*
1998	209.380	208.116	1.264
1999	262.480	261.118	1.362
2000	321.750	323.041	(1.291)
2001	410.658	408.361	2.297
2002	479.200	480.249	(1.049)
2003	526.274	522.950	3.324
2004	565.230	569.751	(4.521)

* The former North Eastern Health Board purchased Our Lady of Lourdes Hospital, Drogheda on 1 June 1997 and the accumulated deficit of the hospital, amounting to €1.4 million, was included in board's accounts as an exceptional item.

Nursing Home Charges.

91. **Mr. O'Connor** asked the Tánaiste and Minister for Health and Children the position regarding her plans to deal with the nursing home charges issue; and if she will make a statement on the matter. [32165/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Government has agreed the key elements of a scheme for the repayment of long-stay charges for publicly funded residential care. All those fully eligible persons who were charged and are alive and the estates of all those who were charged and died in the six years prior to 9 December 2004 will have the charges repaid in full. The scheme will not allow for repayments to the estates of those who died more than six years prior to that date. The repayments will include both the charge paid and an amount to take account of inflation, using the consumer price index, since the time the person involved was charged.

It is expected the scheme will cost approximately €1 billion and at this stage it is envisaged that applications for the scheme can be received up to 31 December 2007. Figures provided by the Health Service Executive show an estimated 60,000 people are likely to be due a repayment, approximately 20,000 of these are living and 40,000 relate to estates of deceased patients.

It is my intention to have legislation brought before the Oireachtas in the next parliamentary session and to have repayments commencing shortly after the Bill is approved and signed into law. In the case of those who were charged and are still alive, the repayments will be exempt from tax and will not be taken into account in assessing means for health and social welfare benefits. The normal tax and means assessment arrangements will apply to those who benefit from repayments to estates. The legislation will include appropriate safeguards to prevent exploitation of those who

receive repayments and are not in a position to manage their own financial affairs. The scheme will include a provision to allow those eligible for a repayment to waive their right to a repayment and have the money assigned to fund service improvements in elderly, mental health and disability services.

A national oversight committee has been appointed and has already begun its work. It will provide an independent input into the design of the scheme and will monitor the operation of the scheme in order to ensure that it is being implemented quickly and in the most equitable and effective way possible. The scheme will be designed and managed with the aim of ensuring that those who are eligible for repayments receive them as soon as possible and with the minimum possible imposition in terms of bureaucracy. Priority will be given to those who are still alive. Many of those eligible for repayments have already been identified under the *ex-gratia* payments process. The scheme will include a transparent and thorough appeals process.

The Health Service Executive has informed the Department of Health and Children that an outside company with experience in handling mass claims will be engaged by the end of this month to provide an independent input into the design and administration of the scheme. The national helpline set up by the HSE to allow people to register if they believe they are due a repayment will continue to operate but there is no need for anyone who has already registered using this facility to make contact with the HSE again to register for the scheme.

Health Services.

92. **Mr. English** asked the Tánaiste and Minister for Health and Children the number of physiotherapists employed by the Health Service Executive in County Meath; the number of physiotherapists that provide a community based service; the plans of the Health Service Executive

to increase or decrease the number of physiotherapists providing the community based service, giving the reasons for same; and if she will make a statement on the matter. [32171/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to human resource management issues within the Health Service Executive. As this is a matter for the Executive under the Health Act 2004, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

93. **Mr. English** asked the Tánaiste and Minister for Health and Children the length of time it takes for a person to see an occupational therapist in County Meath; the length of time it takes a medical card holder to see an occupational therapist; the length of time it takes for a non-medical card holder to see an occupational therapist; and if she will make a statement on the matter. [32172/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Grant Payments.

94. **Mr. Noonan** asked the Tánaiste and Minister for Health and Children if the Health Service Executive will provide grant aid of €4,000 to enable teachers in a school (details supplied) in County Limerick to establish a pilot project of neuro-development therapy to improve behaviour in the classroom; and if she will make a statement on the matter. [32201/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

95. **Ms McManus** asked the Tánaiste and Minister for Health and Children when funding for the transfer of services of surgical dimension to Clonmel will be released; when the Cashel services will be funded; and if she will make a statement on the matter. [32204/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to have a reply issued directly to the Deputy.

Health Service Staff.

96. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children when a senior area medical officer and an area medical officer will be appointed to the Health Service Executive midlands region at Mullingar; the length of time this appointment process has been ongoing; the reason for the delay in making these appointments; the steps which have been put in place to deal with the backlog of applications for domiciliary care and so on which are awaiting input from these appointees; and if she will make a statement on the matter. [32207/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospitals Building Programme.

97. **Mr. English** asked the Tánaiste and Minister for Health and Children if funding will be made available to a hospital (details supplied) in County Meath to upgrade the accident and emergency ward; and if she will make a statement on the matter. [32210/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have

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this matter investigated and to have a reply issued directly to the Deputy.

Medical Cards.

98. **Mr. English** asked the Tánaiste and Minister for Health and Children the number of persons in County Meath in possession of a medical card; the number of persons in County Meath in possession of a medical card in October 2002, 2003, 2004; and if she will make a statement on the matter. [32211/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department of Health and Children has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

99. **Mr. Kirk** asked the Tánaiste and Minister for Health and Children the plans the Health Service Executive north east area has for the expansion of facilities and further capital investment at Louth County Hospital, Dundalk; and if she will make a statement on the matter. [32259/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

100. **Mr. Kirk** asked the Tánaiste and Minister for Health and Children if, in view of the significant demographic changes in the north east, particularly in counties Louth and Meath, her Department is reviewing hospital configuration in the area in the context of current needs and future population growth in the area; and if she will make a statement on the matter. [32260/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of

the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

101. **Ms McManus** asked the Tánaiste and Minister for Health and Children if, in view of Amnesty International's campaign for increased Government funding for frontline services for women who have suffered violence, when funding will be provided; and if she will make a statement on the matter. [32261/05]

Minister of State at the Department of Health and Children (Mr. S. Power): I have received a significant number of submissions and representations on this issue.

My Department does not directly fund or co-ordinate health and personal social services to victims of abuse. Moneys are made available each year, formerly through the health boards, and now through the Health Service Executive, for the provision of services to women victims of violence. In recent years there has been a substantial increase in funding so that now over €12 million is provided annually for the provision of such services. The distribution of this funding is now a matter for the Health Services Executive.

The Tánaiste asked the HSE to carry out an analysis of the current level of service provision in this area and to report back to her. She awaits this report with interest and will be further informed by its findings.

Nursing Home Charges.

102. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the number of persons who have applied for refunds arising from the illegal nursing home charges; the number of cases where the patient has already passed away; and the number of patients or claimants who have passed away since they applied for their refund. [32262/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Government has agreed the key elements of a scheme for the repayment of long stay charges for publicly funded residential care.

The Health Service Executive has informed my Department that an outside company with experience in handling mass claims will be engaged by the end of this month to provide an independent input into the design and administration of the scheme. The full details of the scheme will be agreed with the outside company on appointment. Once appointed, the outside company will be required to establish the status of applications received. A national helpline has been set up by the Health Service Executive to

allow people to register if they believe they or a family member may be due a repayment. The helpline will continue to operate but there is no need for anyone who has already registered using this facility to make contact again to register for the scheme. Over 20,000 applications had been registered with the executive up to the end of October.

Health Service Staff.

103. **Mr. Perry** asked the Tánaiste and Minister for Health and Children when a decision will be made on the appointment in the Health Service Executive for a person (details supplied) in County Sligo, under the equal jobs opportunity; and if she will make a statement on the matter. [32268/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to human resource management issues within the Health Service Executive. As this is a matter for the executive under the Health Act 2004, my Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

104. **Mr. O'Shea** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to a crisis regarding the provision of home help service in the Health Service Executive south east area for terminally ill cancer patients living at home arising from the fact that the community care home help budget is to provide for the elderly and that the palliative care budget does not have a provision for a home help service; and if she will make a statement on the matter. [32297/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

105. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the properties which have been offered for sale in the psychiatric service to enable investment to take place in psychiatric infrastructure following the intention announced in spring 2004. [32311/05]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Women's Refuges.

106. **Ms C. Murphy** asked the Tánaiste and Minister for Health and Children the role her Department plays in the allocation of funds and resources for the establishment and running of women's refuges; and if she will make a statement on the matter. [32312/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy. The responsibility for the provision of refuges lies with the Department of the Environment, Heritage and Local Government.

Health Services.

107. **Ms Enright** asked the Tánaiste and Minister for Health and Children when funding will be provided for the provision of a 20-bed unit at a house (details supplied) in County Offaly; and if she will make a statement on the matter. [32335/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Nursing Home Subventions.

108. **Mr. Lowry** asked the Tánaiste and Minister for Health and Children when a cheque will be reissued to a nursing home (details supplied) in County Tipperary; and if she will make a statement on the matter. [32339/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

109. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children when a decision will be made on an application for the nursing home subvention in the name of a person (details supplied) in County Galway; and if she will make a statement on the matter. [32340/05]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the parliamentary affairs division of the executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

110. **Mr. Ring** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Mayo will be called for admission to the urology Department of St Vincent's Hospital, Dublin for an operation. [32341/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the parliamentary affairs division of the executive to arrange to have this case investigated and to have a reply issued directly to the Deputy.

Road Safety.

111. **Ms Shortall** asked the Tánaiste and Minister for Health and Children the status of the interdepartmental review of road safety expenditure; when this review commenced and when it was completed; the recommendations that arose for her Department; and the actions she intends taking to meet implementation of these recommendations. [32348/05]

Tánaiste and Minister for Health and Children (Ms Harney): The Department of Transport chaired a steering group overseeing a cross-departmental review of road safety expenditure which examined expenditure incurred over the lifetime of the first road safety strategy, 1998-2002. This review seeks to evaluate the effectiveness of all public spending on road safety and to establish the impact of road safety performance on other areas, such as health and emergency services.

The steering committee consisted of representatives from the Departments of Transport, Justice, Equality and Law Reform, Health and Children, Finance and the Environment, Heritage and Local Government. The committee for public management research was also represented in order to examine processes and outcomes of the review for future cross-departmental reviews and to provide general expert assistance.

The steering group commenced the review in mid-2003 and the consultants engaged to carry out an analysis of identified expenditure submitted their report earlier this year. The report has been submitted to the committee for public management research for quality assessment before publication.

Services for People with Disabilities.

112. **Mr. Blaney** asked the Minister for Finance if he will review an application lodged by persons (details supplied) in County Donegal for funding towards the purchase of a multiple purpose vehicle to facilitate their son; and if he will make a statement on the matter. [32166/05]

Minister for Finance (Mr. Cowen): Supports or services for persons with disabilities or certain physical or mental medical conditions in respect of those disabilities are primarily a matter for the Department of Health and Children. Having said that, I presume that the Deputy means to make reference to an application on behalf of the person concerned for VRT, VAT and mineral oil tax concessions under the disabled drivers and disabled passengers, tax concessions, scheme operated by my Department, and in particular the application for the primary medical certificate required for eligibility for the scheme.

I cannot comment on a decision made in a particular case by the director of community care and area medical health officer of the Health Service Executive. I can say, however, that the scheme, as currently constituted, requires that the subject of the application be severely and permanently disabled and satisfy one of the following conditions: (a) be wholly or almost wholly without the use of both legs; (b) be wholly without the use of one leg and almost wholly without the use

of the other leg such that the applicant is severely restricted as to movement of the lower limbs; (c) be without both hands or without both arms; (d) be without one or both legs; (e) be wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg; or (f) have the medical condition of dwarfism and have serious difficulties of movement of the lower limbs.

A special interdepartmental review group reviewed the operation of the disabled drivers scheme. The terms of reference of the group were to examine the operation of the existing scheme, including the difficulties experienced by the various groups and individuals involved with it, both on an administrative and user level, and to consider the feasibility of alternative schemes, with a view to assisting the Minister for Finance in determining the future direction of the scheme.

The group's report, published on my Department's website in July 2004, sets out in detail the genesis and development of the scheme. It examines, among other things, the qualifying medical criteria. The report makes a number of recommendations, both immediate and long-term, encompassing the operation of the appeals process and options for the future development of the scheme.

In respect of the long-term recommendations, which would involve reforming the medical qualifying criteria, given the scale and scope of the scheme, further changes can only be made after careful consideration. For this reason, as agreed by the Government in June 2004, I will consider the recommendations contained in the report of the interdepartmental review group in the context of the annual budgetary process having regard to the existing and prospective cost of the scheme.

This Government is committed to supporting and reinforcing equal participation in society by people with disabilities. I remind the Deputy that disability was one of the priority areas where I substantially increased investment in budget 2005.

Tax Code.

113. **Mr. Fleming** asked the Minister for Finance the changes in legislation since 1997 in respect of tax treatment and reliefs and other improvements in respect of VAT and all other taxes for charities and donations to charities; the cost to the Exchequer each year in respect of these changes; if he is considering any additional changes in this area; and if he will make a statement on the matter. [32073/05]

Minister for Finance (Mr. Cowen): To be granted charitable tax exemption by the Revenue

Commissioners a body must be established solely for charitable purposes and the exemption applies only in so far as the funds are applied for charitable purposes only. The tax exemptions are from income tax, corporation tax, capital gains tax, deposit interest retention tax, capital acquisitions tax, stamp duty, probate tax and dividend withholding tax. Many of these exemptions are of very long standing and none have been altered or extended in the period since 1997.

With regard to the issue of VAT, the position is governed by EU VAT law with which Irish VAT law must comply. Under the EU sixth VAT directive, where charities and non-profit organisations are engaged in non-commercial activities, they are exempt from charging VAT on the services they provide but cannot recover VAT on goods and services which they purchase. Essentially, only VAT registered businesses are able to recover VAT.

In addition to the above exemptions, a scheme of income and corporation tax relief for donations to approved bodies was introduced by my predecessor in 2001. The scheme, which replaced a number of existing reliefs, provides tax relief for donations made by either individuals or corporate bodies to eligible charities and other approved bodies including first and second level schools and third level institutions including universities. An eligible charity for the purposes of the scheme is any charity in the State which has been authorised by the Revenue Commissioners as an eligible charity and which holds charitable exempt status from the Revenue Commissioners for at least two years. Prior to the Finance Act 2005, this two-year waiting period had been three years. A further amendment to this tax relief was made in 2003 to restrict relief for donations by individuals to bodies of which they are members. In some cases, the individuals concerned were donating their entire salaries to such bodies and it was considered that the tax relief was not intended to cover such donations.

This scheme for donations not only consolidated a series of reliefs for donations which had existed previously, such as tax relief for donations to third world charities and corporate donations to charities, but also, for the first time, extended the tax relief to donations by individuals to domestic charities. It was widely welcomed at the time by the charitable sector.

No reliable estimates are available concerning the tax loss to the Exchequer of the principal exemptions from tax of charities as these bodies are not required to make tax returns.

The latest data from the Revenue Commissioners for the cost of the scheme of tax relief for donations to approved bodies, including charities are as follows:

[Mr. Cowen.]

Year	Amount of tax refunded by Revenue to Charities and other Approved Bodies in the case of individual PAYE donors.	Estimated amount of tax foregone in the case of donations made by self-assessed individuals.
	€ million	€ million
2002	11.2	5.1
2003	21.4	Not yet available
2004	14.8	Not yet available
2005 (to 30 Sept.)*	9.2	Not yet available

* It should be noted that the Revenue Commissioners expect that claims for refunds on donations made to charities in the wake of the tsunami disaster will not appear in claims lodged with Revenue until January 2006. Thus refunds made to charities and other approved bodies in 2005 would mostly be exclusive of these donations.

As donations made by companies are aggregated with other expenses in corporate tax returns, it is not possible to extract a figure for donations.

As the Deputy is aware, the donations scheme is being examined as part of the overall review of tax reliefs currently being undertaken by my Department and the Revenue Commissioners. I will consider these reviews in the context of the budget. It is normal practice at this time of year to refrain from giving any indication as to what measures may or may not be contained in the budget.

Tax Yield.

114. **Mr. Ó Fearghail** asked the Minister for Finance the projected amounts to be collected under residential stamp duty for 2005; the amount collected in 2004; and if he will make a statement on the matter. [32089/05]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the yield from stamp duties on residential property transactions in 2004 was €752 million and was €672 million in the nine months to end September 2005. A continuation of the average monthly yield for the first nine months, for the remaining three months would give an estimated yield of almost €900 million for 2005.

State Property.

115. **Mr. English** asked the Minister for Finance if he will provide details of all State land in the Meath County Council area to include land audit figures from Meath County Council. [32143/05]

Minister of State at the Department of Finance (Mr. Parlon): Following is a list of properties and/or land owned or managed by the Commissioners of Public Works in Ireland in County Meath: Ashbourne Garda station; Athboy Garda station, married quarters and RAX; Ballivor Garda station; Crossakiel Garda station; Duleek Garda station and RAX; Duleek Nanny river pump site; Dunboyne Garda station; Dunshaughlin Garda station and RAX; Enfield Garda station; Grange

EU office; Kells Garda station; Kilmessan Garda station and married quarters; Laytown Garda station; Longwood Garda station; Navan Government office; Navan Garda station; Nobber Garda station, married quarters and RAX; Slane Garda station and married quarters; Stirrupstown former barracks site; Summerhill Garda station and married quarters; Hill of Tara Church; Trim Garda station and RAX; and Trim Boyne central drainage scheme headquarters.

Tax Code.

116. **Mr. P. McGrath** asked the Minister for Finance the maximum amount of tax free lump sum that may be claimed on retirement by a person every fifth year since 1960; and if he will make a statement on the matter. [32183/05]

Minister for Finance (Mr. Cowen): The rules relating to the maximum amount of tax free lump sum that may be claimed on retirement are as follows.

The statutory rules on retirement benefit schemes, that is occupational pension schemes, provide that lump sum benefits paid to employees at a normal retirement age may not exceed 1.5 times the final remuneration of the employee where he or she served with the employer for 20 years up to the date of retirement. These rules were introduced in the 1972 Finance Act and have remained unchanged since that time. Prior to 1972, a lump sum not exceeding one quarter of the value of the fund available to provide the pension benefits could be taken.

For retirement annuity contracts, RACs, a tax-free lump sum equal to 25% of the value of the annuity fund can be taken as a tax-free lump sum on retirement. This facility has been available since 1974. Prior to that date no lump sum could be taken with regard to RACs. Personal retirement savings accounts, PRSAs, introduced by the Pensions Act 2002, are treated similarly to RACs in that when the benefits are drawn down, 25% of the fund value may be taken tax-free.

The 1999 Finance Act created additional options at retirement for holders of RACs, and

certain holders of occupational pension schemes, for example, proprietary directors, and PRSAs subsequently. Under the new arrangements such individuals can opt on retirement to purchase an annuity, to take the value of their pension fund in cash subject to tax or to have the proceeds of their pension arrangements invested in an approved retirement fund, ARF, or approved minimum retirement fund, AMRF. In electing to take up one of these options, an individual is entitled to take a tax-free lump of 25% of the value of the fund.

Departmental Property.

117. **Mr. P. McGrath** asked the Minister for Finance the area of the office space leased by his Department for the NEPS service in Mullingar; the annual rent payable and the duration of the current lease. [32184/05]

Minister of State at the Department of Finance (Mr. Parlon): The Commissioners of Public Works have leased 908.60 square metres of office accommodation at Friar's Mill Road in Mullingar for the Department of Education and Science. The duration of the lease is 20 years, expiring in 2023.

The National Education and Psychological Service occupies 264.13 square metres of this accommodation. The apportioned rent on the NEPS accommodation is €54,160 per annum.

EU Regional Policy.

118. **Mr. Quinn** asked the Minister for Finance, further to his reply to a previous parliamentary question in March 2005, the discussions he has had with the European Commission on the declaration of intent by the Dublin and Merseyside regions with a view to assisting the two regions to further develop their partnership potential under EU regional policy post 2006; if the national strategic reference framework his Department is preparing provides for the possibility of the two city regions being able to co-operate under the various strands of the territorial cooperation measure; and if he will make a statement on the matter. [32216/05]

Minister for Finance (Mr. Cowen): I stated in my reply to the Deputy on 23 March 2005 that my Department would continue to monitor the developments as they unfolded in the area of future EU structural policy, and that until such time as the proposals for the 2007-13 period had been agreed, and the areas of eligibility defined, it would not be possible to make specific proposals in regard to any future Structural Funds. With regard to the Dublin-Merseyside declaration of intent, I stated that the concerns of the Dublin region would be taken into consideration

in the framing of any future programming proposals. This remains the position.

At that time in March 2005, it was hoped that agreement on the financial perspectives for the 2007-13 period and the Structural Funds regulations might be achieved by June 2005, as stated in my reply to the question. However, it was not possible to reach such agreement and discussions are ongoing. Therefore, as indicated, no specific proposals can be made until such time as agreement on the financial perspectives for the period 2007-13 has been achieved.

It should also be noted that the national strategic reference framework cannot be finalised until the financial perspectives for the period 2007-13 have been achieved. My Department is undertaking preliminary work as part of the preparation of the framework. It is not intended to contain specific commitments to projects of the type mentioned by the Deputy.

Telecommunications Services.

119. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources the services available on the Irish market which comply with the directive issued by him in February 2003 to ComReg requiring that retail flat rate dial up internet access services be made available to the Irish public. [32067/05]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Flat rate Internet access caller origination, FRIACO, was introduced in June 2003, following a policy direction issued to the Commission for Communications Regulation by my predecessor. I understand that there are approximately 100,000 customers using FRIACO at present.

Natural Gas Grid.

120. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources if the section of welded pipe in the vicinity of the proposed gas terminal building in Bellanaboy corresponds to the pipelines details as contained in the original application for such a pipeline in 2001. [32084/05]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): I presume the Deputy is referring to the consent to construct a pipeline given by my predecessor in April 2002. I am informed that the pipeline design corresponds to that for which consent was granted.

Departmental Property.

121. **Ms Shortall** asked the Minister for Communications, Marine and Natural Resources the offices of his Department which are situated

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on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32098/05]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): The Irish Coast Guard of my Department operates an engineering and equipment storage facility in Finglas and the Department owns and operates the fisheries harbour centre at Howth. Apart from these facilities, the Department does not have any offices on the north side of Dublin.

Telecommunications Services.

122. **Mr. English** asked the Minister for Communications, Marine and Natural Resources the exchanges in County Meath that still do not have access to broadband; the expected time-frame involved in the exchanges being upgraded for the provision of broadband; and if he will make a statement on the matter. [32144/05]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): The provision of telecommunications services, including broadband, is a matter in the first instance for the fully liberalised private sector, regulated by the Commission for Communications Regulation, ComReg. The upgrading of telephone exchanges for the provision of broadband is an operational matter for Eircom, and I do not have any function in the matter.

Coastal Protection.

123. **Mr. English** asked the Minister for Communications, Marine and Natural Resources the amount of money allocated for coastal protection works in County Meath for each of the years 2002, 2003, 2004 and to date in 2005; and if he will make a statement on the matter. [32145/05]

Minister of State at the Department of Communications, Marine and Natural Resources (Mr P Gallagher): Responsibility for coastal protection rests with the property owner whether it be a local authority or a private individual. The Department has received various reviews, reports and studies from Meath County Council with regard to coast protection works in County Meath. These are being reviewed in conjunction with the coastal protection strategy study which was initiated by the Department in 2002 to review coastal protection generally, examine policy options and set out a basis for effective decision making in regard to resource allocation. This study is currently in progress. In 2004 the Department provided funding of €30,000 to Meath

County Council towards a feasibility study for beach restoration at Laytown-Bettystown. There was no Exchequer funding available in 2002, 2003 or 2005 for coastal protection works in County Meath. However, the scope for funding coastal protection works will be kept under review by the Department in the context of funding available for coastal protection in future years and overall national priorities.

Telecommunications Services.

124. **Ms McManus** asked the Minister for Communications, Marine and Natural Resources when broadband connection will be provided in the Kilmacanogue area of County Wicklow (details supplied); and if he will make a statement on the matter. [32239/05]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): The provision of telecommunications services, including broadband, is a matter in the first instance for the private sector companies operating in a fully liberalised market, regulated by the independent Commission for Communications Regulation, ComReg.

It has been clear for some time that the sector has failed to invest at the level necessary to keep pace with the demand for broadband, so my Department's regional broadband programme is addressing the infrastructure deficit by building high speed open access broadband networks, in association with the local and regional authorities, in the major towns and cities. The metropolitan area networks, MANs, offer the private sector service providers access to world-class broadband services at competitive costs.

Nineteen MANs are now completed, and a further seven are nearing completion. The second phase of the programme involves the building of MANs in a further 93 towns with a population of 1,500 and over that do not have a satisfactory broadband offering from the service providers. Design and procurement has already commenced in four towns in County Wicklow, namely Kilcoole, Enniskerry, Newtownmountkennedy and Blessington.

