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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Dé hAoine, 6 Iúil 2012.

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

Paidir.

Prayer.

Freedom of Information (Amendment) (No. 2) Bill 2012: Second Stage

Deputy Sean Fleming: I move: “That the Bill be now read a Second Time.”

I thank my colleagues who assisted me in drafting the legislation. This is one of a number of Private Members’ Bills that have been published in recent times. I acknowledge the Ceann Comhairle’s part in choosing to allow the Bill to be taken in the House today because there are a number of items of legislation in the queue. I am pleased that the Bill is being debated.

I wish to recap briefly on the current position on freedom of information legislation because some seem to believe it has been scuttled and is dead. I draw the attention of the House to the recent report published in May by the Information Commissioner, Ms Emily O’Reilly, in which she highlights the fact that 16,517 requests were made to public bodies under freedom of information legislation in 2011. This reflects a continuation of the steady upward trend in the use of freedom of information requests. I also highlight the fact that a large number of public bodies are included and that the purpose of the Bill is to include further publicly funded bodies. Of the approximately 16,000 requests received last year, 12,581, approximately three quarters, were deemed personal and 3,857, non-personal. The latter could be from people inquiring about issues in which public bodies are involved and include media requests. A small number, 79, involved a mix of personal and non-personal matters.

It is important to note that the legislation is having a good effect. A total of 58% of all requests received last year were granted in full, while 20% were granted in part. It is clear that more than two thirds of all requests were granted either in full or in part, while only 11% were refused. It is important to note that we have a 90% success rate. In the vast majority of cases requests for information from public bodies are being allowed.

Freedom of information legislation is working well. However, it can be improved, which is why we are in the House today. I wish to propose a number of amendments to the existing legislation. In the programme for Government the Government has listed freedom of information as one of the areas to be tackled. We are, therefore, starting from a good base. People might query certain aspects of previous amendments, but the evidence from 2011 speaks for itself and no contradiction of the facts is possible.

I will deal with specific sections because others might wish to speak more broadly on the issue of freedom of information. The purpose of section 2 is that if the head of a public body such as the Secretary General of a Department or a county manager believes the availability

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of information is in the public interest, it should be available publicly on its website without people having to go through the freedom of information process. At one time the only way one could obtain information on the expenses of Ministers and Oireachtas Members was by submitting a freedom of information request. The information is now published routinely every month and there is no need to go through the freedom of information mechanism. This represents a more open culture.

Section 3 deals with the organisations I wish to specifically include in freedom of information legislation. The two Government parties dealt with this issue in their manifestos and the programme for Government and there is general agreement in the House that this should be done. I include the administrative functions of the Central Bank which is part of a network which includes the European Central Bank and other central banks that have tighter freedom of information legislation and that would not be happy to share information with the Central Bank if it could be released. Sensitive information would, therefore, be excluded. The enforcement functions of the Health and Safety Authority should be included. In the Information Commissioner's report issued in May she specifically requested that the National Treasury Management Agency and the National Asset Management Agency be included in the legislation. I am happy to include them. At the Committee of Public Accounts the Chairman of the National Asset Management Agency, Mr. Daly, said he would have no issue with it. He is a former Chairman of the Revenue Commissioners and used to dealing with freedom of information legislation. Everyone knows there is no question of commercially sensitive information that could damage the organisation in question or the public interest ever being released under freedom of information legislation. The purpose is not to ascertain commercially sensitive information. Organisations must be allowed the freedom to operate in a commercially sensitive area.

The administrative functions of the Garda Síochána should also be included. The Garda Síochána is a large organisation and security and investigative matters would be excluded. Other bodies which should be included are the Property Registration Authority, the Road Safety Authority and vocational education committees. It might be a surprise to many that VECs are not included already. Local authorities are within the remit of freedom of information legislation and as VECs are almost an offshoot of local authorities, they should have been included years ago. I propose that they now be included. I hope this will be the case by next year when legislation is completed.

Section 4 is interesting. I ask that a request for information from an Oireachtas committee to a public body be given the same status as a freedom of information request. Some might be intrigued as to what this is about. I am a member of the Committee of Public Accounts which on several occasions has had difficulty in getting information, in particular on FÁS, but we could open the Sunday newspapers and find the information we had sought which had been made available to the newspapers through freedom of information requests. In some cases public bodies appear to give a higher legal standing to freedom of information requests than they do to requests made by an Oireachtas committee. I ask that this issue be redressed. I do not ask that requests from Oireachtas Members or public representatives be granted but a formal request from an Oireachtas committee.

Another proposal is that there be a ceiling on search and retrieval fees of €500 per request. Three quarters of all freedom of information requests are for personal information and free of charge. It is important to make this known. People think the fee arrangement has been scuttled and that they cannot gain access to information, but that is not the case. A person can seek to discover the information on his or her file from any public body free of charge. However, an issue can arise where a public body can charge a search and retrieval fee. Earlier this year I tabled a series of parliamentary questions earlier specifically on this topic. It has not been

picked up on to date, but people might be interested to note that in 2011 seven Departments charged more than €500 in a particular case in search and retrieval fees. As in six cases the maximum fee was under €500, I will pick that figure as being fair. Two Departments charged nothing. The reason is obvious in the case of the Department of Children and Youth Affairs, but the Department of Social Protection did not charge anything either. It is to be commended for never charging a search and retrieval fee. It is not a big encumbrance on it. It probably has a good filing system which is the important issue and it does not need to spend a lot of time in responding to requests for information. The Department of Justice and Equality charged a fee of €15,000 in one case, which is extreme. There is a better way of handling such matters. One can go back to the person who requested the information to refine his or her request, limit its scope and be more specific in order to reduce costs. Last Christmas, I submitted a freedom of information request to seek information on a matter announced by the Minister for Finance, Deputy Noonan, in the budget. I was told it would cost me €1,200 in search and retrieval fees. I abandoned the request. We do not know in how many cases something similar has happened. Some people are given such figures, yet the Minister once replied that the highest fee he charged for search and retrieval in 2011 was €83. He did not mention the €1,200 he charged me and that caused me to withdraw my request. It is important that people know about these issues. There should not be a large cost for members of the public.

As a matter of course, it is important that all new bodies should be subject to freedom of information requests. The Government's amendment to the Second Reading motion will acknowledge that public bodies that are significantly funded by the Exchequer should be covered by this legislation in due course. Bodies such as Irish Water or, as mentioned on Second Stage of the Personal Insolvency Bill 2012, the new insolvency services agency should be covered from day one.

I welcome the Minister for Public Expenditure and Reform's amendment, which agrees to a Second Reading. I am pleased the Government accepts the principle of this legislation. The amendment reads:

- to extend its remit to other public bodies including the administrative side of the Garda Síochána, subject to security exceptions; and
- to extend freedom of information to ensure that all statutory bodies, and all bodies significantly funded from the public purse, are covered under the legislation;

resolves that the Freedom of Information (Amendment) (No. 2) Bill 2012 be deemed to be read a second time this day nine months.

I look forward to working with the Minister on refining this legislation or his proposals during the autumn and winter so that everything is taken into account on Committee Stage. Agreement is important. No party is opposed to the principle of public bodies providing information. As such, this legislation is sensible, practical and right. No party politics are involved in this proposal.

The one comment I would make is that, according to the amendment, the Government wants "to legislate to restore freedom of information". I will allow the Minister that slight indiscretion. If he believes it has been abolished and needs to be restored, he should at least inform the Ombudsman, Ms Emily O'Reilly, who outlined in her report that there were 16,000 freedom of information requests last year. Those people know that freedom of information does not need to be restored. Answers were provided in 90% of cases. The Minister probably believes he is making a point, but freedom of information legislation is alive and well. I have a graph

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showing a steady increase from 10,000 requests in 2007 to 16,000 last year. Due to the recession, people need to use this legislation more.

If freedom of information legislation is to be practical and workable, proper files must be kept by relevant public bodies. I can cite an example. I helped a constituent, who was experiencing difficulty getting files from a public body, to submit a freedom of information request. I drafted the request and the person signed and sent it. One month later, I received a letter from the public body to the effect that it had received a request from so and so, that there was a representation from me in the person's file from some months ago and, as a matter of courtesy, the body wanted my consent to release the file. Either someone telephoned me after I received the letter or I telephoned the body and I said I had no problem giving my consent, but I asked about the three other letters I had sent on the exact same case in the preceding 12 months. The public official replied that the letters were not in the file in question. I asked whether a new file could be compiled, as the letters were in the office somewhere, but I was told that only one file would be issued and the letters were not in it. I let the issue rest as it was not of any major consequence and the member of the public knew of my representations, but it shows the importance of keeping cohesive filing systems within Departments.

I found a recent example of a freedom of information request useful. A person applied for disability allowance. I had a copy of the doctor's letter that was written for the person which stated that the person should be supported because of certain chronic conditions — I forget the particular medical issues. When the application was refused, we appealed, but the appeals officer refused the application on medical grounds based on the information received. I told the person that the only option was to make a freedom of information request to see what was in the file that warranted a refusal. I drafted the letter, the person signed it and we sent it. When we received the full file, we found the doctor's letter about the person's medical conditions in the confidential part of the application form. The form normally asks whether a person's condition is normal, mild, moderate, severe or profound. The general practitioner, GP, had ticked each one, yet the letter on the other side of the page stated that the person should have been supported. The person did not understand the file and brought it to me. I explained that it was a clear-cut case, as the appeals officer could have made no other decision than to refuse the appeal based on the form filled in by the GP, but the person had not been aware of it and probably would not have had access to the information. I will not mention what the person said to the GP subsequently, but perhaps the GP had been right to do so. The point is that the person spent one year not knowing the reasons for refusal until a freedom of information request revealed what was on the relevant medical file. I may exempt the Department of Social Protection from my remarks, as it is good at handling information and would probably have supplied what the person was seeking without the need for a freedom of information request. However, this example shows the value of freedom of information legislation.

