



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 04 Iúil 2013*

*Thursday, 04 July 2013*

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

***Paidir.***

***Prayer.***

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## **Leaders' Questions**

**Deputy Michael McGrath:** I want to raise with the Tánaiste some comments by the outgoing Financial Regulator which I believe have not got the attention they deserve so far. During a recent appearance before the Committee of Public Accounts, Matthew Elderfield called for a review of Ireland's regime for dealing with white collar crime. I fully support that call. To be clear, I am not looking for a response on any specific investigation. I am highlighting the need to improve our system. Mr. Elderfield said he believes our system for dealing with white collar crime in Ireland is not working sufficiently well and he advocated that a review would be carried out by someone such as a retired judge, a former Attorney General or perhaps by the Committee of Public Accounts. This is an important intervention from someone who is respected and who has seen at close quarters the inadequacies of our existing system here.

There is a sense that if one is an ordinary Joe in Ireland and one transgresses the law by not paying the television licence or the property tax, or by engaging in petty theft, the wheels of justice move fairly efficiently and there is a good chance one will be caught and punished. However, if one is involved in white collar crime the wheels of justice move extremely slowly and very often come to a grinding halt. Official figures from the Central Statistics Office back that up in that recorded white collar offences are increasing but conviction rates are plummeting.

As in the case of a burglary or an assault, there are real victims in the case of white collar crime too. In many cases victims of such crimes have had their lives destroyed, especially financially, not to mention the damage done to our economy and to this country's reputation as a place to do business.

A comprehensive review of the way we deal with white collar crime in this country is needed now. It would need to examine, for example, the effectiveness of existing laws, the way we investigate white collar crime, the powers and expertise available to the Garda Bureau of Fraud Investigation and the Director of Corporate Enforcement, the issue of penalties and possibly the issue of specialist juries also.

I believe that all the justifiable anger about recent revelations must be converted into something positive. Will the Government consider appointing a qualified and experienced person to carry out a review of our regime dealing with white collar crime to see how it can be improved?

**The Tánaiste:** I agree that we need to examine the way we deal with white collar crime in this country. It is fair to say that many people are very frustrated at how slowly the wheels of justice turn in many areas of white collar crime. Some of that is understandable because often what is being investigated in white collar crime involves files, records and all kinds of complex documentation which must be examined and a case made ready for prosecution. However, there is a well-founded view among the public that if one commits a white collar crime, one is not as susceptible to justice as someone who commits what is often referred to as ordinary crime.

The Government will consider what the outgoing Financial Regulator has to say on this matter and will respond to it but that should not be and is not a substitute for dealing with the issues of white collar crime currently under investigation and which have to be brought to justice. I do not want anybody to have the idea that we will have some kind of large overall examination of white collar crime and that this is something for the long distant future. There are issues under investigation. There are some issues that are before the court that I do not want to comment on for obvious reasons. An examination of the way we deal with white collar crime in this country and of getting a regime that operates more quickly and delivers justice and fairness in a more effective and transparent way is something we need to address, but that examination and consideration of the overall question of white collar crime must not be seen as a substitute or replacement for what is also required, which is the pursuit and the prosecution of white collar criminality currently under investigation.

**Deputy Bernard J. Durkan:** Hear, hear.

**Deputy Michael McGrath:** I thank the Tánaiste for his reply, which I largely welcome. It was clear that my comments were not directed in any way at the current investigations. The Tánaiste is correct in saying there is already a substantial body of law in place. Investigations are under way and offences will have to be dealt with through the criminal justice system. That is taken as a given. The issue I raise follows on from the significant intervention by the outgoing Financial Regulator, Matthew Elderfield, who has a lot of experience of dealing with this in Ireland in recent years, and he has pointed to the inadequacies of our existing system.

I welcome that the Tánaiste will take up the issue and I ask him to elaborate on that. How will that happen? Will this issue be discussed by Government, and will a structure be put in place whereby the entire regime, in all its facets, can be examined properly and quickly and recommendations made that the Government and this House can consider? As I said earlier, the bottom line is that white collar crimes are not victimless crimes by any means. They might not be as obvious to the eye as some of the ordinary crimes the Tánaiste described but there are real consequences for ordinary people and for people directed by white collar crimes, and we must bear that in mind. If our system is inadequate, as in the view of the outgoing Financial Regulator and Deputy Governor of the Central Bank, we need to sit up and take notice of that. Will this issue be discussed by Government quickly and in what format? What does the Tánaiste envisage will be the outcome of that discussion? Will it be to have a specific review of all the aspects we have discussed here this morning?

**The Tánaiste:** We need to take into account that the Government has been taking action in

this area. When this Government came to office in 2011, we inherited what was known as the light touch regulation regime. That was the regime which applied under the previous Government. Members of that Government boasted at various times that there was light touch regulation. That has been greatly changed. A Bill before the Dáil this morning, the Central Bank (Supervision and Enforcement) Bill, is about tightening the regulatory regime that applies, for example, in respect of financial institutions. The first point which must be acknowledged is that the Government has already tightened and strengthened the regulatory regime in the financial services sector.

**Deputy Michael McGrath:** That is regulation.

**The Tánaiste:** The outgoing Financial Regulator, who is greatly respected by the Government, has worked to strengthen the regulatory regime in that sector. What he has said in a wider sense - both about regulation and about white collar crime - is something which the Government takes seriously. In the first instance, we will consider both what he has said and the recommendations he has made. We may perhaps choose to progress this matter through a discussion at an Oireachtas committee in order to refine some of the ideas he has put forward. That is an issue to which we will be obliged to give some consideration. I assure the Deputy that this Government believes in strong and appropriate regulation of the financial services sector. It also believes that fairness must apply within our judicial system. There cannot be a perception that a slow track exists in the context of the way that system deals with white collar crime as opposed to other forms of criminality. This is a matter in respect of which we have already taken some steps. We will certainly take on board what the outgoing Financial Regulator has had to say about it.

**Deputy Mary Lou McDonald:** This morning, on foot of parliamentary questions tabled by my colleague, Deputy Pearse Doherty, further revelations have emerged about the Anglo tape controversy. We know that in 2010 the Garda seized significant quantities of electronic and hard-copy documents and recordings in respect of 18 employees of the former Anglo Irish Bank whose telephone conversations were recorded. The Central Bank was unaware of the existence of these tapes as was the Government, which has been in office for almost two and a half years. The public was also unaware of their existence until the tapes were leaked by the media. Several parties seem to have had access to the tapes. It appears that we are to remain in the dark until further tapes are leaked to and reported on by the media.

I am of the view that it is inconceivable that senior management at the former Anglo Irish Bank did not know about these tapes, particularly in light of the fact that the Garda sought and secured court orders in respect of them in 2010. It must be remembered that Alan Dukes was appointed to the bank as a public interest director as long ago as December 2008. By 2010 he was being paid the handsome sum of €127,000 per year for his troubles. As the Tánaiste is aware, he became chairperson of the bank in that year. Of course, he was not the only political appointee to the board of the bank. The former Fianna Fáil Senator Aidan Eames was appointed to the board in June 2010 by the previous Fianna Fáil Government. Now that it knows about the tapes, the Central Bank views them as serious and is investigating matters in order to assess whether regulatory breaches occurred. One of the public interest directors, Alan Dukes, did not inform the Central Bank of the existence of the tapes. It also seems that neither he nor Aidan Eames informed the Government of their existence. These individuals were supposedly appointed to protect and defend the public interest. It is not clear whether the tapes were provided to the Nyberg banking commission when it was investigating matters. Will the Tánaiste clarify whether the tapes were provided to the Nyberg banking commission? In the context of

the public interest directors who were politically appointed to the board of the bank and who did not inform the Central Bank about the existence of the tapes for over three years, will the Tánaiste outline the questions the Government has put to these individuals and indicate how it proposes to proceed in respect of this matter?

**The Tánaiste:** We are all shocked and disgusted - that has certainly been my reaction - by the content of the Anglo tapes. The arrogance, contempt and sheer greed of those recorded on those tapes is disgusting. In light of what we know about the damage that was done to our country as a result of the actions of these individuals, most people have been sickened by what they have heard. As indicated earlier, people are also frustrated by the fact that it has taken so long for the full facts to emerge and for those responsible to be held to account. It is difficult for citizens to understand why the wheels of justice have moved so slowly or why a full public inquiry into what happened, particularly on the night of the blanket bank guarantee, has not yet taken place.

I share people's frustration. It must be accepted, however, that complex and difficult investigations are under way. In 2009 the Office of the Director of Corporate Enforcement seized 3 million electronic documents and more than 5,000 original hard-copy documents. In addition, the Financial Regulator compelled the production of approximately 45,000 hard-copy documents and approximately 9 million electronic documents. Regardless of how frustrating it may be, there are good reasons why the criminal justice system is independent of politics and why the Government cannot control or influence the work of the Garda or the Director of Public Prosecutions in these matters. As the Minister for Finance informed the House yesterday, a number of civil and criminal cases are currently under way. In that context, the leaking of the tapes is viewed by the special liquidator as a serious matter. Accordingly, the special liquidator is investigating how they came to be leaked. Given the serious cases that are under way, we must be careful with regard to what we say in order to avoid prejudicing any criminal or civil proceedings.

What the Government and the Oireachtas must do is ensure that there is a proper inquiry into both the public policy issues involved and the disastrous decision to provide the former Anglo Irish Bank with a blanket guarantee or bailout. It was in this context that the Minister for Public Expenditure and Reform, Deputy Howlin, brought forward the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 in order to provide a solid basis for Oireachtas inquiries. It will be a matter for the Oireachtas to constitute an inquiry as soon as possible after that legislation has been passed. That inquiry is the forum at which the relevant questions must be put to directors, including the public interest directors, of the former Anglo Irish Bank. Those questions must be posed in public and the inquiry must operate in accordance with the provisions contained in the legislation introduced by the Minister for Public Enterprise, Deputy Howlin, and currently before the House. I hope that latter will be passed by this and the Upper House during the current session in order that we might proceed with establishing the inquiry as quickly as possible.

**Deputy Mary Lou McDonald:** The legislation to which the Tánaiste refers was actually passed by the House last night. Whatever about his claim of complexity in respect of this matter, for many people it is not complex at all. For those who are in the Shelbourne Hotel this morning to attend an auction - a fire sale - of properties, both residential and commercial, and who suffered the brunt of malpractice in the system, it is not complex at all. In fact, it is terribly simple for them - some people won while they lost.

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I put to the Tánaiste a number of very straightforward questions which do not require the establishment of an inquiry in order to be answered. I want to know why there was no report to the Central Bank - the appropriate regulatory authority - in respect of these tapes, the existence of which had to be known to management at the bank. Above all, I want the Tánaiste to discover what Alan Dukes, one of the public interest directors, was doing. Why did he sing dumb? I do not believe this matter can wait and the position in respect of it must be established now. Without infringing on the prerogatives of any other body, it would be entirely appropriate for the Government of the day to put that straight question to Mr. Alan Dukes and obtain from him a straight response. We also want to know whether the Nyberg banking commission had access to these tapes. The answer to the question in this regard is a simple "Yes" or "No". Either they were or they were not; we do not need a banking inquiry to establish that.

When people who are at just a slight remove from this hot-house look in and observe what has happened over the past week or so, what they will see is the following: the macho antics, which the Tánaiste rightly described and condemned, of the moolah men in the bank and which were bad, but they also see a political system which is prepared to kick the can down the road again. Fianna Fáil clearly does not want to make a simple statement and reveal which bankers met which Fianna Fáil Ministers. It could do that without any inquiry. Today, the people hear that the public interest director, there to defend their interests and stake, sang dumb on the matter of these tapes. Why was that?

**An Leas-Cheann Comhairle:** Deputy McDonald, you are over time.

**Deputy Mary Lou McDonald:** Can the Tánaiste answer my questions in regard to Mr. Alan Dukes? I believe the former Senator, Mr. Aidan Eames, would have something to say on this matter also and perhaps Fianna Fáil could help us out there. Will the Tánaiste simply tell us whether the Nyberg inquiry had these tapes?

**The Tánaiste:** What I know, which I have indicated, is that there was a significant amount of material which was obtained from Anglo Irish Bank-----

**Deputy Mary Lou McDonald:** I have that too.

**The Tánaiste:** If it is okay, I will answer the question.

**Deputy Mary Lou McDonald:** Answer the question.

**The Tánaiste:** A substantial amount of material was obtained from Anglo Irish Bank. Some of it was obtained in the form of court order while some of it was seized by the Garda. I understand some of that material - I do not know which particular pieces - was provided to the Nyberg inquiry and other investigations which were conducted.

The questions about who knew what and what they did about it, whether they were directors or senior managers in the bank, are fair questions. Those questions need to be asked and put to the people concerned in a public forum and that is why an inquiry along the lines proposed in the legislation introduced by the Minister for Public Expenditure and Reform is the place-----

*(Interruptions).*

**The Tánaiste:** That is where those questions need to be put and answered.

**Deputy Pearse Doherty:** Four or five months down the road.



**The Tánaiste:** Deputy McDonald is right that these are, in many respects, very straightforward questions and that they need to be put to the people who can answer them directly. This is not something for in here, it is not an inside-the-bubble issue. What happened in that bank has had consequences for families all over this country and they are still suffering from it. The people who suffered those consequences and those stuck with big mortgages and with businesses which went down the tubes because of the collapse in the economy are entitled to hear directly from those who were involved in answer to those questions. That is why our duty as legislators and as Members of this House - it is something we should all share - is not to go around political point scoring-----

*(Interruptions).*

**The Tánaiste:** I will do that if those in Fianna Fáil want.

*(Interruptions).*

**The Tánaiste:** If those in Fianna Fáil invite me to do that, I will remind them that they were the people who gave the bailout to that bank.

**Deputy Mattie McGrath:** What about the bondholders?

*(Interruptions).*

**The Tánaiste:** What we now need to do is to establish an inquiry which gets the answers for the people of this country who have suffered far too much from the consequences of those actions. That vehicle is provided for in the legislation the Minister for Public Expenditure and Reform has brought before us.

**Deputy John Halligan:** Another shocking but all too familiar report on children at risk of neglect was published this week. The audit of the management of neglect cases in three parts of the country, including my own area of Waterford, covered the period 2005 to 2010 and highlighted what most Deputies working in their constituencies are already aware of, namely, the systematic and ongoing impact staffing embargoes and lost posts in the HSE are having on children at risk.

This report is a damning indictment of the previous Government. It told of vulnerable children left without an allocated social worker, despite receiving as many as 30 referrals from separate agencies, of chronic understaffing in the psychological services - for instance, in Roscommon - which left 180 children waiting up to two years to be seen, and of caseloads often double the recommended number for a social workers. The suggestion was made that some professionals were not focused on the children's harsh everyday lives because they simply used the word "unhygienic" to describe situations such as beds saturated in urine, a complete absence of heat in houses, sometimes no food in houses and dog excrement on sitting room floors. These inherently unsafe arrangements still prevail around the country despite what the HSE might tell the Tánaiste or me. I spoke to a social worker at 8 o'clock this morning who told me what is happening in parts of the country. I also spoke to two social workers yesterday.

Figures show that more than 80 cases of suspected child abuse or neglect are being reported every day to social services. An investigation by the Ombudsman for Children found that social services failed to properly assess or follow-up hundreds of reports of children at risk, abuse or neglect in a timely manner. The Ombudsman cited one case where it took four months to

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organise a home visit to a seven year old who was witnessing domestic violence and another case where it took three months to organise a home visit to 16 year old girl where there were concerns that she was being savagely sexually abused.

Does the Tánaiste agree that the overburdened HSE staff are still working in a system which is leading to poor outcomes for some children? Can he explain why the HSE is still failing to implement the Children First guidelines, which were published more than ten years ago? Does he agree it is unacceptable that after 4 p.m. on a Friday in some parts of this country, there is no social worker available until 9 a.m. the following Monday, that gardaí are having to implement section 12 to take vulnerable children from their homes and be their social worker for a few hours until they get them to an adult psychiatric unit until they are seen on a Monday morning? Surely this is unacceptable in 2013.

**The Tánaiste:** This Government is acutely aware of the decades of neglect of Irish children and has sought to take real action to address the serious inadequacies which our care system has long had. The House needs no reminding of the horrific and systematic abuse which took place in a home in Roscommon. It shocked our nation and the Dáil and this country committed to ensuring that such abuse of innocent children should never happen again in this country. The Roscommon child care inquiry, which was published in October 2010, catalogued a number of concerns arising from the examination of the management of systematic and problematic neglect in a family known to the HSE's child protection services.

Since this Government came into office and Deputy Frances Fitzgerald took up her role as Minister for Children and Youth Affairs in 2011, there has been a huge amount of change underway in children protection services. A new model for family-based multi-agency assessment and early intervention has already been trialled in two regions and is being mainstreamed as part of the establishment of the new Child and Family Agency. Last summer, shortly after the report was completed, HIQA published standards for inspection of the HSE's child and family services in respect of its child welfare and protection services. The Children First guidelines have been updated and the Minister is working to place those guidelines on a statutory basis and that legislation is to be published shortly. We have established the child and family agency, which will be a dedicated agency with dedicated staff to establish national standards.

*11 o'clock*

In regard to the issue of social workers, the latest figures from the HSE indicate that there are currently 1,390 whole-time equivalent social workers in child and family services. This includes all 270 additional social workers recruited in line with the detailed recommendation of the Ryan report implementation plan of 2009. The recruitment of these posts was completed in full by this Government and these posts were not subject to the public service recruitment moratorium. Social work figures are consistently in flux, with vacancies arising due to various reasons such as leave, etc., but the Government is overseeing an ongoing programme of active recruitment to fill vacancies. Some 94 vacancies have recently been filled and further 81 are currently being filled.

The new programme of independent HIQA inspections is also under way in line with the first ever national standards for child protection services, which has been initiated by the Minister for Children and Youth Affairs, Deputy Fitzgerald.

**Deputy John Halligan:** I am not one to lash out unfair criticism where it is unwarranted



and I acknowledge the increase in the number of social workers since the Ryan report publication. The new care pathway system which involves multidisciplinary teams linking with community service looks good on paper but people are fed up of bureaucracy and guidelines, and they want front-line services.

**Deputy Finian McGrath:** Hear, hear.

**Deputy John Halligan:** All I can do is speak to people on the front line, as many of us do, asking them how the service is, whether it is working and if children are being affected. They acknowledge that there has been a dramatic difference, and I acknowledge the work of the Ministers for Children and Youth Affairs and Social Protection in that regard. Based on the report, the work of the ombudsman and accounts from people on the front line, it seems there is still a chronic and critical issue.

I ask the Tánaiste to address the unacceptable lack of service at weekends, when kids are most vulnerable to overdosing on drugs and alcohol or being victims to sexual abuse or even suicidal tendencies. Those on the front line have told me they need people to deal with such cases. I spoke to a member of the Garda this morning and they are not qualified to deal with cases where a child has been beaten up or allegedly sexually abused. They do not know what to do with such a child on a weekend. There are cases all over the country so the Tánaiste would be doing a great service to consider ensuring there is weekend cover by social workers.

**Deputy Finian McGrath:** Hear, hear.

**The Tánaiste:** I thank Deputy Halligan for acknowledging the work of both the Minister for Children and Youth Affairs, Deputy Fitzgerald, and the Minister for Social Protection, Deputy Burton, in the area. I acknowledge that there are very real pressures on social work services and Deputy Halligan has referred to difficulties encountered on weekends. Some of the pressure on social work services arise from an increase in the numbers of child abuse and neglect referrals to the service. Abuse referrals have doubled nationally since 2005, and the recent pilot audit of neglect cases indicates that neglect referrals in two areas of the country, including Deputy Halligan's area, trebled between 2005 and 2009.

In response to those findings, there is a review of social work case loads, led by the HSE and involving staff input. That is nearing completion. That review of the case loads of social workers will inform future decision making in how the service is organised and operated. The challenge for social work services stemming from increased referrals will be further supported by the ongoing developments of new models for assessment and management of referrals. That work is being prioritised in tandem with the establishment of the new child and family agency.

The Minister for Children and Youth Affairs, Deputy Fitzgerald, is aware of what the Deputy has drawn to the attention of the House this morning, and she has already taken action, with the review nearing completion. The child and family agency will have a role and the plan is for a different approach to be taken to the assessment and management of these services. Ultimately, we want a better outcome for children. I have given the figures to the House, with almost 1,400 social workers dedicated in the child and family area, and we want the best possible protection in place for children. We must respond in particular to the disturbing increase in the number of referrals coming forward.

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## Order of Business

**The Tánaiste:** It is proposed to take No. *a*1, Central Bank (Supervision and Enforcement) Bill 2011 - amendments from the Seanad; and No. 1, Health (Amendment) Bill 2013 [Seanad] - Second Stage, to adjourn at 5 p.m. today if not previously concluded.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.45 p.m. tonight and shall adjourn on the conclusion of Oral Questions; Topical Issues will be taken on the adjournment of No. 1, and the order shall resume thereafter with Oral Questions; the Dáil shall sit tomorrow at 10.30 a.m. and shall adjourn not later than 4 p.m., and any divisions demanded shall be taken immediately after the Order of Business on Tuesday, 9 July 2013; there shall be no Order of Business within the meaning of Standing Order 26 and, accordingly, the business to be transacted shall be as follows: No. 1, Health (Amendment) Bill 2013 [Seanad] - Second Stage (resumed), and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 1 p.m.; in regard to the Brighter Evenings Bill 2012, the following arrangements shall apply: the opening speech of Deputy Thomas Broughan and of the main spokespersons for Fianna Fáil, Sinn Féin, the Technical Group and of a Minister or Minister of State, who shall be called upon in that order, and who may share their time, shall not exceed 15 minutes in each case, the speech of each other Member called upon shall not exceed 15 minutes and such Members may share their time, a Minister or Minister of State, who may speak twice, shall be called upon not later than 3.30 p.m. to make a speech which shall not exceed 15 minutes, and Deputy Thomas Broughan shall be called upon to make a speech in reply which shall not exceed 15 minutes.

**An Leas-Cheann Comhairle:** There are three proposals to be put to the House today. Is the proposal that the Dáil shall sit later than 5.45 p.m. tonight agreed to? Agreed. Is the proposal for dealing with Topical Issues agreed to? Agreed. Is the proposal for dealing with the sitting and business of the Dáil tomorrow agreed to? Agreed.

**Deputy Michael McGrath:** I wish to raise a couple of Bills. The Government has announced again that the strategic investment fund will be established on a statutory basis, with the Bill in question the National Treasury Management Agency (amendment) Bill. It comes almost two years from the original announcement in September 2011 but it is a very important Bill that will help to channel upwards of €6 billion to viable commercial projects, which we welcome. Will the Tánaiste give a commitment that we will have that Bill early in the autumn session, as I do not see why it has taken this long? Will he at least commit to the element that will allow commercial investment to start flowing? We should deal with that as quickly as possible.