For rural communities, smaller towns such as Kilmacanogue, and the hinterlands of larger towns, my Department offers funding under the county and group broadband scheme to enable these communities to become self-sufficient in broadband, in association with the service providers. Four schemes have been approved in County Wicklow to date — Rathdrum, north east Wicklow, Carnew and Laragh. Full details of the scheme, including application procedures, are on the website www.gbs.gov.ie.

My Department's website www.broadband.gov.ie lists all service providers offering broadband services in all towns in Wicklow, and gives con-

tact details for each company, together with prices for the various service levels on offer.

Departmental Properties.

125. **Ms Shortall** asked the Minister for Foreign Affairs the offices of his Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32099/05]

Minister for Foreign Affairs (Mr. D. Ahern): The Department of Foreign Affairs has offices in two locations on the north side of Dublin. These are the passport office in Balbriggan and the archives section in Finglas. Neither office is scheduled to decentralise.

Foreign Conflicts.

126. **Mr. F. McGrath** asked the Minister for Foreign Affairs the way in which Mr. Rory Carroll was rescued in Iraq; and if a ransom was paid for his release. [32112/05]

Minister for Foreign Affairs (Mr. D. Ahern): I refer the Deputy to my reply of 25 October 2005 on the release of Rory Carroll. The question of the payment of a ransom did not arise in our consideration of the case, nor in any discussions which we had.

Decentralisation Programme.

127. **Ms Shortall** asked the Minister for Arts, Sport and Tourism the offices of his Department that are situated on the north side of Dublin; the locations to which each of them are scheduled to relocate under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32100/05]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): My Department has been selected to transfer to Killarney. My Department does not have any offices on the north side of Dublin.

Sports Capital Programme.

128. **Mr. Wall** asked the Minister for Arts, Sport and Tourism if funding is available for a soccer club (details supplied) in County Galway; the other routes the club can take in terms of receiving funding; and if he will make a statement on the matter. [32114/05]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): The national lottery-funded sports capital programme administered by my Department allocates funding to sporting and com-

munity organisations at local, regional and national level throughout the country. The programme is advertised on an annual basis. In order for an organisation to be eligible for funding, it must submit an application within the application period in any given year.

I am pleased to inform the Deputy that the club in question has been allocated six grants since 1999 under the sports capital programme, amounting to a total of €1,297,428. All of the moneys in respect of these grants have been paid to the club by my Department. Applications for funding under the 2005 programme were invited through advertisements in the press on 5 and 6 December last. The closing date for receipt of applications was 4 February 2005 and a total of 1,362 applications was received. The club in question did not apply for funding at that time. In July, I announced provisional allocations of €54.385 million to 626 projects under the programme.

I intend to advertise and invite applications to the 2006 sports capital programme before the end of this year. It is open to the club in question, should it wish to do so and should it have a project which satisfies the terms and conditions of the programme, to submit an application for funding under the 2006 programme. In terms of other sources of funding, the Irish Sports Council provides substantial funding to the national governing bodies of sport, which in turn implement a range of support programmes in the areas of coaching and games and club development.

EU Directives.

129. **Mr. Neville** asked the Minister for Enterprise, Trade and Employment his plans to implement the *droit de suite* EU directive on the resale of art material. [32238/05]

Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern): In July 2005, the Government approved the drafting of legislation in the form of an intellectual property (miscellaneous provisions) Bill to transpose several European directives in the intellectual property field, including Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on *droit de suite*, the resale right for the benefit of the author of an original work of art.

Work is continuing on the legal drafting of the Bill which has been referred, for that purpose, to the Parliamentary Counsel. I intend to introduce the Bill at the earliest possible date. On this particular directive, my Department is working on the terms of the necessary legal transposition in consultation with the Department of Arts, Sport and Tourism. I expect this will continue in establishing an operational implementation of artists' resale right, or *droit de suite*, in Ireland.

Proposed Legislation.

130. **Mr. Morgan** asked the Minister for Enterprise, Trade and Employment if he intends to introduce legislation to regulate property management companies (details supplied). [32278/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): My sole departmental responsibility with regard to property management companies arises in the context of company law. Property management companies are generally constituted as companies limited by guarantee under the Companies Acts and are required to comply with the relevant provisions of company law.

The operation of such companies under their relevant memorandum and articles of association is a matter for determination by the company members, who are the owners of the properties in question. If a member or creditor of such a company believes a company law offence has been committed, he or she should complain to the Director of Corporate Enforcement.

The impact of legal provisions other than company law, for example contract law, on property management companies is not within my policy remit. Aggrieved members or creditors in these cases must take the civil or criminal law route appropriate to the legal provisions at issue. A major simplification of company law, including simplification of the law applying to guarantee companies, is well in train and I hope to bring proposals to Government to draft the general scheme of this Bill early in 2006.

Job Creation.

131. **Mr. Ó Fearghail** asked the Minister for Enterprise, Trade and Employment the number of manufacturing jobs created in south Kildare in the years 2002-05; and if he will make a statement on the matter. [32087/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): The numbers of full-time manufacturing jobs created in County Kildare in companies assisted by the enterprise development agencies were 875 in 2002, 846 in 2003 and 1,045 in 2004. Because the figures are compiled by each county on an annual basis, those for 2005 are not yet available. Overall permanent employment in agency-supported firms in County Kildare has increased from 8,847 in 1995 to 15,698 in 2004, an increase of more than 75%, which is significantly above the national average.

Irish enterprise policy is being actively re-focused towards creating conditions that will make possible a sustained shift to higher-skill, knowledge-intensive activities and in which advanced manufacturing expertise will be an important contributor to growth and employment. Almost

60% of total employment in Kildare is in companies that are part of the technologically advanced sectors, compared to 45% nationally. The county's position as an attractive location for knowledge-based industry in the future has also been bolstered by significant investment in recent years in technological infrastructure in the National University of Ireland, NUI, Maynooth. Since 2002, Enterprise Ireland has approved more than €3.3 million to support innovation partnerships between NUI Maynooth and industry.

Since 2002, Enterprise Ireland has approved more than €7.5 million to its client companies in the county to assist them with their development plans, including research and development. In addition to direct finance, Enterprise Ireland has a range of service offerings to encourage the set-up of high-tech, high-opportunity indigenous enterprises. There are more than 170 Enterprise Ireland supported client companies in County Kildare. Enterprise Ireland also works with other local agencies and organisations in the county to develop the local business infrastructure.

In addition to targeting potential new projects, IDA also works with its existing client base with a view to supporting these companies with expansion and diversification of their activities, which will strengthen their presence in the region. Over the past five years, IDA's focused strategy for Kildare has been to promote the county as part of an integrated east region. Kildare has, in recent years, attracted some world-class manufacturing companies such as Wyeth Medica and Oral B.

Kildare continues to thrive across a broad range of activities in a number of important sectors. As a result, many job opportunities are being created within the county. I am confident that the strategies and policies pursued by the enterprise development agencies will continue to maximise sustainable investment and jobs for the people of Kildare.

Decentralisation Programme.

132. **Ms Shortall** asked the Minister for Enterprise, Trade and Employment the offices of his Department that are situated on the north side of Dublin; the locations to which each of them are scheduled to relocate under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32101/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): There are four offices associated with my Department on the north side of Dublin. These are the Companies Registration Office, Office of the Registrar of Friendly Societies, Office of the Director of Corporate Enforcement and the Competition Authority. The Companies Registration Office and Office of

Registrar of Friendly Societies have been selected as part of the decentralisation programme and both will be relocated to Carlow. Neither the Competition Authority nor the Office of the Director of Corporate Enforcement are included in the current decentralisation programme. Both of these offices will be retained in their present locations.

With regard to the timeframe for relocation, my Department was identified as an “early mover” in the third report of the decentralisation implementation group. That report gave an indicative timeline of the second quarter of 2008 for completion of the Department’s new building in Carlow. We are working to this timeframe.

Industrial Development.

133. **Mr. Crawford** asked the Minister for Enterprise, Trade and Employment if a task force was set up in the Cavan region at the time a company (details supplied) failed to set up the new factory there as promised; if there was such a task force, the progress it has made towards a replacement company; if inward visits have been made to Cavan town or county in an effort to provide foreign investment for the area; and if he will make a statement on the matter. [32132/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): I understand that a task force was not set up at the particular time. However, the establishment of a financial services operation in Cavan town, which now employs almost 1,000 people, has been of particular benefit to the area as a whole.

The industrial development agencies continue to promote the area for both overseas and indigenous industry. Cavan Business Park has received approximately €1 million in funding from IDA Ireland for upgrading to make it more attractive for inward investment. While there has been only one site visit to Cavan in recent times, IDA Ireland’s Cavan site is consistently marketed by the agency’s network of overseas offices and frequently features in its presentations to potential inward investors visiting the north-east region. Enterprise Ireland’s main area of activity in County Cavan is the further development of the building construction materials sector and the agency is working with a number of companies in this regard. Several food companies are also emerging in the county with assistance from Enterprise Ireland.

I am satisfied that the strategies adopted by the industrial development agencies under the aegis of my Department will be successful in attracting further employment and investment opportunities for County Cavan.

134. **Mr. English** asked the Minister for Enterprise, Trade and Employment the number

of site visits to Navan the industrial promotion agencies have made in each of the years 2002, 2003, 2004 and to date in 2005; the number of such visits planned for the remainder of 2005; the priority he has instructed the industrial promotion agencies to give to job creation in Navan; and if he will make a statement on the matter. [32135/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): Support for job creation and investment is a matter for the industrial development agencies. Under the Industrial Development Acts, I may give general policy directives to IDA Ireland and Enterprise Ireland but am precluded from giving directives regarding individual undertakings or from giving preference to one area over others. Ultimately, decisions regarding where to locate, including what areas or sites to visit as potential locations, are taken by investors.

IDA Ireland is the agency with statutory responsibility for the attraction of foreign direct investment. I understand that from 2002 to date, a total of 30 site visits have been made to Navan and it is anticipated that a further two or three will be made before the end of 2005. Of the total, five took place in 2002, five in 2003, 11 in 2004 and nine in 2005 to date.

I understand from the agency that its strategy for County Meath is to target greenfield and expansion projects in financial services, international services and information and communication technology with particular emphasis on the marketing of Athlumney House, Navan to financial and international services companies. The securing of the PFPC hedge fund project with 290 jobs at Athlumney House is a very satisfactory outcome.

Site visits have concentrated on the Navan area in the period of January to February 2005. The full resources of local and regional bodies are being utilised in presenting the advantages of Navan and County Meath as a location for business and investment. Since the beginning of 2002, Enterprise Ireland, the agency with primary responsibility for fostering indigenous industry, approved almost €8 million in support to its client companies in County Meath and made payments of more than €5 million in the same period. This investment involved support in areas such as research and development capability, building and process development.

Meath is becoming an attractive location for Dublin-based firms wishing to expand their operations. Lir Chocolates is a notable example of a firm that wished to expand its sales exports and employment, but was constrained in a city-centre location. The company relocated the business to the Navan IDA Business Park in July 2004 and received support from Enterprise Ireland to grow its business in the new location. Enterprise

[Mr. Martin.]

Ireland has approved grants totalling €277,000 for the establishment of Navan Community Enterprise Centre. The centre is fully occupied and more than 200 people are employed in various enterprises there.

Job Creation.

135. **Mr. English** asked the Minister for Enterprise, Trade and Employment if he will establish a jobs task force for Navan given that the life cycle of Tara Mines is nearing an end; and if he will make a statement on the matter. [32136/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): I understand from my colleague, the Minister for Communications, Marine and Natural Resources, that, based on currently identified resources, the mines in question are expected to operate until at least 2013. I further understand discussions are taking place for two additional State mining facilities for underground extensions to the mines, one to the north and one to the south west of existing underground workings. Exploration for further reserves is ongoing.

The industrial development agencies continue to promote the area for industrial development. If further initiatives regarding job creation become necessary, these should be taken under the auspices of the county development board, on which the agencies are represented, rather than creating a further layer by establishing a task force.

Grocery Industry.

136. **Ms McManus** asked the Minister for Enterprise, Trade and Employment whether the abolition of the groceries order would result in below-cost selling of alcohol; and if he will make a statement on the matter. [32219/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): My Department has compiled a detailed report following the recent public consultation process on the future of the groceries order. I will consider its findings carefully before making any judgments in the matter or making any recommendations to Government. However, the prohibition contained in the order as it stands is a ban on selling at below net invoice price. Net invoice price is not a true reflection of cost as it does not allow for any off-invoice discounts available to the retailer to be passed on to the consumer.

Science and Technology Facilities.

137. **Mr. Kehoe** asked the Minister for Enterprise, Trade and Employment his plans for a science discovery centre in Carlow town; the

funding that has been provided for the proposed centre; and if he will make a statement on the matter. [32242/05]

Minister for Enterprise, Trade and Employment (Mr. Martin): The programme for Government includes a commitment to support the development of interactive science centres aimed at enhancing knowledge and interest in science. This commitment was underpinned by the report of the task force on the physical sciences and a comprehensive Forfás report on the subject which recommended the establishment of a science centre comprised of one major facility in Dublin and two smaller centres in the regions. Since then my Department has supported the establishment of Exploration Station, an interactive learning centre for children and young adults and the general public, to be designed and run by the Irish Children's Museum Limited, a not-for-profit company with experience in developing such a world-class interactive facility. It is hoped, subject to planning and related considerations, that Exploration Station will open its doors to the public in 2007 at a site in Westgate, Kilmainham, adjoining the Royal Hospital. No funding has been made available to Exploration Station.

I have no plans for a science centre in Carlow town at present. However, once Exploration Station is up and running, my intention is to consider extending the initiative to regional centres based on the Dublin model. I am aware that Carlow County Council, in conjunction with Carlow Institute of Technology, made a proposal to establish a science centre in 2001. This matter will be revisited in future by my Department, taking into account costs, feasibility, regional spread and revised proposals.

Social Welfare Benefits.

138. **Mr. Kenny** asked the Minister for Social and Family Affairs if his attention has been drawn to the great difficulty faced by persons on the disability allowance when it comes to paying heating bills; his views on a waiver scheme for fixed-supply charges and VAT for those in receipt of this payment; and if he will make a statement on the matter. [32111/05]

Minister for Social and Family Affairs (Mr. Brennan): The electricity allowance covers normal standing charges and up to 1,800 units of electricity each year. VAT due on this standard allowance is also covered. The value of the allowance, if fully taken up, is €359.91 per annum.

The natural gas allowance is an alternative to the electricity allowance for people whose homes are connected to a natural gas supply. On the standard tariff, the allowance covers the supply charge and up to 500 kwh in winter billing periods

and up to 58 kwh of gas in summer periods. If natural gas is paid on another tariff, an equivalent allowance is paid. The value of this allowance, if fully taken up, is €250.02 per annum.

The objective of these allowances is to provide for a basic standard of electricity and natural gas usage. Proposals to enhance these allowances would be a matter for consideration in a budgetary context.

Citizens' Information Service.

139. **Mr. S. Ryan** asked the Minister for Social and Family Affairs if, in view of the need for additional funding to develop and extend the services of the Balbriggan citizens' information centre for 2006, the necessary finance will be made available to continue this much needed service. [32160/05]

Minister for Social and Family Affairs (Mr. Brennan): My Department funds Comhairle, the statutory agency responsible for providing people with access to accurate, comprehensive and clear information relating to social services. Comhairle supports and funds a network of citizens' information services to provide information, advice and advocacy services on a wide range of civil and public services.

In 2005, Comhairle provided direct funding of €8,223,388 to citizens' information centres, CICs, an increase of 107% since 2001. Balbriggan CIC is managed by Fingal, north county, citizens' information service, which also provides information services from Swords, Skerries, Malahide and Donaghmede. Swords CIC provides a full-time information service and the other centres provide part-time services. In total, Fingal citizens' information service provides 92 hours service weekly in north County Dublin. Funding to Fingal citizens' information service has increased from €164,210 in 2003 to €257,405 in 2005.

Balbriggan CIC is open 21 hours per week. It is staffed by one part-time information officer, funded by Comhairle. The centre has recently recruited three additional staff under various Government employment support schemes and two volunteer workers. My Department has been informed by Comhairle that a proposal has been received from Fingal, north county, citizens' information service in regard to the development of a full-time information service in Balbriggan. The proposal will be considered in the light of the demand for services in the area, the development needs of the Balbriggan centre and the budgetary resources available for citizens' information services in 2006.

Social Welfare Code.

140. **Mr. Ring** asked the Minister for Social and

Family Affairs the way in which her Department officials assessed the value of a house (details supplied) in County Mayo in view of its condition and location, during a means assessment for a person. [32342/05]

Minister for Social and Family Affairs (Mr. Brennan): In the course of the means investigation, the person concerned was asked to provide valuation of a house, not his place of residence, which is owned by him. As this information was not received, the social welfare inspector estimated the value of the property at €100,000. This valuation may be revised on receipt of an appropriate valuation from the person concerned. In the meantime, he may appeal this decision and a form for this purpose was issued to him on 20 October 2005 which has not been returned.

Under social welfare legislation, decisions in regard to claims must be made by deciding officers and appeals officers. These officers are statutorily appointed and I have no role in making such decisions.

Decentralisation Programme.

141. **Ms Shortall** asked the Minister for Social and Family Affairs the offices of his Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32383/05]

Minister for Social and Family Affairs (Mr. Brennan): Under the Government's decentralisation programme all of the Department's headquarters sections based in Dublin are due to relocate to six locations throughout the country — Sligo, Carrick-on-Shannon, Drogheda, Donegal, Buncrana and Carrickmacross. The headquarters offices on the north side of Dublin city are: Áras Mhic Diarmada, Store Street, Dublin 1; Gandon House, Amiens Street, Dublin 1; 16 Parnell Square, Dublin 1; and Print and Stores, Shanowen Road, Santry.

The Department has a number of local offices on the north side of Dublin, including Ballymun, Blanchardstown, Coolock, Kilbarrack, Navan Road and North Cumberland Street. There is a local and regional office in Finglas and a social welfare inspectorate office in Malahide. One headquarter section is accommodated in Finglas.

Decentralisation to Sligo and Carrick-on-Shannon is scheduled to be completed in 2007. Decentralisation to Carrickmacross is scheduled for the end of 2008, and to Drogheda, Donegal and Buncrana for 2009. Final decisions on sections relocating to Sligo and Carrick-on-Shannon have been made and involve a number

[Mr. Brennan.]

of sections based both on the northside and southside of the city. No final decisions have been taken on sections to be relocated to the other decentralisation locations.

When the programme is complete all headquarters sections in Dublin will have been relocated. There are no plans to relocate local or regional offices from Dublin.

Anti-Poverty Strategy.

142. **Mr. F. McGrath** asked the Minister for Social and Family Affairs the number of children living in poverty; and the measures to tackle same. [32384/05]

Minister for Social and Family Affairs (Mr. Brennan): The latest available child poverty data are from the EU survey of income and living conditions — EU SILC — for 2003. The EU SILC indicated that 23.9% of children are “at risk of poverty”, that is, living in households with less than 60% of median equivalised income for their household size. Of these, approximately 14.6% of children are living in households with income below the 60% threshold and experiencing deprivation in at least one of eight indicators considered essential for a decent standard of living in Ireland today.

Detailed measures to give effect to the strategies to combat child poverty in Ireland are set out in the national action plan against poverty and social exclusion and in the national children’s strategy. “Ending Child Poverty” is also one of ten special initiatives in Sustaining Progress.

The most significant measure to support families with children in recent years has been the very substantial real increases in child benefit payment rates. Between 1997 and 2005, the rate of child benefit rose from €38.09 per month for the first two children and €49.52 for each child thereafter to €141.60 per month for each of the first two children and to €177.30 per month for the third and each subsequent child. This equates to real increases in excess of 170%. Child benefit is paid to over 540,000 families in respect of approximately 1 million children, at an estimated cost of €1.9 billion in 2005. It delivers a standard rate of payment in respect of all children in a family regardless of income levels or employment status. Providing income support in this way thus creates no obstacles to employment and facilitates employment take up by providing significant support with child care costs.

Through the family income supplement scheme, my Department provides cash support by way of weekly payments to families at work on low pay. Recent improvements to the scheme, including the assessment of entitlements on the basis of net rather than gross income and progressive increases in the income limits, have made

it easier for more lower income households to qualify under the scheme.

In a significant proportion of households with children there is no full time or part-time employment. These households mainly include recipients of the one-parent family payment or of payments in respect of disability and unemployment. In other households with bigger families, only one parent may be able to take up employment, which results in a lower family income. A study is currently being carried out by the NESC into the possibility of amalgamating child dependent allowances and family income supplement into a second tier of child income support aimed at families on low incomes.

A sub-group of the senior officials group on social inclusion has been undertaking a detailed examination of obstacles to employment for lone parents. As part of this work, my Department is nearing the completion of a review of income supports and I hope to complete this work in the near future.

The provision of affordable and flexible child care is also a key factor in facilitating employment participation for families with children. My Department is participating in an inter-departmental working group on early child care and education, chaired by the National Children’s Office. The work of this committee is at an advanced stage and the outcome will make an important contribution to finding the right mix of services and income support to facilitate employment take up and care for children.

We also need to monitor and evaluate the outcomes of the policies being pursued on the development of our children and get the necessary evidence on what works and works well. This process is about to commence with a major national longitudinal study on children. My Department and the Department of Health and Children, through the National Children’s Office, are jointly funding this study. The study will be the most significant of its kind to be undertaken here, particularly in terms of the cost, scope and length of study period. It is anticipated that 10,000 children from birth and 8,000 children aged nine will be recruited to participate in the study.

I am confident that, through the measures already being taken and the initiatives being planned, we can make a major contribution to ensuring that vulnerable families and their children have a fair share of life chances and quality of life.

Rail Network.

143. **Mr. Ó Feighaill** asked the Minister for Transport the projected timescale under which an upgrade of the rail service to Athy, County Kildare, as a full commuter service is envisaged;

and if he will make a statement on the matter. [32095/05]

Minister for Transport (Mr. Cullen): The scheduling of rail services is an operational matter for Irish Rail. However, I have been informed by the company that in December 2004, in response to the growing commuter demand from Athy and Carlow, an additional later evening peak commuter service departing Dublin at 19.45 was introduced. Irish Rail is also examining the possibility of providing an additional morning peak commuter train from March 2006, which would arrive at Heuston shortly after 08.30. This will close the substantial gap in the morning train service from Athy and offer a second peak commuter service.

Decentralisation Programme.

144. **Ms Shortall** asked the Minister for Transport the offices of his Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32103/05]

Minister for Transport (Mr. Cullen): My Department has no office on the north side of Dublin that is due to relocate under the decentralisation programme.

Airport Development Projects.

145. **Mr. S. Ryan** asked the Minister for Transport if the Great Southern Hotels group will be retained in public ownership. [32127/05]

Minister for Transport (Mr. Cullen): In accordance with the State Airports Act 2004, the three airport authorities, including the Dublin Airport Authority, are currently preparing comprehensive business plans for their airports. The Dublin Airport Authority will, as part of its business plan, address the position of its principal subsidiaries, including the future of the Great Southern Hotels, GSH, group. I will consider the DAA's proposals in consultation with the Minister for Finance. It would not be appropriate to comment about the future of the group at this stage.

Road Network.

146. **Mr. Bruton** asked the Minister for Transport the aggregate value of tolls raised in 2002 and his estimate for the value in 2005; the amount of this which is returned as revenue to a public authority, distinguishing that which goes to the Exchequer from that which goes to local authorities and so on; and the main locations from which tolls are raised. [32157/05]

Minister for Transport (Mr. Cullen): The statutory power to levy tolls on national roads, to make toll by-laws, and to enter into toll agreements with private investors in respect of national roads is vested in the National Roads Authority, NRA, under Part V of the Roads Act 1993, as amended by the Planning and Development Act 2000. Tolls were raised in 2002 on both the East-Link and West-Link bridges. Toll revenues raised on the East-Link bridge are a matter for Dublin City Council.

In respect of the West-Link bridge, gross toll revenue in 2002 amounted to €35,949,000, including VAT, of which the licence fee, also described as the State's share of the gross toll revenues, payable by the PPP company to the State under the terms of the West-Link bridge toll agreement amounted to €9,219,706, excluding VAT.

In 2004, the latest year for which data are available, tolls were raised on two national roads, the West-Link bridge and the M1. In respect of the West-Link bridge, gross toll revenue in 2004 amounted to €58,896,000, including VAT, of which the licence fee under the terms of the West-Link bridge toll agreement amounted to €15,093,576, excluding VAT. I am informed by the NRA that with regard to the M1, gross toll revenue in 2004 amounted to €17 million, including VAT, of which approximately €11 million, excluding VAT, was remitted to the NRA. During the construction period the PPP agreement provided that a high proportion of tolls collected at Drogheda was to be paid to the NRA.

