



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Thursday, 1 June 2006.

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# DÁIL ÉIREANN

*Déardaoin, 1 Meitheamh 2006.  
Thursday, 1 June 2006.*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

*Paidir.  
Prayer.*

## Requests to move Adjournment of Dáil under Standing Order 31.

**An Leas-Cheann Comhairle:** Before coming to the Order of Business, I propose to deal with a number of notices under Standing Order 31. I will call on the Deputies in the order in which they submitted their notices to my office.

**Mr. Connolly:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the inequities in hospital *per capita* funding, which have resulted in significant financial overruns in the first two months of 2006; the fact that the HSE north-east area is the most adversely affected by inadequate *per capita* funding allocations and its implications for services in the region; the suggested proposed suspension on the filling of new posts and its impact on already over-stretched services; and calls on the Government to consider the doubtful wisdom of employing costly agency staff as opposed to the more cost effective measure of lifting the employment ceilings on health service recruitment.

**Mr. F. McGrath:** I seek the adjournment of the Dáil under Standing Order 31 to discuss a matter of national importance and concern, namely, the urgent need to introduce and debate legislation to deal with statutory rape law; put in place mechanisms and support for all victims of child sexual abuse; and support the demands of our citizens for a fair and effective justice system.

**Mr. Costello:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the following specific and important matter, namely, the need for the Minister for Justice, Equality and Law Reform to bring Ireland into line with other European Union countries by bringing forward legislation to implement the European Union framework decision on combating trafficking in persons for the purpose of their sexual and labour exploitation and to implement the Council of

Europe convention on action against trafficking in human beings.

**Mr. McHugh:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the following specific and important matter of public interest requiring urgent attention, namely, the need for the Government to explain the reasons for the nine-year delay in implementing an insurance scheme for persons infected with HIV and-or hepatitis C through provision of contaminated blood or blood products by the State; and, further, to discuss the urgent requirement to introduce the insurance scheme immediately, as promised on numerous occasions by the Tánaiste, to provide insurance cover to persons infected with HIV and-or hepatitis C so that they may have the same basic entitlements and rights as other citizens.

**Caoimhghín Ó Caoláin:** I seek the adjournment of the Dáil under Standing Order 31 to address the following matter of national importance requiring urgent consideration, namely, the need for the Tánaiste and Minister for Health and Children to immediately clarify the attitude of the State to the second inquest into the death of Frances Sheridan, given that the State's chief law officer, the Attorney General, has ordered this inquest while the Health Service Executive is attempting to prevent it.

**Mr. Gogarty:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national infrastructural importance, namely, the continuing deterioration in traffic congestion in Clondalkin and Lucan, most recently at the M50-N4 junction with mile-long tailbacks on the Lucan road affecting those travelling from the west throughout the day, and the need for the Minister to immediately invest in a bus based alternative for cross-city travel, followed at the earliest opportunity by a rail based investment, which is not earmarked with a reasonable or sensible timeframe under the flawed Transport 21 proposals.

**An Leas-Cheann Comhairle:** Having considered the matters raised, they are not in order under Standing Order 31.

## Order of Business.

**The Tánaiste:** It is proposed to take No. 12, motion re referral to joint committee of proposed approval by Dáil Éireann of a Council decision concerning the signing of the agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the member states of the European Union and Iceland and Norway; No. 12a, motion re sittings and business of the Dáil; No. 21, Planning and Development (Strategic Infrastructure) Bill 2006 [*Seanad*] — Second Stage, resumed, to adjourn at 1.30 p.m. if not pre-

[The Tánaiste.]

viously concluded; No. 24, Health (Nursing Homes) (Amendment) Bill 2006 — Second Stage, resumed; and No. 2, Civil Law (Miscellaneous Provisions) Bill 2006 — Order for Second Stage and Second Stage.

It is proposed that, notwithstanding anything in Standing Orders, Nos. 12 and 12*a* shall be decided without debate, and the deadline for receipt of oral questions for answer on Wednesday, 7 June 2006 shall be 1 p.m. today.

**An Leas-Cheann Comhairle:** There are two proposals to be put to the House. Is the proposal for dealing with Nos. 12 and 12*a* without debate agreed?

**Mr. Rabbitte:** I thank the Tánaiste and Government Whip for agreeing to our proposal that the House sit next week. Apart from the crisis which besieges the Government, it is entirely appropriate that the House should sit in any event. I suggest it sits as normal on Tuesday afternoon.

**Mr. Kenny:** I do not disagree with Deputy Rabbitte's proposal. Will the Tánaiste indicate what is the deadline for receipt of ordinary questions for answer on Thursday, 7 June 2006. She mentioned a deadline of 1 p.m. today for receipt of questions for answer on Wednesday. As Monday is a bank holiday and officials will not be in the House, is there a deadline for submission of ordinary questions for answer on Thursday?

**Mr. Boyle:** The Green Party also welcomes the fact that the House will sit next Wednesday and Thursday. It is a nonsense that the House is considering rising and my party would prefer if we had a full sitting week next week.

On Friday's special sitting, I request that time be provided for the Minister for Justice, Equality and Law Reform to make a further statement, preferably during today's sitting, in light of the re-publication in today's edition of the *Irish Independent* of an article he wrote in the *Sunday Independent* in 1995 in which he indicated his intimate knowledge of the issue in hand. The Minister needs to make a statement setting forth the reasons he has not acted on that knowledge since becoming a member of the Cabinet in 1999.

**Caoimhghín Ó Caoláin:** Most importantly, I welcome the opportunity to address the emergency legislation tomorrow. Clearly, it is something that not only the Members of this House but also the public will welcome.

Looking at the proposal on the Order of Business today regarding No. 12*a*, motion re sittings and business of the Dáil, one would have to say that this reflects a Government in crisis. Over the past week, conflicting information has been provided to us in the House concerning knowledge and awareness of and responsibility for the Supreme Court decision and all that emanates from it. We have addressed these details fully

over recent days but there are critical points arising from that that also need to be addressed.

Yesterday, the Tánaiste admitted that the Department of Justice, Equality and Law Reform was told of the challenge as far back as 2002. The Attorney General was represented in this case and he sits at the Cabinet table, yet the Tánaiste claims that neither he nor the Minister knew about the case. It is hard for people to accept that is credible. There must cracks in all that that will yet be exposed. There is a responsibility on the Minister for Justice, Equality and Law Reform to attend the House today to explain his role and that of the Attorney General regarding this case.

**The Tánaiste:** Is this a speech?

**Caoimhghín Ó Caoláin:** The Order of Business we are presented with should be amended to accommodate the Minister for Justice, Equality and Law Reform to attend the House to set the record straight. That is absolutely necessary. He should also be accountable to the House by answering Members' questions rather than presenting us with a prepared script.

**Mr. F. McGrath:** If it were a Fianna Fáil Minister, he would be gone.

**Caoimhghín Ó Caoláin:** Deputies require the right to ask pertinent questions. The Minister sat here dumb throughout the past few days—

**Mr. F. McGrath:** He should wake up.

**Caoimhghín Ó Caoláin:** —as the Taoiseach and the Tánaiste have responded on his behalf and on behalf of the Government. He has not been accountable to this Chamber, yet that is what is required of him. That should happen today and that is why No. 12*a* needs to be amended. The proposed emergency legislation will be addressed in the House tomorrow but none of next week's business reflects on the many important elements arising therefrom that need to be addressed.

**An Leas-Cheann Comhairle:** The Deputy should be brief.

**A Deputy:** We have been trying to get in for the past five minutes.

**Caoimhghín Ó Caoláin:** I am very sorry. The Minister for Justice, Equality and Law Reform has a responsibility to come before the House. The Government should have ordered the paper for next week's sittings, for whatever days, to include the commencement of the substantive debate that must address all the issues arising from the Supreme Court decision. That will not occur in the limited time tomorrow. To all intents and purposes, this is emergency legislation. The important debate must not be put on the long finger. It must start straight away. It should be on the business for next week's schedule.

**The Tánaiste:** The Government Chief Whip has told me that next week's business has been agreed with the other party Whips. The deadline for questions for Thursday is 11 a.m. tomorrow.

**Mr. Kenny:** For Thursday.

**The Tánaiste:** Yes.

**Mr. Boyle:** There is a specific proposal for the Minister for Justice, Equality and Law Reform to make a statement to the House. Is that being taken by the Tánaiste?

**An Leas-Cheann Comhairle:** I do not think so. Is the proposal for dealing with Nos. 12 and 12a, without debate, agreed to?

**Caoimhghín Ó Caoláin:** It is not agreed. We do not need a statement from the Minister.

**An Leas-Cheann Comhairle:** Order. The Deputy has made that point.

**Caoimhghín Ó Caoláin:** We need an opportunity to question him properly on the floor of this Chamber.

Question put: "That the proposal for dealing with Nos. 12 and 12a be agreed."

The Dáil divided: Tá, 68; Níl, 15.

Tá

Ahern, Dermot.  
Ahern, Noel.  
Andrews, Barry.  
Ardagh, Seán.  
Blaney, Niall.  
Brady, Johnny.  
Brady, Martin.  
Breen, James.  
Browne, John.  
Callanan, Joe.  
Callely, Ivor.  
Carey, Pat.  
Carty, John.  
Collins, Michael.  
Coughlan, Mary.  
Cowen, Brian.  
Cregan, John.  
Cullen, Martin.  
Curran, John.  
de Valera, Síle.  
Dempsey, Noel.  
Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Fahey, Frank.  
Finneran, Michael.  
Fitzpatrick, Dermot.  
Fleming, Seán.  
Fox, Mildred.  
Gallagher, Pat The Cope.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Harney, Mary.

Haughey, Seán.  
Healy-Rae, Jackie.  
Hoctor, Máire.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelleher, Billy.  
Kelly, Peter.  
Kirk, Seamus.  
Kitt, Tom.  
Lenihan, Brian.  
McEllistram, Thomas.  
McGuinness, John.  
Moloney, John.  
Mulcahy, Michael.  
Nolan, M. J.  
Ó Cuív, Éamon.  
Ó Fearghaíl, Seán.  
O'Connor, Charlie.  
O'Dea, Willie.  
O'Donnell, Liz.  
O'Donoghue, John.  
O'Flynn, Noel.  
O'Keeffe, Batt.  
O'Keeffe, Ned.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Roche, Dick.  
Smith, Brendan.  
Smith, Michael.  
Treacy, Noel.  
Wallace, Mary.  
Wilkinson, Ollie.  
Woods, Michael.

Níl

Boyle, Dan.  
Connolly, Paudge.  
Cowley, Jerry.  
Cuffe, Ciarán.  
Ferris, Martin.  
Gogarty, Paul.  
Healy, Seamus.  
Higgins, Joe.

McGrath, Finian.  
McHugh, Paddy.  
Morgan, Arthur.  
Murphy, Catherine.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
Ryan, Eamon.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Ó Snodaigh and Boyle.

Question declared carried.

**An Leas-Cheann Comhairle:** The next proposal deals with parliamentary questions.

**The Tánaiste:** I wish to add to what I said earlier. The deadline for receipt of oral questions for answer on Wednesday, 7 June 2006, is today at 1 p.m. and for Thursday, 8 June 2006, is 11 a.m. tomorrow.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Kenny:** The chronology of events that has unfolded in the past week shows a Government in crisis, displaying gross incompetence on a matter of extreme seriousness to many people around the country. Last week I made the point that this matter is not one of pure party politics but is one for the Legislature and the Oireachtas to deal with and I offered support from this side to do that. It would have been appropriate, I would have thought, for the Taoiseach to have turned around the people's jet and come back and join in that process. However, following the case made by the Opposition yesterday the Minister for Justice, Equality and Law Reform did have discussions with the Opposition in so far as proposals to deal with this issue are concerned. I understand that process is continuing and I hope it can conclude today with a Bill that can be put through to plug this gaping hole in the law.

Leaving that aside, I ask the Tánaiste, in respect of the question I asked yesterday, the numbers involved under section 1(1) of the Act that was struck down and the number of cases pending under section 2(1) of that Act. I am sure the Tánaiste has that information to hand now.

Deputy Enright produced a policy document and Bill in November 2003 dealing with the issue of vetting persons. In respect Mr. A who has walked free, and others who may walk free, depending on the outcome of the Supreme Court appeal tomorrow, if any of those persons, convicted under that section of the Act which has been deleted and is no longer in force, apply for jobs dealing with children there is no evidence available to the Garda in respect of their personality or character. A method needs to be found of dealing with soft information being made available to the Garda in respect of that category of person who might apply for a job which would have an involvement with vulnerable children. In that respect the Tánaiste should look urgently at the proposals Deputy Enright brought forward in respect of vetting of persons who might have an involvement in dealing with children. A critical consequence of the subsection having been removed and no longer being in force legally, is that persons who were convicted could apply for positions dealing with children and there is no information available to the Garda anywhere in the country about their appalling record in those cases. That is a matter the Government should consider as a matter of priority and urgency.

**The Tánaiste:** I agree with Deputy Kenny that we are dealing with children who have been the victims of very serious crimes that have stolen their childhood and innocence. That is the reason it is serious and urgent and the reason all the legal expertise available to the Government is being marshalled to have appropriate legislation put in

place. I acknowledge the co-operation of the Opposition parties in that process. As Deputies are aware we will have legislation later today. The Government will meet to finalise that legislation later this morning and it will be communicated to the Opposition parties and dealt with in the House tomorrow.

In respect of those convicted solely on the basis of section 1(1) I think there were seven cases. Obviously, given the decision in respect of Mr. A, that leaves six cases. There is, I understand, the possibility of another case but that has not yet been confirmed. In regard to section 2(1), the Irish Prison Service is going through its documentation and has informed me it will have that information later today. That information is not yet to hand. It has to go through all the convictions to ascertain how many are being detained solely on the basis of section 2(1) but we will have that information later today.

There is no question of anybody being able to work with children. There is a Garda vetting unit which has been greatly strengthened. There is no question of anybody who may be released under these circumstances being able to work with children.

**Deputies:** What is to stop it?

**Mr. Kenny:** If one of those persons was to apply for a position dealing with children there is now no information available to the Garda to comment on their character or personality or the appalling acts they have carried out. That is the point I am making.

**The Tánaiste:** Obviously there will be a decision in the Supreme Court but I do not know when. The case will be fought in the Supreme Court tomorrow in respect of Mr. A and much will depend on the outcome. I said yesterday it was open to the Director of Public Prosecutions, the independent officer, who I am confident has a legal strategy, to rearrest and recharge those individuals but that is solely a matter for him. We need to be careful before we anticipate some of these issues. There is a Garda vetting unit in respect of those who work with children.

**Ms O'Sullivan:** It does not cover all of them.

**The Tánaiste:** It covers a huge majority of those who work with children. In fact one of the complaints I get in my job relates to the delay it sometimes takes to clear a person to work in this area. As late as this week a Deputy approached me in respect of a delay in trying to approve persons to work with children. We need to strengthen the vetting process further and that is happening. Clearly there is a huge issue for victims and their families. Given that the Health Service Executive has a counselling service I have asked it to communicate with the Department of Justice, Equality and Law Reform, the Irish



Prison Service and others with a view to making that counselling service available to the victims and their families in these circumstances.

**Mr. Rabbitte:** Since last week the Labour Party has consistently argued for the closing off of this loophole. For that reason when the Government was persuaded to deal with it this week, last night we facilitated it being taken, which is the reason for us not voting against the Order of Business. However, we have not yet seen the Bill and there will be little time to look at the issue. I urge the Tánaiste to cause the Minister for Justice, Equality and Law Reform to make it available as soon as possible. What the Minister said in the private briefing to the justice spokespersons yesterday was quite different to what he said in the Seanad. This is part of the difficulty. The Tánaiste has referred to the plight of the victims, but there has been very little mention of the families or the victims up to now. I know of a particular case which was pending and where the action is now stayed and will not proceed, and no contact of any kind by the Health Service Executive, appropriate personnel or anyone else, has been made with the family involved. Can the Tánaiste say if a list of the families involved in this debacle has been compiled, or a list of the victims affected by the circumstance where the historical cases are now likely to walk free? Has the Tánaiste any idea how many cases are pending? Why has contact not been made?

The mother of the young girl in the case of Mr. A told Gerry Ryan on radio yesterday morning that it took two years for anybody from the social services to make contact with her. I am entering a plea to the Tánaiste on behalf of the families and victims that whatever resources are available to the State in the area of counselling and advice will be made available to them immediately. Those people are left in fear and uncertainty and cannot know from what has gone on in this House over the past week what the position is of the Government. The Government has frequently left the impression that it is more concerned about protecting its members than about protecting children. As the Cabinet Ministers differ, the position of Government changes from one day to the next. Legislation is a matter on which haste should be made slowly, according to the Minister for Justice, Equality and Law Reform last week, and there was supposedly no gaping hole. He then met the spokespersons on justice and offered them a menu of suggestions, and an hour later entered the Seanad to say he had broadly agreed with the spokespersons on the shape and character of the legislation. That is not acceptable.

The Tánaiste is standing in for the Taoiseach, who takes responsibility in this House for the Attorney General. Given that it is the role of the Attorney General to protect our Constitution, can the Tánaiste say how it can credibly be suggested that the Attorney General was not aware

of a case of this gravity concerning the Constitution? The Tánaiste told the House yesterday or the day before that the Attorney General and the DPP had joint carriage of this case. The Minister for Justice, Equality and Law Reform has been briefing against her since then, to the effect that she was mistaken. Whether it is true that the case was one of joint responsibility, and that there was a *de jure* and *de facto* distinction as the case progressed, surely the Attorney General ought to have been aware of this. Will the Tánaiste say if he was aware? If he was not aware, I suggest he was not doing his job.

As the Tánaiste knows, in the case between the appellant and applicant, the first named in the title was Ireland, the Attorney General and the Director of Public Prosecutions. That is the normal description of such cases and it reflects the normal function of the Attorney General. Accordingly I ask the Tánaiste to take this opportunity to reassure people about the role of the Attorney General in this matter because parents and citizens are concerned to know the truth. They find it very difficult to believe this situation could not have been anticipated by the Government. The Minister for Justice, Equality and Law Reform told the Seanad last night that it was impossible for him to anticipate the outcome of the case and have legislation ready. That is complete and absolute nonsense. The suggestion he put forward was that it would pull the rug from under the people defending the case. That is complete and arrant nonsense. Given the gravity of what is involved, amending legislation ought to have been in preparation in the event of the section concerned being struck down. That was not done. What is now being prepared, and only after a mother and father of all battles in this House and outside it, is legislation which we still have not seen.

I would like the Tánaiste to say to the House what action she causes to be taken in respect of the families and victims and to advise us on the role of the Attorney General.

**The Tánaiste:** I will deal first with the legislation. For 70 years, it has stood the test of time, and the High Court maintained it was constitutional and appropriate. Until 12 May of this year, the DPP was bringing charges against persons under this provision. A total of 20 charges were brought this year, up to 12 May, against eight individuals, so clearly the DPP was not anticipating the section could be struck down, as otherwise he would not be bringing such charges.

No Minister or Deputy brought forward legislation proposing what we must now do for constitutional reasons as opposed to the reasons outlined by the Law Reform Commission's document in 1990 which stated the section was too restrictive and conservative. The Ombudsman for Children has taken a strong view against dealing with this and I believe the Government

[The Tánaiste.]

would have taken on board her view and perspective, as someone who has a sole remit——

**Mr. English:** Someone else is being blamed, as usual.

**The Tánaiste:** I am not blaming anybody. Even after the Supreme Court case, the Ombudsman for Children, Emily Logan, is not in favour of what we have to do constitutionally. If we were doing it in the absence of having to do it constitutionally, I do not believe we would have proceeded against that kind of strong advice, because people would have said we were weakening the law. We now have no alternative. There is no doubt there were people aware of what the Law Reform Commission said, and were aware the section was probably too harsh and conservative to some, but others would have taken the view that to weaken that provision would weaken the protection of our children.

The Attorney General has behaved impeccably in this matter. There is no question of him having any responsibility in this matter. There was joint carriage of the case, and joint counsel. I said yesterday that the Office of the Chief State Solicitor informed the Secretary General of the Department of Justice, Equality and Law Reform in November 2002 that this case was emerging; that it was being initiated. Subsequently, in December 2002, I think, there was contact from the Office of the Chief State Solicitor saying we would be kept up to date, and I understand nothing happened subsequent to that. Being aware of a case and having a Bill in the drawer to deal with it just does not happen. To start, one would need to see the terms on which the Supreme Court might decide that something was unconstitutional. There was no anticipation it would come to its decision.

I hope the people involved will not walk free. The Supreme Court case will be fought tomorrow. Ultimately, the decision of Ms Justice Laffoy will be determined by that court, either tomorrow or subsequently. As I have said on a number of occasions, there is also available to the Director of Public Prosecutions the possibility of re-arresting these people on other charges. The Office of the Director of Public Prosecutions is completely independent, as Deputy Rabbitte knows, and I am sure the DPP has a strategy to deal with these matters.

With regard to counselling, I have said the Health Service Executive is available to counsel the victims and their families. Obviously the HSE has not got the details of these individuals but I have asked that the Irish Prison Service, the Office of the DPP or the Department of Justice, Equality and Law Reform, or a combination of all three, could make available the names of the people involved, and I will ensure they are put in contact with the counselling service.

**Mr. Connaughton:** Will that take two years?

**The Tánaiste:** No, it should take a matter of days. We will have the information later today from the Irish Prison Service with regard to section 2(1) and when we have it, we will seek in a professional way to identify those persons and offer them counselling if that is their wish.

**An Leas-Cheann Comhairle:** Before I call Deputy Boyle, I remind Members that the Bill will be before the House tomorrow, and comments on the Bill along with requests for detailed information should be held for tomorrow's debate.

**Mr. Boyle:** The Tánaiste said it was unlikely any Member would have made a statement identifying the loophole in question and seeking to correct it. Is that not precisely what her colleague, the Minister for Justice, Equality and Law Reform, Deputy McDowell, did as a Progressive Democrats Deputy when he wrote an article for the *Sunday Independent* in 1995? The Tánaiste was leader of the Progressive Democrats then. Did she read the article? Did she talk to Deputy McDowell about his comments? Did she ask him to progress his reservations? The record of the House must show who knew what and when. I reiterate my call for the Minister for Justice, Equality and Law Reform to make a statement to the House to clarify these matters.

There is need for a wider debate on the issue of child welfare and this Government's collective policies on it. The Government has put aside many millions of euro to establish an Office of the Minister for Children, yet several sections of the Children's Act are still not enforced. There must be an explanation to the House as to why many sections of this important legislation are still not enacted.

The register of persons unsafe to work with children Bill has been on the Order Paper for the lifetime of the 29th Dáil. The Government has used the excuse that the Bill cannot proceed because it is an all-island measure. However, similar legislation has been enacted and enforced in Northern Ireland. This is another question the Government must answer.

Why today of all days do we not have the hectoring presence of her party colleague on the front bench? On any other day, he would be in the Chamber pointing his finger, making accusations and asking this side of the House to account for itself. Of all days, this is a day when his presence is needed.

**The Tánaiste:** The Minister for Justice, Equality and Law Reform is working hard, as he has been for the past week, to have this legislation available for the Government meeting later this morning.

**Mr. Durkan:** He was only on “Today with Pat Kenny” once this week.

**The Tánaiste:** We have done much for children. We have appointed the first ever Ombudsman for Children. Comprehensive legislation in child welfare has been introduced. We now have the first Minister of State with responsibility for children, Deputy Brian Lenihan, who sits at Cabinet. He has got responsibility for and is working hard in drafting legislation on the register of persons unsafe to work with children, which heretofore was under the Department of Education and Science. Regarding the newspaper article, if any Member — I genuinely believe this and I am not trying to be smart — proposed weakening the law on this defence, he or she would have been rounded upon.

**Mr. Boyle:** He wrote it in a newspaper article.

**The Tánaiste:** No one was highlighting that this provision was unconstitutional. We are dealing with the unconstitutionality of it. No one was arguing it was unconstitutional.

**Mr. English:** They were two weeks ago.

**Ms O. Mitchell:** Two years ago.

**The Tánaiste:** The Law Reform Commission said it was too harsh that one cannot have a defence in such cases. That is a different issue. I genuinely believe if Members had stood up and seen the response of the Ombudsman for Children and other groups, they would have thought again and decided not to go down such a road and weaken the law. Every Member is working hard to close off the loophole that has emerged. Hopefully, we can do that over the next 24 hours. We need to spend the rest of the day doing that. I repeat the commitment I made. As soon as the Government has agreed the provisions for the legislation later this morning, I will have the Minister make it available to the Opposition parties.

**Caoimhghín Ó Caoláin:** Will the Tánaiste indicate what time we will have sight of the Bill? When will it be published? Will the Tánaiste advise what timeframe is anticipated by her for the required debate and consultation regarding all the details that arise out of consideration of the Supreme Court decision? Will the Tánaiste accept that the timeframe for this emergency legislation will not accommodate the full consideration of all the necessary elements? There are several issues such as the age of consent and age differences. Will she indicate when the debate will get under way? Will there be a sunset clause to the Bill? Unquestionably with the vacuum that exists, all Members will want to see it successfully passed and speedily enacted. That debate is necessary due to the flawed process of the rushed nature of the Bill's introduction.

In reply to an earlier question, the Tánaiste spoke about counselling for the victims regarding the release, impending or prospective, of these individuals. Has the Department of Justice, Equality and Law Reform been in contact with the families involved, even as a courtesy apart from whatever supports they may need? If not, would she ensure this is done so the people who have gone through much pain will not have it compounded by learning of developments through the media as has been the case heretofore?

Will the Tánaiste concede, even though we have had a rejection of the proposal to amend the schedule of business, that it is imperative for the Minister for Justice, Equality and Law Reform to attend the Chamber to make a full and detailed statement on all the matters in question? This not only includes his knowledge and that of the Attorney General's but of their respective Departments and offices. We must have the truth behind this affair going back to the Law Reform Commission report of 1990. The Minister must face the questioning of Members so the full facts can be placed on the record of the House. Will she ensure this is done, if not today then tomorrow? It must be included in the schedule of business for the coming week at the very latest.

**The Tánaiste:** I will use my best endeavours to have the Bill with the Opposition at lunchtime. I know lunchtime is a moveable feast but it should be somewhere between 1 o'clock and 2 o'clock. After the Opposition has had a chance to consider the proposed legislation, the Whips will be in discussion on the timing of the different Stages. The Minister for Justice, Equality and Law Reform will be in the Chamber tomorrow to deal with the legislation for as long as it takes. Today we must concentrate on getting the legislation together.

The Department of Justice, Equality and Law Reform does not have the names of all those affected because it is still in discussion with the Irish Prison Service. As soon as the names of the victims are available, the Health Service Executive can make contact with those persons. I am more than happy to make that service available because it is important.

### **Sexual Offences (Age of Consent) (Temporary Provisions) Bill: First Stage.**

**Mr. Howlin:** I move:

That leave be granted to introduce a Bill entitled an Act to re-enact certain enactments relating to sexual acts with persons who have not attained a stated age, to provide for a defence to offences under those enactments, and to provide for connected matters.

**An Leas-Cheann Comhairle:** Is the Bill opposed?



**Minister of State at the Department of the Taoiseach (Mr. Kitt):** No.

Question put and agreed.

**An Leas-Cheann Comhairle:** Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

**Mr. Howlin:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### Order of Business (Resumed).

**Mr. J. Higgins:** Apart from the utter incompetence, probably acknowledged everywhere, of the Government in not being prepared for the outcome of the Supreme Court judgment, the matter outraging decent people around the country is the sight of adult men who abused a child walking free or about to walk free from prison. The Minister for Justice, Equality and Law Reform, Deputy McDowell, in the Seanad yesterday, outlined a range of other legislation which still stands and is not unconstitutional. Is the Tánaiste giving an undertaking that those adult men, if released under the Supreme Court judgment, will be charged under the existing and valid legislation?

There is a major problem in coming in here in 2006 with a simple repeat of legislation passed in 1935, especially as it affects 16 year old youth in Ireland today. An urgent discussion is needed, not least with the youth and with their parents, particularly for that age range. The Crisis Pregnancy Agency in a survey in Donegal found that, of 153 girls surveyed, approximately 50% had intimate relations before the age of 17.

**An Leas-Cheann Comhairle:** I ask Deputy Higgins to be brief.

**Mr. J. Higgins:** Presumably that was with their peers, for example, if they were aged 16, with other 16 year olds. Under what I understand the Government will come forward with today, it is providing for them to be sent to jail for five years and if a 16 year old girl gets pregnant by another 16 year old, which should not happen, she is liable to be sent to jail for five years. The Government cannot simply repeat in 2006 legislation which was for conditions of 1935 and the Government needs an immediate dialogue with young people and with their parents so an entire section of young, whose mores are different to those of 1935, are not criminalised willy-nilly by legislation now being repeated. That is in no way to dilute the urgency of protecting children and young people from predatory adults.

**An Leas-Cheann Comhairle:** I remind Deputy Higgins this is the Order of Business.

**The Tánaiste:** While I share Deputy Higgins's view that there must be appropriate legislation, in the context in the which we find ourselves, which is responding to the decision of the Supreme Court in a matter now declared unconstitutional, we will not be able to deal with all of the issues that arise in this area and this Bill will form part of work in progress, and other legislation may follow in due course.

**Dr. Cowley:** Yesterday the Independent Deputies issued a statement asking for legislation to be enacted within 48 hours. That was because they did not want children to be in the terrible danger which they are in at present. They wanted them to be safe this weekend. While I welcome the sitting tomorrow, the difficulty is that legislation is enacted into law by the signature of the President. Has the Tánaiste made any arrangements with the President that this legislation will be enacted immediately on being passed by the Oireachtas so there is no delay and our children can be safe this weekend?

In view of the fact that the press reported this problem could have been sorted out in the past 16 years since it was highlighted by the Law Reform Commission and that successive Governments did not do so, and that last July the Supreme Court signalled this was to be challenged—

**An Leas-Cheann Comhairle:** There cannot be repetition.

**Dr. Cowley:** —can the Tánaiste indicate that there will be an audit involving the Government, the DPP and the Attorney General because in the press other Acts were flagged, even today and yesterday, which could well be subject to challenge and would give sexual predators a loophole?

**An Leas-Cheann Comhairle:** Deputy Cowley can raise the issue on the Bill tomorrow.

**Dr. Cowley:** Would the Tánaiste agree the terrible state of the health services is caught up in this matter, in that this girl would have to wait two years for a psychological assessment? In Mayo, people must wait two years for a child psychiatrist, which is a disgrace. Would the Tánaiste please address those matters?

**The Tánaiste:** The Government will be passing an early signature motion. The President, as the Deputy has acknowledged, normally has ten days to sign legislation into law but if an early signature motion is passed by the Cabinet, then it is expedited. We will certainly do that.

I repeat what I stated earlier. This problem was not identified in the Law Reform Commission report. Nobody, including the Law Reform Commission, drew attention to the fact this may be unconstitutional, which issue — the unconsti-

tutionality of it — is the one with which we are now dealing.

Deputy Joe Higgins asked if I can give an undertaking that the persons will be recharged, and I apologise for not answering him. I cannot give such an undertaking. There is an independent Office of the Director of Public Prosecution and it is entirely a matter for his judgment. I have confidence in the director and I am quite certain he would have in place a legal strategy to use his powers in these matters if he can in the interests of protecting children. I have no doubt about that.

**Mr. Crawford:** Is the Tánaiste and Minister for Health and Children happy that up to €100,000 is being spent by the State in opposing an inquest into the death of Ms Francis Sheridan?

**An Leas-Cheann Comhairle:** That matter does not arise on the Order of Business.

**Mr. Crawford:** When will the legal costs Bill be published so we can discuss such issues?

**An Leas-Cheann Comhairle:** The Tánaiste, on the promised legislation.

**Mr. Deenihan:** A Leas-Cheann Comhairle,—

**An Leas-Cheann Comhairle:** Deputy Deenihan, we must conclude. Other Deputies indicated before Deputy Deenihan and I cannot take any more questions.

**Mr. Deenihan:** This is a short question.

**An Leas-Cheann Comhairle:** There are other Deputies I would have to allow in before the Deputy and we must bring the Order of Business to a conclusion.

**The Tánaiste:** In answer to Deputy Crawford, the Coroners Bill will be published later this year. The legal costs Bill will be published next year. The issue is not one of opposing a new inquest; it is, I understand, about looking for a different coroner.

#### **European Council Decision: Referral to Joint Committee.**

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

“That the proposal that Dáil Éireann approve the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council Decision concerning the signing of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member

States of the European Union and Iceland and Norway,

a copy of which proposed measure was laid before Dáil Éireann on 12 May, 2006, be referred to the Joint Committee on Justice, Equality, Defence and Women's Rights in accordance with paragraph (2) of the Orders of Reference of that Committee, which, not later than 15th June, 2006, shall send a message to the Dáil in the manner prescribed in Standing Order 85, and Standing Order 84(2) shall accordingly apply.”

Question put and agreed to.

#### **Sittings and Business of the Dáil: Motion.**

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

“That, notwithstanding anything in Standing Orders:

(1) The Dáil shall sit at 10.30 a.m. on Friday, 2nd June, 2006 and shall adjourn not later than 2.30 p.m.; there shall be no Order of Business within the meaning of Standing Order 26, and unless the Dáil shall otherwise order, the following business shall be transacted in the following order on that day:

(i) Second Stage of the Criminal Law (Sexual Offences) (Amendment) Bill 2006, and the proceedings on the Second Stage thereon shall, if not previously concluded, be brought to a conclusion by 2 p.m. on that day;

(ii) Committee and Remaining Stages of the Criminal Law (Sexual Offences) (Amendment) Bill 2006, and the proceedings thereon shall, if not previously concluded, be brought to a conclusion by 2.30 p.m. on that day by one Question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Justice, Equality and Law Reform.

(2) The Dáil on its rising on Friday, 2nd June, 2006, shall adjourn until 2.30 p.m. on Wednesday, 7th June, 2006.”

Question put and agreed to.

#### **Estimates for Public Services 2006: Message from Select Committee.**

**An Leas-Cheann Comhairle:** The Select Committee on Agriculture and Food has completed its consideration of Vote 31 for the year ending 31 December 2006.

**Planning and Development (Strategic Infrastructure) Bill 2006 [Seanad]: Second Stage (Resumed).**

Question again proposed: "That the Bill be now read a Second Time."

**Dr. Cowley:** How much time I have left?

**An Leas-Cheann Comhairle:** There are 15 minutes remaining in this slot but Deputy Cowley must share time with Deputies James Breen and Ferris.

**Dr. Cowley:** Further to the discussion that has already ensued, I was amazed to hear people stand up in this Chamber and try to make excuses for the lack of infrastructure in this country, particularly in north-west Donegal where people who are ill must travel repeatedly by bus to Dublin for radiotherapy services, an essential third part of the treatment necessary to give them the best possible chance of cure. Last night a certain Government backbencher, Deputy Keaveney, voiced a criticism in the Dáil Chamber by stating surgeons were wrong to stop the service in protest at the terrible prognosis for people, where people are having radical mastectomies because of the reluctance to undertake these hazardous journeys.

I was also amazed to hear Deputies stand up in the Dáil and try to justify the lack of balanced regional development in this country. There was an underspend of €3.65 billion in the national development plan in the Border, midlands and west, BMW, region. There was also an underspend of €500 million on national roads in the BMW region. It is difficult to listen to Deputy Cooper-Flynn speak as a so-called Independent Deputy on this issue when there were many opportunities for her to do something about it in the past when her party was in power. Time is of the essence and we must ensure that the necessary infrastructure is put in place, otherwise we will not have the future we require in the west. Half our graduates have to go to the greater Dublin area to get their first job. The infrastructural deficit must be made up as a matter of urgency.

The Minister for Finance has made certain promises but we need to see these come good. We must have an improvement in the roads system, the development of broadband and reliable sources of power. Adequate infrastructure is necessary to give us an equal opportunity to compete, which is not the situation at present. This is urgently required. The western rail corridor must be completed also.

Knock airport celebrated its 20th anniversary recently, which is a wonderful achievement. It received no more than €5 million compared to the hundreds of millions of euro received by other international airports such as Dublin and Cork among others. There is an urgent need for the Government to continue to invest in the west.

The Government has usurped the right of the people to express themselves by way of a say in planning matters. It has removed a tier from the system and abdicated responsibility to An Bord Pleanála which is an unrepresentative body with no community representation.

**Mr. J. Breen:** Anything that will help to progress the delivery of infrastructure is to be welcomed but I do not believe this Bill is the means by which it will be achieved. That said, certain aspects of the Bill are welcome. I refer in particular to the stipulation whereby non-compliance by developers with planning conditions previously imposed will result in future planning refusals. This clause has been sought for years and its inclusion in the Bill is a step in the right direction.

Part of the problem with the Bill is that it is perceived to be driven by IBEC and the chambers of commerce at the expense of participation by the general public in the planning process. Not enough has been done to try to allay these fears. The fears of the public are understandable given the increased powers awarded to An Bord Pleanála. Currently that body is the only appeals mechanism within the planning process outside redress to the courts. Consequently, to grant sole adjudication on planning matters to An Bord Pleanála or a strategic infrastructure division and thereby remove the appeals division of the board is disquieting and will result in more cases going to court and an even greater slowing down of the planning process.

At present, confidence in An Bord Pleanála is extremely low, particularly in County Clare, due to a lack of transparency in decision making and confusion regarding the criteria used to arrive at planning decisions. I refer again to a recent planning application made by the ESB for the construction of a telecommunications mast at its site on the Rocky Road in Ennis. This site is within a couple of hundred yards of St. Flannan's secondary school, Éire Óg GAA club, several residential housing estates, Cahercalla community hospital and hospice, and the proposed site for the new Ennis national primary school.

I praise Clare County Council for refusing the planning application, given the proximity of the mast to all these institutions. Following an appeal to An Bord Pleanála, an inspector from the board, having examined all aspects of the application, recommended upholding the county council's decision. However, the board reversed the decision stating that to refuse the application would not be in line with Government policy on telecommunications. It is difficult to understand how this policy is more important than the health of school children, the old, the sick and young families. Small wonder the people of Clare have lost faith in An Bord Pleanála.

Last week, permission for a second such mast close to Knockanean national school was granted by An Bord Pleanála on the grounds that the

other application was successful. This is nothing short of perverse. Decisions such as these are in danger of becoming more common if the Bill is enacted as the initial assenting authority, the county council, will effectively be removed from the decision making process. More importantly, the Bill will give An Bord Pleanála the power to decide on applications as it wishes, as long as they comply with proper procedures, not necessarily logic, so that its decisions cannot be reversed by means of a judicial review.

Members who spoke in support of the Bill stated that delays in the provision of infrastructure previously caused through reverting to the courts would essentially be eradicated by the introduction of the Bill. However, serious delays are not caused solely by the courts system. The National Roads Authority, NRA, has played a significant part in such delays. Approximately 12 years ago an initial design for the construction of a new N85 route, from Ennis to Ennistymon, was forwarded to the NRA. Various excuses have been given to rationalise the inordinate delays in advancing the development of the route. To date, nothing has been done, not even an announcement on the exact route the road will take.

Landowners in the area have been refused planning permission for development by Clare County Council on the basis that their applications were premature. If this Bill eliminates such delay, I will welcome it with open arms. Shannon Airport, which was recently cut off and left to fend for itself needs the immediate improvement of all infrastructure in the mid-west, especially road and rail, if it is to deliver successfully on its potential.

Another worrying feature of the Bill is that it empowers the strategic information board to meet and gain further information from any planning applicant but, in such cases, there is no obligation on An Bord Pleanála to meet objectors. Surely this flies in the face of so-called transparency, an ideal the Government continually promotes. While I accept that any such meetings with applicants will be minuted, there is a justifiable fear that these meetings will be seen as a possibility for private negotiation in the absence of a third party or objector. Again this is something that should be addressed immediately.

There is also the possibility that pressure will be put on the board to intervene between planning applicants and objectors in a mediation role. The granting of powers to do this is foolish and would merely serve to delay the process even further. It is time the Government grasped the opportunity available to it and created a department of infrastructural development, dedicated to the provision of proper planning and the delivery of schools, housing developments, community centres, child care facilities, Garda stations and local GP facilities. A visionary comprehensive approach to these issues will have the long-term effect of reducing crime, drug use, eliminating accident and emergency unit problems and pro-

viding proper educational facilities in line with EU requirements. Instead we get this Bill into which I can only guess the Taoiseach had an input as participation in the planning process by local government has become purely cosmetic.

**Mr. Ferris:** The main concern with this Bill is that the objective of streamlining the planning process will mean that controversial projects may be enabled to circumvent the current possibility that ordinary members of the public and communities can mount effective objections. The example that immediately springs to mind is the proposed Corrib gas pipeline. We are all aware of the difficulties which have arisen from this and that it has now been confirmed that not only did the local community at Rosspoint and other objectors have legitimate concerns that were not properly addressed, but also the project managers were less than honest in their presentations and later flouted the conditions that were imposed, most notably their proceeding with works without having the proper ministerial consents.

The shortcomings of the original process and the appeal by the consortium against the original refusal by An Bord Pleanála have also been highlighted by the fact that further reports had to be conducted into the safety aspects of the project. These are far from satisfactory and amount to no more than an attempt to put a public relations gloss on the determination of a multinational consortium, with the full support of the State, to proceed with a project that faces massive local opposition, but which as the opinion poll in *The Irish Times* showed, only has the support of 20% of the electorate.

The suspicion that this legislation is designed to facilitate controversial projects such as this is proven by the fact that a strategic infrastructure Bill was discussed by the Taoiseach with the president of Shell following the initial refusal of planning for the pipeline. When my colleague, Deputy Ó Caoláin, raised this with the Taoiseach during Leaders' Questions on 13 October 2003, the Taoiseach confirmed that Shell had specifically asked whether legislation to bring into effect what this Bill proposes would be in place before Shell resubmitted its planning application to An Bord Pleanála. The Taoiseach stated he had informed Shell that it was unlikely that the Bill would be passed prior to the application being heard. However, it is significant that Shell believed this legislation was of such importance to it. The only logical explanation for this belief is that the Corrib consortium was frustrated by the fact its project was subject to at least some open, transparent and democratic adjudication and its wish to bring about a situation whereby projects such as its own project could be fast tracked without the inconvenience of having to undergo public scrutiny.

As Deputy Ó Caoláin noted at the time, "while we all wish to see faster processing of planning applications, we cannot do so by sacrificing the



[Mr. Ferris.]

importance of the system in ensuring that the highest standards of safety and health considerations, irrespective of the scale of the proposal". How prescient these words were in light of what we have subsequently witnessed in respect of Shell's open flouting of the existing process and its claims to have conducted independent assessments of risks. How much less transparent and, therefore, potentially more dangerous will be a process in which such decisions are taken with the minimum of democratic and open accountability? It is all very well to claim that objectors to pipelines, incinerators or prisons are selfish people who do not want such projects in their own backyard. They may be guilty of such selfishness in certain cases but we all know from the planning process in our own counties that objections must have substance if they are to succeed. If objections are not legitimate, well and good, but it is surely better that they be permitted to be made and publicly scrutinised than that potentially dangerous projects are fast tracked.

The value of this process can be seen in the Corrib pipeline affair. Had this legislation been in place, it is unlikely there would have been anything like the level of scrutiny witnessed and that the project would now be proceeding. Had it done so without first being rejected and having a spotlight shone on it by the community in Rossport, we may already have witnessed negative consequences. We should imagine what might have happened if Shell had been allowed to place the pipeline along the originally proposed route at Pollathomas where a landslide occurred, which according to experts would have severed the pipeline. As this controversy has gone on, more has emerged as Shell makes minor concessions in order to be allowed to proceed. Hopefully, public pressure will force Shell to also concede in respect of the placing of the pipeline at sea, as proposed by the local community and supported by the majority of respondents to a poll published by *The Irish Times*.

**Mr. P. Power:** I wish to share time with Deputy Moloney.

**An Leas-Cheann Comhairle:** Agreed.

**Mr. P. Power:** I welcome the opportunity to contribute to the debate on this important legislation. In years to come when it is used in respect of some of the largest infrastructural projects in this country, such as the metro or major environmental infrastructural projects, this Bill will be regarded as one of the most important passed in this Dáil term. The fact the Bill, when enacted, will allow these projects to proceed at a speed which is comparable to those of other modern developed countries will be regarded as a good day's work in this House.

Ireland has lagged behind the majority of countries in western Europe for decades in respect of

its ability to deliver and roll out modern infrastructural projects in the areas of the environment, roads, rail and public transport which other western European countries have enjoyed for many years. We lagged behind in our ability to roll out and deliver this kind of infrastructure inside any reasonable timeframe because we lacked the resources to undertake these kinds of projects. When we finally acquired the resources, we played a considerable game of catch up and were unable to deliver these projects within the time-scale employed by other European countries.

Even after we have acquired the necessary resources and commenced our major national development plans and major infrastructural projects, we still lag behind most developed countries in our ability to deliver these projects within a certain timescale. As Vice-Chairman of the Oireachtas Committee on Transport, I visited Spain to examine the metro system in Madrid, which is one of the best metro projects in years. Due to their legislative framework, authorities in Madrid were in a position to build 48 km of metro track around Madrid in 36 months, or three years. We have been talking about building a metro system for the last six or seven years and when we eventually push the "go" button, I assure the House it will take much longer than three years to complete a system measuring only 8 km. Why is it that countries such as Spain and Denmark can apparently build these projects at will within a fraction of the time and cost it apparently takes us?

We asked the project leader on the Madrid metro, Professor Emanuel Melis, why his project could be delivered more rapidly than any Irish counterpart. The answer lies in a small anecdote. We were due to meet Professor Melis in Madrid at a proposed metro stop, which was being constructed at the time. We arrived at the proposed stop, which was simply a hole in the ground, at 11 a.m. and waited for Professor Melis for approximately an hour and 30 minutes. When he arrived at the site, he told the project managers, site foremen and workers to cease construction on the site and move operations approximately 200 m up the road. The reason for this was because the utilities in that area were not conducive to building a metro station at the site in question and it was impractical to build a station there. All the engineering advice available to Professor Melis suggested the station should be built approximately 200 m up the road.

It took 90 minutes for this decision to be made. Once the relevant Minister was briefed about the problem and certified that this project was one of national importance, it bypassed the normal system. It would have taken approximately 18 months for a similar decision to be made in Ireland and we wonder why authorities in Madrid can build 48 km of tunnel in 36 months when it will take us approximately six years to build 8 km of tunnel, a project which has not even commenced.

This is the question which this Bill seeks to resolve. When major national infrastructural projects are decided upon and a political decision is effectively made to build such projects, such as a metro system, LUAS, the Port Tunnel or the proposed bridge from Foynes to Shannon Airport, with which the Leas-Cheann Comhairle is familiar, the State should accept political responsibility to deliver this project on time. Any objections should be fed into the system but the Government should take responsibility for any flak that develops and stand on its decision and plans to deliver this kind of infrastructural project. Every member of the delegation which visited Madrid was struck by the ability of other governments to make such decisions very quickly.

Professor Melis, a world-renowned expert in this field, likened every infrastructural project to an accordion and told us that the major plan of those behind such projects is to squeeze the accordion. He said it is necessary to compress every aspect of the project, from planning to delivery, into the shortest possible timeframe.

**Mr. Durkan:** It would take a bit of squeezing to get trucks into the tunnel.

**Mr. P. Power:** The professor said that, as inevitably as night follows day, if one does not compress the project, costs will begin to escalate in profound ways, as we have seen in respect of infrastructural projects such as the tunnel and so on. Another issue relates to the delivery of projects rather than to the Bill, that is, the necessity to introduce fixed price contracts to deliver projects on time after the planning stage. I welcome the fact that work is being done in this respect.

The aforementioned situation was a small anecdote to illustrate how other countries have grasped this nettle, namely, once a decision is made to go ahead with a project, its planning and construction processes must be streamlined if it is to be delivered in the quickest possible time. The Bill seeks to do this while providing adequate safeguards in terms of public consultation. I heard Deputy Ferris's contribution in this respect.

It is the reality that these projects are becoming complex and unwieldy. I say this with the greatest respect for local planners who deal with a one-off house in County Limerick or so forth on one day and an incinerator or tunnel stretching 15 or 20 miles on the next. These projects require different specialties. The Bill seeks to separate projects that need to be fast-tracked and require specialist care and attention, which is a reasonable proposition.

The Shannon Foynes Port Company has proposed to build a major infrastructural project, that is, a tunnel from the port at Foynes in County Limerick to Shannon Airport to link both transportation hubs in a way that would allow significant volumes of manufactured goods to be brought in and broken down and then distributed

via Shannon Airport. While the project will have a minimal effect as only a handful of people would be affected, it will take approximately two years to go through the system.

For some time, I intended to put something that I have experienced on the record, that is, people who abuse the planning process wholesale by making objections and subsequent appeals to An Bord Pleanála for the sole intention of extracting money from the relevant developer, be it a State agency or private body. Those people know that because their rights are enshrined in legislation, they hold the power to frustrate and delay developments for years, which is an abuse of the system. The Bill, in conjunction with other measures and planning legislation, seeks to curtail this type of abuse. It is high time for such to occur. I commend the Bill to the House.

**Mr. Moloney:** I welcome the Bill and this opportunity to speak in its support. While the Bill is not the resolution to all planning problems, it is necessary. It is also slightly late but I support it nevertheless as its underlying theme is to deliver the infrastructure we will need to sustain and improve our quality of life.

In the County Laois part of my constituency, there have been significant developments in terms of road infrastructure improvements. Everyone in the House is aware of the Dublin to Cork and Dublin to Limerick motorways. While there were a number of objections during the planning process, time should have been provided in a different forum for people who had concerns, not necessarily objections, and who felt they were left out of the planning process. Over the years, we have all made the point that local public representatives should be involved in planning matters. However, that representation was curtailed to one-off housing or small developments while there was little input from local representatives in issues of considerable economic benefit to a county or constituency.

We must help to fast-track decisions to improve infrastructure if we are to meet the significant changes in future. This Bill is not controversial. While we have different ways of examining it, public representatives are ultimately meant to ensure value for money and the quick delivery of projects that will be of direct benefit. The Bill is not meant to curtail discussion or make it difficult for right-minded people to convey their concerns.

We must urgently improve our infrastructure to address the obvious changes in Irish life, particularly the increase in population. While cities have considerable infrastructural problems, the same problems are becoming the norm in heretofore rural areas. Other issues include the increase in employment levels, disposable income and new business investments.

I am not trying to criticise the planning process but I am from a small town where, in 1997, a ring-road was proposed. I wish our friend, the noted

[Mr. Moloney.]

professor from Spain, was around at the time as the site dig has still not commenced nine years later. I do not mean to be critical of An Bord Pleanála or people with objections, but a 1.4 km ring-road that took nine years to reach An Bord Pleanála could have been fast-tracked by allowing local public representatives and local objectors into the process.

Often, objectors are not objectors by their nature, but are people who voice their concerns. However, as soon as they do so, they are considered objectors and the process is closed to them. Under the new provisions, the process will be open to people with concerns who do not want to take the next step of becoming objectors. I am led to believe that conditions may be established whereby the ring-road could proceed and those conditions could meet the concerns of would-be objectors.

This situation is reflected throughout the country where significant infrastructural investments, supports and improvements have been proposed, but because of the outdated planning process, to give people time to make proposals, that process is delayed, which leads to cost over-runs. It is important that we take into account the national spatial strategy, which cannot succeed or advance at the speed we would like unless we provide the required infrastructural supports. If we are to deliver the spatial strategy, which must be an undercurrent in our economic development, specific supports must be in place.

That the Government is spending 5% of GNP on public infrastructure underlines the need to fast-track the process. Since 2000, the Government has invested €24 billion under the NDP to enhance our economic and social infrastructure. If we are to continue this trend, a further €34 billion investment in public transport under Transport 21 is on the cards. Economic progress cannot be secured if the planning process slows it down. The Government is drawing up the next national development plan and it behoves all Members to ensure the necessary infrastructural supports are in place to allow it to gain currency. We must update the planning process to deliver all the ambitious plans Members have suggested for their constituencies. If we do not tackle the blockages in the planning process, we could potentially add a further barrier to the infrastructural improvements we need for a dynamic, growing population.

I support openness and accountability in planning. We have all learned from past mistakes and must ensure that planning is transparent. I do not support the withholding of information or excluding people from the planning process. For the first time, instead of councils only being involved in a small area of planning, helping people with applications for a house or developers with applications for schemes, public representatives can feel they are involved in the securing of planning permission for projects that will bring great econ-

omic benefits to the area. They will be able to add to the considerations through their local knowledge, speeding up the process.

Under the strategic consent process, An Bord Pleanála will be required to consult the relevant local authorities and have due regard to their comments. This should have been in place years ago. Thinking back on the development of motorways out of Dublin and the public meetings that seemed to go on forever, much of the controversy could have been resolved if local landowners had been able to go to their public representatives who could then make their case at a consultative forum.

I commend the Bill to the House.

**Mr. Durkan:** We must make provision for the administration of development to ensure efficiency and effectiveness in the delivery of the services to the public. There is not much sense in planning something that is built ten or 15 years later because the associated costs have risen by multiples of ten. Deputy Moloney mentioned projects that were planned 12 years ago. The costs in the meantime have increased by at least 10% per annum or more. In some cases there have been increases of 300% in ten years. We must recognise that delays in the delivery of services and infrastructure means higher costs and less efficiency, leading to turmoil.

The M50 is a classic example of the provision of infrastructure, never mind its planning. I can recall when the Palmerstown interchange was being designed. I discovered it was a scaled down model and I asked why we were doing this, that we should be planning for at least 40 years hence. We remember the roads designed and built in Germany in the 1930s by a very nefarious individual. At least he was good at one thing, he laid down infrastructure. He had the foresight to do that. He had some other peculiar ideas, but he achieved that. The roads designed and built in the 1930s are still in use today because there was much forward planning. The people looked ahead and did the job.