I am sure the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, is tired of being asked about the consumer and competition Bill, which has been delayed significantly. Will the Tánaiste give as specific a date as possible on when the Bill will be taken in this House?

**The Tánaiste:** The heads of the National Treasury Management Agency (amendment) Bill have been approved. It is a very important piece of legislation, as the Deputy noted, and there is a commitment in the programme for Government to establish the strategic investment fund. That amounts to a €6 billion fund to get some growth and movement in the economy. The Bill will be published later this year. The consumer and competition Bill is to be published this session.

**Deputy Mary Lou McDonald:** I commend Deputy Broughan on bringing forward such a lovely sounding Bill in the form of the Brighter Evenings Bill. It is almost poetic.

**Deputy Mattie McGrath:** It is for brighter days.

**Deputy Mary Lou McDonald:** It certainly made me smile. I want to ask the Tánaiste about two things. The report on marriage equality from the Convention on the Constitution has been laid before the Oireachtas this week. Will the four month deadline for a response from Government be adhered to and when does the Tánaiste envisage a referendum being put to the people on that matter?

I asked last week about a debate in the Dáil on the Quirke report and the redress scheme for survivors of the Magdalen laundries. I appreciate that Mr. Justice Quirke has brought his report forward but I think it merits time for discussion in this House, not least because the UN Committee against Torture has written to the Government raising some serious concerns about the treatment of the Magdalen issue from start to finish.

I understand the Government is to give a response in respect of Bethany Home in Rathgar. Could the Tánaiste indicate a precise date on which the Government will make clear its position?

**The Tánaiste:** I am glad to hear that Deputy McDonald is in favour in something.

**Deputy Mary Lou McDonald:** Brightness, always.

**The Tánaiste:** I am greatly relieved. I thought she was against everything. In respect of the reports from the Convention on the Constitution, it is planned to have a debate in the House on the first report in the last week of our sitting. The Government intends to comply with the four month deadline we have set ourselves to respond to each report so I expect in respect of the second report, which deals with the issue of marriage equality, that we will give a response within four months.

The question of a debate on the Quirke report can be discussed by the Whips. The issue of Bethany Home is still under consideration by the Minister and Minister of State.

**Deputy Pádraig Mac Lochlainn:** It is now 18 months since Second Stage of the Legal Services Regulation Bill. I am sure the Tánaiste will agree that this is a hugely important Bill in terms of the administration of law in this State and its impact on many people, particularly in respect of cost. We were supposed to take Committee Stage next Wednesday. The Opposition worked extremely hard this week to get our amendments in for the deadline of 11 a.m. today but we now learn that the Government is pushing that back by a week. We will have one and a half hours to discuss this Bill on Committee Stage and then we are into the summer recess and the autumn. Does the Tánaiste agree that this is absolutely outrageous at this stage? We have been waiting 18 months for this Bill to get to Committee Stage and it is now put back by another three months and one and a half hours is offered for debate. What was all the work we put into amendments this week for?

**The Tánaiste:** I know there are some amendments to this Bill which are being proposed by the Minister for Justice and Equality and being considered by the Government. The timing and arranging of the meetings of the committee are matters for the committee itself. I am sure it will be able to arrange its timing itself but there are amendments under consideration by the

Government in respect of that Bill.

**Deputy Bernard J. Durkan:** Is it possible to bring forward the criminal justice (miscellaneous provisions) Bill, which was promised, in an effort to tighten the law relating to fraud with criminal intent and to ensure that persons suspected of such activity are brought before the courts at the earliest opportunity with a view to ensuring that the law is adequately provided for in that respect?

**The Tánaiste:** The heads of the criminal justice (miscellaneous provisions) Bill have been approved by the Government and it is expected to be published later this year.

**An Leas-Cheann Comhairle:** I call on Deputy Healy-Rae. I ask Deputies to be brief.

**Deputy Michael Healy-Rae:** I will. The Government is selling off 40 former Garda stations because it cannot identify alternative State uses for the buildings. This is a disgrace. I am raising this issue in respect of the criminal justice (miscellaneous provisions) Bill. I ask the Tánaiste not to sell off these buildings because we were promised in this Chamber that they would be made available to local community groups.

**An Leas-Cheann Comhairle:** The Deputy should table a parliamentary question or Topical Issue request on the matter.

**Deputy Michael Healy-Rae:** We were given that commitment in the House and I want the Tánaiste to tell me why the Government is doing a U-turn on that commitment.

The second item relates to the Health (Amendment) Bill. The Department of Social Protection has ensured that in the majority of cases, GP evidence is no longer acceptable and consultants' letters are required when applying for the many schemes it administers, putting another financial burden on already struggling householders. Will the Government reverse this policy?

**The Tánaiste:** There is no legislation promised in respect of either of those matters. There is nothing to prevent local organisations or local authorities from acquiring the Garda stations that are no longer in use and that are available for alternative use.

**Deputy Brian Stanley:** I wish to ask the Tánaiste about promised water services legislation. We have a significant number of assets which must be transferred from local authorities to Uisce Éireann. They include water treatment plants, networks and sewage treatment plants. Will these require votes in each council chamber under section 183 of the existing local authority legislation or will the Bill the Government is bringing forward supersede all of this? There are hundreds of public private partnerships, PPPs, which are mainly design, build and operate, DBO, projects. Will Uisce Éireann take over all of them with their associated liabilities and debts? When will we see the Bill and what are its main provisions because we are in the dark? We have tried to get this information out of the Minister for the Environment, Community and Local Government but we are in the dark on this issue. Even the Brighter Evenings Bill might shed some light on it. I hope the Tánaiste can shine some light on it this morning. What will happen to the DBOs and the transfer of assets from local authorities to Uisce Éireann?

**The Tánaiste:** I understand that the Minister and his Department have reached agreement with the trade unions representing staff in the local authorities on the transfer of water services under the new arrangements. We are proceeding with the drafting of that Bill to give effect to that. The preparation of the heads of the Bill was recently approved by the Government so work

is under way on that legislation.

**Deputy James Bannon:** Shortly after the Government entered office, it introduced the Criminal Law (Defence and the Dwelling) Act 2011, which gave people rights to protect their property and homes. The criminal justice (victims rights) Bill has been outstanding for quite a long time. It is important we make communities safer by focusing on victims' rights and making life tougher for criminals by properly resourcing our gardaí. This is an important Bill that has been promised for quite some time. Could the Tánaiste give us an update as to when it will come before the House?

**The Tánaiste:** Preliminary work is under way on the criminal justice (victims rights) Bill, which aims to strengthen the rights of victims of crime and their families and to give effect to a proposed EU directive. It is not possible at this stage to indicate when it will be published.

**Deputy Pearse Doherty:** The Tánaiste referenced very important legislation coming before the House today. This is the Central Bank (Supervision and Enforcement) Bill 2011. I commend the Minister for Finance on his openness to accepting amendments. Given the discussion we had, what does it really mean? We can give all the powers we want to the regulator but the Government is unwilling to ask a public interest director in a State-owned bank who did not inform the Central Bank, which is the regulator, that tapes exist with recordings of individuals which are now deemed serious by the Central Bank and are being looked at for regulatory breaches.

**An Leas-Cheann Comhairle:** That is not a matter for the Order of Business.

**Deputy Pearse Doherty:** What is the point of this Bill if we have a Government that is unwilling to lift the phone to a former Minister for Finance? He was paid by the State to be a public interest director for the past four years.

**An Leas-Cheann Comhairle:** I am sure the Deputy can raise this-----

**Deputy Pearse Doherty:** Does it not send out a negative signal about the Bill, which is an important and good Bill?

**An Leas-Cheann Comhairle:** The Deputy can raise it in another way.

**Deputy Pearse Doherty:** We should try to tighten up enforcement and regulation in the banks.

**The Tánaiste:** I will tell Deputy Doherty what it means; it means Sinn Féin got it wrong twice. It got it wrong first when it fell hook, line and sinker for what the guys on the tapes were asking for, which was a bailout for Anglo Irish Bank. Sinn Féin agreed with it, voted for it and praised it.

**Deputy Mary Lou McDonald:** No we did not.

**Deputy Mattie McGrath:** The current Government extended it.

**The Tánaiste:** It got it wrong a second time when it opposed this Government's Bill to liquidate Anglo Irish Bank.

**Deputy Pearse Doherty:** Will the Tánaiste lift the phone and ask the public interest director? This did not happen five years ago. Up to five months ago the public interest directors did



not inform the Central Bank-----

**An Leas-Cheann Comhairle:** Deputy Doherty is wasting-----

**Deputy Pearse Doherty:** -----of potential regulatory breaches of which they were in charge.

**An Leas-Cheann Comhairle:** The Chair-----

**Deputy Pearse Doherty:** The Government is refusing to contact the banks because it is protecting the political elite-----

**An Leas-Cheann Comhairle:** Deputy Doherty should resume his seat.

**Deputy Pearse Doherty:** A former leader of Fine Gael, a former Minister for Finance, and a former Fianna Fáil Senator are on the board of a State-owned bank which did not inform the Central Bank of potential regulatory breaches up until five months ago.

**An Leas-Cheann Comhairle:** The Deputy is wasting the time of his colleagues.

**Deputy Pearse Doherty:** It is absolutely disgraceful. We do not need an inquiry to find out this information.

**An Leas-Cheann Comhairle:** I call Deputy Mattie McGrath.

**The Tánaiste:** Deputy Doherty is all mouth and however loud he shouts, the fact of the matter is Sinn Féin got it fundamentally wrong in 2008 and fell for what those guys on the tapes said.

**Deputy Dessie Ellis:** The lies they were telling. Use the word.

**The Tánaiste:** They were looking for a bailout from the Irish taxpayer and Sinn Féin fell for it hook, line and sinker. It is about time Deputy Doherty explained and apologised to the Irish people for doing so.

**Deputy Pearse Doherty:** Make the call. The Tánaiste will not make the call because he is protecting vested interests.

**An Leas-Cheann Comhairle:** I call Deputy Mattie McGrath and I ask him to be brief as we are running out of time.

**Deputy Mattie McGrath:** I will be as brief as I can and before the Tánaiste tells me I fell for it too, the late Brian Lenihan was lied to and I did vote for it. The Labour Party promised it would burn the bondholders and it did not.

**An Leas-Cheann Comhairle:** What is the issue?

**Deputy Mattie McGrath:** I have come from a sad event at the Shelbourne Hotel this morning. At the Allsop auction 121 properties were put up for sale by an English group of auctioneers. There is supposed to be a code of practice for the Central Bank. Under the Central Bank (Consolidation) Bill and consumer protection law when will the Government deal with the banks? A total of 85% of the properties for sale this morning had no goodwill and in many cases they did not have proper title. Deputies Michael Healy-Rae and Tom Fleming and I went up-----



**Deputy Emmet Stagg:** What did you buy?

**Deputy Mattie McGrath:** -----and saw for ourselves what was going on. The Tánaiste and his advisers should see what is going on with regard to ordinary people's houses, businesses and family homes. Misery is being perpetrated by the banks. The Tánaiste heaped opprobrium when on this side of the House. I ask him to open his eyes and see what is going on with the banks. It is appropriate the book is in red because there is blood money and Cromwell is back. I could quote Charles Stewart Parnell-----

**An Leas-Cheann Comhairle:** Please do not.

**Deputy Mattie McGrath:** I will not do so but I could. I ask the Tánaiste please to deal with the banks so they do not create misery for the ordinary people of Ireland on an hourly basis.

**Deputy Pearse Doherty:** The Government will not even phone a friend.

**An Leas-Cheann Comhairle:** I am not sure whether a question was asked so I call Deputy Dessie Ellis.

**Deputy Mattie McGrath:** I would like an answer to my question.

**An Leas-Cheann Comhairle:** Deputy McGrath did not ask about legislation.

**Deputy Mattie McGrath:** I asked about the Central Bank (Consolidation) Bill and consumer protection law. The Tánaiste was not as quiet when he was over here. Hellfire was going to be hotter than the bondholders' fire. I would like an answer to my question please.

**The Tánaiste:** What is the question?

**Deputy Mattie McGrath:** Under the Central Bank (Consolidation) Bill will the Government deal with the code of practice for the bankers and chancers who are creating misery for people? Under consumer protection legislation will ordinary householders be protected?

**The Tánaiste:** As soon as we are finished with the Order of Business the House will deal with-----

**Deputy Mattie McGrath:** Yesterday we had an eviction Bill.

**The Tánaiste:** -----the Central Bank (Supervision and Enforcement) Bill. Deputy McGrath will have an opportunity to discuss the matter. When the Bill has completed its passage-----

**Deputy Mattie McGrath:** Another two years.

**The Tánaiste:** It will not take another two years.

**Deputy Mattie McGrath:** This is happening now.

**The Tánaiste:** The Government has introduced more legislation in the past two years to reform the-----

**Deputy Mattie McGrath:** It is all toothless. The banks have a veto.

**An Leas-Cheann Comhairle:** If the Deputy wants an answer he should listen.

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**The Tánaiste:** The Government has introduced more legislation on reforming our banking system and improving regulation in the past two years than was done during the previous 14 years.

**Deputy Michael McGrath:** That is not true.

**Deputy Mattie McGrath:** That is simply not true. On a point of order what the Tánaiste has just said is not true.

**An Leas-Cheann Comhairle:** The Deputy can take it up when discussing the Bill.

**Deputy Mattie McGrath:** I could call it something else but I will not do so.

**An Leas-Cheann Comhairle:** Do not.

**Deputy Mattie McGrath:** I will not. It is not true and it is an insult to say it. We did not come down in the last shower.

**Deputy Bernard J. Durkan:** What shower did you come down in?

**Deputy Dessie Ellis:** Delivery of a universal health scheme was promised by the Minister, Deputy Reilly, and was also in the programme for Government. We were told it would be delivered before the end of the term of the Government, which is in just over two years' time. People are no longer able to afford private health care and are being forced to leave it. The Tánaiste and his party believe in a public health care system, as do we. We have not seen the bones of the universal health care system which is planned. When will we see legislation prepared for it and when will it be brought before the House? When will we see what is planned, because massive problems exist across the board. I would rather see a public health care system but let us see what the plans are for this universal health care system.

**The Tánaiste:** Work is advanced on a range of legislation to reform the health service in line with the programme for Government. The health (amendment) Bill will be published this year. A health general practitioner medical service Bill and a number of alternative options for the phased implementation of a universal GP service without fees are under consideration at present. Other legislation will come at various stages. Work is proceeding on the various pieces of legislation.

**Deputy Dessie Ellis:** Will we see it before the end of the term of this Government?

**The Tánaiste:** Yes.

**Deputy Eamonn Maloney:** I wish to inquire about a Bill which may be of some assistance when dealing with agitated backbenchers. It is the mediation Bill. After this morning's session it is becoming more desperate. Will the Bill be published by the end of the year?

**The Tánaiste:** I thank Deputy Maloney-----

**Deputy Eamonn Maloney:** I think it should be guillotined, by the way.

**Deputy Dessie Ellis:** Is Deputy Maloney not into mediation?

**Deputy Barry Cowen:** There has been an epidemic of that.

**The Tánaiste:** I am not sure whether mediation would work in here because there must be

willingness. Mediation only works if every party is willing to participate, and there is nothing that will satisfy some people on the Opposition benches. The last thing they would ever agree to is mediation. The heads of the mediation Bill have been approved by the Government and it is expected to be published later this year.

**Deputy Barry Cowen:** When does the Government propose to bring forward legislation to give effect to the creation of between 50 and 60 new local authority members in Dublin?

**The Tánaiste:** Deputy Cowen is probably referring to the most extensive and radical reform of local government since the end of the 19th century, which is long overdue.

**Deputy Barry Cowen:** It will provide some possibility for improvement for the Labour Party.

**The Tánaiste:** The Bill will be later in the year.

**Deputy Brendan Griffin:** On a light note I suggest the Brighter Evenings Bill should begin an hour earlier tomorrow in keeping with the spirit of the proposed legislation. On a far more serious note, a number of discoveries of explosive devices and components were made by gardaí in Dublin last night. What is the timeframe with regard to the explosives Bill? We need to prioritise it.

**The Tánaiste:** The Bill is expected later this year.

**Deputy Brian Walsh:** I presume most Members received correspondence in recent days from the Irish Cancer Society regarding the lack of regulation in the area of sunbeds. One point raised in the documentation is that the risk of skin cancer from sunbed use is more than double that of spending the same length of time in Mediterranean sun. In the programme for Government a commitment was made to introduce legislation to regulate this industry. When will we see this legislation?

**The Tánaiste:** The heads of the public health (sunbeds) Bill to introduce a number of measures to regulate the use of sunbeds including a prohibition on their use by people aged under 18 years have been approved by the Government and it is expected to be published later this year.

**Deputy Seán Ó Fearghaíl:** The betting (amendment) Bill is on the A list of legislation and it was to be published before the end of this term. Have the heads of the Bill been considered by Government and will the Bill be published before we adjourn for the summer recess?

While I am on my feet I wish to allude briefly to an item referred to in the programme for Government, namely, the plight of the 32 survivors of thalidomide, which I have raised with the Tánaiste on numerous occasions. I understand the Minister for Health was to meet with those people. Has the meeting taken place yet?

**The Tánaiste:** The betting legislation is currently under consideration by the Government. I do not know whether the Minister for Health has met the victims of thalidomide but I will ask him to respond directly to the Deputy.

**Deputy Ray Butler:** I was going to speak about the Central Bank (consolidation) Bill but I will not do so. The consumer and competition Bill is currently being prepared. I would like to see legislation on banks that have written off debts and sold it on to companies that are popping up all over the place. They are buying debt for very little and making people's lives a misery.

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It is a huge issue. I am hearing much about it in my constituency office. I would welcome legislation on banks selling on bad debt, second hand, which they have already written off. It will become a huge problem in the future.

**The Tánaiste:** There is no legislation promised in the area but I accept what the Deputy has said. I agree it is an issue that must be addressed.

**Deputy David Stanton:** When will the assisted decision-making (capacity) Bill, formerly known as mental capacity legislation, be published? I believe it is imminent. Will it be published before we break for the summer or during the summer?

**The Tánaiste:** The Bill is expected to be published this session.

### Message from Select Committee

**An Leas-Cheann Comhairle:** The Select Sub-Committee on Health has completed its consideration of the Protection of Life During Pregnancy Bill 2013, and has made amendments thereto.

### Topical Issue Matters

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Patrick Nulty - the need to maintain history as a compulsory subject for the junior cycle at second level; (2) Deputy Bernard J. Durkan - the refusal to allow Leixlip Town Council carry out expenditure to be funded from savings achieved over a number of years; (3) Deputy Patrick O'Donovan - the need for the Construction Contracts Bill to be enacted; (4) Deputy Eoghan Murphy - the implementation of the Smarter Transport Bill 2011; (5) Deputy David Stanton - the need to open the stroke unit in Cork University Hospital; (6) Deputy Jim Daly - the need for the Government to provide financial assistance to job action groups; (7) Deputy Seán Kyne - the need to monitor and review the procedures for the disposal of hazardous waste from both public and private hospital facilities in the State; (8) Deputy Brendan Smith - the need to discuss the ejection of the first democratically elected President of Egypt by military coup and the continuing unrest in the region; (9) Deputy Clare Daly - banning alcohol sponsorship in sport; (10) Deputy Mick Wallace - to discuss alcohol advertising in sport; (11) Deputy Mattie McGrath - the absence of a crime prevention officer for Tipperary for the last two years; (12) Deputy Richard Boyd Barrett - the urgent need to investigate corporate tax avoidance by multinationals based in Ireland; and (13) Deputy Seán Ó Fearghaíl - the criteria for the granting of medical cards on discretionary grounds and their application in practice.

The matters raised by Deputies Seán Ó Fearghaíl, Patrick Nulty, Seán Kyne and Eoghan Murphy have been selected for discussion.

**Central Bank (Supervision and Enforcement) Bill 2011: Amendments from the Seanad**

The Dáil went into Committee to consider amendments from the Seanad.

**An Leas-Cheann Comhairle:** Seanad amendments Nos. 1, 4 and 6 are related and may be discussed together.

Seanad amendment No. 1:

Section 1: In page 9, subsection (2), line 25, to delete “91” and substitute “93”.

**Minister for Finance (Deputy Michael Noonan):** Amendments Nos. 1 and 6 simply correct a section number reference in section 1 and in the Second Schedule.

Amendment No. 4 is a technical amendment to section 6 of the Irish Bank Resolution Corporation Act 2013 and relates to the Bankers’ Books Evidence Act 1879. The Bankers’ Books Evidence Acts provide for a procedural admissibility of evidence rule. This is one of the permitted exceptions to the hearsay evidence rule and facilitates the admissibility of bankers books into evidence in all legal proceedings. This amendment mirrors a similar provision in section 191 of the National Asset Management Agency Act 2009.

**Deputy Michael McGrath:** Does amendment No. 4 on the Bankers’ Books Evidence Act 1879 - I would be the first to acknowledge that I am not terribly familiar with it - relate to any issue that has been raised with the Department concerning the admissibility of evidence? Is it something officials have identified themselves or is it something that has arisen in the course of ongoing investigations?

**Deputy Michael Noonan:** The note indicates that section 3 of the Bankers’ Books Evidence Acts provides that “a copy of any entry in a banker’s book shall in all legal proceedings be received as *prima facie* evidence of such entry, and of the matters, transactions, and accounts therein recorded”. Section 4 of the Bankers’ Books Evidence Acts provides for the admissibility of bankers’ books evidence, as an exception to the hearsay rule. Section 4 requires that the evidence was created by the bank in the ordinary course of business, is still in the custody of the bank and that the evidence be given by an officer of the bank. The Attorney General’s office has advised on the inclusion of this amendment as an avoidance of doubt provision. That is the reason for it. It does not relate to any specific issue.

**Deputy Pearse Doherty:** I seek clarification. As the Minister indicated, the original Act that is referenced dates back to 1879 so the definition of bankers’ books is within the meaning of that Act from 140 years ago. Could he explain the position? I do not wish him to dig up the 1879 Act but what are the bankers’ books within the meaning of the Act?

**Deputy Michael Noonan:** They are records of transactions in a bank in written form, which could be used subsequently and would have an evidential quality and could be brought forward as an exception to the hearsay rule once we enact the Bill. As I said previously, it mirrors section 191 of the National Asset Management Agency Act 2009. On reviewing the Bill at this Stage, the Attorney General’s office advised that the amendment should be tabled. She calls it an avoidance of doubt provision.

Seanad amendment agreed to.

**An Leas-Cheann Comhairle:** Seanad amendments Nos. 2 and 7 are related and may be

discussed together.