Data for 2005 are not yet available. By the end of 2005, tolls will be raised on three national roads, the West-Link, the M1 at the Drogheda by-pass and the M4-M6 at Kilcock-Kinnegad.

In addition to licence fee receipts to the Exchequer, VAT is payable on toll charges, corporation tax is payable on the toll company's profits and income tax is payable on distributed income of the PPP company's shareholders. The exact amounts returned to the Revenue Commissioners in taxation are matters for the toll operators and the Revenue Commissioners. Rates are payable on tolling activity by the PPP company to the appropriate local authority.

Driving Tests.

147. **Mr. Blaney** asked the Minister for Transport if an off-road compound has been secured in Letterkenny to allow drivers of articulated vehicles in Donegal to sit their test in Letterkenny; and if he will make a statement on the matter. [32175/05]

Minister for Transport (Mr. Cullen): A suitable location has been identified in Letterkenny to facilitate driving tests for articulated vehicles. Final arrangements are being made by the OPW which will allow such testing to resume shortly.

Air Services.

148. **Mr. P. Breen** asked the Minister for Transport if the transition period envisaged for Shannon Airport prior to the introduction of a full open skies policy is three years; the reason he is not negotiating for a longer period; if he will introduce public service obligation levies for certain routes between Shannon and the United States; and if he will make a statement on the matter. [32176/05]

Minister for Transport (Mr. Cullen): As I have indicated in responses to previous questions, it is my clear intention to ensure that an EU-US open skies agreement contains an appropriate transitional arrangement for Shannon. The details of the transition arrangement will be a matter for negotiation with the US. I do not propose to compromise my negotiating position by giving details of what I might seek at this stage.

There is no proposal under consideration at present for the introduction of a public service obligation, PSO, regime for air services between Shannon and the United States. Such an arrangement would not be permitted under the existing EU regulations governing PSOs, which relate solely to intra-regional air services within the EU.

Road Safety.

149. **Mr. Curran** asked the Minister for Transport the road death statistics to date in 2005 for the Dublin mid-west area; and the breakdown in figures into different categories, that is, motorcars, motorcyclists, pedestrians and cyclists. [32187/05]

150. **Mr. Curran** asked the Minister for Transport the road death statistics for the period 2003, 2004 and to date in 2005, where alcohol has been identified as a contributing factor, in the area of Dublin mid-west; and if he will make a statement on his plans for the prevention of drink driving. [32188/05]

Minister for Transport (Mr. Cullen): I propose to take Questions Nos. 149 and 150 together.

Statistics relating to road accidents, based on information provided by the Garda Síochána, are published by the National Roads Authority, NRA, in its annual road accident facts reports. The most recent report, now entitled "Road Collision Facts", relates to 2003 and is available on the NRA website. Reports relating to previous years are available in the Oireachtas Library. Provisional figures for 2005 indicate that, as of 1 November, 323 people lost their lives in road traffic collisions.

The road collision reports include data relating to the number of fatal and non-fatal collisions in each county and in the case of Dublin, for each of the four Dublin local authority areas. Figures

relating to the specific local authority areas for 2005 will not be available until the NRA has fully analysed and authenticated the 2005 statistics.

Noise Pollution.

151. **Mr. Curran** asked the Minister for Transport the regulations relating to the maximum noise levels from motorised vehicles in residential areas; and if he will make a statement on the matter. [32189/05]

Minister of State at the Department of Transport (Mr. Callely): It is a requirement for the registration and entry into service of new motor vehicles in the European Union that they have type approval in accordance with Directive 70/157/EEC, as amended by Directive 1999/101/EC, which sets down the permissible sound levels and exhaust systems for motor vehicles. Vehicle in-service standards are specified in the Road Traffic (Construction, Equipment and Use of Vehicles) Regulations 1963 which requires vehicles to be fitted with a silencer or other device that is suitable and sufficient for reducing to a reasonable level the noise caused by the escape of exhaust gases from the engine.

Article 85 of these regulations prohibits the use in a public place of a vehicle which causes excessive noise but the regulations do not make specific mention of residential areas. Enforcement of this prohibition is a matter for the Garda Síochána. I intend to discuss this issue, and other relevant issues, with my Department officials and the Garda Síochána.

Public Transport.

152. **Mr. Curran** asked the Minister for Transport when integrated ticketing, that will include the Luas, will be available to public transport users in Dublin; and if he will make a statement on the matter. [32190/05]

Minister for Transport (Mr. Cullen): The proposed contactless smartcard based integrated ticketing system, for which the Railway Procurement Agency, RPA, was given statutory responsibility, is, in line with international experience, being introduced on a phased basis, initially in the Dublin area. In advance of the introduction of full smartcard technologies, magnetic strip based integrated ticketing already exists for travel on Luas, Dublin Bus and Irish Rail services on a bilateral basis between the companies. A ticket for travelling on the services of both Luas and a private operator, Morton's Coaches, has also recently been finalised.

As part of the phased introduction of smartcard based integrated ticketing, in April 2004 Morton's Coaches, in conjunction with the RPA and as a "proof of concept", successfully launched

smartcards on its services. Last March, another step was taken with the launch of smartcards on Luas services. To date, approximately 9,000 smartcards have been purchased for use on Luas services. The Luas smartcard deployment is helping to obtain important feedback from passengers and provide operational experience for the next stage of integrated ticketing.

Following an inconclusive procurement procedure earlier this year for the selection of an integrated ticketing provider and operator, the RPA commenced work on a revised procurement strategy. The finalisation of that procurement strategy will assist the RPA in determining a revised target implementation date.

Road Safety.

153. **Mr. Curran** asked the Minister for Transport his plans to introduce compulsory basic training for motorcyclists; and if he will make a statement on the matter. [32191/05]

155. **Mr. Curran** asked the Minister for Transport his plans to introduce compulsory basic training for car drivers and learners; and if he will make a statement on the matter. [32193/05]

Minister for Transport (Mr. Cullen): I propose to take Questions Nos. 153 and 155 together.

The Government's strategy for road safety 2004 to 2006 identified speed, seatbelt wearing, driving while intoxicated, engineering measures and vulnerable road users as the key priority areas to be addressed over the coming years in terms of yielding road safety benefits. As regards motorcyclists, the strategy states that it is the intention over the course of the strategy to introduce compulsory initial practical training for motorcyclists before they are permitted to drive alone on a public road. A working group comprising motorcycle interests has been considering the appropriate standards that will apply in this area and the standards with which instructors must comply. Overseeing the introduction of such training will be the responsibility of the proposed Road Safety Authority.

There are no proposals to introduce such compulsory training for other learner drivers. Proposals being developed by my Department for the regulation and quality assurance of driving instruction will involve a test of the competence of individual instructors to a set standard. The proposed Road Safety Authority will be responsible for implementing the standard of driving instruction and establishing a register of driving instructors.

154. **Mr. Curran** asked the Minister for Transport the amount of funding which was allocated to the winter road safety plan launched recently that involves advertising, press advertisements

and poster advertising; and if he will make a statement on the issue of road safety. [32192/05]

Minister for Transport (Mr. Cullen): The National Safety Council, NSC, is the agency mandated with responsibility for road safety advertising and education. The council has been allocated €3.965 million from the Exchequer in 2005. The council also receives funding from the Irish Insurance Federation, IIF, and from private sponsorship.

A joint National Safety Council-Garda Síochána winter road safety campaign, called "Arrive Alive", was launched on Monday, 24 October 2005. The campaign, which is costing €220,000, is being fully funded by the IIF.

Question No. 155 answered with Question No. 153.

Road Network.

156. **Ms O. Mitchell** asked the Minister for Transport the amount of kilometres of national roads which will be completed by the National Roads Authority in 2005; and if he will make a statement on the matter. [32244/05]

Minister for Transport (Mr. Cullen): The planning, design and implementation of national road projects is a matter for the National Roads Authority, NRA, under the Roads Act 1993. I understand from the NRA that 70 km of motorway-dual carriageway and 20 km of single carriageway will be completed and open to traffic during 2005.

Park and Ride Facilities.

157. **Ms O. Mitchell** asked the Minister for Transport the number of park and ride spaces available in the Dublin area; and if he will make a statement on the matter. [32245/05]

Minister of State at the Department of Transport (Mr. Callely): At present in the greater Dublin area, there are 6,353 park and ride spaces on the suburban rail, including DART and Luas networks. Some 4,748 of these are located at 32 locations on the suburban rail network and the remaining 1,605 at four locations on the Luas red and green lines.

Traffic Management.

158. **Ms O. Mitchell** asked the Minister for Transport the amount allocated and drawn down in terms of implementation of traffic management systems in the Dublin area over the period 2000 to 2006; and if he will make a statement on the matter. [32246/05]

Minister of State at the Department of Transport (Mr. Callely): Funding of traffic manage-

[Mr. Callely.]

ment systems in the Dublin area operates through traffic management grants from central Government to the Dublin Transportation Office. The Estimates process for 2006 is currently being finalised, and Estimates for the year will be published in the near future by the Minister for Finance. The amount, in euros for all years, allocated and drawn down in terms of implementation of traffic management systems in the Dublin area over the period 2000 to 2005, as requested by the Deputy, is as follows:

Year	Estimate	Outturn
2000	32,131,992	32,131,992
2001	33,457,598	33,457,598
2002	30,000,000	28,600,000
2003	40,000,000	40,000,000
2004	40,000,000	37,000,000
2005	40,000,000	40,000,000*

* Estimated Outturn.

Public Transport.

159. **Ms O. Mitchell** asked the Minister for Transport the amount allocated to the development of mainline rail over the period 2000 to 2006; the total amount drawn down to date in 2005; and if he will make a statement on the matter. [32247/05]

160. **Ms O. Mitchell** asked the Minister for Transport the amount which has been allocated to national public transport, excluding mainline rail, over the period 2000 to 2006; the amount which has been drawn down to date in 2005; and if he will make a statement on the matter. [32248/05]

Minister for Transport (Mr. Cullen): I propose to take Questions Nos. 159 and 160 together.

The total amount of Exchequer capital funding expended on the development of public transport over the period 2000-2004 was €1,887 million.

Year	Outturn
2000	252,850,610
2001	344,489,217
2002	390,228,615
2003	436,807,564
2004	295,670,021
2005	426,132,000*

*estimated outturn.

The anticipated spend for 2005 is €426 million. The indicative capital allocation for 2006 set out in the 2005 budget will be amended in light of

Transport 21, the ten year investment framework for transport.

The total draw down for public transport programmes and projects in 2005, to the end of October, is €238.6 million.

Expenditure on track work and railway safety over the period relates to the entire Irish Rail network and it is not possible to identify accurately the amounts spent specifically on the mainline network. However, in the case of rolling stock and signalling for the Intercity network the following is the case:

Anticipated Total Spend 2000-2005.	
	€m
67 Intercity Carriages	51.90
120 Intercity Railcars	72.25
Signalling Projects	27.08

Light Rail Project.

161. **Ms O. Mitchell** asked the Minister for Transport if his Department remains committed to the development of a Luas line from Shanganagh-Swords via Finglas, Blanchardstown and Clondalkin to Tallaght and a second Luas line from Citywest to the city centre via Tallaght and Kimmage as set out in both the national development plan and the DTO's Platform for Change; if so, when work will commence on these lines; and if he will make a statement on the matter. [32249/05]

Minister for Transport (Mr. Cullen): I announced a new transport investment programme, Transport 21, on Tuesday, 1 November last. This ambitious programme underlines the Government's commitment to develop a world-class transport system for the 21st century. The Minister for Finance and I engaged extensively on the preparation of this landmark framework which involves the investment of over €34 billion in current prices in the ten year period 2006 to 2015.

Included in this programme is a commitment to seven new Luas projects and two new metro services: metro north from St. Stephen's Green to Swords serving places such as DCU, Ballymun and Dublin Airport; metro west, which is an orbital line serving places such as Clondalkin, Liffey Valley and Blanchardstown, will link with the Tallaght Luas line and metro north and will be built on a phased basis starting from the Tallaght end in 2010 and with a completion date of 2014; a new Luas line from Lucan to the city; the Tallaght Luas line will be extended to the Docklands; a spur will be provided off the Tallaght line to serve Citywest; Sandyford Luas line extension to Cherrywood; the Sandyford Luas line exten-

sion to Bray; the two Luas lines will be joined; this new cross-city link will subsequently be extended northwards to serve Broadstone and the new Dublin Institute of Technology campus at Grangegorman.

The Dublin Transportation Office's A Platform for Change continues to provide strategic framework for the development of the greater Dublin area's transport system. In that context feasibility studies and planning work will also be undertaken over the period of Transport 21 on other projects not included in this programme, but contained in A Platform for Change. However, funding to bring them to construction is not included in the ten-year envelope.

Rail Services.

162. **Ms O. Mitchell** asked the Minister for Transport the level of capacity which will be delivered as a result of the DART upgrade; when this upgrade work will be fully completed; and if he will make a statement on the matter. [32250/05]

Minister for Transport (Mr. Cullen): The DART upgrade project will deliver a capacity increase of 30% by providing for the operation of eight-car DARTs instead of the previous maximum of six cars. With a combination of the upgrade project and the introduction of additional rolling stock, the DART capacity will have increased by 100% since 2000.

The project will be substantively completed by year-end with some minor works to be completed in the early part of 2006. These minor works will not affect services to DART customers.

Public Transport.

163. **Ms O. Mitchell** asked the Minister for Transport the expected increase in passenger capacity, in numeric and percentage terms, of Dublin Bus over the period 2000-06; and if he will make a statement on the matter. [32251/05]

Minister for Transport (Mr. Cullen): In 1999, prior to the introduction of the national development plan, the capacity of the Dublin Bus fleet was 74,385, inclusive of standing capacity. By the end of 2000 capacity had increased to 82,590. By the end of 2005, it is estimated that the capacity will be 94,524. Furthermore, with the purchase of a further 20 double deck buses which I sanctioned on Tuesday last, it is expected that the capacity of the fleet will reach 96,324. This represents an increase in capacity of almost 30% since 1999.

Dublin Bus is currently carrying out a review of the bus network in Dublin and future bus needs. The company has advised me that this review will be completed early next year. I consider it appropriate at this stage to review the bus

needs in Dublin given the significant changes in the greater Dublin area since 1999 when the NDP was drawn up, such as the introduction of the Luas, expanded commuter rail services, the DART upgrade and ongoing demographic changes.

164. **Ms O. Mitchell** asked the Minister for Transport the amount of investment promised to Dublin Bus under the national development plan; the amount allocated and drawn down by Dublin Bus to date in 2005; the amount of investment expected to be spent by Dublin Bus by the end of the national development plan; and if he will make a statement on the matter. [32252/05]

Minister for Transport (Mr. Cullen): The national development plan, NDP, identifies spending of €152 million to increase the capacity and improve the quality, reliability, frequency and speed of bus services in the Dublin region. The investment programme involved the expansion of the bus network to meet demand, through the phased purchase of additional buses to increase passenger capacity and meet the development requirements of the network. In addition, an ongoing replacement and equipment renewal programme, costing €127 million, was identified to include the purchase by Dublin Bus of buses.

The NDP identifies the Exchequer, the EU and the State companies' own resources as the sources of funding for projects in the plan. A substantial element of the funding for the Dublin Bus replacement programme is provided from funds raised by the company.

Significant changes have taken place in Dublin since the start of the national development plan. These changes include substantial increases in rail capacity, such as Luas, commuter rail services and the DART upgrades, together with on-going demographic changes.

It is in this context that Dublin Bus is carrying out a review of the bus network in Dublin. The company has advised me that the bus network review will be completed early next year. The company is, in the first instance, assessing how to maximise the utilisation of its existing bus fleet. I anticipate that the company will respond to the challenge of meeting customer expectations in Dublin with new and innovative solutions.

The amount allocated from the Exchequer to Dublin Bus this year was €4.65 million and the amount drawn down to date is €1.171 million. In addition, in response to an application from Dublin Bus, I have now agreed to provide funding for an additional 20 buses this year to provide an immediate increase in capacity on the bus network.

At the end of 2005 it is expected that Dublin Bus will have received €105 million of Exchequer funds under the NDP. This is in addition to the

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funding provided by Dublin Bus from its own resources. Following the launch of Transport 21, the ten-year investment framework for transport, and the completion by the company of its network review, I will be reviewing the allocation of funding to Dublin Bus in respect of 2006.

Traffic Management.

165. **Ms Shortall** asked the Minister for Transport the way in which congestion is monitored here; the annual publications by State bodies under the aegis of his Department that record and public statistics on congestion; and if he will make a statement on the matter. [32253/05]

Minister of State at the Department of Transport (Mr. Callely): The Dublin Transportation Office, which comes under the aegis of my Department, is the principal State agency monitoring traffic congestion in the greater Dublin area, GDA.

The DTO monitors the performance of the DTO strategy against the objectives for each class of road user, as set out in A Platform for Change. The results of this monitoring exercise are included in the DTO road user monitoring report. The second such report, the 2005 road user monitoring report, has recently been completed and is available on the DTO website. Although this report does not include an actual indication of congestion, proxies for it are included in the form of journey time and speed survey results as well as traffic flow data from NRA traffic counters and supplemental DTO and Dublin City Council traffic surveys.

It should also be noted that the DTO has allocated funding to Dublin City Council to develop a real time congestion map, which is available on their website. Dublin City Council also provides a visual indication of congestion on their website via photos from traffic cameras located throughout the city council area.

If the Deputy wishes, I can arrange to have a copy of the DTO's 2005 road user monitoring report forwarded to her.

Driving Tests.

166. **Ms Shortall** asked the Minister for Transport the number and proportion of driving tests conducted in Irish in the past three years for which figures are available and the pass rate that prevailed in each of those years for those who sat the test in Irish. [32254/05]

Minister for Transport (Mr. Cullen): The information sought by the Deputy is unavailable as there are no statistics kept on the number of driving tests conducted through Irish.

167. **Ms Shortall** asked the Minister for Transport if his attention has been drawn to the fact that none of the Dublin based driving test centres recorded a pass rate above the national average in any of the past three years; if his attention has further been drawn to the fact that in the 2004 figures three of the six lowest pass rates were recorded in Dublin centres; the action he is taking to improve pass rates in Dublin; and if he will make a statement on the matter. [32255/05]

Minister for Transport (Mr. Cullen): The driving test in Ireland is designed in accordance with the requirements of the European directives on driving licences, which set out the skills that a driver must demonstrate during a driving test. As in other EU countries there is a variation in the pass rate among test centres.

The pass rate may be influenced by a number of factors including the number of lessons taken by the candidate, the standard of instruction available and demographic factors. Our pass rate is consistent with the experience in other countries.

On consistency in the standard of the driving test, my Department undertook a comprehensive training programme for all driver testers in 2002 covering procedures for carrying out the test, guidelines to assess faults and training to enhance customer service in the delivery of the driving test. The work of all testers is monitored on an ongoing basis by supervisory driver testers to ensure that a uniform standard of test is maintained.

168. **Ms Shortall** asked the Minister for Transport the current number of female driving testers; and the action he has taken to provide a greater gender balance. [32256/05]

Minister for Transport (Mr. Cullen): My Department currently employs 120 driver testing staff including eight female testers. The recruitment to these posts is a matter for the Public Appointments Service, which operates an equal opportunities policy.

Proposed Legislation.

169. **Mr. S. Ryan** asked the Minister for Transport his plans to have further discussions with trade unions within CIE prior to the heads of the proposed public transport commission Bill being agreed by Government. [32257/05]

Minister for Transport (Mr. Cullen): I am currently considering the views and issues put to me by the various stakeholders during discussions to date on the reform of the public transport market. It would be premature to hold further discussions with the CIE unions until I have considered the range of issues put to me by all the

stakeholders. However, it remains my intention to engage in a spirit of partnership with the stakeholders on the future direction of the public transport market.

Pension Provisions.

170. **Mr. S. Ryan** asked the Minister for Transport his plans to separate the existing CIE superannuation scheme of 1951 in view of the proposed rationalisation of the CIE group; and if there will be no loss of employment. [32258/05]

Minister for Transport (Mr. Cullen): Superannuation matters and employment levels within CIE are a matter for the group in the first instance. I have no proposals in that regard.

Public Transport.

171. **Ms Shortall** asked the Minister for Transport the way in which the ten year transport investment plan will impact on the five year investment envelope for transport in view of the fact that they will overlap for some years. [32322/05]

Minister for Transport (Mr. Cullen): The ten year transport capital investment framework — Transport 21 — announced on 1 November, will replace the current five year investment envelope as and from 1 January 2006.

172. **Ms Shortall** asked the Minister for Transport the consultations he has had with union representatives regarding the ten years transport investment plan or if he proposes any at this stage; and if he will make a statement on the matter. [32323/05]

Minister for Transport (Mr. Cullen): The public transport partnership forum, originally established under the Programme for Prosperity and Fairness and continued under Sustaining Progress, provides a mechanism for consultation with the social partners on public transport matters, including public transport investment requirements, priorities and programmes. During the course of 2005 there have been presentations and discussions on a range of public transport investments, including the implementation of land use and transportation strategies in the provincial cities, regional public transport services, the western rail corridor, rail, Luas and metro developments in the greater Dublin area, and public transport integration. The social partners made their views known at the presentations and discussions and these views were taken into account in the preparatory work on Transport 21.

Road Safety.

173. **Ms Shortall** asked the Minister for Trans-

port when the review of the first year of the road safety strategy 2004-06 will be completed and when it will be published. [32326/05]

Minister for Transport (Mr. Cullen): The Government strategy on road safety 2004-06 does not contain a commitment relating to the production of annual progress reports in the same manner as was the case with the first strategy. As I advised the Joint Oireachtas Committee on Transport yesterday, I intend to take the opportunity later in the year at a suitable occasion to give an outline of overall progress in relation to the delivery of the various elements that make up the strategy.

174. **Ms Shortall** asked the Minister for Transport if he will report on the progress to date in 2005 in expanding the forensic analysis programme for driving under the influence of drugs. [32327/05]

Minister for Transport (Mr. Cullen): The Medical Bureau of Road Safety continues to analyse blood and urine specimens received under the Road Traffic Acts for the presence of a drug or drugs where the level of alcohol determined is under the legal limit of 80mg-100ml in blood and 107mg-100ml in urine or when a specific request for drug analysis has been received from the Garda when the alcohol result is above the legal limit. The number received to the end of September 2005 was 527, which is 32% higher than the same period to September 2004.

175. **Ms Shortall** asked the Minister for Transport the number of low cost remedial measures that have so far been carried out on national roads and non-national roads under the road safety strategy 2004-2006 with a breakdown for each. [32328/05]

176. **Ms Shortall** asked the Minister for Transport the number of higher cost accident remedial measures carried out on national roads to date in 2005 under the road safety strategy 2004-2006. [32329/05]

177. **Ms Shortall** asked the Minister for Transport the number of traffic calming measures implemented so far on national roads under the road safety strategy 2004-2006. [32330/05]

178. **Ms Shortall** asked the Minister for Transport if he will report on the progress to date in 2005 in the development of quality control of road safety audits. [32331/05]

200. **Ms Shortall** asked the Minister for Transport if the study into the collision history at the 109 high accident locations identified in the National Roads Authority high accident location

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report has been completed; the recommendations arising from the report; if same will be laid before the Houses; and if he will make a statement on the matter. [32370/05]

Minister for Transport (Mr. Cullen): I propose to take Questions Nos. 175 to 178, inclusive, and 200 together.

The improvement and maintenance of national roads, including road safety engineering matters, is the responsibility of the National Roads Authority, NRA, and local authorities under the Roads Act 1993. The information sought is being compiled and will be forwarded to the Deputy as soon as possible.

179. **Ms Shortall** asked the Minister for Transport his decision regarding the proposal in the road safety strategy 2004-06 for the introduction of a procedure for the administrative disqualification for cases where the blood alcohol concentration is between 80mg-100ml and 100mg-ml. [32332/05]

180. **Ms Shortall** asked the Minister for Transport if he will report on the progress to date in 2005 in reviewing legislation dealing with intoxicated driving as promised under the road safety strategy 2004-06; and when legislation will be published regarding same. [32333/05]

Minister for Transport (Mr. Cullen): I propose to take Questions Nos. 179 and 180 together.

As I indicated yesterday to the Joint Oireachtas Committee on Transport, of which the Deputy is a member, I am actively considering the issues of the introduction of an administrative disqualification for certain drink driving offences and a general review of the legislation relating to intoxicated driving with a view to making progress at an early date.

Fuel Transportation.