I looked at a five-mile queue of traffic crawling off the M4 on to the M50. In any other country in the world, it would be considered an example of how planning should not be done. The traffic cannot move. I have asked how the port tunnel will work and how traffic will be funnelled into and out of it, expecting to be told that plans had been made, but no such thing happened. After asking questions for four years, I was told that Transport 21 would provide for it, but it has not even been arranged. That is not planning for the future, it is for the past.

The tunnel is barely able to keep out the water but hopefully it will open at some stage this year. Now, however, we must figure out how to get traffic to the tunnel from the N11, N9, N7 and N4, bringing it all the way around the city. Another tunnel could have funnelled that traffic but no one thought of that. Why not? These



people are paid to plan ahead. This does not come from politicians, it comes from consultants and planners who are well paid for this — too well in my opinion.

This Bill is needed to speed up the process but I hope it is not abused. It centralises power to a great extent in the hands of An Bord Pleanála and, ultimately, the Government. I do not accept that decision in all cases. If an arbitrary body is doing its job right, it offends people but there is a notion that An Bord Pleanála is always right. It is part of the process and entitled to deal with cases but under this legislation it will have a supervisory role with intervention at an earlier stage whereby it will give an opinion. This is not a reflection on the members of the board but there is a tendency now to predetermine the outcome whatever the circumstances. That should not be the case.

There was a time where if an appeal went to An Bord Pleanála about a one-off housing project, the person applying for planning permission might win the case. It is clear now, however, what the decision will be before the hearing if An Taisce objects to An Bord Pleanála about a one-off house in a rural area. The applications are conveniently located in local authority offices, where one-off houses form a category on the computer list so they can be easily objected to. There may be genuine planning reasons for objections but increasingly the reason appears to be that there should be no housing in the countryside, that it should all be kept for urban tourists at weekends observing local inhabitants in their natural habitat. I strongly resent that. In a case of the kind I have mentioned where an An Taisce objection was lodged to a one-off house, or whatever the case may be, the An Taisce side will prevail in 100% of cases.

On the question of centralisation of control, that is the bones of our problem. In the Planning and Development (Amendment) Act 2002, changes were made to the structure of local authorities and to this House in the sense that Members of this House can no longer become and no longer are members of local authorities. In a few years from now, the local authorities will find out how much poorer they are for that because there is now a complete separation of the power and influence of the Oireachtas from the accountability that had to be given to the Members of the Oireachtas while on local authorities. That is now gone.

Local authorities are laughing at Oireachtas Members. They do not care about them despite the assertions at the time of the Minister to the Members of this House and to my colleague, Deputy Ring, who, rightly, had a different view, that the Minister could give an assurance that there would be no diminution in the degree to which Oireachtas Members would be entertained in making representations or having their views expressed to local authorities. That assurance has not and will not be honoured. Centralisation of

control continues because all whoever is in Government need do is instruct the county manager to centralise authority up along the line to the exclusion of all other public representatives, including Government ones. It now comes from a central source — Government. It is a serious development and it will be seen to be increasingly so as time goes on.

Dublin Airport is a major topic for debate and is an important issue in terms of an island community with a growing economy and a growing population and access. All the interest is concentrated on the airport and the building of new runways and terminals. While all this is important, there is little debate, except in the context of Transport 21, about how people are expected to get to the airport. Has anybody ever thought about that? Are we expected to get to the airport using the M50? Has anybody tried to do that recently? Does anybody know what it looks like? How are we to get to the airport, day or night? This is critical infrastructure.

We are debating the Bill to speed up and strengthen the construction of infrastructure, to improve such construction and to increase its efficiency and make it more cost effective. I will be watching with interest, I hope as a Member of this House, although one can never tell because the electorate are very fickle, to see the outcome of that and I hope whatever access to Dublin Airport is chosen is more effective and efficient than the M50.

Why do consultants generally do the work for local authorities now? The authorities no longer appear to employ county engineers and senior personnel. The work is now done by consultants. Everyone is a consultant. We may all be obliged to become consultants of some form in future.

In the 1950s, the Naas dual carriageway was designed and built. It took some time to do that but it was a mould-breaking project at the time and stood the test of time until a few years ago. Currently, new roads are being built and designed, including one from Enfield to Edenderry which is a waste of money because it will not do the job it was intended to do. It will be a reorganisation of the existing road with a consequent impact on the people living adjacent to it. It will not provide for the 25,000 to 30,000 cars per day for which it should provide. It will be three quarters of the expense of a new dual carriageway to Edenderry, which is what should have been built, although Edenderry is not in my constituency. That is a classic example of where we, as public representatives, can no longer get through to the people now empowered to design and build these projects. We cannot influence them in any way. They do not want to listen to us.

It is also a serious matter for the diminution of democracy. In my home town of Maynooth, consultants arrived in the past 12 or 14 months to design the traffic management. No roads were being changed. A new shopping centre was being built, which was welcome because it was a nicely



[Mr. Durkan.]

designed, modern development. The possibility of building a roundabout arose but somebody said that could not be done because the traffic had to be slowed down. Instead, they installed a set of traffic lights. They then installed two sets of traffic lights on the other side of the road to ensure they did not bung up the subsequent set of traffic lights. When another problem arose, they decided to install two more sets of traffic lights further up the town to block off access to the other sets of traffic lights. They made certain that there would be chaos in any type of traffic signalling situation and, just to ensure that everything would not go right, they decided to install another set of traffic lights in front of the local hotel, which meant that people could not get in or out of the hotel. In doing all that, they achieved the ultimate.

Let us think seriously about this issue. These consultants did a good job. They call themselves Traffic Solutions Limited as far as I recall. All public representatives made representations. We asked them to listen to our views but they said they could not do so. In other words, our view does not count. It is serious when we get to a situation where public representatives' views do not count. They will not say that but that is a fact. Our views do not count. Democracy is obsolete. Modern thinking is that democracy is for the minions. We will have a little here and a little there but who can afford democracy now? All these consultants, who are very effective, are very expensive. Those are just a few examples.

When I make these types of comments, they go crazy. They swear a hole through a tin pot and indicate what they will do the next time they get a chance, but they fail to recognise that they do not stand for election. We still have democracy and, until such time as they stand up for election and face the democratic process, they should keep their counsel until they are asked to give a view.

The right to object is very important but the objection should be assessed to determine whether it is mischievous or for genuine reasons. One does not have to be a rocket scientist to figure out one from the other. The objection should be locally based as well. A previous speaker made that point in the House because they could not understand why it continues. To assess whether an objection is genuine, it should be locally based. Ten or 15 years ago, the legislation was changed to ensure that anybody proposing to object under section 4 had to come from the electoral area in which the development was located. Otherwise it was not valid. Why not apply the same principle to assessing the authenticity of the objection? Why should somebody living in Cork object to a development in Monaghan or Tyrone?

I remember a case years ago which involved a one-off house. The man objecting alleged he lived somewhere in Glasgow. He was eventually tracked down because we were anxious to deter-

mine the authenticity of his objection. In the course of this legislation, something should be done to investigate such matters. There must be grounds for objection. Many genuine cases arise and they must be provided for. The mischievous objections should be eliminated because they are useless and a waste of time.

Somebody mentioned earlier a disturbing factor which I pointed out on a number of occasions to the Committee of Public Accounts. I never really received an answer. The issue is an objection which is withdrawn on foot of a payment. That is a serious deviation from the way the system is supposed to work. If, for example, a person would be likely to be living in the shadow of a proposed tall building, I can understand why there would be payment for an objection. It would be compensation, and it would be fair and equitable. If a person were to object to a proposal for Wexford, Meath or Dublin but lived in County Kildare, I would not be able to see the validity of pushing a case and being paid to withdraw the objection. It is a serious, dubious and questionable procedure. When I was a member of the Committee of Public Accounts some years ago, I raised that question with An Bord Pleanála. I did not get absolute answers, and that question is still hanging in the wind somewhere. The matter should be examined.

I remember advising somebody on an objection to his proposal, which objection seemed to have no reason behind it. I told the person to find out the nature of the objection. He did so and found out there was no real reason, but there was a principle. When I heard it was a principle, I was immediately alerted. I told the person to have a chat with the objector to see what the principle was. The person spent a little longer with the objector and found out he was looking for €20,000. The principle was quite clear.

If there is a genuine negative impact on a person's property from a proposed development, I can understand how there could be compensation. I have no problem with that. An Bord Pleanála or the local authority should be the arbiter for any compensation claim. Otherwise, such a claim would be extortion. It is a dubious practice.

I have a final point. It has been my opinion for many years that oral hearings, reviews of county development plans, material contraventions, etc. in the case of a major development should be held in the centre of the location affected by the proposal and nowhere else. Such hearings should be in the local parish hall of the village or town affected. The discussion should take place there, where all the people have access and can see and hear what is going on. It is crucial to do this and it would eliminate much of the hassle.

I hope this proposal is not abused and that it does not see the centralisation to which I have referred. I hope we see an end to the tomfoolery in forward planning in this country, to which I have also referred.

**Mr. Ó Fearghaíl:** I wish to share time with Deputy Grealish.

**Acting Chairman (Dr. Cowley):** Is that agreed? Agreed.

**Mr. Ó Fearghaíl:** I am pleased to have the opportunity to speak on the Planning and Development (Strategic Infrastructure) Bill. I agree with the Minister when he described this Bill as among the most important legislation to be introduced this term. I will try, in the course of my brief remarks, to stick to the provisions of the Bill.

There is no doubt that the public is demanding the delivery of high quality, cost effective infrastructure, which is vital to the future growth of the economy and the well-being of our society. The Minister, his colleagues and his officials are to be congratulated on bringing forward a Bill that has been carefully considered, is well crafted and balanced in its approach. It sets down a benchmark that we will no longer tolerate the lengthy and costly delays that have dogged us on some critical projects in recent years. The costs of these delays have been principally economic, but a social and environmental cost has also been incurred.

The Bill strikes the correct balance between the need to protect the right of the man and woman on the street to object to any significant project which they feel could effect their every day lives, and the need to deliver as expeditiously as possible the vital roads, sewerage, energy and transport projects which many Deputies have referred to in the public interest.

The concept of the strategic consent process represents a radical new approach which caters for all these requirements in turn. The public will be consulted and have their views taken into account, while at the same time local authorities will be consulted. I congratulate the Minister for the Environment and Local Government, Deputy Roche, on his initiative in ensuring that local elected representatives are fully involved in the process and that their views, as well as the views of council officials, are taken into account as part of the new approach being adopted in this worthwhile Bill. This matter has been alluded to by Deputy Durkan. The Minister has not lost sight of where he came from, and he remains fully committed to the role of the local councillor.

Another very positive aspect of the Bill relates to the issue of community gain, and I welcome that power will be given to An Bord Pleanála to ensure that in certain circumstances direct benefits will be provided to local communities affected by major projects. This will be done by attaching conditions to the eventual grant of consent. I ask the Minister to ensure that the issue of community gain is thoroughly explored and agreed at the early consultation stage of any project if at all possible, and that the greatest possible consensus be achieved between local com-

munity stakeholders and the local authorities involved.

This approach, coupled with the specific role identified for local councillors in the Bill, will strengthen local democracy in that the councillors' role in policy formulation, which is limited to the development plan process, will be extended to include an important input to the decision-making process on major strategic projects which affect their area.

I welcome the inclusion in the Bill of the provision in section 9, which aims to tackle the activities of rogue developers. Deputy Durkan will be familiar with difficulties in County Kildare. We have too often come across contractors and developers who bring with them a poor track record for finishing work properly or finishing it all. They may have exploited local authorities and the planning system time and again and visited cost and frustration on individuals and communities.

The Bill will place the onus, correctly, on the contractor to show that past performance does not warrant a refusal of permission. This provision will allow local authorities to take on rogue developers in response to shoddy previous performance. I hope that councils will demonstrate a willingness to rise to the challenge that the Bill presents to take on and eradicate cowboy developers. There has been a willingness on the part of local authorities to take on small players and individuals. I hope they will show the same enthusiasm, given the provisions in this Bill, to take on those who have been a burden on local communities.

The Bill also provides for wider access to the judicial review process for environmental non-governmental organisations, thereby protecting their right to object while at the same time eliminating the costly delays experienced in the recent past. The right of an individual to object to a specific infrastructural project is maintained, as it should be. However, the streamlining of the public consultation process and the new arrangements allowing for judicial reviews should allow projects to be dealt with more speedily. I hope this new approach will end the delays caused to many vital projects by a seemingly endless series of legal actions.

The framework of the strategic consent process will now commence with an initial submission to An Bord Pleanála and, if it decides a project is eligible for inclusion in the strategic infrastructure process, it will see the proposals through to a final decision, with a defined consultation process and a strict timeline giving clarity to the delivery of infrastructural projects nationally. There have been vast improvements in recent years in the speed of delivery of major road projects. The bypasses of Monasterevin, Cashel and Kilcock, among others, have all been completed months ahead of schedule and within budget. However, this performance needs to be replicated in all other areas of infrastructural development,

[Mr. Ó Fearghaíl.]

as the time lost in the planning of all these projects has been hugely costly to the taxpayer and detrimental to our economic development.

This Bill gives the opportunity to streamline the planning process and protect the taxpayer from further delays. I welcome the emphasis the Bill places on the necessity for comprehensive pre-planning discussions for the type of major projects envisaged. This sensible approach will help to speed up the delivery of vital projects by ensuring all major issues and concerns are flagged well in advance of the formal application process.

Indeed, the day to day operation of local planning departments, such as my own in Kildare, could be enormously enhanced, with output increased and decision-making accelerated, if there was a similar emphasis on effective pre-planning consultations on routine applications. Not alone could this be done, but we could, through consensus, achieve a much better quality built environment across the country.

There has been criticism in some quarters of the delay in bringing this Bill before the House, but the changes being proposed are fundamental and will radically change the management of the planning process in this area. Therefore it is entirely proper the Minister gave the matter due consideration before coming forward with the measures included in the Bill. It is better to have carefully crafted legislation than an ill-considered, badly thought out set of proposals, which would not achieve the aim of removing the various bottlenecks which hinder the delivery of major projects throughout the country.

Effecting these changes will require the creation of a new section of An Bord Pleanála to oversee the specific requirements included in the Bill. The Minister has set out the particular responsibilities he intends to give to the chairman, deputy chairman and other members of the board and I hope the necessary level of experienced staffing will also be provided to the new section to ensure the work is done effectively.

The decision to designate specific judges to manage the process of applications through the High Court represents another positive step in the right direction. The benefits of these changes will be obvious as time progresses and the common sense of the approach being adopted will engender widespread public support. There is a public appetite for the changes envisaged among people who have been frustrated at the delays inflicted on a number of vital projects around the country in recent years.

My home town of Kildare was denied its bypass for a number of years. Deputy Dennehy referred to the hours he spent sitting in traffic logjams in Kildare. The delays were due to a succession of challenges, some of which have entered modern folklore. While the battle was being fought for the snail a number of people lost their lives unnecessarily on the old N7. Had this legislation been in place during that debacle in the 1990s the

twin objective of human welfare and environmental protection could have been achieved in a far speedier timeframe. I do not wish other communities to suffer in the same way.

The ongoing development of our country is dependent on the achievement of vastly improved levels of infrastructure. The public is firmly convinced that we are living in a very wealthy country and wants our new found wealth to be prudently invested in the fast delivery of facilities and services, similar to what they have experienced in other parts of the world. The public mood will no longer tolerate cost overruns or inordinate delays.

It is appropriate that the planning service will now be improved in four vital areas. First, there will now be a single stage process of approval for projects, thereby reducing drastically the time-scale in completing the application. There will also be a rigorous assessment of all projects, including their environmental impact, involving public consultation and input from local authorities and non-governmental organisations at all stages. There will be certainty of timeframes, which will undoubtedly allow for a sharper focus on the application and its future delivery. Finally, the Bill incorporates the concept of community gain, which will be of great benefit to the communities directly affected by largescale projects.

**Acting Chairman:** The Deputy's ten minutes have elapsed.

**Mr. Ó Fearghaíl:** We must ask ourselves whether these changes are worthwhile, and if they will improve on the delivery of infrastructural projects. I believe they will and I support the Bill. I look forward to its early implementation.

**Mr. Grealish:** I acknowledge the significant investment the Government has made in infrastructural projects around the country in recent years. One only needs to drive out of Dublin to see all the work that is under way. I was in Laois yesterday and was amazed by all the work being done. Unfortunately, all the work that has been done leads out of Dublin. Since I became a Dáil Deputy for Galway West in 2002 there has only been one project, the Loughrea bypass at a cost of €25 million.

The National Roads Authority, when it draws up its programme of infrastructural projects, must adopt a more balanced approach. The west has been severely starved of investment in roads and other infrastructure. For example, there are four or five major projects in Galway, such as the Galway City outer bypass on which there is an ongoing debate as to whether it will be built as a toll road. It might be built more quickly if it was a toll road whereas otherwise it might be delayed by two or three years. Another is the new N17 proposed for the western seaboard corridor but that is not proposed to be built until 2013.



The N6 was proposed four or five years ago and was the subject of a recent oral hearing. I attended the hearing and listened to the debate for a number of days. Some of the objections to the road were absolutely ridiculous. One person drove up from Cork and spent three days objecting to a road linking Galway and Ballinasloe, at a cost of €10,000 per day. The full cost of the oral hearing amounted to between €500,000 and €600,000. I hope vexatious objections will be dealt with in this Bill but it is important that local people have the right to object.

The ESB recently proposed a 110 kV line straight through a small rural area in my constituency, about which nobody knew until I received a telephone call from a journalist who heard about it. The site notice had been posted at the substation where hardly anybody could see it and the planning application was lodged before we even knew about it. There was practically no consultation with the landowners, just a little note shoved in the door notifying them that the project was going ahead. It is not acceptable that such projects are proposed and commenced without sufficient consultation with local people.

I listened to what Deputy Durkan said about the decision-making process relating to infrastructural projects. We hear the little village of Claregalway mentioned every morning on the traffic report on "Morning Ireland". Some 35,000 cars per day travel through the village but the National Roads Authority states it will not go through a CPO process to build a new road. It states the new N17 will alleviate the problem but the new N17 will be approximately 10 km from Claregalway. As public representatives we must attend public meeting after public meeting about the traffic in the village but we have no say in whether a road should be built. Officials of the National Roads Authority will not attend the meetings to explain why they feel a road is not needed. They undertake to meet us as Members of the Oireachtas, in Dáil Éireann, to give us their reasons, leaving us to return to the people in Claregalway to explain the situation to them. That is completely unacceptable because we should have a role in deciding what projects should be built. The people of Claregalway will not put up with the traffic congestion, morning and evening, seven days a week, for much longer. They will block the road, which nobody wants to see happen because the poor motorists on their way to work will suffer. The road is 4.5 km long but there are 27 landowners involved. I call on the National Roads Authority to seriously consider the situation in Claregalway.

The previous speaker referred to the way in which rogue developers operate. Several years ago, I encountered a case in which a developer bought land which effectively left adjoining landowners landlocked at the rear of their lands. When they applied for planning permission, they found they could not gain access to the strip of land blocking the back of their lands. As a result,

they were forced to band together to buy out the individual in question at an astronomical price. It is unacceptable that developers can lock landowners in, thus preventing them from developing and making a few bob out of their land.

I hope the introduction of this legislation will speed up major infrastructural projects. The N6 from Ballinasloe to Galway, for example, will provide a much-needed road into the city and I hope it and the N18, a vital project to link Galway with Shannon, will proceed. Galway is one of the fastest growing cities in Europe and has done exceptionally well under the Government. I compliment it on the large number of jobs created in the city in recent years. Unfortunately, however, Galway is falling behind in terms of the investment needed in infrastructure projects.

Last week, I wrote to the Taoiseach regarding his planned visit to Galway next week when he will open the Marine Institute, one of the welcome success stories of the decentralisation programme. I am disappointed he was unable — the reason given was his busy schedule — to accede to my request to meet representatives of the community of Claregalway to discuss the prospect of proceeding with the bypass of the town.

**Mr. Deasy:** I do not blame him.

**Mr. Grealish:** I hope my two constituency colleagues in Galway West, the Minister of State at the Department of Justice, Equality and Law Reform, Deputy Fahey, and the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, will bring the Taoiseach to Claregalway to allow him to see first hand the traffic congestion in the town.

Incineration is also a matter of concern in Galway. A number of incinerators are planned under current waste management plans. Recycling in Galway has reached 52% of total waste, a record which is of great credit to Galway City Council. Cities which work hard and reach high recycling levels should be rewarded. Galway County Council is now working hard in this area and achieving considerable success. For this reason, I am opposed to the construction of an incinerator in Galway and the west in general. We do not need six or seven incinerators around the country and current proposals should be reconsidered with a view to devising a better system to deal with waste.

As the owner of a small business employing several staff, I am aware that waste continues to increase and is an important issue which must be addressed. Nevertheless, we cannot impose projects on members of the public. Genuine individuals should be given the right to object to infrastructure project and make a strong case against them if they so wish.

The Bill will address many issues and, I hope, expedite the delivery of the critical infrastructure this country needs. Members regularly travel abroad and often hear colleagues in other coun-



[Mr. Grealish.]

tries refer to the success of Ireland. When one drives through other European countries, particularly in the east, one cannot fail to notice the standard of their infrastructure and roads. In contrast, despite its status as one of the leading economies in the world with one of the lowest unemployment rates, Ireland lacks critical infrastructure, including roads. I hope the Bill will speed up the delivery of this type of infrastructure projects, while also addressing the serious concerns many people have about such matters.

**Dr. Upton:** I welcome the opportunity to speak on this Bill. A number of issues arising from the Bill are of considerable concern, not least among them the gaps in the proposals. The Government has missed an opportunity to address a number of issues and I propose to focus on several of these which relate specifically to much of the development under way in my urban constituency where the glut of apartment blocks and other developments continues apace. I will also address in general terms the reason strategic infrastructure projects are being delayed and the reasons this Bill will do little to address that delay. I also propose to discuss several short-sighted proposals contained in the Bill, for instance, the exemption from environmental impact statements requirements for certain categories of project and problems associated with An Bord Pleanála, which have not been reviewed or tackled in any significant manner to improve planning procedures.

I will focus first, however, on specific problems associated with new apartment developments. There is a major flaw in this regard which affects my constituency and its residents virtually on a daily basis. The management of multi-unit dwellings or apartment blocks has not been addressed and serious shortcomings persist with regard to the need to guarantee the rights of residents of such developments. This category of development differs from those consisting mainly of houses in that it is not usually envisaged that a local authority will take in charge the common areas of an apartment block or the private or public open spaces which surround it.

Hardly a week goes by without one or more of my constituents, either a short-term tenant, long-term leaseholder or owner of an apartment, contacting me concerning problems they must endure regarding the upkeep of the common part of their building. Similarly, I am contacted almost every week by constituents complaining about the increasing cost and diminishing return of paying a management agent to manage the common part of buildings containing apartments and the land surrounding them. For example, some of my constituents recently complained that the management agent of their block is seeking a 50% increase in the management fee demanded last year. The individuals in question are reluctant to pay this fee hike because the management company and agent have not maintained the building

as they should. In the past year, for example, grass has been allowed to grow all over the place, with some areas now completely overgrown and infested with weeds, vermin have appeared and windows have not been cleaned as agreed. The complex is in a general mess.

In addition, a promise to provide a 24-hour management service turned out to be a myth. This only came to light when the fire alarm went off twice this year in the middle of the night without a response. So much for a 24-hour management service. Gutters are also blocked and water overflows on to residents' balconies, creating a source of stagnant water. The reason residents contacted me was to find out what could be done about the horrific smell this water had created.

Recently, I was in touch with another group of residents of an apartment block who are experiencing a similar array of problems. The residents of the two developments in question have managed to use existing legislation to have most of the difficulties they face resolved. It is possible to ask what is wrong with the system if the problems can be solved using existing legislation. The answer is that getting solutions to these problems is an expensive and complex process, with residents effectively forced to carry the cost and nuisance value of trying to find redress and have action taken on the management of their apartments.

I will describe the lengths to which the residents in question had to go. They had to obtain expensive legal advice, following which they were required to use company law to have the current directors removed from the management company. They then compelled the management company to provide access to its accounts. In one of the cases brought to my attention, the management company had not even bothered to draft accounts. In this instance, the residents were compelled to contact the Office of the Director of Corporate Enforcement to report the management company's failure to hold annual general meetings and draft accounts. These are complex, difficult and expensive processes and the only reason the residents were able to secure some redress was their capacity and ability to pursue these matters. There are many apartment blocks whose residents do not have the ability, resources or legal back-up to allow them to do that.

In another case, residents had to contact the Office of the Director of Corporate Enforcement to report the management company that was controlled by the developer. It had failed

*1 o'clock* to consult the shareholders of the management company — in reality the residents — on the draft accounts. After much work, residents of one of the apartment complexes managed to appoint their own representatives, using provisions within the Companies Act, as directors on the board of the management company. Having done all that, the residents succeeded in firing the management agent who was dreadful. They have now

appointed a managing agent who is considerably better. I am pointing out the complexity of the difficulties involved, including costs. These matters could have been dealt with in the new legislation but the opportunity to do so has been ignored.

Using current legislation, none of the residents in contact with me has succeeded in forcing the developers to hand over ownership of the common parts. Even when resident-controlled management companies are maintaining the common parts of their apartment blocks, these companies are not always the legal owners of the areas they are maintaining and paying to maintain. Discovering and executing the solutions I have just described to the problems faced by the residents of apartment blocks in my constituency has required an enormous amount of work, money, patience and co-operation between the apartment owners.

As legislators, we are responsible for the laws providing the framework within which apartment developments are allowed and their continued upkeep is regulated. We have an obligation to provide a much easier means of resolving the problems that residents of apartment blocks constantly face.

I wish to outline some of the solutions to the problems that apartment dwellers are facing. I have raised these issues in the House before but there is now an opportunity to incorporate them in the legislation. These points will be raised again on Committee Stage when I hope they will be addressed.

First, planning permission should not be granted for an apartment building unless there is a condition attached to such a permission which compels developers of apartment blocks to form management companies and grant shares in the company to all those who purchase units within it. There is a section of the Planning and Development Act 2000 that could be strengthened to include this specific stipulation.

Second, a planning condition must be imposed on developers — I know this has been discussed already — to complete satisfactorily within a specified period an apartment complex, regardless of whether the development includes two or more houses. Options could be introduced in this regard, so perhaps the Minister could examine them on Committee Stage to see how they might be incorporated in the Bill.

Third, as soon as an apartment development is completed satisfactorily, ownership of the common parts must be handed over immediately to a management company. My constituents tell me that, too often, developers are refusing, for one ostensible reason or another, to hand over ownership of the common parts of an apartment complex. The developer may suddenly apply for planning permission to add an extra storey or block, and then we learn why the developer was so reluctant initially to hand over ownership of the common parts. Amending section 180 of the

Planning and Development Act 2000 would offer a mechanism for doing this. It would enable management companies, upon application to the court by a simple majority of individual property owners — that is, such an amendment must be drafted in such a way as to prevent a developer thwarting the desires of residents to take control of the common parts of their apartment complex simply by retaining ownership of the apartments within that complex — to gain ownership of the common parts of the apartment complex.

Fourth, developers must not be allowed to take control of apartment complex management companies. In Britain, where there is a much longer history of dealing with multi-unit apartment blocks, the solution that has emerged is called the Commonhold and Leasehold Reform Act 2002. Within that Act, a right to manage was established, which is vested in residents of multi-unit apartment blocks. To exercise that right, residents of buildings within two or more units do not even have to apply to the court. They simply have to serve notice to manage on the developer or the owner of the common parts of an apartment complex. The notice to manage provides that the residents concerned wish to manage the property instead of the freeholder or developer and that they have the right-to-manage company for the purpose of doing so. To exercise this new right to manage, residents do not even have to say that the developer is mismanaging the property.

However, if the property is being mismanaged, which is clearly the case in the examples I have outlined and that have occurred numerous times in my constituency, the residents can apply to the court to have the developer's interest in the property vested in the residents. In practice, the mere existence of this legislation on the statute book in the United Kingdom has led to a significant improvement in the conduct of managing agents, management companies and developers.

I have outlined some of the major difficulties that have arisen with ongoing developments in my constituency where we have what I would call a rash of apartment blocks all over the place. There seem to be endless apartments being built but there is a lack of infrastructure around them, which is the core of this debate. We talk about the need for housing, and more accommodation is certainly welcome in my constituency, but we must examine the quality of such housing. We must also examine the impact of such construction on the existing community, as well as the infrastructure provided for new developments. Sadly, in the vast majority of such developments there has been a lack of any significant quality of appraisal of what is needed for the existing community — I take a strong line on that matter because they are the people who will ultimately suffer on account of such developments — or for the residents who will move into those new apartment blocks. It is a big issue now and it will get worse unless significant standards are imposed on developers.

[Dr. Upton.]

I reiterate the importance of some of the issues raised by my colleague, Deputy Gilmore. The so-called strategic infrastructure deficit in Ireland is not down to a few people, as he said, hanging off trees in the Glen of the Downs. We have problems for much more fundamental reasons. When introducing the Bill, the Minister, Deputy Roche, said: "Simply put, this Bill is the key to delivering the infrastructure we will need to sustain and improve our quality of life". Infrastructure is delivered through applying money to well thought-out solutions to well examined and identified problems.

This Bill is about trying to avoid a repetition of the same problems we have had in the past in Ireland, with one major difference. In the past when somebody had a slightly hair-brained idea, it was difficult to implement it, not because of the planning process but usually due to a lack of money. Now, with the availability of greater resources, if the Bill becomes law, anybody with a crackpot idea will have much less difficulty in implementing it.

The national spatial strategy identified many problems in a considered way but sufficient money was not provided for its implementation. However, the reasons there is a strategic infrastructure deficit are manifold and complex, and will not be addressed simply or comprehensively by the Bill before us. The reason the Government has not implemented the national spatial strategy is not because of delays in the planning process, it is because the action of the Government pulled the rug from under the strategy by inadequately funding its implementation. In addition, the Government announced a half-baked decentralisation plan that has been a disaster. The national spatial strategy was published three years before the national development plan but it should have been the other way around.

Cutting out local involvement in the development, planning and construction of so-called strategic infrastructure projects is an affront to democracy. If all the reasons Ireland suffers from a strategic infrastructure deficit were eliminated, perhaps a Bill such as this purports to be would be worthwhile. It would be a worthy sacrifice of democratic participation.

I also wish to raise the cost of planning objections. While a €20 fee may sound like very little money to impose on somebody wishing to object to a planning application, the issue must be addressed. While awaiting developments at European level on this matter, we have no reason to retain the €20 fee. This was introduced supposedly to stop vexatious objections to planning applications.

I will again reflect on what happens in my constituency where many individuals in the local community feel strongly about the development taking place in their immediate area. Many of these people are elderly or old age pensioners and while, for some of us, €20 may be little or

nothing, for them it is a huge amount of money. They feel passionate about their area and community and the €20 fee is a block to their getting involved in the democratic process. There is no justification for retaining the €20 objection fee.

The exemption from the environmental impact statement should be reconsidered. The Bill gives power under section 4 for An Bord Pleanála to grant applicants an exemption from the necessity of preparing an environmental impact survey. This is unacceptable. It applies to electricity and gas providers and, in fact, to anyone who wants to carry out a project An Bord Pleanála deems to be of strategic importance. That is to give An Bord Pleanála a major decision-making role on what is or is not important from an environmental perspective.

The necessity for developers to draw up an environmental impact study was one of the great advances in the protection of the environment. The environmental effects of projects had been ignored for decades and the cost of that can be seen in the deficiencies in the quality of the environment in which we live. Thankfully, environmental impact statements were introduced but it appears there will be a rolling back in that regard if An Bord Pleanála can effectively decide which projects are of strategic importance and can make the running on what is environmentally significant. The Bill wants us to return to year zero. One could make the comparison with China, where dams are constructed without any reference to the environmental impact. None of us would want to believe we were comparable with such decision makers.

Pre-planning consultations are valuable and probably cut out much time wasting. The problem with these consultations in their current form is that they are effectively weighted in favour of the developer. The same provisions or facilities for pre-planning advice are not provided to the average resident when a development is to proceed. It is not acceptable that a lack of transparency will persist when pre-planning applications and discussions are weighted in favour of a developer but residents or residents' associations are effectively precluded from the process.

There is a lack of transparency and perhaps even democracy in the advice given to people in a community when a major development is about to take place. I accept that planning notices are erected but we know of many occasions when residents did not see the planning notices and did not appreciate their significance or the timeframe involved. There is a gap in terms of informing local communities specifically and definitely in this regard. It should not be left just to the planning notices, with which many residents would not be familiar and the relevance and timeframe of which many would not understand.

Each household and individual within a specific radius of any major development, including apartment block developments, should be informed by mail. It should not be left to chance



that residents will be alert, observe a planning notice and be able to do something about it. This would not be a major burden in the context of a major infrastructural project, given the value of the project to the developer relative to the cost to the community if the application period should pass and the community did not have the opportunity to have a say.

While I support the idea of community gain, I am interested to know precisely what it means. We need a wider definition. It is important that community gain is not just a sop to the local community but a significant and valuable contribution to the area and its people. Every effort should be made to ensure the community gain is relevant and relative to the value of the major infrastructural project to be delivered.

**Acting Chairman:** I call Deputy Boyle.

**Mr. Boyle:** Every Bill——

**Acting Chairman:** Is the Deputy sharing time?

**Mr. Boyle:** I am not sure. Deputy Joe Higgins might be in this slot.

**Acting Chairman:** I understand Deputies Connolly and Ó Caoláin will also speak.

**Mr. Boyle:** I will speak until they arrive or the time runs out. Every Bill has a context. The context of this one can be summed up by the phrase, "Time is money." The Government would present this as being public time and money, but any analysis of the colossal excess expenditure on public projects in the lifetime of the Government will show that the factors that have caused the excessive spending are not those which the Bill attempts to address. It was not an overly democratic planning process that caused this excess expenditure. It was bad management, bad decision-making and planning on the hoof which tried to change the context of what was to be built and how it was to be built.

The roads programme is a case in point. The national development plan roads programme went from a costing of £580 million to an eventual cost of €1.8 billion, mainly because the Government decided as the plan was being rolled out that the roads identified by the National Roads Authority were not sufficient to the Government's needs and would have to be broadened and expanded, despite the fact they could not be justified in road traffic terms.

If one is looking for excuses why projects are delayed and why costs have over-run, one need look no further than the Government party benches. It is the quality of the decisions made and the wasteful way public money was wilfully spent that has brought us to this sorry pass.

It is laughable that the notion that our planning laws are too democratic is entertained by the House. I have been through the planning process

many times in my constituency. On each occasion I found it to operate against the interests of the citizen. The Bill contains nothing to address the need for proper prioritisation in seeking planning permission and integrated pollution licences from the Environmental Protection Agency.

There were just two public oral hearings on the national toxic waste incinerator proposal for the Ringaskiddy area in my constituency, one for An Bord Pleanála and one for the EPA, each of which was a flawed process. In each case, a private developer, who was seeking to impose what the Government terms as strategic infrastructure, was assisted by the State and its agencies to impose on a community a project which many of us believe is unnecessary and, if built, will have many dangerous consequences.

The An Bord Pleanála oral hearing was a farce. The senior planning inspector listened to the case for a number of weeks and brought a report to An Bord Pleanála that listed 14 different grounds why the incinerator should not proceed. However, the board chose to ignore this hard-hitting report from its own inspector and to approve the project on the basis that this was a Government policy priority. How can citizens have confidence in the planning process if they participate in the process, it shows them they are correct in the arguments they make, yet the board, which is largely composed of political appointees, makes such a negative decision against those citizens' interests?

This is the type of reform in which the Government should engage but is far from interested in doing. As part of the same process, an integrated pollution licence was subsequently sought from the EPA. That was subsequently granted on the basis of reviewing a decision the EPA had made. These are the inconsistencies that will be eventually exposed to court actions which will have been brought about because of bad legislation introduced by the Government. While we have a Government that wants to represent vested interests over the interests of the citizen, we will get legislation of this nature. This is not in the interest of public infrastructure but of private developers who have offered to provide various infrastructure the Government has identified as being needs of the State. There has been no wide-ranging proper public debate on whether the infrastructure is needed or if it is the right type of infrastructure.

The Government likes to congratulate itself on any development by erecting national development plan signs wherever it can. This money belongs to the public. We need to ask whether it is being spent in the right way, and in many ways it is not. In the roads programme, a type of infrastructure the Government has identified, it is far from being spent in the right way. We can certainly see, once those decisions are made, that the Government has been a failure. As a member of the Committee of Public Accounts, it never ceases to amaze me how public money is pumped



[Mr. Boyle.]

into infrastructural projects without proper pre-planning or accountability. This is largely because the funding mechanisms the Government has chosen to use are not the standard State mechanisms that have proved largely successful in the past. Given that the new mechanisms are direct partnerships with private enterprise, the State is exposed unnecessarily to spending these huge sums of money with little to be seen in terms of improved public infrastructure.

On the general question of how democratic is our planning system, Deputy Upton put her finger on the button when she said that a fee must be paid for planning objections. The tenor of much of the debate so far implies that any person who seeks to make an objection or an observation is one who is holding up a process. The reality is that the process already has a set time and if nobody chooses to make an objection, it will not be completed any sooner. The subsequent objections to An Bord Pleanála and court actions are different arguments. The right of people to observe and object should be enhanced in legislation and not constantly undermined. The Government lives by the myth that somehow its programme, which it sees as exclusively its programme and not the programme for the country's needs, is hampered by a few individuals who are vexatious in their philosophy and just exist to stop the building of infrastructure.

It is right and proper for citizens to ask questions because we have seen in the past week where the failure to ask questions leads us. Sadly this is a Government that chooses not to ask questions. It bull-headedly proceeds with projects and we all suffer the consequences later. This is a cost on the right of citizens to object and appeal that intensifies through the An Bord Pleanála process where people must pay upwards of €300 for a public oral hearing. I have seen vexatiousness on the part of developers who have made multiple planning applications on the same site to ensure that people who are likely to object will have to pay An Bord Pleanála hundreds of euro on each occasion. These are the areas that are in need of reform. These are the vested interests that benefit from our planning system.

It is not a failure of democracy that is at fault. It is a philosophy of a Government that is unwilling, because of where it gets support and how it funds its activities, to challenge the vested interests who wish to see any type of development in any circumstance taking place. As custodians of our society, we have a right to check and challenge development to ensure it is right type of development and one with which we, our children and future generations are happy. Sadly the legacy of the Government is one that history will judge harshly. When reforms take place in the planning area, it will not be the parties of this Government that will introduce such legislation.

**Mr. Connolly:** I welcome the opportunity to speak on the Bill with its stated aim of fast-tracking major infrastructural projects since world class infrastructure is critical for any successful economy. I have a major difficulty with incinerators or any other major infrastructure that has health and safety implications. It is clear that the issue of health and safety in respect of incinerators has not been proven otherwise. Scientists have proven that dioxins from incinerators are carcinogenic agents and cause a cancer. I have listened to people who suffered from cancer in Belgium who lived down wind of an incinerator, and I have heard of the health effects on people. The recent leak from Sellafield, which is another huge infrastructure, would have filled a 25 m swimming pool. That has implications not only for the health of people but for marine life. We should be clear about the type of infrastructure that should be speeded up.

Something is needed to speed up certain aspects of our infrastructure. The number of planning applications a county council must deal with has increased enormously. One has only to look at one's local newspaper to see the one or two pages of planning applications that must be dealt with.

From a rural perspective, one of the difficulties is people obtaining planning permission in rural areas. Reference has been made to people getting a free site in return for looking after their parents. I doubt whether in many cases that site can be classed as free. The recipients provide a valuable service to the parents and the State in terms of the level of care provided, often on a seven-day, 24-hour basis. It is not that they have any objection to the care provided but such sites are far from free. We should try to encourage people to look after the elderly because the culture has changed in that respect.

A relaxation of the planning laws should be given serious consideration in respect of carers seeking planning permission to build a house near the person they are caring for. Not only do such people operate as a carer in the house, they act as a local taxi service because, in the main, there is no public transport in rural areas. They take those cared for to town, to doctors and so on. I call on the planning authorities to look favourably on such planning applications and to encourage this type of development. Such people take much pressure off another institution, namely, the health service.

It strikes me that when planning permission is sought, especially for major infrastructure, that there are perennial objectors who almost object for a living and have nothing to do with the locality in which the infrastructure is proposed. It is not right that those people can object willy-nilly. If they object to the N3 or whatever, they should not do so for fun or almost as if it were a profession. I would have major difficulties with that type of objector. If there are genuine objectors from the area, they should be heard. How

such people can be dealt with and the infrastructure fast-tracked is a major issue. This Bill is a long time in gestation, with the Government having originally undertaken to reform the planning system and speed up major infrastructure back as far as 2003. To some extent, this is better late than never. Having been on the political agenda for years, plans for a new critical infrastructure board to fast-track planning had to be shelved.

The Bill aims to speed up the planning process for large infrastructure projects deemed to be of national importance. Nobody can deny there are such projects which need to be developed. Simply to get to work, one can consider what has happened for example with the M50, or any of the motorways around Dublin or around the country. We must move into the 21st century and develop our roads, which need to be fast-tracked, along with our trains. This is a major issue. I welcome such fast-tracking. We need it to compete. Whether it be a North-South or east-west corridor, such projects should be examined quickly. Delays in the past have cost taxpayers a lot of money. We should be asking if we are getting value for money, and in terms of objections being made. I do not believe we are getting value. What is happening is not good for our people and our country.

A number of criticisms have been made of the Bill, notably that it would favour private interests while hindering legitimate objectors. A balance must be struck in any Bill. Developers may often drive the economy but planning issues often come in second place, and the prime objective of developers is to make money and make projects pay. Legitimate objections should be catered for but I question the legitimacy of objections being made by those who come from another country or from an outside area.

I hope the Bill will be instrumental in speeding up major projects and spending programmes without undermining the rights of objectors. The right to object is basic. A careful line will have to be walked between speeding up the planning process while protecting constitutional rights. Objectors have a constitutional right, but it must not be abused.

The Bill will also allow projects in environment and transport infrastructure to be dealt with by An Bord Pleanála in a single stage process. One of the current difficulties is that the process seems to drag on forever. We need a speedier means of handling objections and examining the validity of projects. Motorways, roads, waste and water projects by local authorities have already been decided on by An Bord Pleanála.

Much power has been handed to county managers. It may not always be useful to put a county manager on the spot, because the manager is in effect left with Hobson's choice in terms the decisions he or she can make.

The Bill makes provision for new a strategic infrastructure division within An Bord Pleanála. This will act as a one-stop-shop for planning

decisions on big projects, short-circuiting the current system, including local authorities and An Bord Pleanála itself. A further complementary element of the new strategic infrastructure division will be the establishment of a specialist division in the High Court. This is greatly needed because we all know that to make an application and get a hearing in the High Court takes a long time. This is where many of the processes are strangled. It takes people quite a long time to settle High Court claims in general and I have known of cases which have taken seven years. That is not acceptable. Rather than merely creating a new division, we will have to provide resources too. We will have to create a number of new High Court judge positions to cater for the extra work. It is not acceptable that people should have to wait simply on a court judgment. The new division will deal with legal challenges to infrastructure projects with mandatory timeframes for decisions, which is welcome. It would be good to tell people decisions will be made within a timeframe. People will accept them if they are adhered to.

For the new division to operate efficiently, it will be essential it be adequately resourced, both legally and technically. Judicial reviews of the planning decisions are in many cases responsible for the planning delays which have taken place up to now. Delays have been occurring in the legal system.

Debate adjourned.

#### **Health (Nursing Homes) (Amendment) Bill 2006 [Seanad]: Second Stage (Resumed).**

Question again proposed: "That the Bill be now read a Second Time."

**Dr. Cowley:** I am grateful for the opportunity to speak further on this Bill.

There is a major problem with the subvention system. While the Bill addresses the situation regarding subvention for nursing homes, that is only part of the equation. One cannot discuss this Bill without talking more generally about what is happening to older people in this country. We must ask whom the system is serving. When one considers that only 5% of older people will require long-term care, one has to ask why the system is so much biased in favour of private nursing homes. That is the fundamental question. The answer lies in a complete fiasco and abdication by this State of its very onerous responsibilities to look after its older citizens. We are all getting older and will all require some type of support in our old age. The question is whether that support extends to the subset of care, but 5% of us will require long-term care, many in private nursing homes.

The Bill deals with the subvention system and regularising the position etc. It is an understatement to say the current situation is irregular. It is

[Dr. Cowley.]

a total mismatch, a patchwork quilt of eligibility or ineligibility, whatever one may call it. There is total uncertainty. Nobody knows exactly what is the situation. Older people like certainty in their lives, but there is no certainty in this area. I blame successive Governments for their gross and utter neglect and incompetence in dealing with support for older people.

Old age is just the other end of young age. Just because one is old, that does not mean one needs to be in a nursing home, with doctors, nurses and so on. There is a great need for us to look beyond the medical model. I have talked of that for many years, and as someone working in the community as a general practitioner, I saw at first hand the sad silent migration of older people to institutions because there was nothing else for them. The people who needed our help most did not get it. Instead of getting help to stay in communities in which they lived all their lives, where all that they knew was — some had never even travelled outside those areas in their lives — they had to spend their sunset years in faraway places where they knew nobody. Just like the old Red Indians, they simply lost heart and died, because they were not in their homes and communities.

Nowadays, everyone is on the conveyor belt of life and all are very busy. Quite often, older people in institutions are left to their own devices, which I see all the time. I am not criticising those who look after older people in nursing homes or other public institutions. There are some very dedicated carers who do a good job. There are, however, notable exceptions, such as Leas Cross. The Government has placed its emphasis on the wrong area. Considering that 95% of the population will require long-term care at some point, why is the emphasis on care through nursing homes?

The Minister of State at the Department of Health and Children, Deputy Seán Power, is a fine and committed man. He stated Government policy was to support “older people to live in dignity and independence in their own homes and communities for as long as possible”. That is fantastic. He further added the Government supports “long-term care where it is no longer possible”. It was for this reason that the nursing home subvention scheme was introduced in 1993. When an older person cannot live at home any longer or in his or her community, he or she is placed in a nursing home. Therein lies the rot and what is wrong with the system.

Who does the system serve? It does not serve older people. How is it that, long after independence, we have a system that does not serve the citizen? The citizen is supposed to come first in the republic. Does the system serve the person trying to make the shilling or does it serve the older person? The emphasis seems to be on the profit-driven sector.

I am not criticising the dedicated staff of private nursing homes but there is another way

to provide care for older people by supporting them in their communities. Such a system of support, however, has never been in place. The report, *Care of the Aged*, spells out clearly that an older person should be able to stay at home. When that is no longer possible, the person should then be supported in the community through social housing. This has not happened. The choice is either stay at home or end up in a private nursing home, if one can afford it.

The State has abdicated its legal obligation to provide further nursing care. Every citizen has the right to a public nursing home bed. However, they are as rare as hen's teeth. That is why people do their damndest to get their relatives into them. It is an unequal system. As the report, *Care of the Aged*, states, care at home is the best option. It is Government policy but the Government seems to have forgotten that. Various reports on the issue, such as Tom O'Malley's, refer to supporting older people at home and that many in public nursing home beds may well not deserve them. Every older person I know does not want to be a burden on his or her family, although it can be a labour of love for the family. The system does not help the older person to have the certainty he or she needs by giving him or her the necessary supports.

I was involved in establishing St. Brendan's village in County Mayo which supports older people in the community. It has support ranging from its day centre to low support sheltered housing, from medium support to high support. No matter how old or disabled the person is, he or she can stay in the community. It is very difficult for communities to establish such schemes because it is impossible to compete against the private nursing home sector.

Who does the system serve? Who does the Government serve? I am not only blaming this Government but also former ones. They have not served the citizen. The citizen, who should come first, is second class. Every facet of social life is given over to supporting the person making the profit. The Government has forgotten that it is the people who must be served. That was evidenced with the legislation on statutory rape. When parties get into Government, they instantly forget what it is all about, namely, people.

Recently I raised the matter of community care with the Taoiseach. He said the Government was considering introducing community zoning. The main difficulty for community care groups is securing land for schemes such as St. Brendan's village. I have seen many fine projects fail because a private nursing home bought up the site first. I have gone to banks and to Government seeking funds for such site purchases, yet I have seen suitable sites slip through the fingers of community groups because they could not raise the money. Many landowners are altruistic and would like to sell their site to a support scheme for older people in the community. However, they cannot



wait forever for the money to be raised because they want to sell the land.

Although the Government's emphasis is on supporting private nursing homes, it must be remembered community matters too. If the Government is to follow its own policy, which is contradicted in the speech of the Minister of State, it needs to give community care schemes a chance. There should be a level playing field for them. Communities have proved it can be done. Group water schemes are one example. In rural Ireland, traditionally there was a cailleach in the corner for an elderly relative because the older person was always valued and looked after. However, where is the flat in Ballymun that can hold an older person? With increased urbanisation and smaller dwellings, there is no opportunity to keep a grandparent in the cailleach, the warmest place in the house.

I am encouraged by the Taoiseach's comments on community zoning. He stated Des Geraghty's social policy group has discussed it. It is an idea from the United Kingdom where open space land is used specifically for community purposes. I hope this is more than talk. Sheltered housing has fantastic benefits. Up to 20% of people in nursing homes should not be there. If there were adequate sheltered housing for them, they could be taken out of the nursing homes. However, it is difficult to secure sites for and funding to run such schemes. If the private nursing sector can do it, why not community groups? It is now estimated that 95% of older people will require long-term care at some point in their lives. Why is the emphasis on keeping people in non-community, profit-driven nursing homes?

**Mr. English:** It was interesting to read the speech of the Minister of State at the Department of Health and Children, Deputy Seán Power. He claimed the Government's policy is to help older people stay at home. He spoke, both at the beginning and end of his speech, of how great the Government is and how much it is doing. This is in a week when I have received 15 telephone calls from people because their fuel allowance has been stopped in one of the worst months of May for weather in my memory. I am 28 years of age but perhaps it was worse before I came along. It has been the coldest and wettest May in my memory, and still there are people whose fuel allowance has disappeared and who have no help towards the cost of fuel. The predictions are that the weather in June will not be great either. I hope the weather in July and August will be better, but the predictions are bad. If the Government is so helpful to older people, it would not be cutting their fuel allowance which does not break the bank. A little help towards the cost of keeping themselves warm and comfortable in their homes would be a good example of how committed the Government is to keeping elderly people in their homes. Incidentally, the fuel allowance is not large enough and does not reflect

the cost of fuel. It does not help these people. The Government should look at that matter as another option to help people remain at home.

Before addressing the substance of the Bill and the area of nursing homes and subvention, we must realise that the Government has not increased the rates of subvention in the past five years. As I recall, the Government has not looked at or increased the subvention rates since 2000 or 2001. Even when it did change them, there was not much of an increase.

The cost of nursing home care, compared to that pertaining ten or 15 years ago, even five years ago, has increased dramatically. I am not familiar with any nursing home, in my county or any neighbouring county, whose charges are below €800 a week. Most of them charge €1,000 or €1,200 a week, and that is before account is taken of all the extra services and the cost of visiting specialists etc. While such care costs a minimum of €800, the maximum subvention is €190, although I am open to correction.

There are people of all ages in families struggling to raise such sums to try to make ends meet for the cost of a nursing home. I encountered one woman whose husband is a retired bank manager. He has been retired for 15 or 20 years and his pension income is not as high as one might think, just because he is a retired bank manager, it might be. She has forked out over €70,000 in the past three years on nursing home bills for her husband, who she would prefer to have at home. If she had savings of approximately €30,000, under this new proposal they would be assessed as income and she would be penalised in the context of the rate of subvention, and yet one could see €20,000 or €30,000 disappear on nursing home costs in a year. The Government needs a dose of reality in discussing subvention and the area of nursing home costs and care for the elderly because it is not in touch. I acknowledge it is improving the subvention rates a little as it goes along, but they are not matching the costs and the Government must face that fact. I am afraid no back-clapping should be allowed or considered until the Government matches the costs involved.

Family members are under immense pressure to come up with the cost of nursing home care. It might not be so difficult to cover these costs in the case of families of seven or eight such as those of years ago, but nowadays the average family consists of two or three earners who can contribute towards their parents' nursing home costs and due to today's society many persons do not have the option to keep their parents or their ill family member at home. Although many might like to, it is just not possible and they are forced to turn to the nursing home, which causes a serious drain on resources. With trying to fund their children's college fees, or their children's first homes because the price of houses are also so expensive, and trying to pay for their parents' care, family members are caught in the middle. They have their own expenses, their children's education



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and accommodation needs to look forward to, and their parents' care. We are asking the people in the middle to do too much and it is not possible. When we wonder about stress and mental illness and people having strokes and heart attacks at a young age, the answer lies in all the pressures of life on them from a range of sources. The Government cannot clap itself on the back or state that it is doing everything possible, and cannot state it is doing a great job for the elderly because it is not. It is as simple as that.

There is a need to clarify who takes on the responsibility when an elderly person becomes ill or cannot manage to stay at home and needs to go into a nursing home. Attempting to get answers about who is in charge or accountable from the health authorities would break one's heart or about to whom one must turn. Must one make 20 telephone calls to find out who pays the subvention. It is especially difficult where this involves different counties or health service areas. For example, if the children live in Kildare but grew up in Dublin, the parent decides to live with one of the children for six months and it becomes too difficult to the point that they cannot manage and must seek nursing home care, when one telephones the authorities to discover which of the areas, Dublin, Kildare or Meath, covers the subvention one is told one has reached the wrong person and to telephone somebody else. That happens regularly and I have dealt with that on many occasions because I live in the greater Dublin region and represent people in County Meath, many of whose parents are from Dublin, although the parents may have moved for a couple of years, their home is still in Dublin. Such cases are causing considerable problems. As the subvention comes out of one pot and is taxpayers' money provided by the Government, it should not matter who takes on the responsibility of paying it. It is not good enough that people spend a year trying to figure out who is responsible for paying subvention, with everyone concerned running away from it.