The purpose of my Bill is to open up to freedom of information requests bodies that everyone believes are operating in the public interest. We want more accountability and transparency. Nothing in the legislation suggests the Garda's security or the commercial confidentiality of the National Treasury Management Agency, NTMA, and the National Asset Management Agency, NAMA, should be breached. Rather, it relates to the general principles of how they administer their business and deal with cases. We are used to making exceptions, as they are already provided for in current legislation.

I thank the Government for agreeing to accept this Bill. Since it wants to wait nine months to move the Bill to Committee Stage, we will be able to discuss the legislation in further detail during our next session. As the Minister wants to include all statutory bodies, he goes further than my modest proposal. I look forward to working with him in the coming months in order

that, when we amend the legislation on Committee and remaining Stages next year, our freedom of information legislation will be at the top of the range globally.

Deputy Mary Lou McDonald: It is nice to see peace and harmony blossoming between Fianna Fáil and Fine Gael. Having listened to Deputy Sean Fleming and aside from freedom of information concerns, I expect each Department to have orderly and coherent filing systems, full stop. The Deputy differentiated between Departments, but that is probably another day's discussion.

I welcome this debate on the proposed amendment to the Freedom of Information Act. The history of freedom of information has been rocky. The irony will not be lost on anyone in the Chamber that it was Deputy Sean Fleming's party that butchered the spirit of the Freedom of Information (Amendment) Bill in 2003.

Deputy Robert Dowds: Hear, hear.

Deputy Mary Lou McDonald: To quote a very fine woman and the then Minister of State, Ms Eithne Fitzgerald, the introduction of freedom of information legislation by the rainbow coalition sought to "turn the culture of the Official Secrets Act on its head". The legislation gave people three new legal rights: to consult official records, to update and correct inaccurate personal information and to be given reasons for public decisions that affect the person in question. In addition, citizens were given for the first time access to Cabinet papers, to be available to the public after five years. This was progressive.

Five years later, Fianna Fáil tore the heart out of the legislation. Transparency and accountability did not sit well with its Ministers. Access to official documents was severely curtailed with the introduction of exorbitant fees that resulted in a halving of freedom of information requests. This was the desired effect. In addition, the period of restrictions on access to Cabinet papers was extended to ten years, supposedly in the interests of progressing peace in the North. If this was the case, there were legislative alternatives to meet this objective, but they were ignored by Fianna Fáil, in much the same way as its Members are ignoring my speech.

Deputy Billy Kelleher: Not at all; we are listening to it with great interest.

Deputy Mary Lou McDonald: This was pure opportunism on the part of a party caught up in self-interest and scandals yet to break.

Deputy Brian Hayes: The Deputy's party had a few scandals also.

Deputy Mary Lou McDonald: Writing in the *Irish Examiner* in 2003, Mr. Seamus Dooley of the National Union of Journalists perhaps described best the shameful way in which Fianna Fáil, aided by senior Government officials, had literally pulled a fast one on the citizens of the State. He wrote:

Rumours that plans were afoot to bastardise the Bill emerged in early February 2003. The NUJ immediately sought and were refused meetings with the Taoiseach, Tánaiste and Minister of State at the Department of Finance. In time it emerged that a secret review was carried out by a group of Secretaries General who did not consult with the Information Commissioner or anyone else because they had not been told to do so by the Government. The Cabinet duly met, accepted the report of the top civil servants and added in other restrictions for good measure. It was decided not to publish the Bill in the middle of the week but to wait until Friday, 28 February. On Tuesday, 4 March, Seanad Éireann was asked to consider the Bill in a bizarre debate during the course of which it emerged that some rural Senators had not even received copies of the legislation.

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By 13 March, the Joint Oireachtas Committee on Finance and the Public Service had agreed to hear submissions. The advice of the information Commissioner that sections of the Bill were inoperable was duly noted and ignored. Other submissions were similarly dismissed. The Taoiseach insisted that the hours spent on the debate was in some way compensation for the absence of public consultation on a Bill designed to take away rights conferred on citizens by the Oireachtas only five years ago.

The rainbow coalition Government's Freedom of Information Bill signalled a maturing in Irish politics. It was a long-awaited acceptance that open government was good and necessary and that accountability should be staple fare. Politics in Ireland has historically been shrouded in secrecy. Despite Deputy Sean Fleming's attempts at revisionism, Fianna Fáil in government has largely been responsible for the cloud hanging over Irish public life. The Deputy's legislation and this debate would not be needed if Fine Gael and the Labour Party had delivered on their programme for Government commitments made 16 months ago.

Deputy Sean Fleming: It is now the Government's turn.

Deputy Mary Lou McDonald: The two Government parties promised the people that they would legislate to restore the Freedom of Information Act to what it was before it was undermined by Fianna Fáil. In addition, they promised, rightly, to extend its remit to other public bodies, including the administrative functions of the Garda Síochána, with the exception of security issues. They promised to extend freedom of information legislation and the Ombudsman Act to ensure all statutory bodies and all bodies significantly funded from the public purse were covered. I support such actions, but that was then and this is now. The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, has yet to even seek or receive approval from the Government for the draft heads of a Bill. The Government is not in a great rush to introduce full accountability, which is a great pity. I urge reconsideration of the matter.

To right the wrong done, all that is needed is to reintroduce the original 1997 legislation in line with the programme for Government commitments. It is that simple. My colleague, Deputy Pearse Doherty, introduced a Bill earlier this year to bring NAMA under the Freedom of Information Acts. His Bill would also have removed the application fees charged for processing freedom of information requests, returning the fees structure to the original 1997 Act system. NAMA is a multi-billion euro agency which must be brought within the remit of freedom of information legislation. Deputy Pearse Doherty's Bill would have done two simple things, the first being the addition of NAMA to the First Schedule to the Freedom of Information Act. There are 600 bodies included, but there are notable exceptions, including NAMA, the National Treasury Management Agency, the Garda Síochána and the Central Bank. For the purposes of his Bill, Deputy Pearse Doherty concentrated on NAMA. The exclusion of any public body from freedom of information provisions is completely unacceptable, but this is particularly the case with NAMA which disposes of millions of euro in assets every month, with very little public knowledge of its activities. The agency costs the State over €500,000 per day in running costs and has developers on over €200,000 on its payroll. It is mired in potential conflicts of interest and does not want a spotlight shone on its activities. As Deputy Sean Fleming noted, this arises partially from commercial sensitivities. Unlike him, I did not note in Mr. Daly's commentary at the Committee of Public Accounts a real appetite to have freedom of information provisions extended to NAMA, but it should happen nonetheless.

The second part of Deputy Pearse Doherty's Bill would have returned the fee structure to the original 1997 system. Our proposal, therefore, is that application fees be removed. The introduction of application fees——

Deputy Mattie McGrath: On a point of information, are we discussing the Fianna Fáil Bill or the one produced by Deputy Pearse Doherty?

An Leas-Cheann Comhairle: We are discussing the Bill before us, but points may be made about what could be included in it.

Deputy Mary Lou McDonald: I note Deputy Mattie McGrath's sensitivity to Fianna Fáil's legislation.

Deputy Bernard J. Durkan: That is very moving. I am moved.

Deputy Mary Lou McDonald: I am sure the Deputy is.

Deputy Mattie McGrath: I just want clarity on the matter.

Deputy Bernard J. Durkan: I have not been moved as much as Deputy Mattie McGrath.

Deputy Mary Lou McDonald: The introduction of application fees was a barrier to freedom of information requests, as borne out by the figures. In 2003, the last year before the fees took full effect, 7,216 non-personal requests were made. In 2004, after the fees were introduced, 3,191 non-personal requests were made. Therefore, the number of applications was halved. In 2002 the Department of the Environment, Community and Local Government received 368 requests. In 2011 it received just 100. The Department dealing with enterprise issues received 205 requests in 2002. In 2011 it received 70. The number of requests made to the Department of Health dropped from 997 in 2002 to 150 in 2011. The trend is clear that application fees are a barrier to access to information and their removal would send a positive message that the State was open to full disclosure. It would be a clear signal to citizens that open government was the order of the day. Deputy Pearse Doherty's Bill, if enacted by the Government, would have been a small step forward, but it is up to the Fine Gael and Labour Party Government to make the necessary leap.

11 o'clock

Sinn Féin wants to see the Government move towards a position where all State information would be made public, where acceptable to do so, without a request having to be submitted. The public has a right to know how institutions are operating, particularly those which are incurring massive costs for taxpayers and citizens. This week the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, published his policy proposals for the regulation of lobbyists. Up front and centre stage should be a public database of lobbyists to register all interactions between them and Government officials.

Unfortunately, if the Minister's form to date on these matters is anything to go by, I doubt that is what we will get. Sinn Féin representatives have repeatedly called on the Minister for Public Expenditure and Reform, Deputy Howlin, to compile and make public a database of all State agency board members, their qualifications, their experience and the remuneration they receive. This request has been consistently denied, in part because the Department, despite its responsibility for reform, does not collate such data. The Minister regularly extols the increased amount of data uploaded onto the websites but one would forgive the suspicion that much of what is put up is window-dressing. When it comes to the substance of accountability the Government has been found wanting.

All said, Deputy Fleming's Bill is to be welcomed, but the citizens of this State need and want Fine Gael and the Labour Party to deliver on their programme for Government commitment to restore and extend the provisions of the 1997 freedom of information legislation.