181. **Mr. F. McGrath** asked the Minister for Transport if he will provide an environmental report on pipeline aviation fuel along Griffith Avenue, Dublin 9; and if he will make a statement on the matter. [32345/05]

Minister for Transport (Mr. Cullen): This is a matter for my colleague, the Minister for the Environment, Heritage and Local Government, as I understand that any such pipeline would of itself require an environmental impact assessment, EIA, under the EIA directives and regulations.

Road Safety.

182. **Ms Shortall** asked the Minister for Trans-

port the status of the interdepartmental review of road safety expenditure; when this review commenced and when it was completed; the recommendations that arose for his Department; and the actions he intends taking to meet implementation of these recommendations. [32346/05]

Minister for Transport (Mr. Cullen): My Department chaired a steering group overseeing a cross-departmental review of road safety expenditure which examined expenditure incurred over the lifetime of the first road safety strategy 1998-2002. This review seeks to evaluate the effectiveness of all public spending on road safety and, to establish the impact of road safety performance on other areas, such as health and emergency services.

The steering committee consisted of representatives from the Departments of Transport, Justice, Equality and Law Reform, Health and Children, Finance and the Environment, Heritage and Local Government. The Committee for Public Management Research was also represented in order to examine processes and outcomes of the review for future cross-departmental reviews and to provide general expert assistance. The steering group commenced the review in mid-2003 and the consultants engaged to carry out an analysis of identified expenditure submitted their report final report earlier this year. The report has been submitted to the Committee for Public Management Research for quality assessment before publication.

Road Safety.

183. **Ms Shortall** asked the Minister for Transport the progress that has been made in meeting the objective of the Road Safety Strategy 2004-2006 and of deciding the way in which to collate and use information acquired in road collision investigations. [32350/05]

Minister for Transport (Mr. Cullen): The primary immediate investigative role in road accidents is vested in the Garda Síochána. Priority in such an investigation must be given to the determination of the causes of road accidents including whether a breach of the road traffic laws contributed to the occurrence. The Garda Síochána is the body empowered to make such a determination and to pursue criminal proceedings against any person who the Garda consider should be accused of the commission of an offence.

Garda reports are forwarded to the National Roads Authority and subsequently to each local authority for the purpose of the establishment of accident trends and causes generally and to facilitate the carrying out of remedial works relating to road infrastructure where such action is deemed to be necessary.

184. **Ms Shortall** asked the Minister for Transport the action he has taken in considering the proposal under the Road Safety Strategy 2004-2006 that local authorities develop local road safety plans as part of their roads function. [32352/05]

Minister for Transport (Mr. Cullen): The National Safety Council, in consultation with the Department of Transport, the Department of the Environment, Heritage and Local Government, and the City and County Managers' Association, is developing a template for road safety action plans which will be piloted in ten chosen local authority areas. The results of these pilots will inform the development of models which can subsequently be applied in all local authority areas.

Proposed Legislation.

185. **Ms Shortall** asked the Minister for Transport when he will provide a legal basis for control of use of mobile telephones by drivers as promised under the Road Safety Strategy 2004-2006. [32355/05]

Minister of State at the Department of Transport (Mr. Callely): Arising out of advice from the Attorney General that the existing regulations on mobile telephone use by drivers may be *ultra vires*, the use of mobile telephones while driving is under examination in my Department in the overall context of in-vehicle information and communications technologies. Subject to the outcome of that examination it is my intention to include proposals related to the use of mobile telephones by drivers in the next appropriate road traffic Bill.

Road Safety.

186. **Ms Shortall** asked the Minister for Transport the progress he has made in abolishing all exemptions from the requirements for adults to wear seat-belts; and the progress at EU level in respect of children. [32356/05]

Minister of State at the Department of Transport (Mr. Callely): The Road Traffic (Removal of Exemption from Wearing Seat Belts by Taxi Drivers) Regulations 2004 removed, with effect from 1 July 2004, the exemption whereby the driver of a taxi, hackney or limousine was not required to wear a seat-belt while driving such a vehicle. The question of the removal of other exemptions will be examined in the context of the legislation to give effect to EU Directive 2003/20/EC amending EU Directive 91/671/EEC relating to the compulsory use of safety belts in motor vehicles.

EU Directive 2003/20/EC requires safety belts to be used where they are fitted. The directive

must be transposed into national law by 9 May 2006. Specific measures in the directive relating to children include prohibitions on the carrying in a car or goods vehicle of a child under three years of age unless restrained in an appropriate child restraint system; over three years of age and less than 150 cm in the front passenger seat unless restrained in an appropriate child restraint system.

The directive also provides for the termination of the three-for-two rule, where three children may be counted as two passengers when reckoning passenger capacity of a bus, for buses fitted with safety belts. Proposals to extend the requirements for safety belts to be fitted to all seats in all new vehicles, except for buses used on stage stop routes have been developed at EU level. Following the approval of these proposals by the European Parliament in May 2005 the way is clear for the Council of Ministers to adopt them as directives so that all new vehicles, including school buses, entering into service from a date yet to be settled will require to be fitted with safety belts.

187. **Ms Shortall** asked the Minister for Transport the action he has taken to support an EU directive that would set type approval standards for pedestrian friendly vehicle fronts. [32357/05]

Minister of State at the Department of Transport (Mr. Callely): Directive 2003/102/EC, relating to the protection of pedestrians and other vulnerable road users before and in the event of a collision with a motor vehicle and amending Council Directive 70/157/EEC, was transposed into Irish law by the European Communities (Motor Vehicle Type Approval) (Amendment) Regulations 2004 (SI 244 of 2004), the European Communities (Passenger Car Entry into Service) (Amendment) Regulations 2004 (SI 245 of 2004) and the European Communities (Mechanically Propelled Vehicle Entry into Service) (Amendment) Regulations 2004 (SI 246 of 2004).

These regulations require compliance with the requirements of the directive in regard to type-approval and first registration and entry into service requirements for new cars and car-derived vans. Ireland is also fully supportive of legislative proposals at European Council relating to the use of frontal protection systems, such as bull bars, on motor vehicles. Under these proposals tests are being proposed which would require that frontal protection systems are designed in a way that improves pedestrian safety and reduces the number of injuries.

188. **Ms Shortall** asked the Minister for Transport if he will report on progress to date in 2005 in preparing licensing regulations to discourage long-term reliance on provisional licences, as

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promised under the Road Safety Strategy 2004-2006. [32358/05]

Minister for Transport (Mr. Cullen): The Government's Strategy for Road Safety 2004 to 2006 states that driver licensing regulations will be amended to discourage long-term reliance on provisional licences. I am considering what amendments should be made in this regard. However, I regard the elimination of the present backlog of applications for driving tests as an important first step.

189. **Ms Shortall** asked the Minister for Transport if he will report on progress to date in 2005 in introducing a requirement for motorcyclists with provisional licences to display L-plates. [32359/05]

Minister for Transport (Mr. Cullen): The Government's Strategy for Road Safety 2004 to 2006 states that driver licensing regulations will be amended to introduce a requirement that motorcyclists on provisional licences must display L plates. I propose to make the necessary regulations during the currency of the strategy.

Road Traffic Offences.

190. **Ms Shortall** asked the Minister for Transport if he will report on his progress to date in 2005 in introducing on-the-spot fines for licensing and tachograph offences by heavy goods vehicles and buses. [32360/05]

Minister of State at the Department of Transport (Mr. Callely): Section 16 of the Road Transport Act 1999 provides for an on-the-spot fine in lieu of prosecution for offences under the Road Transport Acts and EU regulations on drivers' hours and rest periods. The commencement of this section has been the subject of discussions with the Attorney General's office and the advice now is that a provision in primary legislation will be required to ensure compatibility with current fixed penalty charges legislation before the proposed fines system can be brought into effect.

Driving Licences.

191. **Ms Shortall** asked the Minister for Transport the reason for the continued delay in the introduction of credit card plastic driving licences; and when he expects same to be ready. [32361/05]

Minister for Transport (Mr. Cullen): In June 2003 a notice requesting the submission of tenders to supply a plastic card licence was published in the EU Official Journal. Several developments took place following receipt of tenders and the

proposals were reviewed in the light of these developments. The changes included the publication of a draft EU directive on driving licences in October 2003 proposing the issuing of new licences in plastic card format only and allowing the introduction of an optional microchip on the driving licence. There have also been developments concerning anti-fraud protection measures and possible developments in e-Government. Having considered these matters it was decided not to proceed with the tender invitation of 16 June 2003. Preparation of a revised request for tender, to take account of these developments is under way in the Department of Transport.

Road Traffic Offences.

192. **Ms Shortall** asked the Minister for Transport the action he has taken to agree a bilateral arrangement with the UK for the implementation of the EU convention on driving disqualification as promised under the Road Safety Strategy 2004-2006. [32362/05]

Minister for Transport (Mr. Cullen): The framework for the mutual recognition of driving disqualifications imposed in Britain or Northern Ireland and this State is contained in the European Union Convention on Driving Disqualifications. Legislation to support the application of the convention is contained in the Road Traffic Act 2002. The convention relates to disqualifications arising from a range of specified traffic offences including drink-driving, speeding and dangerous driving. Arrangements for the mutual recognition of driving disqualifications are being considered in the context of the British-Irish Council.

Road Safety.

193. **Ms Shortall** asked the Minister for Transport the progress to date in 2005 that has been made in developing drug recognition programmes for doctors and gardaí as provided under the Road Safety Strategy 2004-2006. [32363/05]

Minister for Transport (Mr. Cullen): In September 2004 the director of the medical bureau of road safety and head of forensic medicine at University College, Dublin commenced teaching a postgraduate course in the higher diploma in forensic medicine at the university's faculty of medicine. This course includes teaching on drugs, alcohol and driving including drug recognition. The first cohort of doctors has completed the course and will graduate formally in December 2005.

Preliminary discussions have also been held in 2005 between the Garda national traffic bureau, the medical bureau of road safety and the depart-

ment of forensic medicine at University College, Dublin with a view to the training of gardai in the recognition of driving under the influence of drugs.

194. **Ms Shortall** asked the Minister for Transport the action he has taken to date in 2005 in pursuing the introduction of a scheme for testing imported vehicles before registration as promised under the Road Safety Strategy 2004-2006. [32364/05]

Minister of State at the Department of Transport (Mr. Callely): This issue is referred to in the Road Safety Strategy 2004-2006 and the strategy runs to 2006.

195. **Ms Shortall** asked the Minister for Transport the action he has taken to date in 2005 in making light commercial vehicles liable to roadworthiness tests at the same frequency as other classes, as promised under the Road Safety Strategy 2004-2006. [32365/05]

Minister of State at the Department of Transport (Mr. Callely): The commitment to make light goods vehicles liable to roadworthiness testing tested at the same frequency as other classes of commercial vehicles was implemented by way of the European Communities (Vehicle Testing) (Amendment) Regulations 2004.

196. **Ms Shortall** asked the Minister for Transport his decision in respect of the possibility of introducing a road worthiness test for motorcyclists; and the action he proposes to take. [32366/05]

Minister of State at the Department of Transport (Mr. Callely): This issue is referred to in the Road Safety Strategy 2004-2006 and the strategy runs to 2006.

Road Safety.

197. **Ms Shortall** asked the Minister for Transport the action he has taken to revise standards for large PSVs in line with the buses directive, as provided for in the Road Safety Strategy 2004-2006. [32367/05]

Minister of State at the Department of Transport (Mr. Callely): Directive 2001/85/EC concerns the type approval of new buses. I am advised it is intended to transpose the directive into Irish law as soon as practicable.

198. **Ms Shortall** asked the Minister for Transport the progress to date in 2005 he has made in investigating opportunities to exploit intelligent transport systems and the emergence of electronic birth certificates for vehicles for road

safety, as proposed in the Road Safety Strategy 2004-2006. [32368/05]

Minister of State at the Department of Transport (Mr. Callely): The focus to date in progressing the vehicle-related measures contained in the Road Safety Strategy 2004-2006 has been on having light goods vehicles roadworthiness tested at the same frequency as other categories of commercial vehicles and on the possible introduction of a maximum height limit for vehicles. The question of vehicle-related intelligent transport measures will be considered in the context of the development of a ITS strategy for my Department. Such a strategy is provided for in the Department's statement of strategy 2005-2007. The introduction of electronic birth certificates for vehicles would have to be pursued in collaboration with the Revenue Commissioners and the Department of the Environment, Heritage and Local Government which have responsibility for vehicle registration matters.

Vehicle Regulation.

199. **Ms Shortall** asked the Minister for Transport the progress he has made in pursuing the ratification of the 1958 Geneva agreement on vehicle regulation. [32369/05]

Minister of State at the Department of Transport (Mr. Callely): The 1958 UNECE agreement is concerned with the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions. By virtue of accession to the agreement by the European Community, the UNECE regulations that are binding on the European Community are binding also on Ireland. In these circumstances, it is not clear how ratification individually by Ireland would advance road safety in a practical way. I will keep the position under review.

Question No. 200 Answered with Question No. 175.

Charities Sector.

201. **Mr. Fleming** asked the Minister for Community, Rural and Gaeltacht Affairs the changes in relation to charity law both implemented and under consideration; and if he will make a statement on the matter. [32068/05]

Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern): As the Deputy will be aware, there is a clear commitment in An Agreed Programme for Government to regulation of the charities sector

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through the enactment of a comprehensive reform of charity law in order to ensure accountability and to protect against abuse of charitable status and fraud. The new legislation will introduce an integrated system of mandatory registration, proportionate regulation and supervision. The independent regulatory body, to be positioned as the centrepiece of the regulatory regime, will be charged with setting up and maintaining a register of charities.

The proposed content of the new legislation has been the subject of an inclusive public consultation process in 2004 on the core legislative proposals and, in 2005, on the specialist aspect of charitable trust law reform.

I have already publicly signalled spring 2006 as our target for publication of the Bill and my Department continues to give priority to the work of advancing this important legislation.

For the information of the Deputy, no changes to charities legislation have been implemented in recent times. It has been over 40 years since the main legislation, the Charities Act 1961, was passed. The main trust law, which is also largely applicable to charitable trusts, dates back to the 19th century, to the Trustee Act 1893.

Waterways Ireland

202. **Mr. Naughten** asked the Minister for Community, Rural and Gaeltacht Affairs if he will ensure that all debris has been cleared from a weir (details supplied) and that all sluice gates are completely open; and if he will make a statement on the matter. [32205/05]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): The operation of the weir to which the Deputy refers is a matter for Waterways Ireland, a North-South Implementation Body co-sponsored by my Department and the Department of Culture, Arts and Leisure in the North.

I am informed by Waterways Ireland that all the sluices have been open since 25 October 2005 and that the weir is free from debris.

Decentralisation Programme.

203. **Ms Shortall** asked the Minister for Agriculture and Food the offices of her Departments which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32104/05]

Minister for Agriculture and Food (Mary Coughlan): My Department's offices on the north side of Dublin are as follows: Horticulture

Inspector's office, Bow Street, Dublin 1; Horticulture Inspector's office, Swords; Border inspection post, Dublin Port; Border inspection post, Dublin Airport; and Abbotstown laboratories and farm.

My Department's laboratories situated in Abbotstown are in the process of being transferred to Backweston, County Kildare. It is proposed that the farm situated in Abbotstown will be replaced by a farm at Longtown, Clane. Neither of these relocations are taking place under the decentralisation programme.

My Department's offices situated at the other locations mentioned above will be retained in their present locations.

Grant Payments.

204. **Mr. Ferris** asked the Minister for Agriculture and Food the number of farmers in County Kerry in receipt of EU subsidies or premia in 2003; and if she will make a statement on the matter. [32167/05]

Minister for Agriculture and Food (Mary Coughlan): Details of the number of farmers in County Kerry in receipt of EU subsidies or premia in 2003 are set out in the table below:

Scheme	Number of recipients
Area based compensatory allowance	7,435
Suckler cow premium	3,162
Ewe premium	2,115
Extensification premium	4,420
Slaughter premium*	4,871
Special beef premium*	6,473
Arable aid	183

* The figures shown refer to the number of payments made rather than applicants paid, as a producer may submit more than one application or slaughter animals on more than one date.

205. **Mr. Ferris** asked the Minister for Agriculture and Food the number of farmers in County Kerry who are in receipt of the single farm payment; and if she will make a statement on the matter. [32168/05]

Minister for Agriculture and Food (Mary Coughlan): Approximately 8,500 farmers in County Kerry have established entitlements under the single payment scheme. The value of these entitlements is in excess of €47 million.

Farm Retirement Scheme.

206. **Mr. Ferris** asked the Minister for Agriculture and Food the number of farmers in County Kerry who took part in the early retirement scheme; and if she will make a statement on the matter. [32170/05]

Minister for Agriculture and Food (Mary Coughlan): A total of 798 farmers in County Kerry entered the previous scheme of early retirement from farming which ran from 1994 to 1999. To date, 236 farmers in County Kerry have entered the current scheme which began in November 2000.

Grant Payments.

207. **Mr. McGinley** asked the Minister for Agriculture and Food when suckler cow and beef premium will be awarded to a person (details supplied) in County Donegal. [32199/05]

Minister for Agriculture and Food (Mary Coughlan): The person named submitted 12 applications under the 2004 special beef premium scheme, in respect of a total of 363 animals. Following computer validation, 59 of these animals were identified as non-CMMS compliant. Due to the high number of animals concerned, my Department has undertaken a detailed investigation of the case. On completion of these inquiries, eligibility under the scheme will be further considered.

The person named applied on 55 cows and 27 heifers under the 2004 suckler cow premium scheme. Inquiries into the identification of these animals are currently taking place and a decision regarding their eligibility for suckler cow premium will be made on completion of these inquiries.

208. **Mr. McGinley** asked the Minister for Agriculture and Food when suckler cow and beef premium will be awarded to a person (details supplied) Co Donegal. [32200/05]

Minister for Agriculture and Food (Mary Coughlan): The person named submitted nine applications under the 2004 special beef premium scheme, in respect of a total of 350 animals. Following computer validation, 79 of these animals were identified as non-CMMS compliant. Due to the high number of animals concerned, my Department has undertaken a detailed investigation of the case. On completion of these inquiries, eligibility under the scheme will be further considered. The person named applied on 59 cows and 23 heifers under the 2004 suckler cow premium scheme. Inquiries into the identification of these animals are currently taking place and a decision regarding their eligibility for suckler cow premium will be made on completion of these inquiries.

Farm Retirement Scheme.

209. **Mr. Lowry** asked the Minister for Agriculture and Food the status of payment under the early retirement scheme from farming for a per-

son (details supplied) in County Tipperary; and if she will make a statement on the matter. [32220/05]

Minister for Agriculture and Food (Mary Coughlan): It is a requirement of the EU regulations under which the early retirement scheme is implemented that the early retirement pension can be paid only as a supplement to any national retirement pension that the participant, and his or her spouse or partner in a joint management arrangement, may receive. This means that the value of any such national retirement pension, which includes contributory pensions, must be offset against the early retirement pension.

The person named entered the scheme on 11 August 2005 under the joint management arrangement. As the amount of her husband's contributory old age pension was greater than what would have been payable to her under the scheme, she was not entitled to any payment. When this was explained to her, she notified my Department on 21 October 2005 that she had decided to withdraw her application.

210. **Mr. Lowry** asked the Minister for Agriculture and Food when the recommendations of a report (details supplied) will be implemented; and if she will make a statement on the matter. [32221/05]

Minister for Agriculture and Food (Mary Coughlan): The joint committee's examination of the early retirement scheme provided a welcome opportunity to air a wide range of issues and I believe that this in itself has been helpful in clarifying the position. Earlier this month I provided a detailed response to the report. Regrettably, I have not been able to accept a number of the committee's recommendations. They are precluded by elements of the EU regulations under which the current scheme and its predecessor are operated. Indeed, the European Commission has rejected a complaint brought against my Department on most of the issues which were also covered by the committee's report. However, the committee made other recommendations which I am still considering.

Animal Medicines.

211. **Mr. Lowry** asked the Minister for Agriculture and Food her plans to implement regulations (details supplied); her views on less restrictive measures similar to other EU countries; and if she will make a statement on the matter. [32222/05]

212. **Mr. Lowry** asked the Minister for Agriculture and Food if her attention has been drawn to the fact that implementation of excessive and restrictive regulations (details supplied) could

[Mr. Lowry.]

create an underground market for medicines; her views on opting for a balance between co-op stores, veterinary surgeons, pharmacies, farm stores; and if she will make a statement on the matter. [32223/05]

Minister for Agriculture and Food (Mary Coughlan): I propose to take Questions Nos. 211 and 212 together.

On 22 October last, I announced my decisions on the main issues which had been raised during the consultative phase on draft regulations regarding veterinary medicines. I have also comprehensively outlined my approach in this area to the House on a number of occasions, the most recent of which was in response to a Private Members' motion on 19 and 20 October.

There is no basis for the assertion that I am putting in place a regime which is more restrictive than those applying in other EU countries. As I have clearly stated on a number of occasions, I am proceeding on the basis that for most current medicines, existing national prescription arrangements will be retained until the relevant criteria for exempting medicines from the prescription regime are finalised at EU level. On this basis, the only category of product which in due course will become subject to prescription control as result of the forthcoming regulations is intramammary mastitis treatments. These products are already restricted to prescription only in the majority of member states in the EU, including in the United Kingdom and, accordingly, the new regulations will merely bring the position in Ireland into line with the norm. Furthermore, I am not aware of any EU country which allows persons other than vets to prescribe these and other antibiotic treatments. As I have indicated in my statement on the 22 October, the Irish Medicines Board will arrange the reclassification process for intramammarys with a view to having it complete by January 2007.

With regard to the issue of writing prescriptions generally, I have already stated publicly that I do not need to address this issue until the exemption criteria have been agreed at EU level, which must happen before 1 January 2007. I will review the situation in light of the outcome on the exemption criteria in the course of next year, in particular with regard to the qualifications needed by non-vets and the categories of product which may be prescribed by them with a view to ensuring continuing competition in the market place while at the same time protecting public and animal health.

In view of the fact that the prescription regime is to remain substantially unchanged for the present, there are no grounds for concern that the new regulations on veterinary medicines will lead to the creation of an underground market for medicines. In any event, I assure the Deputy that

anyone who chooses to go outside of authorized channels for medicines will be subject to the full rigours of the law.

Land Annuities.

213. **Mr. Aylward** asked the Minister for Agriculture and Food the date by which farmers can apply to her Department to buy out their existing land annuities provided for in the Land Bill 2004; and if she will make a statement on the matter. [32241/05]

Minister for Agriculture and Food (Mary Coughlan): I intend to introduce the discounted buy-out scheme provided for in the Land Act 2005 from 1 January 2006.

Disadvantaged Areas Scheme.

214. **Mr. M. Moynihan** asked the Minister for Agriculture and Food when area based payment for 2005 will issue to a person (details supplied) in County Cork. [32264/05]

Minister for Agriculture and Food (Mary Coughlan): An application under the disadvantaged areas scheme-single payment scheme was received from the person named on 13 May 2005. The file of the person named was selected for inspection, including cross compliance inspection. The cross compliance inspection, which was conducted on 16 September 2005, revealed no problems. However, some eligibility criteria issues have arisen concerning the area declared by the person named. My Department is now arranging to make contact with him on the matter.

Farm Retirement Scheme.

215. **Mr. Perry** asked the Minister for Agriculture and Food if the farm retirement pension will be re-instated for a person (details supplied) in County Sligo in view of the fact that the only income he is in receipt of from the lease of land is €2,500; and if she will make a statement on the matter. [32265/05]

Minister for Agriculture and Food (Mary Coughlan): For persons entering the early retirement scheme in the year ended 31 December 2002, pensions are payable for a period of up to ten years but in any event not beyond a retired farmer's 68th birthday. The person named entered the scheme on 17 December 2002 and payment of his pension ceased on 2 May 2005 when he reached age 68.

Direct Payment Schemes.

216. **Mr. Perry** asked the Minister for Agriculture and Food the payments a person (details

supplied) will receive in the decoupling payment; when same will be issued; and if she will make a statement on the matter. [32267/05]

Minister for Agriculture and Food (Mary Coughlan): An application under the single payment scheme was received from the person named on 4 May 2005. Details of his 26.23 entitlements, with a net value of €7,322.63, were issued on 18 November 2004. Payment under the disadvantaged areas scheme issued to the person named on 14 October 2005. Payments under the single payment scheme are due to commence on 1 December 2005, as provided for under EU regulations.

Disadvantaged Areas Scheme.

217. **Mr. Connaughton** asked the Minister for Agriculture and Food when the 2005 area based payment will issue to a person (details supplied) in County Galway; and if she will make a statement on the matter. [32334/05]

Minister for Agriculture and Food (Mary Coughlan): The person named was paid his 2005 disadvantaged areas grant on 1 November 2005.