A one-stop shop for services for the elderly would be useful, where one could telephone one person in the HSE stating the needs of an elderly parent and asking that he or she take on the case and respond in a week outlining the entitlements and what can be done, rather than trying to chase up and get answers from across the board which is impossible. A one-stop shop where one could get the answers and where the health authorities would say that they will do what they can to help the caller. While one cannot give them everything, at least give answers, take on the responsibility to help and do this. They should state that the elderly relative has done his or her duty to this country and the health service is here to look after the case. That does not happen.

If there was enough support to keep one at home in the first place, the subvention rates and the cost of nursing home care would not be a

problem. In my experience, the person needing nursing home care and family or friends would prefer if the person was able to stay at home, but it is not really an option. I will outline the different areas which would help. Our public health and community nurses in most areas, especially in the greater Dublin region, are under immense pressure and cannot do their job. They have a list of criteria which they are supposed to fulfil. They have a list of people who they are supposed to visit, which includes drop-in calls to the elderly to keep an eye on them. They cannot do that anymore. They can barely cope with the people coming out of hospitals, new-born babies etc. They are under immense pressure and they cannot cover the areas requested, in terms of keeping an eye on people, providing a back-up service and being there to help out.

The Minister must look at such primary care because that is where it starts. These people are unable to do that and we are asking too much of many of the nurses, who are doing immense work but cannot do everything. One will always deal with what comes to the door first. As public representatives will be aware, people are being passed over. There are people, especially the elderly, who are in need of help and who are not found in time. The difficulties are exacerbated because the health service does not have the staff to cope with the routine calls to check up on these people.

The Minister also needs to rearrange the geographical areas covered by public health nurses and other nurses assigned to the health authorities because they vary greatly from those covered by general practitioners. There is no co-ordination with the general practitioner services. There is a need for a system to align the nurses to the general practitioners on the basis of a group of patients rather than a geographical area. The current system does not work well and people fall between two stools.

I am fed up hearing from the Tánaiste and Minister for Health and Children, Deputy Harney, that she has increased the home help hours and the funding involved. The funding might have increased but the hours have not, and most people in the area I represent in County Meath have had their home help hours cut in the past few years. Last year and the year before the home help hours were slashed by half.

**Mr. Durkan:** Hear, hear.

**Mr. English:** I encountered someone who has been battling for the past three months to get two hours of home help per week, not per day, after coming out of hospital. She received a letter stating she could have home help only for the first three weeks after leaving hospital. It was not that they would reassess it, but that it would end and she would have no help. This woman is in her 80s and it has been deemed that she can manage without home help.

We are all aware that home help is not just about providing the necessary service, it is about providing company and a little support — the friendly, happy face who visits. That is good for one's mental health. Even if a person is in good physical condition, he or she needs somebody to visit and say hello. The Minister should recognise that in the provision of home help. She needs to increase the home help hours available to people, especially those who are entitled to one hour a day but would be able to manage if they got three.

Apart from the social aspect, significant economies of scale are possible if we support people so they can remain in their homes, such as home help hours or different care packages. Elderly people want to stay in their homes but there is a gap in the services provided to them. More nurses in the community and a greater availability of carers would make a significant difference. The current system of means tests for carers and the assessment of people who want to take time off work to help look after their loved ones must be examined. The current situation is inadequate. People who take time off work to provide a caring service at home should receive an income to help towards paying the bills. Currently, they get nothing as people are penalised for the income of other family members. We should look at the overall family budget in terms of income and expenditure. It is insufficient to say one wage provides enough money and nothing extra will be provided. The means test should be abolished, which will not happen under the Government. However, we should at least examine the system and make it more flexible in terms of assisting people to stay at home.

Disabled person's grants, DPGs, and emergency repair grants, ERGs, are provided to people to make their homes suitable for a person with either an infirmity or a disability. The rate at which it is paid is outdated. As we are all aware, construction costs have increased at 11% per year for the past seven or eight years.

**Mr. Durkan:** Hear, hear.

**Mr. English:** However, the grants have not increased in line with inflation. Most councils have, in fact, cut the grants available. In 2002 and 2003 letters were sent to applicants informing them no funding was available for the provision of grants.

**Mr. Durkan:** It is crazy.

**Mr. English:** It is totally crazy. I accept there has been a slight improvement in the situation, in that some funding has been made available, but that will not be adequate to deal with the backlog of applications.

**Mr. Durkan:** We are coming near an election.

**Mr. English:** Exactly, we are coming near an election and the provision of an extra €2 million here and there will make nice headlines. It sounds good but does not make a big impact on the ground. The average cost of building work, such as putting in a bathroom, is €40,000. The cost is no longer €20,000, it is at least €40,000 or €50,000. I am being conservative with the figures. We must examine this matter. I question the administration of disabled person's grants. In many cases, by the time a decision is made, it is too late.

**Mr. Durkan:** That is correct. It takes two or three years.

**Mr. English:** It can take two or three years to get a decision on an application. If somebody has had an accident or stroke and wants to live at home again or with relatives when he or she leaves hospital, he or she should not have to wait two years to be told a grant of €20,000 will be provided. If there is a delay in processing applications, surely people can be allowed to carry out the building work and claim back the grant funding. It is rare for this to happen. It took me eight months to get money back for someone who did not realise the grant application had to be made in advance of the building work. Luckily, due to common sense on the part of the council authorities, the individual in question was awarded a grant for the work that had already been completed. However, according to the rules set down by the Government, it is not possible to do that. It is not good enough for people to have to wait two years to get an answer in the first place. People should be allowed to have the work carried out and then be able to claim the money back but currently that is not possible.

Essential repairs grants cover small building jobs such as having a window or roof fixed to better insulate a house and make it more comfortable. I object to the five-year rule governing this scheme. It is the greatest load of crap I have ever come across. It is ridiculous to write to an elderly person to inform him or her that because he or she got a grant four and a half years ago to fix a window or a door, for example, another application cannot be considered until five years have elapsed. That is absolute rubbish. If someone needs a grant for a certain purpose the application should be assessed on its merits and should not be subject to a four-year or five-year rule. That is absolutely ridiculous. It does not support people to live at home or care for the elderly in the community, far from it.

The provision of home improvement grants, home help hours or other local nursing services are important for elderly people but many of them cannot afford home maintenance or to do the little odd jobs that occur around the house from time to time. People generally have a sense of pride about their area and like to have their house looking well, properly painted and with gates and fences in good order but it is difficult

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to get anyone to do these small maintenance jobs. It is all very well for people who have relatives or friends who can help, but in many cases elderly people do not have anyone to help them, especially those who have moved to new areas.

Services for the elderly should be provided at an affordable rate. In County Meath, among other counties, a programme of works provides services for the elderly and although it operates on a not-for-profit basis, the charge is still €10 or €15 per hour which can amount to €50 or €60 as most jobs such as repairing a gutter or doing a painting job can take four or five hours. Elderly people cannot afford to pay these amounts. The Government must establish schemes in communities, be they voluntary or otherwise, to help elderly people who need odd jobs done. This will help people remain in their homes for longer and help them feel happy and proud to be there. People sometimes opt to leave home to go into a nursing home because they are no longer able to manage the small jobs it is necessary to do from time to time. In many cases, a little help would go a long way in terms of keeping people at home where they want to be, in their communities with their friends and neighbours. We must endeavour to do this.

**Mr. Durkan:** Hear, hear.

**Mr. English:** Provision has been made in the planning legislation for child care facilities, community facilities, green spaces, open spaces and so on, yet there is no obligation to provide facilities for the elderly. Planning has moved on from the stage of one application per field to local area plans and the development of 100 acres at a time — strategic development zones or SDZs. These involve comprehensive planning for an area to provide all the services required for community use, child care and so on, yet no reference is made in the planning laws to providing facilities such as nursing homes for elderly people. We must examine this issue so that when areas are first being developed we can provide facilities for the elderly. It is more affordable to provide such facilities when it is done at the planning stage.

The Government should also encourage people who are building houses to allow for a granny flat or some accommodation to the side of their house. A small grant could be provided for this purpose. If the work is done at this stage it will save €60,000 or €70,000 in ten or 15 years' time if people then have a need to modify their homes to cater for an elderly or disabled family member who can no longer live alone. People should be advised that it would be wise to lay out their house in such a way as to make it easy to modify at a later stage should that be necessary. In certain areas, building regulations now specify that doors must be a certain width to ensure homes are suitable for disabled people or those in need

of a wheelchair. Some regulations also specify the inclusion of ramps.

People should be encouraged to take these things into consideration without putting a great financial burden on them. We should all be mindful that we may have to take in an elderly relative some day and that houses should be designed in such a way as to require minimal modification. This will reduce the costs to homeowners and the State in the future. It is not rocket science. A little encouragement is all that is required. We, in the House, are all aware of the situation as we deal with it regularly but, in general, people may not think of such things when they plan their new house.

Sufficient support is not available for people in the home and they are begging for help. In some cases they require very little to allow them to stay in the home. Sometimes it may only be the loan of special equipment that is difficult to get but is available from the local Health Service Executive office. We should jump at the opportunity when a family member tells us he or she wants to keep his or her elderly relative at home. We should do all in our power to facilitate them but we do not.

We must provide more community nursing home beds. The only one in my area is St. Joseph's in Trim. It provides an excellent service. People are queuing up to get into it. The waiting list is long due to demand on the service. I am sure there is such a centre in every county but there is a need for three or four of them. Community nursing homes should be available in every town. Even if the cost of this service were to increase it would still be more affordable than private nursing homes. The standard of care in the nursing homes under the ownership of the health authorities is second to none. They are brilliant and we need more of them. It is as simple as that. There is no other way around it. Tax breaks should be given to people to help build them cheaply without the involvement of the private sector. Most nursing homes provide a very high standard of care but some do not and try to take advantage of elderly people in their care. Such practices must be checked and examined but we are failing to do so properly at the moment.

Subvention rates are deplorable and do not meet even 20% of the cost of nursing home care. Assessing someone's needs involves assessing his or her savings and how much of them could be used to pay for a year's worth of nursing home care. Some wise individual has decided that a home worth over €300,000 should be assessed differently in certain areas. People now pay €300,000 for a cottage, which they then bulldoze and replace with a new house. The average bungalow probably costs over €500,000 in Wicklow, Kildare and Dublin.

**Mr. Durkan:** It is €600,000.



**Mr. English:** Many elderly people live in houses in the country which are worth over €300,000 and yet we have decided that anything above this figure should be assessed. Where did these figures come from? Can we not produce figures which reflect reality? The sum of €300,000 is sufficient to purchase a site in most areas. I accept that prices are different in other areas of the country, such as the west, but prices should be adjusted to match different areas. An allowance of €500,000 is made for Dublin but this figure would not buy a person much in the city, particularly in light of the fact that many elderly people live in homes worth over €500,000 in inner Dublin. We should be realistic when we address this issue. Perhaps when a Bill comes before the House, its framers might tell us the truth and address real life because this would go down better and save us from being forced to constantly argue with them. The public wonders what planet Members live on when they read about some of our debates, the figures we quote and the way in which we congratulate ourselves on the great work we do for elderly people. We do not carry out great work for elderly people. Most elderly people do not have the option of remaining in their own homes and we are failing those who wish to do so.

**Mr. Durkan:** I congratulate Deputy English for his excellent speech which addressed all the major issues in this debate on care for retired or elderly people. He encompassed the words of many of us who have served in this House for far longer than him. One issue he addressed concerned disabled person's housing grants.

I had the privilege of processing the first disabled person's housing grant in the local authority in my area in 1976 or 1977. I cannot remember how much the grant was but it was sufficient to make a major contribution to an extension to a house to facilitate an amputee. The first inquiry was made in August and the work was finished by November. This was in the days before computers and all the developments which are supposed to have been so beneficial to us since then. It was before the introduction of a slick assessment of planning applications in local authorities and before the same degree of care and attention was given to elderly people. Yet, everything was put in place in the space of three months. This included planning permission; it was not even an exempt development.

It could take three or more years to achieve such an outcome for elderly people today. If we discuss nursing homes and nursing care and attention, we must also weigh up the alternatives and whether they are made available. In the past two days, I was asked to visit a family whose home is in a serious state of disrepair. The household includes a person with special needs who uses a wheelchair and attends a day care centre and another person who acts as a carer. Buckets are used to catch water leaking from the roof, water is running down the walls, the house has rising

damp and birds are building nests in the rafters. The house is dilapidated to an embarrassing degree.

After some investigation, I discovered the local authority had, as my colleague noted, made the two people an offer, an offer they cannot refuse. It offered them a new house which was between ten and 20 miles away. People who have lived all their lives in one place do not want to move away from it. They wish to stay among their friends who they have known all their lives and in a place where they have ready support and where they know and can talk to, rely on or argue with their neighbours. To shift them 20 miles away from their original home is unfair on them because it changes their entire lifestyle.

The local authority's next offer was, to use that famous phrase, a demountable dwelling; the answer to the Lord's Prayer. I queried whether it might not be better to issue the maximum rate of disabled person's grant and use it to refurbish the house as much as possible, re-roof it, make it comfortable for its occupants and then leave them alone. I was told by the relevant officer that the local authority did not plan to do this because it had decided on the two options to which I have referred. I queried whether such a decision was democratic and stated that a little care and compassion for the people concerned would not go astray but to no avail. I asked which person had made the decision and was told that such information could not be divulged because it was confidential. This attitude is becoming more prevalent in public services. We are told the information we seek is confidential.

The reality is that, in the 21st century, we care less for the elderly than before. We pretend to care more but we actually care less and are prepared to do less to accommodate people with particular needs at particular points in their lives, which is disgraceful. At some stage, our society will be judged by all and sundry on the way in which it treats people who are in need at any given time. We have spoken about this issue in this House on several occasions in the past and I do not know why it has not sunk in. I am aware that every Minister has the best intentions and hopes to wake people in the public services but a serious wake-up call is required because some schemes are being operated solely on an economic basis. The tap is turned off at a certain point and certain people lose out. What happened to concern and care for the individual? What about the individual's needs? Do they take precedence or are they considered?

I ask the Minister of State, who is a caring and compassionate individual, to make a few phone calls to local authorities and the Health Service Executive and not allow local Deputies to be fobbed off with copies of replies to constituents. Such replies merely tell the constituent that the relevant individual is not prepared to authorise a payment or service. These replies are glib, concise, abrupt, callous, cold and uncaring. We, as



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public representatives, should not be forced to write back to these people and inform them that they are not the sole arbiters of these issues and that other people have views that are as valid as their views. We should not be forced to do this and revisit the same issues.

Some members of staff in local authorities and the Health Service Executive instruct constituents not to talk to their local Deputy or other politicians because they apparently know nothing about such issues. These are not isolated incidents. I can quote chapter and verse in respect of such incidents which take place around the country. This type of conduct will not continue indefinitely because a change will take place at some point. The people who hide behind what they now see as safety will not hide forever. There are serious problems which must be addressed in either the short or long term because there will be fun in the future if they are not addressed.

Deputy English addressed the adequacy of nursing home subventions, an issue which has been debated for many years but not resolved. I do not know whether we will resolve it because problems will arise as long as a person's home is assessed as means in the process of identifying his or her entitlement to subvention. As Deputy English said, the value of a humble home is sufficient to put people outside the qualifying income limits and, consequently, they get nothing.

I have spoken about a sad situation in the context of another Bill, that is, a family member who lives with one of his or her parents and may have joint ownership of the family home, which is included in the arbitrary assessment. The junior member of the family will inherit the home, but to ensure he or she does not inherit easily, a bureaucrat somewhere has decided to assess the person on half the value of the family home, which could be €250,000 or €300,000 depending on its location. As a result, that person is burdened.

What can he or she do? Such people talk to us, we make representations, bureaucrats decide to give responses, if "response" is the proper description, and the situation continues. Sometimes, representatives only receive replies to queries a year later. Ministers must accept responsibility for these matters. Were I a Minister in a Department that treated people in this way, I would go mad, as would anyone in the House. The time has come to put care, feeling and humanity into how some applications are dealt with. A little bit would go a long way.

Caring at home has been mentioned. Times and the economy have changed considerably and it is not always as easy to care for people at home as it used to be. However, there are people who are willing to do so where it is possible. I welcome the improvement in respect of the carer's allowance, but it could be improved further because many people do not qualify for various reasons.

Building an adjacent structure to a house can be helpful in some cases. I can cite a classic example of how daft bureaucracy can be. A man decided to build an extension to his home when his mother-in-law arrived to live with his family, who was a young woman at the time. The extension was an upstairs conversion above a garage or something similar. After some time, the woman was not as mobile as she used to be and it was decided to apply for planning permission for a downstairs extension. The family applied to the local authority and was refused five times. Why? Planning permission was bad enough in the past, so why do people adopt and stand over such stances? The case was made that the woman was not as mobile as she used to be, the circumstances had changed and no law would have been broken if permission had been granted.

On disabled persons' grants and nursing homes, one must weigh the alternatives. There was a tendency, and some evidence indicates it remains the case, that to qualify for the disabled persons' grant, such modifications would need to be made to the house as to make it impossible for a reconversion after the disabled person left without razing it to the ground.

For example, a ramp would stretch diagonally across a garden from the front gate to the front door. I cannot understand why anyone would design this, as it is wrong in two ways. First, it gives a signal to potential burglars that a disabled person lives in the house. Second, it is dangerous because it is a diagonal construction across a rectangular plot. Anyone who knows about health and safety matters would know what this means. Imagine what it would be like for an abled person to walk in the front gate after drinking two or three jars in the local pub. It is crazy. It would be simple to do a good job without decimating the house. A straight run could be built to a garage or somewhere nearby, a ramp could be enclosed in the garage and no one would see anything.

Another tendency was to tear out the inside of the house or modify it to the extent that to qualify for the grant, it would not be possible to reconvert the house. For example, two walls would be demolished, load-bearing girders would be installed and so on. It was nonsense. Why not simply build an extension to the side of the house?

My last example is as true as I am standing here. In the past four years, a widow applied for a grant to build a downstairs extension because she was suffering from a terminal illness. The usual assessment was carried out by the usual bureaucrats and a port-a-loo was bolted onto her house's gable because it was decided that such would be sufficient to meet her lifetime's requirements. I do not want to shock people, but if any Deputy were to be treated in this way at any stage of his or her life, it would be a sad stage in the country's development. Caring and compassion do not go hand in hand with this attitude. I am referring to these matters to identify the difficult

issues facing people who may have the option to be cared for in the community or may be forced into residential care.

My constituency is lucky to have a number of nursing homes, all of which are of high quality and standard and are providing a good service. From time to time, there is an odd glitch. While I am never one to shirk when it comes to telling a person my views on his or her operation and never will be, we should give credit where it is due. Generally, the nursing homes provide a good service. The subventions to date must be examined carefully, but they must keep pace with nursing home charges.

In some quarters, there is a perception that elderly people are a burden on society, that they have worked, earned money and stashed it somewhere and, consequently, their money should be extracted from them by fair means or foul. Deputy English referred to a bank official. I view the matter in another way. For example, persons from a part of the income scale may have worked for their lifetimes, given their best to society, reared their families, built their houses, got and repaid their mortgages and, in many cases, are attempting to repay their children's mortgages, including by remortgaging their own homes. Having done all of this, there may come a time when a bureaucrat must make a decision on whether they will get support, but the qualifying income limits will be a barrier.

These people have paid society, which has not been taken into account in any way. They have carried their burdens, moved along, done their jobs and should not be punished as a consequence. If they had sat idly by and done nothing during their lives, they would be better rewarded. We must respect their lifetime contributions. Instead of evaluating their eligibility for something on the basis of the few euro they have in the bank by the time they reach 80 years or 90 years of age, they should be judged on their contributions to society. Were this factor taken into account, their entitlements to nursing home subventions would be more fairly based. My experiences are similar to those of other people. We come into this House and talk about those experiences, the Minister thinks about what we have said and his officials take notes and discuss what they hear. When the notes are written, the experiences related on all sides of the House are well rounded in the best Irish tradition. They should be taken on board so that reality dawns on those dispensing and administering in this area.

**Mr. McHugh:** There is a basic inequity in the making of assessments and a disparity in nursing home subventions in different parts of the country. Unfortunately in the western region, the subvention is lower than in other areas. I have raised this with the Tánaiste but she has given the standard answer that the HSE is the body responsible etc. It is not good enough for the Tánaiste to wash her hands of this disparity by saying the scheme

is administered by the HSE, thereby attempting to distance herself from any blame for this unacceptable method of dealing with elderly people. When those elderly people were paying tax, there were no graduated contributions, they paid the full amount regardless of their capacity. People in the west paid the same tax as those in east. When it comes to care in their twilight years, there should be no discrimination and every senior citizen in this country requiring nursing home care should be treated equally.

It is no defence for the Tánaiste to hide behind the HSE. She is the Minister for Health and Children and the buck stops with her. She should immediately take the necessary steps to rectify this situation. As a democrat she should ensure all citizens are treated equally and fairly. Senior citizens are depending on her for protection.

It is no coincidence that elderly people in the west are treated as second class citizens. The Government thinks that second rate treatment is acceptable for those in the west, as we see from the absence of the BreastCheck programme. Why are we being treated like this? For women in the region, it will be 2009 at the earliest before the first cycle of BreastCheck will be completed. It is unacceptable that such discrimination should occur. All women should be treated equally.

I welcome this Bill. It sets an existing scheme on a sound footing. It is important that we place it in the context of the problems surrounding nursing homes in the State. The regulatory regime has been found wanting, with tragic consequences for many older people. Most of those providing private nursing home care do so efficiently but there are also many institutions where standards are poor. The State has still not invested resources to regulate this sector properly. It must act now before there are more scandals like that in Leas Cross nursing home.

The Bill makes provision for the assessment of older people's means when they apply for subvention but there is no provision for accountability on the part of the proprietors of nursing homes and no check to establish if they are providing the range and quality of care needed by the older people who will benefit from the HSE subvention. An ongoing assessment must be put in place. The current lack of regulation and an independent nursing homes inspectorate is intolerable. It is incredible that in a modern society, care for the elderly is being overlooked in this fashion. Many of the elderly currently in nursing homes are responsible for the success this country is now experiencing, they have worked hard all their lives and have made the Irish State what it is today and we owe them a debt of gratitude. At a minimum, we owe it to them to ensure they have a proper lifestyle and are treated with dignity and respect.

To be sure this happens in our nursing homes there must be proper regulation. The inspectorate should be for public, private and voluntary nursing homes and should have the resources and

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powers to allow it to carry out its functions. It is vital that the inspectorate is made up of the appropriate professionals to inspect all aspects of the service. The reports of all inspections must be available to the public free of charge so there will be transparency about standards in nursing homes. People cannot be put away in substandard conditions. The elderly are vulnerable and we cannot ignore issues about the standards of care in nursing homes.

The lack of funding for special housing aid for the elderly, specifically in east Galway, is a scandal. The failure of the Government to make adequate funding available to elderly people to enable essential repair work in their homes is deplorable.

The special housing aid scheme for the elderly funds essential work on houses owned by people over 65 years of age who live in unfit or unsanitary conditions. The works that can be funded are basic and essential, such as providing indoor toilet facilities or fixing leaking roofs in houses where the elderly resident cannot afford to carry out the work. There is no more money, however, to carry out work in east Galway for the remainder of the year. The authorities are advising people not to apply and that is deplorable. It is a terrible way to treat senior citizens who have made a contribution to society and who find themselves living in substandard conditions. By not providing these funds, the Government is creating a problem whereby more nursing home beds will be needed because people cannot be expected to live in houses that have leaking roofs or no indoor toilet facilities. It is sad that our elderly citizens who have worked hard and helped make this country what it is are being treated so badly by our Government. I appeal to the Minister, if nothing else, to take up that issue with his Government colleagues to ensure this scandal is addressed immediately.

**Mr. Gogarty:** I thank the Chair for allowing me to speak following the mix up in slots. We have been waiting for this Bill for almost a year and a half and we are still on Second Stage. I realise there is other important legislation to be dealt with, particularly that to be taken tomorrow which should supersede everything else, but this Bill is dragging on and is unlikely to be approved until the autumn, which is regrettable. That may be bad but what is even worse is the scandalous delay, to paraphrase Deputy Joe Higgins, in introducing the legislation on an independent inspectorate for nursing homes. That is even more urgently needed given the reports on Leas Cross and other facilities published in the past 12 months or so.

It appears that all important legislation debated in this House is forced upon the legislators as a result of events, to use that unfortunate term, or court decisions. We have only to witness the sorry situation regarding the release of the

child rapist dubbed Mr. A and the possibility that in an hour's time Mr. B might also be released to realise that the Government was caught napping and had to react. In that respect I welcome the legislation to be debated tomorrow on the age of consent and the rape of children, which is crucial. I refer to it in case I do not get a chance to do so tomorrow.

Similarly, this legislation is being debated as a result of events, namely, the revelations about conditions in Leas Cross nursing home and also, to a lesser degree, the fall-out from the payments issue and the illegality that arose around the same time. The appalling treatment of a few individuals in one facility brought on a media investigation which highlighted other cases throughout the country and brought the mistreatment of the elderly to widespread public attention. That is one of the reasons this legislation comes before us now.

This legislation is flawed in respect of one issue, namely, the implementation factor. I will deal with some of the issues in the Bill in due course but the conditions surrounding this at the moment are chaotic. It is a time of chaos in the health service. We have no new public nursing home places, despite a commitment made by the Government that 2,000 would be provided. We have no new strategy for the care of older people and, as I said at the outset, no independent inspectorate.

This Bill appears to be a charter for the rich and a slap in the face for every other older person who has contributed to society over many years. Social welfare recipients are being told they can pay for a private nursing home when no public ones are available. Although the Supreme Court upheld their rights, their rights continue to be trampled on because subventions, about which there is much reference in this legislation, mean nothing in terms of private nursing care if one does not have the money to top up one's social welfare payment. Enhanced subventions, which other Members spoke about, might be available in some cases but eventually, under the current funding arrangements, people will be drawing lots or told, as one speaker said some weeks ago, that they have to wait for someone to die. That is not good enough and it will do nothing to help take out of the public hospital system the elderly who cannot afford private care. It will mean people will continue to live in poor or unsuitable conditions for many years until someone dies and a public space becomes available.

There is only so much outrage one can spout in this Chamber without sounding like one is playing to the gallery but this is one issue — and I have said it in regard to nursing home charges and repeat now — that is an absolute outrage in terms of our older people. It is an outrage and a scandal that the people who paid the highest taxes and contributed to the birth of the Celtic tiger are now being mistreated in this appalling fashion.



While we have some amendments to the legislation to introduce a system of approving those who may qualify for public and possibly private nursing home care, we still have not tackled the fundamental issue of paying for it. That is the problem. The legislation only ensures that the sorry situation that currently exists has some form of legal protection, rules and regulations. I have examined some of those in terms of what constitutes a person's ability to get different types of funding in various scenarios and the worst case condition is where a person does not have a top-up pension and is on the lowest social welfare payments available. This does not do anything to facilitate people entitled to public nursing home places to get into private nursing homes. That is just one issue.

My colleague, Deputy Gormley, who is health spokesperson for the Green Party, related to the other factor in the equation in terms of the lucky few who get into private nursing homes. That is a lottery, however, in that people cannot tell whether they will find a facility that will care for them. We know only a minority of establishments have been shown to be seriously lacking but in many cases because of cost and geographical factors, one cannot necessarily choose where to go. The issue of choice is a real one. We can say people can look around or the sons or daughters of the people in question, or they can visit a few places, be sold a few platitudes and in they go. It is very difficult to get out of a situation like that when one has committed oneself financially. That is for the people who can afford to commit themselves financially. For those who cannot afford it, we are talking about people who are left in their homes in a condition where they cannot look after themselves and where there is no community care, even though community care is supposed to be provided.

I will quote from a letter written by a health care worker who, for obvious reasons, wishes to remain anonymous but it outlines some of the concerns being expressed. The letter was written to Deputy Gormley following his comments on radio about the poor care in nursing homes. This individual states:

I too have very major concerns that the HSE and the Department of Health are not taking the issue seriously enough . . . [That is the issue of nursing home care] . . . and in particular that the HSE are more defensive of themselves than of the care and well-being of the vulnerable people who are supposed to be protected by them. Your report [that is Deputy Gormley's report] of staff concerns effectively being stymied by insisting that they are formal complaints has a ring of truth.

Sadly, this attitude is all too evident in their approach to Professor O'Neill's report on Leas Cross, which has been with them since February (first draft) and a relatively unchanged second draft . . .

According to this person it appears that the attitude is more about concern for the impact of the report on senior HSE staff and recently retired staff who have returned on contract rather than patient care. The person finally states:

It would be of great service to the public if the report were released promptly as it outlines a series of system failures which require urgent attention, and which are likely to mean that poor care is widespread and unchecked in the nursing home system.

I deeply dislike writing anonymous letters — this is the first in my life — but you are aware of the culture, and it is good to hear a sympathetic and firm approach.

Yours sincerely,

A concerned HSE healthcare worker.

It has got to the stage where members of staff are writing anonymous letters even though Deputies and Senators do not make names available under the Data Protection Act but this person was so afraid that their name would get out as having criticised the malaise in the health care service they would not give it.

The point that person made was valid. Members of staff are afraid to raise issues until they turn into major issues with formal complaints, *de facto* identification of those involved and the risk of intimidation. Why can the system not be made easier? The establishment of an independent inspectorate for public nursing homes would help so why the delay? Deputy Gormley and others have tabled questions to the Tánaiste and Minister for Health and Children about this matter and on his behalf I intend to ask her whether the Government has lost all credibility on the issue. Is the Government trying to drag it out because an inspectorate might identify problems which exist, both in terms of the care provided and in terms of the substandard accommodation which still plagues our system?

In contributions, Deputy Gormley and others referred to the long list of inadequacies which were identified, but it seems nothing will be done about them. The Government has reneged on its commitment to provide public nursing homes, and it is not training sufficient specialists, or even those who are not specialists but who require a modicum of training to carry out duties effectively.

The issue of community and public care units is not being looked at. Lip service is being paid to the matter, but I do not see them on the ground. Other Deputies have spoken on the issue of community care. It should be remembered that only a small minority of older and vulnerable people require full-time or part-time care. If possible, such care needs to be carried out at local level within the community.

In my constituency, the St. Loman's Hospital lands were sold for €31.5 million, and it is worth noting that some of that funding is going towards



[Mr. Gogarty.]

community care. I welcome that, although I realise it is for mental health issues, though some of it is for elderly people. The money should be spent within the area rather than being dispersed for hospitals for elderly people.

In ten years, hospital beds will still be taken up by older people unless investment is made to open 2,000 community care places. These are meant to be separate beds for older people. Not having a background in health, I sometimes get confused by the use of the word “beds” for elderly people. These are separate to beds for people who have medical conditions. There should be no place for an older person in hospital unless they have a medical condition, even if it is in an annex. These people belong in the community, be it in a properly inspected public nursing home or a private nursing home if the person can afford it.

Deputy Gormley also referred to the wider issue of people not necessarily having to go into nursing homes because they may be living longer, be independent and healthy. There is an issue regarding the overall treatment of older people and Government policy on health care. For example, this relates to tax incentives for matters such as gym membership, active retirement associations or even mixing in adult education and subventions for VECs, which have diminished in recent times. It is now more expensive to do an adult education course.

These might seem distant or unrelated to the issue we are discussing, but the more people are kept active and involved both mentally and physically, the less likely they are to be dependent. For a relatively small investment for many people now, one would not have to worry about the nursing home issue, hopefully not ever and definitely not for a considerable period. The related holistic community-wide measures can also be looked at in parallel to the immediate emergency situation. The Government should be planning for both of these simultaneously so that in a few years, we do not have more people who could have been active and engaged in the community but who are on the scrap heap because of a lack of foresight in Government policy.

That is a serious indictment of the way we value our older people. Government policy must reflect respect for people who put me in my current position, gave me an education and made me as articulate as any other Member of this House in representing their views. Without the efforts of people like that, we would not have the calibre of Deputies and Senators which we have today, or the calibre of business people or teachers, for example.

The people who made our State the economic powerhouse it is today are those who we are trying to thank, but we are doing it very badly. We must recognise and respect what these people have done for us and give them the dignity and courtesy of a proper retirement with appropriate medical care and support. That is not happening.

Without financial input accompanying the Bill, it will not happen. It seems to be a list of reasons why money will not be received as opposed to a list of guarantees. Under the Constitution one is entitled to health care, and the Government should back this up with money. There is very little in terms of additional financial investment.

We know there is a problem, and various Ministers with responsibility for health have acknowledged it. The Tánaiste and Minister for Health and Children, Deputy Harney, has also acknowledged that a problem exists. If a problem is recognised and nothing is done, it is a bigger sin than what has happened this week, where the Government indicated it could not foresee the Supreme Court decision. We foresaw the issue of elderly care and we have seen that we are not properly inspecting our nursing homes. We have seen this matter coming and we can do something about it this year.

Why are we not doing this? We should be able to see the problem, resource the solution and give our elderly the respect they deserve. At the next election there will be some new Deputies whose education was funded by people who are now in need of State care and who will be saying the same thing I am. They will argue that we need to respect our elderly. In five years I do not want to be saying I warned people but I was talking to a blank wall.

**Mr. Hayes:** This is a great opportunity for us to have our say on a Bill for many elderly people we represent in our communities. When this Bill was published, I was looking forward to the many areas it could cover. On reading it, I was disappointed. The contents of the Bill show more of what is not there than what it contains. A glorious opportunity to address the huge issues concerning elderly people in our community was missed.

Everybody who represents people or carry out work for the elderly in the community knows only too well the large amount of issues which concern the elderly people in our communities. The population is growing older, and we are all keeping ourselves fit because of better health care. People are living longer, and as a result, much pressure is being put on the system.

Report after report has been published with regard to the elderly in our community. The Ombudsman has looked at nursing home subventions. The national health information strategy was published in November 2001, and following its publication the Government published its national health strategy, in which it promised to clarify and define eligibility for health and personal social services.

That was never acted on. With the Sustaining Progress special care initiative, the Government gave a commitment to publish the study and examine the future of long-term care. What has happened to this? The Ombudsman also considered the issue. The O'Shea report contained significant issues, findings and recommendations.

It pointed out, in one document, problems which exist for the elderly in our communities and what needs to be done.

One could go right across the board, even to simple issues such as housing aid for the elderly, which was mentioned. The lack of funding for housing aid for the elderly is a disgrace. In every area across the country, it is seen as one of the finest schemes devised, if it is funded. However, it is not. Every May, June or July the funding runs out — in some areas it has already run out for this year. At a time when huge resources are available to Government and we boast about how strong the economy is, simple projects that would make life much easier for the elderly in our community cannot be delivered.

The aim must be to allow people to live in their communities. Most of our elderly want to stay where they have become accustomed to live, with their families, and do not want to be put into long-stay care, though some obviously must. Grandchildren want their grandparents to live with them but we have not seriously addressed the issue. Last weekend I attended a funeral in my constituency where three grandchildren of a 95 year old lady, though sad at her death, expressed pride at the fact that they had looked after her in their home. A 95 year old lady was sent from Tipperary to Waterford Regional Hospital, where she was kept waiting for a full day for a small problem with her eyesight to be attended to. She is now deceased. Such treatment is unfair in a State such as this.

Many families have been waiting a long time for subvention, which is an onerous burden. All of us, as public representatives, deal with the issue in our communities on a regular basis. Only last week I attended another funeral of a person aged 87 who had been seeking the subvention from the health board and then the HSE in the county. He paid his taxes all his life and had worked very hard. He had one leg amputated a year and a half ago and was fighting with the health services for three years to resolve an issue. A week ago last Monday he was informed he would get the subvention but he only lived until the following Friday. It is unacceptable that such a situation should develop. I do not wish to frighten anybody but these are examples of how we, a supposedly Christian, caring country, treat our elderly people.

I do not enjoy citing those examples but they are facts. We must bring legislation before this House as soon as possible to address the plight of the elderly and improve their quality of life. The Bill deals only with a small aspect of the problem. Support services for the many people who wish to remain in their community are dismal. Public health nurses——

**Mr. Hayes:** Home helps — we could mention the whole range of services.

**Mr. M. Higgins:** They have all been cut.

**Mr. Hayes:** They have all been cut, which creates problems for those trying to care for the older people who live with them. The country needs more public health nurses because they would reduce the cost of care to the State but, as Deputy Michael D. Higgins said, home help has been cut.

The quality of care has been discussed. Reports have surfaced about private nursing homes which failed to provide adequate care and found themselves in trouble with the authorities, which is as it should be. One half of St. Patrick's Hospital in Cashel, where there are 150 patients, is closed. We have lobbied for years for funding to open the other half because people live longer in such hospitals. I have visited it regularly and seen at first hand the care being provided. There are more people on the waiting list for St. Patrick's Hospital in Cashel than there are patients in it. The hospital is based on a model which works so the State should give people the chance to stay in such institutions and fund them accordingly. I beg the Government and the Minister of State to treat as models the many institutions around the country that have given great service over the years but have suffered cutbacks for various reasons. Every county should have one such hospital, if not two. It is vital that those owned by the HSE are developed and that more Exchequer funding is made available because they offer professional care.

Many people have difficulty with subvention rates. The rates do not seem to keep pace with the cost of a nursing home and it is a real problem. Hospitals should be graded to allow consistency of charges and a degree of control. People constantly petition us to review subvention rates because they find it difficult to maintain their elderly relatives in the community. The O'Shea report dealt with concerns about subvention rates, elderly people being forced into schemes and the lack of long-stay public beds in some areas of the country, which resulted in the inappropriate placement of some people and severe financial hardship for others paying for expensive private care. That needs to be addressed.

The report states that a significant number of elderly people in the subvention scheme are unable to maintain their payments and something must be done about it. Significant time costs are associated with the operation of the nursing home subvention schemes. Assessing people requires a great deal of administrative work and staff often have to ask the applicant for additional information, and to have recourse to other agencies for details in connection with an application. An application must go through a number of stages before a final decision can be taken. Simple cases can take four to six weeks to process. However,

**Mr. M. Higgins:** Home helps.

[Mr. Hayes.]

if additional information is required, the process can take longer. It should be a requirement that such decisions be made within a certain time-frame, as is the case with decisions on planning applications. I outlined a case in which a health board took nearly three years to make a decision on the subvention rate for one of my constituents.

I am disappointed the Bill does not address the wide range of issues affecting elderly people in our communities. Major issues have been addressed during the lifetime of this and other *Dáileanna*. I hope future legislation will address the full range of issues associated with care of the elderly in the community. We need to enable elderly people to remain at home by providing them with supports which enhance their quality of life. All of us, regardless of whether we like the idea, must face old age. We hear day in and day out how rich our economy is and how well-off we are. We need to implement existing plans which would make life easier for the elderly and tackle the hardship and drudgery experienced by those who provide care in the community.

**Mr. M. Higgins:** I welcome the opportunity of saying a few words on the Bill. Any legislation that addresses the issue of care for the elderly, particularly those who are dependent in any way, is welcome. However, when one considers what is required I must agree with Deputies who have suggested that the Bill takes only a small step.

In assessing what is required it is important to define the perspective from which one departs. It is clear the approach taken in the drafting of this legislation is not rights based because the Bill does not incorporate any principle of universalism. I will spend a moment clarifying what is meant by universalism. Universal provision arises from a view of citizenship which is based on the idea that certain rights are granted to citizens at all ages and that the rights one might expect in citizenship at a certain age, particularly in old age, are specified. In some respects, one of the legal confusion about nursing home care arises in this area.

This Government and other Governments have rescued themselves from the requirements of the Constitution by suggesting that the existence of a scheme of nursing home bed provision, for example, for those with medical cards, satisfies the constitutional obligation to citizens. It is only a matter of time before this assumption is tested and it should be correctly found to be unconstitutional. In a previous case it was found that when a bed in the public system is not available to a person, for example, a medical card holder who is entitled to a bed in a nursing home, he or she is entitled to require that the relevant body — at that time this was the former health boards — provide a bed in a private nursing home. This court ruling is probably one of the most clouded of all decisions on administrative policy because some of those who administer the system would

like to believe it does not exist and no attempt has been made either to draw attention to it or legislate for its extension and implications.

To move from this legal constitutional point to another obvious point related to health policy, it has not been to the benefit of the elderly, their spokespersons or public representatives that accountability for their care and responsibility for the legislation that addresses their care has been transferred from the Houses of the *Oireachtas* to the Health Service Executive. This move has made it very difficult to obtain specific answers.

To make my position perfectly clear, my first point is that a rights-based approach to the provision of care for the elderly is the only one which will answer current needs. My second point is that the proposal to allow private hospitals to develop on public hospital grounds is outrageous, given that voluntary groups, including active retirement associations and other voluntary associations dealing with the care of the elderly, have for years sought opportunities to have facilities provided, including on public hospital grounds, in which care of the elderly would be available.

In another life I was a sociologist by training. About 35 or 40 years ago, as part of my only experience in the United States, I worked with the late Professor John T. Liell of Indiana University, the author of a book entitled *Links to Life* which dealt with care of the elderly. An advanced study in its time, the book suggested that maximising the number of links people have to community allows them to lead longer and more full and active lives. This approach is clearly the way forward.

Public nursing homes, by reason of their responsibility to the public, provide greater assurance about standards. The day facilities available in some of them include laundry and day care facilities and opportunities for those outside who wish to maintain links to residents, in other words, they offer a full range of activities.

The argument in all our life cycles is that we begin with few links to life but acquire many more as we move from childhood into family life and the world of work. Thereafter, the curve shifts downwards and we depart, as it were, linkless just as we arrived. The main point, however, is that the more links that are available, the better. All this means that there is immense benefit in enabling people to spend as much of their life as possible in their own homes, which are positive and reassuring.

To be fair, I note this principle is partially acknowledged in the proportion of funding allocated for the forthcoming year. It is singularly misleading to the public, however, to give gross figures in all discussions on health matters. While it is politically attractive to be able to indicate that the gross figure for the current or forthcoming year has increased substantially when compared with a few years previously, what matters is the amount of time available to provide care, the degree to which services will be



extended and the quality of care available to the older person. It is not interesting, apart from being satisfactory politically, to project what will be the gross expenditure on services and care for the elderly either this year or next.

People want to know what has happened to the home help service; whether they will have more or less access to services and whether more or less hours will be available; whether a particular service is better integrated in the public health service and whether the amount of time available to public health nurses to care for elderly people has increased.

It is appalling in the city I represent that a woman who relies on dialysis treatment will have her taxi service to Merlin Park Hospital discontinued because the HSE has taken the extraordinary position that, with demand increasing, it must achieve economies by stopping its taxi service for dialysis patients. I became a Member of this House more than 20 years ago. At one time, if this had happened, I would be able to ask a question of the Minister for Health and Children and get an answer but I cannot get an answer now. Therefore, I began the laborious process of writing letters to the western section of the HSE and waiting for a reply. I was told the same information as was contained in the Minister of State's speech on this matter. The process is neither transparent nor accountable. It is appalling to suggest we should cut off a service like this in a country with such high income levels, however they are measured.

It is disappointing the promised public nursing home beds have not arrived. There is no justification for that. I invite the public to express their outrage as strongly as they can if a site notice for a private hospital is erected on the grounds of a public hospital, while at the same time these public beds have not been provided. It is an incredible indictment of the policy decision that simultaneously stands over the theft of public assets and the neglect of the elderly.

The failure to legislate properly for the inspectorate is equally unacceptable. From time to time, much has been said about the public and private health sectors. It is to the great credit of the public health system that it is accountable. It has built-in norms of accountability concerning new facilities that have been provided. I am thinking, for example, about one such facility in Kildare. The regime that operates in that public nursing home facility provides an excellent model for medical care and the overall delivery of facilities for older people, including chiropody and hair-dressing. I cannot understand, however, why we are not assuring the same standard across the system. It is one thing to create through the Finance Act incredible advantages for private nursing home developments but if there is to be a net transfer — which there was of approximately €56 million — taxpayers are entitled to ask that an inspectorate will ensure private services will be of the same standard as those achieved in the public

sector. It is deeply disappointing, however, that that is not so.

While I am critical of certain aspects of the Bill, I wish to translate such criticisms into positive proposals. Part of my criticism concerns the absence of a policy based on rights of the elderly, citizenship and the principle of universalism. Means testing is costly, fallible and administratively difficult to deliver. There are two forms of qualification in the Bill, one of which concerns dependency. I read the Bill with a certain amount of concern because the qualification is defined in terms of physical dependency. I refer to Part 2, section 7B(2)(a) on page 6, which states:

the applicant's ability to carry out the activities of daily living, including the applicant's—

- (i) degree of mobility,
- (ii) ability to dress unaided,
- (iii) ability to feed unaided,
- (iv) ability to communicate,
- (v) extent of orientation,
- (vi) cognitive ability,
- (vii) ability to bathe unaided, and
- (viii) degree of continence.

While I do not have an argument with that list, there are other items one could add to it.

Part 2, section 7B(2)(b) refers to “the family and community support available to the applicant”. In that regard, there is a straight, hard fact concerning Ireland, which is how willing families are to look after the elderly. A cultural change has occurred here, which is not necessarily good, in that there has been a decline in the willingness, ability or amount of time a family has to be able to look after an elderly relative. We should be careful about this. One can answer the question by looking at the number of people aged over 60 or 65 in the labour force. Increasingly, one finds the economy is gobbling up all the available social hours in a person's lifetime. The Tánaiste has lectured all those aged under 70 that they are in danger of betraying the economy unless they last until 75 and drop dead. Given the nature of the economy and our views on social time and working time, fewer people will be left to take care of the elderly. If that is to be the case, let us hear about the State's responsibilities to the elderly in rights-based legislation.

The second set of qualifications concerns income. Section 7B also refers to the applicant's principal residence for purposes of valuation, unless a person has disposed of it “within the five years immediately preceding the date on which the application is made”. Exclusions apply when the applicant's principal residence is continuously occupied by the applicant's spouse, a child under 21 years of age, or a child in full-time education, and so on. The valuation is not only made on the home but also on its contents. For example, if one



[Mr. M. Higgins.]

inherited a painting or other valuables they must be listed also for purposes of valuation. This valuation system is against everything we know about the social orientation of old people and the importance of that which is proximate and valuable to them. We must take the family home out of consideration when assessing attributable income.

We also need to examine seriously the subvention system and make it available on the basis of equality to a person relying on any form of social welfare or even on the minimum wage. If a person qualifies on the basis of disability and income level, they are then categorised on the basis of extreme, medium or simple dependence. How can the weekly allocation of approximately €195 enable a person to enter a private nursing home in any part of the country, even though they are entitled to do so under the terms of this legislation? A person may reach the maximum dependency and qualify under the income criteria but they are still limited to an allocation of €195 per week so where will the rest of money come from? Which nursing homes will accept such a person? They do not exist. We are retreating all the time from a rights-based approach to planning for the elderly.

I could argue about why such an approach should be adopted. For example, during one's working life the levy for future pension provision applies. One could argue that the right way to go about it is to make compulsory provision for pensions in future, if necessary. The State could construct a rights-based system governed on universal principles. If Irish law could fit easily into European legislation or international law generally, it would be moving towards granting rights to the elderly. That is the way the legislation is going and it is the way future legislation will be forced to go as elderly people seek to vindicate their rights beyond the framework of Irish law. It would be wise to see this as a limited Bill. We need to resource our planning for the elderly and to do so by having a far wider legislative base.

Debate adjourned.

#### **Business of Dáil: Motion.**

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

That, notwithstanding anything in Standing Orders, the order of the Dáil today is hereby amended by the substitution of the Criminal Law (Sexual Offences) Bill 2006 for the Criminal Law (Sexual Offences) (Amendment) Bill 2006 in each place where it occurs.

**An Leas-Cheann Comhairle:** Is that agreed?

**Mr. M. Higgins:** A Leas-Cheann Comhairle——

**Mr. Kitt:** It is simply a correction of the title. It is a technical matter.

**Mr. M. Higgins:** Is it proposed to distribute the change to the order?

**Mr. Kitt:** Yes.

Question put and agreed to.

#### **Estimates for Public Services 2006: Message from Select Committee.**

**An Leas-Cheann Comhairle:** The Select Committee on the Environment and Local Government has completed its consideration of the following Estimate for public services for the service of the year ending 31 December 2006 — Vote 25.

#### **Ceisteanna — Questions.**

##### **Priority Questions.**

##### **Nursing Home Inspectorate.**

1. **Dr. Twomey** asked the Tánaiste and Minister for Health and Children the efforts she has made to introduce an independent nursing home inspectorate; and if she will make a statement on the matter. [21492/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** On 7 April 2006, in line with commitments I gave during the debate on the Health Act 2004, I published, for consultation purposes, the draft heads and general scheme of a Bill providing for the establishment of the health information and quality authority, HIQA. Included in the scheme is provision for the establishment of the office of the chief inspector of social services within HIQA. The office of the chief inspector will be assigned responsibility for the inspection of residential services for older people, including private nursing homes.

The public consultation on the draft heads concluded last Friday and I intend to seek Government approval as soon as possible to commence drafting the full Bill. It is my intention to publish the Bill during the autumn session.

**Dr. Twomey:** This is a difficult point for many on this side of the House because the Tánaiste is doing nothing to protect patients in nursing homes. On this date last year, during Leaders' Questions, the Taoiseach stated: "The legislation will not be ready before the summer but will be introduced in the autumn". That was to be the autumn of 2005, not 2006.

Does legislation prevent elderly patients being tied to chairs or beds? Will it stop staff shouting at patients? Would it have kept alive Peter McKenna and many other elderly patients in

similar circumstances? That is a question we and the Tánaiste should ask.

The Tánaiste has a terrible record with regard to legislation. She has a sense that the public does not understand legislation and, therefore, she does not have to care about what it means, which is an important point. The Minister for Justice, Equality and Law Reform has shown the public how important legislation is in the past week. The Tánaiste should give a much clearer answer as to why she has failed to deliver this legislation in the past 12 months.

We are in the House as legislators, which is our official title. However, we have failed to deliver the most basic legislation to protect vulnerable elderly people in nursing homes. It has been discussed and the Government included it in its election manifesto in 2001, otherwise known as the health strategy. It included it in its programme for Government when the Government was re-elected, promising to protect patients. When the Leas Cross scandal broke last year, the Tánaiste and the Taoiseach said all the right things when in front of the television cameras but in the past 12 months they failed miserably to deliver the type of legislation the House is supposed to deliver to protect elderly people.

It is not good enough to tell the House the social services inspectorate will be part of the health information and quality authority, when or if the authority sees the light of day during this Administration. The issue of the health information and quality authority Bill is currently out for public consultation. It may be back by September but it is also possible it will not see the light of day. We are not moving quickly enough in this regard.

In the past 12 months we have come back to the House with emergency legislation on at least two if not three occasions, and we will do so again tomorrow. It is a damning indictment that we are officially described as legislators yet this is the sort of carry-on we must put up with. The two-line response of the Tánaiste to my question is not good enough. I would prefer to know why she and the Department failed to introduce the Bill in the past year. What excuses are they giving each other? They need to fully comprehend the importance of this legislation and what it means. It is just another Bill lying around the Department for God knows how long, just as reports which the Tánaiste is afraid to publish are lying around. Where is the O'Neill report, which we have heard nothing about? We have Question Time to get proper answers.

**Ms Harney:** The Deputy misunderstands the situation. I have been in the House for 25 years and was in the Seanad for four years before that. I mention that because there has never been a time when more legislation in the area of health was passed or in the pipeline than in the past couple of years. Legislation in the Department of Health and Children is getting much greater

attention and priority because the focus and role of the Department is clearer as a result of the division of responsibilities between the Department and the HSE.

We published the health information and quality authority Bill but it was decided to pursue the social services inspectorate in a different way than had first been suggested. Instead of having fragmentation in the health services, given that we spent the past year bringing things together, we do not want to establish a host of new organisations and then at some future point try to bring them together, with all the associated cost and inefficiency. The decision has been taken to make the social services inspectorate, which will among other things inspect nursing homes, not just in the private sector which is the norm at present but also in the public sector, part of the body that has responsibility for setting standards for health service delivery. That is a sensible suggestion which has been well received.

I decided for good reasons to put the Bill out to public consultation. The consultation process closed last Friday. I am not sure if the Deputy made a submission but, whether he did, a number of submissions were made. I have not yet had an opportunity to study the submissions but I hope to do so soon. I want to take on board the good opinions and advice that will come from the consultation process.

The important point with regard to legislation, which I am sure the Deputy will acknowledge, is to have correct legislation. I will not suggest to the Deputy that legislation by itself will stop awful things happening to old people, whether in their homes or elsewhere. However, we will have legislation that will be enforced, we will have statutory backing for standards, we will have a multidisciplinary team of inspectors and those nursing homes in the public or private sector that do not meet the high standards will not be registered and, therefore, will not be in a position to operate as nursing homes. This is a radical departure from the current situation, where the inspection process is part of the organisation that must deliver services, which is the way it has always been in this country but which is not appropriate. We will have robust legislation. A number of questions will be dealt with later, including one on Leas Cross.

I am not withholding any report. I have not seen Professor O'Neill's report or received it from the HSE, which commissioned it so I am not in a position to publish anything. Reports, whether we like it, must follow a legal process — it is a cumbersome process at times — or an injunction can be made against us to prevent us from publishing them, which would not be satisfactory. I have not seen the O'Neill report nor am I in a position to publish it. As soon as it has cleared the legal issues, it will be published, as it should be. Concealing information is not on my agenda, which is why in recent days we extended

[Ms Harney.]

freedom of information to a host of health organisations, which will be helpful.