Deputy Shane Ross: I welcome this Bill, introduced on behalf of Fianna Fáil. It is long overdue. The main problem with the legislation is that it does not go far enough. It is easy to pick the usual suspects and say that the NTMA and NAMA and others listed in the Bill should be subject to freedom of information legislation. I do not understand why other bodies in receipt of State subsidies or State monopolies are not subject to the Act as well. Why is it not possible to have freedom of information for Iarnród Éireann, the DAA and other State bodies which do not operate in a commercial environment as many of the others do? For such monopolies in which the State is the only shareholder, it is only right that they should be subject to the legislation as well. Commercial sensitivities may apply in all cases but exceptions can be made. Still, so many hidden, murky practices were going on within some semi-state organisations that I cannot understand why we do not add these bodies to this list as well.

As a journalist I have had experience of the operation of freedom of information legislation. One body from which it was virtually impossible to get information was Iarnród Éireann. The practices in Iarnród Éireann were utterly unacceptable and most secretive. It took the summoning of the directors and executives of the company before the Joint Committee on Transport to get any information and, even then, it was like pulling teeth. Moreover, it was impossible to get any of the non-executive directors of the semi-state companies before the Joint Committee on Transport or any other committee. As a result, information on many of these semi-state bodies in which there was, at least in one case, admitted corruption was almost impossible to ascertain. There is a real need for penetrative questioning and interrogation of the semi-state bodies as well as the State agencies. There is also a need for a change in the method by which the freedom of information system operates.

Deputy Fleming referred to the Ombudsman and Information Commissioner, Emily O'Reilly. She referred specifically in her annual report this year — she has done so previously as well — to various bodies which should be included under the legislation, including NAMA, the NTMA and others. The operation of the Act is clumsy and geared against the person asking the question, whether a journalist or an individual citizen. I worked as a business journalist with the *Sunday Independent*. Once, when I went looking for information on FÁS, the difficulty in getting that information, even though FÁS was subject to the Freedom of Information Act, was extraordinary. The obstructions put in the way were extraordinary and most difficult to counteract. My memory of this is clear. I received an anonymous tip-off of where to look and what to look for. I admit this shows a lack of journalistic skills on my part. I approached FÁS and asked for the information. The organisation put every possible obstacle in the way. I am open to correction but, from memory, initially the organisation said that for the particular questions asked — relating to details about what took place in Florida and the junkets being run for the benefit of staff and directors — the process would cost me €1,000 or something equivalent. Those responsible were somewhat surprised when I said that the cost was fine by me. I was not paying for it; the *Sunday Independent* was paying for it.

Deputy Mattie McGrath: Is that any better?

Deputy Shane Ross: It might not be so easy nowadays but at that time things were easier. Following this, FÁS reduced the price by half because it was utterly unrealistic to ask for such a high fee. Anyway, it worked as an obstacle. I sent a cheque but nothing happened for a long time. I contacted the company after some time and was informed it had never received the cheque.

Deputy Mick Wallace: Did the cheque bounce?

Deputy Shane Ross: The cheque did not bounce but I thank Deputy Wallace for his help. At least, that particular cheque did not bounce. FÁS proceeded to make me go through the entire appeals procedure. Initially, the request was refused for extraordinary reasons that were difficult to understand. Eventually the information came out but we required a good deal of money, we had to be very persistent and we had to penetrate a well-trained bureaucratic barrier. All of these obstacles should be removed under this Bill to make it simple and cheap to apply for information. I suggest in the case of all Departments and semi-state agencies subject to the legislation it should not be someone from inside making the decisions. I am referring not to the appeals but to the initial decisions, because in all State agencies and almost all semi-state bodies, especially the monopolies, there is an utterly protective, surrounding layer of secrecy.

An Leas-Cheann Comhairle: This is very interesting, Deputy, but your two colleagues have yet to speak.

Deputy Shane Ross: Have I completed five minutes?

An Leas-Cheann Comhairle: Yes.

Deputy Shane Ross: That is fine.

Deputy Mattie McGrath: The Leas-Cheann Comhairle should have let him off because he is far more qualified to speak on this and probably better able to pay the bills to get the information. Anyway, we will not go there this morning. I am pleased to be able to speak on this Bill. I compliment Deputy Fleming for introducing the legislation. I am somewhat surprised by the comments of Deputy McDonald. I submitted a Bill some time ago but I did not complain about what happened to it. I wish it had passed but it was not to be. Let us wait until Sinn Féin is in government and then we will have great fun with the freedom of information legislation. We look forward to that day. Some people in Tipperary are rather bemused about Deputy McDonald's beginnings in Fianna Fáil and her progression from there. We all move around at times. It is good for the head as well as the body.

Deputy Mary Lou McDonald: Is Deputy McGrath moving again?

Deputy Mattie McGrath: A number of requests that were made are evident in the Bill, as are changes to the way the system works. Deputy Ross and Deputy McDonald were right to refer to the costs. The number of freedom of information requests dropped significantly because of the costs. However, there should be a barrier for nuisance requests. It should not be too easy. The same applies to the planning process. There should be transparency but there should also be a balance to counteract the serial objectors, including An Taisce and other bodies which object to make themselves feel good, look good or sound good. I have no wish for confusion in this area. I agree that many of the provisions of the Bill are needed, but even more are required. Some of the sacred cows should be dealt with as well. I am disappointed the justice system is not included. Not including it gives it a licence to do whatever it wants.

There were revelations recently in my constituency about the storage of e-voting machines. It is the job of but one person and there was no advertising or tendering. The machines ended up in the person's husband's shed, at a huge cost. There should be openness, transparency, decorum and a sense of normality.

I could not agree more with the point on FÁS. It used to be called Fianna Fáil's answer to slavery and then became a friends' association for foreign travel for those at the top, not those

[Deputy Mattie McGrath.]

at the coalface. The amount of blackguarding that took place was unbelievable. The freedom of information system has not worked in that regard.

All Departments, by their nature, have reinforcements or lieutenants — pardon the metaphor — at the door to ensure only certain people get past, but information should be transparent and available. It should be available at a reasonable cost, but not free because this would be a legislative nuisance also. I am glad the Government has allowed Second Stage of the Bill to proceed today and is not opposing it for the sake of doing so, as it has done with many other Bills.

Deputy Ross referred to the decision by the electorate last year not to give powers of investigation to an Oireachtas super-committee. None the less, the Oireachtas has a very valuable role to play. Somebody has to hold people to account. Consider the case of NAMA. When it was established, I described it as a wild animal in the woods and said no one knew where it would end up. However, I did not believe so many fat bullocks would come out of it during its period of operation; nor did I believe there would be so many untouchable sacred cows or that developers who contributed to wrecking the economy would be paid by the agency. It is outrageous. I was not at yesterday's committee meeting referred to by Deputy Fleming but I do not believe the relevant parties will be too willing to provide answers. As an outsider looking at the general operation and what is done, I believe it will take some freedom of information requests to address the matter. Someone mentioned pulling teeth but it is like mining for gold in the desert because one will not get the information.

NAMA is a relatively new organisation. I voted in favour of it but am disappointed it did not have some reins or wickers such that we could restrain the wild beast and not add insult to injury, especially in view of the personal insolvency legislation introduced yesterday. It is on a different scale altogether but the town and village are the same. Developers are being protected and rewarded for creating a mess.

The firms of accountants working for NAMA contributed greatly to the mess also. People, especially homeowners and ordinary debtors, are bewildered by the existence of one law for the rich and another for the poor. This Bill is certainly an effort to further the freedom of information provisions but we need to be realistic about our expectations and examine fully how the freedom of information system is working. We must ensure there are compliance officers in each Department and body covered and that it will be possible to determine whether bodies are compliant. If they are not, we should not give them a CE2 but a red card.

Deputy Thomas Pringle: I welcome the opportunity to contribute to this debate. It is ironic that Fianna Fáil introduced this Bill today given that its Government tied the hands of the freedom of information legislation in 2003. However, it is a case of trying to undo the sins of the past, which should be welcomed.

The original Freedom of Information Act, introduced in 1997, signalled a considerable change of culture within public organisations. It was a tribute to the Rainbow coalition that it introduced it. At the time, I worked in Donegal County Council, albeit not in a senior role, and noted the legislation had an immediate impact in local authorities. It made people very aware of their roles and obligations regarding the provision of information. It is a tribute to the effectiveness of the Act that it took fewer than five years for an amendment to be introduced to tie its hands. The 2003 Act introduced fees and restrictions on the amount of information that could be given out. It has taken time for the number of requests to increase again and for people to regain confidence in the legislation's ability to provide them with the information they require.

It is important that the legislation be amended. I fail to see why the Government could not have introduced a Bill to repeal the 2003 Act and re-establish the 1997 Act very quickly after it came into power. I imagine this would not have been very difficult. It should not have taken 16 months to get to this stage. I am worried that the Bill will now just sit on the Order Paper and that there will be very little movement from now on. We need to strengthen the Freedom of Information Act, reduce the fees to make the system more accessible and bring new organisations under the legislation's remit, as necessary.

Is it the case that the Government wants to be seen to be doing something by accepting this Bill on Second Stage, although it will not allow us to proceed to Committee Stage in the next 16 months, thereby not allowing any changes? The Minister of State, Deputy Brian Hayes, is shaking his head, but I hope what I outline will not be the case and that the Bill will be passed in the next six to eight months so the original powers of the legislation will be restored.

If there is to be a culture of transparency and accountability for all public bodies, it is vital that there be freedom of information. The Information Commissioner has, in her speeches and public engagements, constantly highlighted the difficulties that arise. It is a tribute to her that she has done so. I hope she will be listened to eventually and that the original Act will be restored.

Organisations such as Transparency International Ireland, when they issue reports, constantly criticise Ireland on the cost of freedom of information requests and the difficulty in gaining access to information. It is depressing to see Ireland placed on the red side in such reports, thereby drawing attention to the difficulties involved. Perhaps this is not unusual among countries that organisations report on because there are certainly more countries that make access difficult than make it easy. However, we should aim to be among the countries that allow for ease of access and that have fully transparent and open public services such that people can gain access to personal information or information on decision-making within the public sector. This would make services more accountable in a roundabout way and ensure proper public services and transparency in the decision-making process.