Custody Rights.

218. **Mr. Bruton** asked the Minister for Justice, Equality and Law Reform his views on whether there is scope for introducing less adversarial arrangements for handling issues of access and custody in relation to children. [32078/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Policy in the law as it stands is that it is in the best interest of all concerned when parents can agree the arrangements for custody of and access to their children, rather than have the courts decide the matter. The Children Act 1997, by way of amendment of the Guardianship of Infants Act 1964, places emphasis on alternative dispute resolution mechanisms involving counselling and mediation to assist agreement on the issues of custody, guardianship or access. The Act obliges the legal representatives of the parties to discuss the alternatives with them before the institution of proceedings. The court may adjourn any proceedings to assist agreement between the parties.

The Family Support Agency, operating under the aegis of the Department of Social and Family Affairs, following the enactment of the Family Support Agency Act 2001, brings together programmes designed to support ongoing parenting relationships for children. Its functions include the provision of a family mediation service, both directly or through support for others providing these services, and the administering of grants for such purposes.

Property Management.

219. **Ms C. Murphy** asked the Minister for Justice, Equality and Law Reform if it is intended that property management agencies and companies that undertake management functions for house-only developments will be licensed and regulated by the proposed new national property service regulatory authority; and if he will make a statement on the matter. [32079/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): In the report published recently, the auctioneering and estate agency review group noted that a wide range of services is being provided in today's property market, not all of which are licensed, and it recommended that they should be brought under an appropriate licensing regime. The report specifically recommended that professional property management agencies be licensed and regulated by the new regulatory authority. Following Government approval, I am now proceeding to establish the new national property services regulatory authority on an interim basis pending the enactment of the necessary legislation to place it on a statutory footing, and I expect it to be in place early in the new year.

Departmental Property.

220. **Mr. Ó Fearghail** asked the Minister for Justice, Equality and Law Reform the length of time his Department will continue to provide asylum reception facilities at Magee Barracks, County Kildare in view of the decision by Government to undertake an affordable housing development on the site; and if he will make a statement on the matter. [32092/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Reception and Integration Agency, RIA, is aware of the plans by the Minister for the Environment, Heritage and Local Government and Kildare County Council to use the entire site at Magee Barracks for affordable housing. The RIA has undertaken that, subject to demand, when the current contract for services at the accommodation centre expires in June 2006, the agency will not include the centre in any future tender competitions.

Policing Boards.

221. **Mr. Ó Fearghail** asked the Minister for Justice, Equality and Law Reform when he envisages the establishment of the joint policing committees as included in the Garda Act 2005; and if he will make a statement on the matter. [32093/05]

242. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform when local policing

[Mr. Kehoe.]

boards will be established as promised; and the membership of such boards. [32198/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 221 and 242 together.

The Garda Síochána Act 2005 provides for the establishment of joint policing committees, the function of which is to serve as a forum for consultations, discussions and recommendations on matters affecting the policing of a local authority's administrative area. Section 36 of the Act provides that a local authority and the Garda Commissioner shall arrange for the establishment of a joint policing committee in accordance with guidelines issued under section 35 of the Act. Section 35 provides that guidelines concerning the establishment and maintenance of committees by local authorities and the Commissioner will be issued by me to local authorities and the Commissioner after consulting with my colleagues the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs.

Work is under way involving my Department, the Garda Síochána, the Department of the Environment, Heritage and Local Government and the Department of Community, Rural and Gaeltacht Affairs on drafting guidelines, which will include provisions on membership of the

committees. I expect to be in a position in the near future to announce the issuing of guidelines and the establishment of committees.

Decentralisation Programme.

222. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the offices of his Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32105/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Under the Government's decentralisation programme, four sections or agencies under the aegis of my Department will transfer from their current location on the north side of Dublin to provincial locations. The details and timescales in relation to these moves are published in the decentralisation implementation group's progress report to the Minister for Finance dated 30 June 2005. The table below gives details of those sections or agencies, the current locations and their new locations under the decentralisation programme to which at least a part of their operations will be moving. In the case of each of the four organisations a sufficient presence will continue to be maintained in Dublin.

Section/Agency	Current Location	Decentralised Location
Garda Síochána Headquarters (Part)	Phoenix Park, Dublin.	Thurles
Garda Síochána Complaints Board	Irish Life Centre, Dublin 1.	* Roscrea
Land Registry (Part)	Chancery St, Dublin 7.	Roscommon
Probation and Welfare Service (HQ Staff)	Smithfield, Dublin 7.	Navan

* This body is being subsumed into the new Garda Ombudsman Commission which will continue to maintain a significant presence in Dublin. Circa 20 staff will still be moving to Roscrea to establish a regional headquarters for the Ombudsman Commission.

Sexual Offences.

223. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform the number of child and adult sexual abuse cases recorded in 2004 for children and adults with intellectual disabilities; and if he will make a statement on the matter. [32115/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I regret that it has not been possible in the time available to obtain the information requested by the Deputy. I will be in contact with the Deputy with regard to this matter when it becomes available.

Garda Strength.

224. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform the number of community gardaí at Coolock, Clontarf, Raheny

and Santry Garda stations; and if he will make a statement on the matter. [32116/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength for all ranks of the community policing units attached to the stations referred to by the Deputy as at 31 October 2005 was as set out in the table hereunder:

Station	Community Gardaí
Clontarf	6
Coolock	8
Raheny	5
Santry	5

Local Garda management report that community gardaí attached to these stations have an excellent rapport with the local community and that the Garda bicycle unit attached to Ballymun and Howth also provides additional personnel to police these areas as and when required. With regard to Garda resources generally, the accelerated recruitment campaign to reach a record force strength of 14,000, in line with the commitment in An Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested gardaí and recruits in training, of 14,000 by the end of 2006.

The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of the areas referred to by the Deputy will be fully considered within the overall context of the needs of Garda areas throughout the country.

Visa Applications.

225. **Mr. G. Mitchell** asked the Minister for Justice, Equality and Law Reform when an application for a person (details supplied) will be processed and a visa issued; and if he will make a statement on the matter. [32133/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): An application for family reunification in respect of the son of the persons in question was received in the visa section of my Department on 28 October 2005. The application will shortly be forwarded to the Refugee Applications Commissioner for investigation as required under section 18 of the Refugee Act 1996.

When the investigation is completed, the commissioner will prepare and forward a report to my Department. Upon receipt of this report, the application will be considered and a decision will issue shortly thereafter.

Asylum Applications.

226. **Mr. English** asked the Minister for Justice, Equality and Law Reform his views on the residency applications for a person (details supplied) in County Meath; and if he will make a statement on the matter. [32146/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The person concerned, a Nigerian national, and her three children, arrived in the State on 16 May 2002 and applied for asylum. Her claim was refused by the Refugee Applications Commissioner and she was informed of that recommendation on 8 April 2003. The person concerned appealed this recommendation and her appeal was heard on 20 April 2004 by the Refugee Appeals Tribunal. The appeal was

rejected and she was informed of this decision by letter dated 14 May 2004. This letter also informed her that the decision applied to her dependants included in her appeal.

Subsequently, in accordance with section 3 of the Immigration Act 1999, as amended, the person concerned was informed by letter dated 31 August 2004 that the Minister proposed to make deportation orders in respect of her and her three children. She was, in accordance with the Act, given the options to be exercised within 15 working days of: making representations to the Minister setting out the reasons why she and her children should be allowed to remain temporarily in the State; leaving the State before deportation orders were made; or consenting to the making of deportation orders. Representations have been made to my Department requesting that the person concerned and her three children be allowed to remain in the State. I expect the file to be submitted to me for decision in due course.

Visa Applications.

227. **Mr. English** asked the Minister for Justice, Equality and Law Reform if he will review the refusal of a visa for a person (details supplied); if he will overrule the decision; and if he will make a statement on the matter. [32147/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The visa application in question was received in my Department on 14 June 2005. In assessing any visa application, the visa officer will have regard to information provided with the application and to factors such as the applicant's ties and general circumstances in their country of origin. In assessing this application, the visa officer decided that insufficient evidence of obligations of a social, economic or professional nature was provided and therefore the visa officer could not be satisfied that the applicant would adhere to the conditions of the visa if approved.

There is no record of an appeal having been lodged in this case, and the two month timeframe in which the decision can be appealed has expired. It is open to the applicant to make a fresh application enclosing up to date supporting documentation and the application will of course be considered anew.

228. **Mr. English** asked the Minister for Justice, Equality and Law Reform if he will review the visa application for a person (details supplied); and if he will make a statement on the matter. [32148/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The visa application referred to by the Deputy was refused by my Department in November 2004. The visa was sought to enable a

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non-EEA national join with her spouse, also a non-EEA national employed under the work permit scheme.

When assessing applications of this type, the visa officer will consider, among other factors, whether the level of salary of the worker would come within the ambit of qualifying for payment from public funds. In this regard, the criteria set by the Department of Social and Family Affairs for eligibility for family income supplement payment, FIS, have been used. The criteria, which may change from time to time, are available on that Department's website at www.welfare.ie/publications/sw22.html.

If the level of the worker's income as evidenced by his or her payslips or P60 would qualify for FIS payments, the application for a visa is generally refused, as happened in this case. An appeal against the refusal of the application was received by my Department in December 2004. However, the visa appeals officer upheld the original decision to refuse the application. It is open to the applicant to make a fresh application. Any such application should include up to date supporting documentation, and this will be considered anew.

229. **Mr. English** asked the Minister for Justice, Equality and Law Reform if he will review the visa application for a person (details supplied); and if he will make a statement on the matter. [32149/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The visa application referred to by the Deputy was refused by my Department in January 2005. The visa was sought to enable a non-EEA national join with her spouse, also a non-EEA national employed under the work permit scheme.

When assessing applications of this type, the visa officer will consider, among other factors, whether the level of salary of the worker would come within the ambit of qualifying for payment from public funds. In this regard, the criteria set by the Department of Social and Family Affairs for eligibility for family income supplement payment, FIS, have been used. The criteria, which may change from time to time, are available on that Department's website at www.welfare.ie/publications/sw22.html.

If the level of the worker's income as evidenced by his or her payslips or P60 would qualify for FIS payments, the application for a visa is generally refused, as happened in this case. An appeal against the refusal of the application was received by my Department in February 2005. However, the visa appeals officer upheld the original decision to refuse the application. It is open to

the applicant to make a fresh application. Any such application should include up to date supporting documentation, and this will be considered anew.

230. **Mr. English** asked the Minister for Justice, Equality and Law Reform the financial criteria an applicant must meet in order to avoid their residency resulting in a cost to public resources; and if he will make a statement on the matter. [32150/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): When assessing applications of this type, the visa officer will consider, among other factors, whether the level of salary of the worker would come within the ambit of qualifying for payment from public funds. In this regard the criteria set by the Department of Social and Family Affairs for eligibility for family income supplement payment, FIS, have been used. The criteria, which may change from time to time, are available on that Department's website at www.welfare.ie/publications/sw22.html.

If the level of the worker's income as evidenced by his or her payslips or P60 would qualify for FIS payments, the application for a visa is generally refused. The visa officer will expect to see sufficient evidence of the financial status of the applicant, in the form of a P60 for the most recent tax year, several payslips, and detailed bank statements covering, at a minimum, a two to three month period. The documentation supplied should demonstrate a consistent financial history and evidence of regular income.

In the case of visa-required family members of non-EEA national workers, the general rule is that after the worker has been in the State for 12 months and has been offered employment for a further 12 months, they may be joined by their families. This is subject to the worker being able to support the family without recourse to public funds.

The procedures for dealing with visa applications from family members of work permit holders who wish to join that worker in the State are currently under consideration as part of ongoing developments within the Irish naturalisation and immigration service.

Garda Deployment.

231. **Mr. English** asked the Minister for Justice, Equality and Law Reform his plans to increase the number of gardaí stationed at Navan, County Meath; and if he will make a statement on the matter. [32151/05]

232. **Mr. English** asked the Minister for Justice, Equality and Law Reform his plans to increase the number of gardaí stationed at Kells, County

Meath; and if he will make a statement on the matter. [32152/05]

233. **Mr. English** asked the Minister for Justice, Equality and Law Reform his plans to increase the number of gardaí stationed at Trim, County Meath; and if he will make a statement on the matter. [32153/05]

234. **Mr. English** asked the Minister for Justice, Equality and Law Reform his plans to increase the number of gardaí stationed at Athboy, County Meath; and if he will make a statement on the matter. [32154/05]

235. **Mr. English** asked the Minister for Justice, Equality and Law Reform his plans to increase the number of gardaí stationed at Enfield, County Meath; and if he will make a statement on the matter. [32155/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 231 to 235, inclusive, together.

I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength of the Louth-Meath division as at 1 November 2005 was 526, all ranks. The personnel strength of the Louth-Meath division as at 31 December 1997 was 498, all ranks. This represents an increase of 28, or 5.6%, in the number of personnel allocated to the Louth-Meath division since 1997.

I am further informed that the personnel strength, all ranks, of the Garda stations at Navan, Kells, Trim, Athboy and Enfield as at 1 November 2005 was as set out in the table hereunder:

Station	Strength
Navan	46
Kells	32
Trim	23
Athboy	6
Enfield	13

I am also advised that it is the responsibility of the divisional officer to allocate personnel within his or her division. Local Garda management states that it is satisfied that the resources currently allocated to the Garda stations referred to by the Deputy are adequate to meet the policing needs of the areas involved.

In respect of Garda resources generally, the accelerated recruitment campaign to reach a record force strength of 14,000 in line with the commitment in An Agreed Programme for Government is fully on target. This will lead to a

combined strength, of both attested gardaí and recruits in training, of 14,000 by the end of 2006.

The Garda Commissioner will draw up plans on how best to distribute and manage these additional resources and in this context, the needs of the Louth-Meath division will be fully considered within the overall context of the needs of Garda divisions throughout the country.

Residency Permits.

236. **Mr. Aylward** asked the Minister for Justice, Equality and Law Reform the number of applications currently with his Department for right of residence here and his proposals to reduce the current waiting time to process such applications. [32156/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I regret that it has not been possible in the time available to compile the statistics requested by the Deputy. The information sought is being compiled at present and I will forward it to the Deputy shortly.

Garda Investigations.

237. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform if the attention of the Garda was drawn in advance to the plans to assassinate a person (details supplied); if the Garda surveillance was withdrawn shortly before the attack; if this was due to problems of overtime; and if he will make a statement on the matter. [32173/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that the Garda Síochána had no advance notice of this crime and that there had been no Garda surveillance on the person referred to by the Deputy.

Deportation Orders.

238. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform if he will report on the deportation of a person (details supplied) on 28 November 2003 to Bucharest, Romania; if he will investigate the charge that the wrong person was deported; if his attention has been drawn to the fact that it is alleged that while the photograph shown by the Garda was that of the deported person the name referred to by the Garda was different which can be confirmed by his passport and marriage certificate. [32174/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The person referred to by the Deputy was a multiple asylum applicant. He applied for asylum in the State on three separate

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occasions, that is, on 27 October 1999, 25 February 2000 and 4 December 2000. In each case he used different identities. This has only come to light recently as fingerprinting of applicants was not used at the time.

His first two asylum applications were deemed abandoned when he failed to pursue them. A notification under section 3(3)(a) of the Immigration Act 1999 issued to him on both occasions informing him of the decision to refuse him refugee status and setting out the options open to him: to leave the State voluntarily; to consent to the making of a deportation order; or to make written representations within 15 working days setting out reasons as to why he should not be deported.

His two cases were examined further under section 3(6) of the Immigration Act 1999, as amended, and section 5 of the Refugee Act 1996, prohibition of *refoulement*. Deportation orders were made in respect of him, that is, in respect of the two separate identities used by him, on 13 September 2001 and 19 October 2001 respectively. Notice of these orders were served on him by registered post requiring him to present himself to the Garda National Immigration Bureau, GNIB, for deportation. He failed to present as required and was classified as evading deportation. He was subsequently located by gardaí two years later and was deported on 28 November 2003.

In his third application, the person referred to by the Deputy applied for asylum and subsequently withdrew his application and applied for residency in the State on the basis of his parentage of an Irish born child. On 27 May 2002 he was granted permission to remain in the State for a period of 12 months, contingent on discharging the role of parent including living in the same household as the child and being of good character. This permission was renewed on application by him for a further 12 months to 27 May 2004 when it expired.

It is clear that the person concerned intended to frustrate the system by making three asylum applications under different identities at a time when fingerprinting of applicants was not yet used. The deportation orders in existence in respect of him were valid and were properly acted upon when he was removed from the State.

Violence Against Women.

239. **Mr. Ferris** asked the Minister for Justice, Equality and Law Reform if he will institute a large-scale public awareness and education programme on violence against women and carry out training for relevant officials and members of the

judiciary; and if he will make a statement on the matter. [32177/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to Parliamentary Question No. 517 of Wednesday, 2 November 2005.

Refugee Status.

240. **Mr. Ferris** asked the Minister for Justice, Equality and Law Reform the reason a convicted cocaine smuggler, sentenced to ten years in 1999 but having had their sentence reduced on appeal to six years, has been granted refugee status here (details supplied); and if he will make a statement on the matter. [32178/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The person concerned, a Jamaican national, entered the State on 10 November 1998. She was subsequently arrested and charged with an offence under the Misuse of Drugs Acts 1997 and 1984. Following a guilty plea, she was convicted and was sentenced on 23 March 1999 to a period of imprisonment of 16 years, six years of which were suspended. On 20 March 2000, the sentence was further reduced to a total of seven years on appeal. This person was released from prison in February 2004 having completed her sentence.

Earlier, in April 2002, it was decided to offer this person an early release from prison for the purpose of her early repatriation to Jamaica. On 24 July 2002, the person was accordingly asked to sign a consent form but she refused. A notification under section 3(4) of the Immigration Act 1999, as amended, indicating an intention to deport was subsequently served on her but, on 5 September 2002, she made an asylum application while still in Mountjoy prison.

As the Deputy will be aware, under sections 6 and 15 of the Refugee Act 1996, as amended, two independent offices exist to consider applications and appeals from applicants for refugee status and to make recommendations to the Minister for Justice, Equality and Law Reform on whether such status should be granted. These two offices are the Office of the Refugee Applications Commissioner, which considers applications for a declaration as a refugee at first instance, and the Refugee Appeals Tribunal, which considers applications for a declaration at appeal stage.

This person's asylum application was initially investigated by the Office of the Refugee Applications Commissioner. This application was refused on 18 March 2003 with the recommendation being communicated to the applicant on 8 April 2003. The applicant appealed this decision to the Refugee Appeals Tribunal on 29 April

2003. On 6 April 2004, the tribunal set aside the earlier Refugee Applications Commissioner's recommendation and instead recommended that the applicant be declared a refugee. This recommendation was reissued to the applicant on 1 June 2004. It should be noted that the member of the Refugee Appeals Tribunal who made the decision to recommend the granting of refugee status in this case was aware of the applicant's drugs conviction in this country and her imprisonment. Indeed, the oral hearing of the appeal was heard in the Mountjoy Prison complex on 20 October 2003.

The issuing of a declaration pursuant to a recommendation of the Refugee Applications Commissioner or the Appeals Tribunal is governed by section 17(1) of the Refugee Act 1996, as amended, which states: "Subject to the subsequent provisions of this section, where a report under *section 13* is furnished to the Minister or where the Tribunal sets aside a recommendation of the Commissioner under *section 16*, the Minister (a) shall, in case the report or, as the case may be, the decision of the Tribunal includes a recommendation that the applicant concerned should be declared to be a refugee, give to the applicant a statement in writing (in this Act referred to as "a declaration") declaring that the applicant is a refugee". Accordingly, and in line with section 17(1)(a) of the Refugee Act 1996, as amended, the declaration was granted. This declaration was furnished to the applicant on 14 April 2005. In tandem with that declaration, I

instructed that this person's refugee status be kept under continuous review to see if she should be repatriated and I am informed by the Garda Commissioner that she has not come to the adverse attention of the Garda Síochána since her release from prison.

Crime Levels.

241. **Mr. Curran** asked the Minister for Justice, Equality and Law Reform the crime figures on a yearly basis for the period 2001, 2002, 2003, 2004 and to date in 2005 for Clondalkin, Ronanstown, Lucan, Ballyfermot and Rathcoole Garda stations. [32197/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): In relation to crime figures the Deputy will be aware that on becoming Minister for Justice, Equality and Law Reform, I arranged for the publication of headline crime statistics on a quarterly basis in order to improve the quality of information available to the public. The Deputy will also wish to be aware that, taking into account the significant increase in our population since 1995, the headline crime rate has fallen from 29 per 1,000 population in 1995 to 25 per 1,000 population in 2004.

I am informed by the Garda authorities that the table below provides the headline offences for Lucan Garda district and Clondalkin Garda district. Ronanstown and Lucan Garda stations are included in Lucan Garda district, and Clondalkin, Ballyfermot and Rathcoole Garda stations are included in Clondalkin Garda district.

Headline Offences Recorded and Detected for Garda District of Lucan for Years 2001 to 2005.

District: Lucan	2005* to 31 October 2005		2004*		2003		2002		2001	
	Rec	Det	Rec	Det	Rec	Det	Rec	Det	Rec	Det
Homicide	3	1	2	2	3	2	1	0	2	1
Assault	75	27	103	50	130	79	135	87	96	58
Sexual Offences	36	9	57	30	26	6	31	20	27	16
Arson	18	1	32	5	30	1	34	4	29	4
Drugs	99	99	91	91	86	86	71	71	72	72
Thefts	1,028	304	1,194	348	1,322	385	1,358	482	1,152	430
Burglary	368	23	446	20	562	64	552	95	407	89
Robbery	57	17	85	14	74	24	74	16	96	40
Fraud	46	16	50	30	39	19	47	28	32	22
Other	50	21	32	12	48	23	31	14	16	11
Total	1,780	518	2,092	602	2,328	689	2,334	817	1,929	742

* Figures provided are provisional-operational and liable to change.

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Headline Offences Recorded and Detected for Garda District of Clondalkin for Years 2001 to 2005.

District: Lucan	2005* to 31 October 2005		2004*		2003		2002		2001	
	Rec	Det	Rec	Det	Rec	Det	Rec	Det	Rec	Det
Homicide	5	1	1	1	1	1	2	1	2	2
Assault	70	31	94	60	99	56	152	99	128	89
Sexual Offences	25	5	29	14	55	40	76	48	32	26
Arson	25	0	51	4	70	3	44	3	71	7
Drugs	75	75	94	94	121	121	135	135	97	97
Thefts	901	200	1,058	217	1,142	326	1,240	305	1,183	330
Burglary	392	51	521	64	680	110	664	126	523	107
Robbery	64	12	72	18	109	20	112	41	144	68
Fraud	38	18	130	106	74	56	55	22	16	9
Other	35	11	48	27	42	24	50	32	36	19
Total	1,630	404	2,098	605	2,393	757	2,530	812	2,232	754

* Figures provided are provisional-operational and liable to change.

Question No. 242 answered with Question No. 221.

Garda Training.

243. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the training available to members of the Garda Síochána in interviewing children; his views on the Ferns report that the specialist child protection units in Northern Ireland could provide a useful model for implementation in the Republic of Ireland; and if he will make a statement on the matter. [32213/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to Parliamentary Question No. 512 of 2 November 2005 in this matter.

Registration of Title.

244. **Mr. Perry** asked the Minister for Justice, Equality and Law Reform the areas in which a discrepancy arises on an individual holding in respect of the maps drawn up between 1928-1934 by the Land Registry Office, and rural place maps drawn up in 2000 by OSI; the person responsible for rectifying the matter; the procedure relating to section 49; and if he will make a statement on the matter. [32283/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Registrar of Titles that there is no necessary correlation between Land Registry boundaries and ordnance survey detail. Land Registry maps are based on ordnance survey maps. The maps lodged for registration are also based on ordnance survey

maps or copy Land Registry maps. They delineate the boundaries of the property to be registered as agreed between the parties. The Land Registry transposes the title boundaries of the property from maps supplied by the applicants for registration to the office maps. The ordnance survey map reflects the physical features at the time that the survey is carried out. Unlike the Land Registry map, the ordnance survey map is not dynamic in nature and does not necessarily show current property boundary detail.

I am further informed that, where part of a property being transferred is outside of the registered boundaries of the property as registered on the Land Registry map, the appropriate mechanism for any changes to the boundaries is to obtain the consent of the affected parties. This is entirely a matter between the relevant parties. I am also informed that information in respect of applications under section 49 of the Registration of Title Act 1964 is available on the Land Registry website. However, it should be noted that this is a detailed and relatively complex area of land law and the circumstances of each case dictate the nature of the particular application. Anyone wishing to make an application should consult a solicitor in order to obtain the necessary legal advice and to prepare the application. The function of the Land Registry is to consider the merits of any application made. As the Land Registry may be required to deal with parties advancing conflicting claims in a section 49 application, it would not be appropriate, nor has the Land Registry any remit, in advising applicants in such cases.