**Dr. Twomey:** The Tánaiste must have watched the programme on the disgraceful situation at Leas Cross. The health information and quality authority Bill was proposed as long ago as 2003. At what stage did she decide she would include the social services inspectorate in the Bill? Why are there so many delays? This should have become a priority. It was already well known that the Tánaiste wanted to introduce the Bill before the Leas Cross scandal. It became a priority for the Tánaiste, the Taoiseach and the Minister of State, Deputy Seán Power, this day last year. Only the public consultation aspect has finished. I did not make a submission to the Tánaiste because I consider it more appropriate to make my submission here where everybody is supposed to be held to account. I know the Tánaiste is inclined to take matters out of the House to take away democratic accountability but that is not right. What is the reason for the hold up? Why can we not move quickly and have the legislation by the end of October or November?

**Ms Harney:** I said in my response that I hope to have the legislation in the autumn session but I want to have robust legislation. We have spent some considerable time during the past year working on appropriate standards and looking at best international practice in this area. We want appropriate standards that can be enforced so that when inspectors inspect places where older people and others reside, including children, they will know what to look for and that those units that do not comply with the standards will not be in a position to remain as a registered residential unit for older people.

2. **Mr. S. Ryan** asked the Tánaiste and Minister for Health and Children if she will report on the type of problems being identified in respect of the present unsatisfactory inspectorate system of private nursing homes; and the action which is being taken to address these problems.  
[21482/06]

**Ms Harney:** The inspection of private nursing homes is the responsibility of the Health Service Executive under the Health (Nursing Homes) Act 1990. The 1990 Act provides for the registration and procedures for attaching conditions to the registration of private nursing homes and for de-registering homes. The Nursing Homes (Care and Welfare) Regulations 1993 set out the standards to which private nursing homes must adhere to remain as private nursing homes.

In accordance with the regulations, the Health Service Executive carries out inspections of private nursing homes. The HSE has inspection teams in each area. Each team comprises a senior area medical officer, a director or assistant direc-

tor of public health nursing and a principal or senior environmental health officer.

Each nursing home receives an integrated report following inspection which contains recommendations on best practice, which are required for continued registration. Under the 1990 Health (Nursing Homes) Act and the 1993 regulations, the Health Service Executive can attach particular conditions to registration. Any deviation from these conditions can be subject to sanction. The type of breaches identified during inspection by the HSE include contracts of care with relevance to detail of fees and updating of fees, undertaking regular fire drills and maintenance of fire fighting equipment, hygiene levels, care levels, accident prevention policies, drug record maintenance systems, accuracy of staff rotas and appropriate stimulation-entertainment activities for clients to engage in.

Two inspections per year of every nursing home are required in accordance with article 44 of the regulations. In addition, the inspection teams carry out follow-up inspections as required and also conduct advice visits for prospective nursing homes. The HSE is committed to publishing inspection reports on nursing homes and this will happen from mid-July onwards.

**Mr. S. Ryan:** That is the theory but, in practice, the position is completely different. Does the Tánaiste accept that older people in need of care, especially those who must leave their homes and go into long-stay institutional care, are among the most vulnerable in society? Does she accept we do not have a fair and equitable system of financing care? Does she accept we do not have clear and transparent rights and entitlements for older people in nursing homes? We do not have a system that ensures quality care is delivered. Does the Tánaiste accept we have allowed care facilities to develop in response to tax laws rather than to the real needs of older people?

Is the Tánaiste aware — this is some of the information sought in the question that I did not get — that as far back as 2004 and earlier, problems in nursing homes, such as staff shortages, nursing policy issues, maintenance and accommodation standards, hygiene, lack of activities for residents and lack of equipment, were known to her Department and officially recognised as such? Does the Tánaiste accept that nothing has been done? Does she accept that the lack of care of older people as well as the neglect of younger people, as witnessed in recent days, is the hallmark of the Government? Rather than speak about the issue, when will the Tánaiste deal with the issue?

**Ms Harney:** I do not accept the Deputy's assertion. In Ireland, the majority of nursing homes in the public and private sector are of the highest possible standards. Those that have and cause problems are a tiny minority but, even if it is only one, that is not good enough. I share the



Deputy's view that older frail people are among the most vulnerable in society, many of whom suffer from illnesses of the mind and may not be in a position to understand what is happening and may not have family members or others who can care for their needs. That is the reason they are entitled to look to the State for the highest standard of protection and care. We have laws in place. They are deficient and that is the reason we are changing them. We want to move to a position where the inspectorate is independent of the service provider and where the regulation and inspection is so robust that if nursing homes do not meet the requirements, they will not be in a position to continue to care for patients.

Leas Cross nursing home has been closed. I do not know if somebody else will acquire the property and open it as a residential care centre. One of the lessons everybody must learn if they care for elderly people is that it is not acceptable to society or to the authorities to have a level of care that does not meet the highest possible standards. I do not accept we have left the provision of care to mainly tax-based schemes. In this year's budget, the largest ever package for care of the elderly of €150 million in a full year was provided. That by a huge margin is the largest package ever provided.

My priority and that of the Government is to try to support as many older people as possible to remain in their homes. Some 28% of those in residential care have either a low or medium level of dependency and may not, in different circumstances, have required residential care if there had been home supports. We are seeking to put in place home supports. This year, approximately 3,000 are being supported at home through home care packages in addition to those who have home help and other supports. In the coming years, we may need to move to support approximately 7,000 to 10,000 or, perhaps, 10,000, 12,000 or 15,000 as the population ages. Clearly that will take time. When that support is in place, many more will be able to remain in their homes. Whether it is at home, which is usually the desire of every older person and their family, or in institutional care, we want to ensure that as a society we provide the resources, the services and the statutory framework to enforce high standards in order that older people can expect to live out their lives in dignity, with respect and with high standards of care.

**Mr. S. Ryan:** What happens to older people who need care but for whom it is not provided in the community and who cannot get a health board place and cannot afford a private nursing home? That is a fundamental question posed by thousands of older people. Can the Tánaiste give me the answer?

**Ms Harney:** We have provided €110 million this year, which is €150 million in a full year, towards additional supports for the elderly, including the provision of specific services in the community, because community services are not just about home care packages but putting in place therapists and others who can support people living in the community. Chiropody is an important service for diabetics. Physiotherapy and so on is also important.

In Ireland there are 20,000 people over 65 years of age in long-term care. That is approximately 4.5% of that age group. That is the international average for people over the age of 65. In different circumstances, perhaps 28% could be at home. The State has contracted beds in certain places where it has not been in a position to provide publicly funded beds. Nobody gets a bed for free. Some 90% of the cost is paid for in the public nursing home and people are expected to pay only 80% of their old age pension. In a private nursing home the position is different. It is inequitable and there are proposals relating to the funding of long-term care before the Cabinet which have been included in the social partnership talks. It is a major issue for society. How will we assess who is entitled to it? We all accept that everyone could not possibly be entitled to fully publicly-funded care in their older years, because that would not be affordable and would not be fair to those who are very well off. I want to see low and medium-income earners getting greater support, and the same support whether the State is in a position to provide a public nursing home bed or whether the individual must try to acquire one in the private sector. There has to be equality of support. I hope those policies will be finalised this month.

**Mr. S. Ryan:** What the Tánaiste said gives no joy to the thousands of people waiting twelve and a half years on a waiting list for public nursing homes, and who will die before they get public beds.

**Ms Harney:** What people are concerned about is a bed, whether it be publicly funded or privately provided. They want high-quality care in a residential setting regardless of who provides it. That is the challenge for us, to ensure we support that.

### Hospital Services.

3. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if she has received the report of the investigation into the death of a person (details supplied) at Monaghan General Hospital; and if she will make a statement on the matter. [21374/06]

**Ms Harney:** Following the death of Mr. Patrick Walsh in Monaghan hospital on 14 October 2005,



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the Health Service Executive commissioned Mr. Declan Carey, a consultant surgeon at Belfast City Hospital, and an honorary senior lecturer at Queen's University, and Professor John Monson, professor of surgery, University of Hull, to carry out an independent and external review.

The HSE has advised my Department that a report has been prepared by the consultants and is now going through a necessary legal process prior to completion. This is normal procedure. My Department is advised by the HSE that it has been in touch with the family of Mr. Walsh and briefed them fully on the current situation. I have not received the report and it would be inappropriate for me to speculate on its contents.

**Caoimhghín Ó Caoláin:** Did the Tánaiste say she has received the report?

**Ms Harney:** No, I have not received it.

**Caoimhghín Ó Caoláin:** When does the Tánaiste expect to receive the report, and why has she not yet received it? Can she say when it was concluded, and to whom it has been presented? Has it been given to the Walsh family, or has the family seen it?

In the wake of the tragic and unavoidable death of Pat Joe Walsh, the Tánaiste said:

Regardless of what policy operates in any particular hospital, there is no excuse for anybody dying unnecessarily because they cannot get access to appropriate medical care.

Does the Tánaiste accept that what is at issue here is not the policy in Monaghan General Hospital? Does she accept that the issue is the policy she and her Department have been pursuing, and the HSE embargo on acute surgical emergencies being dealt with at Monaghan General Hospital? Those are the underlying contributory factors. The embargo meant that members of staff at Monaghan General Hospital were prevented from performing a life-saving operation on Pat Joe Walsh. Does the Tánaiste accept that the members of staff at the hospital want to be able to deal with emergencies, that they want accident and emergency services restored to the hospital, and that they have the wholehearted support for the community?

Does the Tánaiste remember that in September 2005, the month prior to the tragic death of Pat Joe Walsh, all the consultant surgeons at the Cavan and Monaghan hospital sites made a public appeal for Monaghan General Hospital to be allowed to go back on call for surgical emergencies? After all that has happened, will the Tánaiste now, belatedly, listen to that appeal and help to avoid further tragedies being visited on our families in County Monaghan, so many of whom have now suffered the avoidable loss of one of their number?

**Ms Harney:** I confirm I have not received the report. I understand it has been completed in recent weeks. The process is that if one is drawing any adverse conclusions about any individual, individuals or institution, they must be given an opportunity to respond, and that response has to be included before the report can be given to anybody, under natural justice and so on. For example, with regard to the Our Lady of Lourdes Hospital inquiry, the response of the Medical Missionaries of Mary was included in the report. That has to happen.

That is the process which I understand is under way regarding the report of which we are talking. I think the report has been given either to individuals or institutions — I do not know who they are — against whom findings have been made. They are then given the opportunity to respond.

In a very different situation, the Minister for Arts, Sport and Tourism recently commissioned a report into the activities of Bord na gCon, and the Attorney General advised him and the Cabinet that before the report could be published, the people mentioned in it, or identifiable though not mentioned by name, had to be given a period of time to consider what was said about them and respond. I think the period was 15 working days or something of that kind. That is fairly normal practice in these situations.

I presume that with regard to the report we are discussing, that period of time will shortly be up, and the Walsh family will then get the report, and it will be published. There would be no reason for the report if one were not to learn from what happened and make sure it cannot happen again.

**Caoimhghín Ó Caoláin:** In her response, the Tánaiste talks of the report making adverse conclusions about any individual or institution. With respect, I am accordingly surprised she has not yet seen the report. Has Professor Brendan Drumm had sight of it yet?

The Walsh family, and certainly the people of County Monaghan and the staff at Monaghan General Hospital, will not tolerate scapegoating in this situation. We are very clear on the underlying reasons for the tragic death of Pat Joe Walsh. I am concerned that the Tánaiste says that a fortnight after its publication, while others are having an input, or have been appraised, the Tánaiste has not been appraised.

What is the Tánaiste's proposed course of action now that the report has been published? Has she spoken with the Walsh family, or has the family an understanding of how soon the report will be made available to them?

On a related matter, what can the Tánaiste say to the people of County Monaghan to follow the HSE statement that it cannot guarantee the future of emergency services at Monaghan General Hospital now that we have lost emergency surgery? This is the ongoing drip, drip, drip

loss of every crucial element which makes up an acute hospital site, and is a serious matter. What answer has the Tánaiste to the collective appeal of the entire surgical department, all the consultant surgeons in Cavan and Monaghan hospitals in the month prior to the tragic death of Pat Joe Walsh? If that appeal of September 2005 had been acted on and we had the restoration of emergency surgery at Monaghan General Hospital, Pat Joe Walsh could very well be alive today and his family would not have had to suffer the terrible grief visited on it. It is surely time to recognise what is needed. Will the Tánaiste act in the full information now at her disposal? Nobody can be blind to what is now needed.

Where stands the latest of the many reports on hospital services in the north-east commissioned by the HSE? What can the Tánaiste tell us of that?

**Ms Harney:** If we all knew why the late Pat Joe Walsh died, we would not have needed a report in the first place. The report was written by two very eminent independent clinicians, one from Northern Ireland and one from the UK. We sought people from outside the jurisdiction to get an objective assessment of what happened on that famous night. If we had known all the answers we would not have needed to do that.

Clearly there is no adverse impact on the late Pat Joe Walsh or his family, so the issue of sending the family a copy of the report in advance for their comments does not arise. We have to follow due process so that we can have a report which is publishable, which is what everybody would like to see and it is what is on the way. I have not seen the report, have not discussed it with anybody and have not a notion what is in it. I wish we could have had the report sooner. I am advised by the HSE that the Walsh family had been briefed on the matter. There have been ongoing problems with the HSE north-eastern area. There are five hospitals for a small population base.

**Caoimhghín Ó Caoláin:** It does not have a small population base. That argument should not be pedalled.

**Ms Harney:** It does.

**Caoimhghín Ó Caoláin:** That is not the truth.

**Ms Harney:** It does. To provide the range of acute services at the level of development—

**Caoimhghín Ó Caoláin:** It has an expanding population.

**Ms Harney:** The Deputy knows what happened in Northern Ireland when his party colleague had responsibility for health services. Let us be fair on this matter. The HSE commissioned an independent report into acute hospital services in the

north east. The report is to hand and it will be published in due course.

### **Mental Health Services.**

**4. Mr. Neville** asked the Tánaiste and Minister for Health and Children her plans to increase the number of child and adolescent psychiatric inpatient beds; the number of such beds; and their location. [21373/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Most children with mental health problems are supported in the community. However, a small percentage of children and adolescents with mental health problems require inpatient treatment. Specialist public inpatient psychiatric services for children and adolescents are provided at Warrenstown House, Dublin and St. Anne's, Taylor's Hill, Galway, with capacity for the treatment of 20 inpatients.

A Vision for Change, the report of the working group on mental health policy, was published in January this year. The report addresses the future direction and delivery of all aspects of mental health services, including child and adolescent psychiatry. The Government has accepted the report and €25 million in additional funding has been provided this year for the further enhancement of mental health services. This brings the total funding for mental health services in 2006 to approximately €835 million.

A Vision for Change acknowledges the gaps in the current provision of child and adolescent mental health services and makes ten recommendations for the improvement of these services. In particular, the report recognises the need for additional child and adolescent inpatient beds. It recommends that urgent attention be given to the completion of four child and adolescent psychiatric inpatient units and that multi-disciplinary teams should be provided for these units.

Project teams have been established by the HSE to develop four additional child and adolescent inpatient psychiatric units. The exact location of the units and the number of beds to be provided in each unit is being considered by the HSE. The recommendation is that there will be one in Limerick, Cork, Galway and Dublin. The approximate size of each unit will be 20 but there will be discrepancies in areas with larger populations. The aim is to ensure the units are located in the areas of greatest need and provide the most appropriate care setting for children and adolescents with mental health problems. Both the range of ages and the variety of disorders requiring inpatient treatment must be given careful consideration when planning child and adolescent inpatient services.

The mental health needs of children and adolescents are also being addressed by the appointment of additional child and adolescent psy-

[Mr. T. O'Malley.]

chiatrists, the enhancement of existing consultant-led multidisciplinary teams and the establishment of further teams. The number of child and adolescent psychiatrists' posts has increased considerably from 56 in 2005 to 70 in May 2006. Hopefully, this will have a knock-on effect in reducing waiting lists and the further provision for mental health services for children and adolescents.

**Mr. Neville:** The Minister of State has had a report for several years that claims the number of child inpatient beds needed is 148. With the rise in population, it has been calculated that the number now is 156. However he is proposing to establish only 80, 50% of the required beds. Some 16 and 17 year olds are inappropriately placed in adult psychiatric beds. How does he propose to tackle this problem? The Irish College of Psychiatrists has come out strongly on the need for proper care for this age group. Although the budget for psychiatric services has increased this year, will the Minister of State accept that since 1997 the percentage of the health budget allocated to the services has actually fallen from 11% to 7%? Is this not an indication of the Government's lack of attention to the development of the psychiatric services?

Will the Minister of State accept there is a deficit in the area of general psychiatric services? As a result there has been an increase in suicide. A vital approach to dealing with these issues is the provision of proper child and adolescent psychiatric services. Young children are not being treated for their difficulties. Due to the lack of resources, the service concentrates on the 12, 13 and 14 years old age groups. However, children in crisis at seven, eight and nine years of age are not being treated, leading to their difficulties becoming chronic.

In a recent reply to a parliamentary question on waiting lists for child and adolescent psychiatric services I was informed waiting periods are two years. This is inappropriate and unacceptable. Sexual abuse creates severe emotional problems for children and adolescents. Children abused by paedophiles have had to wait two years for counselling. Has the Minister of State any proposals to improve this situation?

**Mr. T. O'Malley:** Waiting two years for mental health services is unacceptable. That is why the Government and the HSE has increased child and adolescent psychiatrists by 20%. That should have a notable improvement in waiting lists. The Irish College of Psychiatrists argues there should be a full cohort of services for this age group. Opinion is divided on this. The working group did not accept that recommendation. It was of the view that all children up to 18 years of age should be treated by child and adolescent psychiatrists.

Those over 18 years of age should be treated by the adult mental health services. Opinion is divided between psychiatrists, the HSE and the Department of Health and Children.

**Mr. Neville:** What is the opinion of the Minister of State?

**Mr. T. O'Malley:** In my opinion, children and adolescents should be treated up to the age of 18 years by the child and adolescent services. Otherwise, a situation could arise where an individual develops a psychiatric episode at the age of 14 years and is treated by one consultant up to the age of 16 years, then he or she would be treated by another consultant until 18 years and then transferred. This is not best practice and that is accepted by the expert group which examined the issue. I agree opinion is divided among psychiatrists.

The HSE and the Department of Health and Children are supporting the DETECT model of early diagnosis of psychosis. It is being rolled out in the Dublin area. It is proposed to roll out another model in a different environment, such as a rural area. I am considering this and seeking funding for it.

I am also consulting with general practitioners. The opinion of those in the medical profession such as general practitioners is that if the proper funding was given in the primary care area, there could be quicker diagnosis and treatment for young people with psychosis who need treatment. As I stated in my reply, the vast majority of people can be treated in the community. I am meeting a group of general practitioners soon to roll out a counselling and cognitive therapy service for people, especially young people, with requirements in this area. That is one of the recommendations of the expert group, that not all children or adults with psychosis should necessarily have to be referred directly to a psychiatrist and a multidisciplinary team. The feeling is that services need to be changed so people with psychosis and psychiatric problems should be sent directly to counselling or psychotherapists where the general practitioner is of that opinion.

**Mr. Neville:** Would the Minister of State accept that the number of psychotherapists is totally inadequate and that the Department and the HSE have not made any effort to increase the support systems to the psychiatric services?

In March 2005 the Minister of State announced the sale of lands to fund this properly. I understand, from his reply to a parliamentary question, that no movement whatsoever has been made on that. Not one piece of property has been identified which will go for sale. Recently, I asked for an inventory of properties that would be sold. Fourteen months after the announcement there is no inventory and no movement whatsoever.

**Mr. T. O'Malley:** My priority and that of the Government in the sale of any lands is based on the premise that first we must look after the clinical needs of any patients who are in these institutions. It is not simply a process of merely selling properties.

**Mr. Neville:** What of an inventory, so that we would know?

**Mr. T. O'Malley:** There is much work being done on it at present but the priority is to ensure the services are put in place in the community. That is being done at present.

**Mr. Neville:** It is not.

**Mr. T. O'Malley:** It is hidden work and is obviously not in the public arena.

### Health Services.

5. **Mr. McHugh** asked the Tánaiste and Minister for Health and Children her views on the development of the Tuam health campus; her further views on whether the project should proceed incorporating all the elements proposed in the Health Service Executive planning brief forwarded to her Department in 2002; and if she will report on her discussions and communications with the Health Service Executive on this project. [21354/06]

**Ms Harney:** I am aware of the development proposals of the former Western Health Board for new and refurbished health facilities on the site of the former Grove Hospital in Tuam. This project has become known as the Tuam health campus. This site was acquired from the Bon Secours Order some years back and while a development control plan was prepared, this has not yet been advanced due to more urgent capital investment priorities.

In November 2005, I visited the east Galway area and, in a meeting with local management, was appraised of the HSE's development plans for the Tuam area, including a community hospital, an ambulance base, a primary care centre, mental health services and administrative facilities. I urged that these plans be advanced in accordance with its service plan and capital programme. My staff have maintained ongoing informal contact with the HSE since then.

The capital plan of the executive for 2006 has been agreed by me and provision has been made for the phased development of the Tuam health campus. I am advised the HSE has commenced the process of recruiting a project manager for the development. The immediate task of the project manager will be to review the current pattern of service provision in the area in respect of all existing and planned services. This will update

the planning brief previously prepared for the site in 2002.

In addition to maximising the integration of all health and social services on the site, the HSE will explore possibilities for inter-agency and inter-sectoral co-operation for the benefit of the town and the people of Tuam.

The HSE believes that a significant opportunity now exists to develop a model integrated primary and continuing care facility on the Grove Hospital site and I fully support this perspective. The funding required to complete such a facility will be significant and it is a matter for the HSE to determine the priorities for investment in line with the resources available to it over the coming years.

**Mr. McHugh:** I thank the Tánaiste and Minister for Health and Children, Deputy Harney, for her reply. I thank her for accepting the case put forward for Tuam Hospital, sanctioning phase one and making that initial allocation available.

She mentioned in her reply that a project manager was appointed. Is that person from inside or outside the HSE, and what is that person's function?

There are three basic elements in the Tuam health campus: a community hospital, a primary care unit and an ambulance base. There is an urgent need for the immediate provision of an ambulance base. I note €1.8 million is set aside for ambulance services. Can we take it this will be expended on providing an ambulance base in Tuam immediately and that this can proceed while consideration of the community hospital is ongoing? Can we also take it that X-ray facilities will be provided in the town to serve that region of north-east Galway, south Mayo and west Roscommon, and that we need not wait for those services while the community hospital plans are being developed?

**Ms Harney:** I assume the project manager is someone from within the HSE. That would be normal.

Deputy McHugh asked about the function of the project manager. As he will be aware because he is familiar with this, it is an eight acre site and the original plan in 2002 was to use all of the site. We believe it will not be necessary to use all the site and I hope some of the site can be disposed of to leverage the funding to complete the investment, but that matter would have to be decided by the HSE. Perhaps a public private partnership may be in order, for example, in the case of the primary care facility, where local general practitioners may be interested in being involved in the project.

I do not have the answer to the Deputy's supplementary question on whether the ambulance service, on which I will communicate with him, can proceed in advance of the project. I share his



[Ms Harney.]

view of the importance of the need for an ambulance base in east Galway and hope the base can be progressed.

I want to confirm that when the Bon Secours Order sold the site there was a view it all had to be held for health purposes. That is not the case and the HSE has confirmed that. I am aware that has caused some confusion in the area. It may well be that a portion of the site will be disposed of and the resources leveraged from that disposal would be used to fund the project involving the community hospital, the ambulance base and the shared services facility which I mentioned earlier.

**Mr. McHugh:** The Minister stated that the primary care unit may be provided through a public private partnership. I understand she stated previously that the community hospital may be provided under a public private partnership arrangement also. If that was the case, could we expect that expressions of interest or the process concerned would take place fairly soon?

**Ms Harney:** Yes. Clearly, whatever services are provided there will be for all patients. There will be no question of it being restricted to private patients. However, it may well be that local general practitioners, in conjunction with the HSE or others, may decide to provide a primary care facility there. There may be an interest in using the current tax breaks to provide the capital costs of the community hospital and the State would then obviously resource and operate it, or certainly buy services. We need to be innovative in the way we develop the facility. I hope it can happen quickly and that is the intention.

### Other Questions.

#### Nursing Home Inspectorate.

6. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children the reason for the delays in introducing legislation for an independent inspectorate for nursing homes; and if she will make a statement on the matter. [21291/06]

9. **Mr. S. Ryan** asked the Tánaiste and Minister for Health and Children her views on the fact that a full year after it was proposed, the new watchdog to enforce proper standards of care for the elderly is still not in place; when same will be in place; and if she will make a statement on the matter. [21311/06]

77. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children the reason for the delay in introducing an independent nursing home inspectorate as promised since 2001; and if

she will make a statement on the matter. [21266/06]

**Ms Harney:** The inspection of private nursing homes is the responsibility of the Health Service Executive under the Health (Nursing Homes) Act 1990. The 1990 Act provides for the registration of private nursing homes and for procedures for attaching conditions to the registration and de-registration of nursing homes.

The Nursing Homes (Care and Welfare) Regulations 1993 set out the standards to which private nursing home owners must adhere in the provision of nursing home services. In accordance with the regulations, the HSE carries out inspections of private nursing homes. The HSE has inspection teams in each area and those teams are composed of a chairperson who is usually the senior medical officer, a director or assistant director of public health nursing, and a principal or senior environmental health officer.

Following inspection each nursing home receives an integrated report which contains recommendations on best practice conditions which are required for continued registration. Under the 1990 Act and the 1993 regulations, the HSE can attach particular conditions to registration. The inspection team liaises with the proprietor to ensure compliance with the regulations within an agreed timescale. The type of breaches that are identified during inspection by the HSE include contracts of care with relevance to the detail of fees and updating of same, hygiene levels, undertaking regular fire drills and the maintenance of firefighting equipment, accident prevention policies, accuracy of staff rotas-records maintenance systems and appropriate stimulation and entertainment activities for clients. Two inspections per year of every nursing home are required in accordance with Article 24 of the regulations. In addition, the inspection teams carry out follow-up inspections, as required, and conduct advice visits for prospective nursing homes.

A nursing homes inspection and registration working group was established in July last by the HSE and its report made a number of recommendations in specific priority areas in regard to nursing home inspections. The working group is confident the implementation of these recommendations will be the first test towards bringing consistency to the whole area of nursing home inspections and registrations, with new standardised processes being put in place and the appointments of dedicated inspection teams whose remit solely covers all aspects of nursing home inspections, registration and investigation of complaints.

A training programme is also being developed for the HSE nursing home inspection team. The HSE has advised that mandatory inspections will be unannounced and follow-up inspections may be announced or unannounced. The HSE is com-

mitted to publishing inspection reports on nursing homes and these are expected to be published from mid-July onwards.

**Mr. Gogarty:** I very much welcome the Tánaiste's reply to this question and an earlier Priority Question in regard to the publication of nursing home reports in July. The Information Commissioner was given an undertaking by the HSE last year, following the 2004 report, that such information would be made available on the Internet but this was later withdrawn. I seek clarification from the Tánaiste that the information on inspections will be available on the Internet, subject to the deletion of people's names. I appreciate that less information may be provided on the Internet than would be made available in response to a private inquiry. Will the Tánaiste clarify whether it is her intention that the information would be published on the Internet so that public representatives, family members and the public can check on the inspection of individual centres?

Notwithstanding this relatively positive news, will the Tánaiste acknowledge that there is still some element of disarray in terms of nursing home inspections in that the checking of nursing home inspection reports is not standard prior to the placing of clients in specific nursing homes? No matter what one does to make the system more transparent or independent, if a nursing home is shown to be deficient in certain areas and it remains open, would it not make sense, either through an amendment to legislation such as the Health (Nursing Homes) Act 1990 or even through the introduction of guidelines, to make it mandatory for the HSE to check nursing home inspection reports prior to placement? This would improve public confidence in nursing homes.

**Ms Harney:** The intention is to publish the inspection reports from mid-July. I am not certain what form the publication will take. I will discuss that with the HSE but it would be common practice to have it on the Internet. I will certainly ensure that happens because it is more convenient from the point of view of families and the public and the perspective of the HSE.

When the HSE purchases nursing home places, the inspection record is crucial in that regard. It is important, in the context of making agreements with nursing homes to take particular patients for a period of time, that regard is taken of the standard of the nursing home. Last year, beds were offered that were not procured because of the results of previous inspections. I accept that we need to strengthen the law in this area. I dealt with that issue in reply to earlier questions.

**Mr. Gogarty:** Will it be in the legislation?

**Ms Harney:** Yes. As a matter of routine, when somebody is inquiring about a nursing home or seeking to place a relative in a nursing home, he or she should be able to find out the track record of that nursing home and, clearly, publication of the inspection reports would greatly assist that. We must also increase the standards and make sure they are monitored on a consistent and thorough basis.

**Mr. S. Ryan:** In response to an earlier question the Tánaiste outlined the theory of the situation but the reality is clearly different. While I welcome the provision in the legislation to provide for the inspectorate, I am disappointed it has taken so long. Even with the inadequacies of the existing system the Department indicated it was satisfied that, in the event of the health and safety of older people being at risk, the HSE inspectors currently have the authority to protect the older people involved. That was not the case in regard to Leas Cross.

In future, will the requirement for two inspections a year be met and will the inspections be sufficiently broad to provide information on quality of life issues? I concur with the recent report from the National Council on Ageing and Older People. Beds alone are insufficient, quality of life issues in nursing homes are equally important. Reporting arrangements under the current system are totally inadequate. Will it be a requirement that all reports would be automatically made public? Perhaps there should be a greater requirement for inspectors to report directly to the Oireachtas or a committee of it so as to provide transparency in everything that is done.

**Ms Harney:** The inspectors will have powers to inspect on a frequent basis. Currently the rule is that each home should be inspected twice. I am not certain we should focus on the number of inspections per year. It may well be the case that some nursing homes require more frequent inspections than others and those which operate to a high standard may only require an inspection once every year or 18 months. It is important that the inspections are unannounced as it makes people more robust and thorough.

In addition, I will make provision for a whistleblower's facility in the new legislation. I hope that will encourage staff or family members of loved ones who are in nursing homes, or others, to bring matters to the attention of the authorities if they see something inappropriate happening.

I have visited hundreds of nursing homes in recent years, particularly in the past two years. To be fair, the vast majority of them operate to a high standard. I have gone to nursing homes where the level of stimulation and activities is fantastic and they are very happy places.

[Ms Harney.]

However, I have gone to other places and wondered about them.

In fairness to the public sector, we will have a significant amount of work to do to adapt our public institutions to what I would call more appropriate modern conditions. As Members are aware, many of them are very old buildings that were former workhouses. Some of them have long wards where large numbers of patients are accommodated. In one case there was not even room for a wardrobe between the beds because space was so confined. That is not acceptable. We have made provision in the capital programme for funding to be supplied to the nursing home in question. As we provide funding to modernise some of these facilities this will probably result in a reduction in the number of beds to create more space. We have a long way to go but we are on the road, in particular to providing more resources, legislation and services for older people, in nursing homes and in the home and community.

**Dr. Twomey:** The quality of the replies and additional information we have received in the past hour is almost as dismal as the Government's handling of the issues raised. The replies we received today were absolutely diabolical. The only thing I learned is the astounding fact that the Tánaiste has visited nursing homes about which she has concerns. Deputy Seán Ryan asked the Tánaiste to tell him what happens in respect of elderly people and their entitlements to nursing home care paid for by the State and whether public nursing home beds are available to them. A question I have asked at least six times either in this House or in meetings of the Oireachtas Committee on Health and Children concerns whether the Government has examined the statutory entitlements of patients over 70 to free public or private nursing home care. If it transpires that people in this group have a statutory entitlement to nursing home care, it will make the illegal nursing home charges look like loose change.

The Tánaiste appears to have avoided giving a direct answer to this question time after time. Given that it was raised by Deputy Seán Ryan, it might do no harm for the Tánaiste to put the Government's opinion on this issue on the record of the House. Is this another problem that is brewing and will Deputies present in this House in 2009 hear Ministers claim that this issue was never raised with them? A serious problem exists in this area, which has not been addressed by the Tánaiste, even when questions were raised about it.

**Ms Harney:** I am sorry Deputy Twomey is in such bad form today. He is in an angry mood and has alleged that replies are abysmal. I am not

inventing policy as I go along. A considerable amount of work has been carried out in respect of care of the elderly. One of the most senior, respected and experienced officials in my Department has responsibility for this area, work which has been under way in my Department for some time. I am not playing politics. I acknowledge the existence of a major legislative deficit in many respects, both in respect of inspection and nursing home regulations, which we discussed before Question Time commenced. Proposals concerning the issues surrounding long-term care are before the Cabinet because there is a lack of clarity in this area.

In respect of eligibility for services, Deputy Twomey is aware that some issues concerning private nursing homes versus public beds are being tested in the courts. Deputy Twomey will accept that it is not possible or affordable for the State to provide fully funded nursing home care to every citizen who reaches the age of 65.

**Dr. Twomey:** That was not the subject of my question.

**Ms Harney:** The law concerning eligibility has not been changed since the early 1970s. As the Deputy is aware, the Government is working on eligibility and entitlement legislation, which will clarify which individuals are entitled to which services because greater clarity is needed in this area.

**Dr. Twomey:** The Tánaiste is again avoiding the issue. The Health (Miscellaneous Provisions) Act 2001 gave everyone over 70 a statutory entitlement to inpatient care. I am not asking the Tánaiste to tell me how much it will cost or whether it can be provided. I am merely asking whether we are exposed to significant costs going into the future and what the Tánaiste's thoughts on the matter are? She is skirting the issue. We should forget about the courts because we are not answerable to them. The events of last week have shown us that we do not have to wait for them to make their decision. We should try to pre-empt the outcome and deal with it. Can the Tánaiste clearly tell the House whether a problem exists and whether we will end up changing the 2001 legislation if we wish to incur savings? Can she tell us whether everyone over 70 has a statutory entitlement to free public or private nursing home care?

**Ms Harney:** I am not skirting any issue. The issue of whether everyone over 70 is entitled to a bed funded by the State and if a bed in a public facility is not available, whether the State must fund a bed in a private nursing home is being tested in the courts. As we know from the 29-year-old issue concerning charges, no legislation we introduced could be retrospective. I do not know how this will be determined.

We must decide what individuals are entitled to, both in terms of inpatient and primary care services and other services. Deputy Twomey is aware that the issue of the long-term illness card frequently arises. I understand Deputy Twomey has asked me about this scheme during meetings of the Oireachtas Committee on Health and Children. No new disease or condition has been added to this scheme since 1978, chiefly because of the cost involved in adding them and the entitlements which flow on foot of it. Clearly, it is not acceptable to preside over a scheme which has effectively been frozen since 1978. All these areas, including services to which the medical card and long-term illness card entitles people, the question of whether these schemes should be married together, the hospital services to which people are entitled and who might make a contribution and when must be the subject of separate legislation. Until we have this legislation, we will not achieve clarity in this area. This legislation will not be ready for a number of months because it is a mammoth and very complex task.

**Dr. Twomey:** This issue affects elderly patients whose care costs at least €60,000 or €70,000 each year. It will also have a significant effect on taxpayers going into the future. It is akin to the case in which it emerged that the former Minister for Health and Children, Deputy Martin, did not read his brief. The Tánaiste needs to give us a definitive legal opinion. I acknowledge that she is right about the retrospective element of this but if a problem exists, it should be dealt with now. Otherwise, she should be quite honest with the people of Ireland. A considerable number of people who visit our clinics are paying for their nursing home care. The Tánaiste has not given a definite answer to my question.

**Ms Harney:** I informed Deputy Twomey that this is being challenged in the courts.

**Dr. Twomey:** It does not matter what the courts do.

**Ms Harney:** It is unreasonable and unsustainable to stipulate that everyone is entitled to everything, regardless of their resources and family circumstances. If such a system were sustainable and the courts ruled in its favour, we would be forced to legislate in that area because it is not affordable. It is unfair that very wealthy people would be entitled to the same level of services as people who are not well off or quite poor. The case involving public nursing home care and beds in private nursing homes is being tested in the courts. The question of which health services to which people are entitled will be the subject of separate legislation known as the eligibility and entitlement legislation. We must decide which individuals are entitled to which services

and, until we obtain clarity in this regard, confusion will exist.

**Mr. S. Ryan:** Will it be introduced before the court judgment?

**Ms Harney:** That is separate legislation which is under way and has been committed to for some time. It is a major task.

**Caoimhghín Ó Caoláin:** Does the Tánaiste agree with the National Economic and Social Forum when it argued that for many older people, inappropriate or unnecessary admission to acute or long-stay residential care could have been avoided or, at least, delayed by the greater development of community-based services and the use of preventative and proactive approaches? Does she accept that, as well as the stricter standards which are clearly required in nursing homes, we need more emphasis on real and effective community care for older people and that this care in the community must have the same stringent standards applied to it as those which apply to residential care? The Tánaiste previously mentioned the importance of the community care approach. It is one thing to make broad brush statements but what is the working of the Department's policy pursuit?

Why, once again, has the commitment to provide a day care centre in Cootehill in County Cavan been placed on an ever-lengthening finger? Senior citizens in this town have long been promised this facility and I have continually raised this issue with the Tánaiste and the Minister of State, Deputy Seán Power. The Health Service Executive, HSE, is now reneging on the level of HSE-funded staffing and resources which had previously been signalled and committed to. Why is this scenario continually repeated and why are proposed dates for the commencement of this service continually put back? Many of those who have spearheaded the demand for this centre in Cootehill will never live to enjoy it. This is the reality. What is the Tánaiste's response?

**Ms Harney:** In respect of Deputy Ó Caoláin's earlier intervention, the same standards must apply wherever older people reside, irrespective of whether it is in a public or private facility. Deputy Twomey said that I saw terrible standards in facilities I visited but I saw no terrible standards of care anywhere. The standards of care in all the facilities I visited were very high. However, I have seen very old buildings which need to be modernised and adapted and made more family-friendly and appropriate to the needs of older people. This requires capital investment and we have made additional capital moneys available, as we did last year, for the adaptation, modernisation and upgrading of many of these facilities. This process must continue, as it will take some



[Ms Harney.]

time to invest the level of capital funding required to raise all of the facilities to modern standards.

The budget addressed the issue of day care centres and their wider use. As the Deputy knows, many centres are only open for a short period each week. In future, every day care centre will operate seven days per week, which will require additional resources and staffing. This year, the Government has provided money for the enhanced use of the current day care services. I must be honest and say I am not familiar with the details of what is happening at Cootehill, but I will have the matter examined and ask someone to communicate with the Deputy.

**Caoimhghín Ó Caoláin:** Will the Tánaiste revert to me?

**Ms Harney:** The residents of the Cootehill centre should not be put at a disadvantage *vis-à-vis* residents elsewhere, nor are they as far as I am aware. I want the facilities for senior citizens there to be used to their full potential.

**Caoimhghín Ó Caoláin:** There are echoes of this matter in other parts of the country. We are discussing approximately 200 citizens to be catered for, that is, 40 per day over five days. The commitment of the voluntary input is present, but the HSE—

**Acting Chairman (Mr. Costello):** The Deputy is only allowed one supplementary question.

**Caoimhghín Ó Caoláin:** —is making the voluntary commitment an essential element of what it should be providing. The voluntary commitment should be in addition to what the HSE is obliged to provide, not instead of it. The dichotomy arises in this regard. Will the Tánaiste revert to me on this matter, as it is of significant importance?

**Ms Harney:** I will have the matter examined for the Deputy.

**Mr. S. Ryan:** I have always believed that one of the reasons for the reluctance with regard to an independent inspectorate of public sector facilities was that it might file damning reports on conditions and buildings. I share the Tánaiste's concerns and agree with her analysis.

In the context of the Government's tenure and notwithstanding the fanfare for public private partnerships, why has it reneged on its commitment to provide new public nursing homes? How does the Government intend to provide services for people with dementia?

**Ms Harney:** I understand the HSE is working on plans for the provision of additional capacity

in this area. Several years ago, my Department proposed to provide 850 beds by way of a public private partnership. However, this proposal never advanced, as it ran into difficulties with the Departments of Health and Children and Finance in respect of costings and so on. Instead, capacity was purchased in the private sector. With tax-based incentives for the expansion of this area in the private sector, many facilities have been provided.

That said, the private sector will not fulfil our needs in this matter. For example, it is increasingly difficult to acquire public or private sector capacity in the centre of Dublin. For older people in Dublin 1, Dublin 3 and Dublin 8 to acquire nursing home places, they would need to move quite a distance from their communities and families, which is unacceptable.

The HSE is working on a proposal to perhaps use public facilities, such as St. Mary's Hospital in the Phoenix Park, Cherry Orchard or elsewhere. We must be imaginative, acquire facilities and adapt them for the use of older people, as it is a priority. Not only is it a priority for older people, their families and society, it is also a priority in terms of resolving some of the issues in the acute hospital system. Recently, up to 400 people were medically discharged by their doctors per day but were not in positions to leave because there were no alternative places to which they could go. This is not a good use of the acute hospital system, which is not a good place to be if people do not need to be there. For a number of reasons, we must address this issue.

**Mr. S. Ryan:** Where will the children's hospital be located?

**Ms Harney:** The HSE board will consider the report today, which I have not seen. It will make a recommendation to the Government.

**Mr. S. Ryan:** The Tánaiste can tell us where the hospital will be located.

**Ms Harney:** It will be in Dublin.

**Mr. S. Ryan:** Will it be on the north side?

**Ms Harney:** It will not go to Cootehill.

*Written Answers follow Adjournment Debate.*

#### Adjournment Debate Matters.

**Acting Chairman:** 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 Finneran — that the Minister provide compensation to farmers in the Shannon and Suck River basin for loss of fodder due to recent flooding; (2) Deputy Costello — the need for the Minister to clarify the decision of the task force established

to decide on the location of the National Children's Hospital; (3) Deputy Sargent — that the Minister take interim action in advance of the Law Reform Commission working group on management companies; (4) Deputy McGinley — the crisis in Letterkenny General Hospital where from today consultants are refusing to treat any new breast cancer patients; (5) Deputy Caoimhghín Ó Caoláin — the need for the Minister to clarify the attitude of the State to the second inquest into the death of a person (details supplied); (6) Deputy Cowley — the expectations of the Government from the total spending plan for the BMW region from now until 2008; and (7) Deputy Broughan — the need to ensure that key social infrastructure be planned promptly and put in place in the north fringe straddling Dublin city and Fingal County Council.

The matters raised by Deputies McGinley, Ó Caoláin, Finneran and Sargent have been selected for discussion.

### Adjournment Debate.

#### Hospital Services.

**Mr. McGinley:** I welcome the opportunity to raise this matter on the Adjournment. I regret that the Tánaiste has left, but she has spent much time in the House today. On Monday, she visited Letterkenny General Hospital to become familiar with general medical services in the county, particularly at the hospital, including the lack of adequate cancer services in the north-west.

It would be an understatement to say that matters in Letterkenny General Hospital took a turn for the worse this morning. As they indicated a number of months ago, consultants are refusing to take on new breast cancer patients. This is an unprecedented step and shows the frustration of hospital staff. It is designed as a final wake up call about the urgency of addressing the situation. The consultants have been calling for the appointment of a permanent breast surgeon at the hospital and, now that their 1 June deadline for a response has not been met by the Department of Health and Children, they will not treat new patients referred from this morning. It is deeply regrettable that in the wake of the Tánaiste's visit, no progress was made by her Department in seeking to avert this action.

This is yet another blow to the provision of cancer services in County Donegal, which are already diminished by the absence of radiotherapy services and the BreastCheck programme. Government inaction has now led to the inferior cancer services available to the people of County Donegal and the whole north-west being reduced even further.

We have become immune to the vague responses of the Tánaiste, her Department and

the Health Service Executive. The delay in rolling out BreastCheck to the north-west is not acceptable and the suggestion that they should travel to Belfast for radiotherapy is inadequate for Donegal patients. Tragically, the absence of radiotherapy services closer to home has led to many women enduring radical and traumatic surgery instead of the arduous journey for treatment. Many more women will do so in the future and, unfortunately, many women and men could lose their battle with cancer if the Government continues to fail the people of the area, in particular the people of Donegal.

The Donegal Action on Cancer Care group is spearheading a countywide campaign to improve cancer services in the area. A fortnight ago, a march and a meeting were organised in Letterkenny, which attracted more than 10,000 people, the silent majority as it were expressing their dissatisfaction with the inadequacy of cancer services in the county.

Donegal Action on Cancer Care has put forward a five point programme for Donegal designed to improve cancer services and medical services in general. The first point in that programme is the immediate appointment of a permanent breast surgeon in Letterkenny General Hospital, the absence of which has brought about today's crisis. The second point relates to the provision of a satellite unit for a radiation unit for the north-west. It is amazing that when the radiation strategy was laid out several years ago, there was not even one centre north of the Dublin Galway line. We were told to depend on Belfast, which has not yet come to fruition and is not the answer to our problem. On breast screening, it calls for urgent remedial action to be taken to reduce the backlog of women waiting for mammograms in the current absence of roll-out of BreastCheck in the north west. As a matter of urgency there must be funding designated for patients and their families who must travel for treatment. All Donegal patients who require radium treatment must travel to Dublin. On Tuesday I spent two hours in St. Luke's in Dublin and there were at least 12 Donegal patients there away from their families. I am not denigrating the accommodation or care but it is important that those undergoing cancer treatment are in the bosom of their families. If this was available in the north west, they could go home to the families every week.

This is not the first time I have raised this and I have raised it again today because of what has happened this morning. I appeal the Minister of State, who has replied to this before, to give the people of Donegal some hope, particularly the 70 women in the county who are diagnosed with breast cancer every year. From now on, no new patients will be accepted in Letterkenny and alternative arrangements must be put in place.

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** I welcome the opportunity to address the issues raised by the Deputy and to set out the current position with cancer services in Letterkenny General Hospital.

In a public statement made earlier this week, when the Tánaiste visited the Donegal area, she said everyone in this country, regardless of where they live, should have access to the best possible health services. This is especially so for cancer services. The most important thing for patients is getting the best treatment. Outcomes for patients are what drive our policy and investment in cancer care. I am determined that everyone diagnosed with cancer will get top quality treatment, as near to home as possible. The Tánaiste and I remain confident the HSE can achieve these objectives.

The Deputy has raised the appointment of a permanent breast surgeon at Letterkenny General Hospital. A stand alone breast service at Letterkenny General Hospital is not an option as it does not, according to recognised cancer experts, have a large enough volume of new patients with breast cancer to achieve the high quality of services that the women of the area are entitled to receive. The preferred option of the HSE is for a true partnership to be developed between Altnagelvin Hospital in Derry and Letterkenny General Hospital. There are already strong links between these two hospitals. Altnagelvin Hospital is wholly committed to developing a workable solution with Letterkenny General Hospital.

The director of the national hospitals office and the network manager for the HSE western area are to meet with the respective management and clinical teams next week to seek to progress a partnership arrangement that can best develop breast care in the region. It is understood the model of care being sought will include combined multidisciplinary team meetings to discuss patients in both jurisdictions. Decisions on each patient will be examined collectively involving the appropriate treatment and follow up. The HSE advises it will also explore the option of a similar model with University College Hospital Galway.

The medical team at Letterkenny General Hospital will continue to attend to breast cancer patients referred to them before today and awaiting their first appointment. However, medical consultants at Letterkenny General Hospital are refusing, as of today, to accept any new referrals of breast cancer cases. Discussions at hospital level have taken place to seek a deferral of this action. Last Friday, the director of the national hospitals office wrote to the chairman of the medical board at the hospital advising that the HSE is actively pursuing a resolution of the issue of how best to provide breast cancer care to the population of Donegal. The director gave a

commitment that the matter will be drawn to a definitive conclusion before the end of June, just over four weeks from today.

The Tánaiste has urged the HSE management to complete discussions on the future organisation of breast services by this date. The director also asked that any proposition to cease existing services be withdrawn in the interests of assuring best patient care. I understand that medical consultants refused to rescind their decision. The HSE, in the interests of women who will be diagnosed with breast cancer has made alternative arrangements.

Letterkenny General Hospital has advised general practitioners in Donegal that urgent new referrals of breast cancer patients should be referred to Sligo General Hospital or University Hospital Galway. Arrangements have been made with these hospitals. There is a tradition of patient referral to these hospitals.

General practitioners have also been advised that they may wish to refer patients to other hospitals, if appropriate. This clarity is essential to ensure there continues to be a service in place for women with breast cancer in Donegal.

The action of a small number of medical consultants is most regrettable, especially as the HSE is making significant efforts to resolve the issue in the best interest of women with breast cancer. I am asking that the consultants involved reconsider their decision and participate fully in the discussions next week. These discussions should take place in a positive environment and not against the backdrop of a refusal to continue to provide services to vulnerable patients.

In the coming years, almost €50 million will be invested in health facilities in Donegal, with almost €28 million being spent on additional beds and a new accident and emergency department at the hospital. This Government has quadrupled the budget of Letterkenny General Hospital since 1997, enabling the appointment of more than 550 additional staff. This is a clear expression of our confidence in the health services in Donegal and we will spend more to make the services even better in the coming years.

### **Inquest Hearing.**

**Caoimhghín Ó Caoláin:** I thank the Office of the Leas-Cheann Comhairle for the opportunity to address this very important matter. It concerns the ongoing tragedy for the parents, Brian and Rosemary, and the brothers, sisters and family of the late Frances Sheridan. It also has implications for the future conduct of inquests and highlights the need to bring forward the promised coroners' Bill.

There is an immediate need for Tánaiste and Minister for Health and Children, Deputy Harney, to explain the State's attitude to the second inquest into the death of Frances Sheridan and the total contradiction between the position



of the Attorney General on one hand and on the other the Health Service Executive and the State Claims Agency.

Frances Sheridan died in 2004 following her discharge from Cavan General Hospital. At her first inquest last year evidence showed that the full recorded facts of her condition, including an earlier appendix operation, were not known to those who attended her in Cavan General Hospital before her discharge and subsequent death.

At last year's inquest the coroner directed the jury to return a verdict of death by misadventure but they returned a verdict of death by natural causes. This caused consternation to the grieving Sheridan family and raised profound questions which have yet to be answered.

The Attorney General ordered a second inquest and this decision was warmly welcomed by the Sheridan family. They look forward to the full facts emerging at the second inquest.

Then, like a bolt from the blue this week, the Health Service Executive and the State Claims Agency have tried to prevent the second inquest from going ahead by challenging the position of the Cavan coroner, Dr. Mary Flanagan. They have argued that she should not preside at the second inquest, having already presided at the first. This is despite the fact the Attorney General's direction to hold a second inquest was to the Cavan coroner, Mary Flanagan, herself.

The coroner was presented on Monday with a threat from the HSE and the State Claims Agency that they would take High Court action on Tuesday unless she voluntarily stood aside. It seems this threat was not carried out but a solicitor for the HSE and the State Claims Agency again submitted in the Coroner's Court on Wednesday that she should stand aside. This is quite extraordinary. Is there a precedent for this demand? Is it not the norm that where a second inquest is required the same coroner presides?

The HSE and the State Claims Agency are arms of the same State whose chief law officer ordered the second inquest. It is mind-boggling that they should now seek to prevent that second inquest from proceeding. Both of these agencies, as well as the Attorney General, are charged with protecting the interests of citizens. Why are they acting at cross purposes?

The grief of the Sheridan family has been compounded by the events of this week. In the words of their legal adviser: "Their grief could hardly be compounded further, but it seems the HSE has managed to do that".

The Sheridan family's barrister also told the coroners court that it was inconceivable to them that the HSE should threaten a High Court injunction.

I echo the call of the Sheridan family for the Tánaiste and Minister for Health and Children and her Cabinet colleagues here represented by

the Minister of State, Deputy O'Malley, including the Minister for Finance, Deputy Cowen, to explain themselves and order an investigation into the handling of this case.

**Mr. T. O'Malley:** I am taking this matter on behalf of my colleague, the Tánaiste and Minister for Health and Children, Deputy Harney. I take this opportunity to express my deep condolences to the Sheridan family on the tragic loss of their daughter, Frances. In February 2004, Frances died after being discharged from the accident and emergency department of Cavan General Hospital. Last December, an inquest was held into Frances's death, presided over by the acting coroner for County Cavan. Following the hearing of the inquest, the jury returned a verdict of death by natural causes.

In January, solicitors representing the Sheridan family wrote to the Attorney General requesting that the Attorney General direct a fresh inquest pursuant to his statutory power under the Coroners Act 1962. I understand that the acting coroner also wrote to the Office of the Attorney General with comments on this request.

In April, the Attorney General advised the acting coroner that, in his opinion, it was advisable to hold a new inquest and, accordingly, pursuant to his powers under the Coroners Act 1962, he directed that the acting coroner hold the inquest. The acting coroner advised the State Claims Agency that a new inquest was to take place and that it was proposed to hold the new inquest on 31 May 2006.

It is important to advise the House of the role of the State Claims Agency in regard to matters such as these. Under the National Treasury Management Agency (Delegation of Functions) Order 2003, the management of claims alleging clinical negligence against the Health Service Executive was delegated to the State Claims Agency. As part of the overall management of clinical negligence claims, the State Claims Agency also provides legal representation at coroners' inquests for the HSE and individual practitioners employed by the executive. On learning of the intention to hold a new inquest, the HSE's solicitors wrote to the acting coroner indicating the HSE's concern as to whether it was appropriate that she should conduct the new inquest.

At no stage was it suggested that there is or might be any actual bias on the part of the acting coroner. Rather, the concern was that there would be a reasonable apprehension, in the light of the acting coroner's previous involvement in the case, that she might be biased. It was suggested that, in the circumstances, the most appropriate course was for the acting coroner to allow the new inquest to be conducted by an alternative coroner. The acting coroner declined the suggestion and confirmed her intention to open the inquest on 31 May.