Seanad amendment No. 2:

Section 73: In page 59, after line 47, to insert the following new section:

73.—The Central Bank Act 1971 is amended—

(a) in section 7—

(i) in subsection (1) by inserting “or authorisation under section 9A” after “licence”, and

(ii) in subsection (6)(b) by inserting “or authorisation under section 9A” after “licence”,

and

(b) by inserting the following sections after section 9:

9A.—(1) In this section and sections 9B and 9C—

‘branch’ means a branch of a relevant credit institution;

‘EEA Agreement’ has the same meaning as it has in the European Communities (Amendment) Act 1993;

‘EEA state’ means—

(a) a member state of the European Communities, or

(b) a state (other than a member state of the European Communities) that is a contracting party to the EEA Agreement;

‘relevant credit institution’ means a credit institution whose head office is located in a state or territory other than an EEA state and which holds an authorisation to carry on banking business in that state or territory from the authority that exercises in that state or territory functions corresponding to those of the Bank under this Part (‘relevant third country authority’).

(2) Subject to the provisions of this section, the Bank may grant an authorisation to a relevant credit institution to operate a branch in the State for the purpose of carrying on banking business in the State.

(3) The Bank shall not grant an authorisation under subsection (2) unless it is satisfied that—

(a) the relevant credit institution is subject, in the state or territory where its head office is located, to regulatory or administrative provisions relating to authorisation to carry on banking business in that state or territory and supervision corresponding to those in the State, and

(b) protection of deposits with the branch, corresponding to the protection provided by the European Communities (Deposit Guarantee Schemes) Regula-



tions 1995 (S.I. No. 168 of 1995), is available to depositors.

(4) An application for authorisation under subsection (2) shall be in such form and contain such information as the Bank may from time to time determine.

(5) The Bank shall notify the European Commission, the European Banking Authority and the European Banking Committee of any authorisation granted under subsection (2).

(6) The grant of an authorisation under subsection (2) shall not constitute a warranty as to the solvency of the relevant credit institution to which it is granted and the Bank shall not be liable in respect of any losses incurred through the insolvency or default of a relevant credit institution to which such authorisation is granted.

9B.—(1) The Bank shall not refuse to grant an authorisation under section 9A(2) unless it is satisfied that the grant of the authorisation would not be in the interest of the orderly and proper regulation of banking.

(2) Whenever the Bank proposes to refuse to grant an authorisation under section 9A(2) it shall—

(a) within the period of 6 months after the date of the receipt of the application for the authorisation, or

(b) where additional information in relation to the application has been sought by the Bank, within the period of 6 months after the date of the receipt by the Bank of the additional information or the period of 12 months after the date of the receipt of the application for the authorisation whichever period first expires,

notify the applicant for the authorisation in writing of its reasons for the refusal and the applicant may, within the period of 21 days after the date of the giving of the notification, make representations in writing to the Bank in relation to the proposed refusal.

(3) The Bank shall, before deciding to refuse the authorisation, consider any representations duly made to it under subsection (2) in relation to the proposed refusal.

9C.—(1) The Bank may revoke an authorisation granted under section 9A(2)—

(a) if the holder of the authorisation so requests,

(b) if the holder of the authorisation—

(i) has not commenced to carry on banking business pursuant to the authorisation within 12 months of the date on which the authorisation was granted,

(ii) has ceased to carry on banking business pursuant to the authorisation and has not carried it on during a period of more than 6 months immediately following the cesser,

(iii) has obtained the authorisation through false statements or any other irregular means,

(iv) becomes unable to meet its obligations to its creditors or suspends payments lawfully due by it or can no longer be relied upon to fulfil its obligations towards its creditors, and in particular no longer provides security for the assets entrusted to it,

(v) is convicted on indictment of an offence under any provision of this Act or an offence involving fraud, dishonesty or breach of trust, or

(vi) being a company, is being wound up,

(c) where the holder of the authorisation no longer holds an authorisation from the relevant third country authority to carry on banking business in the state or territory where its head office is located,

(d) if the business of, or the corporate structure of, the holder of the authorisation has been so organised or the holder of the authorisation has come under the control of any other undertaking not supervised by the Bank such that the holder is no longer capable of being supervised to the satisfaction of the Bank,

or

(e) if, since the grant of the authorisation, the circumstances relevant to the grant have changed and are such that, if an application for an authorisation were made in the changed circumstances, it would be refused.

(2) Whenever the Bank proposes to revoke an authorisation under subsection (1) (otherwise than in circumstances to which paragraph (a) of subsection (1) relates)—

(a) it shall notify the holder of the authorisation in writing of the reasons for the revocation and that the holder may, within 21 days after the date of the giving of the notification, make representations in writing to the Bank in relation to the proposed revocation,

(b) the holder of the authorisation may make such representations in writing to the Bank within the period referred to in paragraph (a), and

(c) the Bank shall, before deciding whether or not to revoke the authorisation, consider any representations duly made to it under this subsection in relation to the proposed revocation.

(3) Where an authorisation is revoked under subsection (1) and the holder of the authorisation is not a company which is being wound up—

(a) that person shall continue to be subject to the duties and obligations imposed on it by or under the *Central Bank Acts 1942 to 2013* until all liabilities of that person in respect of deposits (including deposits on current accounts) or other repayable funds accepted by it from persons (in this subsection referred to as ‘depositors’) pursuant to the authorisation have been discharged to the satisfaction of the Bank,

(b) that person shall, as soon as possible after the authorisation is revoked—

(i) notify the Bank, and

(ii) as far as is reasonably practicable, notify every depositor concerned, of the measures it is taking or proposes to take to discharge in full and without undue delay its liabilities in respect of those deposits,

(c) in the case where—

(i) that person has notified the Bank in accordance with paragraph (b) and the Bank is of the opinion that the measures being taken or proposed to be taken for the purposes of that paragraph are not satisfactory, or

(ii) that person has not so notified the Bank and the Bank is of the opinion that it has failed to so notify as soon as possible after the authorisation is revoked, or

(iii) the Bank is of the opinion that that person has not taken all reasonable steps to so notify every depositor concerned,

then the Bank may give a direction in writing to that person for such period, not exceeding 6 months, as may be specified therein, prohibiting it from—

(I) dealing with or disposing of any of its assets or specified assets in any manner, or

(II) engaging in any transaction or class of transaction or specified transaction, or

(III) making payments,

without the prior authorisation of the Bank, and the Bank may require that person to prepare and submit to it for its approval within 2 months of the direction, a scheme for the orderly discharge in full of its liabilities to the depositors concerned.

(4) Where a direction to which subsection (3)(c) relates is given the provisions of section 21 shall apply with any necessary modifications.

(5) The Bank shall, before deciding to revoke an authorisation under subsection (1), consult with the relevant third country authority provided however that if immediate action by the Bank is called for it shall not be necessary for the Bank to consult as aforesaid but in such a case the Bank shall notify the authority concerned of the revocation of the authorisation.

(6) In this section ‘control’ includes any power, whether arising from a contract or agreement or otherwise, whereby one party can direct the affairs of another and a parent undertaking shall be deemed to control its subsidiaries and ‘parent undertaking’ has the meaning assigned to it by the European Communities (Companies: Group Accounts) Regulations 1992 (S.I. No. 201 of 1992).”.”.

**Deputy Michael Noonan:** These amendments to the Central Bank Act 1971 provide for an authorisation regime for branches of third country banks. These branches would be subject to the same standard of regulation as those branches currently passporting into Ireland from within the EU. The Central Bank Act 1971 provides the statutory basis for the authorisation regime

for credit institutions in Ireland. The 1971 Act and the related European directive - the capital requirements directive - also provide the basis for the so-called passporting regime within the European Union. Passporting is a system which allows financial services operators legally established in one member state to establish and provide their services in the other member states without further authorisation requirements.

These amendments insert three new sections into the Central Bank Act 1971 to provide an authorisation regime for credit institutions which are authorised outside the European Union to operate a branch in Ireland. These third country banks would be able to apply to the Central Bank for an authorisation on the basis that the institution would remain under the responsibility of its home regulator in terms of prudential regulation, but would be subject to Central Bank rules on conduct of business. The new section 9A provides that the Central Bank can only grant an authorisation where the credit institution is subject to a regulatory system in its home territory which is at least as robust as the Irish system. Furthermore, the level of protection afforded to deposits by virtue of the bank's authorisation in its home country must be at least as robust as that which operates in Ireland under the deposit guarantee scheme. The Central Bank is also required to notify the relevant European authorities of any authorisation under this section. This arises from the requirement in the directive that third country branch authorisations should not offer more favourable terms to credit institutions passporting from outside the European Union than would be available within the EU. This will act as a further check on the system to ensure that this regime does not act in any way to dilute the standard of regulation that applies.

The new section 9B sets out the provisions that are to apply where the Central Bank refuses a grant of authorisation and it is based on the system that already applies to domestic credit institutions. In short, it affords an opportunity to the applicant to make representations where the Central Bank is minded to refuse the application and before the Central Bank has issued its final decision.

The new section 9C sets out the provisions that are to apply where the Central Bank revokes a third country branch authorisation. These are based on the system that already applies to domestic credit institutions. The grounds for revocation include where the holder becomes unable to meet its obligations to its creditors or no longer provides security for the assets entrusted to it; is convicted on indictment of an offence under any provision of the 1971 Act or an offence involving fraud, dishonesty or breach of trust; or is a company that is being wound up or no longer holds an authorisation from the relevant third country authority. In this case also, the provision affords an opportunity to the institution to make representations before the Central Bank has issued its final decision. The Central Bank must also consult the third country authority unless immediate action by the Central Bank is required, in which case only notification is required.

This section also sets out the responsibilities that are on the branch after its authorisation has been revoked. These mirror the provisions that apply to domestic credit institutions. In brief, the institution's responsibilities towards deposits and other repayable funds do not change post-revocation until those responsibilities have been discharged to the satisfaction of the Central Bank.

In effect, it has come to notice that certain non-EU banks - banks incorporated in jurisdictions outside the EU - want to set up branches in Ireland. Obviously, this would strengthen our financial services sector and the institutions would be large employers in certain areas. The IDA is in contact with specific institutions. This is the reason for the Seanad amendment.

**Deputy Pearse Doherty:** It is good to hear that other financial institutions are seeking to set up in Ireland. I hope that they will provide opportunities for many of those who have lost their jobs. I am conscious of the announcement in recent weeks of 1,800 job losses at Ulster Bank.

The Minister stated that the regulatory provisions would need to be of a corresponding nature to those that exist in the State. Institutions would not be licensed or granted authorisation unless there was a regime of regulation of significant strength in the home territory. Does subsection 3(a) address this matter and stipulate that provisions must be of a corresponding degree? It states: “and supervision corresponding to those in the State.” It seems that the institution must be supervised and have authorisation to carry on banking business in this State. Perhaps I am reading the wrong section, but it does not state the strength or force of the supervision.

If a corresponding regulatory regime is required, would that rule out many third countries that do not have the same type of regulatory regime as Ireland or are they more advanced than we are?

**Deputy Michael Noonan:** Subsection 3(a) states:

the relevant credit institution is subject, in the state or territory where its head office is located, to regulatory or administrative provisions relating to authorisation to carry on banking business in that state or territory and supervision corresponding to those in the State,

It is caught in the phrase “supervision corresponding to those in the State”.

**Deputy Pearse Doherty:** I seek clarification. I am sure that I am wrong, but the subsection states:

the relevant credit institution is subject, in the state or territory where its head office is located [we are referring to the foreign country], to regulatory or administrative provisions relating to authorisation to carry on banking business in that state [which is the foreign state] or territory and supervision corresponding to those in the State,

Should the supervision not correspond with this State’s or is that not what we are doing in subsection 3(a)? Does the Minister understand what I am trying to say? It seems to read as if the institution needs authorisation to carry out banking business in the state or territory and must have supervision corresponding to those in that state, but the word “state” appears three times in this subsection. Since two are clearly references to the foreign state, is the third reference to this State?

**Deputy Michael Noonan:** The capital letter indicates that we are talking about Ireland, that is, the “State”.

**Deputy Pearse Doherty:** That is news to me.

**Deputy Michael McGrath:** Well spotted.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 81: In page 67, lines 32 and 33, to delete subsection (7) and substitute the following:

4 July 2013

“(7) Section 47 of the Act of 2011 is amended by substituting “If a liability to repay arises under section 46(5)” for “If a liability to repay the Fund or the Minister arises under section 46(4)”.”.

**Deputy Michael Noonan:** This technical amendment involves an amendment to section 47 of the Central Bank and Credit Institutions (Resolution) Act 2011. It is a drafting amendment and is consequential on changes made to section 46 of the 2011 Act on Report Stage in this House.

Seanad amendment agreed to.

Seanad amendment No. 4:

New Section: In page 71, after line 11, to insert the following new section:

93.--Section 6 of the Irish Bank Resolution Corporation Act 2013 is amended by inserting the following subsection after subsection (6):

“(7) (a) In this subsection ‘Act of 1879’ means the Bankers’ Books Evidence Act 1879.

(b) Where--

(i) a copy of an entry in a bankers’ book (within the meaning of section 9(2) of the Act of 1879) falls to be produced in evidence,

(ii) the book is in the custody or under the control of a special liquidator or IBRC, and

(iii) the special liquidator or an officer or employee of, or other person duly authorised in that behalf by, the special liquidator or an officer or employee of IBRC gives evidence (orally or by

affidavit) that--

(I) he or she truly believes that the book or record was kept in the ordinary course of the bank’s business, and

(II) the book is in the custody or under the control of the special liquidator or IBRC,

then the requirement for proof in section 4 of the Act of 1879 shall be taken to have been satisfied.

(c) The Act of 1879 has effect in relation to the books and records of IBRC as if--

(i) references in that Act to bank or banker were to--

(I) a special liquidator, or

(II) IBRC,

(ii) references in that Act to bankers’ books were to the ordinary books and records of a special liquidator or IBRC, as the case may be, or the ordinary books



and records of IBRC in the custody or under the control of a special liquidator, and

(iii) references in that Act to an officer of a bank were to a special liquidator or an officer or employee of, or other person duly authorised in that behalf by, a special liquidator or to an officer or employee of IBRC.”.”.

Seanad amendment agreed to.

Seanad amendment No. 5:

Schedule 2: In page 75, between lines 11 and 12, to insert the following:

7	Section 33AK(5)	Substitute “2010, or” for “2010.” in paragraph (ao) and insert the following after that paragraph:“(ap) for any purpose connected with the functions of the Bank, the Minister, the Governor or the Head of Financial Regulation or a special manager under the Central Bank and Credit Institutions (Resolution) Act 2011.”.
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**Deputy Michael Noonan:** This amendment is also technical in nature and is designed to remedy an incorrect reference in the Central Bank and Credit Institutions (Resolution) Act 2011. The objective is to ensure that the Central Bank is legally able to share confidential information to facilitate the Central Bank, the Minister, the Governor, the head of financial regulation or a special manager appointed under the resolution Act in the performance of its, his or her functions under the Act. This should remove any obstacle to the necessary information exchange.

Seanad amendment agreed to.

Seanad amendment No. 6:

Schedule 2: In page 75, line 37, to delete “91” and substitute “93”.

Seanad amendment agreed to.

Seanad amendment No. 7:

Schedule 2: In page 76, to delete lines 34 to 38 and substitute the following:

1	Section 2(1)	(a) In paragraph (d) of the definition of “related body” substitute “Part 3 of the Central Bank (Supervision and Enforcement) Act 2013” for “Part 5 of the Central Bank Reform Act 2010”.(b) Insert the following definition:“ ‘European Banking Committee’ means the committee established pursuant to Commission Decision 2004/10/EC1;”.
2	Section 7	In subsection (1) delete “on behalf of any other person”.
3	Section 10	Insert “or authorisation under section 9A(2)” after “licence” in each place.

4	Section 12	(a) In subsection (1) insert “and of the holders of authorisations under section 9A” after “licences”. (b) In subsection (2)--(i) insert “or authorisation under section 9A” after “licence”, and(ii) insert “European Banking Committee” after “European Commission”.(c) In subsection (3)--(i) insert “and of the holders of authorisations under section 9A” after “licences”, and(ii) insert the following after paragraph (d):“(dd) the European Banking Committee;”.
5	Section 17	(a) Insert “or authorisation under section 9A” after “licence” in each place.(b) In subsection (1) insert “or holders of authorisations under section 9A” after “licence holders”.
6	Section 18	Insert “or authorisation under section 9A” after “licence” in each place.
7	Section 19	(a) In subsection (1)--(i) insert “or authorisation under section 9A” after “a licence”, and(ii) insert “or authorisation” after “the licence”.(b) In subsection (2) insert “or authorisations under section 9A” after “licences”.
8	Section 20	Insert “or authorisation under section 9A” after “licence” in each place.
9	Section 21	Insert “or authorisation under section 9A” after “licence” in each place.
10	Section 22	Insert “or authorisation under section 9A” after “licence” in each place.
11	Section 25	Insert “or authorisation under section 9A” after “licence” in each place.
12	Section 26	(a) In subsections (1), (2), (3) and (6) insert “or authorisation under section 9A” after “licence” in each place.(b) In subsection (4) insert “or authorisations under section 9A” after “licences”.
13	Section 27(2)	In paragraph (a) insert “or authorisation under section 9A” after “licence”.
14	Section 28(1)	Insert “or authorisation under section 9A” after “licence”.
15	Section 31	Insert “or authorisation under section 9A” after “licence” in each place.

Seanad amendment agreed to.

Seanad amendments reported.

**An Leas-Cheann Comhairle:** A message will be sent to Seanad Éireann acquainting it accordingly.

**Health (Amendment) Bill 2013 [Seanad]: Second Stage**

**Minister for Health (Deputy James Reilly):** I move: “That the Bill be now read a Second Time.”

It is my pleasure today to introduce the Second Stage of the Health (Amendment) Bill 2013 to the Dáil. The Bill amends both the Nursing Homes Support Scheme Act 2009 and the Health Act 1970, and has completed all Stages in the Seanad with no amendments. The main aim of the Bill is to facilitate the announcements made in budget 2013 with regard to public acute hospital inpatient charges, the charging of private inpatients in public hospitals, and the nursing homes support scheme. The Bill also amends certain charging provisions under the Health Act 1970 and enables the outsourcing of functions under the Nursing Homes Support Scheme Act 2009.

It was announced as part of budget 2013 that the asset contribution under the nursing homes support scheme would be increased from 5% to 7.5% and that the entitlement for State support to be backdated to 27 October 2009 for people who were in nursing home care prior to the scheme commencing, would be abolished. I wish to clarify from the outset that the increased asset contribution will only apply to new entrants to the scheme after the enactment of the Bill. Individuals who are already in receipt of financial support under the scheme will not be affected by this increase. I am aware there is concern about the asset contribution being increased. The reality is that the funding available for services for older people is not increasing at the same rate as the population. The budget for the scheme this year is €974 million. The HSE’s 2013 National Service Plan sets a target of 22,761 people to be in receipt of financial support under the nursing homes support scheme at the end of 2013.

Given the extreme pressure that now exists on HSE funding across the full range of its services, it is necessary to increase the asset contribution. Importantly, however, contributions will continue to be based on applicants’ means and on their ability to pay. Furthermore, even after the increased asset contribution comes into effect, the HSE will continue to meet the greater part of the cost of an individual’s nursing home care. In that regard, it is worth noting that the average weekly contribution by the individual in receipt of care under the scheme is currently about €280. Despite the asset contribution being increased, it should be noted that the scheme contains several safeguards which ensure that both the person in the nursing home and their spouse or partner, if applicable, are adequately provided for. These are unaffected by the provisions of the Bill.

The increase in the acute public hospital inpatient charge from €75 to €80 and the charging of all private inpatients in public hospitals were announced as part of budget 2013. These measures will raise about €125 million in a full year. With regard to the private inpatient charge, the Government believes that the new charge makes sense. Up to now, we have had the situation where insurers have been enjoying a significant subsidy at the expense of the public hospital system, where private patients in public beds have only paid a standard €75 charge per night. In contrast, private patients in semi-private beds have paid up to €1,000 per night. In both cases, the patient sees his or her consultant privately and pays the consultant’s private fees. In future, rather than paying €75 per night, the private patient will be charged €860, which is still well below the economic cost of those services.

The cost of providing hospital services to private inpatients is at least €200 million more than the amount that public hospitals are currently allowed to charge. Therefore, one can clearly

see the imperative of addressing this situation. The subsidy is equivalent to the cost of running another significant-sized public hospital, or the cost of treating about 30,000 public patients every year. We cannot allow this situation to continue.

It is correct to state that everyone is entitled to use a public hospital. However, some people choose to be treated privately, in which case they have chosen to pay the consultant and the hospital. The Government believes that these users of private services should pay for the costs of providing them. The charge for private care in a public hospital should cover the costs of providing the service, including non-consultant hospital doctors, nursing staff, medicines, blood, medical and surgical supplies, radiology, diagnostics, operating theatres, laboratories, administration and support staff.

It does not make sense that two identical private patients getting the same medical treatment in a public hospital pay different amounts for using hospital facilities. Under the current system, one private patient pays €1,008 per day to the hospital and the other private patient pays €75 per day. The only difference is the room in which the patient is accommodated, all the medical care and treatment is identical. It is more rational that all private patients are charged in a similar manner for the public hospital resources they use. Given that all private patients are paying, it is possible to reduce the average daily amount charged by about 9%. These reductions are reflected in the rates that are set out in the Bill.

This approach is entirely in keeping with the move to universal health insurance, or UHI, where public and private providers will compete on a level playing field, free of unfair subsidies. Indeed, we will need to remove this subsidy one way or another as we move to UHI.

Other measures provided for include updating particular charging provisions under the Health Act 1970 and enabling outsourcing under the Nursing Homes Support Scheme Act 2009. Section 53 of the Health Act 1970, as amended in 2005 and in 2009, now covers three different charges. These are first, charges for long-term residential care services under the nursing homes support scheme; second, public acute hospital daily inpatient charges; and third, long-stay charges.

The language and concepts used in the provisions for long-stay charges have become outdated over time and the replacement provisions aim to better reflect the evolution of a range of different models of residential care service provision which now addresses needs in the disability, mental health and care of older people sectors. The Bill repeals section 53 of the 1970 Act as amended and, instead, makes provision in distinct and separate sections for first, charges for long-term residential care services under the nursing homes support scheme; second, public acute hospital daily inpatient charges; and third, for an updated framework to replace long-stay charges with residential support services, maintenance and accommodation contributions.

In repealing section 53 the 1970 Act as amended the Bill provides a modernised and simplified legal framework replacing the charges currently required from those in receipt of long-stay inpatient services, other than acute hospital care or long-term residential care services under the nursing homes support scheme. The updated arrangements will require the payment of maintenance and accommodation contributions by those provided with long-stay residential care by, or on behalf of, the HSE in hospitals, convalescent homes, nursing homes or other forms of residential accommodation.

*12 o'clock*

They will not apply to care services which are subject to their own distinct charging regimes, namely, acute hospital care and long-term residential care services under the nursing homes support scheme. The new arrangements are not intended to generate any additional revenue.