Minister of State at the Department of Finance (Deputy Brian Hayes): I move amendment No. 1:

To delete all words after "That" and substitute the following:

Dáil Éireann:

noting the intention of the Government, as committed in the Programme for Government:

- to legislate to restore freedom of information;
- to extend its remit to other public bodies including the administrative side of the Garda Síochána, subject to security exceptions; and
- to extend freedom of information to ensure that all statutory bodies, and all bodies significantly funded from the public purse, are covered under the legislation,

resolves that the Freedom of Information (Amendment) (No. 2) Bill 2012 be deemed to be read a second time this day nine months.

I thank all the speakers. I am very impressed by Sinn Féin's belief in freedom of information, in addition to freedom of movement and freedom of speech. I am sure that when the army

[Deputy Brian Hayes.]

council meets, the issue of freedom of information will be very high on its agenda, as I suspect it has been over the years.

I sincerely congratulate Deputy Fleming, whom I understand published this Bill approximately a month ago. The matter has been selected under the lottery rules and the Bill is now in the House. This is an example of how Friday sittings can deal with serious legislation. Every Member of the House has a contribution to make in that regard.

I very much agree with Deputy Pringle's statement on the original Act. When it was introduced by the rainbow Government in the 1990s by the then Minister, Ms Eithne Fitzgerald, it led to a cultural change within local government. It is an amazing achievement that it was not merely about informing citizens of their rights within local authorities but that it led to a cultural change within these organisations. This must be recognised. It is an example of legislation which can improve public administration.

As I stated, I congratulate Deputy Sean Fleming. I want to set out the view of the Government of the Bill which we support in principle. The provisions of the Bill relating to an extension of freedom of information legislation to certain public bodies are aligned with the relevant commitment in the programme for Government which envisages the extension of freedom of information provisions not only to those statutory bodies currently outside the terms of the Acts, but also to other bodies which are in receipt of significant funding from the Exchequer. The provisions relating to other matters included in the Bill can be broadly characterised as seeking to improve certain aspects of the operation of the Freedom of Information Acts. This objective corresponds to an important element of the proposals being finalised by the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, for consideration by the Government.

Notwithstanding the fact that the Government supports the objectives of the Bill, given that the Minister for Public Expenditure and Reform will, in due course, be bringing forward his own detailed and extensive proposals for consideration in the House and in proposing the approach outlined in amendment No. 1, it is important to recognise that the programme for Government deals not only with the proposed extension of the Act, but also its restoration. In this context, the Taoiseach, speaking in this House on Tuesday, reiterated the Government's intention to restore the Act to what it was prior to 2003. He has highlighted the fact that most of the complaints received in respect of the Freedom of Information Act relate not to the processes by which information is obtained but to the restrictions that apply to the information that can be released. While the proposals included in the Bill to improve the Act are welcome and will be considered further as part of the development of the legislation, the Minister's proposals are significantly more far-reaching. In overall terms, for these reasons, while the Government sincerely welcomes the Deputy Sean Fleming's proposals, the legislative proposals to be brought forward by my colleague, the Minister for Public Expenditure and Reform, in due course following approval by the Government will secure a more substantial and valuable goal. This, therefore, informs the amendment proposed by the Government to the motion which I hope, on this basis, will be supported by the entire House. As the Taoiseach advised the House earlier this week, the current position on the delivery of the Government's commitments in respect of freedom of information legislation is that a great deal of work has been carried out by the Minister for Public Expenditure and Reform on the Freedom of Information Act. A comprehensive and detailed assessment has been undertaken by the Department of the key steps and priorities relating to the implementation of these commitments. The views received from other Departments of the Minister's freedom of information proposals are being considered and it is planned to bring proposals to the Government in the coming weeks to secure approval for the drafting of amending legislation that will reform the Act.

Turning to the Bill, Deputy Sean Fleming's proposals provide for a number of specific public bodies to be brought under the Freedom of Information Act. As I have mentioned, the proposals are consistent with but do not go as far as the programme for Government commitment to extend the Act not only to all statutory bodies but also to non-statutory bodies in receipt of significant public funding. The Minister for Public Expenditure and Reform believes the experience and track record of freedom of information legislation since its introduction in 1997 demonstrates that the increased transparency it can engender can significantly enhance the quality of decision-making and yield substantial benefits in value for money terms for the Exchequer. Deputies can find examples of these positive benefits in the report entitled, *Freedom of Information: The First Decade*, published by the Information Commissioner in May 2008. The Minister is, therefore, committed to having as comprehensive an approach as possible to the extension of freedom of information legislation. He believes the question of partial application should only arise in the most exceptional circumstances — a principle which, in fact, was enunciated by the high level group of Secretaries General, the report of which, as Members will recall, was a significant input to the amendments made to Freedom of Information Act in 2003. For example, in the case of the Central Bank, the Minister accepts that there is a need for some restrictions on the application of the Act to reflect professional secrecy obligations under EU financial services directives and the European system of central banks statute which supersede any requirement under domestic law. In the case of the EU financial services directives, these prohibit the disclosure of institution-specific information.

Another case in which a partial extension must apply is that of An Garda Síochána, in respect of which the Government is committed under the programme for Government to applying the Act to its administrative functions, subject to security records exceptions. In this regard, it is important to recognise that some administrative records may relate to security or intelligence activities and the release of such records may potentially have substantial adverse consequences for these activities. Officials from the Department of Public Expenditure and Reform have been working with officials in the Department of Justice and Equality to ensure the commitment in the programme for Government can be delivered on in a manner which fully respects the requirement to exclude security and intelligence records, as well as those records relating to the operational functions of An Garda Síochána, from the scope of freedom of information legislation.

Clearly, looking across all public bodies not included in the Act, particular considerations relating to the scope and extent to which freedom of information provisions might apply in individual cases may be expected to arise. In this context, the Taoiseach has made it clear to the House that final decisions in all these areas, as arises in the full gamut of proposals relating to the restoration and appropriate modernisation and extension of freedom of information legislation, are ultimately ones for Government and the House to take.

Deputy Sean Fleming proposes that where a freedom of information request is received by a public body and the release of that information is assessed to be in the public interest, it should be published. The Minister supports this proposal and has asked me to advise that the Freedom of Information Act specifically acknowledges that a freedom of information request is not the only means of accessing information and that nothing in the Act is intended to interfere with alternative administrative arrangements for access. The Minister's proposals highlight the case for the proactive publication and release of records and the adoption by public bodies of proactive publication policies on official information. There is, however, an important legal consideration to be addressed — where official information is released outside of the Act, the various immunities provided for under the Act against possible criminal or civil liability do not apply. It will be necessary to examine how the disincentive which this creates for the proactive release of official information can be resolved.

[Deputy Brian Hayes.]

The Bill also seeks to ensure Oireachtas committees will be provided with the same information by public bodies as would be available on submission of a freedom of information request without having to make such a request. This issue is a major frustration to Oireachtas committees and an understandable and persistent cause of complaint. However, it also highlights the difficulty to which I have just referred, namely, that an official providing official information to an Oireachtas committee is, at least in theory, subject to a legal risk that does not arise where information is released under freedom of information legislation. It will be a priority in the further development of the Minister's proposals to seek to identify a legal mechanism which reflects the appropriate role and responsibilities of the Oireachtas committees and their legitimate interest in receiving official information on a timely basis that would be available to an individual member of the public under freedom of information legislation.

A maximum search and retrieval fee for a freedom of information request of €500 is proposed along with a facility for the electronic payment of such fees. As Deputy Fleming will be aware, there are no fees for freedom of information requests for personal information which, as the Deputy noted, comprise approximately 70% of the total number of freedom of information requests. While a fee of €500 would be a high level for search and retrieval fees charged, it could arise in the case of large or multifaceted requests, namely, where one request has a large number of separate, unrelated parts. The question that would arise if it were necessary to charge such a high level of search and retrieval fees is whether the request was sufficiently targeted and focused in the first instance and should have been rejected as voluminous.

Proposals relating to fees for non-personal freedom of information requests will be included as part of the set of proposals being brought to Government shortly for consideration. In this regard, a particular focus of the work undertaken by the Minister relates to the excessive level of fees for internal review and appeal to the Information Commissioner. These have been a particular cause of concern in facilitating a right of appeal against decisions to withhold records. These issues, including the specific proposal in the Private Members' Bill for a cap on search and retrieval fees, can be examined in the course of the further development of the Government's legislative proposals.

Deputy Fleming proposes that all new bodies established by Government should come under the remit of freedom of information legislation. This is in line with the Government's commitment to apply the legislation to all public bodies, including those established in the future.

The Deputy is correct that it will be necessary to have a clear definition of the term "administrative functions" as it relates to the Freedom of Information Act. Again, this matter can be examined in the context of the drafting of the amending legislation as approved by Government.

I thank Deputy Fleming for introducing this Bill and congratulate him on placing the issue on the agenda of the House. While the Government is not proposing to vote against the Bill, in light of the more extensive proposals being prepared by my colleague, the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, it is better to defer the Deputy's legislation for nine months.

Subject to Government approval, the Minister intends to publish his legislative proposals and refer them for examination, on a pre-legislative scrutiny basis, to the Joint Committee on Finance, Public Expenditure and Reform. The views and recommendations of the joint committee on a number of key issues relating to the restoration and extension of freedom of information provisions, including the operation and future direction of the freedom of information regime, are expected to make an important contribution to the modernisation and updating of that regime.