5 o'clock

[Mr. T. O'Malley.]

Last Monday, the acting coroner informed the Sheridan family that the inquest would not go ahead on Wednesday, 31 May but instead would hear legal submissions only. This was communicated to the HSE and the State Claims Agency last Tuesday. I am advised that neither the HSE nor the State Claims Agency sought to obstruct the inquest or make any attempt to prevent it. The HSE and the agency fully accept the Attorney General's decision to direct a fresh inquest.

### **Crop Losses.**

**Mr. Finneran:** I raise this matter on the Adjournment to call on the Minister for Agriculture and Food to provide compensation to farmers in the Shannon and Suck river basin for the loss of fodder due to the severe flooding in the area in recent weeks. In particular I refer to my constituency of Roscommon-south Leitrim and the area of south Roscommon from Athlone, through the Clonown area, to Shannonbridge, on to Meelick and on the River Suck from Athleague, through the Ballyforan area, down through the Moore area to Shannon Harbour.

Given the extraordinary levels of rainfall in early May, farmers in that region who had taken their cattle to the callows in May had to withdraw them due to severe flooding. That is now causing severe hardship and a financial strain on the farmers involved, first, because of the cost of moving cattle, which must be moved by tractors, trailers and lorries, second, the fact that they had to go back on lands closed for hay and silage to be cut later in the year and, third, bagged and loose feedstuff, and in some cases hay and silage, had to be bought from merchants. It must be understood that these callows, by and large, are now useless for 2006. The picture I paint on behalf of the farmers who live in the south Roscommon area and who have suffered a great financial loss over the past four weeks is not a rosy one and it will have repercussions in terms of their income for 2006.

I ask that the Minister pay a direct fodder payment to the farmers involved. It is easy for the Teagasc offices to evaluate for the Minister the losses involved. I do not want to hear that they must go through the community welfare officer, the Department of Social and Family Affairs or the Red Cross, or that some other group will examine hardship cases. Farmers are business people and they have suffered a major loss through no fault of their own. It was an act of God. There is a responsibility on the Department of Agriculture and Food. I call also on the Department of Finance to approve moneys for the Department of Agriculture and Food to allow payments to be made to these farmers directly through the Department of Agriculture and Food.

The Teagasc offices in County Roscommon should be called in and asked to evaluate the losses and a financial package should be put together to meet those losses. Nobody is looking for a major package but losses are being experienced and in many cases they amount to several thousand euro to individual farmers. Farmers throughout the country are not making a living from their land to any great extent. Indeed, they have difficulty surviving. Most of them are surviving on the basis of a spouse working or working themselves part time.

I have had numerous representations from farmers and farmer organisations in the south Roscommon area. I am aware that representatives from the Westmeath and Offaly constituencies have had similar representations, and I presume that applies to east Galway. I am talking about a pocket of Ireland in the midlands that is concentrated from the weir at Meelick towards Athlone and the implications of that on the River Shannon and the farmers on both sides, particularly the south Roscommon area as far as I am concerned, and from Shannon Harbour to Athleague, both on the Roscommon and the east Galway side. As far as I am aware, it is only in that pocket of the country that this hardship is being experienced.

This situation is ongoing and there is nothing the farmers can do about it. The only way we can respond as a Parliament is to call on the Minister with responsibility, namely, the Minister for Agriculture and Food, to provide a financial package for these people. That should be done through the Department of Agriculture and Food, with the Department of Finance providing the necessary funds. The statutory body capable, on past experience, of doing evaluations, namely, Teagasc, must carry out those investigations as a matter of urgency in the interest of the farmers in the region.

**Mr. T. O'Malley:** I am replying to this Adjournment debate matter on behalf of the Minister of State at the Department of Finance, Deputy Parlon, who is unable, due to another commitment, to be in the House this afternoon. The Minister has asked me to apologise for his unavoidable absence.

The River Shannon is the longest river in Ireland and one of the larger rivers in western Europe. The river drains a catchment of 14,700 sq km to the Shannon Estuary, an area of approximately one fifth of the area of Ireland. The river is characterised by relatively steep upper and lower sections and a very flat gradient through its middle reach from Lough Ree to Lough Derg. The low-lying lands surrounding the River Shannon, or the callows, especially those along the middle section, have experienced regular flooding for centuries.

The Minister of State and his officials in the Office of Public Works are aware of the current level of flooding in the Shannon callows. While winter and occasional summer flooding is a feature of the callows, severe flooding of the kind being experienced at present is not. The current exceptional flooding is due to the unusually heavy rainfall we have experienced in the month of May. It may well prove to be the highest May rainfall on record.

I understand that the farming area to which the Deputy refers lies within a special area of conservation. With regard to the question of possible compensation for the financial loss incurred by farmers as a result of flooding in this area, it is therefore primarily a matter for consideration by the Department of Agriculture and Food or the Department of the Environment, Heritage and Local Government.

While it is true that the OPW was involved in recent years in overseeing a number of humanitarian aid schemes administered on the OPW's behalf by the Irish Red Cross for the relief of those who had suffered hardship as a result of severe flooding, I stress that each of these schemes was only introduced on foot of a Government decision and only in instances where the damage had been especially severe and widespread throughout the country. The schemes were humanitarian and were designed to relieve hardship. They were not compensation for losses. While some of the earlier schemes provided assistance where hardship resulted from damage to businesses and farm buildings, provision of aid in the more recent schemes was restricted to hardship resulting from damage to homes only.

The OPW no longer has any responsibility for such Government approved humanitarian aid schemes. This function has now been transferred from the OPW to the Department of Social and Family Affairs, following the recommendations of the interdepartmental flood policy review group. The Government approved the implementation of the recommendations of the flood policy review group in September 2004. One of the review group's recommendations was that:

[T]he provision of emergency assistance (Humanitarian Aid) where serious flooding has occurred to be limited to situations where damage has occurred to homes and to be administered by the community welfare services of the regional health boards, in conjunction with, as appropriate, local community and voluntary groups and non-governmental organisations (NGOs).

Responsibility for future programmes of humanitarian aid has therefore now been transferred from the OPW to the Department of Social and Family Affairs under whose aegis the community welfare services operate.

The Office of Public Works has no responsibility in the maintenance of the River Shannon. It would be open to the commissioners under the provisions of the Arterial Drainage Act 1945 and the Arterial Drainage (Amendment) Act 1995 to prepare a scheme to prevent or substantially reduce flooding in an area. The possibility of undertaking an arterial drainage scheme for the River Shannon has been considered on a number of occasions and has been ruled out on both economic and environmental grounds.

In 2003, the Commissioners of Public Works undertook a further preliminary assessment of the Shannon flood problem. This reviewed the previous reports and their conclusions in the light of the changes that had occurred in the catchment in the intervening 40 years. The review considered a variety of issues, for example, conditions in and competing uses of the river, perceived changed climate patterns, changed agricultural regulations and practices, different economic circumstances for agriculture and other industries, the higher values being placed on environmental and heritage assets and tourism opportunities.

This was to establish if any possibility existed that a more detailed study might identify viable options to alleviate the flooding problem. It recommended that a pre-feasibility study of possible flood risk management opportunities be undertaken. That study was completed in late 2004 and copies were given to the stakeholders.

### Property Management Companies.

**Mr. Sargent:** Ba mhaith liom mo bhuíochas a ghabhaíl leis an Cheann Comhairle as cead a thabhairt dom an cheist thábhachtach seo a ardú. I welcome the Minister of State, although I was hoping the Minister for the Environment, Heritage and Local Government, Deputy Roche, might attend. The issue I wish to raise, relating to management fees, will grow and will need serious consideration by the senior Minister.

The front page of *The Irish Times* today states that child care costs are rising at five times the rate of inflation according to the Central Statistics Office. The Minister of State can imagine how difficult this is in itself. On top of that, many first-time buyers are being landed with management fees. People have contacted me on this issue from practically all of the towns in Dublin North. I have no doubt this is a countrywide problem, as other Deputies to whom I have spoken will indicate.

One resident in a house states:

I am a resident at Barons Hall, Flemington, Balbriggan. I am writing to appeal to you to take action on a national level for the plight of residents like myself who are being forced to pay fees to cowboy companies. I, like all other residents who live in this area, am disgusted at



[Mr. Sargent.]

the idea of paying out management fees for basic services that are not done and which should be done by the council anyway. I, like others, never found out about management fees until signing for my house. By that stage it was either sign or lose the house.

Smith Property Management, on behalf of the builders, Pat Neville Developments, are trying to extract €250 a year from householders for the most basic of services, such as cutting grass and cleaning the area, which they do not even bother doing. Other estates in Balbriggan do not pay management fees and have these basic services provided by the council. This is tantamount to discrimination.

Management companies are completely unregulated and it seems they can charge what they want and provide any type of service they think they can get away with. I am asking you to take up this case with the Department of the Environment and Fingal County Council. This is a problem which will not go away without political intervention. I am a law-abiding, tax-paying citizen and I have always paid my bills on time, but I feel so strongly about this situation I have refused to pay.

I have written to the management company and their reply was lame. The bottom line is that they should be outlawed and properly regulated for apartment owners.

That householder may well come to find that if the house is sold, he will be landed with an enormous accumulated fee. That is where the Government is favouring a type of extortion by not regulating such companies and allowing the sector to grow and get worse.

I mentioned a charge of €250, but they can vary. At a recent public meeting in Balbriggan I heard of charges of between €200 and €1,500 per year per home or apartment. This would be hiked up every year. One management company published accounts stating that €133,000 in fees were collected, of which €23,000 was spent on administration and only €6,000 on maintenance. This brazen profiteering is only happening because the Government is starving local authorities of staff and finance while failing to legislate what is in many ways corruption and extortion out of existence.

I ask the Minister of State not just to take on board legislation. That could be done quickly and we have found that out this week. It is firstly a matter of awareness. I urge the Minister of State to ensure that awareness is raised in the public mind of the possibility of management companies coming in at the point of sale of a house like wolves in sheep's clothing. In England there is a right to manage other types of documentation based on the Commonhold and Leaseholder Reform Act 2002. We do not have the type of documentation or awareness in this country

because we do not have as much a tradition of living in apartments as other countries.

People are therefore being ambushed. The Government is standing idly by and I question how irresponsible that is. For example, Fingal County Council does not put too fine a tooth on the matter when it states with regard to management companies:

The current model, unregulated by a lack of any controlling primary governing legislation, is open to abuse. The most common is where a developer holds a controlling interest either by some clause in the management company structure or by controlling a significant number of properties by retaining ownership (renting, not selling them).

Under section 180 of the Planning and Development Act 2000, as long as the management company is *in situ*, people cannot hold a plebiscite. As long as the developer holds one of the properties, the estate is allowed to continue on with a management company. Money is being demanded from people, and this is in many ways extortion. A number of recommendations have been made by Fingal County Council on primary legislation. One such recommendation states that matters that can be controlled by legislation are a prohibition on developers withholding the handing over of control for a prolonged period, and the introduction of a formula to calculate reasonable contributions to prevent the imposition of excessive management charges at the outset.

The necessary regulations are not in place and the Minister of State is standing idly by while extortion takes place. I urge him to regulate this activity and to promote awareness of the situation so that people are not ambushed into paying those charges. He should act on this without waiting for the Law Reform Commission. He should act on receipt of its report but, in the meantime, people are being drained of resources they scarcely have. If the Minister of State had to pay the charges he would do something about it.

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** I thank the Deputy for the opportunity to address this important issue.

Many public representatives are aware of problems experienced by some apartment owners—

**Mr. Sargent:** And householders.

**Mr. B. O'Keeffe:** —and it is right that we should look for equitable solutions. Because of the legal complexities affecting these issues, the Government has sought the expert assistance of the Law Reform Commission, whose report is now at an advanced stage. Resolving the various difficulties has implications for a number of legislative codes including measures relating to com-

pany law and conveyancing. The Government will consider the recommendations in the Law Reform Commission's final report, including the need for any new legislation in this area.

**Mr. Sargent:** Will it act in the interim?

**Mr. B. O'Keeffe:** Insofar as abuses of the sort referred to, involving developer-controlled companies, may exist this is likely to arise from the developer retaining some units in a development and, as a result, maintaining control of the management company which should properly transfer to the owners of apartments soon after the development is completed. The resolution of management problems should be largely in the hands of the homeowners via the management companies of which they are members. However, a source of problems at present seems to be the manner in which developers can retain effective control of management companies indefinitely. This seems to derive from the fact that standard conveyancing practice and company law provisions allow for developers' nominees on management companies to outvote owners if the developer retains a single unit in the development.

**Mr. Sargent:** The Minister should refer to section 118 of the Act.

**Mr. B. O'Keeffe:** Legislative action to address this would involve conveyancing and company law, which are outside my Department's area of responsibilities. However, it would clearly be desirable to have the recommendations of the Law Reform Commission in that regard.

Property owners in multi-unit structures should also realise that there is a primary onus on them to ensure that their management companies operate effectively once control of the company has transferred to them. There can also be an information deficit in this area, which is inimical to the effective operation of management arrangements. One basic source of difficulty is the general lack of information and understanding about the need for and role of management companies, and the rights and obligations of home owners in this area. As an immediate practical step to address this information deficit, my Department is co-ordinating the provision of clear and concise general information, particularly for home buyers. This will issue very shortly.

The legal profession also has a key role in protecting home buyers from abuses. Conveyancers are to be generally complimented for the way in which they have adapted conveyancing practice to facilitate the huge growth in the development and sale of apartments. They need to be vigilant in ensuring that the rights of buyers are fully safeguarded from inappropriate obligations or excessive costs in house purchase contracts, particularly

where buyers feel pressurised in the context of a rising property market. I hope the legal profession as a whole will be able to help raise the level of protection further in conjunction with the construction industry.

It is also open to the construction industry, on a voluntary basis, to take action to address some of the key sources of difficulty. They do not need to wait to be forced by legislation to take action to address some of the inadequacies and shoddy practices that have come to light. This action could involve the agreement between the industry and the legal profession of standard guidelines and documentation relating to house purchase conveyancing and contracts, based on appropriate principles. Issues that could be dealt with in this way might include the appropriateness of charges, transfer of control to unit owners, developers' responsibilities pending taking in charge by local authorities and maintenance of adequate sinking funds. My Department is exploring with the construction industry the scope for practical action in this regard pending any necessary changes to conveyancing and companies legislation in light of the LRC report.

Local authorities must also play their part and, in particular, avoid adding to complexities or uncertainty in the context of applying planning conditions relating to management arrangements. My Department is pursuing this aspect with planning authorities. However, the issue of planning conditions relating to management companies is not a totally straightforward one. The Planning Act allows the attachment of these conditions, recognising that management companies have been traditionally set up for the maintenance of apartment buildings and their attendant private grounds.

**Mr. Sargent:** They hold houses now.

**Mr. B. O'Keeffe:** It has been made plain that it is not appropriate to attach planning conditions regarding management companies in the case of traditional housing estates, with their own front and back gardens. I also consider that it is appropriate that planning authorities should take in charge the public roads, no matter what type of residential estate is in question. However, the traditional housing estate is, in many areas, being replaced by the mixed estate, which may contain apartments, duplex houses and terraced houses, with shared facilities such as car parking and gardens. High specification paving, lighting and landscaping are frequently features of such estates. Genuine questions arise as to whether it is appropriate that all these facilities be taken in charge and maintained at public expense. Many of these facilities are replacing the traditional gardens, which, in a conventional housing estate, would fall to be maintained by the residents rather than the local authority.

[Mr. B. O'Keeffe.]

Depending on the circumstances, it may be appropriate in the case of these newer estates for a management company to be in place to maintain facilities on behalf of the residents. In some cases the residents of such estates may have purchased their homes on the basis that the development remain a private one and not be taken in charge by the local authority.

My Department published a booklet last December entitled: Housing Policy Framework: Building Sustainable Communities. This sets out an agenda for an integrated package of policy initiatives on matters that included supporting

higher densities and compact urban settlement through design innovation in the creation of new homes, new urban spaces and new neighbourhoods. In line with this, my Department is updating the residential density guidelines. It will be appropriate to examine further the issues of taking in charge and management companies in this context.

**Mr. Sargent:** The Government needs to end extortion.

The Dáil adjourned at 5.30 p.m. until 10.30 a.m. on Friday, 2 June 2006.



## Written Answers.

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**The following are questions tabled by Members for written response and the ministerial replies as received on the day from the Departments [unrevised].**

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*Questions Nos. 1 to 6, inclusive, answered orally.*

### **Nursing Homes Accreditation.**

7. **Mr. Deenihan** asked the Tánaiste and Minister for Health and Children the reason the Government asked the Irish Health Services Accreditation Board to draw up standards for nursing homes if she is not going to publish or implement same; and if she will make a statement on the matter. [21247/06]

13. **Mr. Allen** asked the Tánaiste and Minister for Health and Children when she intends publishing and implementing the Residential and Non-Acute Care Accreditation Scheme as prepared by the Irish Health Services Accreditation Board; and if she will make a statement on the matter. [21216/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** I propose to take Questions Nos. 7 and 13 together.

A Working Group has been established by the Department of Health and Children to develop national standards, in line with best international practice, for residential care settings for older people. These will be the minimum standards which will have to be met in both private and public long term care settings. Membership of the Group comprises officials from the Department, the Health Service Executive, the Social Services Inspectorate and the Irish Health Service Accreditation Board (IHSAB). A draft of the national standards will be available in July and a consultation process will be undertaken to enable all interested parties to give their views.

IHSAB was established to operate accreditation programmes. Accreditation is an effective, internationally recognised evaluation process used by many countries world wide to assess and promote quality in healthcare. Accreditation is a voluntary process. The Residential and Non Acute Accreditation Scheme

developed by IHSAB is therefore a voluntary scheme. This Accreditation Scheme sets out standards for the very highest level quality of care which service providers could work towards. These accreditation standards will be published by IHSAB once national standards are established. The Department and IHSAB are in ongoing consultation in relation to both national standards and accreditation standards.

### **Organ Donation.**

8. **Mr. English** asked the Tánaiste and Minister for Health and Children if she has satisfied herself that the level of donor organ retrieval in acute hospitals here is working at optimal levels or if she has some concerns; and if she will make a statement on the matter. [21248/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** There is a declining trend over recent years in Europe and worldwide in relation to donor numbers, due in part to improved systems in Intensive Care Units which reduce the number of potential donors. It is therefore essential that we examine the practices and procedures within individual hospitals which deal with potential donors to ensure that the potential for organ donation is being maximized.

The National Organ Procurement Service, which is based at Beaumont Hospital, produces an annual report which includes details of the number of donor organs retrieved at the participating hospitals. The 2005 Report shows that organs were retrieved from 76 donors during the year, a reduction on the 2004 figure of 89. A significant number of donations were made at Beaumont Hospital and Cork University Hospital where there are neurosurgical units in place. There was a relatively low level of retrieval at other hospitals.

In the context of seeking to increase the number of donor organs available for transplant, the Health Service Executive was asked by my Department to undertake a review and analysis

[Ms Harney.]

of the factors that impact on organ procurement and retrieval rates in hospitals around the country. This review has recently commenced and will be completed over the coming months. One of the main issues that is being examined is whether there is potential to increase the level of donor organ retrieval across the acute hospital sector.

*Question No. 9 answered with Question No. 6.*

### **National Health Strategy.**

10. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if she is committed to Action 78 of Quality and Fairness — A Health Strategy for You which promised 650 additional acute hospital beds by the end of 2002 and 3,000 additional beds by 2011; her views on whether an additional 3,000 beds are required; if so, the projected annual increase and means of delivery of these beds up to 2011; and if she will make a statement on the matter. [21303/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Strategy (2001) contained a commitment to increase the number of acute hospital beds by a total of 3000 over a ten year period. The Strategy did not set a mid-way target or a target of beds to be provided by year.

In 2001, the year of the publication of Health Strategy, the average number of in-patient beds and day places available for treatment of patients in public acute hospitals was 12,145. Hospital returns for 2005 show that this number has risen to 13,255, an increase of 1,110 in-patient beds and day places. 90% of treatment places in acute hospitals are overnight in-patient beds. In addition, a further 450 acute beds/day places are in various stages of planning and development under the Capital Investment Framework 2005-2009.

In July 2005, I announced an initiative to have private beds built on the campuses of public hospitals. The aim of this initiative is to enable up to 1000 beds in public hospitals, which are currently used by private patients, to be re-designated for use by public patients. The HSE recently advertised for expressions of interest to construct private hospitals on the sites of 11 publicly funded hospitals. These additional in-patient beds/day places will mean that our commitment to increase total acute hospital capacity will be virtually complete.

A Steering Group has been established under the chairmanship of the National Director of the National Hospitals Office to review our acute hospital bed requirements up to the year 2020. The Group includes representatives of the HSE, my Department, the Department of Finance and the Economic and Social Research Institute.

### **Departmental Reports.**

11. **Mr. Eamon Ryan** asked the Tánaiste and Minister for Health and Children when she expects to publish the report by a person (details supplied); if she will act on their recommendations; and if she will make a statement on the matter. [21298/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** I am advised that the report referred to by the Deputy is currently being considered by the Health Service Executive. It has not yet been submitted to the Tánaiste or myself. I am not therefore, in a position to say when it will be published or to offer any comments on its recommendations.

The Department of Health and Children has been working on two important areas which will have a significant impact on the inspection of Nursing Homes. The first is a Working Group has been established by the Department to develop the standards for residential care settings for older people. Membership of the Group comprises officials from the Department, the Health Service Executive, the Social Services Inspectorate and the Irish Health Service Accreditation Board.

The Group is developing standards for the inspection of both public and private residential care for older people. A draft document is nearing completion and will be circulated to interested and relevant parties in the summer. In addition, the Irish Health Services Accreditation Board has examined the development of accreditation standards for both public and private residential care for older people. These will be introduced once national standards are established. The IHSAB and the DoHC are in ongoing consultation in relation to national and accreditation standards.

Secondly, the Department is in the process of drafting the Health Bill 2006 which provides for the establishment of the Health Information and Quality Authority (HIQA) and the Office of the Chief Inspector of Social Services, as an office within HIQA, on a statutory basis.

In addition, the HSE established a Working Group on Nursing Home Inspections in July 2005. It has now reported. The report makes a number of initial recommendations in specific areas in relation to nursing homes inspections which it regards as priority issues. The Group is addressing standards in respect of the inspection process. The HSE is committed to publishing inspection reports on nursing homes and these are expected to be published from mid-July onwards.

Priority is being given to the appointment of dedicated multi-disciplinary inspection teams whose remit solely covers all aspects of nursing home inspections, registrations, investigations and dealing with FOI requests. Standardised documentation will be used by all inspection

teams throughout the HSE. An Integrated Checklist will be adopted by all Inspection Teams and completed at each inspection by team members.

### Care of the Elderly.

12. **Mr. Bruton** asked the Tánaiste and Minister for Health and Children her Department's interpretation of the 2001 Health legislation that gives statutory in-patient care to every person over the age of seventy; if this provides for free nursing home care in either a public or private nursing home to all patients over the age of seventy; and if she will make a statement on the matter. [21220/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** Section 53 of the Health Act, 1970, provides for charges to be made in respect of in patient services generally. In regard to public long-stay care, Section 53 was amended by the Health (Amendment) Act, 2005 to provide for a charge where in-patient services have been provided for a period of not less than 30 days, or for periods aggregating not less than 30 days within the previous 12 months.

This was implemented by the Health (Charges for In-Patients Services) Regulations 2005 which provided for the levying of charges in respect of the maintenance of person in public long-stay care. Services are not, therefore, free in public units and in respect of private nursing homes, the financial support given by the State to patients is at present governed by the Health (Nursing Homes) Act, 1990 and subsequent Regulations, which allow the State to pay a subvention towards the cost of private nursing home care. The Health (Miscellaneous Provisions) Act 2001 does not give statutory entitlement to free nursing home care in either public or private nursing homes.

The Report of the inter-departmental Working Group on long term care which examined funding issues relating to residential and community care, is at present being considered by the Cabinet.

*Question No. 13 answered with Question No. 7.*

### Health Services.

14. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the steps she intends to take to improve the situation for chronic pain sufferers here; the numbers and locations of pain specialists, pain clinics and pain management programmes here; her views on whether these services are adequate for the needs of the large number of people in pain; if she has figures of those experiencing chronic pain here; and if she will make a statement on the matter. [21333/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and per-

sonal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Patients requiring treatment for chronic pain are seen in a number of different settings. The majority of patients are treated on an out-patient basis at an acute hospital and return home after treatment. Where required, patients are also treated on a day-care or in-patient basis under a more intensive and structured treatment programme.

The HSE has advised that hospitals which provide this service include Beaumont, St. James's, the Mater, St. Vincent's, The Adelaide and Meath Hospital incorporating the National Children's Hospital at Tallaght (AMNCH), Waterford Regional, St. Luke's Kilkenny, Cork University Hospital, Limerick Regional, University College Hospital, Galway and the Cavan/Monaghan Hospital Group. The HSE further advises that St. Vincent's Hospital is the only fully multi-integrated pain management service in Ireland and is a pioneering unit in the use of SENS (Subcutaneous Electrical Nerve Stimulation). The AMNCH also provides a dedicated Pain Management Programme. Pain Management, is also delivered in a Primary Care setting by General Practitioners and where necessary, supported by specialist services.

The HSE also advises that the need for further investment in Pain Management Services will be examined in the context of the 2007 Estimates.

### Ambulance Service.

15. **Ms Enright** asked the Tánaiste and Minister for Health and Children if emergency medical technicians trained to paramedical grade are using their skills in the ambulance service; if the roll-out of this vital service has been delayed; and if she will make a statement on the matter. [21251/06]

**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 (HSE) under the Health Act 2004. As part of the reform of the health service a National Ambulance Office has been established under the auspices of the National Hospitals Office within the HSE. The Office has responsibility for the provision of pre-hospital emergency care nationally.

The most significant development in the sector for many years is the roll-out of the Advanced Paramedic Training Programme. The introduction of the programme required two legislative changes which were completed in August 2005. The National Ambulance Training School (NATS), which operates under the auspices of the HSE, in conjunction with University College Dublin, is providing training for Advanced Paramedic candidates. The NATS graduated 29

[Ms Harney.]

Advanced Paramedics in 2005 and proposes to train a further 48 in the current year.

A Group Authority License was required for the administration of three controlled drugs — morphine, lorazepam and diazepam — by Advanced Paramedics. This License was issued by the Irish Medicines Board on the 5th May 2006. Completion of the training programme allows ambulance personnel to administer an additional 19 medications. This includes, for example, cardiac medications, which they could not administer previously.

The HSE has advised that, to ensure that a quality assured service can be rolled out, policies, protocols and structures are required to be in place around the issue of medicines management, including clinical oversight and security. The HSE has advised that it is finalising the operational policies and supporting infrastructure to allow for the rollout of the operational component of the service. This includes the development of policies in relation to medicines management and the management of controlled drugs carried by Advanced Paramedics working alone. These operational policies are undergoing final risk assessment at present. The Executive is also developing requisition and record management systems which are required to meet the demands of the regulatory bodies in this area. A clinical advisory group has been established in each area of operation around the country to provide a clinical oversight of the process.

The HSE ambulance service expects to be in a position to deploy Advanced Paramedics in an operational capacity from the end of this month.

### Parliamentary Questions.

16. **Mr. Deasy** asked the Tánaiste and Minister for Health and Children the reason parliamentary questions are being answered in a piecemeal fashion; the further reason they often correspond to the old health board structure when the Health Service Executive is lauded as a single entity system that has brought uniformed reform to a previously disjointed system; and if she will make a statement on the matter. [21228/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Contrary to the view indicated in the Deputy's question, I believe that a rational and coherent approach is being taken to answering parliamentary questions, in the context of the establishment of the HSE. It is also clear that a high priority is being given to this work, through the establishment of the HSE's Parliamentary Affairs Division in April of last year, and its subsequent positioning within the Office of the Chief Executive Officer.

The Parliamentary Affairs Division allows for the centralised receipt, assignment and tracking of PQs within the HSE's extensive network of operations. More generally, it has the capacity to

monitor overall performance in relation to the timely issue of replies and to initiate further developments in that regard. In addition, it provides a central contact for all requests from Oireachtas members for information relating to matters within the statutory remit of the Executive.

Last year the Ministers of State in my Department and I answered 5,305 PQs which represented a significant increase on the previous year's total of 4,132. Approximately half of these questions, relating to the management and delivery of health and personal social services, were appropriate for referral to the HSE for investigation and direct reply. These questions covered a broad scope of issues, ranging from the provision of services to individuals to national operational or infrastructural matters.

It is logical that questions of a different nature will involve a different approach to the preparation of a reply. In effect, the type of question determines how it should be most appropriately and expeditiously answered. Where a question relates to the provision of a service by the HSE on a national basis it is dealt with by the relevant HSE National Directorate. Questions involving the collation of information from across the system are coordinated and managed by the Parliamentary Affairs Division to ensure that a complete and comprehensive reply is compiled. Where a question relates to the provision of a service to an individual patient, to a particular hospital or to services in a particular administrative area, the response is issued, under the CEO's authority, by the appropriate manager at local or regional level.

I can assure the Deputy that my Department continues to work closely with the HSE, and particularly its Parliamentary Affairs Division, in relation to the monitoring of performance and the development of capacity in this key area of activity and accountability.

### Hospitals Building Programme.

17. **Mr. Howlin** asked the Tánaiste and Minister for Health and Children the major hospital building projects which are in the planning pipeline; the stage each has reached; and if she will make a statement on the matter. [21322/06]

**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. This includes responsibility for progressing major hospital projects under the health capital programme.

In this context, following extensive discussions involving my Department, the Department of Finance and the Health Service Executive (HSE), approval recently issued to the Executive to proceed with its capital plan for 2006. This provides



for an overall capital expenditure limit of €555.5 million and is subject to the Executive delivering its programme, including individual projects, consistent with relevant Government policies and in line with overall funding and staffing resources for 2006 or beyond.

The HSE Capital Plan 2006 contains proposals to progress a number of major hospital projects, where the total capital cost in each case would exceed €25million. The name and current status in relation to each is as shown in the following table.

Project	Current Status
Mater & Children's Hospital	Planning
St. Vincent's University Hospital — Phase 1	Equipping
Beaumont Hospital (Various projects)	Planning, construction & equipping
Cork University Hospital — Cardiac Renal	Planning
Cork University Hospital — Maternity	Equipping
Cork University Hospital — A&E, DPU	A&E open, DPU equipping (Day procedures Unit)
University College Hospital Galway — Phase 11	Equipping
Naas General Hospital — Phase 3B & 3C	Planning
Our Lady of Lourdes Hospital, Drogheda — Interim works	Planning
Louth County Hospital — DCP Phase 1	Planning
Cavan General Hospital — DCP Phase 1	Planning
Monaghan General Hospital — Interim works	Planning
Our Lady of Lourdes Hospital, Navan — DCP Phase 1	Planning
Midland Regional Hospital, Tullamore	Equipping
Midland Regional Hospital, Mullingar — Phase 2B	Planning
South Tipperary General Hospital — Phase 1	Equipping
National Rehabilitation Hospital	Planning
Brú Chaoimhín (H&S)	Planning

The Health Capital Investment Framework 2006 — 2010 also provides for a National network for Radiation/Oncology services at Dublin, Cork and Galway, with satellite centres at Limerick and Waterford. This project is currently at early procurement stages.

### Health Reports.

18. **Mr. Gilmore** asked the Tánaiste and Minister for Health and Children the steps she plans to take following a recent report on concealed pregnancy which found that there are women who continue to conceal and deny pregnancy; and

if she intends to follow the suggestion in the report. [21320/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The report *Concealed Pregnancy: A case-study approach from an Irish setting* was jointly commissioned by the Crisis Pregnancy Agency (CPA) and the Health Service Executive (West). It was launched on 23rd May 2006 and it is the first report of its kind that looks in depth at women's experiences of concealed pregnancy in Ireland. I welcome this report and I wish to acknowledge that this research represents an important contribution to our understanding of the phenomenon of concealed pregnancy.

The report makes recommendations to guide and inform the planning and development of a national framework of services responding to concealed pregnancy in medical, social, counselling and support service settings throughout the health services on a national basis. The CPA will be examining how the findings in this report may best inform its work programme, particularly in the areas of: Education and working with young people; the Positive Options campaign and the provision of crisis pregnancy counselling; its 'Key Contacts' information project; and other information resources being developed by the Agency for parents, GPs, etc.

In particular, the report recommends that the CPA host a forum for continued sharing of information on concealed pregnancy. The CPA has informed me that it will be convening such a forum to involve all of the parties that come into contact with women who may conceal a pregnancy, including medical social workers, GPs, crisis pregnancy counsellors, ante-natal educators, midwives, etc. The Agency views the establishment of such a forum as a first step towards developing a framework for managing concealed pregnancies and to further co-ordinate services.

In addition, the CPA has informed me that its Chairperson intends to write to the National Union of Journalists, the media (written and broadcast), the Broadcasting Commission of Ireland, and the Garda Commissioner about this report; and to invite these interests to workshops in order to discuss the conclusions of the report and to examine whether guidelines would help those who handle communication of information on this sensitive issue. Furthermore, crisis pregnancy counselling services are an important means of connecting with women who might conceal their pregnancies. The Agency has indicated to me that it looks forward to further developing its co-operation with the Health Service Executive, especially in the delivery of additional counselling services nationally.

### Child Care Services.

19. **Mr. Stanton** asked the Tánaiste and Minister for Health and Children if she agrees with

[Mr. Stanton.]

the ICTU that the workforce participation of women in their 30's is low by EU standards (details supplied); her views on whether the lack of childcare contributes to this with many women leaving the workforce after the birth of their second child; the figures for same; the special social or employment and in-work supports her Department provides or intends to provide for these women; and if she will make a statement on the matter. [17672/06]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** The participation of women in the Irish labour force has risen dramatically in recent years, from 40.1% in 1994 to 55.8% in 2004, and this trend is continuing alongside record numbers in employment. The CSO study "Women and Men in Ireland 2004" provides an interesting picture of how women's role in the labour force is changing and how this pattern may continue to develop as older age women exit the workforce.

The Study reported that, in 2004, 41.7% of the labour force was female. The highest participation rate by women, at 75.6%, was in the age group 25-34. While the rate of female participation declined in respect of later age groups, to 65.9% for women aged 35-44 and to 60.2% for women aged 45-54, the most steep decline was found in the age group 55-64, for which the participation rate was 33.6% a little over half of the male rate for this age group. The CSO concluded that as this age group exit the labour force and are replaced by women entering the labour force at a higher participation rate, the overall employment rate of 60% of women set by the Lisbon Council may become attainable.

While I do not have comparative rates of female workforce participation in EU member states by reference to age, in 2003 the overall rate of female employment in Ireland was just above the EU 25 rate of 55%. Taken together with relatively low rates of participatory decline between the age groups 25-34 and 35-54, I believe it is reasonable to assume that the upward trend in female workforce participation will continue.

With regard to the issue of childcare, as the Deputy will be aware, I have been assigned responsibility for this key area of Government policy in my role as Minister for Children and the Government's major investment programmes in this area are now administered on my behalf by the newly established Office of the Minister for Children. The Deputy will also be aware that the growing demand for quality childcare services to meet the needs of working parents and their children was identified by this Government as far back as 1997 when steps were taken to set up the first major investment programmes in childcare provision.

Under the Equal Opportunities Childcare Programme (EOCP) 2000-2006, which is co-

funded by the EU, almost €500 million has been invested in developing a quality childcare infrastructure. By the end of this Programme next year, I understand that over 40,000 additional childcare places will have been created. While the EOCP is still in place, in December last, the Government announced its new National Childcare Investment Programme (NCIP) 2006-2010 under which further funding amounting to €575 million has been committed and a target of creating 50,000 additional childcare places has been set. The new investment programme is also designed to further develop the quality of childcare services in a way which meets the needs of parents and their children for a range of childcare services centred on the needs of the child.

As the Deputy will be aware, my Colleague the Minister for Finance, Mr Brian Cowen, T.D., announced a range of other childcare measures in Budget 2006 which I will now outline. Paid and unpaid Maternity Leave were both increased by 4 weeks from 1 March 2006. These will be increased by a further 4 weeks from March 2007, bringing the total duration of paid Maternity Leave to 26 weeks and the total duration of unpaid Maternity Leave to 16 weeks.

A new Early Childcare Supplement of €1,000 per annum was introduced for all children less than 6 years of age and is effective from April 2006. This is a direct, non-taxable payment of €250 per quarter year, in respect of each eligible child. It is expected that the first payment will be made in August, followed by further payments in October and December 2006 and payments will be made quarterly thereafter. Child Benefit was increased from April 2006 by €8.40 per month for the first two children to €150 per month and by €7.70 per month for the third and subsequent children to €185 per month.

An exemption from tax on income earned from childminding has also been introduced. Where an individual minds up to three children in the minder's own home, no tax will be payable on the childminding earnings, provided the amount is less than €10,000 per annum. While the tax exemption which is being introduced for income from childminding is a matter for the Revenue Commissioners in the first instance, in order to avail of it, a Childminder must elect to make a voluntary notification of his or her childminding service to the person recognised by the HSE for this purpose, effectively the local City or County Childcare Committee (CCC). This will further strengthen the voluntary notification system already operated by the CCCs and supported by the Childminder Advisory Officers.

Budget 2006 also included increased funding for childcare training which will be allocated between now and 2010, to ensure an adequate supply of staff for the additional facilities coming on stream. The aim is to create 17,000 additional qualified childcare personnel as part of the new National Childcare Training Strategy. Together,

these childcare initiatives should assist working parents, including women with more than one child, to balance their work and family commitments.

However, while the Government's childcare policy will undoubtedly facilitate female participation in employment, this is not the sole or primary aim of the Office of the Minister for Children in implementing that policy. In addition, the Deputy may wish to note the responsibilities of other Departments in providing supports for parents in employment. In particular, the Minister for Enterprise, Trade and Employment is responsible for promoting enterprise and employment development, while the Equality for Women Measure of the National Development Plan 2000-2006, a positive action programme designed to tackle attitudinal, cultural and structural barriers to women's equal participation in the economy, is a matter for the Minister for Justice, Equality and Law Reform.

### General Practitioner Services.

20. **Mr. Crowe** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the recent study by researchers at National University of Ireland, Galway and Queen's University Belfast showing that almost one in five people here with a medical problem are not going to see their general practitioner due to the cost, as opposed to less than two percent in the six counties; if, in view of this statistic, she will revisit her previous statement that the cost of a general practitioner visit is a private matter and not her Department's concern; and if she will make a statement on the matter. [21306/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The study the Deputy refers to has not been submitted to my Department. I understand that while it was recently published that its findings are based on information collected in 2003. Since that time there have been many improvements in the public provision of GP services under the General Medical Services (GMS) Scheme including the introduction of the GP visit card and the significant reform of the income assessment guidelines for both that benefit and the medical card.

€60 million was provided to the Health Service Executive under the 2005 Estimates for Health to improve access to primary care by providing 30,000 additional persons with medical cards and an additional 200,000 people, particularly those people on low incomes with free access to GP visits with the introduction of the GP visit card. I increased the medical card income guidelines from 1st January, 2005 by 7.5% generally and more so in the case of dependant children so as to assist low income families in accessing primary care services.

In June 2005, I amended the means test for both medical cards and GP visit cards. It is now

based on an applicant's and spouse's income after tax and PRSI, and is more generous in treating family outgoings on rent or mortgage payments, childcare and the costs of travel to work. This is much fairer to applicants. I announced in October, 2005 that the income guidelines for both medical cards and GP visit cards would be increased by an additional 20%. This means the income guidelines are now 29% higher than they were at the end of 2004.

It will be noted that the income assessment guidelines for GP visit cards are 25% higher than those used for medical cards. Details of the guidelines and how to apply can be found at offices of the HSE, on the HSE website, [www.HSE.ie](http://www.HSE.ie) and on the HSE National Information Line, 1850 24 1850, (between 8.00am and 8.00pm Monday to Saturday). I have introduced these changes because I believe that no one should be put off visiting their doctor because of cost.

As at 1st May 2006, 1,181,089 persons held medical cards. This is an increase of 36,006 persons covered since January 2005 and therefore the target of providing an additional 30,000 people with medical cards has been met.

As at 29 May 2006, 16,920 persons held a GP visit card. I am concerned that there are many people who are missing out on having free GP care. I have asked the HSE to develop a targeted information campaign and this will be launched in the coming weeks. My Department and the HSE are concluding a review of the GP visit card guidelines and I expect to introduce further improvements shortly.

Fees charged by general practitioners for private consultations are a matter of private contract between the GP and the private patient, the doctor as the service provider and the patient as the user. My Department has no role in the setting of these fees.

### Hospital Staff.

21. **Mr. Crawford** asked the Tánaiste and Minister for Health and Children the average working week and the amount earned in overtime by the highest earner in each health profession in all the acute hospitals; and if she will make a statement on the matter. [21227/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** It has not been possible for the Health Service Executive to compile the information requested by the Deputy in the time available. I will communicate again with the Deputy in this matter as soon as I receive the information.

### Hospital Accommodation.

22. **Ms McManus** asked the Tánaiste and Minister for Health and Children her views on claims from the Irish Hospital Consultants Association that the numbers quoted by her of 13,255 acute public hospital beds includes outpatient and day-



[Ms McManus.]

case beds and that the numbers of in-patient beds according to the Health Service Executive as of May 2006 is 12,158; and if she will make a statement on the matter. [21314/06]

36. **Mr. M. Higgins** asked the Tánaiste and Minister for Health and Children the planning which has been done in her Department to give effect to the commitment to deliver 3,000 additional acute hospital beds as outlined in the National Health Strategy, apart from those already provided; the progress which has been made in identifying the regions and specialties where further beds will be located; and if she will make a statement on the matter. [21323/06]

45. **Mr. Allen** asked the Tánaiste and Minister for Health and Children the number of public in-patient beds that have been delivered since 2002; and if she will make a statement on the matter. [21217/06]

61. **Mr. McGinley** asked the Tánaiste and Minister for Health and Children her views on whether there are enough public hospital beds in the health system; and if she will make a statement on the matter. [21264/06]

68. **Mr. Gilmore** asked the Tánaiste and Minister for Health and Children the steps she intends to take to combat the excessively high bed occupancy rates in some hospitals that reach 100 per cent and over despite internationally agreed best practice of occupancy at 85 per cent; and if she will make a statement on the matter. [21319/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to take Questions Nos. 22, 36, 45, 61 and 68 together.

In 2001, the year of the publication of the Health Strategy, the average number of in-patient beds for HSE Network Hospitals was 11,375 in-patient beds and 770 day places. Provisional figures for 2005 indicate that the average number of beds available for use in HSE Network Hospitals was 12,042 in-patient beds and 1213 day places. This is an increase of 667 in publicly funded acute hospitals in-patient beds and an increase of 443 day places. It is important to note that the numbers of beds available in any hospital may fluctuate over time depending on service demands and other factors such as seasonal closures and refurbishment. A further 450 acute beds are at various stages of development under the HSE Capital programme.

In addition, I have launched an initiative which aims to provide 1,000 additional beds for public patients. This will be achieved through the development of private hospitals on the sites of public hospitals, transferring private activity to those hospitals and freeing up beds currently reserved for private patients. The HSE has

recently advertised for expressions of interest for the development of private hospitals on the sites of 11 publicly funded hospitals.

In the light of the progress made to date and following discussions between the HSE and my Department, it has been decided to carry out a review of our acute hospital bed requirements up to the year 2020. A Steering Group has been established under the chairmanship of the National Director of the National Hospitals Office. The Group includes representatives of the HSE, my Department, the Department of Finance and the Economic and Social Research Institute.

It is envisaged that the Group will engage in consultation with key service providers and stakeholders within the Irish health care system in the course of its work. It is expected that the review will consider the number and type of acute beds required nationally and by HSE Administrative area. The high rate of bed occupancy in some hospitals will also be examined in the context of the review.

#### **Infectious Diseases.**

23. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the extent to which the number of incidents of MRSA has been monitored with a view to setting out procedures and practices to eliminate the problem; and if she will make a statement on the matter. [21270/06]

47. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the most recent figures of the number of cases of MRSA in each of the past four years and to date in 2006; the number of fatalities attributable to MRSA; the steps which are being taken to reduce the incidence of MRSA; and if she will make a statement on the matter. [21332/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to take Questions Nos. 23 and 47 together.

The Health Protection Surveillance Centre (HPSC) collects data on MRSA bacteraemia (also known as bloodstream infection or “blood poisoning”) as part of the European Antimicrobial Resistance Surveillance System (EARSS). EARSS collects data on the first episode of blood stream infection per patient per quarter. EARSS was designed to allow comparison of antimicrobial resistance data between countries and possibly regions but not between hospitals. The Irish data for EARSS, which is published on a quarterly basis by the HPSC, showed that there were 445 cases in 2002, 480 cases in 2003, 553 cases in 2004 and 586 cases of MRSA reported in 2005. Data in respect of the 1st Quarter of 2006 is not yet available. It is difficult to identify number of fatalities attributable to MRSA as many people also have significant co-morbidity factors.



This year Ireland is participating in the Hospital Infection Society's "Prevalence Survey of Health Care Associated Infections" in the United Kingdom and Ireland. The survey will provide accurate and comparable data on the prevalence of Health Care Associated Infections (including MRSA) in acute hospitals in Ireland. The data gathered from hospitals can also be used to compare with similar data being obtained in England, Scotland, Wales and Northern Ireland. The data is being analysed over the summer and the results should be available in October/November.

The control of Health Care Associated Infections (HCAIs) including MRSA continues to be a priority for the HSE. The HSE recently announced that additional funding is being provided in 2006 for a range of initiatives for prevention and control of HCAIs including MRSA. The implementation of the revised SARI Guidelines on the control and prevention of MRSA in hospitals and in the community, the "Clean Hands Campaign", the National Hygiene Audits and the development of national standards in relation to infection control and hospital hygiene are also aimed at addressing the challenges presented by HCAIs.

#### **Hospital Services.**

24. **Ms Lynch** asked the Tánaiste and Minister for Health and Children her views on a subcommittee which was set up to look into the feasibility of setting up a third neurological unit in Galway; if her attention has been drawn to the fact that this subcommittee was convened in 2001 and 2002 and that to date no report has been produced; and if she will make a statement on the matter. [21326/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** In 2002, a committee was established by Comhairle na nOspidéal, to review the existing arrangements for the provision of neurosurgical services and consultant staffing nationally, and following consultation with the interests concerned, to make recommendations on the future organisation and development of neurosurgical services. My Department has been informed that the report will be published by the Health Service Executive in the coming weeks.

25. **Mr. M. Higgins** asked the Tánaiste and Minister for Health and Children her views on the call from the Royal College of Surgeons for an need to improve services for breast cancer patients across the State; if her attention has been drawn to the fact that six years on from the publication of a report on the development of services for symptomatic breast disease here that inequalities of access to high quality, modern standards of care still do not exist; and if she will make a statement on the matter. [21324/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Government is fully aware of the impact of breast cancer on women's health and has made the development and improvement of diagnostic and treatment services for breast cancer patients a major priority in the development of cancer services. A national breast screening programme combined with quality assured symptomatic services nationally are key elements of our cancer control programme. Since 2000, more than €60 million has been made available for the development of symptomatic breast disease services. I have invested significantly in BreastCheck to meet its capital and revenue requirements and it is confident that the target date of next year for commencement of screening in the remaining regions of the country will be met.

One of the key issues raised by the Royal College of Surgeons is the fragmentation of surgical care for women with breast cancer. The reality is that a low volume of surgical procedures is being carried out in too many hospitals at present which is not in line with best international practice. I recognise the importance of quality care and adherence to best practice in the provision of quality services for breast cancer patients. Last year I established a National Quality Assurance Group, under the Chairmanship of Professor Niall O'Higgins, President of the Royal College of Surgeons in Ireland. I am aware of the success of the recent stakeholder symposium organised by the Group as part of the process of developing expert guidelines for the management of symptomatic breast disease. It will also be necessary to establish effective mechanisms to ensure that the guidelines are applied in the best interests of patient care.

The National Cancer Forum has recommended in its National Strategy for Cancer Control a national governance and organisation structure including accreditation to improve the quality of cancer care. The Strategy is currently being examined by my Department in conjunction with the HSE. I will bring proposals to Government shortly.

#### **Hospital Staff.**

26. **Ms Burton** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that the ratio of cardiac surgeons, dermatologists, rheumatologists, neurologists and other specialties to population are far below ratios in other developed countries; the number of each of the above specialists and the regional breakdown; and if she will make a statement on the matter. [21313/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy will be aware that the management and delivery of the health and personal social services is now the responsibility of the Health Service Executive. This includes

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responsibility for the appointment of additional hospital consultant posts. Therefore, my Department has requested the Parliamentary Affairs Division of the Executive to respond to the Deputy in relation to the issues raised and to provide the information requested.

### **Accident and Emergency Services.**

27. **Mr. Broughan** asked the Tánaiste and Minister for Health and Children the progress of each point from her accident and emergency ten point plan; the numbers of MRI scanners, acute medical units, minor injury, chest pain and respiratory clinics since publication of the plan; and the location of each; and if she will make a statement on the matter. [21330/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Tackling the current difficulties with A & E is the Government's top priority in health. Our objectives are to reduce the numbers waiting for admission, the time spent waiting for admission, and the turnaround time for those who can be treated in A & E and do not require admission.

The HSE is continuing to implement the 10 Point Action Plan. I have written to the Deputy giving him some information on the progress in relation to each of the actions, and my Department has also asked the Parliamentary Affairs Division of the HSE to provide the Deputy with additional information relevant to the specific matters raised.

In addition to the actions contained in the Action Plan, it has been agreed with the HSE that a number of additional measures will be implemented by the Executive. These include in particular the setting of performance targets for individual hospitals.

In the immediate term, the HSE is introducing a series of measures to improve facilities for patients and staff in A & E departments. Long-term care beds are being secured from within the private sector to facilitate the discharge of patients who have completed the acute phase of their care. The acute beds that become available as a result of this initiative will be ring-fenced for those patients awaiting admission in A & E departments. Funding is being made available within the capital programme to develop admissions beds and other facilities to ensure that patient privacy, dignity and comfort are preserved while awaiting admission to an acute bed.

The HSE has established a dedicated Task Force to oversee the implementation of the framework for improving the efficiency and effectiveness of services in our A & E departments. The Task Force will work with hospitals to introduce a system of "whole hospital" performance measures to improve the patient's journey not alone through the A & E department but through the hospital system from admission to discharge.

The achievement of improvements in A & E services is dependent on fundamental changes both in hospitals and in other areas of the health service. I am confident that by improving hospital processes and procedures, by providing additional step-down beds for those patients who do not require acute hospital care, and by expanding and enhancing primary and community care services we can achieve a sustained improvement in our A & E services.

### **Ambulance Service.**

28. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children when as outlined in Parliamentary Question No. 259 of 21 February 2006, the Health Service Executive, National Ambulance Office will be reviewing the transportation needs of all patients; if this new promised policy will result in patients paying for transport costs in relation to their cancer care or chronic illness care; and if she will make a statement on the matter. [21259/06]

**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 respond directly to the Deputy in relation to the matter raised.

### **Departmental Reports.**

29. **Mr. Morgan** asked the Tánaiste and Minister for Health and Children if she will report on progress to date in implementing the Lourdes Hospital Inquiry Report; and if she will make a statement on the matter. [21308/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Report of the Lourdes Hospital Inquiry was published on 28th February last. Since the publication of the report, I have met with many of the key stakeholders including Patient Focus, the Health Service Executive (HSE), the Medical Council, and the management and medical board of Our Lady of Lourdes Hospital. I have listened carefully to the views of these bodies on the recommendations in the report.

The Report of the Inquiry highlighted the urgent need for change and reform in our hospitals and particularly in the area of clinical governance. The recommendations in the report underline the importance of the approach being taken by my Department in a number of areas: the preparation of the new Medical Practitioners Bill which I intend, subject to Government approval, to bring to the House later this year; the new contract for hospital consultants, which is urgently needed for the recruitment of many

more consultants. The report will help to inform the continued approach of my Department to these very important issues.

The Inquiry also made a series of recommendations of an operational and service nature, the implementation of which is a matter for the HSE. 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.

30. **Ms C. Murphy** asked the Tánaiste and Minister for Health and Children the consideration she has given to the follow up care for patients who present with acute symptoms at private hospitals for conditions that are chronic in nature such as rheumatoid arthritis; her proposals for such circumstances; and if she will make a statement on the matter. [21131/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Decisions on the provision of hospital services to an individual in a private hospital are a matter for the hospital management. Any person can opt to be a private patient, and is then liable for the appropriate charge for private or semi-private treatment.

It is open to patients who receive treatment in a private hospital to seek appropriate follow-up services in the public system. If the private hospital has not already done so, patients are advised to contact their General Practitioner to determine the type of services required. If the Deputy has a particular case in mind, I will ask the HSE to have it examined.

### Hospital Staff.

31. **Mr. Deasy** asked the Tánaiste and Minister for Health and Children her views on remarks made by the IHCA that the extended working day for hospital consultants was put forward by consultant in previous negotiations with her Department but were rejected as an option; and if she will make a statement on the matter. [21245/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** An IHCA representative indicated, in his presentation to the Joint Committee on Health & Children on 27th April 2006, that the IHCA had discussed the issue of an extended working day for consultants with the Department of Health & Children in 2002. It should be noted that the IHCA representative did not state that the Department had rejected its proposals. I have been advised that it was acknowledged by all parties at the time that, in addition to reaching any agreement with consultants on the matter, it would also be necessary for appropriate support services to also be made available for the period of the extended day.

I welcome the willingness of the IHCA to consider this issue and it should form part of the forthcoming discussions on a new consultants' contract. I might also mention that, in the context of the national pay talks, health service employers have pressed the trade unions to commit to agreeing new arrangements for an extended time span of the working day in order to enhance the availability of more accessible services for patients and other users of our health and personal social services.