It is a well-established principle that those who are provided with long-stay residential care should make an affordable contribution. Maintenance and accommodation costs in providing quality services are high and it is fair and equitable that all those in receipt of publicly funded residential care make appropriate contributions towards these costs, if they can afford to do so. Funding derived from such contributions will continue to be directly applied by the HSE towards the provision of health services.

The requirement to pay an appropriate and affordable contribution towards the maintenance and accommodation costs to the State of providing such services will, therefore, continue. Contributions will be in line with current long-stay charges. The contribution will continue to be based on the individual's income level. The maximum level of long-stay charge is currently just below 80% of the non-contributory State pension and the maximum level of residential support services maintenance and accommodation contribution will continue at this level. The current long-stay charges exemptions will also continue to apply to residential support services maintenance and accommodation contributions. The HSE will retain the discretion to reduce the level of contribution required, depending on individuals' financial circumstances, the extent to which they already provide for their own maintenance and their assessed needs.

On the nursing home support scheme, the programme for Government commits to the carrying out of a Government-wide review to identify and eliminate non-priority programmes and to outsource, where appropriate, non-critical functions. With this in mind, a provision enabling outsourcing is being inserted into the Nursing Homes Support Scheme Act 2009. However, no specific outsourcing proposals are under consideration at this time.

The Bill also contains a provision which extends section 53A of the Health Act 1970 to public nursing homes. It is worth highlighting that the Government is committed to enhancing the quality of life of older people and is acutely aware of the evolving health and care needs of Ireland's older population. When the nursing homes support scheme commenced, a commitment was given that it would be reviewed after three years. A public consultation to inform the review was carried out last year and a summary report of the submissions received was published on the Department's website in December. Work will continue on the review in the coming months with a view to completion by late this year or early in 2014.

I now propose to briefly outline the main provisions of the Bill. Section 4 provides that the HSE may outsource its functions under the Nursing Homes Support Scheme Act 2009. Section 6 abolishes the entitlement for State support to be backdated to 27 October 2009 for people who were in nursing home care prior to commencement of the scheme. This provision was originally inserted in anticipation of a large volume of applications in the initial months of the scheme. It ensured that if any backlogs occurred at that time, applicants would not be disadvantaged. This provision applies only to people who were in private nursing homes when the scheme commenced. This cohort of people have had almost four years to apply for the scheme, which is more than reasonable.

Section 7 increases to 7.5% the asset contribution for new entrants to the nursing homes support scheme following enactment of the Bill. This will be capped at 22.5% in the case of the principal private residence. In the case of a couple, the cap on the principal residence will

be 11.25% where one member of the couple enters long-term nursing home care.

Section 8 amends section 51 of the Health Act 1970 by adding definitions of “acute inpatient services” and “long-term residential care services” to the existing definition of “inpatient services”.

Section 10 repeals section 53 of the Health Act 1970. The provisions being repealed are either relocated to or replaced by parallel provisions in new sections of the Act. The relocated or replacement provisions are inserted by sections 12 and 19 of this Bill.

Section 11 amends section 53A of the Health Act 1970. Currently, section 53A enables the HSE to charge the average cost of long-term nursing home care in public nursing homes to a person in an acute hospital who is no longer receiving medically acute care and treatment and has been certified as requiring long-term residential care services. This amendment will extend the provision to public nursing homes. Where a person enters a public nursing home for services other than long-term residential care, namely, respite or rehabilitation, and has subsequently been deemed by a registered medical practitioner to require long-term residential care services, the HSE may charge that person the average cost of care in public nursing homes. Crucially, this and the existing provision under section 53A are enabling provisions and will only apply where an individual refuses to co-operate with the application process for the nursing homes support scheme.

Section 12 inserts new sections 53B and 53C into the Health Act 1970. Section 53B is a technical amendment arising from the repeal of section 53. Section 53C provides for the public acute hospital inpatient charge and raises it from its current level of €75 to €80. Currently, this charge applies for a maximum of ten days in a rolling year. As there are no plans to change this maximum, the charge will be capped at €800 over this period. Section 53C also sets out the categories of persons who will be exempt from the charge, including medical card holders.

Section 13 amends section 55 of the Health Act 1970 and sets out the basis for the charging of all private inpatients in public hospitals. In future, where a person waives their eligibility to services as a public patient, the HSE, or someone providing a service on its behalf, may impose the relevant charge. The charge is set out in the Fourth Schedule.

Section 14 inserts section 74A in the Health Act 1970 and updates the provisions for the collection of outstanding charges or contributions where the service has been provided on behalf of the HSE in line with more recent legislation.

Section 15 inserts as a Fourth Schedule to the Health Act 1970 a list of charges in respect of inpatient services provided to private patients in public hospitals. The charges are dependent on whether a patient is accommodated in a single or multiple occupancy room or on a day case basis and to which Schedule, as outlined in sections 16 to 18, inclusive, of the Bill, the hospital concerned is assigned. Sections 16 to 18, inclusive, insert, respectively, as Fifth, Sixth and Seventh Schedules to the Health Act 1970 the lists of hospitals to which the charges set out in the Fourth Schedule apply.

Section 19 provides for the insertion of new sections in the Health Act 1970 regarding residential support services maintenance and accommodation contributions. These contributions replace the current maintenance charges required from those receiving long-stay care, excluding acute hospital care and long-term residential care services under the nursing homes support scheme.



Section 67A defines “residential support services” as services other than outpatient, acute inpatient or long-term residential care services provided by, or on behalf of, the HSE to those residing in hospitals, convalescent homes, nursing homes or residential accommodation for persons with physical, sensory, mental health or intellectual disabilities where their accommodation is provided by or on behalf of the HSE. Section 67B permits the HSE to make residential support services available to persons with full or limited eligibility.

Section 67C provides that the HSE shall collect a contribution towards maintenance and accommodation costs from a person who is in receipt of residential support services if he or she has previously received specified services on at least 30 days within the 12 month period ending on the day in question. It allows the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, to make regulations specifying the amounts of the contributions required from persons or classes of persons, which may not exceed 80% of the maximum rate of the non-contributory State pension as currently applies to long-stay charges. It also exempts particular categories of people from paying the contribution, consistent with current exemptions relating to long-stay charges. Exemptions will apply to children under 18, women receiving services in respect of motherhood, those detained involuntarily under the Mental Health Acts or the Criminal Law (Insanity) Act, persons who contracted hepatitis C from the use of human immunoglobulin anti-D or from blood products or blood transfusions within the State, those being treated for prescribed infectious diseases and those receiving State support or ancillary State support under the Nursing Homes Support Scheme Act 2009 or paying charges under section 53A of the Health Act 1970.

Section 67D permits the HSE to waive the contribution, in whole or in part, in specific circumstances and requires the HSE to prepare and publish guidelines approved by the Minister, with the consent of the Minister for Public Expenditure and Reform. These guidelines will set out the circumstances in which the HSE may waive or partially waive a contribution.

Section 67D provides that the HSE may take into account, in deciding on whether to reduce a contribution, the extent to which an individual may provide for his or her maintenance or partake in activities which are, for example, beneficial towards the individual’s rehabilitation or address agreed care plan objectives. This will be of particular importance to those residing in settings in the community where there is a strong emphasis placed on ensuring that each individual is supported to the greatest extent possible in managing his or her affairs and living in the community.

The main purpose of the Health (Amendment) Bill 2013 is to provide for necessary budget measures to ensure the sustainability of the HSE’s provision of important services. The funding generated will be for the benefit of those in acute hospitals and nursing homes. In addition, this Bill modernises charging and contributions regimes in our hospitals, nursing homes and other residential settings. I commend the Bill to the House and look forward to hearing the views of Deputies.

**Deputy Billy Kelleher:** The Fianna Fáil Party opposes this Bill for a number of reasons. It is clear from a cursory perusal of the programme for Government that it makes no reference to the measures being taken in the legislation. The proposals before run contrary to many of the claims and policies outlined in the programme for Government. While the Minister frequently states he has received a mandate to implement his policies, none of the policies proposed in the Bill was ever presented to the electorate. The Minister does not have a mandate to increase charges to fund the health services.

When one drills down into the proposals, they will clearly have serious knock-on effects for the insurance industry. Deputies deal daily with families in crisis who must decide whether to keep their health insurance policy or downgrade their cover. This legislation will drive even greater numbers of people out of the private health insurance system. This runs contrary to the Minister's policy of trying to introduce universal health insurance. He wants to introduce a single tier of health care in which access is based on need rather than ability to pay. The problem is that the number of people who will be unable to meet the costs of their private health cover is set to increase, with the result that more people will move into the public hospital system. The Minister's proposal is effectively another tax on hard-pressed families. He may wish to dress it up as something else but he cannot camouflage it.

The number of people who have dropped out of private health insurance demonstrates that the industry is in crisis. The Minister spoke of having a dynamic health insurance market to underpin his proposed system of universal health insurance. The opposite is the case and the market continues to contract. We have debated previously the reasons it is shrinking. What is certain is that if Government policies exacerbate the difficulties being experienced by families through increases in premiums, the corollary will be increasing numbers of people presenting at public hospitals. All the provisions in the Bill contradict statements the Minister made prior to 2011 and commitments the Government gave in the programme for Government.

On the increase in asset limits under the fair deal scheme, my party understands the pressure on the State as it seeks to provide services for older people. The changing demographic profile and the fact that people are living longer and healthier lives are placing a strain on services, including the provision of long-stay places. The Government has reduced home help hours and home care packages, failed to increase the number of public health nurses working in communities and is rolling out primary care services at a slow pace. This contradicts everything the Minister says.

Approximately 22,000 places are being funded under the fair deal scheme, which makes long-term residential support affordable to families. Given the need to fund the scheme, one can argue about the need to increase the asset contribution from 5% to 7.5%. However, when a measure is taken for the right reason and will have an appropriate outcome, my party will not oppose it for the sake of opposition. On the broader issue of how we fund services for older people and do everything possible to provide services and supports to help them maintain their independence, the Minister is stripping away home help services, home care packages, public health nurses and primary care and community services. At the same time, he speaks of pursuing a policy of trying to keep as many people as possible living at home independently and with dignity for as long as possible. This policy has been articulated in the fair deal review and everything that flows from it. The policies set out in the legislation contradict the objectives the Minister has set out in his broader policy statements. This is a cause of serious concern.

To return to the charge that will be levied on private patients in public hospital beds, the proportion of private beds in public hospitals was limited to 20% in an agreement thrashed out many years ago because the State was unable to make direct payments to consultants. Citizens fund the health service through general taxation but Government policy is inflating the cost of private health cover. The Government is telling those who hold private health insurance that they will be charged a second time if they go to hospital. This policy is anything but equitable.

The Minister's stated objective is to encourage as many people as possible to take out private health insurance in order that we have a vibrant health insurance market and an economic

model to underpin universal health insurance. He should discourage shrinkage of the private health insurance market. Last September, when introducing other legislation, the Minister made a commitment to exempt lower levels of insurance cover from the higher health insurance levy. This has not been done. The measures being introduced incrementally feed into a price spiral. The figures are stark and show a shrinking market in which insurers are imposing the additional costs on customers, many of whom are deciding to abandon or reduce their cover and enter the public health system. This is not sustainable in the short or medium term because if, as the Minister wishes, we adopt the universal health insurance model, more people must take out health insurance cover.

It is clear from the demographic profile of those who hold private health insurance that younger people are not joining the system and are not being encouraged or incentivised to do so. The policies being implemented by the Minister undermine the basic principle of intergenerational solidarity and the need to create a sustainable health insurance market which will fund services and alleviate the burden on public hospitals.

The Minister said that public hospitals provide a direct subsidy of €200 million to the private health insurance market. The Minister argued that is a subsidy to private health insurance companies. The difficulty is that it is not. It is and will be a charge on citizens with private health insurance who are doing their best to try to reduce the burden on the State providing health cover for themselves and their families. In his press release after this was announced in the budget, the Minister outlined his reasons for it. That press release in December acknowledged that it would lead to an increase in premiums. Throughout this year he has said it would not have a major impact on premiums. Of course it will have a major impact. Every independent assessment of the health insurance market shows it will have a major impact on families. It will also have a major impact on private health care providers.

The Minister has spoken about establishing hospital trusts and hospital groups which will tender against each other for work from the private health insurance companies in the provision of care. Equally, private hospitals have a capacity that is very beneficial to the broader health system. With this legislation the Minister will undermine their ability to continue to function thereby shrinking the capacity of the provision of health care. There is no point in camouflaging it in any other way. This is simply about taking money from people who have already paid private health insurance to fund the public health system and is effectively a double taxation on people. To state that the private health insurers are being subsidised is deeply disingenuous. The premium holders will end up paying more. Mr. Colm McCarthy, Dr. Brian Turner and many other independent experts who have analysed the insurance market have major concerns about this issue.

The fundamental problem we have is that the Minister has in his mind a universal health insurance model. He has spoken with passion about the Dutch model, but that seems to have faded to a certain extent. We are still awaiting the White Paper on universal health insurance. We are now in the third year of this Government. If we are to go down the route of changing fundamentally how we fund our health system, one would have expected that two and a half years into Government the Minister would have at least the principle and some detail as to how it is intended to fund the health system. I have asked the Minister this on numerous occasions and he claims it is very simple and that we will have private health insurance companies, people will take out private health care if they can afford it and the State will take it out on behalf of those who cannot afford it.

If it is that simple why has the country been waiting for two and a half years for the White Paper, especially given that the detail of the policy was in the Fine Gael's general election manifesto - the Dutch model, which was supposed to resolve many of our difficulties? The people gave the parties in Government a mandate and one would think they would have acted on it and that a White Paper on universal health insurance would have been published to allow us to give an input in scrutinising it and proposing ideas. However, we continue to wait. In the meantime the Minister is proceeding with hospital groupings, hospital trusts and all that is to flow from the universal health insurance model without our having any detail of how we will fund a sustainable health care system here.

Fundamentally this comes back to how the State will fund health care that is fair, equitable and accessible to all. I do not believe the Minister's proposals on universal health insurance will do that and the steps he has taken to date have done anything but that. They have driven more people out of private health insurance into public hospitals that are already under huge pressure given the numbers for which they must cater and the resources available to them. In one fell swoop the Minister has done the exact opposite of what is needed to sustain his model of health insurance.

At no point in the programme for Government does it state that the Government would publish a health amendment Bill that would require the full cost of private patients in public beds to be recouped, nor did it state that there would be increases in the various charges. Any rational person would accept that there is huge pressure on the State finances and that the health system needs to be funded in some way. However, the Minister's approach is further undermining the very principle he is trying to establish and I cannot understand why he is going headlong into it.

Even more amazingly the Minister has ignored the advice the HIA has offered to him on a continual basis. It claimed there was a need to ensure that those with lower health insurance cover would be exempt from the higher levy, but that never happened. When we discussed that legislation in the Dáil last year the Minister gave us categorical assurances that this would be the case. In February we discovered that it would not happen. That has now forced health insurance companies to downgrade the cover to get into the lower levy. Older people now find they cannot afford the health cover they had previously and are being offered packages with less cover which removes the very areas of health care they most need at that stage in their lives. That again runs contrary to everything the Minister has said about universal health care being equitable and available to everybody based on need. I cannot understand how the Minister can claim this Bill is part of Government policy based on the programme for Government. It undermines every health care provision in that programme which promised fairness and equity. That is why we will oppose the Bill.

The Minister is now pursuing a policy that will probably close some of the private health care providers. One would have assumed if the Minister's universal health insurance plan comes to fruition that they would offer competition and capacity. The Independent Hospitals Association of Ireland has stated this policy will probably result in some of these institutions going out of business thereby diminishing the capacity of overall health care provision.

We can debate the successes or otherwise of people waiting for appointments to see a consultant on an outpatient basis. The Minister claims that 330,000 is not a large number of people because more than 200,000 are seen every month. However, the Minister said that to me six months ago and we still have the same problem. It is not as if it is getting any better for many citizens. If it is not a major problem, one would have expected a reduction in the number of

people waiting to see a consultant on an outpatient basis.

The Minister has claimed he is making inroads into the numbers of people awaiting procedures on an inpatient basis. The problem is that any cursory investigation shows people cannot get on the inpatient list because they cannot even see a consultant on an outpatient basis. By stealth the Minister is not allowing people to be assessed, processed and deemed to need a procedure and placed on an inpatient basis. Last year and again earlier this year the Minister told me in replies to parliamentary questions that 200,000 patients a month are seen by consultants and therefore that we would get on top of the issue but it has not happened as we stand here early in July 2013. That is an area where the Minister promised a good deal but it is certainly not being delivered in accordance with his commitments.

We will consider the Bill and what the Minister is proposing on a forensic basis and we can do more of that on Committee and Report Stages. I find it remarkable that the Minister can say that he may not outsource the running of the fair deal scheme but it is a provision in the Bill. That is fine and it is something the Minister has said may or may not occur, but he is making provision for it. He has also said that he may not implement all of this if the insurers play ball, if they can find further savings within their administration and if they can negotiate prices downwards. However, the problem is that they cannot negotiate prices downwards in the public hospitals because the Department of Health and the Minister have set them in stone. We are asking the private health insurers to negotiate on a per procedure basis, to strike deals with the private health care providers and to seek deals with consultants for the provision of care. However, by the same token they are not allowed to enter into negotiations with the public hospital system. Insurers are having difficulty with this and have to operate with one hand tied behind their backs in terms of negotiating. At the same time, the Minister will charge every private patient who digs deep into his pocket to pay for private health insurance. The Minister will burden them with further costs to retain health cover. I cannot believe that the Minister is contemplating that, never mind bringing it to the floor of the Dáil and asking us to support it.

There is an increase in the daily charge for public inpatient services in acute hospitals from €75 to €80. I realise the Minister can put a cap on it from between seven and 15 days and that the maximum that can be charged in one year is €1,200. However, all these costs add up. At one time the now Minister was apoplectic with rage because there was a 50 cent charge placed on prescriptions. The Minister used to fall over himself arguing about 50 cent. He continually highlighted that this was something that would diminish people's ability to access basic medicines. However, he increased the charge. Here the Minister is increasing charges again not by 50 cent but by €5 and up to a maximum of €1,200 in a full year. All these things impact on people's ability to access health care.

The Minister has referred to health care based on need, not ability to pay. Certainly, in this legislation there is a requirement to have additional funds to afford health care in this country, even in the context of the public hospital system. The Minister is increasing the charges and there are no two ways around it. The principle the Minister is trying to enshrine is being undermined by these charges. At one time 50 cent to the Minister was an amount of money that could put people's lives at risk. That is what the Minister said. He said it would diminish their ability to access health care, but it was only 50 cent. The Minister has increased that up to a maximum of €20 per month although it was something he had proposed to abolish.

I find it difficult to accept because what the Minister says and what he does can be at complete variance. This is the case in the context of what is outlined in the programme for Govern-



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ment, the universal health insurance model, the White Paper to be published, the establishment of hospital trusts and hospital groups, the competition that would be created as a result and the dynamic health insurance market to underpin everything. However, now we are back having to deal with figures for people who are simply unable to sustain it.

I know the Minister's stock-in-trade answer. He will stand up and say that it is hard to take lectures from me, across the floor, because the reason people cannot afford private health insurance is because of the policies we pursued for 14 years, and I will listen to that.

**Deputy James Reilly:** The truth is not fragile; it will not break.

**Deputy Billy Kelleher:** I will listen to that as well. However, if that is the Minister's stock-in-trade answer, then it is cold comfort to the thousands of families who are either contemplating dropping health insurance or having to reduce cover. If that is the only solution the Minister can find and the only answer he will give, then I genuinely hold out little hope.

We are now in 2013, half way through the lifetime of this Government, if it runs its full course. However, we have not seen the full implementation in terms of the review of the fair deal scheme and what exactly that will entail thereafter. This is another area of concern. I have no wish to sound alarmist but the Minister knows the demographics coming down the tracks as well as I do. All the statistics are available. Many of the difficulties that will arise are for reasons we welcome, in the context of people living longer healthier lives, improvements in medical technologies and medicines and the greater well-being of people generally. However, to go back to what the Minister is trying to achieve in terms of keeping people in their communities and in their homes, the policies in place are completely at variance with the objective.

We are discussing the Health (Amendment) Bill and therefore I wish to raise the broader policy of the Minister and the Government with regard to primary care. We have been waiting two and a half years for the first part of the Minister's programme for free general practitioner care for everyone. Last year, the Minister highlighted that there would be some legal issues and difficulties. We asked the Minister what these were but we did not get much of an answer. However, the difficulty is that the 60,000 people on the long-term illness scheme who were promised, in advance of the election, that they would be the first people to receive free GP care are still waiting two and a half years later. We are no wiser about what is happening with the roll-out of the programme. Given what has happened in terms of policy implementation and the impact it is having on people, I have considerable difficulty in understanding why the Minister is pursuing these policies.

We have discussed the need for community-based primary care services, the roll-out of centres, the development of physical structures, the establishment of primary care teams working closely with GPs and other health care professionals and the vision for change policy in terms of mental health and having all these services in the community. However, it is simply not working and there is no point in the Minister standing up in the House and pretending that it is. I will accept the criticism that progress was slow during the time of the last Government, but I had thought I would have been walking past health care centres dotted throughout the country by now, some two and a half years later. There has been a decidedly slow take-up.

I have no wish to go back over the old ground of the logarithmic logistical progressions and how the Minister assessed the primary care centres. The point is that even some of those placed on the list are not moving ahead either. Reference has been made to European investment funds



to fund some of these primary care centres and public private partnership packages and so on. However, it is very slow and in the meantime people are waiting for the services.

Another alarming area is the Minister's comments on GPs. The Minister is himself a GP and has represented them in a previous incarnation. There have been no negotiations with the professionals who are expected to work in primary care teams and to lead them. That was to be the central tenet of how we had intended to provide health care in the country in the years ahead. I find it rather startling that while we talk the talk of establishing the teams and having the centres clinically led by GPs in the communities, there has been no genuine discussion with the organisations that represent them with regard to how this will actually work. There has been no discussion on how primary care and free general practitioner, GP, care will work. There has been no discussion on how the contracts with the individual doctors will work. Moreover, although none of this has taken place, I am asked to come into the Chamber. As there are only 19 Fianna Fáil Members, our support or otherwise does not make much difference and we can only oppose on the grounds on which we choose. However, Fianna Fáil will oppose the Bill because the policies advocated and the policies pursued are completely different. Every decision Deputy Reilly has made since becoming Minister for Health does not coincide with what was put before the people in 2011. While one might argue things changed because of the formation of the coalition, I can find nothing in this legislation that correlates with the contents of the programme for Government.