Deputy Robert Troy: I compliment Deputy Sean Fleming on introducing this important legislation. Previous speakers argued that freedom of information has been stifled in recent years. However, the report from the Information Commissioner on 2011 shows an increase of 8% in the number of freedom of information requests from 2010 to 2011 when 16,500 requests were made. Figures for the years 2009 to 2011 show a 95% increase in the number of freedom of information requests submitted to the Department of Social Protection. As with everything, however, the freedom of information legislation can be improved and the Bill before us seeks to do so.

It is important to hold to account all State bodies as well as non-statutory bodies in receipt of State funding, all of which should come within the terms of the Freedom of Information Act. People should be able to elicit any information they may require from public organisations.

I am pleased to note the masters of spin in the Government will not oppose the Bill. I hope, however, this is not being done for the optics and the Bill will not be left on a shelf indefinitely. Friday morning sittings, while welcome, are also all about optics. The Minister of State is correct that they provide additional time and allow Opposition Deputies to introduce legislation but it would be preferable to sit later on Thursdays or commence sittings earlier on Tuesdays.

Deputy Brian Hayes: It is quality time.

Deputy Robert Troy: The Friday sittings have been arranged to enable the Government to show that the House sat more frequently than under previous Governments. It will then give itself a clap on the back for working hard and sitting long hours. Deputies had a choice of parking spaces today because so few Members are here.

Deputy McDonald expressed annoyance that Deputies were not listening to her contribution but declined to stay to listen to the Minister of State or me, about which I am annoyed. I say this with tongue in cheek.

I compliment Deputy Sean Fleming on introducing this legislation. It is important that its provisions are enacted. I hope the Government will not only allow Second Stage to pass on Tuesday next but will take fast and meaningful action to implement its provisions. Knowing the Minister of State as I do, I am sure he will meet the commitment he has given in this regard.

A number of bodies were referred to by earlier speakers, including the National Asset Management Agency. Many questions about deals involving the agency will never be answered. I was advised in a telephone call this morning that an apartment complex owned by NAMA in my constituency is to be demolished at a cost of €150,000. While I do not have the full details, I am informed it would not cost much more than €150,000 to make the building habitable. If that is the case, the building should be completed and transferred to a local authority or housing agency to have some of those on the long-term housing list accommodated. Cases such as this are a clear waste of public funds. I support the Bill.

Deputy Billy Kelleher: I welcome an opportunity to speak on the Bill. One of the functions of a modern, open democracy is to have in place structures which allow law-abiding citizens to go about their business unhindered. Further opening up the Freedom of Information Act would advance democracy and make the democratic institutions of the State more accountable to individuals. The Bill refers to the supply of information to committees. It is frustrating to members of committees that they cannot secure meaningful information in a quick, transparent, effective and efficient manner. Deputy Fleming, whom I compliment on introducing the Bill, has made a worthy proposal on this regard.

[Deputy Billy Kelleher.]

Openness and transparency are important functions of a modern democracy and require that Government and State institutions be held accountable and are obliged to make information available on request. Equally, where rights are conferred on people, so too are responsibilities. With the advances in technology, freedom of information requests can be more easily assessed and brought together than heretofore. In this context, when software packages are being designed, the issue of freedom of information requests should be taken into account to make sure the handling of them is efficient, effective and meaningful and does not tie up a system in bureaucracy. Clearly, spurious or bogus freedom of information requests could be submitted on an ongoing basis that could have a detrimental effect on the workings of a Department or agency in terms of assessing, collating and gathering information. One should ensure both that efficiencies are made and that bogus or spurious freedom of information requests are removed in some way. I acknowledge this is difficult because one would not seek to hinder the basic principle of freedom of information, which is that information is made freely available.

Much revision takes place in this Chamber from time to time about openness, honesty and transparency, to which both the Minister of State and Deputy McDonald referred — the latter in great detail — and about how Fianna Fáil in some way tried to downgrade the Freedom of Information Act in 2003. I acknowledge some curbs were then introduced but the basic principle of the Freedom of Information Act clearly was upheld in the amending Act of 2003. The latter was based on recommendations brought forward by secretaries general of various Departments at the time, who had concerns. However, in hindsight, I believe the decision to tighten the provisions probably was the wrong one. Nevertheless, the basic principle of individuals having access to their own files was not diminished in any way. Although there has been much spinning to the effect that this principle was curtailed in dramatic fashion, this is not the case. As Deputy Troy pointed out, the Information Commissioner's report shows that on a continual basis, year on year, the number of applications for freedom of information requests rose and the number of responses concurred with that upward spiral. In other words, the amendment did not inhibit individuals. Its purpose was to curtail requests in some areas in which it was considered that the process was being abused. That said, Fianna Fáil supports the opening up of freedom of information and Deputy Fleming's Bill is quite clear in this regard.

As for remarks made about my political party and its attempts to cover up, one should be clear that Fianna Fáil has served the State well. Moreover, the democratic functions in this State have, in large part, been put in place by Fianna Fáil. While I do not wish to go over the revision of history, Sinn Féin might open up to a little sharing of the information it possesses about the murder of Robert McCartney, about the disappeared and about the bodies lying in beaches in County Louth and buried in bogs in County Monaghan. Perhaps it is time for that political party to have a little transparency and honesty, as opposed to going about as the mouthpiece of the greatest murder machine in the European Continent in recent modern history. I will not take lectures on a political basis from a party that has consistently supported murder, extortion and killings and which to this day has not yet even apologised for them, except in some bland ways. Moreover, when it comes to lobbyists and fund-raising, Sinn Féin members are the great architects of lobbying and fund-raising. They raise millions in the United States every year that is unaccounted for in Sinn Féin's books when it comes to electioneering in the Republic of Ireland. It is clear that Deputy McDonald and Sinn Féin have much to answer for and I certainly will take no lectures. Moreover, I will not apologise for anything Fianna Fáil did with regard to the development and opening up of the State and in respect of standing by this Republic, this Chamber and this Oireachtas in difficult times. I acknowledge there were times when some of its members fell below the standards I desire and expect. However, we never stooped to the levels of Deputy McDonald's party members.

On the broader issue of some of the organisations involved, I wish to refer to NAMA in particular. I believe that even though the Minister of State has stated he accepts the principle of this Bill and that it will be read within nine months anyway and that the Government is going to move forward, NAMA must be brought under the remit of the freedom of information legislation immediately. I refer to a case in County Cork in which a large farm was sold without anyone knowing about it. It is a matter of public record that the auctioneering firm Savills was commissioned. It sold the farm in Carrigaline in a single bloc of more than 400 acres to an individual and did so without contacting any of the neighbouring landholders, some of whom had sold the land to the developer originally, to inform them the land was being offered for sale.

Both Deputy Michael McGrath and I have raised this issue with NAMA and seek answers on this particular issue. While I do not suggest there was anything untoward with what happened in County Cork, if one is to be honest about finding the marketplace, people at least should be informed that an item is for sale to enable them to put a bid on it. While everyone accepts that commercially-sensitive information must be protected at times, NAMA is a State-funded organisation. Moreover, it was referred to by the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Gilmore, as a bailout for builders, bankers and developers and for the friends of Fianna Fáil from the Galway tent. He described them in this Chamber as a bunch of tossers and yet Members are waiting endlessly for NAMA to be brought into the freedom of information fold. If the Labour Party believes NAMA to be an organisation of tossers, as described by the Tánaiste during the Order of Business in this Chamber some time ago when he was in opposition — he called them a bunch of tossers — such tossers should be brought under the remit of the Freedom of Information Act immediately. It is important for the public to have trust in the organisation, which was billed by the then Opposition and now Government as a bailout for builders and bankers. If this was the case and if the Government believes that, now is the time for its Members to put their money where their mouths are and place NAMA under the remit of the Freedom of Information Act immediately to make it accessible and accountable. NAMA attends Oireachtas committees periodically and when their members try to get information from it, it is akin to extracting teeth from a hen. I believe we cannot wait nine months for NAMA because it is acting in a situation that does not instil confidence on the part of the public in an organisation that is handling billions worth of assets on behalf of the State.

While I do not question the integrity of any single individual within NAMA, the institution itself must be changed, brought to account and opened up in order that Members can scrutinise its decisions and its decision-making process. However, it is disturbing that a farm in County Cork can be sold without anyone in the immediate area, other than the eventual purchaser, knowing it was for sale. If one wishes to find a real marketplace and to activate the market, the only way to so do is to have an open market with open bidding in which people can make a bid of a piece of property, a farm or a building. I believe concerns have arisen that NAMA could be associated with cosiness, which is an issue that must be explored. The only way to do that is to hold the agency to account in a meaningful and open way and the Freedom of Information Act is one such way. This could be done quickly through a small amendment to the present Act or through accepting Deputy Fleming's Bill as it stands. Moreover, this could be done before the summer recess. However, if the Government intends to wait for nine months and then to wait for a report from the Minister for Public Expenditure and Reform, this process could take 12, 16 or 18 months.

Deputy Brian Hayes: It will be enacted within nine months.

Deputy Billy Kelleher: I will hold the Minister of State to that commitment. However, I have been told by the Minister for Health that he intended to do lots of things as well but I have

[Deputy Billy Kelleher.]

been waiting for 16 months for that to happen. I simply make the point that matters drift in government and I understand that.

Deputy Bernard J. Durkan: The Deputy should not go there.

Deputy Billy Kelleher: At the same time it is of critical importance that NAMA, as an organisation, is brought to hold itself to account in a meaningful fashion through freedom of information and through the Oireachtas.

I congratulate Deputy Fleming and note it is important that citizens have trust in the institutions of the State. It is important that they have confidence and trust in the agencies of the State and that if they seek information, it will be forthcoming freely and quickly and will be made available unhindered and without breach of faith or trust. For all these reasons, I hope that Deputy Fleming's Bill will be enacted in full as quickly as possible and that the other legislative items proposed by the Government will be brought forward to enable the entire process to move quickly. In the meantime, I note the Minister of State has partial responsibility for the agency because of his position in the Department of Finance. I believe NAMA is undermining public confidence in an institution that handles billions of euro worth of assets on behalf of everyone in this country and if things are not done in an open and transparent fashion, it could burden people with large bills.