245. **Mr. G. Murphy** asked the Minister for Justice, Equality and Law Reform if the Land Registry Office will issue instrument documents

to a person (details supplied) in County Cork. [32289/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I wish to inform the Deputy that I have requested the Land Registry to contact him directly concerning the current position of the application in question. My understanding is that the position remains as outlined in the Land Registry's response to the Deputy of 25 October 2005.

Court Procedures.

246. **Mr. Andrews** asked the Minister for Justice, Equality and Law Reform if he will consider extending the *in camera* rule to civil cases arising from rape and certain categories of sexual assault in order to protect the anonymity of a plaintiff who might not otherwise feel capable of giving evidence in open court. [32291/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Under the Constitution, justice is required to be administered in public save in such special and limited cases as may be prescribed by law. The law, section 45 of the Courts (Supplemental Provisions) Act 1961, prescribes that justice may be administered otherwise than in public in the case of urgent applications for relief by way of *habeas corpus*, bail, prohibition or injunction, matrimonial cases, lunacy and minor matters and cases involving the disclosure of a secret manufacturing process. Various other statutes provide for certain civil proceedings or part of them to be heard in camera at the discretion of the court, for example, family law proceedings, proceedings under data protection legislation and certain company law proceedings. I am reviewing operation of the civil law in this area with specific reference to cases arising from rape and serious sexual assault offences.

Residency Permits.

247. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if residency status will be granted to a person (details supplied) in County Kildare; if he will consider this case on compassionate grounds; and if he will make a statement on the matter. [32292/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I wish to advise the Deputy that residency was granted to the person in question on 28 September 2005 and a letter notifying the applicant of the decision issued on the same day. Following the receipt of further correspondence, a response was issued to the person in question on 6 October 2005 further clarifying the conditions of the permission granted. The Deputy should note that matters relating to higher edu-

cation grants are for the Minister for Education and Science to consider.

Juvenile Offenders.

248. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform the reason there was no follow up to a complaint made to gardaí in Killarney, County Kerry by a person (details supplied) in Dublin 17. [32301/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that the person referred to by the Deputy made a complaint to gardaí alleging that she was assaulted in Killarney, County Kerry on 14 June 2004. I am further informed that the complaint was investigated by gardaí and the alleged offender was dealt with under the Garda juvenile diversion programme as he was 17 years of age at the time of the alleged assault. The complainant was advised that the accused was dealt with under this programme.

I understand from the Garda authorities that the policy of the Garda Síochána when dealing with juveniles who offend is to consider the offender for inclusion in the Garda juvenile diversion programme, which provides that, in certain circumstances, a juvenile under 18 years of age who freely accepts responsibility for a criminal incident may be cautioned as an alternative to prosecution. The Children Act 2001 placed this programme on a statutory footing and the relevant sections of the Act were commenced in May 2002.

The programme has proven to be highly successful in diverting young people away from crime by offering guidance and support to juveniles and their families. In more serious cases, juveniles are placed under the supervision of Garda juvenile liaison officers, who are specially trained members of the Garda Síochána responsible for administering the programme at a local level.

Garda Investigations.

249. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he has received correspondence from a person (details supplied); and if he will make a statement on the matter. [32305/05]

250. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if the case in the matter of the death of a person (details supplied) will be re-opened. [32306/05]

251. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he is satisfied with the Garda investigation into the death of a person (details supplied) and with the manner in which this investigation was conducted, in

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particular the investigation into events near the taxi office in the town. [32307/05]

252. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he is satisfied with the actions of a detective (details supplied) who it has been alleged discouraged some potential witnesses in the matter of the death of a person (details supplied) from making statements and demonstrated reluctance to take a statement from another. [32308/05]

253. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if statements to the effect that a person (details supplied) was being harmed by a number of individuals in a pub or nightclub on the night of their death are present in a Garda station. [32309/05]

254. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he is satisfied with the report of Dr. Harbison on the death of a person (details supplied) in view of the assertions of two other forensic pathologists brought to their attention. [32310/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 249 to 254, inclusive, together.

I am informed by the Garda authorities that statements in the case referred to by the Deputy were taken from eight witnesses. Only one witness alleged that a verbal altercation took place involving the person concerned. The Garda investigation did not establish any evidence to support this allegation. I am further informed by the Garda authorities that all witnesses were interviewed and invited to make statements. There was no reluctance on the part of gardaí to take any statement relevant to the investigation and no person was discouraged from making a statement.

The then State pathologist, Dr. Harbison, carried out a post mortem examination on the body of the person on 2 February 2002. He concluded that the cause of death was drowning and immersion in fresh water. The Garda investigation file on the case was submitted to the coroner. An inquest was held in April 2004 and the verdict returned was that death was due to drowning by immersion in fresh water. The Garda authorities inform me that correspondence has been received from the person referred to by the Deputy and is currently being examined by them. Correspondence referring to assertions of two forensic pathologists is also being examined.

Garda Investigations.

255. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the serious allegations of crimes being committed among legal and banking sectors in Donegal and Derry from a person (details supplied) in County Donegal; and the actions he has taken to have the allegations investigated. [32318/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that an investigation file in this matter was referred to the Director of Public Prosecutions who instructed that no criminal proceedings be taken in the matter. As I am sure the Deputy will appreciate, the Director of Public Prosecutions is independent in his functions and it is not open for me to comment or intervene in his decisions in any way.

Road Safety.

256. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the status of the inter-departmental review of road safety expenditure; when this review commenced and when it was completed; the recommendations that arose for his Department; and the actions he intends taking to meet implementation of these recommendations. [32347/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): My Department was represented on a steering committee overseeing a cross-departmental review of road safety expenditure which examined expenditure incurred over the lifetime of the first road safety strategy, from 1998 to 2002. This review sought to evaluate the effectiveness of all public spending on road safety and to establish the impact of road safety performance on other areas such as health and emergency services.

The steering committee was established and chaired by the Department of Transport and consisted of representatives from the Departments of Transport, Health and Children, Finance and the Environment and Heritage and Local Government in addition to my Department. The committee for public management research was also represented in order to examine processes and outcomes of the review for future cross-departmental reviews and to provide general expert assistance. The steering group commenced the review in mid-2003 and the consultants engaged to carry out an analysis of identified expenditure submitted their final report earlier this year. The report was submitted to the committee for public management research for quality assessment before publication.

Road Traffic Offences.

257. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the number of interventions in 2004, under the Garda drink-driving enforcement programme; and if he will make a statement on the matter. [32354/05]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that in 2004 a total of 12,307 arrests were recorded for driving while intoxicated. In 2003, 11,344 arrests were made. Therefore in 2004, an increase of 8.5% occurred in the number of arrests for driving while intoxicated.

Youth Services.

258. **Dr. Upton** asked the Minister for Education and Science the amount which was allocated in 2005 to implementing the national youth work development plan; the amount which has been drawn down and applied to fulfilling the objectives contained in the plan; and if she will make a statement on the matter. [32240/05]

278. **Dr. Upton** asked the Minister for Education and Science the reason only a small portion of the funding allocated in budget 2005 for implementing the objectives of Year 1, 2004, and Year 2, 2005, of the national youth work development plan has been used in meeting these objectives; the further reason these objectives have yet to be met; and if she will make a statement on the matter. [32295/05]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 258 and 278 together.

The allocation for the youth work sector in 2005 represents an 18% increase in funding over 2004 and brings financial provision for the sector to €33.889 million in 2005. This additional funding allows for a number of developments under the Youth Work Act 2001 and the national youth work development plan and for enhancements to existing youth work programmes and services.

With regard to the national youth work development plan, this plan identifies four main goals and proposes approximately 50 action points to achieve these goals during a five year period. Building on work already undertaken in 2003 and 2004 and following consideration of a submission made to me by the Irish Vocational Education Association, CEOs Association and the National Youth Council of Ireland in March of this year, I identified certain action areas for implementation in 2005. These include the establishment of ten new special projects for disadvantaged youth; upgrading of 20 single worker special projects to two worker projects; review of youth work funding; and review of youth information provision and continued sup-

port of the child protection training programme. I am fully committed to the implementation of the plan.

School Staffing.

259. **Mr. Ferris** asked the Minister for Education and Science if a classroom assistant or special needs assistant will be appointed to all of the 20 one-teacher schools; and if she will make a statement on the matter. [32069/05]

261. **Mr. O'Shea** asked the Minister for Education and Science her proposals to appoint a second teacher to each of the 21 one-teacher schools here (details supplied); and if she will make a statement on the matter. [32071/05]

266. **Mr. Blaney** asked the Minister for Education and Science if a second adult, to each of the 21 one-teacher schools here will be appointed; and if she will make a statement on the matter. [32158/05]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 261, 266, 259 together.

The mainstream teacher allocation of all primary schools, including one-teacher schools, is determined by reference to the enrolment of the school on 30 September of the previous school year. The staffing schedule is outlined in a circular which is issued annually to all primary schools. In addition, such schools may be eligible for additional teacher or special needs assistant allocations in accordance with the criteria for the allocation of special needs resources. The staffing situation of one-teacher schools are currently being reviewed.

Third Level Fees.

260. **Mr. McGinley** asked the Minister for Education and Science if her attention has been drawn to the fact that third level fees in Northern Ireland and the UK will be increased to £3000 sterling per annum; and her plans to alleviate these difficulties (details supplied). [32070/05]

Minister for Education and Science (Ms Hanafin): Under my Department's free fees initiative the Exchequer meets the tuition fees of eligible students who attend approved third level courses in the State. No plans exist to extend this initiative to cover third level institutions in Northern Ireland or the UK. My Department's higher education grant scheme and the Vocational Education Committee's scholarship scheme provide that where a candidate is not eligible for free tuition under the free fees initiative and is pursuing an approved course at undergraduate level in an institution listed in the State, the

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local authority or VEC may award a full or part grant in respect of the candidate's lecture fee, subject to the terms of this scheme. No plans exist to extend the payment of tuition fees under the student support schemes to undergraduate students attending approved courses outside the State. Section 473A of the Taxes Consolidation Act 1997 also provides for tax relief on tuition fees at the standard rate of tax in respect of approved courses at approved colleges of higher education including certain approved undergraduate and postgraduate courses in EU and non-EU member states.

Question No. 261 answered with Question No. 259.

Decentralisation Programme.

262. **Ms Shortall** asked the Minister for Education and Science the offices of her Department which are situated on the north side of Dublin; the locations where each of them are scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32106/05]

Minister for Education and Science (Ms Hanafin): A total of 301.5 whole time equivalent, WTE, Dublin based posts in my Department are scheduled to relocate to Mullingar under the decentralisation programme. The indicative date for the provision of accommodation in Mullingar given in the November 2004 report of the decentralisation implementation group is the second quarter of 2008. The Office of Public Works has been given the task of acquiring sites for the overall decentralisation programme. Achieving the indicative date will depend on the progress made on the remaining stages of site acquisition, planning and construction.

A further 102.5 WTE posts are scheduled to move to Athlone. This planned decentralisation will be undertaken by extending the existing building at Cornamaddy, Athlone. At this early stage, it is not possible to give an exact timetable because issues outside the control of my Department, such as planning permission, must be addressed. However, planning for the move is proceeding on the basis that the accommodation should be ready for occupation by the latter part of 2007. Post-decentralisation my Department will retain two regional offices in Dublin, one in Tallaght and another in Blanchardstown. Those posts in the inspectorate and the national educational psychological service, NEPS, that interact directly with Dublin schools will also continue to be based in Dublin.

School Staffing.

263. **Mr. F. McGrath** asked the Minister for Education and Science the reason so few special needs assistants are in second level schools; and if she will make a statement on the matter. [32118/05]

Minister for Education and Science (Ms Hanafin): As the Deputy is aware enormous progress has been made over the past number of years in increasing the numbers of staff in our schools who are specifically dedicated to supporting the education of children with special educational needs. To date, 1,023 whole time equivalent special needs assistants, SNAs, are in our second level schools. This compares to approximately 292 whole time equivalent SNAs that were in place in the 2001-02 school year. The substantial growth in special education services at second level in recent years reflects the reality that significant numbers of pupils, who had been in receipt of special support in the primary sector from 1999 onwards, are now transferring to the second level system.

SNAs have an important role in supporting pupils with special educational needs in mainstream schools. However, the allocation of SNA support at second level must be balanced against the individual student's need to develop independence and to access education alongside and in the same way as other students. Early intervention at primary level ensures that many children do not need additional SNA support at second level.

Since 1 January 2005, the National Council for Special Education, NCSE, through its network of locally based special education needs organisers, is responsible for processing any applications for additional special educational needs resources. I am confident that the advent of the NCSE will prove of major benefit in ensuring that all children with special educational needs receive the support they require, when and where they require it.

Pupil-Teacher Ratio.

264. **Mr. F. McGrath** asked the Minister for Education and Science the position regarding improving the class sizes at a school (details supplied) in Dublin 5; and if she will make a statement on the matter. [32119/05]

Minister for Education and Science (Ms Hanafin): The mainstream staffing of a primary school is determined by applying the enrolment of the school on 30 September of the previous school year to a staffing schedule, agreed between my Department and the education partners. The system for allocating teachers to primary schools is based on ensuring an overall maximum class of 29 in each school. Where some classes in a school

have class sizes of greater than 29, it is generally because a decision has been taken at local level to use their teaching resources to have smaller numbers in other classes.

The mainstream staffing of the school referred to by the Deputy, for the 2005-06 school year is a principal and 16 mainstream class teachers based on an enrolment of 456 pupils on 30 September 2004. The school also has two learning support resource teaching posts. To ensure openness and transparency in the system an independent appeal board is now in place to decide on any appeals on mainstream staffing. The criteria under which an appeal can be made are set out in Department Primary Circular 19/02 which is also available on my Department's website.

Departmental Programmes.

265. **Mr. P. McGrath** asked the Minister for Education and Science the schools in Dublin 15 that have the stay safe programme in place; and if she will make a statement on the matter. [32128/05]

Minister for Education and Science (Ms Hanafin): The issue of child protection and ensuring that all children in every primary school are aware of child protection issues are high priority areas for my Department. The stay safe programme is a personal safety programme for children. It is designed to give children the knowledge and necessary skills to help them deal with potentially abusive or threatening situations. However, it is also recognised that the programme must cover those individuals closely involved with children on a daily basis, including parents, guardians and teachers. To this end, professional in-service courses for teachers and parent awareness seminars have been put in place at individual school level. This is in addition to the teaching of a personal safety skills programme to pupils.

The training of teachers, parents and boards of management in the stay safe programme and the development of guidelines and procedures for a school policy on child protection is provided by a network of 31 regionally-based teachers who are available to the programme on a part-time basis. This support supplements the assistance provided by the Department of Health and Children which maintains an administrative office for the stay safe programme. An initial one-day in-service training seminar on the stay safe programme has been provided for all primary schools. Since the programme was introduced, 99.7% of primary schools have participated in this training. I understand that 87% of schools in the Dublin 15 area have the stay safe programme in place.

Although it should be noted that the stay safe programme is not mandatory, the teaching of the overall issue of child protection is now an integral

element of the subject of social, personal and health education, SPHE, which is part of the primary curriculum taught in every school. The introduction of SPHE as a subject on the revised primary school curriculum combined with the implementation of the national child protection guidelines, children first, gave an additional impetus to the stay safe programme. It is a priority of my Department to ensure that a high level of awareness and necessary skills to address child protection issues, which includes the implementation of the stay safe programme, is maintained in all schools. For this reason, my Department will continue to support the promotion of child protection within the context of the social, personal and health education curriculum.

Question No. 266 answered with Question No. 259.

School Curriculum.

267. **Mr. Ferris** asked the Minister for Education and Science when she intends to introduce a meaningful sex, relationship, gender and gender-based violence component into mainstream education programmes; and if she will make a statement on the matter. [32179/05]

Minister for Education and Science (Ms Hanafin): All recognised primary and post-primary schools are required to offer relationships and sexuality education, RSE. It is an integral part of the social, personal and health education, SPHE, curriculum at primary level and at junior cycle post-primary level. In addition, all schools are required to have an agreed school policy and a suitable relationships and sexuality education programme in place for senior cycle pupils.

Comprehensive guidelines for junior cycle and senior cycle have also been published and distributed to schools by the National Council for Curriculum and Assessment, NCCA, to support the RSE aspects of the curriculum. An integrated SPHE programme at senior cycle incorporating RSE is also being developed.

The overall aims of the SPHE curricula are to foster the personal development, health and well-being of students and help them to create supportive relationships and become responsible citizens; and to develop a framework of values, attitudes, understanding and skills that will inform their actions and decision making; to establish and maintain healthy patterns of behaviour.

The RSE programme at senior cycle deals further with these issues and, in addition, addresses issues such as pregnancy, contraception, sexually transmitted diseases, sexual harassment, sexual assault and accepting sexual orientation.

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A national SPHE support service was established in September 2000 and provides a full-time support service in collaboration with the health boards to assist schools to deliver the programme.

SPHE programmes are designed to enable children and young people to develop a framework of values, attitudes, understanding and life skills that will inform their decisions and actions both during their time in school and in their future lives.

Child Protection Policy.

268. **Mr. Ferris** asked the Minister for Education and Science when she will introduce policies for schools on disclosure and appropriate referral where children have experienced violence in the family; and if she will make a statement on the matter. [32180/05]

Minister for Education and Science (Ms Hanafin): Child protection guidelines for primary and post-primary schools, which were distributed to primary and post-primary schools in 2001 and 2004 respectively, were produced in consultation with the partners in education to meet the needs for schools to have in place clear procedures which teachers and other school staff should follow where they suspect, or are alerted to, possible child abuse.

The guidelines cover four different types of abuse; neglect, emotional abuse, physical abuse and sexual abuse. The guidelines provide management authorities and staff with guidance in relation to recognising the signs and symptoms of child abuse and with procedures for dealing immediately with such concerns.

A central facet of the guidelines is the requirement for each board of management to designate a senior member of staff as the “designated liaison person” for the school. The designated liaison person will act as a liaison for the school in all dealings with the Health Service Executive, the Garda Síochána and other parties, in connection with allegations of and-or concerns about child abuse and as a resource person to staff who may have child protection concerns.

Departmental Staff.

269. **Mr. P. McGrath** asked the Minister for Education and Science, further to Parliamentary Questions Nos. 163, 164 and 166 of 20 October 2005, if she will reply to the questions asked, that is, the number of staff from her Department located at the NEPS office in Mullingar; the grade and responsibility for each of those staff; and if additional staff will be appointed to this office. [32185/05]

Minister for Education and Science (Ms Hanafin): There are six staff working in the NEPS office in Mullingar. The grades of the staff are as follows: one regional director; one senior psychologist; three psychologists; and one clerical officer.

Psychologists based in the NEPS office in Mullingar are responsible for providing a service to schools in counties Westmeath, Longford, Laois and Offaly. In addition to the above, there are two further psychologists providing a service to schools in these counties, who are not based in the NEPS office in Mullingar. The clerical officer provides administrative support to psychologists based in the office. My Department has no plans, at present, to appoint additional staff to the NEPS office in Mullingar.

School Absenteeism.

270. **Mr. Curran** asked the Minister for Education and Science the number of school pupils in Clondalkin primary and post-primary school which were referred to the National Education Welfare Board for missing more than 20 days of school in the school year 2004-05. [32194/05]

271. **Mr. Curran** asked the Minister for Education and Science the number of school pupils in Lucan primary and post-primary school which were referred to the National Education Welfare Board for missing more than 20 days of school in the school year 2004-05. [32195/05]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 270 and 271 together.

The Education (Welfare) Act 2000 established the National Educational Welfare Board as the single national body with responsibility for school attendance. The Act provides a comprehensive framework promoting regular school attendance and tackling the problems of absenteeism and early school leaving. The general functions of the board are to ensure that each child attends a recognised school or otherwise receives a certain minimum education.

To discharge its responsibilities, the board is developing a nationwide service that is accessible to schools, parents-guardians and others concerned with the welfare of young people. For this purpose, educational welfare officers, EWOs, have been appointed and deployed throughout the country to provide a welfare-focused service to support regular school attendance and discharge the board’s functions locally. The service is developing on a continuing basis.

The total authorised staffing complement of the board is 94 comprising 16 HQ and support staff, five regional managers, 11 senior educational welfare officers and 62 educational welfare officers. Towns which have an educational

welfare officer allocated to them include Dundalk, Drogheda, Navan, Athlone, Carlow, Kilkenny, Wexford, Bray, Clonmel, Tralee, Ennis, Sligo, Naas, Castlebar, Longford, Tuam, Tullamore, Letterkenny and Portlaoise. In addition, the board will follow up on urgent cases nationally where children are not currently receiving an education. Since September, 2005 every county in Ireland is served by an educational welfare service.

In addition to the NEWB staff there are some 490 staff in education disadvantage programmes whose work involves a school attendance element. My Department is anxious to ensure that the maximum benefit is derived from these substantial personnel resources. Consequently, work is ongoing to develop appropriate protocols for integrated working between the different services involved.

As regards the Deputy's question relating to the number of referrals to the board in respect of pupils enrolled in primary and post-primary schools in the Clondalkin and Lucan areas, resulting from absences of 20 days or more in the school year 2004-05, my Department has requested the National Educational Welfare Board to respond directly to the Deputy on the matter.

School Curriculum.

272. **Mr. Curran** asked the Minister for Education and Science her plans to introduce road safety as part of the school curriculum; and if she will make a statement on the matter. [32196/05]

Minister for Education and Science (Ms Hanafin): At the start of the 2001-02 school year the National Safety Council, with assistance from my Department, distributed copies of *Staying Alive* — a road safety resource for transition year and the senior cycle — to all second level schools. This pack contained a wide range of learning opportunities and activities on topics such as personal responsibility and decision-making, environmental issues and risks and rules for road users. A CD-ROM with additional material downloaded from the Internet was included in the pack along with copies of the Rules of the Road. In the preparation of the *Staying Alive* resources material, views were sought from a range of organisations with interests in the promotion of road safety. Prior to its issue to second level schools, the material was piloted in 20 schools and the response from teachers in those schools was very positive.

Scéimeanna Fostaíochta Pobail.

273. **D'fhiafraigh Mr. McGinley** den Aire Oideachais agus Eolaíochta an mbeidh sí sásta glacadh le cúntóirí scoile ó scéimeanna fostaíochta pobail,

mar a bhíodh go 2002, chun na deacrachtaí atá ag scoileanna aon oide a réiteach. [32202/05]

Minister for Education and Science (Ms Hanafin): Níl aon phlean glacadh le cúntóirí ó scéimeanna fostaíochta pobail sna cásanna seo.

Schools Building Projects.

274. **Mr. Curran** asked the Minister for Education and Science the position regarding the completion date for the new post-primary school currently under construction (details supplied) in Dublin 22; and the details regarding the new construction. [32203/05]

Minister for Education and Science (Ms Hanafin): The project to which the Deputy refers is phased. Phase 1, the construction of the new school building is well under way and is due for completion at the end of the year. Phase 2, the demolition of the existing school building, will be carried out immediately after. Phase 3 will follow and this will consist of the construction of the PE hall and ancillary accommodation, completion of external works and landscaping. It is envisaged that the project will be complete in the second half of 2006.

School Transport.

275. **Mr. Nolan** asked the Minister for Education and Science his views on the unsatisfactory service that Bus Éireann is providing to the children of a school (details supplied) due to the age and mechanical unsuitability of the school bus which is endangering the safety of the children. [32206/05]

Minister for Education and Science (Ms Hanafin): Bus Éireann, which operates the school transport service on behalf of my Department, plans bus routes in such a way as to ensure that, as far as possible, eligible pupils have a reasonable standard of service, while at the same time ensuring that school transport vehicles are fully utilised in a safe, efficient and cost-effective manner.

While the bus in question has passed its annual roadworthiness test, it is due for replacement shortly as part of Bus Éireann's ongoing fleet replacement programme.

Schools Building Projects.

276. **Mr. Kirk** asked the Minister for Education and Science the position on a proposed building project at a school (details supplied) in County Louth; and if she will make a statement on the matter. [32293/05]

Minister for Education and Science (Ms Hanafin): My Department is in receipt of an

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application for an extension at the school to which the Deputy refers. The long-term accommodation needs of the school are under review and further information is awaited from its authority to finalise this matter.

Progress on the proposed works will be considered in the context of the school building and modernisation programme from 2006 onwards. The school authority has also applied to my Department for additional temporary accommodation. The school planning section of my Department will be in contact with the school authority shortly in relation to this matter.