In conclusion, this Bill is a tax on access to health care. It is an increase in taxes, as a charge is a charge no matter how one looks at it. People who present in public hospitals will be obliged to pay more either through the charges themselves or through the Minister's stealth tax with regard to increasing premiums for families nationwide who are as entitled as anyone else to access a public hospital and seek treatment in the public hospital system. Such people make sacrifices and lighten the burden on the State. They agree to pay their own private health insurance, thereby lightening the burden on the State and giving it a break. However, what the Minister has decided is they will pay their taxes and all their charges, after which the Government will levy them again when they actually access health care, even though they are not getting what they should, namely, treatment outside the designated beds that are present in the public hospital system. This simply is wrong and will put huge pressure on the health insurance market. More importantly, families throughout this country will pay for this flawed legislation.

**Deputy Caoimhghín Ó Caoláin:** In his concluding remarks, the Minister spoke of how the funding generated will be for the benefit of those in acute hospitals and nursing homes. He also referred to the Bill modernising the charging and contributions regimes and claimed it was for the benefit of those concerned. While I would warrant that few would buy that sales pitch, even if the Minister could convince some of his claim that it will be for the benefit of - I emphasise what the Minister said - those in acute hospitals and nursing homes, what of those who will be forced by some of the measures included in this Bill to put off seeking access to acute hospital settings and nursing homes because they simply cannot afford it given their other competing responsibilities? I do not believe this modernising approach, as the Minister claims it to be, would be of any comfort to them at all.

This Bill is gift-wrapped as health reform but it is no such thing. The bottom line is it is another shoddy item of legislation designed to facilitate cutbacks in the public health services. The Bill also contains a mixture of provisions that make some significant and totally unsignalled changes, which have received little public scrutiny and virtually no public debate. In this Bill, the Minister for Health, Deputy Reilly, seeks to impose higher charges for shrinking pub-

lic health services and the Bill again exposes how the Fine Gael-Labour Party Government's health policy is full of contradictions. The Bill increases the daily charge for public inpatient services in acute hospitals from €75 to €80 and increases the asset contribution under the so-called fair deal nursing home scheme from 5% to 7.5%. These increases, arising from budget 2013, received little attention when the Bill was published. I have no doubt but that was much to the satisfaction of the Minister. The Bill provides that the insurers of private patients should pay the full cost for the use of scarce public beds and on this, the Minister and I agree. This is right and proper and is something for which my party, Sinn Féin, and I have called consistently. However, this must be perceived as an interim measure towards a fully public system with equal access to hospital care for all, based on medical need alone.

Fianna Fáil, the main architects of the two-tier public-private health system, used to claim the public-private mix gave us the best of both worlds. I heard this claim several times in this Chamber and a former health Minister made much of it. Of course, what Fianna Fáil created and sustained for the many years its members were at the Head of Government in this State was a grossly inequitable and inherently inefficient system, which the superficial prosperity of the so-called Celtic tiger years could not disguise. After five years of recession, we now have the worst, not the best, of both worlds. Incomes have decreased or have been wiped out, the private health insurance market has consequently shrunk and the result is many more people are totally dependent on the public health system. Moreover, that system has been undermined, weakened and downgraded by five years of health spending cutbacks, as it struggles to provide care for a growing and aging population with more complex health care needs.

The so-called solution being put forward by Fine Gael is to convert the system to one based on competing private health insurers and there is no other word for it than privatisation, plain and simple. As to how exactly this will work, one still does not know as the details of the plan have yet to be seen. However, international comparisons tell one that despite the claims of the Minister and other voices, it simply does not work. The truth is the health policy of the Fine Gael-Labour Party Government is full of contradictions. It claims to be aiming for free GP care for all yet it has further restricted access to the medical card, including within the past six months. The promised initial extension of free GP care to long-term illness patients has not been delivered and, it claims, cannot be delivered but that another way will be found. As to what that other way might be, again Members do not know as they have been given no details and no prospect of an alternative that would deliver this promise any time soon has been presented. The Government claims to seek universal health care but yet the private health insurance model it favours would see everyone who already pays tax to fund public health services also being compelled to pay health insurance with a significant profit margin for the private insurers, that is, the private for-profit interests.

This Government, like its predecessors in Fianna Fáil, vehemently opposes proposals from Sinn Féin, other Opposition voices and many others, including the trade union movement. Our arguments are for higher taxes for the highest earners and for a wealth tax rather than the measures the Minister incorporates in this Bill. Yet, at the same time, the Minister proposes to introduce a system of compulsory private health insurance, the cost of which will be artificially inflated to ensure profits for the private insurers. That is why they exist.

We would have greatly improved public health services today if, in the decade from 1998 to 2008, we had introduced a truly fair taxation system, with the wealthy paying their fair share and the revenue being invested in vital infrastructure contingent on public health needs. Instead, what we have is a two-tier system and such waste as, for example, the consultants profit-

ing from both public and private systems being reinforced.

From this Government we are getting not real reform but a tinkering with the fundamentally flawed system, the prospect of yet undefined change and, above all, more cutbacks and more charges for reduced services.

I do not intend to revisit the current perilous state of our public health services - the overcrowding, the trolley count, the waiting lists, and the services simply not available to those who need them. We have aired those on many occasions and will continue to do so in other opportunities that present here and at committee. However, I want to cite just one example. The Irish Nurses and Midwives Organisation has reported an average of 79 patients per day placed in overcrowded and inappropriate environments on inpatient wards, above the stated bed complement of those wards. That is in addition to the scores of people daily on trolleys and chairs in emergency departments. It is an outrageous situation for people to have to endure.

Looking at the detail of the Minister's proposals in the Bill, the €5 increase in the daily charge for public inpatient services is, for those who will be obliged to pay, a significant rise. It is a significant further demand and will, as I said at the outset, further dissuade people, including parents of children in need of inpatient care, from presenting for important and essential services with all the potential consequences involved for all concerned. Make no mistake about it. The argument the Minister made about the 50 cent, as already highlighted by Deputy Kelleher, most certainly applies in a €5 increase.

The least signalled part of this Bill is Part 2, which makes significant changes to the Nursing Homes Support Scheme Act 2009, the so-called fair deal scheme. Again, we are seeing increased charges. The Bill increases the asset contribution under the nursing homes support scheme and abolishes the requirement to backdate State support to the date of the scheme's commencement for those who were in nursing home care prior to that date. Section 7 amends Schedule 1 of the Nursing Homes Support Scheme Act 2009 to increase the asset contribution from 5% to 7.5% for people who enter nursing home care after the enactment of this Bill.

Significantly also, the Bill, in section 4, provides for something not already highlighted, namely, the privatisation of the administration of the nursing homes support scheme. That is in line with the privatisation agenda of the Minister's party to which the Labour Party clearly has now completely surrendered. We know that the downgrading of the public service is in full flow, and nowhere has been more affected by the recruitment embargo than the health services, but where has the proposal to privatise the administration of the so-called fair deal scheme come from, and what is its motivation? What research or consultation has been carried out regarding the working of the nursing homes support scheme? This is a key State scheme requiring great care, sensitivity and scrupulous fairness in its implementation. It is a right of citizens who qualify under the scheme, and that right must be vindicated. Anyone who has gone through the process of application to the nursing homes support scheme will say it is one of the most complex, confusing and long drawn out processes. It is a bureaucratic and legal nightmare. It needs to be simplified, streamlined and better fitted to the needs of citizens who require this service.

I want to remind the Minister what he said when addressing the Nursing Homes Support Scheme Bill in the Dáil in 2008: He stated:

However, we do not wish to discover, as we so often have previously, that a perfectly

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good concept in principle turns into a mire and nightmare for people in practice. I do not wish to introduce an adversarial tone to the debate but we must be mindful of what happened with the HSE. We cannot allow that type of mess to be inflicted on people.

Hear, hear, twice over. A mire, a mess and a nightmare is exactly what we have now. In this context, I ask the Minister what the so-called outsourcing of the scheme as provided for in section 4 will actually achieve, and what it is meant to achieve.

I believe this is another example of cutting out the public service element, bringing in private contractors with staff on lower pay, to reduce the public service pay bill, with no regard to the effect of the changes on the citizens who use the service. I strongly oppose this section of the Bill and urge instead a reform of the administration of the scheme to make it more accessible, comprehensible and viable for service users. Any among our number could be among that number in our own turn and time.

I wish to reaffirm, as I did when the Nursing Homes Support Scheme Bill was debated in 2008, my strong objection in that I believe it effectively removed the universal eligibility for a place in a public nursing home as provided for under the Health Act 1970. This Bill reinforces that position. The statutory eligibility to a bed in a public nursing home as provided in the 1970 Act was never vindicated in terms of the provision of the resources to make those beds available. That led to a huge reliance on the private nursing home sector and a complex and inequitable system of State subsidy for nursing home care. Undoubtedly, that had to change but I believe the previous Government, in doing so, went in the wrong direction. The Minister also was somewhat of that view at the time.

If a person suffers a heart attack, and I have had the experience, he or she is entitled to a bed free of charge in a public hospital. However, under the Nursing Homes Support Scheme Act 2009, if a person becomes so dependent, say, from the effects of a stroke that he or she needs constant care in a nursing home, his or her entitlement to a public bed free of charge is effectively gone and he or she must pay. A fundamental shift took place with that Act and the implications for the entire health service were and continue to be profound. This Bill continues that trend.

*I o'clock*

I was not the only Deputy to raise these concerns at the time. I cite none other than the current Minister of State, Deputy Jan O'Sullivan, who, as its health spokesperson at the time, stated on behalf of the Labour Party:

Age Action Ireland put the argument well when it stated that the legislation sounds the death knell of the public bed for those who need a residential nursing home bed, and that it also means the introduction, for the first time in the Irish health service, of a charge beyond the grave for essential health care services. The organisation went on to state that if this legislation is passed, it will mean that those who have conditions such as dementia and stroke will be treated differently from those who have heart attacks and cancer. We must be concerned when legislation such as this is introduced because we are, in effect, treating different elderly people differently, depending on the condition from which they suffer. The Labour Party is committed to a universal system of health care whereby everybody is treated the same irrespective of income and age.

Again, I say "Hear, hear" but where stands that Labour Party commitment now? How do

those fine words translate in the context of the Labour Party's involvement with Fine Gael in Government since February-March 2011?

We also need to place this matter in the context of the way in which we care for older people. The National Economic and Social Forum's Care for Older People report, which was published in 2006, stated that the then current official funding of services was not "consistent with the policy objective of encouraging community-based responses" and that "Considerable resources have been invested in nursing home care responses, some of which was unnecessary, not wanted and inappropriate". The NESF report identified the weakness of community care, the poor integration between systems and sectors, under-resourcing, the lack of responsiveness to the needs of older people, poor co-ordination and the fact that care is not embedded in local communities. That report is even more relevant today.

This Bill is another piece of patchwork legislation designed to do another patch-up job on our tattered health service. The Bill also facilitates cutbacks, privatisation and further and higher charges in respect of shrinking services. Where is the fundamental reform so long promised by this Fine Gael and Labour coalition? It is certainly not contained in this Bill and there is no sign of it on the horizon. The only thing we can see on the horizon is the onward march of the privateers under the Fine Gael banner, with Labour's tattered banner trailing behind. The Bill does not merit our support. We have consistently indicated our support in respect of the need to address a particular core matter. Regrettably, that matter is not being properly dealt with in this legislation and all the other issues which have been appended to it are being adversely impacted upon in the context of the broader public interest. We will be opposing the passage of the Bill.

**Acting Chairman (Deputy Bernard J. Durkan):** I call Deputy Catherine Murphy of the Technical Group who, I understand, proposes to share time with her colleague, Deputy Finian McGrath. The Deputies have 30 minutes between them.

**Deputy Catherine Murphy:** The main media focus surrounding this legislation has been on the charges that will, if it is enacted, apply to private patients occupying public beds in public hospitals. This is a matter of concern to those who are facing the prospect of abandoning private health cover and moving to the overburdened public system. I will return to this matter later but there are other troubling aspects of the Bill which I wish to explore in the context of the charges relating to the nursing homes support scheme, formerly known as the fair deal scheme.

A number of fundamental questions arise with regard to the operation of the nursing homes support scheme and the way in which the nation treats those who require long-term care. The troika recently highlighted two areas, one of which is that which relates to health care, where further savings are to be sought. This obliges me to ask whether it was the latter which prompted the introduction of the Bill before the House at this time. We have been informed that the legislation will assist in increasing the funding available to the public health system. In fact, it will probably add nothing extra to that system. What the Bill more probably represents is an attempt on the Minister's part to remain within a certain budget. We are witnessing a decline in the overall level of service. I completely agree with Deputy Ó Caoláin who referred to the measure before us as a patchwork attempt at legislation which contains no vision, thought or general philosophy regarding the type of health system we should have and the kind of solidarity that should go with it. We had an expectation that such a system was going to be the objective of the current Government.

On numerous occasions I have been asked to indicate what it is we are paying for when we



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make pay-related social insurance, PRSI, contributions, which include an incorporated health levy, and the universal social charge. I find it impossible to provide answers to people's questions in this regard. Many individuals opt, if they can afford to do so, to join private health insurance schemes, primarily because they are concerned that their needs will not be met by the public system and not because they want to pay for private health care. I am in this position and I have private health cover. However, I prefer to rely on the public system. I can openly state that I would be prepared to pay more tax in order that we might end up with a good public system.

Health care must be paid for and it is a question of deciding how we should do that. This is a profoundly political issue. PAYE, PRSI and the universal social charge almost take the form of a solidarity tax but the problem is that there is no return for most of those who pay these. We are informed that 45% of private patients in public beds are treated in this way. How did these people end up in public beds? It seems that many of them are put in such beds because they were taken to accident and emergency departments in ambulances. Those to whom I refer are patients who ended up in public beds and who happen to have private cover. The explanatory memorandum to the Bill states that section 13(1) "provides that where a person waives his or her eligibility to services as a public patient, the HSE may make inpatient services available to him or her and impose the relevant charge set out in the Fourth Schedule." Such patients can be pursued by debt collectors or whomever in order to ensure that payments are made.

One must question the capacity of public hospitals, in which wards have been closed, to absorb the additional intake of those who will be obliged to opt out of the private system. I am no fan of the two-tier system but even if the political desire exists, it will take time to move to a single-tier model. It is my opinion that the public system is unable to absorb the extra intake to which I refer. I must query the savings which it is stated will be made. Too often the Government has put in place initiatives whereby it saves on one side only to pay out on the other. That makes no sense.

I supported the second referendum on the Lisbon treaty. I did so because the treaty makes provision for the application of the Charter of Fundamental Rights of the European Union. That was the only reason I could find to support the referendum. Article 35 of the charter states:

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

I cannot identify how the Bill delivers in respect of that right. I am of the view that it does the opposite.

We have all received letters from the Independent Hospitals Association of Ireland which comprises 21 hospitals which account for approximately one third of the acute hospitals, employing 8,500 people and treating 400,000 patients. I realise the hospitals have two concerns, one of which is about their own viability. However, the public system does not have the ability to absorb the patients for whom they will be unable to cater if they close down. They have told us they support a plan to introduce a health system which promotes equitable access to high quality care, as promised under universal health insurance, but that they firmly believe the impact of the planned legislation is entirely contrary to that objective and, therefore, the components of the Bill relating to the designation of all beds in public hospitals as chargeable should



not be proceeded with. They further state that the proposed legislation would see patients having to waive their entitlement to public treatment in a public hospital because they have purchased private health insurance, with a claim being made on their health insurance policy for a service for which they have already paid through their taxes. That is the point I made about PRSI and the universal social charge.

I spoke about the savings on one side and the cost on the other. Recently, I attended a presentation by the Irish Hospice Foundation, which was very interesting. It is looking for a broad end-of-life care strategy, which I thought made great sense. It is interesting to note that some of the providers in the private nursing home sector are looking for a framework for long-term residential care. That should be part of a broader strategy. I would like us to take a more strategic approach to this whole area.

The Irish Hospice Foundation told us that 30% of the whole of life health care cost occurs in the last year of life. It gave us some very useful information on the savings that could be made by the provision of home care from the hospice foundation. That needs to be looked at. If one is looking for the optimum, in terms of health care, one can find savings by doing the right thing as well as by looking at things as a crude means of raising funds for what is there already. That is what is happening here. A joined up approach is not being taken.

I received a reply to a parliamentary question the other day in which I was told that the latest information available to the Department indicated that there were 873 people on the national placement list for the nursing home support scheme at the end of April and that the average time spent awaiting funding was 49 days but that not all people were in acute hospitals. However, a significant number - approximately 43% - were in acute hospitals. The fact we do not have a strategy for moving people to more appropriate type care ends up causing terrible trauma and costing more money.

When dealing with people at our advice centres, we get a fuller understanding of how policy impacts on people. I dealt with a man whose father was over 90 years of age, had a whole host of ailments and was staying in a nursing home. However, the man was then classified as needing acute care and the nursing home was forced to ask him to leave, even though he had premium level insurance, due to a shortage of beds. The option for the family was to call an ambulance, with the possibility that the man, who was very ill, would end up in accident and emergency on a trolley. Instead, the family sourced another nursing home bed but had to wait weeks to be paid at considerable cost to themselves. They are the kind of choices people must make. Unfortunately, that gentleman has since passed away but the case was appalling. If one looks at the chaotic situation where someone who ends up in hospital after a stroke wants to return home, there is a lack of any kind of joined up system. Approval of the carer's allowance or a grant to adapt a home, where the need appears to be long term, can take months, if one gets either at all. The lack of a coherent approach is forcing people to make choices they would not otherwise make. Some of those choices are being made by people who would like to be cared for at home by their relatives but, unfortunately, they are in a position where the only option available to them is to look for a residential place in a nursing home, which their health profile permits them to do, even though it is not ideal. In fact, it is a more expensive approach than having people cared for at home.

There is a problem in terms of the lack of joined up thinking, of a strategic approach and of any vision for the kind of health care system we should have. Instead, a piecemeal or patchwork approach is being taken and it is making matters worse rather than better.

There is a terrible language of dishonesty with this Government and this fits into that. Recently, we were told the money collected in motor tax this year - €150 million - would be used to pay the national debt. That was even stated in the legislation. The carbon tax is not used counteract the effects of smoky fuels and so on but it goes to the central Exchequer to pay off the national debt. There is nothing local about the local property tax, which is collected nationally. There is a dishonesty here.

We should call this what it is. Having assumed property prices would remain as in the boom years, we have found they have not, so there is an increase from 5% to 7.5% to cover that cost. Why does the Government not just say that? Couching it in something else is fundamentally dishonest. It is the kind of thing to which people react very negatively and it leads them to believe there is a second language around politics, which is not the kind of language they speak.

A broad strategy is required so I cannot support this legislation. Health care must be paid for but the way the Government is going about it is fundamentally wrong and it adds to the dishonesty of politics.

**Deputy Finian McGrath:** I welcome the opportunity to speak on the Health (Amendment) Bill 2013. It is important in any debate on health that we speak up for the most vulnerable, senior citizens, the sick and the disabled. Any health system that does not have equality and fairness at the heart of the service will not help to defend or respect our people and citizens. It is an important aspect of the debate. We must not hammer or exploit our elderly and senior citizens, who have made a major contribution to this country.

Last week I received a letter from a constituent on the matter and I will highlight exactly what was written. It states:

The Bill to increase the levy on the assets of nursing home residents by an appalling 50%, from 5% to 7.5%, is coming before the Dáil this week and maybe you would seek an explanation please as to why the financial penalty on the people concerned far exceeds that on any other category of citizens under the terms of the budget. The defence that the money must be saved will likely be trotted out but why are old and sick people kicked the hardest?

That comes from a constituent and it outlines the reality for many people I will try to defend today. I call on the Minister to support these people and act on the issue as a matter of urgency.

The Health (Amendment) Bill 2013 seeks to introduce or increase a number of charges across the health sector. It increases the financial contribution of people availing of the nursing home support scheme, and it also seeks to allow the HSE outsource the management of the scheme. It introduces charges for private patients in public beds in hospitals and it increases the charges for public inpatient stays. It also seeks to introduce a charge for those receiving residential support services, which will replace the current long-stay charge.

We must focus on the details of the legislation and the costs to our senior citizens, as a 50% increase is wrong and unjust. I would challenge anyone to say otherwise. Will the Minister confirm the impact of the Health (Amendment) Bill on the lives and economic resources of people with intellectual disabilities? What will the specific impact be for people with intellectual disabilities in State residential care? What effect will be felt by people with intellectual disabilities and their families when they avail of life-saving respite care? What, if any, consultation was undertaken by the Department in an attempt to explain the impact of this proposed legislation? Was there communication with those in the disability community, particularly

those with an intellectual disability and who have seen an impact in residential arrangements and personal economic resources? I hope the Minister can answer those questions, and it is important that we put those hard questions to him.

We cannot have people with an intellectual disability and their families being persecuted. We saw a recent row about resource hours, and although they won that battle, a war is ongoing. The mobility allowance is on the agenda and many people are fearful of what will happen in that respect. I raise these issues as part of a constant battle. I thank the Ceann Comhairle as I received a letter this morning indicating that my Down's syndrome (equality of access) Bill will come before the House when the time is appropriate. That legislation is concerned with equality for young children with Down's syndrome and it is also about respect and the rights of citizens in this country.

The Independent Hospitals Association of Ireland is a representative body of the country's 21 independent hospitals. Its member hospitals play an essential role in the delivery of acute and mental health services, accounting for almost a third of acute hospitals in Ireland, employing 8,400 people, or close to 15% of staff in the sector. It provides almost 20% of the beds in the system and treats in the region of 400,000 patients every year, or one in every five patients. The Independent Hospitals Association of Ireland is very supportive of the plan to introduce a health system that promotes equitable access to high quality care, and that is a position I share. However, it firmly believes that the impact of this planned legislation will be entirely contrary to that objective, and it argues the components of the Bill related to the designation of all beds in public hospitals as chargeable should not proceed.

The proposed legislation would see patients having to waive their entitlements to public treatment in a hospital because they have purchased private health insurance, with a claim being made on a health insurance policy for service that has already been paid for through taxes. The likely 30% hike in health insurance premia and the subsequent exodus of more than 300,000 consumers from the health insurance market predicted by the Insurance Ireland Health Insurance Council will lead to an environment where independent hospitals will face closure. As a result, there will be a serious reduction in health services available to the people. The consequences for patients will be reduced capacity in the independent health care sector, reduced choice and growing reliance on already overly burdened public hospitals.

The association is advised that the proposed legislation is contrary to EU and competition law because it will have the effect of restricting competition and a consequential adverse effect on consumers by limiting choice and reducing quality of care. The Minister should answer that argument in this debate as ultimately the proposal will impair access, quality and affordability of health care for all consumers. It will also lead to the failure of some independent hospitals and increase the burden on the public system. There is also the potential to distort competition in the market for provision of new privately funded health care.