### Health Services.

32. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the extent to which home help hours to individual recipients has been cut back in the past two years; and if she will make a statement on the matter. [21271/06]

**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.

33. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if she will provide the funding of €6 million required to introduce a universal neonatal hearing screening service on a three year phased basis; and if she will make a statement on the matter. [21304/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** My Department has recently received a copy of the Report of the Universal Neonatal Hearing Screening Working Group and is in discussion with the Health Service Executive in relation to its implementation.

### Health Service Staff.

34. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children if a formal code of governance and code of conduct has been adopted by the Health Service Executive for HSE staff; if she approved same; and if she will make a statement on the matter. [21222/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Section 35 of the Health Act, 2004 requires the Health Service Executive to submit to me a code of governance. This code is to include amongst other things an outline of the guiding principles applicable to the Executive, the structure of the Executive including its roles and responsibilities, the methods to bring about the integration of health and personal social services, the Executive's internal controls and the nature



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and quality of service to its clients and a code of conduct.

The Executive is drafting its code of governance at present and it is due to submit it to me shortly for my approval. Once approved the Executive will arrange its publication. My officials have been and continue to be in contact with the Executive concerning the code of governance.

### Hospital Services.

35. **Dr. Twomey** asked the Tánaiste and Minister for Health and Children the number of all elective procedures cancelled at Wexford General Hospital in 2005; and if she will make a statement on the matter. [21258/06]

**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 have a reply issued directly to the Deputy.

*Question No. 36 answered with Question No. 22.*

37. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children when the decision was taken by her Department to locate the proposed school of podiatry in a large centre of population; and if she will make a statement on the matter. [21133/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** As outlined in my response to the Deputy's previous question on the matter, responsibility for the establishment of a school of podiatry, including its location, will be a matter, in the final instance, for the Department of Education and Science. However, as the Deputy may be aware, the delivery of clinical training, which is a significant core component of the course, has been the subject of discussions between officials of my Department and the Department of Education and Science in terms of how best it could be facilitated in an integrated fashion with Health Service Executive (HSE) services.

The HSE have now submitted its report on the issue to my Department and are of the view that the school of podiatry would be best located in a large centre of population, one that is associated with a multi-disciplinary health professional environment and which is linked to a major teaching hospital. Both my Department and the Department of Education and Science are currently considering the HSE's report.

### Accident and Emergency Services.

38. **Ms Lynch** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that at present there are only about 60 per cent of accident and emergency units that have a co-ordinated response to cases of self harm; if her attention has further been drawn to the fact that there is a link between self harm and suicide and that Ireland has the fifth highest youth suicide rate in the EU; and if she will make a statement on the matter. [21325/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** "Reach Out" — A National Strategy on Suicide Prevention — was launched in September 2005 and one of the key priorities of the Strategy is the development of an effective service response for people who have engaged in deliberate self harm. The Strategy acknowledged that a history of one or more acts of deliberate self harm is the strongest predictor of future suicidal behaviour, both non-fatal and fatal. It recognised that there was a need to develop support services in the hospital setting and also to develop active outreach for those who do not currently access services.

Following the launch of the Strategy, the Health Service Executive established the National Office for Suicide Prevention (NOSP) to oversee the implementation of the Strategy. This Office coordinates suicide prevention activities across the State and will consult widely in relation to the planning of future initiatives and will work to ensure best practice in suicide prevention.

At the end of 2004, 24 A&E Departments had a crisis nurse response to incidents of deliberate self harm (DSH). In recognition that the speedy follow-up at home or in a day/out patient setting can reduce the rate of DSH, there has been further investment in this service through the NOSP in 2005 and 2006 and it is now expected that the service will be extended to all A&E Departments by the end of this year. Most DSH staff work in A&E Departments but receive professional support from the local mental health services. As liaison mental health services develop DSH staff will become part of the multi-disciplinary liaison mental health teams.

Liaison services intervene in A&E departments where the presentation of suicidal behaviour and substance abuse requires expert assessment and management. The main benefits of liaison mental health services are the identification and treatment of mental health problems in the general medical and A&E settings. "A Vision for Change" acknowledges gaps in the current provision of liaison mental health services and makes several recommendations for the further improvement of these services.

The Report states that every acute admitting hospital in Ireland should have access to liaison mental health services. The number of teams



required will depend on the volume and type of workload. In addition to the existing nine teams operating in general hospitals, the Report recommends that a further four mental health liaison teams be established nationally, to result in a complement of one liaison mental health team per regional hospital.

In relation to child and adolescents liaison mental health services, the Report recommends that complete multidisciplinary liaison mental health teams should be established in the three national children's hospitals. It also recommends that liaison child and adolescent mental health services should be provided by a designated child and adolescent Community Mental Health Team, one per 300,000 population.

The Government has accepted the Expert's Group report as the basis for the future development of our mental health services. In this connection, an additional €25m was made available this year to the Health Service Executive for the further enhancement of our mental health services. A further €1.2m was provided for suicide and DSH prevention.

### Hospitals Building Programme.

39. **Mr. Hogan** asked the Tánaiste and Minister for Health and Children the advantages to patient care by giving public hospital property to developers to build private hospitals rather than letting the developers source their own greenfield sites; and if she will make a statement on the matter. [21254/06]

57. **Mr. Broughan** asked the Tánaiste and Minister for Health and Children the terms of references for interested parties in relation to the tendering process regarding the profit hospitals on public hospital grounds; the stages all tendering process are at; and if she will make a statement on the matter. [21329/06]

75. **Mr. Hayes** asked the Tánaiste and Minister for Health and Children if the plan to put private hospitals on the grounds of public hospitals is still Government policy; and if she will make a statement on the matter. [21253/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to take Questions Nos. 39, 57 and 75 together.

This Government is committed to exploring fully the scope for the private sector to provide additional capacity in the health system. In this context, my Department issued a policy direction to the Health Services Executive (HSE) last July which is aimed at freeing up 1,000 additional beds in public hospitals for public patients. This will be achieved through the development of private hospitals on the sites of public hospitals and the transfer of private activity to those hospitals

thereby freeing up capacity for public patients in public hospitals.

Apart from providing up to 1,000 additional beds for public patients over the next five years, the initiative will also have the following benefits:—

- encouraging the participation of the private sector in generating extra capacity;
- maximising the potential use of public hospital sites;
- promoting efficiency among public and private acute service providers;
- promoting greater competition in the supply of hospital services; and
- offering improved quality and choice to all patients.

The HSE recently advertised for expressions of interest for the construction and operation of private hospitals on the sites of 11 publicly funded hospitals. Proposals will be subject to detailed evaluation which will have regard to a detailed assessment of need, and existing and planned capacity on a particular site and within the relevant region. It will also provide for a rigorous value for money assessment of any proposal and will take account of the value of the public site and the cost of any tax expenditure. Any transaction will be done on a commercial basis and will fully protect the public interest. In addition, there will be full adherence to public procurement law and best practice.

### Obesity in Children.

40. **Mr. Costello** asked the Tánaiste and Minister for Health and Children her views on data from surveys that indicate that one in five boys and girls here are overweight and one in twenty are obese; the steps she is taking to address this growing problem; and if she will make a statement on the matter. [21317/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Department of Health & Children is concerned about the increase in childhood overweight and obesity. I presume the Deputy is referring to The National Survey of Children's Dental Health (2005). Their research showed that at least 18% of children aged 4 to 16 years were overweight and at least 5% were obese.

The following steps are being taken to address this growing problem. A National Taskforce on Obesity was established by this Department which reported in 2005. This report made comprehensive recommendations aimed at tackling overweight and obesity. These relate to actions across six broad sectors: high-level government; education; social and community; health; food, commodities, production and supply; and the physical environment. A proposal for a Health

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Improvement Forum through which the recommendations of the Taskforce Report could be implemented is being developed. This Forum will focus on the broader determinants of health and reducing health inequalities in our society.

The implementation of some of the health sector recommendations of the Taskforce report is already underway. The Health Service Executive have been allocated €3 million revenue funding, which is being used to provide Specialist Community Dietitian and Physical Activity posts for obesity and weight management and for the development of Specialist Hospital Services for obesity treatment at Our Lady's Hospital for Sick Children, Crumlin. The Department of Health and Children is currently developing a National Nutrition Policy and this policy will provide strategic direction on nutrition for the next 10 years. The target group is young people, 0-18 years, and the priority actions are obesity and food poverty. A national consultation has taken place and the policy is due to be published later this year.

#### Health Reports.

41. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the number of reports submitted to her Department and to the Health Service Executive for each year since 1997; and the number of reports where recommendations were accepted or rejected by the Government. [21130/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Further to contact by my Department with the Deputy, I understand that his question relates to reports commissioned by my Department since 1997 and reports commissioned by the Health Service Executive since its establishment. The information in relation to reports commissioned by my Department is being collated and will be forwarded to the Deputy. My Department has requested the Parliamentary Affairs Division of the Executive to identify reports commissioned by the Executive since its establishment and to furnish the information requested directly to the Deputy.

#### Mental Health Services.

42. **Mr. Costello** asked the Tánaiste and Minister for Health and Children her views on concerns expressed by Schizophrenia Ireland that when the Government's plans to sell off 200 plus acres of land occupied by 15 psychiatric hospitals is implemented that developers who buy land may buy their way out of an obligation to provide accommodation for mentally ill patients in new housing developments; the steps she intends to take to ensure same does not happen; and if she will make a statement on the matter. [21318/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Report of the Expert Group on Mental Health Policy, "A Vision for Change" was launched on 24th January. This policy envisions an active, flexible and community-based mental health service where the need for hospital admission will be greatly reduced. The report recommends that steps be taken to bring about the closure of all psychiatric hospitals and to re-invest the resources released by these closures in the mental health service. The closure of large mental hospitals and the move to modern units attached to general hospitals, together with the expansion of community services, has been Government policy since the publication of Planning for the Future in 1984.

The Health Service Executive has stated that it anticipates the closure of mental hospitals and the reinvestment of the proceeds to take place on a phased basis. It has also emphasised that hospitals can only close when the clinical needs of the remaining patients have been addressed in more appropriate settings such as additional community residences, day hospitals and day centres together with a substantial increase in the number of the well-trained, fully staffed, community-based multidisciplinary Community Mental Health Teams as is recommended in "A Vision for Change".

The Deputy's question relating to the provision of accommodation for people with mental health problems in new housing developments is a matter for my colleague, the Minister for the Environment, Heritage and Local Government, Mr. Dick Roche, T.D.

#### Accident and Emergency Services.

43. **Mr. McCormack** asked the Tánaiste and Minister for Health and Children the number and location of each of the planned admission lounges for accident and emergency; the number that are currently in operation; and if she will make a statement on the matter. [21263/06]

**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.

#### Hospital Services.

44. **Mr. Kenny** asked the Tánaiste and Minister for Health and Children her views following comments made by a person (details supplied) that it could be calculated that between 350 and 500 lives are lost each year due to the lack of such

units; and if she will make a statement on the matter. [21261/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** Organised care of stroke patients within a single unit has been shown to reduce mortality and disability. I understand that a Stroke Unit was established in June 2002 in the Mater Misericordiae Hospital, Dublin and that the Health Service Executive is supporting the development of stroke care in a number of other acute hospitals.

In addition, a national audit of stroke services commenced in March 2006. This is an Irish Heart Foundation initiative in association with my Department. The entire study is scheduled to take 18 months to complete. The result of this audit will inform future policy and strategy for the development of services for patients with stroke in Ireland.

*Question No. 45 answered with Question No. 22.*

46. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the number of elective procedures cancelled at Waterford Regional Hospital in 2005; and if she will make a statement on the matter. [21256/06]

**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 have a reply issued directly to the Deputy.

*Question No. 47 answered with Question No. 23.*

48. **Mr. Hogan** asked the Tánaiste and Minister for Health and Children the number of ENT procedures cancelled at Waterford Regional Hospital in the past 12 months due to the fact that accident and emergency patients were occupying these beds when ENT patients had their procedures cancelled; and if she will make a statement on the matter. [21255/06]

**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 have a reply issued directly to the Deputy.

### Vaccination Programme.

49. **Mr. Howlin** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that pneumococcal meningitis has a fatality rate of approximately 20 per cent and that it is associated with a higher risk of permanent neurological damage such as deafness and epilepsy; if her attention has further been drawn to the fact that many countries around the world provide for the routine immunisation of babies against this disease yet Ireland does not have a pneumococcal vaccination as part of the childhood immunisation schedule; the steps she intends to take to address same; and if she will make a statement on the matter. [21321/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I am well aware of the potential consequences of pneumococcal infection. Ireland's recommended immunisation programme is based on the guidelines of the National Immunisation Advisory Committee of the Royal College of Physicians of Ireland. These guidelines are prepared with the assistance of an active committee from associated disciplines in paediatrics, infectious diseases, general practice and public health.

The inclusion of the pneumococcal vaccine in the Primary Childhood Immunisation Programme is being considered by the National Immunisation advisory Committee as part of its review of the immunisation guidelines. No decision has yet been reached. My Department and the Health Service Executive will be guided by the expert advice from the NIAC in this regard

### National Health Strategy.

50. **Mr. Hayes** asked the Tánaiste and Minister for Health and Children the reason the regional imbalance in the provision of health services is still a major issue five years after the publication of the health strategy; and if she will make a statement on the matter. [21252/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The National Health Strategy Quality and Fairness — A Health System for You was announced by the Government in 2001 to provide vision and strategic direction for the health and personal social services. The Strategy sets out the key objectives for the health system up to 2010, which are centred on four national goals:

- Better Health For Everyone
- Fair Access
- Responsive and Appropriate Care Delivery
- High Performance.

It was recognised that in order to achieve these goals that the health system would need to be

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reformed. The Prospectus Report 'Audit of Structures and Functions in the Health System' identified fragmentation as a core issue to be addressed as part of the Reform Programme. The Health Act, 2004, provided the statutory basis for the replacement of the former health boards with a single unitary health system the Health Service Executive (HSE), on 1st. January, 2005. The achievement of consistency in the standard and range of services available in each region of the country is a key objective of the health service reforms.

The Health Act 2004 sets out in broad terms the performance framework for the Health Service Executive. As part of that framework, the HSE must submit to the Tánaiste, for approval, a Corporate Plan and an Annual Service Plan. The HSE Corporate Plan for 2005 — 2008 commits it "to develop a consistent approach to access to service throughout the country, based on identified need". The Service Plan format is currently being revised within the Department. The 2007 Plan will, very specifically, include a section devoted to Consistency and Social Inclusion which is to contain details of initiatives being pursued by the HSE to ensure, amongst other things, a geographical equity in the provision of services.

Successive Governments have pursued a policy of regional self-sufficiency in relation to the provision of hospital services in order to ensure that patients are in a better position to access services locally. The benefits of this policy are evident through a series of major infrastructural developments in hospitals around the country which has resulted in the availability of more services and new specialties on a regional basis.

#### Medical Cards.

51. **Mr. Stanton** asked the Tánaiste and Minister for Health and Children the number of recipients of the carer's allowance who hold a medical card; and if she will make a statement on the matter. [17684/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** It is understood from the Health Service Executive (HSE) that the statistics the Deputy has requested are not kept in this format and are not available.

The assessment of eligibility to medical cards is statutorily a matter for the HSE and is determined following an examination of the income and medical need of the applicant and his/her dependants. Under Section 45 of the Health Act 1970 medical cards are provided for persons who, in the opinion of the HSE, are unable without undue hardship to arrange general practitioner medical and surgical services for themselves and their dependants. Persons aged 70 and over are statutorily entitled to a medical card, regardless of income. In all other cases an assessment of income is undertaken.

In assessing eligibility income guidelines are used by the HSE. These guidelines are not statutorily binding. Medical cards may be granted by the HSE to persons in circumstances where the income guidelines are exceeded but the particular circumstances of the case warrant such a decision. Under the HSE's assessment guidelines income received in respect of Carers Allowance is not taken into account when assessing eligibility to a medical card. The assessment guidelines also provide that where an applicant's weekly income is derived solely from Social Welfare or HSE allowances/payments, a medical card will be granted.

In January, 2005 I increased the income guidelines used in the assessment of medical card applications by 7.5% and in October 2005, I announced that the income guidelines for medical cards would be increased by additional 20%. This means that the income guidelines are now 29% higher than they were at the end of 2004.

#### Cancer Screening Programme.

52. **Ms Enright** asked the Tánaiste and Minister for Health and Children when the cervical screening programme will be rolled out; and if she will make a statement on the matter. [21250/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I am fully committed to the national roll out of a cervical screening programme in line with international best practice. My Department has requested the Health Service Executive to prepare a detailed implementation plan for a national programme. The plan is to have cervical screening managed as a national call/recall programme via effective governance structures that provide overall leadership and direction, in terms of quality assurance, accountability and value for money. All elements of the programme, call/recall, smear taking, laboratories and treatment services must be quality assured, organised and managed to deliver a single integrated service.

Significant preparatory work is well underway involving the introduction of new and improved cervical tests, improved quality assurance training and the preparation of a national population register. An additional €9m is available to the Executive for cancer services development in 2006, including the continuation of preparations for the roll out.

I consider that the programme should be best rolled out in the primary care setting, subject to affordable and acceptable arrangements being agreed. A review of the contractual arrangements for the provision by general practitioners of publicly-funded primary care services is being conducted at present, under the auspices of the Labour Relations Commission. I have requested that the general practitioner elements of a national cervical screening programme be tabled at these discussions. Any remuneration arrange-



ments agreed must be capable of delivering a high uptake among women. Payments must be primarily based on reaching acceptable targets.

I am convinced that we must also have in place tailored initiatives to encourage take up among disadvantaged and difficult to reach groups. I wish to see the programme rolled out as quickly as possible but only when the essential infrastructure, organisation and services are in place that are quality assured and meet international standards.

### Hospital Staff.

53. **Mr. Crawford** asked the Tánaiste and Minister for Health and Children the average working week and the amount earned in overtime by the fifty highest paid non-consultant doctors and the position they hold in the hospital concerned; and if she will make a statement on the matter. [21226/06]

**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 (HSE) under the Health Act 2004. It has not been possible for the Health Service Executive to compile the information requested by the Deputy in the time available. My Department has requested the HSE to provide the information directly to the Deputy as soon as possible.

### Ambulance Service.

54. **Ms O'Sullivan** asked the Tánaiste and Minister for Health and Children her views on the case of a person (details supplied); if she intends to set up an inquiry into same; her views on whether it is acceptable that there was no ambulance available for this person; the existing or proposed protocols in place for a general practitioner to request an ambulance on behalf of a patient; and if she will make a statement on the matter. [21328/06]

**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.

### Proposed Legislation.

55. **Mr. P. Breen** asked the Tánaiste and Minister for Health and Children the legislation she plans to publish before the end of 2006; the legislation she expects to pass through before the end

of this Dáil; and if she will make a statement on the matter. [21219/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** As the Deputy will be aware, the Health (Repayment Scheme) Bill 2006 and the Health (Nursing Homes)(Amendment) Bill 2006 are currently being debated in the Oireachtas and I expect that they will be enacted during the current Dáil.

The following Bills are those which I intend to publish before the end of 2006 and have enacted during the lifetime of the current Dáil:

1. The Hepatitis C and HIV Compensation Tribunal (Amendment) Bill

#### *Purpose*

To amend the Hepatitis C Compensation Tribunal Acts 1997 and 2002 in order to provide for the establishment of an insurance scheme for persons who have been infected with Hepatitis C or HIV from the administration within the State of blood or blood products.

#### *Expected Publication Date*

This Bill is currently being prepared by Parliamentary Counsel and will be published during the Summer Session 2006.

2. The Child Care Bill

#### *Purpose*

The purpose of the Bill is to allow foster carers of children in long term placements greater autonomy, in relation to, *inter alia*, applying for passports and seeking routine medical and dental checks for children in their care.

#### *Expected Publication Date*

The Bill will be published during the Summer Session 2006.

3. Health Bill 2006

#### *Purpose*

To provide for the establishment of the Health Information and Quality Authority (HIQA) and the Office of the Chief Inspector of Social Services, within HIQA, on a statutory basis and to provide for a registration system in respect of services for children, older people and people with disabilities to replace existing registration procedures in the Health (Nursing Homes) Act 1990 and the Child Care Act 1991 and 2001.

#### *Expected Publication Date*

Public consultation on the draft Heads of the Bill has been concluded. Final Heads will be submitted to Government as soon as possible seeking approval to draft the Bill. Publication of the Bill is expected during the Autumn Session 2006.

4. Voluntary Health Insurance Board Bill

#### *Purpose*

To address VHI's corporate status and related matters.

*Expected Publication Date*

Publication is expected during the Autumn Session 2006.

#### 5. Adoption (Hague Convention, Adoption Authority) Bill

*Purpose*

To ratify the Hague Convention on the protection of children in respect of Inter-country Adoption, 1993 which Ireland signed in 1996. The Bill will provide, *inter alia*, for the creation of the Adoption Authority (replacing the Adoption Board) as the Central Authority required under the terms of the Convention to oversee the implementation of the Convention in effecting inter-country adoptions. Miscellaneous issues dealing with domestic adoption will also be provided for.

*Expected Publication Date*

Publication is expected during the Autumn Session 2006.

#### 6. Medical Practitioners Bill

*Purpose*

To replace the Medical Practitioners Act 1978 which established the Medical Council and provides for the registration of doctors and the regulation of their activities.

*Expected Publication Date*

Heads of Bill will be published during the Summer Session and the Bill is expected to be published during the Autumn Session 2006.

#### 7. Pharmacy Bill — No.1

*Purpose*

To allow the Minister for Health and Children to make fitness to practice regulations for pharmacists and, as a consequence, the removal of the restriction on pharmacists educated in other EU or EEA countries from owning, managing or supervising a pharmacy in Ireland that is less than three years old — a derogation under Article 2.2 of Council Directive 85/433/EEC. It is also proposed to deal with a number of related issues raised by the Pharmacy Review Group (PRG), namely and appropriate statutory basis for the Pharmaceutical Society of Ireland, and certain competency issues.

*Expected Publication Date*

Heads of Bill have been approved by the Government. Publication of the Bill is expected during the Autumn Session 2006.

#### 8. Nurses and Midwives Bill

*Purpose*

To modernise the regulatory framework for nurses and midwives. It will update and amend the Nurses Act, 1985 in order to reflect and to respond to the significant changes which the health services and nursing and midwifery professions have undergone since 1985.

*Expected Publication Date*

Publication of the Bill is expected during the Autumn Session 2006.

#### 9. Eligibility for Health and Personal Social Services Bill

*Purpose*

To clarify and update the present provisions relating to eligibility for health and personal social services.

*Expected Publication Date*

Publication of the Bill is expected during the Autumn Session 2006.

I expect that the Pharmacy Bill — No. 2, which will deal with other changes in the regulatory framework for pharmacy and pharmacy services and other recommendations of the Pharmacy Review Group, will be published in early 2007.

### Care of the Elderly.

56. **Mr. P. Breen** asked the Tánaiste and Minister for Health and Children when she intends publishing the Government's policy on funding care of the elderly in the future; and if she will make a statement on the matter. [21218/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Report on funding long term care for older people is being considered by Cabinet. It will be published as soon as possible after Cabinet has completed its consideration of the Report.

*Question No. 57 answered with Question No. 39.*

### Health Reports.

58. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Health and Children when the Coombe Hospital study into drinking of alcohol during pregnancy will be published; and if she will make a statement on its findings. [21309/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The final report of the Coombe Women's Hospital Study of Alcohol, Smoking and Illicit Drug Use, 1988-2005 has now been received by my Department. It is currently being considered by officials and a meeting will be arranged with the authors of the report to discuss its findings. I intend to make the findings public in the near future.

### Health Services.

59. **Mr. McGinley** asked the Tánaiste and Minister for Health and Children her views on whether the waiting time experienced by drug misusers attempting to get a placement on a methadone maintenance programme is satisfac-

tory; and if she will make a statement on the matter. [18159/06]

**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.

#### Primary Care.

60. **Mr. McCormack** asked the Tánaiste and Minister for Health and Children her plans to introduce preventative health proposals for the primary care sector; and if she will make a statement on the matter. [21262/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** A review is being conducted at present under the auspices of the Labour Relations Commission of the contractual arrangements for the provision of general practitioner services to General Medical Services (GMS) clients and for the provision of other publicly funded GP services. It is intended that the outcome of the review should provide the basis into the future for the delivery of comprehensive, multidisciplinary services in the primary care setting. The aim is to reform the contract for the delivery by GPs of the existing range of GMS services and also to extend the nature of service beyond the traditional diagnosis and treatment model potentially to accommodate management of chronic illness, disease prevention and screening programmes, dealing with minor injuries and minor surgery work.

*Question No. 61 answered with Question No. 22.*

#### Hospital Waiting Lists.

62. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children her views on the recent European Court of Justice decision that empowers patients to seek treatment elsewhere in the EU if they can prove they face a long wait for a procedure here; and if she will make a statement on the matter. [21223/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The judgement to which the Deputy refers, known as the "Watts case", relates to the question of prior authorisation for hospital treatment abroad where a patient would otherwise be subject to undue delay in their country of residence.

My Department is studying the implications of the ruling and has had a preliminary meeting with the HSE to review current practices.

My main concern is to continue to ensure that patients who require hospital treatment can do so without delay and that there are effective procedures for reviewing their cases where they are awaiting treatment. The National Treatment Purchase Fund is already playing an important role in this regard.

#### Hospital Staff.

63. **Mr. Crowe** asked the Tánaiste and Minister for Health and Children if she will report on progress to date in the delivery of Action 89 of Quality and Fairness — A Health Strategy for You, which promised agreement on a revised consultants' contract to provide greater equity for public patients in acute hospital services; and if she will make a statement on the matter. [21305/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The aim of the negotiations on the new consultants' contract is to resolve a number of key elements of the current system in order to promote equity of access, organisational improvements, flexible work practices and more clinical involvement in, and responsibility for, management programmes.

Talks on a new contract commenced on 24th November 2005 under the independent chairmanship of Mr. Mark Connaughton SC. At that meeting, and at a further plenary meeting in December, both the IHCA and the IMO indicated that they required a number of issues to be addressed before they could engage in substantive negotiations on a new contract.

A position paper outlining proposals on a new employment contract for consultants working in the public health system was tabled by management at a plenary meeting on 26 January 2006. This paper includes such items as: Consultant-provided service — a service delivered by teams of consultants, where the consultants have a substantial and direct involvement in the diagnosis, delivery of care and overall management of patients. As part of a consultant-provided service, consultants will treat all patients and will be remunerated exclusively on a salaried basis. i.e. they will not receive additional remuneration for treatment delivered to insured patients. A commitment to public sector service alone will mean that consultants will treat patients only within the public hospital or public community facility. Each consultant's commitments will be set out in an Annual Work Plan — supported by a series of performance indicators and review mechanisms. Work Plans will be in line with clinical need, the nature and volume of clinical workload and the 24/7 nature of health services. Consultants will work a 39-hour commitment over the 24/7 period agreed and detailed in the Work Plan — varying by specialty and location. Work Plans will follow a framework developed at national level and will be agreed / reviewed annually by consultants, Clinical Managers and management. Each Work

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Plan will detail specific duties — for example; emergency commitments, operating time, ward rounds, outpatient clinics and diagnostic work; regular on-call commitments and involvement in supporting professional activities, audit and competence assurance. Each consultant will work as an integral part of a multi-disciplinary team which is led and managed by a Clinical Director. As a member of the team, consultants will make decisions regarding the care, treatment and discharge of patients during the absence of a consultant colleague who has lead responsibility for such patients. As a member of a team, each consultant will be incentivised to increase productivity through a performance-related awards scheme. The primary role of a Clinical Director will be to manage and plan how services are delivered. Clinical Directors will be appointed by the employing authority; develop and implement protocols for service delivery; will have significant responsibility for how services are delivered and will be accountable for the use of resources. Medical Education and Training — Contracts can be constructed for certain Consultants that will allow for a defined and measurable commitment to medical education and training/research.

The medical organisations have thus far not engaged in substantive discussions on these proposals.

At a further meeting on 9 February the talks were adjourned without any further date being set for their resumption. The independent chairman has, however, maintained contact with both sides.

I met a delegation from the IHCA on 12th May 2006. At that meeting, I indicated to the delegation that any outstanding issues would be most appropriately addressed in the context of direct discussions with management. To this end, I emphasised the need for talks to resume as soon as possible. I understand that in response to this, the IHCA has now made contact with the independent chairman with a view to arranging a further meeting with health service management.

#### **Primary Care.**

64. **Mr. Morgan** asked the Tánaiste and Minister for Health and Children the new pilot projects for cross-Border access to out of hours general practitioners services; when the projects will be extended along the entire Border; if discussions are underway for the establishment of a public general practitioner on-call service in the Dundalk and North Louth area; and if she will make a statement on the matter. [21307/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I am advised by the Health Service Executive (HSE) that Work has been underway over the last year under the auspices of Co-Operation and Working Together (CAWT) to intro-

duce Cross-Border co-operation in the area of GP out of hours services. Interreg funding has been obtained for the project. This service will be of benefit to people across the border area who live closer to a GP out of hours centre in the other jurisdiction. Approximately 65,000 people across the border area live closer to a GP out of hours centre in the opposite jurisdiction.

A feasibility study has recommended the setting up of two pilot areas, each with populations of approximately 13,000 along the border, one where patients in the Republic will have access to a centre in Northern Ireland and one where patients in Northern Ireland will have access to a centre in the Republic.

I have been informed by the HSE that the two pilot areas are: Patients from Inishowen will be able to obtain a service in Derry commencing by end 2006. Patients from Keady will be able to obtain a service in Castleblaney commencing early 2007.

The respective Government Health Departments — the Department of Health and Children and the Department of Health, Social Services and Public Safety have met with the CAWT team and the Health Service Executive (HSE) to review progress. I welcome this service initiative and my Department will assist in addressing and resolving any obstacles at Government level to enable the service to begin.

In relation to the expansion of the doctor on call service to Dundalk and North Louth, the HSE have advised that GPs from this area have again recently been invited to give this matter their favourable consideration and to enter into discussions with the HSE in this regard.

#### **Care of the Elderly.**

65. **Ms Burton** asked the Tánaiste and Minister for Health and Children the steps that will be taken to ensure the quality of care will be properly monitored and audited in the new private sector venture for elderly people in their homes, known as comfort keepers; the criteria whereby persons will be entitled to a level of support from home care packages that part fund this scheme; and if she will make a statement on the matter. [19275/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The draft General Scheme and Heads of the Health Bill 2006 provide for the establishment of the Health Information and Quality Authority (HIQA) incorporating the Office of the Chief Inspector of Social Services on a statutory basis.

It is intended that under the provisions of the Bill, HIQA will set standards on safety and quality of services provided by or on behalf of the HSE. It will monitor and advise the Minister and the HSE on the level of compliance with those standards. It will also have the power to investigate, at the request of the Minister or the HSE,



the safety, quality and standards of any service and make any recommendations it deems necessary.

The Health Service Executive has advised that the Dublin Mid-Leinster Area is currently finalising documentation prior to inviting tenders from private and voluntary sector organisations for inclusion on a panel of preferred providers to provide high quality home support and personal care services for older people. At three month and six month intervals, the Health Services Executive will review contractors performance using the criteria included for awarding contracts, and determine whether the contractor should remain on the panel of 'preferred providers' or be removed.

This tender will ensure that home care services contracted in by the Health Services Executive will reach the highest standards, and, by regular review and audit in line with the tender provisions, these standards will be carefully monitored. Persons who make private arrangements with contractors included in the list of preferred providers can be assured that the organisations they deal with have reached the standards outlined above and that evidence of maintaining those standards will be regularly monitored.

Home Care Packages consist of a mixture of grants, contracted care services, therapeutic input, equipment and other such community services as determined by a needs assessment to facilitate an older person to remain living in their own home. Home Care Packages are targeted at those people who have maximised their usage of existing core community services.

#### **Cancer Screening Programme.**

66. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children when BreastCheck will be extended to the north west; and if she will make a statement on the matter. [21265/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I have met with representatives of BreastCheck and they are fully aware of my wish to have a quality assured programme rolled out to the remaining regions in the country as quickly as possible. For this to happen, essential elements of the roll out must be in place including adequate staffing, effective training and quality assurance programmes. I have made available additional revenue funding of €2.3m available to BreastCheck to meet the additional costs of roll out. I have also approved an additional 69 posts.

BreastCheck recently interviewed for Clinical Directors for the Southern and Western regions and appointments have been made and both will take up their positions later this year. Both are currently undergoing additional training in relation to their role as Clinical Director. This month BreastCheck will begin recruiting Consultant Radiologists, Consultant Surgeons and Con-

sultant Histopathologists for both centres. BreastCheck are also recruiting radiographers. While the recruitment of radiographers is difficult at present as there is a shortage internationally of trained personnel, BreastCheck is confident that it will be in a position to employ sufficient radiographers at both sites.

BreastCheck also requires considerable capital investment in the construction of two new clinical units and in the provision of five additional mobile units and state of the art digital equipment. I have made available an additional €21m capital funding to BreastCheck for this purpose. BreastCheck is in the process of shortlisting applicants to construct its two new clinical units. The BreastCheck clinical unit in the Western Area at University College Hospital Galway will have two associated mobile units. 58,000 women are in the target population for invitation to screening. This is expected to result in the detection of in excess of 141 cancers per year in the first round of screening and a minimum of 71 per year in the subsequent rounds. BreastCheck is confident that the target date of next year for the commencement of roll out to the Southern and Western regions will be met.

#### **Hospital Services.**

67. **Mr. Penrose** asked the Tánaiste and Minister for Health and Children if, in view of the increasing numbers of caesareans here, a full review is to be considered by her Department with direct reference to current obstetric practices employed in all maternity hospitals here; and if she will make a statement on the matter. [21316/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** In recent years, there has been an increase in the number of births by caesarean section in Ireland. Approximately one in five births are now performed through this procedure.

The decision to perform a caesarean section is a clinical one that is taken by qualified medical practitioners. Reasons suggested for the increasing caesarean rates include more widespread availability of foetal monitoring with subsequent earlier surgical intervention and greater patient awareness and demand.

At the request of the Chief Medical Officer of my Department, the Institute of Obstetrics and Gynaecologists considered the increase in rates in this country. In their view, there is unlikely to be a single cause responsible. However, it is suggested that better and more comprehensive data would allow the issue to be considered in greater depth.

In March 2006, I announced the establishment of a new National Perinatal Epidemiology Centre in Cork University Hospital that will be up and running in the Autumn of this year, with annual funding of €630,000. Every time a mother gives birth in this country, the important interventions,

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including caesarean sections, the good outcomes and the complications will be recorded and analysed at the centre.

*Question No. 68 answered with Question No. 22.*

### Hospital Staff.

69. **Mr. Ferris** asked the Tánaiste and Minister for Health and Children the action she will take to ensure the appointment of a full-time cardiologist at Kerry General Hospital. [21310/06]

**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.

### Primary Care.

70. **Mr. Kenny** asked the Tánaiste and Minister for Health and Children the progress to date in improving access to diagnostic services for general practitioners; and if she will make a statement on the matter. [21260/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The HSE has informed me that in November 2005, a sub-committee of the Executive's National Primary and Community Care Reform Working Group was established to review the current status of GP access to diagnostics; to explore current and potential capacity; and make short, medium and long-term recommendations.

I am advised that work is being undertaken at present to progress two specific initiatives:

- The development of a service to facilitate the transportation of diagnostic specimens from GP surgeries to laboratories. The key objective of this initiative is to increase the current national provision of such a service from 36% of the population to 60% in 2006. Implementing this initiative requires the examination of both existing and development capacity of transportation and laboratory services, together with the development of joint protocols to encompass delivery of the service. The HSE has indicated that this work is in progress.
- The development of a radiology/ultrasound initiative. The key objective of this initiative is to reduce waiting times for GP referrals nationally to a maximum of four weeks for plain film X-rays and eight weeks for ultrasound tests. In order to meet this objective there are a number of complex factors to be considered relating to the capacity of the

current services; the use of both public and private providers; infrastructure; hours of service and engagement arrangements.

The HSE has established a Governance Group to oversee the implementation of these specific initiatives. In addition, the Group will also be progressing other medium and longer-term recommendations in relation to referral guidelines; as well as developing diagnostic capacity at primary and community service level in order to reduce the reliance on the acute sector and to enhance clients' experiences of diagnostic services and their outcomes.

Improving direct access for GPs to diagnostic services is also one of the actions in the Ten Point Plan to improve Accident and Emergency Services. Arrangements have been put in place with private providers for the commissioning of Computerised Tomography scans and Magnetic Resonance Imaging to facilitate direct access for GPs. To date, more than 1,500 CT scans and 100 MRI scans have been carried out under this initiative.

Funding was also provided for GP direct access for Ultrasound at Mercy University Hospital, Cork.

### Consultancy Contracts.

71. **Ms McManus** asked the Tánaiste and Minister for Health and Children her views on criticisms made by Health Service Executive internal auditors on the manner in which computer consultancy services were commissioned for the PPARS payroll system and that it was maintained that official public procurement policy was not followed strictly enough; the steps which have been put in place to ensure that these criticisms will be addressed; if appropriate guidelines will be published and adhered to; and if she will make a statement on the matter. [21315/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The HSE CEO has supported the recommendations of the Internal Audit Unit's review and report in respect of PPARS' recruitment of the companies providing computer consultancy services (technical contractors) and acknowledged that deviation from official public procurement policy is not acceptable.

The recommendations of the Internal Audit Unit's report are being implemented and together with the introduction of HSE's National Procurement Policy which came into effect earlier this year will facilitate compliance with official public procurement policy. Furthermore the CEO of the HSE has asked the National Director of Finance (HSE) to ensure all necessary procurement and financial procedures are being followed by the PPARS project office.

The following specific measures are being taken following a review of tax clearance procedures around procurements for computer consultancy services: 1) A designated Manager must be formally appointed for each major contract. 2)

Tax Clearance status must be established prior to the award of a contract. 3) The recommendation to award a contract must include a certification by the contract manager that all policies, procedures and other requirements (including tax clearance) have been complied with in the tender process.

Finally the public procurement process requires notification of award of contract to be published thereby giving transparency to each procurement.

#### **Hospital Staff.**

72. **Mr. Deenihan** asked the Tánaiste and Minister for Health and Children when she intends implementing a public only contract for consultants; and if she will make a statement on the matter. [21246/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Talks on a new hospital consultant contract commenced on 24th November 2005 under the independent chairmanship of Mr. Mark Connaughton SC. At that meeting, and at a further plenary meeting in December, both the IHCA and the IMO indicated that they required a number of issues to be addressed before they could engage in substantive negotiations on a new contract.

Proposals for a new employment contract for consultants working in the public health system were tabled by the management side in January this year in the context of the consultants' contract negotiations.

The new contract will be a first step towards the introduction of a consultant-provided service and the appointment of large numbers of dedicated public hospital and community based consultants, working in teams. This will be matched by a reduction in the number of non-consultant hospital doctors.

The medical organisations have thus far not engaged in substantive discussions on these proposals. Talks on 9 February were adjourned without any further date being set for their resumption. The independent chairman has, however, maintained contact with both sides.

I met a delegation from the IHCA on 12th May 2006. At that meeting, I indicated to the delegation that any outstanding issues would be most appropriately addressed in the context of direct discussions with management. To this end, I emphasised the need for talks to resume as soon as possible. I understand that in response to this, the IHCA has now made contact with the independent chairman with a view to arranging a further meeting with health service management.

#### **Medical Cards.**

73. **Mr. S. Ryan** asked the Tánaiste and Minister for Health and Children the number of people that have received a general practitioner

only card; her views on the low uptake on these cards; the action taken to increase this uptake; and if she will make a statement on the matter. [21312/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Information supplied to my Department by the Health Service Executive (HSE) indicates that as at 29th May 2006 there were 16,920 persons holding a GP visit card.

Since 2005, I have made significant improvements to the way in which people's eligibility for medical cards and GP visit cards is assessed. In January 2005, I increased the income guidelines used in the assessment of medical card applications by 7.5%. In June 2005, I simplified the means test for both medical cards and GP visit cards. It is now based on an applicant's and spouse's income after tax and PRSI, and takes account of reasonable expenses incurred in respect of rent or mortgage payments, childcare and travel to work. This is much fairer to applicants. I announced, on 13 October 2005, that the income guidelines for both medical cards and GP visit cards would be increased by an additional 20%. This means the income guidelines are now 29% higher than they were at the end of 2004. It will be noted that the income assessment guidelines for GP visit cards are 25% higher than those used for medical cards. The HSE has publicised these changes to encourage people to apply and has made the application process as simple as possible.

My Department and the HSE are at present considering whether any further changes to the guidelines for GP visit cards are appropriate.

#### **Public Health.**

74. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children the use the iodine tablets which were distributed to each household here would be if there was an explosion at the Sellafield plant involving the highly active liquid waste which are stored in tanks awaiting vitrification. [16523/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Iodine tablets offer protection from radioactive iodine of which iodine-131 is normally the most significant in terms of radiation dose. Radioactive iodine is no longer produced at Sellafield since the closure of the Calder Hall reactors in March 2003 and there is no iodine-131 stored in the HASTs (highly active storage tanks). An accident at Sellafield would not result in a release of radioactive iodine and the use of iodine tablets as a counter measure in such an instance would not be indicated.

*Question No. 75 was answered with Question No. 39.*



### Food Labelling.

76. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children the discussions she has had with the Food Safety Authority of Ireland on the enforcement on the food labelling laws; and if she will make a statement on the matter. [18816/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The enforcement of food labelling regulations is included in the service contracts between the official agencies and the Food Safety Authority of Ireland (FSAI). The European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002 — as amended) is the main legislation in Ireland dealing with the general labelling of pre-packaged foodstuffs. However, there are many other separate labelling provisions in national and European legislation, such as provisions relating to nutrition, beef, fish, natural mineral waters, novel foods, food additives, food supplements, sweeteners and declarations on price indication, weights and measures and merchandise markings.

Labelling inspections are carried out as part of the routine control work of the official agencies. The official agencies include the Health Service Executive, the Department of Agriculture and Food, the Department of Communications, Marine and Natural Resources, the Office of the Director of Consumer Affairs and the local authorities.

My Department is in touch with officials of the FSAI on an ongoing basis and regular meetings are held to discuss a wide range of issues. Any issues which arise in relation to the enforcement of food legislation, including enforcement of labelling legislation, are discussed where necessary, in this context.

*Question No. 77 answered with Question No. 6.*

### Hospital Staff.

78. **Ms O'Sullivan** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that the staffing in Dublin and Cork has not met the recommendation of the 1995 nor the 2000 reports that were produced on behalf of neurosurgeons in the UK and Ireland; the steps she intends to take to address same; the timeframe; and if she will make a statement on the matter. [21327/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy will be aware that the management and delivery of the health and personal social services is now the responsibility of the Health Service Executive. This includes responsibility for the appointment of additional hospital consultant staff. Therefore, my Department has requested the Parliamentary Affairs

Division of the Executive to respond to the Deputy in relation to the issues raised and to provide the information requested.

### Proposed Legislation.

79. **Mr. Bruton** asked the Tánaiste and Minister for Health and Children if the Health Information and Quality Authority legislation will contain a section on whistleblower's legislation; and if she will make a statement on the matter. [21221/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** In line with the recent Government Decision to introduce 'whistleblowing' provisions on a sector by sector basis, I am proposing to include specific provisions concerning protected disclosure of information in the draft Heads and General Scheme of the Bill establishing the Health Information and Quality Authority and the Office of the Chief Inspector of Social Services, which I will be bringing to Government soon. It is my intention to publish the legislation during the Autumn session.

Although I will be including these specific provisions in the forthcoming Health Bill, I would point out that there are already in place statutory provisions in respect of governance in the health services. Under section 35 of the Health Act 2004 there is a provision obliging the Health Service Executive (HSE) to draw up a code of governance which will include guiding principles applicable to the HSE as a public body. My Department has issued a framework document for corporate and financial governance for the HSE and requested it to draw up a code of governance in line with the framework.

Under the section dealing with codes of conduct and quality customer services, the framework document specifically highlights that the Government approved in 2001 a code of practice for the governance of state bodies under which such bodies need to set out objectives in relation to maintaining proper standards of integrity and disclosure of confidential information. Under the 2004 Act, the HSE is obliged in its Annual Report to indicate its arrangements for implementing and maintaining adherence to the code.

The HSE submitted an update on progress in relation to its Code of Governance to me in December. The HSE is still working on the contents of the Code and my Department is in communication with it in this respect.

In addition, section 25 of the Health Act 2004 provides that members of the Board of the HSE, members of any committees of the Board, employees of the HSE or any person engaged by it as an adviser shall maintain proper standards of integrity, conduct and concern for the public interest. In order to ensure the implementation of such standards, the HSE is obliged to draw up a code of conduct for the employees not covered by standards applied by the Ethics in Public



Office Act 2001 and advisers and their employees. The code must indicate the standards of integrity and conduct to be maintained by them in performing their functions. Such a code should more than adequately cover the rights and obligations of employees, advisers and consultants in disclosing confidential information in appropriate circumstances to the appropriate authorities.

In addition under statutory frameworks governing health professionals there are provisions concerning the ethical conduct of these professions. The Health and Social Care Professions Act 2005 provides for the establishment of registration boards for each of the professions covered by the Act, the functions of which include giving guidance concerning ethical conduct and support to those registered with the boards in relation to the practice of their professions. The Medical Council has a guide to ethical conduct and behaviour which deals with matters of confidentiality and consent under circumstances where there are exceptions to the rules of confidentiality and where doctors should report on the behaviour and competence of other doctors. An Bord Altranais has a code of professional conduct for nurses and midwives which provides that any circumstances which could place patients or clients in jeopardy or militate against safe standards of practice should be made known to the appropriate person or authorities.

I am confident that these provisions together with the provisions that I intend to include in the Health Bill will provide appropriate protection to those who raise concerns regarding the health and welfare of patients in the health service.

### Hospital Services.

80. **Mr. English** asked the Tánaiste and Minister for Health and Children the projected overruns of the budgets of each acute hospital here; if her attention has been drawn to the fact that patient care could be compromised in any of these hospitals; and if she will make a statement on the matter. [21249/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The management of expenditure against budget for individual acute hospitals is a matter for the Health Service Executive. However, in reporting on expenditure to the end of the first quarter of 2006, the HSE indicated some concerns regarding emerging trends in major acute hospitals. I am informed by the HSE that the National Hospitals Office is now undertaking an assessment of the situation to determine the overall position to the end of the year. Notwithstanding these pressures and further spending pressures within the Primary, Community and Continuing Care pillar of the HSE, the Executive have indicated financial break-even by the year end.

81. **Ms C. Murphy** asked the Tánaiste and Minister for Health and Children if she will establish a citizen's information type service in children's hospitals specifically designed to give parents who have received a diagnosis for their child that will require long-term health care, education and other types of support; and if she will make a statement on the matter. [21132/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the Executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the children's hospitals. I would be very supportive of such a service being available for parents and my Department has requested the Parliamentary Affairs Division of the Health Service Executive to arrange to have the matter examined and to reply directly to the Deputy.

### Proposed Legislation.

82. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children the timeframe for a new Medical Practitioners Act; her views on the concerns raised by the Medical Council that there are no national audit figures; her further views on the fact that a doctor struck off for misconduct abroad could not also be struck off the medical register here without the council holding its own fitness to practise inquiry; and if she will make a statement on the matter. [21331/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Heads of Bill for a new Medical Practitioners Act are at an advanced stage of preparation. It is my intention to make the Heads of Bill available as soon as possible, in order to allow for interested parties to make comments on the proposals. These comments will then assist in the drafting of the Bill proper, which I intend to publish in the Autumn.

The concerns raised by the Medical Council in relation to audit are under consideration in my Department in the context of clinical governance and the role of the Health Information and Quality Authority.

I am informed by the Medical Council that if a doctor whose name is on the General Register of the Medical Council in Ireland is struck off for misconduct in another jurisdiction, the Medical Council can only impose a sanction following the holding of its own fitness to practise inquiry. This situation is underpinned by the Supreme Court in a judgment from 2004, which reaffirmed the constitutional rights of an accused doctor to a fair hearing. The effect of this judgment is that individual complainants must give evidence and this evidence may be cross-examined. The individual who makes the complaint must be willing to give

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evidence to that inquiry and, if living overseas, cannot be compelled to do so. The Medical Council informs me that it has accommodated overseas witnesses by use of video-link thus avoiding the need to travel. The Medical Council states that it cannot simply rely on the findings and transcripts of medical regulatory authorities in other jurisdictions.

I am informed by the Council that if a doctor is struck off for misconduct in another jurisdiction and then applies for registration in Ireland, the application can be refused.

### Social Welfare Benefits.

83. **Mr. Penrose** asked the Tánaiste and Minister for Health and Children the latest estimate or assessment available to her Department in regard to the planned introduction of the early childcare supplement of the likely number of claims that could be made in respect of children not resident here and the estimated cost in respect of such payments; the procedures which will be put in place to ensure verification of claims made; and if she will make a statement on the matter. [17372/06]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** The Early Childcare Supplement, or ECS, was introduced in Budget 2006. The scheme is under the remit of the Office of the Minister for Children. The administration of the scheme is being undertaken by the Department of Social & Family Affairs, on an agency basis.

The scheme is a universal one and all parents or guardians of children up to six years of age are eligible. It is expected that over 260,000 families will qualify for the Supplement in 2006, in respect of over 350,000 children. Funding amounting to €265 million has been allocated to the Office of the Minister for Children for the ECS in 2006, and in a full year it is estimated that the cost will be in the region of €350 million.

Eligibility for the ECS is identical to that for the Child Benefit scheme, in that parents who receive Child Benefit in respect of children under the age of six will also receive the Early Childcare Supplement. Both schemes fall within the definition of a “family benefit” under EU Regulation 1408/71. One practical effect of this is that where a national of an EU state is working in Ireland the worker is entitled, if she or he has a family resident in the EU, to payment of this benefit.

This situation is the same as for the Child Benefit scheme. The Department of Social & Family Affairs is currently making Child Benefit payments to 700 families, in respect of approximately 1,400 children, where the children are resident in another state covered by EU regulations. About 490 of these children are aged under six years and will be eligible for payment of the ECS. The vast majority of these children are resident

in the United Kingdom, most of which are in Northern Ireland.

In addition to this stock of cases, figures supplied by the Department of Social and Family Affairs indicate that the weekly intake of Child Benefit claims in respect of non-resident families currently varies between 300 and 400. It is estimated that these families will have a total of approximately 200 children under the age of six. It is likely that many of these claims are from workers who have been present in Ireland for some time, but who were unaware of their entitlement to Child Benefit prior to recent media attention. If this is the case, the rate of new claims would be expected to decline over the course of the year. If however the rate remained constant, ECS payments of €9.5 million would have accrued by the end of 2006, which would be 3.6% of the total projected cost of the Supplement this year. It is likely however, that only between €1 million and €1.5 million of this would be paid by the end of 2006 — less than 0.5% of projected expenditure. This is due to the protracted nature of the claim decision process which involves communication with the authorities in the country in which the family resides.

The Department of Social & Family Affairs operates a strict verification process for Child Benefit claims and this will also apply to the ECS. The work status in Ireland is checked and birth certificates for the children obtained. It is necessary to correspond with the relevant authorities in the country where the family reside to see what entitlements may be in place there and what effect the Supplement will have on payments in both countries. In the course of this correspondence, particulars of the children in the family are re-checked and verified.

Officials are currently reviewing these verification and other control measures currently operated for the Child Benefit scheme with a view to adapting and expanding them as appropriate for the ECS.

As the Deputy will appreciate, it is not possible at this point to forecast with total accuracy the future number of non-resident children qualified for this payment. This will depend on future immigration flows, the numbers of immigrants who bring their children with them, the number of immigrants who decide to return home, the number of Irish workers with children living outside the state (e.g. in Northern Ireland) and of course future birth rates. Based on current figures the expenditure in respect of non-resident children is unlikely to be significant in the context of the overall spending on the scheme.

### Hospital Services.

84. **Dr. Twomey** asked the Tánaiste and Minister for Health and Children the number of endoscopy and colonoscopy procedures cancelled at Wexford General Hospital in the past 12

months; and if she will make a statement on the matter. [21257/06]

**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.

#### **Child Care Services.**

85. **Mr. G. Murphy** asked the Tánaiste and Minister for Health and Children the status of an application for grant aid to fund a creche after school service (details supplied); and if she will make a statement on the matter. [21448/06]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** As the Deputy will be aware, I have responsibility for the Equal Opportunities Childcare Programme 2000 — 2006 (EOCP) and the National Childcare Investment Programme 2006 — 2010, which are being implemented by the newly established Office of the Minister for Children.

With regard to the application for capital grant assistance under the Equal Opportunities Childcare Programme 2000 — 2006 referred to by the Deputy, I understand that the Group in question was not recommended for capital grant assistance as the project did not represent value for money when considered in line with building costs guidelines, and there is a risk of duplication and displacement of existing services.

#### **Cancer Screening Programme.**

86. **Dr. Cowley** asked the Tánaiste and Minister for Health and Children if, in view of the fact that breast cancer is a terrible killer, that health care apartheid exists here and that 260 more women will die needlessly in the west and south before BreastCheck is up and running, she will take up an alternative option whether private or otherwise to provide a BreastCheck service to the women of the west until a unit is built in Galway thus saving 260 women's lives; and if she will make a statement on the matter. [21375/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** A breast screening programme is a complex multidisciplinary undertaking that requires considerable expertise and management involving population registers, call recall systems, mammography, pathology and appropriate treatment and follow up. A programme must be quality assured and acceptable to women who attend for screening. The first phase of the programme is of a high quality and a similar quality in the West and South is essential.