School Transport.

277. **Mr. Aylward** asked the Minister for Education and Science further to Parliamentary Question No. 312 of 19 October 2005 the reason children on the same route, albeit a different time of the day, are being dropped off at their homes rather than the drop off point; her views on whether she is unable to approve this service for some children and deny the same service to another child; if this child is being discriminated against by her Department; and if she will make a statement on the matter. [32294/05]

Minister for Education and Science (Ms Hanafin): As outlined to the Deputy in my reply on 19 October, the day-to-day operation of bus routes, including the planning of drop-off and pick-up points, is a matter for Bus Éireann, which organises the school transport scheme on behalf of my Department. Bus routes are determined on the basis of numbers of eligible pupils in particular areas, road networks, distance guidelines and other operational factors.

As a rule primary school transport routes are planned so that, as far as possible, no eligible child will have more than 2.4 kilometres, 1.5 miles, to travel to a pick-up point. Pupils living off the main route of a service are generally expected to make their own way, or to be brought to convenient pick-up points along the main route. Home pick-ups were never envisaged as being part of the school transport scheme as the cost involved on a countrywide level would be prohibitive.

Bus Éireann has confirmed that two afternoon services operate from the school referred to in the details supplied by the Deputy, at 2 p.m. and 3 p.m. The later service operates on a different route and entails different drop-off points.

The transport service concerned operates indiscriminately within guidelines under my Department's school transport scheme on a similar basis to other services throughout the country.

Question No. 278 answered with Question No. 258.

School Transport.

279. **Mr. Durkan** asked the Minister for Education and Science if school transport will be reinstated for children attending a school (details supplied) in County Kildare; and if she will make a statement on the matter. [32296/05]

Minister for Education and Science (Ms Hanafin): The position has not changed since it was previously outlined to the Deputy in my parliamentary response of 28 September 2005.

There is no record of an application for a transport service to the school referred to in the details supplied by the Deputy having been received in my Department or by Bus Éireann, which organises the school transport scheme on behalf of my Department. In the event that such an application is received in the future, it will be considered under the terms and conditions of my Department's school transport scheme.

Schools Amalgamation.

280. **Mr. Connaughton** asked the Minister for Education and Science the reason the proposed amalgamation of schools (details supplied) in County Galway has not been proceeded with; the stage at which the proposed amalgamation of schools is at; if the entire project will be delayed unless the two proposed schools can be built together; and if she will make a statement on the matter. [32299/05]

Minister for Education and Science (Ms Hanafin): The schools to which the Deputy refers have agreed to amalgamate into a single boys' and single girls' school. Amalgamation in each case is dependent on the availability of suitable accommodation. In each case a decision has been taken to provide a new school on a new site.

In relation to the girls' school the property management section of the OPW, which acts on behalf of my Department in relation to site acquisitions generally, is continuing to explore the possibility of acquiring a suitable site for this school.

With regard to the boys' school the position is that the trustee has offered to provide a site to accommodate the new school and communications are ongoing with the trustee in regard to site configuration etc. As soon as the site issues are finalised in each case, the building projects required to deliver the appropriate accommodation will be considered in the context of the School Building and Modernisation Programme 2005-2009. Ideally, both building projects will be progressed at the same time. However, this is dependent on the outcome of the site acquisition process and whether both projects will be ready to progress through the architectural planning process at the same time.

Pupil-Teacher Ratio.

281. **Mr. Bruton** asked the Minister for Education and Science the number of children in primary education in class sizes under 20, between 25 and 30 and more than 30 in schools in Dublin 9; and if she will provide the same information for children under nine years in Dublin 9. [32302/05]

Minister for Education and Science (Ms Hanafin): The Deputy should note that my Department does not hold class size information according to postal districts and that such information is held according to pupils' standards, for example, junior infants to sixth class, rather than according to pupils' ages. Accordingly, the information requested by the Deputy is not readily available in my Department. If the Deputy would like information on class sizes and standards in particular schools, I would be happy to provide it.

Grant Payments.

282. **Mr. S. Ryan** asked the Minister for Education and Science the reason for the non-payment of a minor works grant to a school (details supplied) in 2004 and 2005 in view of the fact that similar categories of schools received such grants in the past; and if the outstanding applications from the school will be approved. [32303/05]

Minister for Education and Science (Ms Hanafin): The school to which the Deputy refers has temporary recognition. Schools with this status are not entitled to capital funding, including minor works grant aid which is paid from my Department's overall capital allocation. I confirm that a payment was previously made to the school in question under the minor works grant scheme. Unfortunately, however, given the status of the school, this was made in error. My Department took steps to rectify the position when the error came to light.

Special Educational Needs.

283. **Mr. McGinley** asked the Minister for Education and Science the reason the services of a resource teacher is not being provided for a person (details supplied) in County Donegal; and if she will make a statement on the matter. [32316/05]

Minister for Education and Science (Ms Hanafin): The Deputy will be aware that with effect from 1 January 2005, the National Council for Special Education, NCSE, has assumed responsibility for processing resource applications for children with disabilities who have special educational needs. Under the new arrangements, the council, through the local special educational needs organiser, SENO, processes applications

for resources and informs schools of the outcomes.

The NCSE has advised that the pupil in question commenced in a special class in Letterkenny in September 2005 but moved back to the original school recently. The SENO then allocated four resource teaching hours to the school to support the pupil. These hours, together with part-time hours in three other schools in the area, will form a new full-time learning support and resource teaching post. I am happy to inform the Deputy that the base school has been informed that the post is sanctioned and I understand the school is in the process of recruiting a teacher. The pupil will begin to receive additional teaching support as soon as the school has recruited a teacher.

284. **Mr. F. McGrath** asked the Minister for Education and Science if the maximum support and advice will be given to persons (details supplied) in Dublin 5. [32317/05]

Minister for Education and Science (Ms Hanafin): I confirm that my Department has received the application for special educational needs provision referred to by the Deputy. As the Deputy is aware, the National Council for Special Education, NCSE, which became operational on 1 January 2005 now processes applications for special educational needs supports. The application in question is being considered by the NCSE, through its network of local special educational needs organisers. When this process has been completed my Department will communicate with the person concerned.

School Management.

285. **Ms Shortall** asked the Minister for Education and Science, further to Parliamentary Question No. 422 of 11 October 2005, the reason for the delay in the process for selection and nomination of members to a fully representative board of management in a school (details supplied) in Dublin 11; if this process has commenced and the person or persons responsible for commencing same; and will she take steps to ensure no further delay in this process. [32324/05]

Minister for Education and Science (Ms Hanafin): With the exception of the Protestant comprehensive schools, agreement has been reached on the legal instruments underpinning the revised arrangements for boards of management of comprehensive schools, and the schools concerned were advised to proceed with the arrangements for the election of the parent and teacher representatives and the formation of the new boards. My Department communicated this to the schools concerned, including the school to which the Deputy refers, at the end of the last

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school year and has requested an update from each of the schools concerned on how their individual arrangements have progressed. I will formally appoint each board in accordance with the legal instruments when I am notified by the schools of the proposed board membership.

Grant Payments.

286. **Ms Shortall** asked the Minister for Education and Science if she has received an application from a school (details supplied) in Dublin 9 for funding for security fencing; if funding will be provided in view of anti-social problems which adjoining neighbours are experiencing. [32325/05]

Minister for Education and Science (Ms Hanafin): A report outlining a number of issues, including fencing, has recently been received from the school's design team. The report is being examined by officials of my Department's school building unit which will be in contact with the school authorities once the examination is complete.

School Accommodation.

287. **Ms Enright** asked the Minister for Education and Science her proposals to provide proper and adequate accommodation to serve the future needs of a school (details supplied) in County Offaly; and if she will make a statement on the matter. [32336/05]

Minister for Education and Science (Ms Hanafin): Following a fire at the school to which the Deputy refers, the insurance proceeds were used by the management authority for the rental and installation of a significant amount of temporary accommodation, reinstatement works and for the upgrading of external areas. The temporary accommodation in question is of a very high quality and has a long life span. Consequently, the Department purchased it outright. It was made clear to the school's management authority at that time that this accommodation, combined with the reinstatement works, would be expected to meet the schools accommodation needs for the foreseeable future. To assist with the maintenance of the current buildings, my Department has provided almost €210,000 for roof repair works and an upgrade of the schools gas system. In addition, my Department will also be funding certain demolition works for health and safety reasons.

Defence Forces Equipment.

288. **Mr. Sherlock** asked the Minister for Defence if his attention has been drawn to claims made at the PDFORRA annual conference in

Athlone that the Government's failure to invest in new military aircraft and armoured fighting equipment is having a damaging effect on Defence Forces' morale; his plans to address same; and if he will make a statement on the matter. [32083/05]

Minister for Defence (Mr. O'Dea): I do not concur with the views expressed by PDFORRA at its recent annual conference in Athlone on the subject of defence expenditure with particular regard to spending on modern equipment. The position is that there has been an unprecedented level of expenditure on infrastructure and equipment for the Defence Forces in recent years and it is my clear intention to continue with the investment programme for the foreseeable future. I have seen proof positive of this investment in my visits to military barracks around the country. Soldiers are very well equipped with modern equipment to carry out their roles whether at home or overseas. My experience is that the morale of soldiers is generally very high from the equipment and infrastructural perspective and I have some difficulty in understanding where exactly PDFORRA is coming from on this issue.

The increased level of expenditure on equipment for the Army, Air Corps and Naval Service was made possible by the Government's decision that pay savings arising from the reorganisation of the Defence Forces set out in the White Paper of 2000, along with proceeds from the sale of surplus properties, would be reallocated for investment in modern facilities and equipment. Investment in new equipment for the Defence Forces is provided for under various subheads of the defence Vote relating to defensive equipment, mechanical transport, aircraft, ships and naval stores, engineering, communications, information technology equipment, etc. All elements of the Defence Forces, the Army, Air Corps, Naval Service and Reserve Defence Forces have benefited from the investment in new equipment.

Over the past six years, more than €200 million has been expended on the purchase of 65 armoured personnel carriers and the Javelin missile system for the Army, new patrol vessels for the Naval Service and new trainer aircraft for the Air Corps. The programme of investment is continuing apace. Last January, I signed contracts for six new helicopters for the Air Corps costing more than €60 million. Planning is well under way on the replacement programme for the next Naval Service ships to reach the end of their economic life and a further 15 armoured personnel carriers will be added to our current fleet. It is expected that the contract for the additional 15 APCs will be signed by the end of the year.

There are also ongoing acquisitions of modern equipment for use by soldiers on operational duties. The individual soldier is now required to

carry an array of equipment while engaged on such duties. In that regard, one of the essential ongoing equipment acquisition projects relates to the provision of a modern integrated protection and load carrying system for members of the Defence Forces. This involves, *inter alia*, the personal protective equipment consisting of body armour and helmet. The aim is to have a new, lighter protective system, consisting of body armour and helmet, which is compatible with all current and future systems required for each soldier. A tender competition is currently in train for the provision of body armour for individual soldiers. It is expected that an order will be placed shortly for 6000 units. In addition, a separate tender competition for helmets is also in train for the acquisition of 12,000 units. Again, it is expected an order will be placed in the near future.

On the clothing front, significant amounts have been spent by my Department on the purchase of uniforms, boots and other clothing worn by members of the Defence Forces, with €3.22 million spent in 2004 and €3.37 million expended to date in 2005. A tender competition for the replacement of the existing FN 9 mm Browning automatic pistol is also in train. It is expected that an order will be placed in the first quarter of 2006.

The equipment issued to the Defence Forces is in keeping with the most modern requirements and the highest international standards. The programmes to which I have referred reflect that massive steps have been taken in recent years to modernise Defence Forces equipment and that substantial efforts are continuing on the equipment front. The continuation of investment in equipment for the Defence Forces remains a top priority for me.

Departmental Expenditure.

289. **Mr. Ó Fearghail** asked the Minister for Defence the amount of expenditure on capital projects in the Curragh Camp, County Kildare since 1997; and if he will make a statement on the matter. [32086/05]

Minister for Defence (Mr. O'Dea): In the period from 1997 to date, capital building projects undertaken in the Curragh Camp cost a total of approximately €78 million. A significant number of projects were funded from the barrack re-investment programme which commenced in 1999 to provide the Defence Forces with operational, living and recreational accommodation suitable to the needs of a modern military organisation. The cost of capital projects by year and the major projects costing over €1 million are set out in the following tabular statement, which I propose to circulate with the Official Report.

Cost of Capital Projects by year, Curragh Camp, 1997 to date.

Year	Expenditure
	€
1997	862,118
1998	2,225,194
1999	6,134,254
2000	31,030,426
2001	20,525,183
2002	11,903,690
2003	2,811,037
2004	2,476,154

Cost of Capital Projects over 1 million, Curragh Camp, 1997 to date.

	€
1997	Nil
New Armoury 1998	1,288,462.50
Ammo Depot Upgrade 1999	5,961,908.65
New Pool and Gymnasium 2000	8,006,065.54
Clarke Bks. — A and B Blocks	1,596,773.18
Stores 1 2 3 and 4	6,920,072.53
New Transport Technical Stores	2,302,035.14
Refurbishment Block 3 Connolly and Block 8 Plunkett	3,706,873.35
Connolly Bks. Accommodation Upgrade	3,188,312.31
Ordnance/ Transport Schools	3,460,036.26
New N C O's Mess East 2001	2,666,449.96
Combat Support College	6,673,872.62
N C O's Mess West	4,447,733.81
Vehicle Garaging,	4,628,978.36
Refurbishment Kitchen — Officers Mess — Ceannt Bks.	1,082,000.12
Combined Vehicle Workshop 2002	9,038,649.45
New Special Storage Building 2003	2,114,034.22
New Workshop and Office Facility 2004	1,749,941.55

Decentralisation Programme.

290. **Ms Shortall** asked the Minister for Defence the offices of his Department which are situated on the north side of Dublin; the locations to which each of them are scheduled to relocate under the decentralisation programme and when; those that are not yet assigned a location; and those that will be retained in their present location. [32107/05]

Minister for Defence (Mr. O'Dea): My Department's Dublin offices are located at Infirmary Road and Mobhi Road on the north side of Dublin and both are scheduled to decentralise to Newbridge, County Kildare. While the Office of Public Works has identified a suitable site in Newbridge, negotiations on the acquisition of the site have not yet been completed. For this reason, it is not possible to say precisely when the move will take place. Every effort is being made to expedite the process.

Defence Forces Property.

291. **Mr. Ó Fearghail** asked the Minister for Defence if he has entered into an agreement with Kildare County Council for the taking in charge of housing developments at St. Barbara's Park, Melitta Terrace, and Magee Terrace, County Kildare; and if he will make a statement on the matter. [32109/05]

Minister for Defence (Mr. O'Dea): As the Deputy is aware, the Government decided on 1 July 2003 that lands at Magee Barracks, Kildare, would be among the State lands released for inclusion in the Sustaining Progress affordable housing initiative. The question of the taking in charge by Kildare County Council of the former married quarters estates at St. Barbara's Park, Melitta Terrace and Magee Terrace, County Kildare will be considered in the context of the transfer of such lands to the council under the initiative.

292. **Mr. N. O'Keefe** asked the Minister for Defence if funding has been sought from the Department of Finance to provide a new facility in a town (details supplied) in County Cork. [32217/05]

Minister for Defence (Mr. O'Dea): While there are no current plans for the provision of new RDF premises in the town in question, the matter is being kept under review.

Partnership for Peace.

293. **Mr. Durkan** asked the Minister for Defence the discussions which have taken place

with his EU colleagues regarding PFP; and if he will make a statement on the matter. [32226/05]

Minister for Defence (Mr. O'Dea): Ireland's participation in Partnership for Peace, PFP, to date is set out in our five individual partnership programmes, copies of which have been lodged in the Oireachtas Library. Ireland's sixth individual partnership programme, covering the period 2006-07, is being completed in consultation with the Departments of Foreign Affairs, the Environment, Heritage and Local Government, Justice Equality and Law Reform, Health and Children, and Communications, Marine and Natural Resources and will be lodged in the Oireachtas Library upon completion. Activities consist of training courses, seminars, workshops, conferences, staff exercises and table top exercises.

Defence Forces personnel have participated in a number of staff, technical and crisis management exercises in the context of both the European Union and PFP. In accordance with stated policy, the Defence Forces do not participate in multinational military field exercises. Ireland also participates in the PFP planning and review process, known as PARP. In common with the other EU neutral states, Ireland is using the PARP process in connection with planning for humanitarian and rescue tasks, peacekeeping and crisis management, collectively known as the Petersberg Tasks. The scope of our involvement in PARP is focused on enhancing interoperability and familiarity with operating procedures in a multinational environment.

Participation in Partnership for Peace activities is entirely voluntary and based on the principle of self-differentiation, that is, a State selects for the nature and scope of its participation. It is Government policy to stay in the mainstream of peacekeeping. Ireland's participation in Partnership for Peace enables our peacekeepers to remain abreast of developments in areas such as training, interoperability and humanitarian aspects of peacekeeping. Participation enhances the ability of our peacekeepers to work with those of other countries and enables us to share our peacekeeping skills with a wide range of countries. We want to ensure the Defence Forces have a full voice in preparations for peacekeeping missions and do not want Ireland to be absent when matters in which we have a legitimate interest are being discussed. There have been no discussions with my EU colleagues on Partnership for Peace as it is not an EU initiative.

Defence Forces Property.

294. **Mr. Durkan** asked the Minister for Defence the position regarding future housing prospects for Army overholders; and if he will make a statement on the matter. [32227/05]

Minister for Defence (Mr. O’Dea): Personnel, on being discharged from the Permanent Defence Force, are obliged to vacate married quarters within a short period of the dates of their discharge. The provision of housing is primarily a matter for the local authorities and married personnel have an equal claim on such housing as other members of the community in the same income category. Fifty-four of those overholding married quarters at the time — 51 at the Curragh, two at McKee Park, Dublin 7, and one at Arbour Hill, Dublin 7 — were written to in August 2002 and requested to vacate the properties. In the Curragh, nine of the quarters have been vacated to date and three others have been purchased by the occupants. A further eight of the properties have been offered for sale and a number of those sales are likely to be finalised in the near future. The three properties in Dublin have also been offered for sale to the occupants. In addition, the sale to the occupants of ten quarters overheld at Cathal Brugha Barracks, Dublin, is under examination.

My Department is continuing to examine all options, including affordable housing and voluntary and co-operative housing schemes, in relation to the rehousing of those overholders who would in the normal way be eligible for local authority housing. The Department remains in contact with the overholders pending resolution of the issue.

Defence Forces Strength.

295. **Mr. Durkan** asked the Minister for Defence the extent to which naval and Air Corps strength is adequate to combat drug or people-trafficking activities off the coasts; if coastal surveillance is adequate in all circumstances; and if he will make a statement on the matter. [32228/05]

Minister for Defence (Mr. O’Dea): The White Paper on Defence of February 2000 sets out a figure of 10,500 personnel for the Permanent Defence Force, comprising 930 for the Air Corps, 1,144 for the Naval Service and 8,426 for the Army.

The strength of the Permanent Defence Force, comprising the Army, Air Corps and Naval Service, as of 30 September 2005, was as follows.

	Strength
Army	8,623
Air Corps	852
Naval Service	1,074

I intend to maintain the established Government policy of ongoing recruitment to the Defence Forces. Recruitment into the Permanent Defence Force will continue to maintain the strength at a

level required to meet military needs and as set out in the White Paper, that is, 10,500 Permanent Defence Force members, all ranks. The Government remains fully committed to the policy of ongoing recruitment to ensure that an overall PDF strength of 10,500 is maintained.

Responsibility for the prevention of drug-trafficking and other such illegal activities rests primarily with the Garda Síochána and the Revenue Commissioners. The White Paper on Defence provides for a security role for both the Naval Service and the Air Corps to assist and support the civil authorities in that important work. While the main day-to-day role of the Naval Service is to provide a fishery protection service in accordance with the State’s obligations as a member of the European Union, Government measures to improve law enforcement regarding drugs, including the establishment in 1993 of a joint task force involving the gardaí, the Customs Service and the Naval Service, have helped maximise the effective use of Naval Service resources in combating drug-trafficking. The Air Corps provides air support and on occasion carries the customs national drugs team in an observation capacity for the purpose of monitoring vessels suspected of drug-trafficking or other such illegal activities.

There is close co-operation between the civil authorities and the Naval Service and the Air Corps in this important area. I am satisfied that the extent of Naval Service and Air Corps reconnaissance, in conjunction with the gardaí and the Customs Service, has had a major and beneficial impact in deterring drug-trafficking and other such illegal activities.

Security Escorts.

296. **Mr. Durkan** asked the Minister for Defence the number of cash transport escorts provided by the Defence Forces in the past 12 months; the costs involved and the degree to which the Exchequer was reimbursed by the financial institutions; and if he will make a statement on the matter. [32229/05]

Minister for Defence (Mr. O’Dea): An annual contribution of €2.86 million has been paid by the banks to my Department in respect of the provision of cash escorts. That figure was set by the Department of Finance in the 1995 budget and has not been altered since. The contribution from the banks was designed to cover in part the total costs to the State of providing cash escorts. At that time, the contribution covered approximately 72% of the total cost arising to the Defence Forces. The costs are calculated on the following basis. Pay accounts for about 54% of the total costs of providing cash escorts. The non-

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pay costs include security duty allowance, subsistence, transport and aerial surveillance costs.

The breakdown of those costs, on average is as follows: security duty allowance, 7%; subsistence, 8%; transport, 28%; aerial surveillance, 3%. Based on annual costings by the Department, the relative level of the contribution had fallen in real terms over the years to the situation where it was covering only 43% of the total costs.

As the Deputy may be aware, I had several discussions with the Irish Bankers' Federation, IBF, regarding the matter earlier this year, with a view to increasing the level of contribution by the banks in respect of the costs incurred by the Department in the provision of cash escorts. Following detailed and intensive discussions between officials of the IBF, the member banks and the Department, a detailed formal agreement was signed on 11 May 2005.

This agreement, which is for a five-year period, provides that the banks will pay the total actual costs incurred by the Defence Forces in the provision of cash escorts. Costs in respect of each 12-month period to the end of December will be paid the following year on or before 1 June. That is to allow for the compilation of returns from the brigades and allocation of costs following the year end. The total number of cash escorts provided by the Defence Forces for 2004 was 2,425, and the total cost in that regard was €7.5 million.

The first payment under the new system will be made in June 2006. I have, at the bank's request, agreed to defer the first payment to that date to meet the bank's budgeting and accounting timeframe. In return for my agreement to that deferral, a transitional payment of €1 million, payable before the end of 2005, was negotiated as part of the overall agreement. Therefore, in 2005, the banks will make their annual payment of €2.86 million plus the additional €1 million, making a total contribution of €3.86 million. The costs for the banks in any future year will be determined by the actual costs incurred by the Defence Forces in the provision of the cash escorts in the previous year and thus are not available at this time. The payments by the banks will be made directly to my Department.

We have now agreed a very open and transparent system for agreeing the costs in respect of the Defence Forces, and that should stand the test of time. The agreement resolves the issue of the banks' contribution in respect of cash escort costs for the foreseeable future.

Defence Forces Property.

297. **Mr. Durkan** asked the Minister for Defence the total receipts to date of all military establishments decommissioned in 1998 to date in 2005; the costs associated with maintenance, security or other requirements in the interim; and

if he will make a statement on the matter. [32230/05]

Minister for Defence (Mr. O'Dea): The Government, on 15 July 1998, approved a programme of evacuation and sale of six barracks considered surplus to military requirements. The barracks in question were located at Ballincollig, Fermoy, Castleblayney, Naas, Kildare and Islandbridge, Dublin.

The sale of approximately 97 acres at Murphy Barracks, Ballincollig was completed in 2003 for a total of €42 million. The bulk of the lands were purchased by O'Flynn Construction. The sale of a site comprising approximately 2.7 acres to the Southern Heath Board for €1.73 million was completed in December last. It was agreed at the time that an area comprising approximately 27 acres at Murphy Barracks should be transferred to Cork County Council for community use, and title to that area is currently being transferred to the council. A half-acre site has been set aside on foot of a request from the Office of Public Works, OPW, for a plot of ground to facilitate extension of the existing Garda station located on Main Street, Ballincollig.

Some 19,218 acres at the former Fitzgerald Camp, Fermoy, were sold to Cork County Council in 2001 for €973,889 for development in conjunction with the IDA. Castleblayney Military Post, County Monaghan, comprising approximately ten acres, was sold to the North Eastern Health Board for €761,843 in 2002. Some seven acres at Devoy Barracks, Naas, County Kildare, were ceded free of charge to Naas Urban District Council, while a further 14 acres were sold to that authority for €8,888,167. The balance of the barracks lands — one acre — was sold to Kildare County Council for €380,921 in 2002. Clancy Barracks, Islandbridge, Dublin, comprising approximately 13.65 acres, was sold to Florence Properties Limited for €25.4 million in 2004.