Deputy Brendan Griffin: I welcome the opportunity to speak on this Bill. I would like to share time with Deputy Terence Flanagan. I would like to acknowledge the work Deputy Fleming has put in to the preparation of this Bill, which is very progressive. Accountability is so important, not just in these Houses, but across all public bodies, and across bodies that are in receipt of substantial public finance as well. That is why I feel the Government's proposed legislation for later in the year will be very important, as many public bodies and other bodies dealing with public finances will be subject to freedom of information provisions. I welcome the fact that this was put into the programme for Government and given priority by the coalition parties. Having spoken to people on the doorstep during the election campaign last year, I know that they feel there is not enough transparency in how we conduct our affairs. People feel that there is still much corruption, or things that should not be happening, going on behind closed doors and which are not open to public scrutiny. Expansion and enhancement of current freedom of information provisions is very important, because if we are to restore the faith of the public in the body politic and in the public service, we need this to happen.

There has been a bit of argument back and forth this morning about whether we are restoring or enhancing freedom of information provisions. The bottom line is that we need to have more transparency and it is good to see that we are more or less on the same wavelength on the issue. I hope there will be unanimous support on this when it comes to a vote. The enhancement of freedom of information provisions would certainly complement the anti-corruption legislation that the Government is introducing. They will work well together. The anti-corruption legislation will outlaw certain practices, but the public will know that it can examine fully many activities carried out by public bodies.

While I agree with many of the comments made by Deputy McDonald, I must take her up on her call for transparency, openness and information to be made available to the public. I do not want to engage in political point scoring, but I feel that as one of the new generation of Sinn Féin Members, she and her younger colleagues need to raise with their elders the issue of information about the bodies of the disappeared. This issue is incredibly important to the people affected. I welcome the fact that Deputy McDonald has demanded openness and transparency, which is what we are looking for, but Sinn Féin needs to start on its own doorstep. I

mean that sincerely and I am not trying to start a slagging match about it. It is too important for that, but I feel that Sinn Féin needs to look at it.

This Bill is welcome. I hope it will be enacted within nine months and I know that it is being given priority. The fact that it was included in the programme for Government means this is something we take very seriously. I would like more information given to the public on how to access freedom of information, so people are confident in how to get the information they seek. There is a lack of information among the public on how to seek the information they want. Perhaps we can have a look at how we can get that into the public domain a bit better.

Deputy Joe McHugh: I welcome the opportunity to speak on this Bill. I had a similar opportunity nine years ago in the Upper House when the current Deputy Brian Hayes was leader of the Fine Gael group in opposition. We put forward a very strong proposition that the amendment brought forward by the Fianna Fáil Government at the time should not be accepted. If I remember correctly, the debate went on into the night. The Minister of State will be able to confirm that it went on until 4 a.m. There were many contributions and it was a very expansive debate——

Deputy Billy Kelleher: The Deputy should be careful; he is making a case for the Seanad.

Deputy Joe McHugh: Perhaps this should go on into the night. We made a case, but unfortunately the amendment was brought in. That is history now. I welcome the Government's decision to try to reinstate the Freedom of Information Act, but I also acknowledge Deputy Fleming's attempt to bring it in as a Private Members' Bill.

I acknowledge the presence of the Minister of Public Expenditure and Reform in the House. There is sometimes criticism of the Friday sitting, but a senior Minister and a Minister of State are in the House for this debate, which is an acknowledgement of the importance of sitting on a Friday. I also acknowledge the work being done by the Minister of State in the OPW, where he is trying to drive down costs. However, the availability of information goes hand in glove with the driving down of costs, and the public will always demand the information. Sometimes we feel that we are forced to give the information, but if my experience on the ground is anything to go by, the man or woman on the street has a lot more information than we do. In fact, they have it before us. We are trying to drive out suspicion, innuendo and mistrust, and there is mistrust because there is a lack of information. I would like to cite an example of this.

An extension was built in a school in Donegal three years ago and this was carried out through the Department of Education and Skills, costing €450,000. That school has closed in recent weeks. It was a small school, but the extension cost €450,000. A few miles up the road, the good citizens of Carrigans were empowered by the Minister of the time, former Deputy Mary Coughlan, to build their own school. The brand new school in Carrigans cost over €150,000 less than an extension built by the Department of Education and Skills at the same time. People should get the information as to why that happened. The people on the ground are asking why one new school cost considerably less than an extension to another school that was built by the Department of Education and Skills. That is the kind of information people are seeking.

When the McNamara brothers got the contract for the hospital in Letterkenny, people on the ground were saying that the "subbie buster" got the job. The small contractors who were going to do the subcontract work were saying that the "subbie buster" got the job. Why in the name of God did they get that job in the first place? People want information as to whether they had the proper bond in place and the proper documentation. I have heard from a source within the Government that the Government knew at the time that they were going to go bust. These are the questions people are asking. I will ask them on behalf of one particular contractor

[Deputy Joe McHugh.]

who is owed €40,000 and had to emigrate to Australia because he was carrying a debt of €40,000. We owe it to the citizens of this State to bring about a situation of trust and to get rid of the innuendo and suspicion.

Deputy Terence Flanagan: Like previous speakers I welcome Deputy Fleming's Bill to extend the Freedom of Information Act 1997. It is a very focused and short Bill and proposes extending the Act to include certain functions of the Central Bank, the Health and Safety Authority, NAMA, the NTMA, the Garda Síochána and other bodies. There were certain reasons in the past for these bodies not being included but it is crucial that this is reviewed. More than 500 bodies come under the scope of the freedom of information legislation. The bodies mentioned in Deputy Fleming's Bill feature in Irish life and it is imperative that they are included.

Freedom of information legislation is important for a properly functioning democracy. I acknowledge the presence of the Minister for Public Expenditure and Reform, Deputy Brendan Howlin. He has been working very hard on proposals in this regard. I gather he is seeking to restore the Freedom of Information Act to what it was prior to 2003 and to extend its remit to all public sector bodies and those bodies significantly funded by the taxpayer. His proposals are likely to be on a much larger scale than Deputy Fleming's Bill. I am aware the proposals being considered by the Minister include extending the remit to the Central Bank, the Financial Services Authority, NAMA and the NTMA. Deputies have questions about NAMA, and the more accountability and the more light that is shone on it the better as this is in the public interest.

Deputy Fleming's Bill proposes that freedom of information requests received by public bodies which are in the public interest should be published, and I welcome this. The Bill also proposes to amend section 45 of the principal Act to allow Oireachtas committees to request information from public bodies and have this information issued as soon as possible without having to submit a freedom of information request. This is a particularly good proposal as it would speed up the work of the committees and make them much more effective and efficient. The Bill also proposes to cap the fees which can be charged for freedom of information requests at €500, and this is very reasonable. I am concerned about the fee of €20 and the Minister may review this. I know it can be a barrier to prank requests but it is also a barrier for other people, so perhaps it can be reviewed.

The Bill provides that all new bodies established by the Government would automatically come under the remit of freedom of information legislation. I am aware privacy and safety issues may arise with regard to some requests made to the Garda Síochána and I am sure the Minister will examine this thoroughly before he presents a Bill to the House. The Garda has sensitive information which, ideally, should not be divulged to a freedom of information request.

The Government's Bill will not only enable the public to request information but will make the system much more transparent and will help to restore voter confidence in the system. Once the Minister presents the Bill to the Government, it will send out a clear signal that the Government is serious about reform and wants to modernise the political system. I welcome Deputy Fleming's Bill which is a step in the right direction. I support the proposals of the Minister, Deputy Howlin, which I am sure will come before the House in the near future.

Deputy Bernard J. Durkan: I wish to share time with Deputy Mary Mitchell O'Connor.

Acting Chairman (Deputy Peter Mathews): Is that agreed? Agreed.

Deputy Bernard J. Durkan: I congratulate our colleagues on bringing the Bill before the House. Much has been stated on the adequacies and inadequacies of the legislation as it stands and on how it was amended in 2002, as we all remember. It was restricted in 2002 and, as has been referred to, the discussion went on well into the night. I recall it well because I was Opposition Whip at the time. It is relevant and opportune that we deal with the issue now.

Freedom of information legislation has basic principles. It allows the citizens access to information held by the State or State institutions on those citizens, and this is very important. It is equally important a citizen has access to information about him or her held by semi-State institutions and other institutions in the private sector, such as banking and lending institutions. Notwithstanding that we live in an era when the view is that all relevant information should be made available, this is not the case. It has become more restrictive and difficult and the Data Protection Act is invoked regularly to prevent information being put in the public arena. Conflict exists between the Data Protection Act and the Freedom of Information Act regarding to whom information should go and to what extent it should become available.

The greatest sufferers of all in this particular battle are the Houses of Parliament. Never was it more difficult to gain information through the normal parliamentary question system than has evolved over the past ten years. Some improvements have been made since the current Administration took over, mainly due to the fact the Ceann Comhairle has taken a different attitude. When I was in opposition in the previous Dáil, every day I was told 20 times by the Ceann Comhairle that the Minister did not have responsibility to the House. One could hardly raise an issue that did not carry with it an admonition from the Ceann Comhairle that the Minister had no responsibility to the House. We know how this happened. In the first instance a question was referred to a Department and the Minister or Department responded by stating it was not for them but for somebody else and that it did not have responsibility to the House. In other words, the people involved did not want to answer the question and suggested the person asking the question did not have the right to do so. This is wrong. An elected Member of Parliament has every right to ask any and every question pertaining to anything done by any Department, whether relating to information, expenditure, a sequence of events, or responsibility, devolved or otherwise. It is the right of a Member of Parliament to gain access to this information through the Houses of Parliament.