These concerns must be answered by the Minister and his Government. We are all in favour of equality and reform but we must ask the hard questions, to which I will return later. On Friday, 14 June, Ireland's four main insurers indicated that as a direct result of this proposed legislation, they will have to increase premiums by up to 30%, meaning up to 300,000 consumers will leave the private health insurance market. The Minister does not accept the 30% figure and on television recently he argued the actual figure would be in the region of 5% or 6%. Nevertheless, the economist Mr. Colm McCarthy recently indicated in a report on the future of private health insurance that the price of health insurance will rise by 25% as a direct result of this pro-

posals. Once again the Minister has got his figures wrong and many people are concerned about that. We must closely examine this issue.

We have already seen an exodus of approximately 129,000 people from the private health insurance market in the past two years, with a further 500,000 having downgraded their plans because of austerity and other Government plans and economic policies. Further premium hikes in this quantum will undoubtedly result in many more thousands of consumers relying on the public system for their care.

The new risk equalisation levy has already burned a family of four who hold an “advanced” plan to the tune of €180, which is a 24% increase before any increase on the underlying premium. Government policy seems very strange as private health insurance is becoming increasingly unaffordable for thousands of citizens, particularly young people who are cancelling cover in great numbers while older citizens struggle to retain cover. Such issues should be addressed by the Minister.

Insured patients who are being billed for care in a public hospital may not receive the same elements of private treatment that they may if they present in an independent hospital. If the public hospital system sees significant increases in numbers seeking treatment, it may be unable to provide access to equivalent private or semi-private accommodation or a treating consultant. Over 2 million consumers in this State purchase a health insurance product with the expectation that when needed, it will entitle them to specific criteria of care, including access, accommodation and clinicians. In circumstances where they receive a standard of care that is the entitlement of all the citizens free of charge, the cost is none the less charged to health insurance companies. The insurance premia end up defraying the cost of providing public health care. Will the Minister provide an answer on these hard issues? When one looks at it from the perspective of the State and taxpayer, one can see that a significant consequence of this proposal will be a substantial increase in the volumes of patients presenting for care in the public hospital system, putting pressure on the existing capacity and adding to current waiting lists. That is something about which we all have concerns. The Insurance Ireland Health Insurance Council forecasts that the net effect of the legislation will cost the Exchequer in the region of €90 million. The Minister should wake up, smell the coffee and see what is going on. We hear much talk about reform and action so let us see the reality and let the Minister deal with the points I raised in the debate on this legislation today.

I am also aware that no regulatory impact assessment has been undertaken regarding the effect of the Bill on the Irish health care system. Where is the Minister going? Where is all the talk about regulation and planning? It has gone pie in the sky. No regulatory impact assessment has been undertaken regarding the effect of the Bill on the Irish health care system. Given the fundamental nature of the change proposed, it is vital that this key part of the legislative process is completed prior to the enactment of the Bill. The Minister should wake up and smell the coffee. He is not delivering and is waffling again. He is all hot air and is not dealing with the real issue.

Let us go back again to talk about our senior citizens and respect for them. A total of 5% of the population over 65 - over 22,000 people - live in nursing homes in the private and public sectors. The care is expensive and can range from €430 to €2,500 per week. The cost of care is prohibitive for most of these people and they are eligible to apply for State support for the nursing homes support scheme to assist them in meeting these costs. The nursing fees of those on the scheme are met by a combination of means-related contributions from them and the State.

The 2013 budget for the scheme is in the region of €974 million. This Bill seeks to increase the amount that people must pay on their assets towards the cost of care.

The nursing homes support scheme, which is known informally as the fair deal scheme, is a system of financial support for residents in long-term nursing home care. It began on 27 October 2009 and replaced the nursing home subvention system and the practice of contract beds and long-stay charges in public nursing homes. Its aim was to ensure that nursing home care is accessible and affordable for everyone and that people are cared for in the most appropriate setting. Under this legislation, older people must pay more for their nursing home care. In the current economic climate, this is very difficult for a group of senior citizens and vulnerable people who have already paid taxes for many years and made their contribution to this country. I ask the Minister and the Government to stand up for the people, the poor and senior citizens and look at the issues I raised in respect of disability. Let us build a proper health service, bring in reforms that are equitable and sensible and examine the costs. It is a national disgrace that these issues still exist. In spite of all the talk and waffle from the Minister, he has still not delivered and I urge the Minister and other Ministers to look seriously at the points I made in this debate.

**Deputy John Browne:** I welcome the opportunity to speak on the Health (Amendment) Bill 2013 [Seanad]. Our party will find it very difficult to support this legislation unless major changes are made by the Minister on Committee Stage. The proposal to charge all private patients in public hospitals will increase health insurance premiums. This will add to Government costs as more people will give up private health insurance thereby putting more pressure on the public health system. Many speakers have outlined that situation.

The Government's policy is to introduce a system of universal health insurance commencing in 2016, although there is not much sign of that at the moment. The Bill seeks to give effect to budget 2013 measures, including charging all private patients in public hospitals, increasing the daily charge for public inpatient services in acute hospitals from €75 to €80, increasing the asset contribution under the nursing homes support scheme from 5% to 7% and abolishing the requirement to backdate State support to the date of the commencement of the scheme for those who were in nursing home care prior to that date.

It is quite obvious that the Minister is continuing to take more and more money out of the pockets of older people. We already saw major changes in the budget this year where the respite care grant, the home care package and home help hours were reduced. In some cases, as in my county of Wexford, the home help service is in abeyance because the HSE is not providing the moneys for an increase in home help services. It is very difficult to get approval for new home help applications.

It is quite obvious that if we charge the full cost of private beds in public hospitals, we will further drive up the cost of health insurance. There is already a crisis in the private health insurance market with 1,100 policyholders exiting the market per week although the Minister does not seem to accept that or want to take this situation on board. He continues to drive on with further measures that will ensure that more and more people will leave the private health insurance market. A total of 2,078,000 people were insured with inpatient health service plans at the end of March 2013. This represents a reduction in the number of insured people of 21,000 in the first quarter and 61,000 over the year. The market peaked at almost 2.3 million at the end of 2008 but because of job losses, reductions in wages and other issues, people have continued to leave the private health insurance market on a regular basis.



In respect of charging private patients the full cost of beds in public hospitals, most people are entitled to universal health care by virtue of their citizenship and status as taxpayers. If we charge the full cost of private beds in public hospitals, we will further drive up the cost of health insurance and force more and more people out of the market. People are voting with their feet on this issue. All health insurers agree that it is a very serious challenge to the sustainability of the market. As Deputy Finian McGrath outlined earlier, the Insurance Ireland Health Insurance Council, which includes the State's four main insurers, has warned that the Government's proposed new public bed charge will lead to an increase of over 13% in health insurance premiums. In a submission to the Government, it said that a price increase of this magnitude would force over 300,000 members out of the health insurance market, leaving just over one third of the population insured by 2015. A significant further exit of people from the private health insurance industry would have a dramatic and appreciable impact on the public hospital system as the cost burden of these individuals is shifted from private insurance to the Exchequer. There are already huge waiting lists in our hospitals. People are waiting months and sometimes years to see consultants. The delays, which are continuously highlighted by the general public, are nothing short of a disgrace. Some people are waiting for over a year or 18 months, many of them with serious illness, are finding it very difficult to see a consultant to diagnose them and are finding it nearly impossible to get into hospital because of the lack of speed of consultants when dealing with people who are seriously ill.

The hospital system in Wexford has been redesignated by the Minister and we now find ourselves in no man's land. At the moment, we are tied to Waterford and Cork. It is the Minister's intention that Wexford patients will go to Dublin eventually and he should explain when will this happen. Many people are concerned they may have to go to Waterford, Cork or Dublin. Last week people from Wexford who were patients in Waterford found it impossible to get into the Mater Hospital, St. James's Hospital or St. Vincent's Hospital.

Private hospitals have warned they are in danger of closing if the Government presses ahead with plans to charge private patients the full cost of using public hospitals. The Minister must listen to private health insurers and private hospitals, because they are expressing concern about what will happen. They are not making it up and it is not out of a comic show. It is the reality but the Minister does not seem to want to listen. He seems to have no interest in what the providers of the services state. I call on the Minister to explain why he continuously ignores the views of private health insurers and private hospitals and the warnings they send out.

The nursing homes support scheme, which was known as the fair deal scheme, has been running for a number of years. More than 20,000 people avail of the service in long-term residential care. The scheme pays towards the cost of care for those participating, with individuals contributing 80% of their income and 5% of their assets per year fixed at a maximum of three years or 15%. In the Bill the Minister wants to increase the maximum proportion of a person's assets payable from 5% to 7.5% with a cap at three years or 22.5% in the case of principal private residences. In 2013 the budget for the scheme was €974 million. I do not know whether it was the Minister or the HSE who made a particular decision with regard to the nursing homes support scheme in rural Ireland. People applying for the nursing homes support scheme receive letters stating they are on the national waiting list for funding but the Minister tells us there is adequate funding. I am led to believe there was a huge build-up of applicants in Dublin and Cork and that the Minister instructed the HSE to put on hold applications from rural Ireland until Cork and Dublin applicants were approved.

**Acting Chairman (Deputy Charlie McConalogue):** Deputy Browne has been speaking



for nine minutes and up to 20 minutes are available in the slot if he wishes to take it all.

**Deputy John Browne:** I accept that. The Minister should clarify the situation. Why would Dublin and Cork get priority over the rest of the country? People from Wexford who apply for the scheme encounter long delays. Those who operate the scheme tell them to take it up with the Minister and the HSE, that they are on the national waiting list for funding but they do not know when the funding will be obtained. We have been told quite openly that because of the huge list of applicants in Dublin and Cork rural Ireland was being put on the backburner and priority was being given to Dublin and Cork. If this is the situation it is not good enough. If people qualify for the fair deal scheme they are entitled to be paid immediately and it is not good enough that they are put on the backburner.

I believe the fair deal scheme is good and has worked reasonably well. It will be needed more and more because we have clear indications from surveys that the number of older people in the population will increase significantly from 2011 levels of 532,002 to somewhere between 850,000 and 860,000 by 2026. At present it is very difficult to obtain home care and respite grants. It is practically impossible to get home help support in rural Ireland.

The Bill will take more and more money from the elderly and will continue to increase the amount of money they must pay. The Minister has no broad policy for the health service and seems to be making it up as he goes along. I call on him to respond to the point I have raised about the nursing homes support scheme funding and why it is not available in some parts of the country to the same extent as it is in cities and large urban areas. I ask him to clear up this situation once and for all.

I am sure the Minister will accept amendments on Committee Stage. He has done many U-turns since coming to office, particularly with regard to GP care, universal social care and various promises he made when in opposition. It is not good enough that the Minister continues to attack the elderly. We had it in the budget and we have it again in the Bill. The Minister must re-examine where he is taking the health service because it is certainly not in the best interests of the patient.

**Deputy Maureen O'Sullivan:** It is almost beyond belief we do not have a state-of-the-art health system when we consider the budget is €13.626 billion with a further €397 million in capital funding. I wish to make a general point about what is good and excellent in our health service. Excellent medical care and quality of services is provided in the areas of caring for people with cancer and advances for people with heart ailments, transplants, by-pass operations and stent procedures.

A friend of mine has had motor neuron disease for six years and with regard to long-term illnesses there is a great need for co-ordination of services. Her main carer spends much time making calls to a variety of services, whether for occupational therapy, palliative care, physiotherapy, home care, medical care or with regard to incontinence issues, instead of being able to make one call to a central person who could look after all of this.

We know we have a two tier system and most people would like to have a system which is fair and which treats people equally and in accordance with their needs and not their ability to pay. In the 1970s I bought into private health insurance and I am not too sure why. I have paid into it for more than 40 years and thankfully I have been very healthy and have only had to avail of it on three occasions for very minor procedures. The private health sector has received

quite a lot of money from me and this is fine. In this system when one goes for an appointment it is speedy and prompt and when one arrives in the hospital one is dealt with efficiently and speedily. The procedure takes place and after care is provided. I do not understand why this cannot happen in the public health service also. Why can we not have prompt appointments and speedy delivery of services?

We know we have waiting lists and that we also have waiting lists in accident and emergency departments. I acknowledge the improvement in the new accident and emergency system in the Mater Hospital. In 2008, 2.3 million people had private health insurance. We have been told about the percentage decrease from 50.9% to 45.8%. One would need a degree to work one's way through all of the various private health plans and programmes available to establish what is cost-effective.

Regardless of the pros and cons of the proposed charges, or the philosophy behind private health insurance, I find the reaction of the private insurers predictable but not very helpful. They state this will lead to an increase of more than 30% in health insurance premiums and that the number of people taking out health insurance will decline. Aviva has stated the insurers simply cannot bear the cost and remain in business. VHI states it is the single biggest challenge facing the market. Laya Healthcare speaks of it as a significant threat to affordability and sustainability of private medical insurance. At least GloHealth asked for initiatives which would not drive up premium costs and which would entice young people to be explored. I call on the industry to examine wastage in private health care and for more efficient use of their resources. In 2012 the providers took in €2.3 billion but their only answer to this is to increase premiums.

Will outsourcing the operation and administration of the scheme by the HSE to another party mean it will be profit-driven rather than person-driven? Primary care centres have been a major issue. I am still waiting for an update on the proposed primary care centre in the Summerhill area of Dublin 1.

The Library and Research Service included a section from Maev-Ann Wren from Trinity College's centre for health policy and management. She looked at the impact of demographic change. The number of people aged over 85 will more than double by 2021. The number of people aged between 74 and 84 years will increase by more than a half. It is vital that we get preventative measures right. There is much more that we could do on prevention. Illnesses that can be prevented include heart disease, diabetes and certain cancers. We are aware of the massive cost from alcohol abuse and alcohol misuse, yet the various recommendations and suggestions are not being taken up by the Government. I, like other Members, attended a presentation by the Alzheimer Society of Ireland. We are aware of the small amounts of funding that can improve people's chances and keep them out of the system for as long as possible.

Investing in carers is an investment in community care and it helps families and communities and those people who want to stay at home for dignified living.

**Acting Chairman (Deputy Charlie McConalogue):** Deputy O'Sullivan has been speaking for almost five minutes.

**Deputy Maureen O'Sullivan:** I will just finish now.

**Acting Chairman (Deputy Charlie McConalogue):** We are not stuck for time so she can continue speaking if she wishes.

**Deputy Maureen O’Sullivan:** I have another one or two points to make. People should be facilitated to remain for as long as possible with their family and in their community. That makes much more sense, even on purely economic terms.

There are pressures on the maternity services in Dublin. The situation is not being taken seriously and because the services are so overstretched that presents a danger to the health of certain women. There are more urgent matters for us to address than the subject of the Bill. I echo a point made by other speakers that we do not want a further burden on the public health system.

**Acting Chairman (Deputy Charlie McConalogue):** The next speaker is Deputy Michael Lowry. There are 15 minutes left in the slot if he wishes to avail of more time. I accept he had indicated that he wished to speak for five minutes. It is up to him.

**Deputy Michael Lowry:** I have grave concerns on the proposals contained in the Bill before the House today. The Health (Amendment) Bill seeks to give effect to the measures advanced in budget 2013 to charge private inpatients in public beds and to increase from €75 to €80 the acute public hospital inpatient charge. If advanced in its current form, the Bill will have a devastating impact on the private health insurance market and will further destabilise and jeopardise its viability.

This legislation will mean that patients with private health insurance will be charged on the double, with a claim being made on their health insurance policy for a service that they have already paid for through their taxes. We are locked in a vicious circle of rising health insurance costs as a direct result of the flawed approach taken by the Government. The average health insurance premium for a family of two adults and two children has doubled in the past three years. Policyholders have seen three separate increases over the past year and the Government’s risk equalisation levy has added a significant burden to all adult policyholders.

Individuals and families alike are under immense pressure at the moment and are struggling to survive financially. Week-on-week, hundreds and thousands of individuals can no longer finance, and subsequently drop, their health insurance policies. In the past two years almost 200,000 individuals have been forced out of private health insurance, with a further 500,000 downgrading their policy.

Our community-rated system requires a large portion of young, healthy policyholders to offset the high costs incurred by older members. Over the past two years there has been a rapid decline in the number of people aged between 20 and 29 taking up a policy. The system is not sustainable if young people continue to leave in their droves. Health insurance providers and economists have indicated across the board that this Bill will lead to a drastic increase in premiums. Mr. Colm McCarthy, in a report commissioned by Aviva, has found that the proposed public bed re-designation will add 13% directly to premiums on a full-year basis and that, coupled with the haemorrhaging of young adult members, will mean premium increases in the region of 20% to 25%. It is expected that this legislation will directly result in the exodus of a further 300,000 individuals from the private health insurance market. In many cases those who have faithfully paid their policies for years will now be unable to finance them any longer and will be left with no choice but to give them up, without realising any benefit from their years of payment.

The Government must be cognisant that this exodus will in turn place further pressure on

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an already chaotic public health care system and will bring it to its knees. We are all aware of the state of our health care system and the huge backlog for public patients in securing appointments. For each insurance increase, more families will rely on public hospitals and the already overburdened system will flounder further. It is short-sighted in the extreme to introduce such policies, as ultimately the burden will fall on the State and subsequently the taxpayer. It is my belief that the Minister, Deputy Reilly, must take a step back and consider the impact that his policies are having on middle Ireland.

The programme for Government promises to advance free health care for all but the reality is that since this Government has come to power there has been no positive difference, rather, the cost of health insurance has risen steadily. The Bill is entirely contrary to the Government's stated aims. If the deterioration in private health insurance continues, the public system will decline further and fundamental health reform will become substantially more difficult and increasingly unlikely.

This legislation serves to drive health insurance out of the reach of the squeezed middle and into the realm of the well-off only. It seems the Government is knowingly ploughing ahead with policies that drive the cost of health insurance upwards rather than taking any steps to buck the trend with regard to the drastically rising costs. The Minister should address the cost issues in the health service directly rather than seek to make up the shortfall by placing an additional burden on the shoulders of struggling private patients.

**Acting Chairman (Deputy Charlie McConalogue):** Deputy Naughten has up to 20 minutes for his contribution. He should feel free to use as much time as he wishes.

**Deputy Denis Naughten:** You are a bit like a salesman at the moment, Acting Chairman, trying to encourage people to prolong the debate. I welcome the opportunity to speak on this legislation. As the officials will know, I have spoken in debates on every piece of legislation that has come to the House on private health insurance. I have raised concerns and predicted that we would go down this road unless urgent action was taken.

In the past four years we have gone from a situation where a majority of people in this country had private health insurance to having a minority of the population with private health insurance. Between 2008 and 2012, a total of 200,000 people have left the private health insurance industry in this country. That is 1,100 people every week who are giving up their private health insurance because they cannot afford it. It is a very difficult decision for families to make because they know how long they could have to wait in the public system to access health care and for that reason they are loth to abandon their private health insurance. However, they are left with no other choice because of the cost of servicing their mortgage, the fact that their incomes have been reduced significantly and because the cost of insurance premia has gone through the roof. As a result, only one in eight of the population between the age of 18 and 29 has private health insurance in this country. At the other end of the age profile, one in five of those over 60 years of age have private health insurance.

As I stated in the House previously, these trends clearly indicate that only those who have to rely on health insurance or are wealthy enough to remain within the health insurance system are doing so and unless immediate action is taken to curb the haemorrhage of young people from the health insurance system, it will collapse.

*2 o'clock*

Earlier this year an issue arose in terms of how the insurance levy was structured in the private health insurance market. We now have a situation where in some policies the majority of the premium is used to cover the cost of the levy that is being put into the risk equalisation fund. It is not appropriate that the majority of the money paid by people who take out health insurance goes into the risk equalisation fund instead of being used to pay for the cost of their health insurance. The situation is unsustainable and many families that are struggling to meet current health premia costs are being forced out of the system. That it is discouraging young people from joining will compound an already grave problem.

For the community rating system to work effectively, a higher number of young people and generally healthier age groups need to join to offset the higher cost of claims among older members. The Health Insurance Authority, HIA's figures indicate that elderly people's claims cost approximately eight times those of the claims of young adults. According to Professor Colm McCarthy's report, for every scheme member aged over 60 years in 2008, there were 2.21 members aged between 18 and 39 years. That level has fallen to 1.54 members. This statistic is unsustainable and cannot be continued into the long term. Ireland's population is growing older and living longer. This trend will have a profound effect on the viability of private health insurance in this country. We need to start encouraging young people into private health insurance quickly.

I have raised this issue previously and tabled an amendment on Committee Stage before Christmas to introduce lifetime community rating, which would have given an incentive to young people to join up for private health insurance. We also need to consider increasing tax relief for those aged under 35 years, including their children, to purchase private health insurance and reducing or removing the Government levy on the same age group, at least for one or two years until they get used to paying insurance premia.

I have considerable concerns about this Bill because of its double taxation approach. The decision to charge the full economic cost of a private bed in a public hospital means that taxpayers who are directly contributing to the public health system through their PRSI and health levies are being disenfranchised from any entitlement to the tax-subsidised public hospital service. The Minister has given no indication that he is going to remove the health levy or reduce the cost of PRSI. People will pay on the double for the same hospital bed. Under the Minister's logic, the taxpayer who contributes to funding our health service and who has private health insurance will lose all rights to a public hospital bed. This is the equivalent of telling motorists who pay road tax, VRT and tolls that they can only use public transport if they are willing to pay the full commercial cost of hiring the bus. This is unsustainable.

Insurers have claimed that the cost of premia will increase by up to 30%. The Minister has claimed that this is scaremongering. When speaking at the national health care conference in March, however, he claimed that introducing bed redesignation all at once, as he is now proposing, would break the industry and that the measure would be introduced on a phased basis over four or five years. The Minister has since changed his mind and no longer sees any danger in introducing this measure in the coming weeks. The Minister is entitled to change his views, but the public has a right to know the basis for that change. In the Seanad, the Minister spoke of his Department having actuarial figures that refuted the suggested increases. If so, he should publish them so that we could all see what they are.

The decreasing number of people with private health insurance will have a direct impact on the public health system, which is already experiencing extreme pressures and lengthy wait-



ing lists. Between the end of December 2012 and the end of April 2013, the number of patients waiting for longer than six months for hospital treatment jumped from 6,038 to 11,348, an increase of 88%. This trend will accelerate if increased numbers exit private health insurance.

With private patients now being charged the full economic cost of beds in the public hospital system, the use of private hospitals will also decrease. This will impact on the public hospital waiting list.

The introduction of universal health insurance, which many of us believe is the way to go, in 2016 will be severely threatened by the increased reliance on the public health care system over the private system by a growing segment of the population. When the Dutch introduced a similar system, close to 90% of their population had some form of private health insurance.

Under this legislation, the Minister sets bed and procedure charges, thereby removing insurers' right to negotiate with individual public hospitals. This will do nothing to drive efficiencies or force hospitals to become more effective in the delivery of health care services. Hospitals will get paid irrespective of the level of service provided. This legislation will institutionalise inefficiencies, not tackle them. The knock-on effect will be that the consumers of private health insurance may not always get best value for money or services if insurers are not in a position to negotiate the best deal for them. For example, the CEO of VHI, Mr. John O'Dwyer, recently admitted that there were circumstances in which hospitals were charging private patients the full cost, some €1,000 per night, of a private bed in a public hospital despite the fact that they were spending the nights in question on trolleys. There is also a question mark over this legislation regarding EU competition rules.