The Government decided on 1 July 2003 that Magee Barracks, Kildare, would be among the State lands released for inclusion in the Sustaining Progress affordable housing initiative. The intention is that the initiative will be targeted at those who in the past would have expected to purchase a house from their own resources but find that they are unable to do so in the current market. How land at that location might play a role in the delivery of affordable housing units is the subject of ongoing communication with the Department of the Environment, Heritage and Local Government.

The value of sales or disposals completed to date, in respect of the six barracks that were the subject of the July 1998 Government decision, is in the region of €80 million.

The security, maintenance, consultancy and other costs in respect of those barracks identified for closure in 1998 are as follows.

	Security	Maintenance and Other Costs
	€	€
Murphy Barracks, Ballincollig **	€1,120,604	€257,113*
Fitzgerald Camp, Fermoy **	€330,813	€ 42,633
Castleblayney Military Post **	€131,289	€10,548
Devoy Barracks, Naas **	€472,654	€16,959
Magee Barracks, Kildare **	€123,291	€15,677
Clancy Barracks, Dublin **	€649,441	€203,089

** Now sold or no longer in the administration of my Department so that no further costs will be incurred by the Department of Defence.

* Includes costs relating to the preparation of an integrated area action plan.

Those costs were more than offset by savings on military security duty allowances and utility costs consequent on the closure of the six barracks.

There are no plans to close any further barracks. The Department's property portfolio is, however, kept under continual review, and any properties deemed surplus to military requirements will be disposed of to fund much-needed investment to meet the equipment and infrastructure needs of the Defence Forces.

Army Barracks.

298. **Mr. Durkan** asked the Minister for Defence if all military quarters are up to international standards; his plans to address outstanding issues; and if he will make a statement on the matter. [32231/05]

Minister for Defence (Mr. O'Dea): The refurbishment of residential accommodation is an integral part of my Department's ongoing building programme. Major contracts to improve the standard of accommodation have been placed over the past few years as part of an ongoing investment programme in the Defence Forces.

For example, in the period from 2003 to date, major accommodation upgrades have taken place in McKee and Cathal Brugha Barracks, Dublin; Coolmoney Camp, Wicklow; Sarsfield Barracks, Limerick; Kickham Barracks, Clonmel; Naval Base, Haulbowline; Casement Aerodrome Baldonnel; Kilworth Camp, Cork; Custume Barracks, Athlone and Dún Uí Mhaoilíosa, Galway.

Further accommodation upgrades are taking place this year in the Defence Forces training centre in the Curragh; Custume Barracks, Athlone; Finner Camp, Donegal and Dún Uí Mhaoilíosa, Galway. I hope shortly to announce the signing of a contract for a major accommodation refurbishment project at Custume Barracks, Athlone.

I can assure the Deputy that I am fully committed to the ongoing development of accommodation facilities throughout the Defence Forces.

Improvements will continue to be carried out until all accommodation has been modernised.

Defence Forces Strength.

299. **Mr. Durkan** asked the Minister for Defence his plans to increase the strength of the Army, Navy and Air Corps in keeping with likely requirements arising from extended overseas commitments; and if he will make a statement on the matter. [32232/05]

Minister for Defence (Mr. O'Dea): The White Paper on Defence of February 2000 sets out a figure of 10,500 personnel for the Permanent Defence Force, comprising 930 for the Air Corps, 1,144 for the Naval Service and 8,426 for the Army.

The White Paper provides an overall strength figure of 10,500 for the Permanent Defence Force, all ranks. That figure comprehends provision for the allocation of up to 850 members of the Permanent Defence Force to overseas peace-keeping missions at any given time. The military authorities advise that there are some 730 members of the Permanent Defence Force currently serving overseas on such missions. I am satisfied that the current strength is adequate to meet all needs arising at home and overseas.

I intend to maintain the established Government policy of ongoing recruitment to the Defence Forces. Recruitment into the Permanent Defence Force will continue to maintain the strength at the level set out in the White Paper as required to meet military needs. Recruitment is ongoing to the Reserve Defence Force. The Defence Forces continue to have a proactive approach to recruiting. The strength of the Permanent Defence Force on 30 September 2005 was as follows.

[Mr. O'Dea.]

	Total Officers	Total NCOs	Privates	Overall Total
Army	1,064	3,087	4,472	8,623
Air Corps	135	397	320	852
Naval Service	154	477	443	1,074

Defence Forces Equipment.

300. **Mr. Durkan** asked the Minister for Defence the number of members of the Defence Forces who will be equipped with the necessary protective clothing, breathing apparatus or gas masks in the event of chemical attack; and if he will make a statement on the matter. [32233/05]

301. **Mr. Durkan** asked the Minister for Defence the extent to which breathing apparatus or other protection likely to be needed in the event of a gas or chemical attack are available to the Defence Forces; and if he will make a statement on the matter. [32234/05]

Minister for Defence (Mr. O'Dea): I propose to take Questions Nos. 300 and 301 together.

The Garda Síochána has primary responsibility for law and order, including the protection of the internal security of the State. It continuously monitors the potential threats to the State arising from international terrorism in co-operation with the Defence Forces.

The Defence Forces make contingency plans for a range of scenarios where the security of the State may be at risk. In addition, the Defence Forces have contingency plans in place regarding the provision of aid to the civil power — meaning in practice to assist, when requested, the Garda Síochána — and the provision of assistance to the civil authorities for a range of emergency situations.

The capacity of the Defence Forces to deal with major emergencies is kept under constant review. Plans and procedures are updated as necessary, and such additional equipment as is required to address any perceived deficiencies is acquired on the basis of identified priorities. Training and preparation for such events is also provided for in the Defence Forces annual training plan.

The Defence Forces have available to them equipment for monitoring and protecting their members in dealing with nuclear, biological or chemical, NBC, threats identified from time to time. They hold an extensive range of modern NBC equipment that meets their current requirements. That range includes approximately 7,000 NBC suits, 1,500 of which were delivered in 2004. A further 1,000 NBC suits have been ordered for delivery this year, and a further 1,000 will be delivered in 2006.

In addition, the Defence Forces have a sufficient stock of respirators for each individual soldier. They also have 98 of the most technologically up-to-date chemical agent monitors, and Defence Forces personnel have been trained in their operation. Other equipment to hand includes biological agent detector and screening kits, group decontamination equipment and personal decontamination equipment.

The requirement for additional NBC equipment is kept under continuous review by the Defence Forces. A programme for the purchase of NBC equipment is ongoing, and whatever equipment deemed necessary is purchased expeditiously to meet the changing requirements.

Search and Rescue Service.

302. **Mr. Durkan** asked the Minister for Defence the extent to which his Department provides coastal air and sea rescue facilities; if adequate resources and personnel are available from or through his Department for those operations; and if he will make a statement on the matter. [32235/05]

Minister for Defence (Mr. O'Dea): The Irish Coast Guard has overall responsibility for the provision of maritime search-and-rescue services within the Irish search-and-rescue region. The Air Corps had been providing search-and-rescue, SAR, services in the north west but withdrew in October 2004 following a hand-over of that role to CHCI, a private operator, which also provides the service at the country's other SAR bases at Dublin, Shannon and Waterford.

The Defence Forces are already committed to providing support to the civil authorities specifically regarding search and rescue. In that regard, the Naval Service and the Air Corps will continue to provide support to the Coast Guard as the need arises and within their available capacity. Air Corps pilots will continue to train in search-and-rescue techniques and to provide a limited non-maritime search-and-rescue response. The specification for the new helicopters being acquired for the Air Corps includes a search-and-rescue capability.

Search-and-rescue capability requires a wide range of available skills, piloting, winching, medical, vessel crewing, radar, etc. I am advised by the military authorities that the availability of those

skills in the Defence Forces is sufficient to meet their continuing commitments in the area.

Defence Forces Training.

303. **Mr. Durkan** asked the Minister for Defence the extent of the training the Defence Forces have received with other European Defence Forces in preparation for the setting up of EU battle groups or rapid response forces; and if he will make a statement on the matter. [32236/05]

Minister for Defence (Mr. O’Dea): To reach the requisite level of interoperability, and taking account of the short timeframes envisaged for the deployment of the EU’s rapid reaction elements, it would seem to me that the various forces and elements comprising a battle group would need to be familiar with the equipment, standard operating procedures, organisation and operations of the group as a whole. However, that does not lead to an inevitable conclusion that there is a requirement to undertake extensive overseas training. Defence Forces personnel have for many years attended workshops, training courses, desktop exercises, seminars and other events overseas as part of their military training, and I expect that they will continue to do so. The Defence Forces have also attended training courses and workshops under PfP PARP, the purpose of which is to learn from best practice in other Defence Forces. It includes improving the level of interoperability between forces in the context of peace support operations and the Petersberg Tasks. Whether possible participation in battle groups would change that situation is one of the issues to be considered by the Government in the context of the report of the inter-departmental group examining the issue of battle groups, which I expect to receive shortly.

Question No. 304 answered with Question No. 33.

Local Authority Funding.

305. **Mr. Fleming** asked the Minister for the Environment, Heritage and Local Government the amount of funding allocated to Kildare County Council in 2004 and 2005 for disabled persons’ grants; the amounts drawn down by Kildare County Council in 2004 and to date in 2005; the amount expected to be drawn down in the remainder of 2005; the amount provided by Kildare County Council from its own funds to match funding from his Department in the council’s estimates; and if he will make a statement on the matter. [32072/05]

Minister of State at the Department of the Environment, Heritage and Local Government

(Mr. N. Ahern): Kildare County Council was advised of a combined capital allocation for disabled persons’ and essential repairs grants of €1,050,000 in 2004 and €1,500,000 in 2005. Kildare County Council’s expenditure in respect of those two grant schemes in 2004 was €1,092,053. Expenditure in 2005 in respect of those two schemes stood at €964,036 at the end of September 2005, according to a return submitted to my Department by the council. The council has indicated to the Department that it expects to spend its full allocation in 2005.

My Department recoups up to two thirds of the expenditure under the disabled person’s and essential repairs grants scheme to local authorities. Recoupment to Kildare County Council in respect of disabled person’s and essential repairs grants was €1,217,779 in 2004, some of which would relate to grants paid in 2003, and stood at €509,972 on 31 October 2005. It is the responsibility of individual local authorities to fund their one-third contribution from their own resources from amounts provided for that purpose in their annual estimates of expenditure. Based on the combined capital allocation notified to the council, that would imply a contribution from revenue resources from the council of at least €350,000 in 2004 and €500,000 in 2005.

Local Authority Housing.

306. **Mr. Ó Fearghail** asked the Minister for the Environment, Heritage and Local Government the progress that has been achieved towards the delivery of affordable housing at Magee Barracks, Kildare in view of the adoption by Kildare County Council of an area action plan for the site; and if he will make a statement on the matter. [32088/05]

Minister of State at the Department of the Environment, Heritage and Local Government

(Mr. N. Ahern): Kildare County Council published proposed changes to the draft Magee Barracks local area plan and invited written submissions or observations with respect to the proposed amendments to the draft plan to be made within the period from 29 August 2005 to 10 October 2005. It is understood that the council will consider those submissions or observations at its next meeting on 28 November 2005. Further progress on this project is dependent on the outcome of that meeting.

As with all of the projects under the Sustaining Progress affordable housing initiative, my Department will continue to ensure that this project is progressed as speedily as possible to ensure the earliest possible delivery of affordable housing units.

Decentralisation Programme.

307. **Ms Shortall** asked the Minister for the Environment, Heritage and Local Government the offices of his Department which are situated on the north side of Dublin; the locations where each of them is scheduled to relocate to under decentralisation and when; those that are not yet assigned a location; and those that will be retained in their present location. [32108/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): All Dublin-based operations of my Department are to be decentralised, with the exception of ENFO, the Private Rented Tenancies Board, Met Éireann and a co-ordination section, which it is proposed to retain in Dublin to manage the Department's Dáil and other Dublin business. Staff of my Department are based in various locations in Dublin, including the headquarters of the Department in the Custom House, Irish Life Building and Met Éireann, Glasnevin which are all located on the north side.

The Government's decentralisation programme involves the relocation of my Department's Dublin-based operations to four locations, Wexford, Waterford, New Ross and Kilkenny.

The indicative time scales for the completion of office accommodation in each location are as follows.

Location	Completion Date
Wexford	Quarter 3, 2007
Kilkenny	End 2008
New Ross	Early 2009
Waterford	Mid 2009

Water and Sewerage Schemes.

308. **Mr. Ó Fearghail** asked the Minister for the Environment, Heritage and Local Government the progress that has been achieved towards the delivery of a new sewerage treatment system for Kildare town; if the envisaged cost for this project has increased; the time scale for completion of the project; and if he will make a statement on the matter. [32125/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): The Kildare town sewerage scheme is approved for construction in my Department's Water Services Investment Programme 2004-2006 at an estimated cost of €21 million. The scheme involves the upgrading of sewers and the construction of a new waste-water treatment plant.

Kildare County Council recently submitted a preliminary report to my Department for the proposed sewer upgrading. To facilitate an overall

appraisal of the scheme, the council has been requested also to submit the preliminary report for the waste-water treatment plant and additional information on the sewer proposals. Approval of the preliminary reports will be subject to the outcome of the environmental impact statement for the scheme, which the council submitted to An Bord Pleanála in September last.

Planning Issues.

309. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government if he has examined the adequacy of noise standards in the building regulations for apartment living; if his attention has been drawn to other countries who operate higher standards or are considering increasing the standard; and if he will make a statement on the matter. [32162/05]

310. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that if a builder has failed to construct apartments to correct standards in relation to noise and then, after purchase, the case taken by the building control authority will be against the current owner and not the builder, whereas the current owner is actually the victim not the offender. [32163/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): I propose to take Questions Nos. 309 and 310 together.

Part E, Sound, of the Building Regulations 1997, and the related technical guidance Document E, 1997 edition, sets out requirements in relation to sound insulation in buildings. Home Bond is carrying out a major study of sound insulation standards in Ireland and other selected EU member states, which is due to be completed by the end of this year. I intend to initiate a review of Part E and the related TGD E in 2006, in the light of the results of the Home Bond study, and in consultation with the building regulations advisory body, BRAB.

The Building Control Act 1990 assigns responsibility for enforcement of the building regulations to the 37 local building control authorities. Authorities are empowered to monitor buildings for compliance with the regulations and to take enforcement action where necessary. Under section 8(3) of the 1990 Act, an enforcement notice may be served on the owner of the building or building works; or any other person who carried out or is carrying out the building works to which the notice applies. It is for the authority to decide upon whom to serve this notice, having regard to all the circumstances of the case. It is advisable for the purchaser of an apartment, prior to purchase, to check that it complies with the building regulations.

Local Authority Housing.

311. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government if the fire regulations and standards for local authority flat complexes are standardised across the country; and, if so, the details of same. [32224/05]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The construction of all new local authority flat complexes and the material alteration of existing complexes are governed by Parts A to M, inclusive, of the national building regulations and the related technical guidance documents published by my Department. Part B and the associated technical guidance documents relate to fire safety.

Planning Issues.

312. **Mr. Kirk** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the concerns around the country that planning objectors are demanding compensation for the withdrawal of objections to planning applications; if the matter will be examined; and if he will make a statement on the matter. [32270/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): A planning applicant who is asked for money by any person in return for not objecting to, or withdrawing an objection to, a planning application should immediately report the matter to the Garda and the planning authority. It should be noted that An Bord Pleanála has, under section 138 of the Planning and Development Act 2000, an absolute discretion to dismiss an appeal where, having considered the grounds of appeal, it is of the opinion that it is made with the sole intention of delaying the development or of securing the payment of money, gifts, consideration or other inducement. Accordingly any developer who is asked for money in return for withdrawing an appeal to An Bord Pleanála should also inform the board of this.

Sustainable Development Strategy.

313. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he intends to abolish Comhar, the national sustainable development partnership; if not, when he intends to fill the post of chairman, which has been vacant since June 2004; and when new members will be appointed as the term of office of most of the previous members expired in May 2005. [32272/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): I intend to appoint new council members and a chair for Comhar, the national sustainable development partnership, in the near future.

Planning Issues.

314. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he intends to contest to the end the case brought before the European Court of Justice against Ireland for requiring a €20 fee for making submissions regarding a development which is covered by the EIA Directive. [32273/05]

315. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government the action he intends to take in regard to fees which are being, and which have been, paid to local authorities and An Bord Pleanála for submissions made by the public under the EIA Directive if the European Court of Justice rules that such a fee infringes European law. [32274/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): I propose to take Questions Nos. 314 and 315 together.

On 17 May 2005, the European Commission initiated proceedings in the European Court of Justice seeking a declaration that the charging of fees for the making of submissions on planning applications and appeals which require an environmental impact assessment is in breach of the Environmental Impact Assessment Directive 85/337/EEC, as amended.

Ireland lodged a full defence to these proceedings on 11 July 2005. As the matter is now with the European Court of Justice for determination, it would not be appropriate for me to comment further.

Environmental Legislation.

316. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government the outstanding complaints of which the European Commission has notified to Ireland for which he has ministerial responsibility, detailing the main causes of the complaint and the stage of same. [32275/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): The European Commission is currently in correspondence with my Department in respect of 53 cases relating to possible infringements of EU environmental legislation in areas for which my Department has responsibility. These cases are at various stages of proceedings. Under Article 226 of the EU treaty, 21 cases are at letter of formal notice stage

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and 15 are at reasoned opinion stage; the Commission has indicated that five cases are being referred to the European Court of Justice and four cases are before the court for a hearing. The court has delivered judgments in eight cases under Article 226 and my Department is working to meet the requirements of these; three of these cases are the subject of letters of formal notice and one is the subject of a reasoned opinion under Article 228 of the Treaty.

The Community legislation involved in these cases includes directives on environmental impact assessment, habitats, waste, waste water treatment, nitrates, water quality, wild birds, dangerous substances, end of life vehicles, integrated pollution prevention and control, emissions to air, public access to environmental information, environmental noise, and a regulation on ozone depleting substances.

It is part of the role of the Commission to ensure that member states satisfactorily transpose EU legislation into their national laws and implement it effectively. To do this, the Commission raises issues in correspondence with member states, and if agreement is not reached on how to address the issue, may take a case to the European Court of Justice. My Department is in communication with the Commission on a range of issues at any given time and in addition meets regularly with its officials to identify how issues of alleged non-compliance can best be addressed. My Department is working intensively, in conjunction with the local authorities and other relevant agencies, to ensure that all outstanding issues are resolved at the earliest possible date.

317. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government the communications he has had with the European Commission in relation to the use of jet skis and quad bikes and so on in areas designated for protection as Natura 2000 sites; and the actions he proposes to take to ensure these activities are fully assessed for their potential impact on the conservation value of the site. [32276/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): On 11 July 2003, the European Commission issued a reasoned opinion against Ireland as regards Council Directive 92/43/EEC on the conservation of natural habitats of wild flora and fauna, generally known as the habitats directive.

The Commission considered that Irish legislation was inadequate to effectively prohibit and control damaging recreational activities in special areas of conservation, SACs. The Commission was informed informally on 21 April 2004 that regulations were being drafted to amend the European Communities (Natural Habitats)

Regulations 1997 in order to address its concerns. Article 3 (4) of the European Communities (Natural Habitats) (Amendment) Regulations 2005 now provides appropriate powers to the Garda and to my Department to regulate activities such as quad biking and jet skiing where they are likely to damage a Natura 2000 site.

In addition, the Marine Safety Act 2005, for which my colleague the Minister for Communications, Marine and Natural Resources is responsible, provides extensive powers for the control by local authorities, Waterways Ireland and harbour authorities of irresponsible use of jet skis and power-boats so as to protect public safety and the natural heritage. Specific reference is made in that Act to the protection of Natura 2000 sites.

The ongoing monitoring and surveillance of Natura 2000 sites by my Department will, in the normal course, bring to light any pattern of harmful recreational activity in or adjoining such sites so as to enable the appropriate legal steps to be taken, in co-operation, as appropriate, with other statutory authorities, to protect these sites from such activities.

Planning Issues.

318. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he intends to issue guidelines to local authorities on the issue of development on flood plains in view of recent research and experiences worldwide. [32277/05]

Minister for the Environment, Heritage and Local Government (Mr. Roche): The Planning and Development Act 2000 empowers planning authorities to provide in their development plans that development in areas at risk of flooding may be regulated, restricted or controlled. Where development is proposed in an area at risk of flooding, such risk can be carefully evaluated by the planning authority and planning permission refused, where appropriate, or, if granted, can be made subject to conditions requiring the implementation of measures necessary to alleviate or avoid damage due to flooding.

It is my intention to publish shortly, in draft form for public consultation, guidelines for planning authorities on the preparation of development plans. These guidelines will suggest that in addressing the issue of flooding development plans should identify the main river catchments and coastal areas that experience or are at risk from flooding. Policies should then outline the considerations that will arise in relation to development within such catchments and coastal areas from the point of view of managing existing flood risks or avoiding the generation of new flood risks. The guidelines will suggest that development plan policies dealing with flooding also need to recognise the uncertainties inherent

in the prediction of flooding and the fact that flood risk is expected to increase as a result of climate change. Development plan objectives could also include policies indicating that developers will be required to support the funding of flood defences needed for particular developments, either partially or fully, depending on the circumstances involved.

My Department will welcome comments or suggestions on this or any other aspect of the draft guidelines following their publication.

Housing Grants.

319. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the outstanding documentation required by his Department in order that the payment of a new house grant to a person (details supplied) in County Kildare can be expedited; and if he will make a statement on the matter. [32279/05]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I refer to the reply to Question No. 210 of 21 October 2004. The position is unchanged.

Women's Refuges.

320. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the number of women's refuges which currently exist here; the respective locations of these refuges; his proposals to develop further refuges of this sort; if so, where it is proposed they be established; if funding will be contributed towards such facilities; and if he will make a statement on the matter. [32314/05]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The Department of Justice, Equality and Law Reform, through its role as chair of the National Steering Committee on Violence against Women, has overall responsibility for issues relating to violence against women.

Details of the number and location of women's refuges in existence or planned is not available in my Department. As regards the provision of accommodation, capital funding is available through the Department's capital assistance scheme to approved voluntary housing bodies providing accommodation to meet special housing needs such as those of elderly or homeless persons or persons with disabilities and may include accommodation for victims of domestic violence. A separate figure is not available for expenditure on accommodation for victims of domestic violence.

Under section 10 of the Housing Act 1988, the Department can recoup to local authorities 90% of their current expenditure on accommodation related costs arising in respect of homeless persons including, where appropriate, victims of domestic violence. The remaining 10% is provided from the revenue resources of the local authorities. Decisions on funding of such accommodation are matters for the local authority in whose area the accommodation is situated. Associated care costs are the responsibility of the Department of Health and Children.

In 2004 section 10 funding was recouped to local authorities in respect of projects identified as women's refuges in Dublin, Cork, Galway, Limerick, Athlone, Clonmel, Drogheda, Dundalk, Ennis, Tralee, Sligo, Wexford, Letterkenny, Navan, Kilkenny and Castlebar.

321. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the provisions he has made with regard to supporting the establishment of a women's refuge in County Kildare; and if he will make a statement on the matter. [32315/05]

322. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government if funding will be provided for a woman's refuge at a proposed site (details supplied) in County Kildare in view of the significant increase in violence against women in recent years; and if he will make a statement on the matter. [32320/05]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I propose to take Questions Nos. 321 and 322 together.

Capital funding is available through my Department's capital assistance scheme to approved voluntary housing bodies to provide accommodation to meet special housing needs, such as elderly, homeless or persons with disabilities and may include accommodation for victims of domestic violence. The Department's involvement with the scheme relates primarily to the provision of funds for individual projects. The administration of the scheme, and the certification that particular projects comply with the terms of the scheme, are the responsibility of the appropriate local authority, in this case Kildare County Council. The Department recoups to the local authorities 90% of their current expenditure on accommodation related costs arising in respect of homeless persons including, where appropriate, victims of domestic violence. The remaining 10% is provided from the revenue resources of the local authorities.

Decisions on both capital and current funding for accommodation for victims of domestic violence are matters for the local authority in whose area the accommodation is situated. Associated

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care costs are the responsibility of the Department of Health and Children.

In the case of the voluntary body referred to in the question, my Department has granted approved status to the body which, it is understood, proposes to undertake a project to provide

accommodation for victims of domestic violence. Kildare County Council is at present considering aspects relating to the eligibility of this particular project for assistance under the scheme, and formal application for funding of the project has not yet been received by my Department from the council.