Any diminution in the role of Parliament is to be decried. We should never accept it. However, in recent times we have seen a belief that parliamentarians cannot really be trusted to obtain information and that they are not really qualified to obtain information. This is the rock on which we will all perish. We are heading in this direction and it is not in the interests of public administration, public accountability or democracy. I particularly mention the period from 2002 to 2011, and not for political reasons. Never have I known in my time in the House a trend that became more obvious than the various Departments pulling down the shutters and squeezing the doors shut to ensure the minimum of information got out. This has led us to where we are now and brought us to this juncture, where we have a failure to disseminate information which should be rightfully in the public arena and available through the Houses of Parliament.

In any other democracy in any other part of the world where freedom of information has been discussed, it has always been in conjunction with information through the parliamentary system. We know the usual response which comes from some areas is that parliamentary questions are very expensive. I do not buy into that malarkey at all. It is very important that we re-assert ourselves as Members of the national Parliament, here and throughout the world. It is important to make it absolutely certain and clear in everyone's mind that election to the national Parliament gives to an elected Member the right to a response from all Departments, State and semi-State bodies and the right to any information that is rightfully in the public

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arena. I can show countless instances over the years where for one reason or another people tried to withhold information, claiming it would be inappropriate to give it out. When is it ever inappropriate to give information? Information, they correctly say, is power. Lack of information leads to a serious diminution of power, power that should be rightfully in the hands of Members elected to the national Parliament.

Will the Minister examine the extent to which there has been a diminution in the degree of information available to Members of this Parliament? On the first day I was elected to this House, the late Oliver J. Flanagan, a former Member, told me not to allow anyone to erode the right of a Member of the national Parliament to ask pertinent and relevant questions about any subject that entails or incurs public expenditure or the right to information on major issues of national or international importance, including local issues. Again, Oliver J. Flanagan was conscious of the fact that information is important and is power, and that failure to get information shows a distinct lack of power. If we allow ourselves to be corralled into that kind of arena, we will find Parliament will not matter anymore in the future. Then it will be unnecessary to attend the House as we can stay at home to make phone calls.

Nothing can or should supersede the primacy of the national Parliament. The emphasis, now and in the future, must be to ensuring information is readily available to the national Parliament and parliamentarians without exception or obstruction.

Deputy Mary Mitchell O'Connor: I congratulate Deputy Sean Fleming on bringing this Bill before the House. I agree with much of what has been said on providing for the Central Bank, the National Asset Management Agency, NAMA, the National Treasury Management Agency, NTMA, the Health and Safety Authority, HSA, the Road Safety Authority, RSA and the vocational education committees, VECs, to be brought under the scope of existing freedom of information legislation.

While I welcome this in principle, I am concerned many files in various Departments may be lacking comprehensive and truthful information. I am referring specifically to the Department of Finance and the empty, missing or non-existent file as to what happened specifically on the night of 29 September 2008 when Ireland and its people were sold out. While that event is now history, it beggars belief there is no written record in existence of what happened on that fateful night. It should never happen again where the details of a decision made on a matter of national importance are not recorded. It beggars belief that no written record of what exactly happened is available four years later.

I am concerned about how NAMA conducts its business, a point raised by many colleagues. I have raised concerns before about its lack of transparency in how property is put up for sale privately, and suspicions exist abroad that land owned by this State is sold to a golden circle while Joe and Josephine Public are not allowed the opportunity to bid for such properties on the open market. NAMA is obliged to get the maximum price for land and property it has acquired and for which the taxpayer has paid. If such properties and land are being sold behind closed doors, then the taxpayer and citizens are being short-changed.

Deputy Minister for Public Expenditure and Reform (Brendan Howlin): I apologise to Deputy Sean Fleming and other Members for not being here earlier. I am sure they will forgive me when I explain I was at meetings with the president and senior officials of the European Investment Bank with a view to enhancing and developing investment in the State's infrastructure. I can report progress to the House on this matter.

I welcome this debate on freedom of information legislation and am interested in hearing the views of Deputies on this matter. It is useful during the formulation of legislation to have

a debate of this sort. The Joint Committee on Finance, Public Expenditure and Reform finished its conclusions on whistleblower protection legislation yesterday. Lobbying legislation was subject to a seminar yesterday at which Deputy Sean Fleming's colleague made a valuable contribution on foot of a Private Members' Bill he sponsored. This is the collective way that legislation in this critical area should be developed.

Restoration and extension of freedom of information, along with whistleblower protection legislation and lobbying regulations, comprise a central element of the Government's radical and broad-ranging programme of political reform. Enhanced openness and transparency in the conduct of policy-making, along with the development of legislation in political and administrative decision-making, is integral to strengthening public governance. In the current circumstances, at the point where proposals are being finalised for the Government in this area which would encompass the proposals contained in Deputy Sean Fleming's Bill, the approach being proposed by the Government is both straightforward and sensible. It is proposing the House should postpone the Second Reading for nine months with a view to enabling a more comprehensive approach to be fleshed out and brought to the House. I ask that we all work together to achieve this and that Deputies on all sides support the Government's amendment as proposed earlier by my colleague the Minister of State, Deputy Brian Hayes.

In his contribution, the Minister of State, Deputy Brian Hayes, dealt with the individual provisions of Deputy Sean Fleming's Bill, including its extension to specific public bodies. He explained the Government's plans for the extension of freedom of information to all statutory bodies and to other bodies in receipt of significant State support. Significant work has been undertaken to seek to design a legal mechanism which will achieve once and for all the application of freedom of information to all public bodies. This will replace the current approach where these bodies must be scheduled in regulations on a case-by-case basis, a process which is administratively cumbersome, inefficient and slow. The Minister of State also drew attention to the Taoiseach's recent statements in the House on where the process stands, which highlighted that the Government has already given consideration to these matters.

The House will understand that, just as the Taoiseach could not on Wednesday seek to prejudice these discussions and the Government's final decision, neither can I. I want this debate to be informed of the views of others.

The debate on Deputy Fleming's Bill has also extended into important issues relating to the restoration of freedom of information, notwithstanding the fact that the Bill does not deal with this matter. I have vivid memories of the debate on the 1997 legislation, which was introduced by the then Minister of State at the former Department of Enterprise and Employment, Ms Eithne Fitzgerald. I was part of the team of Ministers from the three parties which formed the Government of the day assigned to refine the proposals contained in that legislation. In my opinion, the 1997 Act is ground-breaking in nature and Ms Eithne Fitzgerald deserves great credit for what was achieved. However, there is a need to revisit the legislation, remove the limitations that were placed on it and then go beyond that.

The Minister of State, Deputy Brian Hayes, set out the clear Government position on the restoration agenda as recently articulated by the Taoiseach. I do not believe it serves any useful purpose to amplify or interpret what, objectively, is a strong statement of the Government's intention to meet the specific commitment contained in the programme for Government in respect of this matter. Although the term "restoration" is used in the programme for Government in respect of the Freedom of Information Act, a better word to characterise the Government's objective in respect of freedom of information in general would be "reform". The latter, of course, reflects the mission of my Department. It also reflects the fact that in conjunction

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with the restoration of the legislation, we are also engaging in an appropriate modernisation thereof.

The review process that has been carried out sought to ensure that our legal framework for freedom of information would meet the requirement for enhanced openness and transparency both now and into the future in order that we will not be obliged to continually revisit the legislation. The approach taken in this regard is consistent, of course, with the necessity of ensuring that the public interest in safeguarding sensitive and confidential records will be maintained.

As was the case in 1997, the fundamental objective of freedom of information is — as expressed in the Long Title to the Bill — to enable members of the public to obtain access, to the greatest extent possible and consistent with the public interest, to information in the possession of public bodies. When the Freedom of Information Bill was introduced in the Dáil on 11 March 1997, the then Minister of State, Ms Eithne Fitzgerald, stressed that access to information was seen as fundamental to the reform of democratic institutions in order to create genuine openness and empower ordinary citizens. As the then Minister of State indicated, the Act was intended to ensure that the culture and practices of secrecy in public bodies would be set aside for good and replaced with a legal presumption that the public has a right to know.

The question of the Government's plans to extend freedom of information beyond public bodies, in circumstances where significant public funding is provided to such bodies, was raised during this debate. It is appropriate to highlight that this will undoubtedly give rise to a need for careful consideration to ensure that the approach adopted is sensible and evidence-based and that it will not lead to a proliferation of bodies being brought within the terms of the freedom of information legislation where a clear public interest in doing so is not easily discerned. The House will be aware that existing provision allows for non-statutory bodies to be brought under the Act. This power has been exercised to bring, for example, voluntary hospitals and voluntary bodies which cater for persons with an intellectual disability within the scope of the Act. I am of the view that the approach adopted in respect of the health sector serves as a good guide for other sectors. It is necessary to identify relevant criteria to govern which non-statutory bodies should be brought under the scope of the Act.

To return to the Bill before the House, Deputy Sean Fleming's proposals dovetail with my own. What we need to do now is to consider how best we can achieve the outcome we all desire and how to legislate effectively for that. We fully appreciate the work the Deputy has done in respect of his proposals — I commend him for that — and the huge contribution he has made to the debate. However, the Government believes that the various political parties must leave aside their differences and work together on this matter. I am aware there was some discord earlier in the debate. Let us not make a party political issue of this because we need to achieve a substantial goal in the context of the democratic agenda.