Under the Bill, the Minister has designated that public hospitals must charge a set daily rate of €828 for private patient procedures regardless of whether these take ten minutes or ten hours to complete. This daily fee can be nearly three times higher than the equivalent cost negotiated by health insurers for the same procedures in private hospitals. For example, a breast biopsy in a private hospital costs approximately €280, but it will now cost €828 in a public hospital.

The Minister has rightly berated health insurers for not reducing their costs or cutting fees for procedures that used to take two hours but now only take 20 minutes. However, he is enshrining in law this disconnect between the actual cost of the procedure and the set cost determined by the HSE and the Department of Health, which may not reflect the true cost of the procedure.

For these reasons, I have significant concerns about what the Minister is doing in this legislation. It undermines his objective of driving efficiencies in the system and allowing hospital groups the independence to negotiate with private health insurers. It also undermines the goal of introducing universal health insurance, something that the Fine Gael and Labour parties campaigned on in advance of the last general election. As such, I will oppose the legislation.

**Minister for Health (Deputy James Reilly):** I thank all of the Deputies for their contributions. I will raise a number of points, having listened to the debate.

One of the issues raised by Deputy Kelleher is the number of people who have left the insurance market, approximately 250,000 in the past five or six years. We all know what happened in that time. Some 250,000 people probably equate to 100,000 families. We know that more than 200,000 people lost their jobs as a consequence of the Fianna Fáil-led Government's mismanagement of the economy.



The Deputy also suggested that home help hours have been cut when they have not. They are at the same level as they were in 2012, and the same applies to home care packages.

**Deputy Billy Kelleher:** They were cut.

**Deputy James Reilly:** Several speakers, including Deputy Lowry, have used the industry's figures to say that premia will go up by 30%. I have made it clear that I have got actuarial figures that show quite a different scenario.

Deputy Lowry does not seem to understand risk equalisation because he said that it would increase the cost for all adults. It does not. It is a transfer between adults who are young and well, and older adults who are sicker and less well. That is what we call community rating, which is something that both sides of this House believe in.

Deputy Kelleher glibly mentioned the pressure on State funding and pointedly neglected to say how we find ourselves in this position. He contended that I said 380,000 people on the outpatient waiting list were not a problem, but I never said such a thing. I said it was daunting but that we see 200,000 people in our outpatients departments every month and that we could and would deal with it.

**Deputy Billy Kelleher:** The Minister promised he would.

**Deputy James Reilly:** This is in stark contrast to the Government of which Deputy Kelleher was part, which was hiding it under the carpet. It was never exposed or counted before because they did not want to know. To paraphrase Bill Clinton, is it not the case that the Deputy is giving out because it is taking me so long to clean up the mess in which his Government left the health services? Nowhere in our history as a Republic have we been so failed in so many ways by a Fianna Fáil Government that presided over a financial fiasco and neglected the health service to the point where it nearly collapsed.

Despite the fact that we have had to reduce the health budget by nearly 20% and staffing levels by 10%, we have managed to improve the health service. We have had to do that because of the mess in which his party left this country. The Deputy should not try to paint it any other way. He has selective amnesia.

**Deputy Billy Kelleher:** The Minister certainly has it.

**Deputy James Reilly:** Let us deal with the issues the Deputy raised. The number of patients waiting more than a year for an inpatient procedure is at its lowest level since records began. At the beginning of this year, the number of patients waiting more than a year for day case surgery is at its lowest level. Waiting lists in excess of a year for inpatient and day case procedures have been eliminated in 15 hospitals since the Government took office. The number of people who wait more than three months for procedures has been reduced by 18%. A total of 3,706 adults were waiting more than nine months for inpatient and day case surgery at the end of 2011, but by the end of 2012 the number had been reduced to just 86. In other words, the waiting list has been reduced by 98%. A total of 4,590 patients were waiting more than 13 weeks for a routine endoscopy procedure at the end of 2011, but within a year this waiting list was reduced to just 36 patients. Therefore, that waiting list has been reduced by 99%. A maximum waiting time target of 12 months has been set for a first time outpatient appointment and we hope to achieve that by the end of this year. Last year, the number of patients on trolleys was reduced by 24%, and so far this year there has been a further reduction of over 9%. All that has been done in the

face of reduced staff and personnel resources.

Let us now return to the Bill before us. I can see that both Deputies have decided to take the insurance companies' figures at face value. I have alternative figures that indicate a very different picture. At a time of huge pressure on our health service funding, the budget measures provided for in the Bill are important both financially and from the perspective of reform. These measures will generate funding which is necessary to support the sustainable provision of a range of important health services in acute hospitals.

As I mentioned in my opening remarks, the Bill will increase the acute public inpatient charge from €75 to €80, and the charging of all private inpatients in public hospitals. The Government believes that the new private inpatient charge makes sense. Up to now we have had a situation where insurers have been enjoying a significant subsidy at the expense of the public hospital system where private patients in public beds have only paid a standard €75 per night. By contrast, private patients in semi-private beds have paid up to €1,000 per night. In both cases the patients see their consultants privately and pay the consultants' private fees. Indeed, they have already paid their insurer.

In future, rather than paying €75 per night, private patients will be charged €860 through their insurance, which is still well below the economic cost of those services. The cost of providing hospital services to private inpatients is at least €200 million more than the amount that public hospitals are currently allowed to charge. It is the Government's view that it simply does not make sense that two identical private patients getting the same medical treatment in a public hospital should pay different amounts for using hospital facilities.

Deputy Finian McGrath suggested that costs for those with intellectual disabilities will go up. The residential support services, maintenance and accommodation contributions do not involve increases in contributions levels. There will be no increase in this regard. In essence, the Bill continues existing arrangements for people in a range of residential settings, including those with intellectual disabilities who contribute towards the cost of their maintenance, but with a modernised and simplified legal framework. Deputy Browne commented on the fair deal scheme, but the placement list is run in strict chronological order on a national basis.

I commend the Bill to the House. It is an essential part of ensuring that we have the resources to run our health service. It is updating much legislation on the method of charging. In addition, it underpins in a major way and secures the future of the health services so that we can look after our citizens in an efficient, fair and effective fashion.

**Deputy Billy Kelleher:** The Minister could not even get his own Deputies to come in to speak. There is not one from the Government side.

**Deputy James Reilly:** Am I not from the Government?

**Deputy Billy Kelleher:** I mean there is no one to support the Minister.

**Deputy James Reilly:** They will all be here for the vote.

**Deputy Billy Kelleher:** They might not all be here.

**Deputy Barry Cowen:** "Autocratic" is the new buzzword.

**Acting Chairman (Deputy Charlie McConalogue):** The debate is now over, Deputies.

Question put:

<i>The Dáil divided: Tá, 65; Níl, 35.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Breen, Pat.</i>	<i>Adams, Gerry.</i>
<i>Burton, Joan.</i>	<i>Broughan, Thomas P.</i>
<i>Butler, Ray.</i>	<i>Browne, John.</i>
<i>Buttimer, Jerry.</i>	<i>Calleary, Dara.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Joan.</i>
<i>Byrne, Eric.</i>	<i>Colreavy, Michael.</i>
<i>Cannon, Ciarán.</i>	<i>Cowen, Barry.</i>
<i>Carey, Joe.</i>	<i>Crowe, Seán.</i>
<i>Coffey, Paudie.</i>	<i>Daly, Clare.</i>
<i>Collins, Áine.</i>	<i>Dooley, Timmy.</i>
<i>Conaghan, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Conlan, Seán.</i>	<i>Fleming, Sean.</i>
<i>Connaughton, Paul J.</i>	<i>Fleming, Tom.</i>
<i>Costello, Joe.</i>	<i>Halligan, John.</i>
<i>Creighton, Lucinda.</i>	<i>Kelleher, Billy.</i>
<i>Daly, Jim.</i>	<i>Kirk, Seamus.</i>
<i>Deasy, John.</i>	<i>Lowry, Michael.</i>
<i>Deenihan, Jimmy.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deering, Pat.</i>	<i>McConalogue, Charlie.</i>
<i>Durkan, Bernard J.</i>	<i>McDonald, Mary Lou.</i>
<i>English, Damien.</i>	<i>McGrath, Finian.</i>
<i>Feighan, Frank.</i>	<i>McLellan, Sandra.</i>
<i>Ferris, Anne.</i>	<i>Murphy, Catherine.</i>
<i>Fitzgerald, Frances.</i>	<i>Naughten, Denis.</i>
<i>Fitzpatrick, Peter.</i>	<i>Nulty, Patrick.</i>
<i>Gilmore, Eamon.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Griffin, Brendan.</i>	<i>Ó Cuív, Éamon.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Fearghail, Seán.</i>
<i>Harris, Simon.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Hayes, Tom.</i>	<i>O'Sullivan, Maureen.</i>
<i>Heydon, Martin.</i>	<i>Pringle, Thomas.</i>
<i>Humphreys, Heather.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Keating, Derek.</i>	<i>Tóibín, Peadar.</i>
<i>Kenny, Seán.</i>	<i>Troy, Robert.</i>
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	

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<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Murphy, Eoghan.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ryan, Brendan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Fearghail.

Question declared carried.

### **Health (Amendment) Bill 2013: Referral to Select Committee**

**Minister for Health (Deputy James Reilly):** I move:

That the Bill be referred to the Select Sub-Committee on Health pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

## **Topical Issue Debate**

### **Medical Card Eligibility**

**Deputy Seán Ó Fearghail:** I am grateful to the Ceann Comhairle for selecting for discussion the issue of discretionary medical cards. This important issue has surfaced during Leaders' Questions and in the Topical Issue Debate, most recently in May when Deputy Michael McNamara raised it with the Minister of State, Deputy Alex White. While I welcome the presence of the Minister of State at the Department of Education and Skills, Deputy Ciarán Cannon, I would be much more appreciative if the Minister for Health, Deputy James Reilly, or the Minister of State with responsibility for medical cards, Deputy Alex White, were before the House.

I contacted the office of the Minister of State, Deputy White, today to discuss a specific case which illustrates the difficulty experienced by people applying for discretionary medical cards. While I am not sure if the Minister of State is aware of the circumstances, the case involves a young married man who is in employment, as is his wife, and has two progressive and incurable conditions, namely, multiple sclerosis and kidney failure. He was diagnosed with the conditions in 2008 and 2009, respectively, and thereafter granted, as was appropriate, a discretionary medical card by the Health Service Executive. His medical card was renewed in each of the subsequent years until 2012 when, under the administration of this Government, the HSE cancelled his card.

Having pursued this matter through parliamentary questions and direct correspondence with the HSE and Minister, I am informed the criteria for granting discretionary medical cards have not changed. While I am loth to raise on the floor of the House the details of an individual case, in this instance it demonstrates the problem many people are experiencing. The household income of the couple in question has declined because the sufferer of chronic illness and his wife have both had their wages cut. As both of the conditions from which he suffers are incurable and progressive, his condition has not improved. Despite this, the Government, through the Health Service Executive, has withdrawn his discretionary medical card. This is wrong and inhumane and I doubt very much the Minister would stand over the decision. I ask that the Minister review the individual case and ensure a proper and effective review is done of discretionary medical cards as they apply nationwide.

Earlier in the week, Deputy Gerry Adams referred to a case of a man of 102 years who had his medical card withdrawn. We also heard about the plight of cancer sufferers who consider themselves entitled to a discretionary medical card but have not been granted one. I have direct experience of small children, many of them under the care of the Jack and Jill Foundation, who have had medical cards withdrawn or experienced inordinate difficulties in having them awarded in the first instance.

We are all aware of the pressures and difficulties faced by the Department of Health. Something is wrong, however, if, on the one hand, the regulations governing discretionary medical



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cards have not changed and, on the other, discretionary medical cards are being withdrawn and applications from people who meet the criteria are being refused.

**Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):** I thank Deputy Ó Feargháil for raising this matter, which I am taking on behalf of the Minister for Health, Deputy Reilly.

I advise the Deputy that, overall, nearly 44% of the national population has free access to general practitioner services under the general medical services, GMS, scheme. The HSE continues to issue medical and GP visit cards, with 2 million people currently having access to free GP care. This reflects an incremental annual increase and is 15% higher than the number at the end of end 2010. Far from cutting medical cards, the Government has provided funding to ensure an additional 250,000 people have been covered by the GMS scheme since it entered office.

As the Deputy will be aware, under the provisions of the Health Act 1970, the assessment for a medical card is determined primarily by reference to the means, including the income and expenditure, of the applicant and his or her partner and dependants. While people with specific illnesses such as cancer, multiple sclerosis or the other condition to which the Deputy referred are not automatically entitled to medical cards, the legislation provides for discretion by the HSE to grant a medical card where a person's income exceeds the income guidelines. The HSE takes into account a person's social and medical issues when determining whether there is undue hardship for a person in providing a health service for himself or herself or his or her dependants.

It is important to stress that the medical card system is founded on the undue hardship test. The basic infrastructure of the medical card system provides that medical cards are allocated to persons on the basis of their material circumstances as opposed to a particular illness. The discretionary system is an exception to the general rule.

The HSE set up a clinical panel to assist in the processing of applications for such discretionary medical cards, where there are difficult personal circumstances. This approach recognises the need to have in place a standard process for considering applications in respect of people who, while over the income guidelines, require a discretionary assessment on the basis of illness or undue financial hardship. If the applicant's means are in excess of the medical card income guidelines, the deciding officer will consider whether to refuse would cause undue hardship. If the applicant fails to qualify for a medical card, the deciding officer will consider the applicant for a GP visit card. If the applicant's means are in excess of the GP visit card guidelines, the deciding officer will consider whether it would be unduly burdensome for the applicant to provide for GP services for himself or herself from his or her own resources.

The HSE, in exercising discretion, takes account of all the circumstances of an individual case - the nature and extent of personal, medical or social circumstances of the applicant and-or dependants. If granted, the card may also cover dependants. The HSE ensures that the system responds to the variety of circumstances and complexities faced by individuals in these difficult circumstances.

**Deputy Seán Ó Feargháil:** The Minister of State said the system responds, but the problem is that the system does not respond. The particular instance I have outlined is one in which the system accepted that undue hardship existed in 2009, 2010 and again in 2011. The person

was subject to the same assessment in 2012 but under this Administration the medical card was withdrawn. The Minister for Health has told me that the criteria have not changed. If the criteria have not changed, then the person should have their medical card restored and I appeal to the Minister to do that.

At a broader level, I also appeal to the Minister to read the reports coming from across the country, raised here last by Deputy McNamara in May. He made it clear he was experiencing difficulties in County Clare. We are certainly experiencing difficulties in County Kildare. I believe it is not too much to expect that the Government should make the system work. If it worked in 2009, 2010 and 2011, it can work in 2012, 2013 and into the future. I ask the Minister to please make it work and ensure that those who are entitled to discretion get it and that some sort of humanity is demonstrated by the HSE and Government in these cases.

**Deputy Ciarán Cannon:** It is certainly not the intention of the Government to restrict access to the medical card system for people who are genuinely in need of it. On that basis, as I confirmed earlier, some 250,000 more people now have access to that sort of support than had such access when we came into government. In my personal experience, in my constituency office in Galway East we have actively engaged in the process of trying to assist people in securing discretionary medical cards. We have found that in most instances when strong medical evidence is provided of a person's unique circumstances, more often than not these discretionary cards are granted by the HSE. I suggest to the Deputy that he should re-engage with the Minister of State, Deputy White, on the case he mentioned to see if it can be progressed. In my experience we have had considerable success in this area and I hope the same might apply to the case the Deputy referred to.

### **School Curriculum**

**Deputy Patrick Nulty:** I am grateful for the opportunity to raise this important matter today. Much has been made of the plans to scrap the junior certificate. Instinctively, people are inclined to support reform, change and what is perceived to be progress. However, the possible denigration of history in the new junior cycle curriculum is deeply retrograde and will potentially have a damaging effect not just on our education system, but on our democracy.

It is far from clear that the plans released by the National Council for Curriculum and Assessment will be good for education. Under those plans, students entering first year in all schools will be required to study mathematics, English and Irish as core subjects. Schools will then be free to offer a menu of other subjects to study and the number of core subjects studied at junior level will reduce to eight.

There will be casualties in this new system. For example, science and languages will not be core. However, we know that a language is a compulsory requirement for entry into the NUI group of universities. We know also that science is an increasingly important aspect of our economic life. Therefore, the downgrading of history into an option for schools is of particular concern for me. It is vital that young citizens have an understanding of history. The commodification of education is creeping further into the tertiary education sector and the secondary sector. While scientific knowledge is crucial, so too is an understanding of history and culture. After all, history is far too important to be left to the historians.

How can we hope to comprehend how Ireland has evolved into what it is today without a

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thorough knowledge of the events, people and movements that have shaped the development of our island? Our interests are formed when we are young. The huge interest in local history and heritage is a fantastic community resource. All over the country, vibrant local history groups play a community development role offering recreation and often an economic resource through attracting tourists. Why risk losing the next generation of local historians at such an early age and for no good reason?

Most educational experts favour reducing the number of subjects studied intensely at secondary level. Most also favour reducing the focus on big set piece exams, but the downgrading of history within this framework would be a retrograde and disastrous step. Every child regardless of socio-economic background has a right to understand history. Knowledge of the past is crucial in questioning the present and never before has there been a greater need to question what is happening in the present.

The good news is that this is not a done deal. While the first change will come on stream in 2014, it will be 2016 by the time the changes are fully rolled out. What a terrible indictment it would be of our country that 100 years after the Easter Rising would see the final nail in the coffin of history as a compulsory subject in the junior cycle.

Ms Catriona Crowe, from the National Archives, recently made an excellent presentation to the Oireachtas Joint Committee on Education and Social Protection. The History Teachers Association of Ireland and eminent commentators such as Professor Diarmaid Ferriter and Mr. Fintan O'Toole have also made their views known publicly. These voices are diverse and come from different points of view. The importance of studying history in developing analytical skills and critical thinking is clear. I urge the Minister of State, Deputy Cannon, to listen to those voices in civil society. We need more time to debate these changes and we need a broader discussion of a holistic education for young people.

A willingness to challenge the *status quo* is important, but change without regard to the consequences of certain so-called reforms is a myopic and dangerous approach to public policy. History should remain a central element of the junior cycle and the campaign to prevent this proposal from being imposed on the next generation of students is only beginning.

This is not an ideological question. People with a range of different opinions in society will coalesce around the issue. The idea that every child might not get an understanding and knowledge of history at least up to the junior cycle is deeply worrying for our democratic system and our knowledge of our society. We need the ability to question and comprehend the world about us as it becomes ever more complex. I appeal to the Minister of State, in the most non-partisan fashion I can, not to proceed with this deeply dangerous proposal, which has no public support.

Where did this notion originate? Who is driving it and why? Education is not just about the murder machine as Padraig Pearse called it, but is about knowledge, culture and learning. I urge the Minister not to proceed with this proposal.

**Deputy Ciarán Cannon:** I thank the Deputy for raising this matter. I am replying on behalf of the Minister for Education and Skills, Deputy Quinn. Currently, only 52% or just over half of all post-primary schools are obliged to provide history as a core subject. Although that is the case, it is great to acknowledge that over 90% of the students who sit the junior certificate enter the examination for history. However, there are currently over 5,500 students who do not present for history in the junior certificate examination.

In October 2012, the Minister, Deputy Quinn, published A Framework for Junior Cycle. The framework will be implemented on a phased basis from September 2014. While they are designing new junior cycle programmes, those responsible in schools will have to be mindful that there will be a change in how junior cycle programmes will be developed. They must be mindful not only of the principles and key skills, but also of the 24 statements of learning specified in the framework. These statements describe what all students should know, understand, value and be able to do at the end of the junior cycle process. The key statement of learning for history declares that every student “values local, national and international heritage, understands the importance of the relationship between past and current events and the forces that drive change”. For all schools, teachers and students, the reality of that statement will mean a study of history predominantly as a full subject while some may have the option of studying history as a short course. The revised history specification, developed in consultation with stakeholders, will be available for implementation in schools from September 2017. Teachers will be provided with continual professional development in advance of that date.

History is one of 21 subjects available to schools for inclusion in the new junior cycle programme. Of those 21 subjects, only Irish, English and mathematics have mandatory status. Advocates of geography, modern languages, science and the arts have also sought additional time or mandatory status for their subjects. The more subjects that are made mandatory or compulsory, the less choice there is for our junior certificate students. Curriculum choice is an important factor in motivating students to learn and in encouraging them to remain in school to the completion of the senior cycle. It is important that the focus of the educational experience for our students is on the totality and the quality of learning throughout the three years of the junior cycle. The minimum time allocated for subjects such as history will be 200 hours or the equivalent of three 45 minute periods per week over three years. For many schools, this will actually lead to an increased provision rather than a decreased provision in history. This will allow not only for a deepening of the student’s historical knowledge but, more important, for the deepening of the student’s ability to analyse, interpret, write and develop historical skills more thoroughly. Neither I nor the Minister, Deputy Quinn, is questioning the role of history in education as the framework is delivered. In fact, we are affirming its role.

**Deputy Patrick Nulty:** I thank the Minister of State for his reply. Let us consider the senior cycle, for example. Subjects such as applied mathematics and classics are on the curriculum, but how many children get the opportunity to study them in school in practice? Very few. By and large, they are only taught in schools with significant external resources, with some exceptions. I call on the Minister of State to engage with this question directly. If the Minister’s reforms proceed, does the Minister of State believe that ten years from now there will be more or fewer students in the junior cycle taking history? As the Minister of State has said, the overwhelming majority of students do history at the moment, so why tamper with that?

History is unique and critical. It goes to the core of who we are and what we are. Every child has a right to know about the history of this island, given what we have been through in recent years and during several tumultuous decades. People have all sorts of analyses, opinions and interpretations of that. The study of history allows people to think critically.

The Minister of State has not explained why we should not continue with history as a compulsory subject. What will happen - I guarantee it - is that over time fewer schools will offer history and fewer students will have the option to study it. The schools with the greatest resources offer the greatest subject choice. That is a fact. However, a knowledge of history is a crucial element of democracy. This is why I am calling on the Minister of State to reconsider

this proposal.

History is different from other subjects referred to by the Minister of State. English, Irish and mathematics are compulsory for good reason. The Minister of State would not suggest that they should be optional subjects. Why not retain history? What is the problem with it? I imagine the history curriculum requires reform over time, as do the curricula of all subjects, but I hear no great clamour for reform like that we have heard for the Irish curriculum. This is a crucial issue and the legacy of the Minister of State and the Minister, Deputy Quinn, in the Department of Education and Science will be judged by decisions such as this. I genuinely believe that if the Minister proceeds by undermining history further it will damage our democracy and our education system. The vast majority of citizens I speak to - I imagine it is the same for the Minister of State - want their children to have a knowledge of history and want it to be taught in school. Otherwise, it will become elitist.