I have met with representatives of BreastCheck and they are fully aware of my wish to have a quality assured programme rolled out to the remaining regions in the country as quickly as possible. For this to happen, essential elements of the roll out must be in place including adequate staffing, effective training and quality assurance programmes. I have made available additional revenue funding of €2.3m available to BreastCheck to meet the additional costs of roll out. I have also approved an additional 69 posts.

BreastCheck recently interviewed for Clinical Directors for both regions and appointments have been made and both will take up their positions later this year. Both are currently undergoing additional training in relation to their role as Clinical Director. This month BreastCheck will begin recruiting Consultant Radiologists, Consultant Surgeons and Consultant Histopathologists for both centres. BreastCheck are also recruiting radiographers. While the recruitment of radiographers is difficult at present as there is a shortage internationally of trained personnel, BreastCheck is confident that it will be in a position to employ sufficient radiographers at both sites. BreastCheck is also confident that the target date of next year for the commencement of roll out to the Southern and Western regions will be met.

BreastCheck also requires considerable capital investment in the construction of two new clinical units and in the provision of five additional mobile units and state of the art digital equipment. I have made available an additional €21m capital funding to BreastCheck for this purpose. BreastCheck is in the process of shortlisting applicants to construct its two new clinical units. The BreastCheck clinical unit in the Western Area at University College Hospital Galway will have two associated mobile units. 58,000 women are in the target population for invitation to screening. This is expected to result in the detection of in excess of 141 cancers per year in the first round of screening and a minimum of 71 per year in the subsequent rounds. The BreastCheck clinical unit in the Southern Area at South Infirmary/Victoria Hospital will have three associated mobile units. 71,000 women are in the target population for invitation to screening. This is expected to result in the detection of in excess of 174 cancers per year in the first round and a minimum of 87 per year in the subsequent rounds. On full roll-out, all women in the target age group in every county will have access to breast screening and follow up treatment where appropriate.

Any proposal received by BreastCheck to support the roll out of its screening programme is carefully examined to assess the extent to which it complies with existing standards. As I have previously informed the Deputy, BreastCheck has advised my Department that it has engaged in extensive discussions with the Galway clinic.



[Ms Harney.]

BreastCheck has conducted an evaluation of this proposal and has concluded that the clinic in question would not be in a position to provide a population based screening programme in line with BreastCheck's requirements.

#### **Services for People with Disabilities.**

87. **Mr. McGuinness** asked the Tánaiste and Minister for Health and Children the reason for the delay in providing a medical or occupational therapist report relative to an application under the disabled persons grant scheme in the name of persons (details supplied) in County Kilkenny; if she will expedite a decision in the case in view of the fact that the application was made in November 2005; and if she will make a statement on the matter. [21355/06]

**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 for people with disabilities, 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 Waiting Lists.**

88. **Mr. Wall** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Kildare will receive an appointment date for an operation at Tallaght Hospital; and if she will make a statement on the matter. [21356/06]

**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.**

89. **Mr. Wall** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Kildare will receive their home care grant in view of the fact that they have been sanctioned for same for over three months and have not received moneys due; and if she will make a statement on the matter. [21357/06]

**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.

#### **Primary Care.**

90. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if she will report on the provision of primary healthcare facilities in Dublin 15; and if there are plans for additional primary healthcare facilities in the Health Service Executive capital programme. [21358/06]

**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.

91. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children the plans which are in place for primary healthcare facilities in Corduff, Mulhuddart, Castaheany and Hartstown, County Dublin. [21359/06]

**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.

#### **Patient Statistics.**

92. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children the number of people who have presented themselves with alopecia in Dublin 15. [21360/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Alopecia is a recurrent non-scarring type of hair loss that can affect any hair-bearing area. Although medically benign, alopecia can cause tremendous emotional and psychosocial stress in affected patients and their families.

The pathophysiology of alopecia remains unknown. The most widely accepted hypothesis is that alopecia is a T-cell mediated autoimmune condition that is most likely to occur in genetically predisposed individuals. Genetic factors are likely to play an important role in determining



susceptibility and disease severity. The role of environmental factors and stressful events in initiating or triggering the condition is yet to be determined.

As alopecia is not a notifiable disease and does not generally require hospitalisation, information on the number of persons presenting with this condition is not available.

#### **National Drugs Strategy.**

93. **Mr. Gregory** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 149 of 4 April 2006, if the working group has been set up; the agencies represented on it; the membership of same; and if the community and voluntary sector will be represented on it. [21371/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Mid-Term Review of the National Drugs Strategy recommended that a working group involving key stakeholders of both the alcohol and drugs areas should be established to explore the potential for better co-ordination between the two areas and how synergies could be improved. The working group, which is to be chaired by my Department, will also examine and make recommendations on whether a combined strategy is the appropriate way forward. The establishment of the working group is under consideration by my Department and it is intended that it should report by end 2006.

#### **Health Services.**

94. **Mr. N. O'Keeffe** asked the Tánaiste and Minister for Health and Children the position regarding the establishment of a centre (details supplied) in Cork in view of the number of persons from the Munster area attending the existing centre in Dublin. [21385/06]

**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.

#### **Health Service Staff.**

95. **Mr. N. O'Keeffe** asked the Tánaiste and Minister for Health and Children the position regarding the appointment of additional neurologists in the southern Health Service Executive area. [21386/06]

**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 have a reply issued directly to the Deputy.

#### **Health Services.**

96. **Mr. McCormack** asked the Tánaiste and Minister for Health and Children the number of beds which are vacant in the public nursing homes in Galway as a result of there not being adequate staff to keep all of the beds opened; and if she will make a statement on the matter. [21397/06]

**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.

#### **HIV Infection.**

97. **Mr. McHugh** asked the Tánaiste and Minister for Health and Children the position in relation to the implementation of an insurance scheme for persons infected with HIV or Hepatitis C through provision of contaminated blood or blood products by the State; and if she will make a statement on the matter. [21400/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I wish to assure the Deputies that I am committed to ensuring that an insurance scheme for persons infected with Hepatitis C and HIV through the administration of blood and blood products within the State is established on a statutory basis as soon as possible. The legislation is included as a priority in the Government's Legislative Programme for the current session and it is my firm intention that the enabling legislation will be enacted before the Summer recess. The process of drafting the legislation, which is both complex and innovative, is almost complete. As soon as I receive the final agreed text from my legal advisors I will submit it to the Government for approval and will publish it as soon as Government approval is received.

#### **Health Services.**

98. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that there have been no funding increases for a considerable length of time for projects mainstreamed in local

[Caoimhghín Ó Caoláin.]

drug task force areas which are funded by the Health Service Executive; and her views on increasing the HSE's funding for these projects. [21401/06]

**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.

#### **Hospitals Building Programme.**

99. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children when tenders will be sought for the construction of phase 3C of Naas Hospital. [21424/06]

**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. This includes responsibility for considering new capital proposals or progressing those in the health capital programme. Accordingly, my Department is requesting 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.**

100. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children the waiting time for hearing tests for children at the Newbridge, County Kildare and Tallaght, Dublin 24 clinics. [21430/06]

**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.

#### **Cancer Screening Programme.**

101. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children the reason for the delay in issuing a response to Parliamentary Question No. 288 of 21 March 2006. [21436/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** BreastCheck in conjunction with

my Department is preparing an estimate of the costs of extending the breast screening programme nationally to women over the age of 64. My Department expects to be in a position later this month to forward the information requested by the Deputy.

#### **Health Services.**

102. **Mr. Stagg** asked the Tánaiste and Minister for Health and Children the reason for the delay in issuing a response to Parliamentary Question No. 91 of 11 May 2006. [21438/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** As I indicated in my response on 11 May 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, at that time, my Department 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 HSE has advised me that a reply to the Deputy's original question will issue in the near future.

#### **Hospitals Building Programme.**

103. **Mr. O'Connor** asked the Tánaiste and Minister for Health and Children the estimated cost of building a new mental hospital in north Dublin; the funds likely to be raised by the sale of the lands of the Central Mental Hospital, Dundrum; and if she will make a statement on the matter. [21445/06]

**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. This includes responsibility for considering new capital proposals or progressing those in the health capital programme. Accordingly, my Department is requesting the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### **Medical Cards.**

104. **Ms McManus** asked the Tánaiste and Minister for Health and Children the proportion of persons aged over 70, who are in receipt of a medical card on grounds of age alone, who are also covered by health insurance; and if she will make a statement on the matter. [21453/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Information on the number of persons aged 70 or over and who hold a medical card under the provisions of section 45(5A) of the Health Act 1970 is held by the Health Service

Executive. 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.

Statistics on health insurance coverage of persons aged over 70 and who hold a medical card are not available. Research commissioned by the Health Insurance Authority in 2005 found that 52% of the population had health insurance, with 3% of adults having both a medical card and health insurance.

#### **Health Service Staff.**

105. **Mr. Neville** asked the Tánaiste and Minister for Health and Children if she will arrange for payment of a Labour Court recommendation of 21 July 2005 in relation to pay claim to the staff of an organisation (details supplied). [21454/06]

**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.

106. **Mr. Connolly** asked the Tánaiste and Minister for Health and Children the reason a person (details supplied) in County Monaghan was denied a contract of indefinite duration by the Health Service Executive north east in 2004; the further reason the Rights Commissioner's decision in 2005 to overrule this decision was appealed to the Labour Court by the HSE north east; the reason the Labour Court's upholding of the Rights Commissioner's ruling in April 2006 has not been implemented by the Health Service Executive Dublin north east region; the further reason the Corporate Employer's Relations Manager into the human relations department refuses to communicate with this person; and if she will make a statement on the matter. [21491/06]

**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.

107. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of posts, medical, nursing or surgical currently vacant in the Health Service Executive and affecting the

delivery of services throughout the country; her intentions regarding the filling of these posts; the deadline for same; and if she will make a statement on the matter. [21493/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** As the information requested by the Deputy relates to human resource management issues which are matters for the Health Service Executive, the Parliamentary Affairs Division of the Executive has been asked to respond directly to the Deputy in regard to the information sought.

I should also explain that employment information collected by my Department refers to numbers employed rather than to vacancies. The Deputy may wish to note that my Department's Health Service Employment Census, which encompasses staff employed by the Health Service Executive, the voluntary hospitals and some intellectual disability agencies, shows a total of 101,978 wholetime equivalent staff (excluding home helps) at end December, 2005. This compares with a total of 67,814 at end December, 1997 and represents an increase of 34,137 or 50.32%. There has been an increase of 2,290 or 46.06% in medical and dental personnel and an increase of 7,902 or 28.9% in nursing personnel.

108. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of positions for occupational therapists, physiotherapists, speech and language therapists and child psychological assessment positions currently vacant or about to become vacant throughout the Health Service Executive; her plans to fill the posts in early date; and if she will make a statement on the matter. [21494/06]

**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.

109. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of personnel dedicated to dealing with children at risk throughout the Health Service Executive; the degree to which her Department interacts with other Departments on such issues; and if she will make a statement on the matter. [21495/06]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** The first part of 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

[Mr. B. Lenihan.]

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 Office of the Minister for Children interacts as required with Government Departments, State Agencies and other bodies in relation to children at risk from a policy perspective.

110. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of consultant posts currently vacant or about to become vacant throughout the Health Service Executive; her timetable for the filling of these posts; and if she will make a statement on the matter. [21496/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy will be aware that the management and delivery of the health and personal social services is now the responsibility of the Health Service Executive. This includes responsibility for the appointment of additional hospital consultant staff. Therefore, my Department has requested the Parliamentary Affairs Division of the Executive to respond to the Deputy in relation to the issues raised and to provide the information requested.

#### Health Services.

111. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of children currently in receipt of orthodontic treatment through the aegis of the Health Service Executive; the number awaiting treatment; the number who have sought alternative treatment; and if she will make a statement on the matter. [21497/06]

**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.

#### Hospital Accommodation.

112. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of beds currently available in hospitals or nursing homes for those requiring full-time nursing care throughout the Health Service Executive; and if she will make a statement on the matter. [21498/06]

**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.

#### Accident and Emergency Services.

113. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the areas throughout the Health Service Executive most seriously affected by a shortage of accident and emergency staff; and if she will make a statement on the matter. [21499/06]

**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.

114. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the location of the unit specialising in tuberculosis and respiratory care which was previously located at Peamount Hospital, Newcastle, County Dublin; the degree to which isolation or other required facilities are available in its current location; and if she will make a statement on the matter. [21500/06]

**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.

#### Ambulance Service.

115. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children if all ambulance units throughout the Health Service Executive are adequately staffed and equipped with particular reference to the needs arising from a natural disaster or other emergency; and if she will make a statement on the matter. [21501/06]

**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.

### **Hospital Accommodation.**

116. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of medical, surgical and nursing beds available to public hospitals throughout the country; the number of such beds in 1990; the number of staff employed by the health services for the respective periods; and if she will make a statement on the matter. [21502/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The bed complement at 31 December 1990 for hospitals which are now classified as HSE Network Hospitals was 11,154 in-patient beds and 284 day places. In 1993 a new system of counting hospital beds was introduced. This is based on the average number of beds available for use over the year taking into account beds that are temporarily opened or closed. Provisional figures for 2005 indicate that the average number of beds available for use in HSE Network Hospitals was 12,042 in-patient beds and 1,213 day places. It is important to note that the numbers of beds available in any hospital may fluctuate over time depending on service demands and other factors such as seasonal closures and refurbishment. The total number of staff employed in the public health, including hospitals, community and primary care services, was 57,781 at end 1990 and 101,978 at end 2005 an increase of 44,197.

### **Health Services.**

117. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children her plans to upgrade or extend the health centres throughout County Kildare; and if she will make a statement on the matter. [21503/06]

**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.

### **Hospitals Building Programme.**

118. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children when she expects to issue instructions to the Health Service Executive to proceed with the next phase of the development of Naas Hospital; if same will involve a total

redevelopment of the site; and if she will make a statement on the matter. [21504/06]

**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. This includes responsibility for considering new capital proposals or progressing those in the health capital programme. Accordingly, my Department is requesting 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 Service Staff.**

119. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of personnel currently employed in the delivery of health services throughout County Kildare; the number employed in 1990; and if she will make a statement on the matter. [21505/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management of human resources which is 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.

### **Cancer Incidence.**

120. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children if she has studied reports available to her relating to the number of incidents of the various forms of cancer reported throughout the country; the success rate of treatment; if particular areas, counties or regions have higher reported levels of one or other form of cancer than others; the reason for the variation; and if she will make a statement on the matter. [21506/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The National Cancer Registry has routinely collected data on county of residence for all incidences of cancer since 1994. This data has been published in a number of reports, including 'Cancer in Ireland 1994-2000' and two all-Ireland cancer reports, 'All-Ireland Cancer Statistics' for 1994-1996 and 1998-2000. Up-to-date tables describing cancer incidence by site, sex and county of residence are also available to the public on the Registry website [www.ncr.ie](http://www.ncr.ie). In addition to this routine analysis, the Registry has carried out a number of analyses of cancer incidence for single counties in response to specific local issues.

The most recent detailed analysis of the relationship between cancer incidence and county

[Ms Harney.]

of residence was carried out for the second All-Ireland cancer report (1998-2000) which was published in 2004. While this report showed some relationship between region of residence and cancer incidence, there was few instances where this relationship could be shown at county level. In general, the number of cancer cases diagnosed at county level were too few, and the variation in incidence between counties too small, for any meaningful conclusions to be drawn. The only clear exception to this was for lung cancer, where incidences and mortality was significantly higher in Dublin than elsewhere. This variation in lung cancer incidence between urban and rural setting was also found in Belfast and Derry and is consistent with the pattern of incidence of lung cancer in other countries.

The National Cancer Registry published a report in 2003 entitled 'Patterns of Care and Survival from Cancer in Ireland, 1994-1998', which found many significant differences in treatment patterns for prostate, lung, colorectal and breast cancer between former health board areas. It established that there are clear differences in treatment and survival depending on area of residence. An important additional finding was the lack of consistency between geographical regions in treating the same cancer at the same stage. The Department has funded the National Cancer Registry to undertake a follow-up of this Report, which will look at variations and outcome up to 2001 and is expected to be published in early Autumn.

I have received a new National Cancer Strategy from the National Cancer Forum. The Strategy makes recommendations in relation to organisation, governance, quality assurance and accreditation across the continuum of cancer care from prevention and health promotion through to treatment services, palliative care and research. The Department is currently examining the Strategy in conjunction with the HSE. I will bring proposals to Government shortly.

### Health Services.

121. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children the number of reported incidents of tuberculosis throughout the country; the extent to which the level has increased or otherwise; and if she will make a statement on the matter. [21507/06]

**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.

### Eating Disorders.

122. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Health and Children if there are treatment services provided by the State for people with eating disorders who live outside the Dublin area; if not, if assistance is made available for them to access treatment services, that is, clinics and treatment programmes; if there is a waiting list for such services and the breakdown of the waiting list; and if she will make a statement on the matter. [21539/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** As part of a comprehensive community-oriented psychiatric services, persons presenting with eating disorders are generally treated in their area. Where in-patient treatment is deemed necessary, it is provided in child and adolescent psychiatric in-patient units or the local acute psychiatric unit or hospital. Outpatient psychiatric services are provided from a network of hospitals, health centres, day hospitals and day centres.

The future direction and delivery of all aspects of our mental health services, including services for persons with eating disorders, were considered in the context of the work of the Expert Group on Mental Health Policy. The Group's report entitled "A Vision for Change" was published on Tuesday 24th January, 2006. The report sets out how positive mental health can be promoted generally in our society, and how specialist mental health services can be delivered efficiently to persons with eating disorders who need them.

"A Vision for Change" acknowledges gaps in the current provision of mental health services for persons with eating disorders and makes several recommendations for the further improvement of these services. Recommendations include support for health promotion initiatives that encourage greater community and family awareness of eating disorders, the further development of primary and community care services and the provision of a full multi-disciplinary team in a National Centre for Eating Disorders. It is recommended that this National Centre be located in one of the national children's hospitals for complex cases that cannot be managed by local child and adolescent community mental health teams. The Government has accepted the Expert Group's report as the basis for the future development of the mental health services. In this connection an additional €25 million was made available this year to the HSE for the further development of our mental health services.

The Health Service Executive, which has primary responsibility for implementing the recommendations of "A Vision for Change" is in the process of establishing an implementation group to ensure that the recommendations are realised in a timely and coordinated manner. Also, I have recently appointed an independent monitoring group, as recommended in the

Report, to oversee the implementation of “A Vision for Change”. This group recently held its inaugural meeting.

Certain aspects of the Deputy’s question refers 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 Waiting Lists.**

123. **Mr. Perry** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 271 of 21 February 2006 the reason a person (details supplied) in County Sligo has not been called for their hip operation in Sligo General; and if she will make a statement on the matter. [21544/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy will be aware that the management and delivery of the health and personal social services is now the responsibility of the Health Service Executive. I understand that the Health Service Executive replied directly to the Deputy in March. My Department has requested the Parliamentary Affairs Division of the Executive to respond to the Deputy in relation to this case and to provide the information requested.

### **Tax Code.**

124. **Mr. Wall** asked the Minister for Finance the mechanism a person (details supplied) in County Kildare must use to obtain a P60 or P45 for a period finishing on 3 May 2005; and if he will make a statement on the matter. [21365/06]

**Minister for Finance (Mr. Cowen):** I have been advised by the Revenue Commissioners that a Form P45 was issued to the taxpayer on 4 May 2005 by the employer with whom he ceased employment on 3 May 2005. A PAYE balancing statement for 2005 issued to the taxpayer dated 29 May 2006. This outlined his certified income from all sources, together with tax deducted thereon, for the year 2005.

### **Site Acquisitions.**

125. **Mr. Stagg** asked the Minister for Finance if the contract documents for the purchase of a site for a school (details supplied) in County Kildare are near resolution. [21415/06]

**Minister of State at the Department of Finance (Mr. Parlon):** I refer to my responses to Parliamentary Questions Nos. 15542/06 of 25th April 2006 and No. 14035/06 of 6th April 2006. The updated position remains unchanged.

### **Flood Relief.**

126. **Mr. Stagg** asked the Minister for Finance further to Parliamentary Question No. 329 of 25 April 2006, when the catchment flood risk assessment for the Rye River will commence; and if he will employ additional staff in the Office of Public Works, if as he stated, they have limited staff resources. [21417/06]

**Minister of State at the Department of Finance (Mr. Parlon):** The Commissioners of Public Works are in the process of recruiting additional staff at this time. The Catchment Flood Risk Assessment and Management study for the Rye River will commence as soon as possible.

### **Schools Refurbishment.**

127. **Mr. Stagg** asked the Minister for Finance if the tender has been awarded for the roof repairs to a school (details supplied) in County Kildare; and if so, the details of same. [21425/06]

**Minister of State at the Department of Finance (Mr. Parlon):** Tenders have been received for the replacement of the roof at the school referred to in County Kildare. These tenders are currently being assessed and it is hoped that a contract for the work can be placed this month.

### **Special Savings Incentive Scheme.**

128. **Mr. O’Connor** asked the Minister for Finance the costs of providing a SSIA style pension incentive scheme where the State matched every euro privately invested with an equal contribution, the scheme being confined to those on the standard rate of income tax or lower; and if he will make a statement on the matter. [21446/06]

**Minister for Finance (Mr. Cowen):** The cost of the proposed scheme mentioned in the question would depend upon the extent to which taxpayers availed of the incentive, the savings rate, the amount saved and whether there was a cap or not on the maximum amount saved. In the absence of any indication of these parameters, I am unable to give any accurate projection.

### **Tax Code.**

129. **Mr. O’Connor** asked the Minister for Finance the cost to the Exchequer of the annual travel pass scheme, whereby employees can receive tax relief on travel expenses, being extended to all commuters; and if he will make a statement on the matter. [21447/06]

**Minister for Finance (Mr. Cowen):** The position in relation to travel tickets is that where an employer provides an employee with an annual or monthly bus or train pass, the cost of such a pass is not taxable. In addition, where an employee foregoes salary, and such salary foregone is used by the employee to purchase an



[Mr. Cowen.]

annual or monthly bus or train pass, then the salary foregone is not taxable. Both of these instances are subject to certain conditions.

I am advised by the Revenue Commissioners that employees are not required to include in their tax returns income arising from the provision of travel passes by their employers. In the case of employers the expense of travel passes to employees is allowable as a deduction in arriving at profits for tax purposes. However, the employer's tax return of income does not contain an entry in respect of this item and the employer's profit and loss account does not normally distinguish between this particular expense and other employment-related expenses.

Data available to my Department from Dublin Bus suggests that in 2005 approximately 40,000 travel tickets were issued by them covering not only their own services but also the Irish Rail and Luas services. On the basis of ticket sale receipt figures supplied by Dublin Bus and assuming an average tax rate of 30% plus the value of PRSI/Health levies forgone the cost in revenue forgone in respect of those service is estimated at approximately €7million. These, however, are not comprehensive figures and, in these circumstances it is not possible to provide a totally reliable estimate of numbers or costs involved at present. As a result existing data does not provide a sound basis on which to estimate the cost of extending the scheme to all commuters.

The extension of the scheme to all commuters i.e. to almost the entire working population, would be likely to have serious cost implications for the Exchequer. In addition, it would place a significant administrative burden on the local offices of the Revenue Commissioners who would have to process the reliefs/credits for each employee. One of the advantages of the scheme as it currently stands is that it is well controlled, easily administered and reasonably well targeted. The widening of the exemption in the manner suggested would significantly dilute these advantages.

#### **Pension Provisions.**

130. **Mr. Stanton** asked the Minister for Finance the number of women who were affected by the marriage bar; the number of women who will not be entitled to a pension in their own right as a result of the bar; his views on the implications of same; and if he will make a statement on the matter. [21477/06]

**Minister for Finance (Mr. Cowen):** The Deputy will be aware that I have primary responsibility for Civil Service pensions. The position is that, prior to 31 July 1973, the law required female employees to resign on marriage. In such cases, employees under pension age who had at least five years service (six years prior to 1 January 1968) qualified for marriage gratuities of 1/12th

of salary per year of service, subject to a maximum of one year's salary. In the period 1962 to 1973 a total of 1,240 marriage gratuities were paid. This figure does not include officers who resigned on marriage but who did not have the requisite service to qualify for the gratuity as such records were not kept at the time.

The Marriage bar was removed in 1973. Various initiatives, providing for reinstatement, in certain circumstances, of persons who had resigned on account of this were then introduced by my predecessors. These initiatives were formally removed in 1996 following a successful challenge that they discriminated in favour of a particular category of women.

The requirement to resign on marriage was part of the law in force at the time and was subsequently changed in line with developments in employment, equality law etc. I have no plans to change the Superannuation Acts to provide pensions for officers who resigned on marriage before 1973.

#### **Radio Broadcasting.**

131. **Mr. McHugh** asked the Minister for Communications, Marine and Natural Resources if he will liaise with ComReg to ensure that parish church radio transmitters are allowed to continue to transmit to their parishioners as heretofore; if he will further ensure that no parish church radio transmitters be shut down until an alternative wavelength is provided; and if he will make a statement on the matter. [21399/06]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The Commission for Communications Regulation (ComReg) is the statutory body responsible for the management of the radio spectrum in Ireland.

ComReg has drafted regulations permitting the safe use of public address systems to transmit local church services and other public events. These regulations require my consent as Minister for Communications, under the Wireless Telegraphy Act 1926 and should be in place shortly.

ComReg recently met with representatives of the Catholic Church to explain the proposed new scheme to them. I understand from ComReg that the Church representatives expressed satisfaction with the new arrangements.

ComReg also advised the Church representatives that while they have not required churches to discontinue relaying services they would expect all parishes to comply with the new licensing arrangements once the regulations have been signed and come into force.

#### **Telecommunications Services.**

132. **Mr. Stagg** asked the Minister for Communications, Marine and Natural Resources the towns in Kildare which have access to broadband at present; the towns without broadband;



the amount of funding being provided by the State to provide broadband in Kildare towns under MANs; and if he will make a statement on the matter. [21426/06]

**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 Commission for Communications Regulation (ComReg), the independent regulator.

My Department's website *www.broadband.gov.ie* lists all service providers offering broadband services in all towns in Kildare, and gives contact details for each company, together with prices for the various service levels on offer.

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. These Metropolitan Area Networks (MANs) will allow the private sector to offer world-class broadband services at competitive costs.

Twenty-seven 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 94 towns with a population of 1,500 and above that do not have a satisfactory broadband offering from the private sector. Kildare is developing projects in respect of the following towns: Kildare, Newbridge, Rathangan, Sallins, Maynooth, Clane, Monasterevan, Kilcock and Prosperous at an estimated grant aid of €12.7 million. The route designs are currently being developed in conjunction with Kildare County Council. Construction on these projects is expected to commence in 2007.

For rural communities 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. To date schemes have been approved for the North, North East and South West regions of Kildare. These projects are currently being constructed by the service providers. Full details of the scheme, including application procedures, are available on the website *www.gbs.gov.ie*.

#### **Decentralisation Programme.**

133. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources further to the purchase of a site in Cavan Town for the decentralisation of his Department, the amount the site cost; the amount the current Department headquarters expect to be sold for;

the number of staff members who have signed up to move to Cavan; the number of senior staff members who have agreed to move to Cavan; when he expects to finalise the move; and if he will make a statement on the matter. [21487/06]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The property element of the Government's Decentralisation Programme, including the acquisition of sites and associated costs and the disposal of State property is a matter for the Office of Public Works (OPW). I have no function in this matter.

Twenty-seven staff members have formally signed up to decentralise to Cavan. Of that number, five are of senior rank (Assistant Principal and above).

#### **Human Rights Issues.**

134. **Mr. Boyle** asked the Minister for Foreign Affairs if the types of torture depicted in the documentary film *The Road To Guantánamo* have been confirmed as having taken place; and if the Government has made any formal complaint to the US Government regarding these occurrences. [21518/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** Ireland holds the view that those detained in Guantánamo must be treated in accordance with the requirements of international human rights law and international humanitarian law. This position is shared by our EU partners, and the issue was most recently discussed at last weekend's meeting of Foreign Ministers. It was agreed that human rights and humanitarian standards have to be maintained while combating terrorism. Dialogue with the United States is continuing, in particular among legal advisers.

Following the publication on 16 February 2006 of the joint report of the UN Commission on Human Rights' Special Procedures, I endorsed the view of the UN Secretary General, Kofi Annan, that those held in Guantánamo Bay should either be charged or released, and that the US should close the facility.

The Government has repeatedly raised its concerns on this issue with the US, most recently during the Taoiseach's meeting with President Bush on 17 March 2006.

#### **Northern Ireland Issues.**

135. **Aengus Ó Snodaigh** asked the Minister for Foreign Affairs if he will report the meeting or the arena in which the Government raised with the DUP the issue of the DUP's role in sectarianism. [21538/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** The Government has discussed the issue of sectarianism with the DUP on a number of occasions in recent months. On 18 November 2005, a meeting was held between the Government and a

[Mr. D. Ahern.]

DUP delegation at Government Buildings. The context at that time included the attacks that had taken place in North Antrim and elsewhere during the summer of 2005 and the violence that had occurred during the Whiterock parade in September 2005. At that meeting, the Government raised the issue of sectarian attacks and intimidation and called for strong political leadership in condemning such incidents.

At discussions which took place between the two Governments and the DUP on 6 February 2006 in Hillsborough, I raised directly with the DUP Delegation our concerns about the patterns of attacks in North Antrim, and about the need for that party to play an active part in trying to combat all forms of sectarianism and sectarian attitudes.

However, this is not solely an issue for any one political party in Northern Ireland. All those in positions of leadership have a major role to play in eradicating sectarianism. It is vitally important that all incidents of sectarian violence be condemned consistently, unequivocally and unambiguously by every political party in Northern Ireland. Leaders must condemn sectarian attitudes and actions that can poison minds and create the climate for violence. Above all, leaders should be working to reduce tensions and promote reconciliation, particularly during the summer months.

The Government has emphasised to all parties the need to work towards a society based on tolerance and mutual respect, as envisaged in the Good Friday Agreement. We believe that the full implementation of the Agreement would be an important step towards achieving this aim.

#### Work Permits.

136. **Mr. G. Murphy** asked the Minister for Enterprise, Trade and Employment the status of an application for a work permit for a person (details supplied); and if he will make a statement on the matter. [21467/06]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** The Work Permit Section has confirmed that an application for a work permit in respect of the above individual was refused in August, 2005 in line with my Department's policy to only consider work permit applications for highly skilled and highly paid positions which are not possible to fill from within the EEA and on the grounds that the company had been dissolved.

The employer was notified of this decision in writing and of the right of appeal. An appeal was received from the employer in November 2005. The employer was contacted in relation to this appeal requesting further information. To date the employer has not submitted a response to this request, accordingly the file has been closed.

137. **Mr. Howlin** asked the Minister for Enterprise, Trade and Employment if, in relation to a work permit application for a person (details supplied), account was taken by his Department of the fact that, despite exhaustive efforts including repeated and prolonged advertising and assistance from FÁS, it has proved impossible to recruit a suitably qualified Irish, EEA national or non-EEA national already legally resident here for the position in question; if, in these circumstances, he will review this work permit application; and if he will make a statement on the matter. [21369/06]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** The Work Permit Section has confirmed that an application for a work permit in respect of the above individual was refused on 23 May, 2006 in line with my Department's policy to only consider work permit applications for highly skilled and highly paid positions which are not possible to fill from within the EEA.

The employer was notified of this decision in writing and of the right of appeal. To date no such appeal has been received by the Work Permit Section. If the employer lodges an appeal by 20th June, I will arrange to have the case reviewed.

138. **Mr. McHugh** asked the Minister for Enterprise, Trade and Employment if he will review the case of a person (details supplied) in County Galway who was refused work permits for persons in view of the fact that it has not been possible to source a person with the skills required in Ireland or the EU. [21514/06]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** The Work Permit Section of my Department has informed me that applications for work permits in respect of the above individuals were refused on 8 March 2006. New work permit applications are only being considered for skilled positions where it is not possible to recruit suitable persons from within the EEA.

In ethnic restaurants where there is significant investment, significant employment of EEA nationals and where a business case can be made for highly skilled and qualified non-EEA staff, my Department will consider such applications on a case by case basis. However in this instance my Department is of the view that the applications did not meet these criteria. The employer was notified of this decision in writing and of the right of appeal.

The employer submitted an appeal on 11 April 2006. The Work Permit Section upheld the decision to refuse on 10 May 2006. There has been no further correspondence from the employer on the issue.

#### Social Welfare Appeals.

139. **Mr. Ring** asked the Minister for Social and

Family Affairs when an oral hearing will be scheduled for a person (details supplied) in County Mayo to finalise their carer's allowance appeal. [21366/06]

**Minister for Social and Family Affairs (Mr. Brennan):** The person's application for carer's allowance was disallowed by a Deciding Officer on the grounds that he is employed outside the home for more than ten hours per week.

The person appealed this decision to the Social Welfare Appeals Office. In accordance with the statutory requirements the relevant departmental papers, including a submission from the Deciding Officer were sought. The papers have been referred to the Appeals Officer who proposes to hold an oral hearing in the case. The hearing will be arranged as soon as possible.

Under Social Welfare Legislation decisions in relation to claims must be made by Deciding Officers and Appeals Officers. These officers are statutorily appointed and I have no role in regard to making such decisions.

#### Social Welfare Benefits.

140. **Mr. Ring** asked the Minister for Social and Family Affairs when a person (details supplied) in County Mayo will be approved and awarded unemployment assistance. [21379/06]

**Minister for Social and Family Affairs (Mr. Brennan):** Following a review, a Deciding Officer disallowed the unemployment assistance claim of the person concerned from 28 December 2005 on the grounds that he is not available for, or genuinely seeking work.

The person concerned appealed this decision. However, the Appeals Officer was not satisfied that he has made sustained efforts in genuinely seeking work and accordingly disallowed his claim. An Appeals Officer's decision is final in the absence of new facts, or fresh evidence.

Under Social Welfare legislation decisions in relation to claims must be made by Deciding Officers and Appeals Officers. These officers are statutorily appointed and I have no role in regard to making such decisions.

#### Rail Network.

141. **Mr. Stagg** asked the Minister for Transport

if he has received proposals for park and ride facilities under Transport 21. [21431/06]

**Minister for Transport (Mr. Cullen):** My Department has approved a Dublin Transportation Office (DTO) strategy for rail-based Park and Ride facilities, which envisages facilities at 22 locations on the existing and proposed rail network within the Greater Dublin Area (GDA) and Irish Rail are currently working on plans to implement the strategy.

My Department has also been in touch with key local authorities to generate proposals within and outside the GDA and while to date no applications have been received, there have been several expressions of interest.

I have made capital funding of €5 million available for the development of appropriate Park and Ride projects in the Greater Dublin area during 2006. I have also made €12 million available for bus priority and park and ride measures in provincial cities. Capital funding will also be provided in succeeding years under TRANSPORT 21.

#### Parliamentary Questions.

142. **Mr. Stagg** asked the Minister for Transport the reason for the delay in issuing information sought under Parliamentary Question No. 264 of 6 April 2006. [21437/06]

**Minister for Transport (Mr. Cullen):** I understand that a reply issued to the Deputy recently. A copy of this response has been forwarded to him on 29th May 2006.

#### Driving Licences.

143. **Ms Shortall** asked the Minister for Transport further to Parliamentary Question No. 191 of 25 May 2006, if a breakdown of the figures in the age categories provided is available by the numbers on their first, second, third, fourth, fifth and subsequent licenses; and if he will he provide it. [21515/06]

**Minister for Transport (Mr. Cullen):** The Department of Environment, Heritage and Local Government who hold and administer the National Driver File has advised that the breakdown of the figures given in reply to Parliamentary Question No. 191 of 25 May 2006 by provisional count is shown in the table.

Provisional Licences current on 31st December 2005 broken down by Age Category and Count.

Age	1st	2nd	3rd	4th	5th and subsequent licences	Total
Under 17	2,453	0	0	0	0	2,453
17 — 19	53,849	5,994	0	0	0	59,843
20 — 24	66,402	37,444	9,538	2,649	294	116,327
25 — 29	33,915	22,965	12,193	7,441	2,970	79,484
30 — 34	19,641	12,604	7,594	6,471	4,722	51,032

Age	1st	2nd	3rd	4th	5th and subsequent licences	Total
35 — 39	11,762	7,186	4,512	4,332	4,363	32,155
40 — 44	7,166	4,427	2,873	3,136	3,928	21,530
45 — 49	4,475	2,998	1,984	2,199	3,076	14,732
50 — 54	2,947	2,120	1,506	1,724	2,436	10,733
55 — 59	1,848	1,484	1,087	1,281	2,095	7,795
60 — 64	807	678	499	716	1,428	4,128
65 — 69	427	353	252	345	853	2,230
70 — 74	184	207	135	164	504	1,194
75 — 79	81	78	57	78	278	572
80 — 84	40	30	12	25	87	194
85 and over	163	8	2	12	20	205
Total	206,160	98,576	42,244	30,573	27,054	404,607

### Industrial Disputes.

144. **Mr. Crowe** asked the Minister for Transport if he or his Department have had or intend to have discussions with the relevant parties involved in relation to the allegations made by the International Transport Federation regarding a company (details supplied) in relation to pay and work conditions; and if he will make a statement on the matter. [21363/06]

**Minister of State at the Department of Transport (Mr. Gallagher):** I am aware that the International Transport Workers' Federation has had concerns for some time in relation to the pay and work conditions on the ship operated by the company referred to by the Deputy.

The Department of Transport has certain responsibilities in relation to Irish registered ships; the operation of ships on other ship registers is governed by applicable national and international law. The Department of Transport has no function in relation to seafarers' wages.

The ship operated by the company is not registered on the Irish Ship Register. Obligations on the ship's owners regarding maintenance, crewing standards and certification of those matters are appropriate to the Flag State operating the ship's register, St. Vincent and The Grenadines.

Foreign registered vessels using Irish ports, including the ship operated by the company, are inspected regularly by the Marine Survey Office of the Department of Transport in the exercise of Ireland's Port State Control obligations. These inspections are aimed at ensuring that such vessels are maintained and operated in compliance with international safety standards laid down by the International Maritime Organisation (IMO) and, in relation to seafarers' social conditions, by the International Labour Organisation's (ILO) maritime conventions, together with relevant EU initiatives in the maritime area. Deficiencies identified are brought to the attention of the owner and Flag State Administration and may have to be rectified before the ship continues its journey.

These inspections do not deal with pay and pay related working conditions.

### Air Services.

145. **Mr. P. Breen** asked the Minister for Transport if, in view of the confirmation received from the EU Transport Commissioner that an individual State may not enter talks with the US in advance of a full agreement on open skies between the EU and US, the ratio of Dublin-Shannon flights will move from 1.1 to 3.1 from November 2006; if the deadlock in EU and US open skies negotiations is not resolved and if he intends changing the ratio in November 2006, the mechanism through which he intends introducing that change; and if he will make a statement on the matter. [21364/06]

**Minister for Transport (Mr. Cullen):** As I have stated in previous Questions the text of a first-phase EU-US Open Skies agreement was unanimously endorsed at the December 2005 Transport Council subject to sufficient progress by the US side on opening up ownership and control of US airlines to EU investors. It had been expected that the process of changing the ownership and control rules would have been concluded early in 2006 so that a final decision could be taken at the June Transport Council. However, due to difficulties on the US side the rule-making process has been extended but they have indicated that the matter will be concluded in August in time for agreement at the October Transport Council. I therefore have every confidence that the issue will be resolved at the October Transport Council. It is neither possible nor appropriate to give definitive views in relation to the options that may exist if this does not happen.

### Public Transport.

146. **Mr. Stagg** asked the Minister for Transport if he has concluded his reviews of the reform of the bus market; and when he will make a decision



in relation to the Dublin Bus application for funding. [21418/06]

**Minister for Transport (Mr. Cullen):** I have given a public commitment to modernizing the regulatory framework governing public transport, not just in Dublin, but nationally.

In particular, at the launch of Transport 21, I said that I was convinced that we need a new approach to transport in the Greater Dublin Area, delivered through a single authority with the power to ensure joined-up thinking and delivery across all transport modes.

In advancing the regulatory agenda, discussions have taken place with the key stakeholders including the CIE Companies and the Unions. These discussions form part of a process of engagement that will facilitate and inform the determination of the appropriate structure for the new framework and supporting legislation.

This process is also being informed by the work of the team of experts which was appointed to finalise the remit, structures and human resource requirements of the proposed Dublin Transport Authority. I have now received the report of the team. A draft Memorandum for Government is currently the subject of consultations with other Minister's and will be submitted to Government in the near future.

I will finalise my consideration of how best to proceed with public transport reform in the context of the institutional structures recommended by the team. I would hope to be in a position to publish legislation on the matter in the current year.

My Department is currently considering an application from Dublin Bus for funding for 200 additional buses to be delivered in 2006 and 2007. The application is being considered in the context of Transport 21, the bus network review completed recently by Dublin Bus and the bus market reform process. I will make a decision on the

application having regard to the outcome of my deliberations on the reform of the bus market, which I intend to conclude in the coming weeks.

### Rail Network.

147. **Mr. Stagg** asked the Minister for Transport when he will consider the granting of the Railway Order for the Kildare route project in view of the fact that he has the inspector's report into the public inquiry and the submissions he received during the display of the application for the Railway Order. [21419/06]

**Minister for Transport (Mr. Cullen):** I received the Inspector's report of the public inquiry in relation to the Railway Order for the Kildare Route Project on Friday 5 May 2006. I am now obliged, under Section 43 (1) of the Transport (Railway Infrastructure) Act 2001, to consider the report of the Inquiry as well as the submissions I received in respect of the project, CIE's application for a Railway Order, and the draft Order and documents that accompanied the application.

I am currently considering the inspector's report and the other documents mentioned above. I will make my decision as to whether to grant the Railway Order when I have given all these documents due and proper consideration.

### Driving Tests.

148. **Ms Shortall** asked the Minister for Transport the number of appeals that were made in each of the past three years for which figures are available against the result of a driving test; the percentage this number represents of the number of driving tests that year; and the number of appeals that were successful. [21479/06]

**Minister for Transport (Mr. Cullen):** The information requested is set out in the following table.

Year	No. of Appeals	% of tests	No. Successful
2006	1	—	0
2005	5	.004	0
2004	9	.006	2
2003	3	.002	0

### Departmental Bodies.

149. **Ms Shortall** asked the Minister for Transport the budget available to the Road Safety Authority in 2006; and if he will make a statement on the matter. [21485/06]

**Minister for Transport (Mr. Cullen):** Funding in 2006 in my Department's Vote for road safety activities which will transfer to the Road Safety Authority amounts to €9.5m. In addition there is a contribution of €1.1m from the Irish Insurance

Federation. This does not take account of staffing and administration costs, which are included in my Department's administrative budget. Nor does it include cost of services provided without direct charge at present. These include, for example, accommodation services provided by OPW.

### Statutory Instruments.

150. **Ms Shortall** asked the Minister for Transport the statutory instruments signed by him in

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2004, including the relevant statutory instrument reference. [21489/06]

**Minister for Transport (Mr. Cullen):** The information sought by the Deputy is set out in the following table and includes Statutory Instruments signed by my predecessor, Seamus Brennan and the former Minister of State Ivor Callely.

Statutory Instrument Number	Title
11 of 2004	Córas Iompair Éireann Superannuation Scheme 1951 (Amendment) Scheme (Confirmation) Order 2004
12 of 2004	Córas Iompair Éireann Spouses' & Children's Superannuation Scheme (Amendment) Scheme (Confirmation) Order 2004
18 of 2004	Roads Act 1993 (Classification of National Roads) (Gormanstown to Dundalk Route and Dundalk Western Bypass) Order 2004
19 of 2004	Roads Act 1993 (Classification of Regional Roads) (Red Cow to N52 Link Road) Order 2004
61 of 2004	European Communities (Interoperability of the Trans-European conventional rail system) Regulations, 2004
71 of 2004	Transport (Railway Infrastructure) Act 2001 (Line A — Tallaght to Abbey Street Light Railway) (Amendment) Order 2004
98 of 2004	European Communities (Random Roadside Vehicle Inspection) (Amendment) Regulations 2004
99 of 2004	Road Traffic (Construction & Use of Vehicles) (Amendment) Regulations 2004
116 of 2004	Iarnród Éireann (Portarlinton — Athlone) (Ashfield Level Crossing) Order 2004
157 of 2004	Road Traffic (Public Service Vehicles)(Amendment) Regulations 2004
209 of 2004	Córas Iompair Éireann Pension Scheme for Regular Wages Staff (Amendment) Scheme (Confirmation) Order 2004
243 of 2004	European Communities (Vehicle Testing) (Amendment) Regulations 2004
244 of 2004	European Communities (Motor Vehicle Type Approval) (Amendment) Regulations 2004
245 of 2004	European Communities (Passenger Car Entry into Service) Regulations 2004
246 of 2004	European Communities (Mechanically Propelled Vehicle Entry into Service) (Amendment) Regulations 2004
248 of 2004	Road Traffic Act 2002 (Commencement of Certain Provisions) Order 2004
249 of 2004	Roads Act, 1993 (Classification of National Roads) (Fermoy, Rathcormac and Watergrasshill Bypass) Order, 2004

Statutory Instrument Number	Title
255 of 2004	Light Railway (Speed Limits — Luas Line A) Regulations 2004
256 of 2004	Transport (Railway Infrastructure) Act 2001 (Line A — Tallaght to Abbey Street Light Railway) (Amendment) (No. 2) Order 2004
257 of 2004	Transport (Railway Infrastructure) Act 2001 (Line B — St Stephen's Green to Sandymount Industrial Estate Light Railway) (Amendment) Order 2004
260 of 2004	Taxi Regulation Act 2003 (Section 37(1)) (Commencement) Order 2004
261 of 2004	Córas Iompair Éireann Superannuation Scheme 1951 (Amendment) Scheme (Confirmation) (No. 2) Order 2004
262 of 2004	Córas Iompair Éireann Spouses' & Children's Superannuation Scheme (Amendment) Scheme (Confirmation) (No. 2) Order 2004
263 of 2004	Córas Iompair Éireann Pension Scheme for Regular Wages Staff (Amendment) Scheme (Confirmation) (No. 2) Order 2004
264 of 2004	Córas Iompair Éireann Spouses' & Children's Pension Scheme for Regular Wages Staff (Amendment) Scheme (Confirmation) Order 2004
402 of 2004	Road Traffic (Removal of Exemption from Wearing Seat Belts by Taxi Drivers) Regulations 2004
403 of 2004	Road Traffic (Signs)(Amendment) Regulations 2004
404 of 2004	Road Traffic (Traffic and Parking) (Amendment) Regulations 2004
495 of 2004	Transport (Railway Infrastructure) Act 2001 (Kilkenny Diversion) Railway Order 2004
523 of 2004	Taxi Regulation Act 2003 (Part 2) (Establishment Day) Order 2004
529 of 2004	Transport (Railway Infrastructure) Act 2001 (Line A Tallaght to Abbey Street Light Railway) (Amendment) (No.3) Order 2004
531 of 2004	The State Airports Act 2004 (Dublin Appointed Day) Order
643 of 2004	European Communities (Allocation of Railway Infrastructure Capacity and the Levying of Charges for the use of Railway Infrastructure and Safety Certification) Regulations, 2004
705 of 2004.	The Road Traffic (Licensing of Drivers)(Amendment) Regulations 2004
771 of 2004	European Communities (Vehicle Testing) Regulations 2004
858 of 2004	Road Traffic (Construction & Use of Vehicles) (Amendment) (No. 2) Regulations 2004
866 of 2004	European Communities (Passenger Car Entry into Service) (Amendment) Regulations 2004
867 of 2004	European Communities (Mechanically Propelled Vehicle Entry into Service) (Amendment) (No. 2) Regulations 2004

Statutory Instrument Number	Title
868 of 2004	European Communities (Motor Vehicle Type Approval) (Amendment) (No. 2) Regulations 2004

### Driving Tests.

151. **Mr. Durkan** asked the Minister for Transport when a subsequent driving test will be offered in the case of a person (details supplied) in Dublin 8; and if he will make a statement on the matter. [21536/06]

**Minister for Transport (Mr. Cullen):** A driving test will be arranged in due course for the person concerned. An application for a driving test was entered on computer on 4 April, 2006. There was no indication given, or received since, that there is any urgency about this application.

### Road Safety.

152. **Aengus Ó Snodaigh** asked the Minister for Transport if his attention has been drawn to a committee (details supplied) in the Inishowen area of County Donegal which is lobbying to make it compulsory for Gardaí to breathalyse all drivers involved in road traffic accidents or to obtain a blood or urine sample for testing for alcohol levels; if he has looked at or intends to consider implementing their proposals; and if he will make a statement on the matter. [21537/06]

**Minister for Transport (Mr. Cullen):** The position in relation to drivers involved in road accidents and testing for alcohol levels is outlined in the Road Traffic Acts. The Acts provide that a member of the Garda Síochána may require a person in charge of a mechanically propelled vehicle to provide a preliminary breath specimen where the vehicle is involved in a road collision. There may be circumstances, especially in the context of a road collision, where it may not be possible for a member of the Gardaí to require that a person submit to a preliminary breath test. I do not propose to alter the legislation to make it mandatory to breathalyse all drivers involved in road accidents.

The Road Traffic Acts also place an obligation on a person to provide a blood or urine sample in a hospital. This applies where an event occurs involving a vehicle which results in a person being injured, or a person claiming or appearing to have been injured, where the person is admitted to or attends a hospital, and a member of the Gardaí is of the opinion that, at the time of the event, the person had consumed an intoxicant. An intoxicant includes alcohol and drugs or any combination of alcohol and drugs.

### National Drugs Strategy.

153. **Mr. Gregory** asked the Minister for Community, Rural and Gaeltacht Affairs if he will expedite a decision on the submission from the Inter Sectoral Crack Cocaine Strategy Group to the National Drug Strategy Team; and if he will make a statement on the matter. [21372/06]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** I am advised that the Inter Sectoral Crack Cocaine Strategy Group arose from the North Inner City Community Policing Forum and that this Group is formulating proposals that may lead to a submission to the National Drug Strategy Team. As proposals from the Group have yet to be formulated, I cannot indicate what my response to them is likely to be. However, I will consider any submission in the matter if and when it is forwarded to me through the National Drugs Strategy Team.

### Departmental Funding.

154. **Mr. McHugh** asked the Minister for Community, Rural and Gaeltacht Affairs if he will allocate a grant under the CLÁR primary school outdoor play facilities grant 2006 programme to a school (details supplied) in County Galway. [21398/06]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** The school referred to by the Deputy is included in the recently extended CLÁR areas. As I have previously outlined, the measures that are currently open to the extended CLÁR areas are as follows: LIS Roads; Flashing Amber Safety Lights at Schools; Small Public Water & Sewerage Schemes; Group Water schemes; CLÁR Water Conservation Measure; Village and Countryside Enhancement Scheme; Bi-lingual Signage Scheme; Gaeltacht Grants top-up; Single to Three phase Electricity Conversion; Community Initiatives of a Capital Nature; and Coastal and Harbour Development. Further announcements will be made in due course on the expansion of other measures to the new areas, including the CLÁR School Outdoor Play Facilities Enhancement Scheme.

### National Drugs Strategy.

155. **Aengus Ó Snodaigh** asked the Minister for Community, Rural and Gaeltacht Affairs if his Department will consider or if he will recommend increasing the core funding for those projects mainstreamed in local drug task force areas; and if he will make a statement on the matter. [21475/06]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** When Local Drugs Task Force projects are mainstreamed the associated funding pro-

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vision passes from the Department of Community, Rural and Gaeltacht Affairs to the relevant Department or Agency. The subsequent issue of core funding for mainstreamed drugs projects is a matter for the State Agency involved, following consultation with the project promoter and the relevant Local Drugs Task Force.

### Security of the Elderly.

156. **Mr. P. McGrath** asked the Minister for Community, Rural and Gaeltacht Affairs the number of funding applications submitted for socially monitored alarms during the years 2002 to 2005 and to date in 2006 with regard to the community support for older people scheme; the

Year	Number of Groups Approved	Number of Applications (Individuals)	Number of Applications (Individuals) Approved	Amount (€millions)
2005	389	5,425	5,118	€1.5 (approx)

The 2006 scheme was advertised in May; no applications have been processed under the 2006 scheme to date.

### Rural Environment Protection Scheme.

157. **Mr. P. McGrath** asked the Minister for Agriculture and Food when a person (details supplied) in County Cork will be awarded a REP scheme payment. [21376/06]

**Minister for Agriculture and Food (Mary Coughlan):** The application from the person named was selected for a pre-payment inspection and deficiencies were found. A registered letter issued to the applicant on 27th April 2006 and he was advised that he could submit a new plan with the outlined deficiencies corrected. To date no such application has been received.

### Grant Payments.

158. **Mr. Connaughton** asked the Minister for Agriculture and Food the position regarding an application for the single farm payment in the name of persons (details supplied) in County Galway; and if she will make a statement on the matter. [21402/06]

**Minister for Agriculture and Food (Mary Coughlan):** An application under the Force Majeure measure was submitted in this case on 06/02/2004. Having examined the circumstances and documentation submitted it was deemed that the application did not satisfy the criteria laid down in Article 40 of Council Regulation EC No. 1782/2003, determining Force Majeure/Exceptional Circumstances. Notification of this decision issued on 15/06/2004.

The applicants were advised that they may be eligible to make an application under the New

number of these applications which were approved for funding in each of these years; the number of older persons who received socially monitored alarms under this scheme in each of the years; the amount expended by his Department on funding for socially monitored alarms under this scheme in each of the years; and if he will make a statement on the matter. [21513/06]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** I refer the Deputy to my reply to Parliamentary Question No.174 of the 28th April 2005. The details in respect of grants paid under the 2005 scheme are available on my Departments website: [www.pobal.ie](http://www.pobal.ie). The figures for Socially Monitored Alarms in 2005 are as follows:

Entrant/Inheritance Scheme. No application under this Scheme has been received to date.