Freedom of information law is a fundamental pillar of open government. I am confident that all of those present believe in the principles of openness, transparency, enhancing Government accountability in decision-making and promoting informed participation in policy-making. Restoring and further extending the freedom of information legislation will help us achieve these valuable goals and, as a result, more effective governance. The Government believes that there should be a comprehensive approach on freedom of information and is determined that our legislation in this area should rank alongside the best of such legislation which obtains in peer jurisdictions.

I commend the Government amendment, which was tabled by the Minister of State, Deputy Brian Hayes, to the House. I again congratulate Deputy Sean Fleming on the introduction

of his Bill and for engendering debate on the general matter of freedom of information in the House.

Deputy Sean Fleming: I thank the Minister of State, Deputy Brian Hayes, for coming before the House earlier to discuss the Bill. I listened carefully to what the Minister of State had to say. I also thank the Minister, Deputy Howlin, for coming to the Chamber following his important meetings this morning. I hope that what was agreed at those meetings will be of assistance in the context of the overall development of the country and that some good funding arrangements will be put in place. I heard some of the details relating to what was agreed on the news before I entered the House. Obviously, further details will be forthcoming later in the day.

I acknowledge the Minister of State's comment to the effect that the Government supports the Bill in principle. That is what I wanted to achieve here today. I took a pragmatic, sensible and, I believe, correct approach to drafting the legislation. I included a few issues which may not have been the subject of debate on previous occasions. I wanted to design my proposals in such a way that they would be sufficiently modest, far-reaching and sensible to attract cross-party support. We have achieved this today, with both the Opposition and the Government agreeing with the legislation in principle. This Bill was never meant to be the end result; it was merely intended to be a mechanism whereby we could commence the debate. I am pleased that it has done that.

I could have opted for a more detailed and comprehensive Bill which might have given rise to more points of debate and conflict. In view of the level of detail I could have included in such a Bill, the Government might not have been in a position to accept it in principle. Instead, I have drafted a short, clear Bill which deals with only a few novel issues. I will be up-front and state that I perused the Labour Party and Fine Gael election manifestos and the programme for Government as part of my research. I was of the view, therefore, that it would be difficult for the Government to oppose the Bill.

Deputy Brendan Howlin: The Deputy was on safe ground.

Deputy Sean Fleming: In the interests of the people we serve, I wanted to be practical and pragmatic and take a non-party-political approach to this issue. I carried out my research and decided to draft a Private Members' Bill that would contemplate particular matters about which I am concerned.

The debate has got off to a reasonable start but it is important that it should not become party political. The previous debate in respect of the amending legislation was fractious. I was serving as Chairman of the then Select Committee on Finance and the Public Service at that stage and, on one side, I had the then Minister, Charlie McCreevy, pushing ahead with his proposals while, on the other, Opposition backbenchers were trying to encourage him to row back on them somewhat. Such is the way parties in government work; the Cabinet makes a decision and the subsequent legislation is passed by the Houses.

I paid close attention to the debate that took place on the amending legislation and what has happened since the latter was enacted. Some people will state that restrictions were imposed in respect of certain aspects of the original Act. I wish to reiterate an observation I made on several previous occasions, which is that while the amending legislation did, perhaps, damage the freedom of information process to a degree, the tone of the subsequent debate did even more damage. I will explain what I mean in this regard. As a result of the restrictions to which I refer, namely, the imposition of charges in respect of freedom of information requests, members of the media and people who wanted to make public interest requests became extremely angry. They stated that the then Government had emasculated the legislation.

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Between half and three quarters of all freedom of information requests relate to personal information — in other words, information about social welfare claims, HSE matters, local authority issues, etc. There has never been a fee for such requests. After that debate, ordinary people making requests for personal information were reading in the newspapers that freedom of information legislation was being curtailed and cut back. This resulted in a reduction in the number of people making non-personal requests. The number making personal requests also dropped, even though there was no logical reason for this, as there was no change in respect of requests for personal information and no fees had been introduced. There was so much in the ether to the effect that the legislation had been curtailed that the public made fewer personal requests because they believed the legislation had been emasculated. I hope this debate is more measured because it is in our interests to have freedom of information legislation operating effectively.

I have a slight issue with the Minister's reference to restoring the freedom of information Act. I am pleased, however, that he has come into the House and said reform is what he is talking about. There was a time when there were 16,000 requests a year. It is good that we are talking about improving and reforming the legislation.

The Minister has said the specific bodies I have listed are consistent with the ones the Government is considering. I am happy to hear this. There should be greater publication of information in order that there would be less need to submit personal freedom of information requests. Public bodies should be more open to providing personal information for people with whom they deal without the need to go through the freedom of information process. Public servants believe there is legal protection if they release it under freedom of information legislation in cases in which they might not otherwise have that protection. This is something we must examine.

I will not rehash the argument about the provision of information for Oireachtas committees. Occasionally the Committee of Public Accounts asks a public body for information and is not given it; yet when we pick up the Sunday newspapers, the information is there having been sought through a freedom of information request. That is frustrating. I considered the possibility of extending the legislation to individual Members, but I did not want to be accused of introducing legislation that would give Members of the Oireachtas or public representatives superior rights. Therefore, I confined the provision specifically to Oireachtas committees in order that people could not object.

For the Minister's benefit, in case he did not pick up on this, I referred to search and retrieval fees. After the budget last December, I submitted a freedom of information request and in January received a response from the Department of Finance that search and retrieval fees would be €1,200. I abandoned my request, but it immediately made me wonder about search and retrieval fees. I tabled a parliamentary question to every Department on the issue. I do not have my speaking notes in front of me, but seven Departments had maximum search and retrieval fees of less than €500. Some six or seven had fees of between €500 and €700; others had fees of €1,000, while the Department of Justice and Equality charged a figure of €15,000.

Deputy Brendan Howlin: The problem is that some submissions include rakes of questions.

Deputy Sean Fleming: In the majority of Departments, however, that did not happen. There is a mechanism in place under the legislation, whereby, if a request is too voluminous, the person concerned can be asked to be more specific in order to obviate the need to charge such high search and retrieval fees. In the response of the Department of Finance the highest search and retrieval fees charged last year were €83. I do not know how many requests were aban-

done when people were given a much higher search and retrieval fees estimate, like I was. The information is contained in the responses to my parliamentary questions. A figure of €500 should be the maximum. There are only a handful of cases each year in which the search and retrieval fees charged are in excess of this amount. It would be very easy, therefore, to cap the fee and require people to refine their questions. Others mentioned higher charges, including journalists such as Deputy Shane Ross.

I refer to the fee charged to make an appeal to the appeals commissioner. This is an issue that must be examined. I submitted a parliamentary question to Departments during the year and the reply suggested I should submit a freedom of information request. Obviously, the official in question wanted me to have the information, but he or she believed he or she would not be fully covered in providing it in a response to a parliamentary question. That is further evidence of the point I am making.

Regarding new bodies, I am pleased at the general approach of the Minister and that he will extend the legislation comprehensively, even though I did not list every public body. I referred to extending it to bodies significantly funded from the public purse. The Minister mentioned voluntary hospitals as providing a template. We must analyse the matter carefully because many housing bodies are not public bodies and as such their tendering processes do not have to match those of a public body. They can offer projects to a handful of people they pick. A range of issues arise when we get into bodies which are significantly funded from the public purse.

I understand the Minister is accepting the Bill in principle and delaying final approval for a period of nine months. I hope that at the end of that time period everything else will be in place in order that this legislation can be incorporated into new measures and will form part of the discussion we will have when legislation is before the Joint Committee on Finance, Public Expenditure and Reform.

The Minister referred to a discussion of the whistleblower's legislation. We did not get to finish it because of the appearance of witnesses from the Central Bank and the Ulster Bank. We had to postpone it for one week and are looking at the matter in the context of the lobbyists legislation, to which the Minister also referred. He mentioned referring the Bill relating to the Ombudsman to the Joint Committee on Investigations, Oversight and Petitions. They are all connected and will help in the overall process of public administration.

It is important that all public bodies keep proper files. I cited as an example my interaction with a public body on behalf of a citizen and we exhausted all avenues. The person concerned was not happy with how the file was being processed. Eventually I drafted a freedom of information request which the person signed and sent it in. A few weeks later I received a letter from the public body in question informing me that it had received a freedom of information request and asking if it could release a letter on file sent by me. That was good practice and I was delighted to agree to do so. I then asked about the other three letters sent to the public body in the past year. It responded that they were not included in the file. I said that surely they were in some file, but the response was that it would only release what was in the file, that it did not have anything else. I let the matter go, but it was educational. I am able to draw on that specific case as an example. There are different files in the HSE, local authorities and the Department of Social Protection and staff change over time. It is important, therefore, that there is a proper filing system to keep everything together. I single out the Department of Social Protection time and again because it is the only Department, from the responses received to my parliamentary questions, which charged no search and retrieval fees last year for freedom of information requests. It is the busiest Department in this respect and most queries involve personal requests. The Department has decided that its purpose is to serve its customers and

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clients and as such, it charges no fees. That gives good example, for which the Department should be given credit.

The debate for the past few hours has been very good. Seven Opposition Members spoke, as did seven Members of the Government side. Remarks are made about Friday sittings and it is a little unusual and surreal because a vote can be deferred. Some Friday sittings have not been a success, but today's has been. Some 14 Deputies have spoken and agreed with the Bill in principle. If there is an impetus to bring this legislation forward sooner rather than later, it has been a good day's work. I thank the Minister for attending to listen to the debate on the issue. I look forward to working with him in ensuring the principles outlined in my legislation are enacted in legislation in the months ahead.

Amendment agreed to.

Motion, as amended, agreed to.

An Leas-Cheann Comhairle: The Bill will be deemed to have been read a second time on 6 April 2013. Arrangements can then be made to refer it to a committee of the House. Is that agreed? Agreed.

The Dáil adjourned at 12.40 p.m. until 2 p.m. on Tuesday, 10 July 2012.