159. **Mr. Stanton** asked the Minister for Agriculture and Food further to Parliamentary Question No. 580 of 25 April 2006 the reason the single farm payment to a person (details supplied) in County Cork has not been made; when same will be made; and if she will make a statement on the matter. [21405/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted a Private Contract Clause application under the 2005 Single Payment Scheme. The application has been processed and the entitlements transferred. Payment of €28,320.45 will issue to the person concerned within the next few days.

160. **Mr. Stanton** asked the Minister for Agriculture and Food further to Parliamentary Question No. 581 of 25 April 2006 the reason the single farm payment to a person (details supplied) in County Cork has not been made; when same will be made; and if she will make a statement on the matter. [21406/06]

**Minister for Agriculture and Food (Mary Coughlan):** Further to my reply to Parliamentary Question No.581 of 25 April, 2006 in this case, all outstanding errors, including one that arose during the subsequent processing of the application, have now been resolved and payment of €31,683.27, which represents the full amount due, will issue to the person named in the coming days.

*Question No. 161 withdrawn.*

162. **Mr. Naughten** asked the Minister for Agriculture and Food the latest date for submission of a 2005 single farm payment national reserve



application; when the 2006 application must be submitted; and if she will make a statement on the matter. [21457/06]

**Minister for Agriculture and Food (Mary Coughlan):** My Department sought applications for the 2005 National Reserve in December 2004. The closing date for receipt of completed applications was extended to 16 May 2005 to coincide with the closing date for the 2005 Single Payment Scheme applications. The question of the categories to be included in the 2006 National Reserve and the timing of applications will be discussed with the Single Payment Advisory Committee in the near future following which I will make an appropriate announcement.

163. **Mr. Naughten** asked the Minister for Agriculture and Food the reason an application to stack for a person (details supplied) in County Cork was refused; if there is a mechanism to appeal the decision; and if she will make a statement on the matter. [21458/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted a Single Payment Application on the 6 May 2005. This person also applied under the consolidation measure of the Single Payment Scheme. The consolidation application was processed and rejected on the 15 April 2006, as it is more beneficial to the applicant under Article 13 of EU Regulation 795/2004 whereby the reference amount will on transfer by way of inheritance be divided by the hectares inherited. This will result in full consolidation through the Inheritance measure.

The person named has had her entitlements amended as a result of the successful Inheritance application, to include Consolidation on Inheritance. The outstanding Single Payment will issue shortly.

164. **Mr. Naughten** asked the Minister for Agriculture and Food further to Parliamentary Question No. 142 of 11 May 2006 when payment will be issued; and if she will make a statement on the matter. [21459/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person in this case initially applied under the Inheritance measure of the Single Payment Scheme. In processing this application, it became apparent that the transfer was appropriate to the Private Contract Clause procedure. A PCC application to transfer in entitlements under the 2005 Single Payment Scheme was subsequently received. The application has now been successfully processed, and payment of €5,538.08 under a Private Contract Clause agreement will issue to the person concerned within the next few days.

### Sugar Industry.

165. **Mr. Naughten** asked the Minister for Agriculture and Food when she will receive a report from Indecon International Economic Consultants on the implementation of the restructuring aid for the sugar industry; and if she will make a statement on the matter. [21460/06]

166. **Mr. Naughten** asked the Minister for Agriculture and Food when she will receive a report from Greencore consultants on the allocation of the restructuring aid for the sugar industry; and if she will make a statement on the matter. [21461/06]

167. **Mr. Naughten** asked the Minister for Agriculture and Food if in her assessment of the restructuring aid for the sugar industry factors such as the value remaining sugar assets and Siúcra brand will be taken into account; and if she will make a statement on the matter. [21462/06]

168. **Mr. Naughten** asked the Minister for Agriculture and Food her intentions for the €43.6 million sugar diversification fund; and if she will make a statement on the matter. [21463/06]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 165 to 168, inclusive, together.

Indecon International Economic Consultants were appointed by the Government to provide me with independent expert advice on matters relating to the implementation of the restructuring aid. Last month my Department issued a public call for submissions from interested parties in relation to the implementation of the aid and these submissions will be subject to scrutiny by Indecon. The deadline for the receipt of submissions is 2 June 2006.

Following Greencore's decision to cease sugar production, it is anticipated that the company will submit an application for restructuring aid in the first year of the new sugar regime, which comes into effect on 1 July 2006. The relevant Council Regulation requires that such an application, including a detailed restructuring plan for the industry, must be submitted by 31 July 2006 following consultations with the beet growers. A decision on the granting of the aid must then be made by the Member State by 30 September 2006 at the latest.

The Council Regulation provides that at least 10% of the aid shall be reserved for sugar beet growers and machinery contractors who have worked under contract with their agricultural machinery for the growers. That percentage may be increased by the Member State after consultation of interested parties provided that an economically sound balance between the elements of the restructuring plan is ensured. A decision on the percentage, taking account of all relevant factors, will be made in due course after the con-

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sultation process has been completed, the submissions have been examined by Indecon and following the adoption in the near future of the Commission Regulation laying down the detailed implementation rules. That Regulation will also cover the diversification aid which is to be drawn down in the framework of a national restructuring programme to be prepared and submitted to the EU Commission in due course.

169. **Mr. Naughten** asked the Minister for Agriculture and Food her rights via the golden share interest which she has in Irish Sugar; and if she will make a statement on the matter. [21464/06]

**Minister for Agriculture and Food (Mary Coughlan):** As Minister I hold a Special Share in Greencore plc. That share has the same monetary value as any other share in the company but has conditions attached which prevent the company from engaging in a number of activities without the prior written consent of the Minister. In summary, the Special Share prevents the disposal of the controlling interest in Irish Sugar Ltd, or the sale, transfer or disposal of more than 20% of specified assets, including lands and properties, of Irish Sugar Ltd in Carlow and in Mallow used in the production of sugar. It also prevents a single shareholder or group of shareholders from gaining control of Greencore plc. The Special Share does not empower me to get involved in operational matters or normal business decisions made by the company.

#### Grant Payments.

170. **Mr. Naughten** asked the Minister for Agriculture and Food if a person (details supplied) in County Roscommon received a single farm payment; the value of same; the date on which it was issued; if the lands under forestry were taken into consideration in the calculation; and if she will make a statement on the matter. [21465/06]

**Minister for Agriculture and Food (Mary Coughlan):** When processing the Single Farm application for the person named, an over-claim was found on one of the land parcels declared. The over-claim of 71.43% arose because an area of 5.40 hectares that was claimed as forage was, in fact, found to be planted in forestry since June 2004, and grant aided under the Afforestation Premium Scheme. Under the EU Regulations, lands under afforestation are ineligible for the Single Payment.

In accordance with the Single Payment Scheme regulations, a 100% penalty was applied to the Single Farm application of the person named as the over-claim was in excess of 20% of the area claimed.

171. **Mr. Naughten** asked the Minister for Agriculture and Food if a person (details supplied) in

County Roscommon received a single farm payment top-up payment; and if she will make a statement on the matter. [21466/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted an application under the Single Payment Scheme on the 15 May 2005. The applicant established 29.45 entitlements, but had only declared 18.52 eligible hectares on his 2005 SPS application. Payment in respect of 18.52 entitlements to the value of €4,644.34 issued on 1 December, 2005.

The person named subsequently submitted an application under the Consolidation measure of the Scheme on 25 February, 2006. The Consolidation application was processed and accepted and a supplementary payment of €2,740.82 issued on the 9 March, 2006. Full payment has issued on this application.

#### Afforestation Programme.

172. **Mr. Sargent** asked the Minister for Agriculture and Food the terms of reference of the remit given to the steering group comprising representatives of the Forest Service, National Parks and Wildlife Service and Coillte to examine the impact of forestry operations on the freshwater pearl mussel catchments areas and to draw up operational guidelines. [21512/06]

**Minister for Agriculture and Food (Mary Coughlan):** The Forestry and Margaritifera Group was established last year to identify and address the potential impacts of forestry operations on the freshwater pearl mussel. It consists of a Steering Group and a Technical Working Group.

The terms of reference of the Technical Working Group are to produce agreed guidance for all relevant forestry operations which could affect Margaritifera populations in the rivers designated SAC for the species; the guidance to apply to all relevant forestry operations within those portions of the catchments of these rivers upstream of the Margaritifera populations.

The Working Group is currently finalising draft guidelines and these will be subject to a consultation process shortly.

#### Garda Stations.

173. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform if the new Garda station in Derrinturn, County Kildare is fully operational. [21416/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that the Gardaí have been operating from the new Station at Derrinturn since yesterday.

### Residency Permits.

174. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform when permission to remain here on the basis of being part of a family unit where the adult of the family has been granted residency will be approved for a person (details supplied) in Dublin 1. [21362/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person in question made an application for residency on the basis of being a family dependent of a person who was granted permission to remain in the State as the parent of an Irish born child. The application was received in May 2006. Applications of this nature are dealt with in chronological order, in fairness to all other such applicants and currently take approximately four months to process following receipt of all relevant information.

### Visa Applications.

175. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform if, in relation to the visa application in respect of a person (details supplied) which is the subject of a review by his Department under the scheme of family reunification, he will ensure that a review decision is made. [21368/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to Parliamentary Question No. 444 of Tuesday, 16 May, 2006 (ref18428/06) and the written reply to that question. There is no record of receipt to date of a new visa application from the person in question.

### Residency Permits.

176. **Mr. McGinley** asked the Minister for Justice, Equality and Law Reform when a decision will be made on an application for residency by a person (details supplied) County Donegal. [21390/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person concerned arrived in the State on 15 March, 2003 and applied for asylum. His application was refused following consideration of his case by the Office of the Refugee Applications Commissioner and, on appeal, by the Refugee Appeals Tribunal. Subsequently, in accordance with Section 3 of the Immigration Act, 1999, as amended, he was informed by letter dated 5 November, 2004, that the Minister proposed to make a deportation order in respect of him. He was given the options, to be exercised within 15 working days, of making representations to the Minister setting out the reasons why he should be allowed to remain temporarily in the State; leaving the State before an order is made or consenting to the making of a

deportation order. Representations have been received on behalf of the person concerned.

This person's case file, including all representations submitted, will be considered under Section 3(6) of the Immigration Act, 1999, as amended, and Section 5 of the Refugee Act, 1996 (Prohibition of Refoulement). I expect the file to be passed to me for decision in due course.

### Garda Investigations.

177. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform the number of successful prosecutions brought under Section 4 of the Criminal Justice (Public Order) Act 2003 in 2006 in County Kildare; and the details of same. [21427/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Section 4 of the Criminal Justice (Public Order) Act 2003 provides for a member of an Garda Síochána, not below the rank of Inspector, to apply to the District Court for an order to temporarily close catering premises in certain specified circumstances as defined in the Act. Section 4 of the Criminal Justice (Public Order) Act 2003 provides the procedures by which a closure order may be obtained but does not provide an offence for which a prosecution can be taken. Therefore, the question of prosecutions under section 4 of Criminal Justice (Public Order) Act 2003 does not arise.

### Alcohol Offences.

178. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform the number of on the spot fines issued by an Garda Síochána for breaches of the control of consumption and possession of alcohol by-laws in Maynooth, Leixlip and Celbridge, County Kildare in 2005. [21428/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have made enquiries with the Garda authorities in relation to the information requested by the Deputy. Details of the number of on the spot fines issued by an Garda Síochána for breaches of the control of consumption and possession of alcohol by-laws in Maynooth, Leixlip and Celbridge, County Kildare in 2005 are as outlined in the table below.

On the spot fines issued for breaches of the Control of Consumption and Possession of Alcohol Bye-Laws in Maynooth, Leixlip and Celbridge, County Kildare in 2005

	No. of Fines
Maynooth	5
Leixlip	36
Celbridge	70



### Citizenship Applications.

179. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the outstanding documentation required by his Department in order to continue with the processing of an application by a person (details supplied) for naturalisation; and if he will make a statement on the matter. [21449/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Officials in the Citizenship Section of my Department wrote to the person referred to by the Deputy on 21 October 2005 seeking a copy of her expired passport or her expired Garda Certificate of Registration in order to determine if she satisfies the statutory residency requirements for naturalisation. A reminder was issued to the individual in question on 4 March 2006. To date, a response has not been received to the letter of the 21 October and it has not been possible to advance the processing of the application of the person concerned.

### Residency Permits.

180. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 208 of 18 May 2006, if he will provide the full answer based on the information at his disposal; and if he will make a statement on the matter. [21450/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Further to the Deputy's question of 19 May 2006 and the person's application for Family Reunification. Following a review of the application and the verification of the authenticity of the documents, mentioned in the Deputy's previous question, by the embassy of the issuing country, a decision was made to grant the application for Family Reunification. I hope that this clarifies the matter.

181. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform the steps to obtain stamp 4 residency for a person (details supplied) who has lived here since May 2001, has a valid work permit and is the parent of two Irish born children; if it is possible to obtain a stamp 4 without first being approved naturalisation; and if he will make a statement on the matter. [21451/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The position in relation to granting long term residency is as follows: Persons who have been legally resident in the State for over five years (ie: 60 months) on the basis of work permit/work authorisation/work visa conditions may apply to the Immigration Division of my Department for a five year residency extension. In that context they may also apply to be exempt from employment permit requirements.

The dependants of the aforementioned, who have been legally resident in the State for over

five years (ie: 60 months) may also apply for long term residency. This particular long term permission does not exempt the person from employment permit requirements.

The Immigration Division of my Department is currently giving priority to applications for a long term residency extension in respect of persons who fulfil the legal residency criteria and whose permission to remain expires in the coming weeks.

The documents concerned are: 1. Clear and legible copy of passport (all pages). In the event that the passport has been renewed since commencing employment, a copy of the previous passport must be provided. 2. Copy of Certificate of Registration. 3. Copies of work permits/working visa endorsements/work authorisation endorsements.

Persons who obtain a Certificate of Naturalisation are Irish citizens from the date of issue of the certificate. Such persons do not need to apply for permission to reside in the State.

### Legislative Programme.

182. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the details of the European legislation that obliges Ireland to criminalise the possession of hard drugs, to which he referred to in the Dáil Éireann on 24 May 2006; and if he will make a statement on the matter. [21452/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I would draw the Deputy's attention to the Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking that was adopted at the Justice and Home Affairs Council on 25 and 26 October 2004 (OJ L 335/8 11.11.2004). The objective of that instrument is to target illicit drug trafficking by providing a common EU definition of drug trafficking to be punishable in all the Members States. It also provides minimum rules in relation to punishment levels as well as liability of legal persons and jurisdiction and prosecution.

Article 2 of that Framework Decision provides for crimes linked to trafficking in drugs and precursors. The article obliges the Member States to make it a criminal offence to engage in certain conduct such as the production, manufacture, distribution, sale, importation and exportation of drugs and to possess or buy drugs for any of these purposes or to cultivate opium poppy, coco bush or cannabis. The manufacture, transport or distribution of precursors (the substances used to make up drugs) knowing that they are to be used in or for the illicit production or manufacture of drugs will also be an offence. Provision is also made for the exclusion from the scope of the instrument of conduct committed exclusively for a person's own consumption as defined by national law.



The instrument also provides for minimum rules in relation to penalty levels. The penalties range from effective, proportionate and dissuasive criminal sanctions to a maximum penalty of at least 10 years.

### **Garda Deployment.**

183. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he has satisfied that adequate numbers of Gardaí are deployed to all Garda stations throughout the west Dublin area with particular reference to the need for extra staff to combat the drugs problem; if he has further satisfied that the strength of the force facilitates an early response when members of the public reports incidents; and if he will make a statement on the matter. [21509/06]

**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 (all ranks) of An Garda Síochána as at 31 March 2006 was 12,439. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,737 (or 16.2%) in the personnel strength of the Force during that period.

I have been further informed that the personnel strength (all ranks) of the Dublin Metropolitan Region (DMR) West Division as at 1 June 2006 was 679.

In addition, I would point out to the Deputy that the Dublin Metropolitan Region West Division's resources are further augmented by a number of Garda National Units such as the Garda National Drugs Unit, the Garda National Immigration Bureau (GNIB), the Criminal Assets Bureau (CAB) and other specialised units.

Garda management state that all members of the Force are tasked with enforcing the law in respect of drug related criminality. Currently, there are 28 Gardaí in the DMR West Division attached to the divisional and district drug units, who are supported and supplemented by members attached to the Garda National Drugs Unit, which has the national remit for enforcement of drug legislation. Local Garda management also states that they are satisfied that adequate resources are available to combat the drugs problem in the area.

Local Garda management also report that they are satisfied that the current allocation of resources is adequate to provide early responses to incidents reported by members of the public.

It is the responsibility of Garda management to allocate personnel to and within Divisions on a priority basis in accordance with the requirements of different areas. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored

and reviewed along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the 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 this year. I am pleased to inform the Deputy that the first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and a further 275 newly attested Gardaí will do so every 90 days thereafter.

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 DMR West Division will be given the fullest consideration.

### **Garda Investigations.**

184. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if all reports of drug trafficking in west Dublin are being investigated; if a report is furnished in each case; and if he will make a statement on the matter. [21510/06]

185. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the need for a serious crackdown on drug trafficking throughout west Dublin; if his attention has been further drawn to the number of incidents reported to the Gardaí; the action he proposes to take to deal with the issue; and if he will make a statement on the matter. [21511/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 184 and 185 together.

The Gardaí are in fact conducting a crackdown on drug-related crime in West Dublin. Elements of this crackdown include "Operation Anvil", which in the Dublin Metropolitan Region includes monitoring of pharmacies, "Operation Clean Street", which targets street dealers and the local "Dial to Stop Drugs" programme.

The Garda National Drugs Unit and local Garda drugs units are conducting ongoing intelligence-driven operations to target individuals in West Dublin suspected of involvement in the distribution of drugs. Drug units and community policing personnel are engaged in intelligence gathering on individuals and groups suspected of involvement in the sale and distribution of drugs in the area. There is also targeted patrolling by uniform and plain-clothes personnel of problem areas in West Dublin in order to detect and disrupt persons involved in such activity.

I am assured by the Garda authorities that all reported incidents of drug trafficking in west

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Dublin are the subject of investigation by An Garda Síochána. Where appropriate, investigation files are submitted to the law officers for direction as to what charges, if any, should be preferred.

I am further informed that local Garda management is satisfied that the current allocation of Garda personnel in the area is at an appropriate level to combat the local drugs problem. Gardaí in the Dublin Metropolitan Region (DMR) West Division attached to the divisional and district drugs units are supported by members attached to the Garda National Drugs Unit. It should also be noted that all members of An Garda Síochána are tasked with enforcing the law in respect of drug related criminality and can be deployed, where necessary, to support the activities of drug units.

#### Visa Applications.

186. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform if he will arrange to have the greenbook of a person (details supplied) in County Carlow updated which will allow them to leave the State temporarily if required. [21519/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I assume that the greenbook the Deputy refers to is the Certificate of Registration issued to non EU nationals which records an individual's legal residency status in the State. The person in question was granted permission to remain under the revised arrangements for non EU national parents of Irish children born before 1 January 2005.

On registration the person in question was granted leave to remain in the State for an initial period of 12 months. He should now return to his local Registration Office to have this period extended. The endorsement stamp placed in the passport of the person concerned will indicate that he has legal residency in the State for the period recorded on the endorsement. This will assist him in leaving the State but as a visa required national the person concerned must obtain a re-entry visa before his departure from the State.

#### Residency Permits.

187. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if extended residency status has been or will be awarded on health or humanitarian grounds in the case of a person (details supplied) in Dublin 15 whose appeal file made reference to the person's Angolan birthplace and that a return to Romania would not militate against the person's health, well-being or welfare interests; and if he will make a statement on the matter. [21520/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person concerned arrived in the State on 22 May, 2002 and applied for asylum. Her application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, by the Refugee Appeals Tribunal.

Subsequently, in accordance with Section 3 of the Immigration Act, 1999, as amended, she was informed by letter dated 20 September, 2004, that the Minister proposed to make a deportation order in respect of her. She was given the options, to be exercised within 15 working days, of making representations to the Minister setting out the reasons why she should be allowed to remain temporarily in the State; leaving the State before an order is made; or consenting to the making of a deportation order. Representations have been received on behalf of the person concerned.

This person's case file, including all representations submitted, will be considered under Section 3(6) of the Immigration Act, 1999, as amended, and Section 5 of the Refugee Act, 1996 (Prohibition of Refoulement). I expect the file to be passed to me for decision in due course.

#### Visa Applications.

188. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform when a holiday visa will issue in the case of persons (details supplied); and if he will make a statement on the matter. [21521/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There is no record of any current visa applications received in my Department in respect of the persons in question.

#### Residency Permits.

189. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the residential status in the case of persons (details supplied) in County Mayo; if due regard will be taken of the existence of potential danger to them if returned to their homeland; if the persons could be transferred to Mosney Accommodation Centre, County Meath on health grounds in the interim; and if he will make a statement on the matter. [21522/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The persons concerned arrived in the State on 6 September, 2004 and applied for asylum. Their applications were refused following consideration of their cases by the Office of the Refugee Applications Commissioner and, on appeal, by the Refugee Appeals Tribunal.

Subsequently, in accordance with Section 3 of the Immigration Act, 1999, as amended, the first named person was informed by letter dated 25 May, 2006, that the Minister proposed to make a deportation order in respect of him. The second named person was informed by letter dated 13

May, 2005, that the Minister proposed to make a deportation order in respect of her and her child. They were given the options, to be exercised within 15 working days, of making representations to the Minister setting out the reasons why he should be allowed to remain temporarily in the State; leaving the State before an order is made; or consenting to the making of a deportation order. Representations have been received on behalf of the second named person.

These persons' case files, including all representations submitted, will be considered under Section 3(6) of the Immigration Act, 1999, as amended, and Section 5 of the Refugee Act, 1996 (Prohibition of Refoulement). I expect the file to be passed to me for decision in due course.

The Reception & Integration Agency is responsible for the accommodation of asylum seekers in the State, including Mosney accommodation centre. The Agency has received no request for a transfer to the Mosney centre on medical grounds from this couple and it is unclear as to what medical supports there are at Mosney which would not be available at their current accommodation. In that regard, the RIA will not be arranging a transfer for the couple at this time.

190. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if permission to remain in the State will be awarded in the case of a person (details supplied) in County Kildare; if particular attention will be given to the sensitivities in the case including health issues; and if he will make a statement on the matter. [21523/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I would refer the Deputy to my Reply to Dáil Question No. 152 of 27 April 2006.

The up to date position in relation to the person concerned is that she has sought, through the Immigrant Council of Ireland, to be considered for residency in the State on the basis of her parentage of a child born in the State in June 2005. My officials have written to the Immigrant Council stating that the revised arrangements which I introduced relating to applications for permission to remain from the non-national parents of Irish Born Children, born in the State before 1 January 2005, did not extend to children of non-national parents born in the State on or after that date. Such children are not Irish citizens, based on the provisions of the Irish Nationality and Citizenship Act, 2004. Furthermore, the closing date for the scheme in question was 31 March 2005. The child of the person concerned, born in the State on 10 June 2005, does not therefore confer any entitlement to residency in the State on his non-national parents.

Notwithstanding the foregoing, an application for revocation of her deportation order has been submitted on behalf of the person concerned, pursuant to the provisions of Section 3 (11) of the Immigration Act, 1999 (as amended), based on

her relationship with a man granted refugee status in the State. This application is currently under consideration. The Deputy can be assured that the person concerned will be notified of the outcome of this application as soon as a decision has been reached.

### **Citizenship Applications.**

191. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he will review the application for naturalisation in the case of a person (details supplied) in Dublin 15 which was previously refused but in course thereof reference is made to the person as being of male and female gender; if there has been confusion with another case; and if he will make a statement on the matter. [21524/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I assume the Deputy is referring to the submission which was forwarded to me by officials in the Citizenship Section of my Department and a copy of which was forwarded to the person concerned with the letter conveying my decision on her application. I understand that this submission, which was compiled using a template form, refers to the applicant in the male gender on a number of occasions.

To ensure that my decision was correct in this instance, I have asked my officials to review the file and resubmit it to me as soon as possible. I will advise the Deputy and the applicant of my decision in due course.

### **Residency Permits.**

192. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the position of the application for family reunification in the case of a person (details supplied) in Dublin 24; the residency status in the case of the person's spouse; and if he will make a statement on the matter. [21525/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for Family Reunification from the person referred to in the Deputy's question was received in October 2004.

As the person in question was informed by my Department on the 7 March 2006 the application for Family Reunification is under consideration. The person in question will be notified of the decision in due course.

With regard to the status of the spouse of the person in question, she was refused refugee status in July 2005.

193. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he will authenticate the information contained in his reply to Parliamentary Question No. 203 of 18 May 2006 in view of the seriousness of the content and the fact that the person named has never been



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accused or charged of the offence referred to and has never been in Court; and if he will make a statement on the matter. [21526/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have asked that the matter be further reviewed and will correspond directly with the Deputy on the outcome of that review.

194. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform if he will forward a copy of a letter sent to a person (details supplied) in County Carlow. [21545/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I wish to advise the Deputy that once a non EU national parent of an Irish born child has already registered with the Garda National Immigration Bureau it is not the policy of my Department to re-issue the notification letter advising that they have been granted permission to remain in the State.

However a letter outlining the conditions and status of the permission to remain granted to the person in question can be issued on receipt of a written request to the Irish Naturalisation and Immigration Service.

#### School Enrolments.

195. **Mr. Howlin** asked the Minister for Education and Science if she will confirm that a school (details supplied) in County Wexford has an enrolment quota of 270 pupils for 2006; if, in the event that this quota is not fully taken up by applicants from the school's catchment area, the school will be permitted to enrol, up to the quota limit, applicants who reside outside the catchment area; and if she will make a statement on the matter. [21367/06]

**Minister for Education and Science (Ms Hanafin):** The post primary school to which the Deputy refers is heavily oversubscribed as a result of a significant number of pupils enrolling from outside its catchment area in the past.

The school was built for a long-term projected enrolment of 1350 and currently has an enrolment of 1540. It is unlikely that there would be adequate space to accommodate pupils other than those from the catchment area of the school in question.

#### Site Acquisitions.

196. **Mr. Ring** asked the Minister for Education and Science if the conveyance stage in the acquisition of a site for a new school (details supplied) in County Mayo has been completed; when this project will progress to the next stage; when it is envisaged that the construction phase will commence; and if she will make a statement on the matter. [21377/06]

**Minister for Education and Science (Ms Hanafin):** I am pleased to inform the Deputy that a meeting has been arranged between officials of my Department and the vendor of the site in order to address outstanding issues in relation to the site acquisition.

Although the design for the new school is already complete, Planning Permission cannot be lodged pending resolution of the outstanding site issues. However, In the meantime, the School Building Section has been working on other aspects of the project, namely the topographic survey and the compilation of the Planning Permission Forms.

Progression of the project to tender and construction will be considered in the context of the School Building and Modernisation Programme 2005-2009.

#### Schools Building Projects.

197. **Mr. F. McGrath** asked the Minister for Education and Science if the maximum support and assistance will be given to a school (details supplied) in Dublin 3 in 2006; and if she will work with the school on improving the quality of life for all pupils. [21382/06]

**Minister for Education and Science (Ms Hanafin):** The school to which the Deputy refers will be the subject of a major building redevelopment project.

On 28 April last, the School Building Section of my Department advertised for suitably-qualified consultants to form a project design team. The closing date for expressions of interest is 23 June 2006 and following on from the assessment exercise and the formal appointment of the design team embers, architectural planning of the redevelopment project will commence.

198. **Mr. F. McGrath** asked the Minister for Education and Science the position regarding a school (details supplied) in Dublin 9 and their new school. [21383/06]

**Minister for Education and Science (Ms Hanafin):** Discussions are ongoing among the parties concerned to agree the structure of the amalgamation of the schools to which the Deputy refers.

In the meantime, officials in the School Planning Section of my Department are in the process of drawing up a brief for the Design Team which will be appointed for the refurbishment project at the schools.

A timeframe has not yet been agreed for the completion of the work as this is dependant on the scope of the works identified by the Design Team.

#### School Transport.

199. **Ms O. Mitchell** asked the Minister for



Education and Science if the 20 custom built school buses ordered by Bus Éireann are fully operational within the school bus fleet; if not, the reason for same; and if she will make a statement on the matter. [21384/06]

**Minister of State at the Department of Education and Science (Miss de Valera):** Bus Éireann has placed contracts for these new buses and they are expected to be put into service in the next school year.

#### **Chontae Loch Garman Mheánscoil.**

200. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Oideachais agus Eolaíochta an bhfuair a hoifig nó an Roinn Oideachais achainí agus moladh an-chuimsitheach i dtaca le forbairt scoile ó choiste eagraithe Mheánscoil Charmain i mí Bhealtaine agus i mí Mheán Fómhair 2005 agus cad iad na céimeanna atá glactha ó shin chun gníomhú ar na pointí atá ardaith sa litir sin; agus an ndéanfaidh sí ráiteas ina leith. [21391/06]

201. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Oideachais agus Eolaíochta an bhfuair a hoifig nó an Roinn Oideachais nó an eol di go bhfuil moladh curtha ag coiste eagraithe Mheánscoil Charmain faoi bhráid an Bhoird Forbartha do Chontae Loch Garman chun talamh a chur ar leathaobh d'fhonn scoil a thógáil agus an ndéanfaidh sí ráiteas ina leith. [21392/06]

202. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Oideachais agus Eolaíochta cén uair a dhéanfar cinneadh maidir leis an méid a bhí in achainí agus sa mholadh cuimsitheach a fuair a Roinn i mí Bhealtaine agus i mí Mheán Fómhair 2005 i dtaca le forbairt scoile ó choiste eagraithe Mheánscoil Charmain; agus an ndéanfaidh sí ráiteas ina leith. [21393/06]

**Minister for Education and Science (Ms Hanafin):** Tógfaigh mé Ceisteanna 200 go dtí 202 le chéile.

Tá iarratas faighte ag mo Roinnse i ndáil le Meánscoil Lán-Ghaeilge a bhunú i gContae Loch Garman. Tá sé curtha in iúl don iarratasóir go bhfuil Rannóg Pleanála Scoile mo Roinne i mbun athbhreithnithe ar sholáthar oideachais i Loch Garman i láthair na huaire. Tá an t-iarratas atá i gceist á bhreithniú sa chomhthéacs sin. Déanfar teagmháil go díreach leis an iarratasóir arís chomh luath agus a bheidh an t-athbhreithniú curtha i gcrích.

#### **State Examinations.**

203. **Mr. McHugh** asked the Minister for Education and Science the progress made in relation to an examination (details supplied) being carried out; and when the service will be restored. [21394/06]

**Minister of State at the Department of Education and Science (Miss de Valera):** The circumstances of the case raised by the Deputy, in the details supplied, are being reviewed at present by my Department. Arrangements will be made to notify all relevant parties as soon as a decision has been made.

#### **Educational Disadvantage.**

204. **Ms Enright** asked the Minister for Education and Science the amount being set aside under the DEIS initiative for the school book rental scheme; the number of schools and their details which will benefit from this aspect of the DEIS initiative; and if she will make a statement on the matter. [21395/06]

**Minister for Education and Science (Ms Hanafin):** An additional €1m is being made available under the School Books Grant Scheme for 2006/2007 to primary and second-level schools in the School Support Programme under DEIS. Schools participating in the SSP that indicate that they will operate a book/loan rental scheme in 2006/2007 will, in the case of primary schools, receive grant aid at a higher rate per eligible pupil than will apply in the case of schools generally and will, in the case of targeted second level schools, receive a seed capital allocation. The extra funding will be aimed at supporting the establishment, development and ongoing operation of book loan/rental schemes. It is intended that grants under DEIS will be paid into schools' bank accounts by end June 2006.

#### **Child Abuse.**

205. **Mr. Stanton** asked the Minister for Education and Science if she has had communication from persons who attended day schools and who alleged that they had suffered abuse while students; if she has taken action as a result; and if she will make a statement on the matter. [21396/06]

**Minister for Education and Science (Ms Hanafin):** Following the Taoiseach's apology in May 1999, my Department received correspondence from a number of former pupils of day schools who alleged they suffered abuse while attending those schools. A number of actions have been, and continue to be taken, in response to these former pupils as part of the package of measures announced at that time.

The Government established the Commission to Inquire into Child Abuse to afford victims of abuse in childhood an opportunity to tell of the abuse they suffered to a sympathetic and experienced forum and to establish as complete a picture as possible of the causes, nature and extent of physical and sexual abuse of children in institutions and in other places, including day schools. The amendments made to the Statute of Limi-

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tations Acts have assisted day school survivors of sexual abuse in bringing civil actions in the courts. The Government also put in place a regional professional counselling service, dedicated specifically to providing support and help to survivors of child abuse.

It was decided not to establish a compensation body for victims of abuse in day schools on the basis that the State had a very different role to play in relation to ordinary schools and that the duties were both quantitatively and qualitatively quite different from the situation obtaining in residential institutions. In the latter case, the State took the place of the family and had a corresponding duty to provide for effective methods of protection for them. Public bodies had important powers to exercise and duties to carry out in respect of children who were abused. The State's failure to exercise those powers and to carry out those duties contributed directly to an environment where the abuse could occur.

#### **Schools Refurbishment.**

206. **Mr. Stagg** asked the Minister for Education and Science if a design team has been appointed for the extension to a school (details supplied) in County Kildare. [21409/06]

**Minister for Education and Science (Ms Hanafin):** The process of appointing a design team to the building project referred to by the Deputy is underway. An advertisement seeking design team consultants will be posted on the public procurement portal, [www.etenders.gov.ie](http://www.etenders.gov.ie), shortly.

#### **Schools Building Projects.**

207. **Mr. Stagg** asked the Minister for Education and Science if a design team has been appointed for a new school (details supplied) in County Kildare in view of the fact that the closing date for advertisements seeking design teams was 5 May 2006. [21410/06]

**Minister for Education and Science (Ms Hanafin):** Officials in the School Building Section of my Department are currently assessing tenders received from various consultants who have expressed an interest in the design team make-up for the building project proposed for this school. This exercise will be completed shortly, and the architectural planning of the project will commence shortly thereafter.

208. **Mr. Stagg** asked the Minister for Education and Science the number of new national schools which have opened here, not including gael scoils, in the past 20 years, which have been subject to growth on an incremental basis as two stream or one stream; and the list of the new

national schools opened in the past 20 years. [21411/06]

**Minister for Education and Science (Ms Hanafin):** The information requested by the Deputy is not readily available.

#### **School Accommodation.**

209. **Mr. Stagg** asked the Minister for Education and Science the number of pupils in a school (details supplied) in County Kildare who are accommodated in permanent buildings and temporary accommodation; the agreed long term enrolment for the school; and the numbers anticipated at the school for intake in September 2006. [21412/06]

**Minister for Education and Science (Ms Hanafin):** The school in question had an enrolment of 412 pupils as of 30 September, 2005. Its current accommodation comprises of 12 permanent mainstream classrooms, 2 prefabricated mainstream classrooms and 3 prefabricated resource rooms. The school has also been given approval to rent an additional prefabricated mainstream classroom from September 2006.

Officials in the School Planning Section of my Department have assessed the long-term needs of the school and have recommended the provision of an extension to the school to cater for an overall accommodation need of Principal + 24 mainstream assistants. The school authority has accepted this recommendation.

The project has been assessed in accordance with the published prioritisation criteria for large scale projects and has been assigned a Band 2 rating. Progress on the project is being considered in the context of the School Building and Modernisation Programme from 2006 onwards.

The school is a two-stream fully vertical school and it is therefore expected that it will have an intake of two junior infants' classes in September, 2006.

#### **Schools Building Projects.**

210. **Mr. Stagg** asked the Minister for Education and Science if a formal letter of offer has issued in relation to a new school (details supplied) in County Kildare; if the letter of offer was accepted; and if contracts have been signed for the project, the details of same including cost and building timeframe. [21413/06]

**Minister for Education and Science (Ms Hanafin):** A formal letter of acceptance of the tender for the new 16 classroom building for the school referred to by the Deputy, issued on 25 May, 2006. It is envisaged that the contract will be signed shortly and that the project will commence on site as soon as the contract is signed. Once the project goes on site it is estimated that it will take 12 to 15 months to complete.

### School Accommodation.

211. **Mr. Stagg** asked the Minister for Education and Science if her Department has concluded the assessment of the long term accommodation needs of a new school (details supplied) in County Kildare; the details of same; and if there has been further progress in relation to the acquisition of a site for the new school. [21414/06]

**Minister for Education and Science (Ms Hanafin):** Officials in my Department are currently examining the demographics of the Kill area to determine the optimum school size required to meet the long term accommodation needs of the school to which he refers. This matter will be finalised as quickly as possible.

With regard to the site issue, the Property Management Section of the Office of Public Works was requested to source a site for the new school. A suitable site has been identified and an agreement on price, subject to contract, has been reached. The Office of Public Works is now awaiting receipt of the relevant Contract documents.

It is my intention to progress the building of the school as soon as the site has been acquired.

### Psychological Service.

212. **Mr. Stagg** asked the Minister for Education and Science if additional educational psychologists will be appointed to Kildare national schools in 2006; and the number of schools in County Kildare which have no direct service. [21429/06]

**Minister for Education and Science (Ms Hanafin):** All primary and post primary schools in Co Kildare have access to psychological assessments either directly through the National Educational Psychological Service (NEPS) or through the Scheme for Commissioning Psychological Assessments (SCPA) that is administered by NEPS and full details of which are available on my Department's website.

In addition, NEPS provides a service to every school in the event of a critical incident regardless of whether the school already has a dedicated service from a NEPS psychologist. Also in relation to all schools, NEPS processes applications for Reasonable Accommodations in Certificate Examinations and responds to queries and requests for assessments in relation to individual children from other sections of my Department and from the specialist agencies.

Since the establishment of the NEPS in 1999, the number of NEPS psychologists has increased from 43 to 122 at present. The Public Appointments Service concluded a new recruitment competition for the appointment of Educational Psychologists to NEPS. Regional panels have been established to allow my Department give greater priority in filling vacancies to areas with the

greatest need. My Department is currently in the process of recruiting a further 9 psychologists.

According to the latest information, approximately 50% of schools in Co Kildare (64 schools out of a total number of 129) have access to a dedicated service from NEPS and this represents more than 65% of the student population. 65 (61 primary and 4 post-primary) schools do not have access to a dedicated service. Five NEPS psychologists (4.4 wholetime equivalents) are currently involved in servicing Co Kildare. Consideration will be given to the assignment of a further psychologist to national schools in Co Kildare when the current recruitment process has been completed.

### Ionad Náisiúnta Gaeilge.

213. **Mr. J. O'Keeffe** asked the Minister for Education and Science the terms of reference and the timeframe for a decision she has arranged regarding the meeting in June 2006 between her officials and the other interested parties in connection with a project (details supplied). [21441/06]

**Minister for Education and Science (Ms Hanafin):** Officials in my Department are currently in the process of making arrangements to meet the various interested parties regarding the proposed Ionad Náisiúnta Gaeilge, Baile Bhúirne this month. My aim is to complete these discussions in as thorough and prompt a fashion as possible.

### Home Tuition Grants.

214. **Mr. P. Breen** asked the Minister for Education and Science further to Parliamentary Question No. 498 of 16 May 2006 when a person (details supplied) in County Clare will be facilitated with home tuition; and if she will make a statement on the matter. [21442/06]

**Minister for Education and Science (Ms Hanafin):** The Deputy will be aware that the pupil in question is enrolled in a mainstream primary school with appropriate supports. My Department considers that school-based education provision is the most appropriate intervention for all children and has discontinued the practice whereby children who are in full-time education provision would also be able to avail of home tuition grants.

My Department wrote to this pupil's parents confirming its intention to discontinue the practice of sanctioning home tuition grants for pupils who are also in full-time education. In this particular case, the home tuition grant was sanctioned until 28 April 2006. My officials have recently been in contact with the parents and will be in further contact shortly.



### Capitation Grants.

215. **Mr. O'Connor** asked the Minister for Education and Science the funding allocated for school capitation grants in 2005 and 2006; and if she will make a statement on the matter. [21443/06]

**Minister for Education and Science (Ms Hanafin):** The 2005 estimates provision for capitation grants at primary level was €66.338 million in 2005. The provision for 2006 is €73.5 million.

The capitation grant at primary level has been increased substantially in recent years. Since 1997 the standard rate of capitation grant has been increased from €57.14 per pupil to €133.58 with effect from 1 January, 2005 and has been further increased by €12 per pupil with effect from 1 January, 2006 bringing the standard rate to €145.58. This represents an increase of almost 155% in the standard rate of capitation grant since 1997.

This grant is in addition to the Ancillary Services Grant which provides additional funding for primary schools towards the cost of secretarial and caretaking services. The standard rate of grant per pupil under the scheme, which was increased from €102 in 2002 to €127 in 2004, was increased by a further €6 to €133 in 2005. The rate was increased by a further €6 this year bringing the current rate to €139. The estimates provision for the Ancillary Services Grant at primary level was €56.917 in 2005 and this has been increased to €61.639 million in 2006.

Significant improvements in the levels of direct funding to second level schools have been made in recent years. Since January 2005, the standard per capita grant has been increased by a cumulative €24 per pupil and now stands at €298 per pupil.

Secondary schools have also benefited under the school services support fund initiative. Introduced with effect from the 2000/01 school year, the school services support grant has been increased since January 2005 by a cumulative €28 per pupil bringing the annual grant from €131 per pupil to €159 per pupil. These grants are in addition to the funding of up to €40,000 per school that is also provided by my Department to secondary schools towards secretarial and caretaking services. These increases are reflected in the estimates provision for capitation at second level that was increased from €66.4 million in 2005 to €93 million in 2006.

The significant increase in the funding of schools at both Primary and second level over recent years is a clear demonstration of my commitment to prioritise available resources to address the needs of all schools.

### Second Level Funding.

216. **Mr. O'Connor** asked the Minister for Education and Science the States rating within the

OECD for second level funding; the OECD average; the costs of bringing the State to the OECD average; and if she will make a statement on the matter. [21444/06]

**Minister for Education and Science (Ms Hanafin):** The up to date figures are not readily available in the Department. As soon as the details become available I will arrange to have them forwarded to the Deputy.

### Higher Education Grants.

217. **Mr. Wall** asked the Minister for Education and Science if her attention has been drawn to a person (details supplied) in County Kildare on invalidity benefit who does not qualify for a top-up grant; her plans to address this anomaly; and if she will make a statement on the matter. [21480/06]

**Minister for Education and Science (Ms Hanafin):** Under the terms of the student support grant schemes assistance is awarded to students who meet the prescribed conditions of funding including those which relate to nationality, residency, means and previous academic attainment.

The process of assessing eligibility for third level or further education grants is a matter for the relevant Local Authority or VEC.

Officials of my Department contacted Higher Education Grants Section of Laois County Council, the awarding authority referred to by the Deputy in this case. It is understood that there is no record of an application being received under the surname referred to by the Deputy.

218. **Mr. Stanton** asked the Minister for Education and Science when she expects to be in a position to notify the various authorities who administer third level education maintenance grants the details of the scheme for the forthcoming year; the expected income limits of such a scheme; and if she will make a statement on the matter. [21481/06]

**Minister for Education and Science (Ms Hanafin):** The process of reviewing the thresholds for eligibility and the grant levels for the 2006/07 academic year is currently on-going. Decisions on the 2006 schemes will be announced as soon as this process is completed.

The application forms and notes for the 2006/07 academic year have issued electronically to the awarding bodies and the forms and notes are also available on the Department's website [www.education.ie](http://www.education.ie).

### Schools Building Programme.

219. **Mr. Crawford** asked the Minister for Education and Science the progress being made regarding the extension to a school (details supplied) in County Monaghan in view of the ongoing danger to pupils and teachers who have



to cross the N2 national primary road; when funds will be provided; and if she will make a statement on the matter. [21490/06]

**Minister for Education and Science (Ms Hanafin):** An application for an extension has been received from the school referred to by the Deputy. The application has been assessed in accordance with the published prioritisation criteria and is being considered for progression in the context of the School Building and Modernisation Programme 2006-2010.

#### **Psychological Service.**

220. **Mr. Perry** asked the Minister for Education and Science the action she will take to ensure that an assessment is carried out in 2006 for a person (details supplied) in County Leitrim; if her attention has been drawn to the circumstances of the case; and if she will make a statement on the matter. [21540/06]

**Minister for Education and Science (Ms Hanafin):** I asked my Department's National Educational Psychological Service (NEPS) to look into this case. I understand from the enquiries made by NEPS that the first name of the child in question is Mícheál. A NEPS psychologist has discussed with the school their areas of concern and outlined some strategies for the school and parents to implement over the coming three months in order to address those concerns.

I also understand that the NEPS psychologist has advised the school to review Mícheál's progress at the end of September and to consult with NEPS regarding further intervention or assessment should that be considered necessary at that stage.

#### **School Staffing.**

221. **Mr. Perry** asked the Minister for Education and Science if she will ensure that a concessionary post is allocated to a school (details supplied) as there are 50 pupils on the roll for September 2006 which is one above the appointment figure; and if she will make a statement on the matter. [21543/06]

**Minister for Education and Science (Ms Hanafin):** The staffing of a primary school for a particular school year is determined by reference to the enrolment of the school on the 30th September of the previous school year and by reference to a staffing schedule. This staffing schedule for the 2006/07 school year is outlined in Primary Circular 0023/2006 which was issued to all primary schools.

To ensure openness and transparency in the system an independent Appeal Board is now in place to decide on any staffing appeals. The criteria under which an appeal can be made are

set out in Department Primary Circular 0024/2006.

The staffing of the school referred to by the Deputy for the 2006/2007 school year was considered by the Appeal Board on 25th May, 2006. The Board, having considered the appeal with regard to the criteria outlined in Circular 0024/2006, was satisfied that a departure from the staffing schedule is not warranted in this case. The Board of Management of the school was notified in writing of the decision of the Appeal Board on 26th May, 2006.

I am sure the Deputy will appreciate that it would not be appropriate for me to intervene in the operations of the Independent Appeal Board.

#### **Air Quality.**

222. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if, arising from air pollution monitoring outposts throughout the country, he has noticed an increase in any particular form of pollution; if he proposes action in response thereto; and if he will make a statement on the matter. [21508/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The EPA's Ambient Air Quality in Ireland Report 2004 (available in the Oireachtas Library) contains details of the monitoring and assessment of national air quality, and incorporates data from all air quality monitoring stations operated by the EPA and local authorities. Air quality was good throughout the country in 2004 and complied with all air quality standards in force for all pollutants.

#### **Local Authority Staff.**

223. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that Fingal County Council has not appointed all of the community and environmental pillar representatives to its Strategic Policy Committees; and the measures which will be taken to ensure that same is done. [21378/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** It is a matter for local authorities to adopt a scheme for the establishment and operation of Strategic Policy Committees in accordance with guidelines issued by my Department. I understand Fingal County Council has been in communication with the Fingal Community Forum (a nominating body for the Community/Environment pillar) with a view to finalising the remaining nominations in accordance with its scheme.

### **Water and Sewerage Schemes.**

224. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if he has approved the contract documents for the Lower Liffey Valley sewerage scheme. [21420/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 426 of 6 April 2006.

225. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if he will approve the Upper Liffey Valley sewerage scheme. [21421/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 428 of 6 April 2006.

### **Services for People with Disabilities.**

226. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if under the review of the disabled persons grant scheme, he will consider funding 100 per cent of the cost to the maximum grant available, rather than requiring local authorities to contribute 33 per cent. [21422/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I refer to the reply to Question No. 314 of 17 May 2006. The position is unchanged.

### **Local Authority Staff.**

227. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if local authorities require Departmental permission before consultants are hired by local authorities. [21423/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** While in general local authorities do not require sanction from my Department to engage consultants, sanction may be required in instances where local authorities wish to charge consultants' fees against projects funded by my Department. Local authorities are in all cases required to comply with guidelines issued by the Department of Finance in relation to the employment of consultants, and with EU procurement requirements.

### **Local Government Act.**

228. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if he has concluded his consultations with local government interests regarding the creation of new town councils; if not, when he will conclude

same; and when he will make a decision on the matter of new town councils under the Local Government Act 2001. [21432/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Local Government Act 2001 modernises the legislative framework, supports community involvement with local authorities in a more participative local democracy and underpins generally the programme of local government renewal. The 2001 Act also facilitates improved access, interaction, linkages and service provision for all towns and areas with their respective county councils.

I am considering the steps necessary to commence the provisions of the 2001 Act in respect of new town councils. The creation of new town councils and their prospective functional responsibilities under the Act also feature in my discussions with local government interests as the opportunity arises. I will continue to keep the position under review, in tandem with consolidating progress on quality customer service measures, with the aim of ensuring good accessible local government service delivery for all towns.

### **Planning Issues.**

229. **Mr. McHugh** asked the Minister for the Environment, Heritage and Local Government his views on the taking charge of housing estates by local authorities at the request of residents; and if he will make a statement on the matter. [21471/06]

230. **Mr. McHugh** asked the Minister for the Environment, Heritage and Local Government his views on the taking charge of housing estates by local authorities; and if he will make a statement on the matter. [21472/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 229 and 230 together.

In relation to traditional housing estates, with their own front and back gardens, I have already stated my position that these estates should be taken in charge by the planning authorities when they have been completed by the developer in accordance with the terms of the planning permission. The Planning and Development Act 2000 contains clear and effective provisions in this regard. Section 180 refers to housing estates which were granted planning permission and provides, in relation to an estate which has been completed satisfactorily, that the planning authority must if requested to do so by the majority of the owners or occupiers, initiate the procedures for taking the estate in charge. There is a similar duty on the planning authority in relation to an estate which was not completed in

accordance with the permission, except where enforcement action has been taken by the authority within the relevant period. The final decision as to whether to take an estate in charge must be endorsed by the elected members.

In order to ensure that these provisions are being properly applied, my Department wrote to all planning authorities in January 2006. In circular letter PD 1 of 2006 planning authorities were reminded of the legal obligation imposed by section 180. The circular also stated that planning authorities must establish a policy on completion and taking in charge of estates, a policy which would include:

- requirements on developers to complete estates to a standard that is acceptable to the authority for taking in charge and to provide adequate levels of security;
- procedures to begin taking in charge housing estates promptly on foot of requests; and
- sufficient funding to be made available.

It was also stated that the existence of a management company to maintain elements of common buildings, carry out landscaping, etc. must not impact upon the decision by the authority to take in charge roads and related infrastructure where a request to do so is made.

The traditional housing estate is, in many areas, being replaced by the mixed estate which contains apartments, duplex houses and terraced houses, with shared facilities such as car-parking and gardens. High specification paving, lighting and landscaping are frequently features of such estates. Genuine questions arise as to whether it is appropriate that all these facilities should be taken in charge and maintained at public expense. Many of these facilities are replacing the traditional gardens which, in a conventional housing estate, would fall to be maintained by the residents rather than the local authority.

It may be appropriate that in the case of these newer estates, a management company should be in place to maintain facilities on behalf of the residents. In some cases the residents of such estates may have purchased their homes on the basis that the development should remain a private one and should not be taken in charge by the local authority.

I published a new Housing Policy Framework: Building Sustainable Communities last December. This sets out an agenda for an integrated package of policy initiatives on matters which included supporting higher densities and compact urban settlement through design innovation in the creation of new homes, new urban spaces and new neighbourhoods. In line with this, my Department is at present updating the residential density guidelines. It will be appropriate

to examine further the issues of taking in charge and management companies in this context.

### **Grant Payments.**

231. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if all outstanding bog top up payment has been awarded to persons (details supplied) in County Roscommon; and if he will make a statement on the matter. [21484/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I understand that all outstanding bog top up payments due to the persons named have been made.

### **Local Authority Staff.**

232. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the number of persons employed by town councils in 2005 by town; and if he will make a statement on the matter. [21488/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The information requested is not yet available in my Department. Local authorities have been asked to supply it and, when it is received and collated, I will send it to the Deputy.

### **Road Network.**

233. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government the timeframe for the recommencement of work on the main Carrigart Milford road R245 at Cratlagh Wood; the funding allocated for the works; and the timeframe for completion of the project. [21516/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The provision and improvement of non-national roads in County Donegal is a matter for Donegal County Council to be funded from its own resources supplemented by State grants provided by my Department. Over the period 2003 to 2005, grants totalling €967,314 were provided by my Department for improvement works on the R245 Milford to Carrigart road in the vicinity of Cratlagh Wood, under the EU Co-Financed Specific Improvements Grant scheme. This year a sum of €350,000 was allocated to Donegal County Council for further improvement works at this location. The timing of commencement of works on foot of this grant is primarily a matter for Donegal County Council.

My Department will again be seeking applications under the EU Co-Financed Specific Improvements Grant scheme later this year and it will be open to Donegal County Council to sub-

[Mr. Roche.]

mit an application for consideration for further funding of works at this location in 2007.

**Water Services.**

234. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government the instructions he issued to the Irish Farmers Association in relation to the implementation of the installation of water meters; if consultations took place; if the IFA agreed to participate in the scheme; and if he will make a statement on the matter. [21542/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Irish Farmers' Association was one of a number of organis-

ations and bodies consulted by my Department in 1999 on proposals being developed for the application of the polluter pays principle to water and waste water services.

The Association indicated *inter alia* their view that charging for water and waste water services should be based on the use of these services by the individuals, companies or households concerned and that the programme of installing metered services on all users should be expedited.

The metering of non-domestic users by the end of 2006 is being progressed as part of the Government's water pricing policy. Sanitary authorities are currently advancing implementation of the metering programme within their areas and I expect the metering programme for non-domestic users will be substantially completed by the end of 2006.