**Deputy Ciarán Cannon:** I have every reason to expect that in ten years' time we may have a similar if not an increased number of students studying history. I do not see any facet of the new junior certificate framework that in any way threatens that proposition. The implementation of the framework provides an opportunity to recast history as a vibrant student-centred subject with a significant emphasis on the relevance of past experiences to our lives today and in future. Deputy Nulty has referred to this aspect. The role of history in the new junior cycle will be balanced against the contribution of the other subjects in enabling students to engage with a new broad and enriched junior cycle programme that meets the requirements of the principal statements of learning and key skills.

History teachers currently attract some 90% of students to study history although in fact only 50% are obliged to do so. That is taking place because of the love of the subject and the fact that history teachers are engaging students' interest. The teaching of the subject allows them to delve, analyse and critique historical people and events and thereby develop an empathy and understanding that may inform their perspectives of events today and, hopefully, enhance their wisdom in terms of decision-making in future. That is the essence and the spirit of the reform that is being carried out. That should continue to be the case as the framework is implemented in the coming years. I am sorry but I do not share the fears of Deputy Nulty to the effect that this will in any way undermine the teaching of history. In fact, I believe it will enhance the teaching of history in future.

### **Disposal of Hazardous Waste**

**Deputy Seán Kyne:** I assume Minister of State at the Department of Education and Science is taking this issue. Is that the case?

**Acting Chairman (Deputy Charlie McConalogue):** Yes.

**Deputy Seán Kyne:** I thank the Ceann Comhairle's office for choosing this topic. With no disrespect to the Minister of State, Deputy Cannon, it is a pity that the Minister for the Environment, Community and Local Government is not here. This arises all too often. This issue was recently brought to my attention and it has raised several unsettling facts. Coincidentally, this week has seen the welcome publication of the Protected Disclosures Bill 2013, a Bill which will protect whistleblowers who courageously speak out about wrongdoing, malpractice or carelessness. Regrettably, the Bill comes too late for the person who has raised the issue, as I



will outline presently.

While absolute privilege is available to me and other Members of the Oireachtas, for obvious reasons, I have no wish to engage in any sort of kangaroo court by naming individuals who are not here to defend themselves. Everyone is entitled to their good name and should be able to defend it. However, the person who approached me has lost his job at a health facility merely because he raised concerns that proper and safe procedures were not being followed in respect of the disposal of hazardous medical waste. I emphasise that safety is at the core of this issue, in particular the safety of patients, workers and the public.

As we all know, some hospital waste is hazardous and, unfortunately, there have been times in this country when such waste was not properly disposed of. Sensibly, there are procedures in place which are to be followed to protect the safety of all concerned. For example, any procedure which involves radiation must be registered with the Radiological Protection Institute of Ireland. Hazardous waste must always be correctly labelled in order that waste disposal staff can take active steps.

*3 o'clock*

In addition, the radioactive hazardous waste must be both correctly labelled and stored in a special lead-lined room. Such waste must also be transported safely, with much material of this type being exported for safe disposal. Furthermore, out of responsibility and duty, relevant persons regularly are appointed to ensure procedures are followed correctly.

I am certain that to any reasonably-minded person, it would make complete sense that a person tasked with investigating shortcomings or a complaint would not be connected in any way to the individual or organisation under investigation. This clearly is for reasons of independence, impartiality and transparency. I regret to note that the case which has been brought to my attention does not have these vital hallmarks. It appears as though the person tasked by the independent State agency with investigating the complaint against the organisation in question is actually an employee of that organisation, which constitutes a clear conflict of interest. Adherence to rules and regulations that are put in place for sensible safety reasons, not pedantic ones, frequently depends on the observance by relevant persons and the assurance that unacceptable, unethical and on sound behaviour will be reported and identified. It takes courage and commitment to speak out in the full knowledge of the consequences and ramifications of one's actions. The individual in question no longer works for the facility. However, remaining staff have the same concerns and are concerned about public health issues in respect of whether practices are continuing. I look forward to the Minister of State's reply and will speak further thereafter.

**Deputy Ciarán Cannon:** I thank Deputy Kyne for raising this matter, which I am taking on behalf of my colleague, the Minister for the Environment, Community and Local Government, Deputy Hogan. Functions relating to the environmental planning, licensing and control of hazardous waste are the responsibility of the Environmental Protection Agency, EPA, and local authorities. Under section 60(3) of the Waste Management Act 1996, my colleague, the Minister for the Environment, Community and Local Government, is precluded from exercising any power or control regarding the performance by the agency or a local authority, in particular circumstances, of a statutory function vested in it. Under section 26 of the Waste Management Act 1996, the Environmental Protection Agency is mandated to publish a hazardous waste management plan with regard to the prevention and minimisation of hazardous waste, its

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recovery, collection and movement, as well as the disposal of such hazardous waste as cannot be prevented or recovered. The National Hazardous Waste Management Plan 2008-2012 is available for download on the agency's website, [www.epa.ie](http://www.epa.ie).

The supervision and control of movements of hazardous waste within Ireland is the responsibility of the National Transfrontier Shipments Office in Dublin City Council. In accordance with the European Communities hazardous waste regulations of 2011, Dublin City Council is designated, with effect from 1 July 2011, as the sole competent authority responsible for supervising and controlling internal shipments of hazardous waste. In addition, these regulations provided for the replacement of the existing paper-based forms with a waste transfer form available via an online electronic system.

**Deputy Seán Kyne:** I thank the Minister of State for the reply. I do not doubt the presence of plenty of paper safeguards, regulations and rules that can be quoted, many of which have been mentioned by the Minister of State. Unfortunately, as it happens in this case, those rules and regulations are not being followed or at least that is the concern. In this case, radioactive material is not being labelled or disposed of correctly and the individual charged with its supervision on behalf of the State agency is an employee of the organisation being investigated. These are serious issues and it also is a public health issue. While I do not believe this practice to be widespread, if it were it would be an extremely serious public health issue. However, it is a matter of concern. If the Minister has no statutory function, I will take up the matter directly with the EPA to ascertain whether a better response can be elicited.

As I noted, the whistleblowers legislation will be an important step for other individuals who might come across similar cases. It will be too late for this individual however, as I do not expect such legislation to be made retrospective. Unfortunately for the individual in question, because he was standing up for his own health and that of others, he is in a position whereby he has lost his job.

**Deputy Ciarán Cannon:** For the information of the Deputy, the EPA is reviewing the national hazardous waste management plan at present for the period from 2013 to 2017, as it is so obliged under section 26 of the Waste Management Act. The Deputy might make a submission to that review process. As I pointed out earlier, functions relating to the environmental planning, licensing and control of hazardous waste are solely the responsibility of the EPA and local authorities. The Minister is actually legally precluded from exercising any power or control with regard to the performance by the agency of a statutory function vested in it. As Deputy Kyne suggested, his only port of call in this instance is the EPA and I suggest he takes up the issue with that agency directly.

### **Smarter Transport**

**Deputy Eoghan Murphy:** At the outset, I congratulate the Minister of State on the Dáil dojo he hosted yesterday in the AV room. I know Bill Liao and James Whelton myself and the work they are doing with this, that is, teaching computer coding skills to children is fantastic fun. I again congratulate the Minister of State and note this was the second dojo to take place in Leinster House thanks to his initiative.

The issue I wish to raise today is one I first brought to the attention of Dublin City Council when I was elected to it in 2009. Following my election to the Dáil, it formed the content of

the first legislative item I published, namely, the Smarter Transport Bill 2011. It was a simple, technical Bill but its enactment would pave the way for two great ideas in Dublin city's transport infrastructure. The first concerns electric cars and electric car charging points. At present, the installation of electric charging points is being rolled out around the city. However, as matters stand, the spaces are not reserved solely for electric vehicles and other cars can park at the charging points. This makes absolutely no sense because it involves blocking the infrastructure for those who wish to use it. If one wishes to have people using this infrastructure and starting to drive electric cars, if one wishes to incentivise them with the provision of parking spaces with electric charging points, then these strands must be brought together. It is common sense and unless there is common sense in the infrastructure, people will not use it.

The second aspect of the Bill pertains to car-sharing car clubs. Essentially, this could be understood as being akin to the dublinbikes scheme but with cars. One would book a car online, go around to the nearest car, use one's personal swipe card to get into the car and then drive off for the designated amount of time for which one wishes to use it. One would pay a standard annual charge of perhaps €50 and then an additional charge of €3 to €5 per each hour one uses the car. It takes away all the hassle of actually owning a car, including the cost of maintenance, the NCT and insurance, as well as all these additional things that make it so expensive. It is a fantastic idea for people living in high-density areas such as Dublin city. It also is a great idea for families who may need a second car only on occasion but who cannot afford to have one. The introduction of what one might call a "dublin cars" scheme would mean fewer cars and less congestion on the streets, more parking bays and cheaper transport for those who needed to use it. In addition, it would be better for the environment.

In order to get such a scheme to work, one must be able to provide such cars in clusters of parking spaces on public streets, like one sees with the dublinbikes scheme and to do this, the laws must be changed. When I first raised the idea in 2009 at Dublin City Council, I was informed that primary legislation was required. Thereafter, once elected to this House and when drafting the legislation in 2011 to introduce it myself, I was still told that primary legislation was needed. Moreover, such legislation was meant to be transposed into the road traffic legislation being introduced by the Minister in 2013. However, in the course of that process, I was then informed that primary legislation was not needed and that one could move forward with regulations only. While I appreciate the Minister, Deputy Varadkar, is unable to be present today, my question to the Minister of State, Deputy Cannon, on his behalf is what brought about this sudden change in legal thinking? Why was there a four-year wait before people suddenly realised one could proceed with regulation and the time-consuming process of enacting legislation was not necessary? Second, how soon can such regulations be made? This would be an important transport innovation for Dublin city. People have been waiting for long enough and given its title and function, one would think the Department of Transport, Tourism and Sport would be more concerned with getting this through as it is such a simple matter

**Deputy Ciarán Cannon:** I thank Deputy Eoghan Murphy for attending the Dáil dojo yesterday. He has been a strong and articulate advocate of the CoderDojo movement, which we both agree is one of the most exciting movements to emerge from within the community sector in Ireland for many years.

I am taking this Topical Issue on behalf of my colleague, the Minister for Transport, Tourism and Sport, Deputy Varadkar, who is unable to attend the Chamber today. He would like to thank the Deputy for raising the issue. Deputy Murphy's Smarter Travel Bill 2012, which he introduced as a Private Members' Bill, proposed to provide in law for the reservation of

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parking spaces for recharging electric vehicles and for the reservation of spaces on-street for car clubs. The Minister, Deputy Varadkar, discussed this Bill with Deputy Murphy at the time and indicated he supported the proposals. He therefore asked his officials to ensure the measures proposed were included in the new road traffic Bill which was then being prepared in his Department. During preparation of the Road Traffic (No. 2) Bill, which the Minister, Deputy Varadkar, published last week, legal advice was received that the Minister, Deputy Varadkar, already had the power to provide in secondary legislation for the matters covered by the Smarter Travel Bill. The Minister is happy to re-emphasise that he strongly supports measures to promote sustainable travel and that, in this context, he is keen to facilitate both growth in the use of electric cars and the development of car clubs. Both electric vehicles and car clubs represent important environmental and sustainable travel initiatives. Both will help to reduce emissions, and they all constitute creative solutions to the ongoing problems of environmental pollution in our cities. Work is, therefore, now under way in the Minister's Department on preparing the necessary regulations, and he intends to bring in these regulations as soon as possible.

The Government has set a target of ensuring that 10% of the nation's passenger car and light commercial vehicle fleet will be electrically powered by 2020. Action 47 of Maximising Ireland's Energy Efficiency: The National Energy Efficiency Action Plan provides for that. The aim is to reduce average vehicle energy consumption, and hence CO<sub>2</sub> emissions, air pollutants and noise.

The Minister's Department has also made a commitment, under the Sustainable Travel and Transport Action Plan, STTAP, to support private and public sector initiatives to operate car clubs. These are organisations which own a pool of cars and members can book their use for a specified period. The intention to legislate to enable on-road parking spaces to be designated for car clubs through appropriate signage was made clear in action 19, supported by action 37, of the plan.

The regulations now in preparation will address these matters by providing for designation of spaces for electric vehicle recharging, car clubs, and specific signage for these spaces.

While road traffic legislation falls within the area of responsibility of the Minister, Deputy Varadkar, there will also be a need to look at other issues to ensure that recharging points for electric vehicles and spaces for car clubs can be provided on a sound legal basis. It will be necessary, for example, for local authorities to ensure that they have the appropriate powers to enter into arrangements with electricity providers and car clubs. Local authorities will also need to consider the revenue implications of changing the use of these spaces, and to agree on costs with electricity providers and car clubs. These are matters which are under the remit of the Minister's colleague, the Minister for the Environment, Community and Local Government.

The Minister, Deputy Varadkar, wishes to thank the Deputy again for raising the matter and assure him that the required regulations will be in place as quickly as possible.

**Deputy Eoghan Murphy:** I thank the Minister of State. I am aware of the support of the Minister, Deputy Varadkar, because we have spoken about this on a number of occasions. In fact, in anticipation of either primary or secondary legislation coming before the House this year, in November last year I called on Dublin City Council to initiate the public consultation for the new by-laws that will be needed. Dublin City Council, therefore, is already working to make sure it is ready to go when the secondary legislation has been published. I hope the Department of Transport is talking to the Department of the Environment, Community and Local

Government on the important issues the Minister of State pointed out, and that they are both talking to Dublin City Council. It should not take us to raise them here by way of the Topical Issue Debate to spur on greater efforts. It is a very simple proposal but one that could deliver a big win for the people of Dublin. I look forward to the secondary legislation coming in as soon as possible.

**Deputy Ciarán Cannon:** I agree wholeheartedly with the Deputy and congratulate him on his initiative in promoting these new travel and transport opportunities for those living within the greater Dublin area. They are innovative and will provide for new and interesting opportunities for transport within the city.

The commitment given by the Minister, Deputy Varadkar, judging from the response I read out for the Deputy, is a serious one. It is one he intends to follow through on and I expect that there is ongoing and significant consultation between the Minister, the Minister for the Environment, Community and Local Government and Dublin City Council and that those consultations will result in securing the change the Deputy strongly supports as quickly as possible.

## **Ceisteanna - Questions**

### **Priority Questions**

#### **Child Care Services Inspections**

1. **Deputy Robert Troy** asked the Minister for Children and Youth Affairs her plans to improve the regulation and inspection of child care facilities; and if she will make a statement on the matter. [32680/13]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** I welcome the greater priority focus being afforded to the early years and child care sector, as evidenced by the first two questions today. I have previously stated my commitment and that of the Government to improving quality in preschool services. Improving quality also represents an essential building block toward the extension of universal early years provision.

As previously indicated my Department and I are working on a comprehensive preschool quality agenda addressing actions in eight areas: publishing inspection reports online; strengthening the national inspection system; introducing new protocols on compliance and enforcement; increasing and widening the sanctions which can be taken for non-compliance; increasing the qualification requirements for all staff in preschool services; introducing in September a registration system for all preschool services; implementing the new National Quality Standards, which will impact on the quality of inspection reports; and supporting implementation of the Síolta framework and Aistear curriculum.

In response to the Deputy's question, I wish to provide a further update on the actions relating to regulation and inspection.

The implementation of National Quality Standards for preschool services will commence



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later this year. The standards will replace previous guidelines and explanatory notes, which the inspectors currently use, and will set out the quality outcomes and supporting criteria against which the inspections under the preschool regulations will be measured.

A new registration system for preschool services will be introduced, commencing in September of this year. At present, child care providers are only required to notify the Health Service Executive, HSE, at least 28 days before they open. That is an extraordinary situation when one thinks about it. Under the new registration system services wishing to open will be required to register with the HSE and be deemed fully compliant and suitable for purpose before they will be permitted to operate.

The HSE pre-school inspectorate is working to put preschool service inspection reports online. In the first instance I want to inform the House the reports will be available from the Pobal website via a direct link on the HSE website. Background work has been done to ensure that happens. A commitment has been given to place new reports, once completed, online from last Monday, 1 July 2013, therefore any new reports that come into the system will be placed online as soon as they are available. Work is ongoing to ensure that any historic reports will be placed online also but it is important to emphasise that parents can contact providers and ask for reports. The inspectorate has been extremely busy with requests from parents and responding to parents in recent weeks and giving them information on inspections and report, and I would encourage that.

*Information not given on the floor of the House*

My Department is supporting the inspectorate and Pobal in this work, which will commence in August.

Management reforms are under way within the HSE in advance of the creation of the child and family agency. This includes a programme of work to strengthen the preschool inspectorate to ensure a greater nationwide consistency of practice in line with new National Quality Standards and to address concerns regarding local inconsistencies and fragmentation.

In addition, the HSE is currently reviewing the regional spread of resources including determining whether either additional resources or redeployment of existing inspectors is required. I am engaging with my colleague, the Minister for Public Expenditure and Reform, on additional resource implications.

There is a need for greater clarity and consistency of approach as to how inspection reports record serious non-compliance and what happens as a result. For that reason I have directed that a new and different approach will be taken to enforcement, prosecution, closure, and suspension or termination of State funding. New protocols between the Department and the pre-school inspectorate and, as appropriate, with Pobal, will mean a more graduated approach where very serious non-compliance will be singled out from more minor breaches and steps taken, up to and including prosecution and closure, which are proportionate to the breaches.

I have previously stated that there must be a substantial deterrent for non-compliance. I have asked my Department to undertake a review of the penalties currently in place for breach of the pre-school regulations, as provided for under the Child Care Act 1991, so as to increase the range and severity of the existing penalties including the actions which can be taken by inspectors without recourse to court prosecution.

I believe an enhanced focus on regulation and inspection is essential in light of the unacceptable practices witnessed in a number of crèches. The measures which I have outlined will ensure a considerable strengthening of the regulatory and inspection systems.

**Deputy Robert Troy:** I welcome the Minister's reply. I reiterate that we were all appalled, shocked and disgusted by the emotional abuse and physical heavy-handedness we all witnessed on the RTE programme. I welcome the Minister's renewed commitment that registrations for new child care facilities will be in place in September.

It is obvious that the inspections of these facilities are inadequate considering that one of the crèches featured in the RTE exposé had passed inspection the previous month. In the committee meeting of 11 June, the Minister committed to a change in the inspections by September 2013. Will that target be met and are there adequate numbers of public health nurses and inspectors available to carry out inspections? In the previous two years inspections were not carried out in a number of areas as a result of a lack of the necessary personnel. Has the position been rectified and have adequate numbers of the staff required to carry out inspections throughout the country been appointed?

At the committee meeting to which I refer, the Minister gave a commitment to amend the Child Care Act before the summer recess. As she may be aware, I brought forward a Child Care (Amendment) (No. 2) Bill last week. I hope she will consider the Bill which, if enacted, would lead to the imposition of punitive penalties on any child care facility which breaches the current regulations. Given that 48% of child care facilities breached the regulation relating to the adult-child ratio, does the Minister remain of the view that, even though she was advised against it, the decision to increase the adult-child ratio which applies to the ECCE scheme from 1:10 to 1:11 was correct?

**Deputy Frances Fitzgerald:** In the context of changing the inspection regime, it is clear that what will have the greatest impact will be the implementation of new standards with regard to the inspection of facilities. The new national quality standards will have precisely that impact. Work has been ongoing on those standards for many years. This area has been hugely neglected by previous Governments. We are now focusing on ensuring that national inspections will take place and that there will be national standards which must be adhered to. This matter has been dealt with in a very fragmented and local way. There are inspectors who have been committed to doing the work with which they have been tasked but they have not received the support they require on a national basis. The new national quality standards have been produced and the day care standards have been completed and are available online. We are in the process of completing the standards relating to the approximately 200 childminders throughout the country who are subject to inspection. Work is also being done in respect of after-care and part-time services.

I met the inspectors and they are very keen to implement the national quality standards, which will now provide the guidance that accompanies the regulations. They will focus on a range of areas which are very important. In the past, the focus was much narrower in scope. It must be pointed out, however, that section 5 of the existing regulations, which deals with how children are treated and how their health, welfare and development are supported and encouraged, should have come into play in the context of the examination of various matters. The footage shown on "Prime Time" was disgraceful. I do not want to say much more about that matter because an investigation is currently being carried out by the HSE and the Garda in respect of the material broadcast.

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I am aware the Deputy has published legislation but I am not yet in possession of a copy of it. We will be amending the Child Care Act in order to put in place stronger penalties. In the context of regulation, we should take the approach which has been adopted in other areas whereby, depending on the level of the breach involved, a variety of responses can be applied. This is what we are doing in respect of failures to meet the standards. We require a regulatory system which recognises the different levels of breach which can occur.

**Deputy Robert Troy:** The Minister initially stated that in recent years she has focused on the improvement of quality. She will recall that a number of weeks ago - prior to any reports on RTE television programmes - I raised the issue of quality in the context of the need to get matters right with regard to the initial free pre-school year before we consider the introduction of a second year. I am *ad idem* with the Minister in respect of the need ensure that we get matters right in the context of quality. Sometimes when listening to her, however, one would think that nothing was done in the area of child care in the 15 years prior to her appointment. I remind her of the huge investment that was made in order to put in place the physical infrastructure that was needed to ensure that there would be a sufficient number of child care places. I also remind her that a previous government was responsible for introducing the Aistear and Síolta frameworks and the workforce development plan and establishing the county and city child care committees. It is clear that work was done previously. In addition, the Minister alluded to section 5 of the existing regulations. It must be remembered that those regulations were introduced by a previous Administration in order to ensure that the health, welfare and development of children would be catered for in the pre-school sector. At the committee meeting to which I referred earlier, the Minister gave a commitment to amend the Child Care Act prior to the summer recess. Does that commitment stand?

**Deputy Frances Fitzgerald:** Unfortunately, money was not invested in developing a national inspection system. Neither was it invested in quality measures. Both the Deputy and I have spoken about such measures recently. There is no doubt that money was not invested in a national service or in examining issues relating to quality. That is what we must do now. I accept that some work was done and that the Aistear and Síolta frameworks were introduced. However, there was no investment in the mentoring programme necessary to implement these. In other words, there was no implementation plan and anyone who works in the sector will attest to that. What is important is how we deal with these issues now and going forward.

**Deputy Robert Troy:** Correct.

**Deputy Frances Fitzgerald:** As I stated in response to questions posed at committee meetings, I want a mentoring programme to be put in place.

The Deputy also inquired about the expansion of the directorate and further recruitment. I am currently involved in discussions with the Minister for Public Expenditure and Reform, Deputy Howlin, in respect of that matter in order to ensure that there will be sufficient numbers of staff available throughout the country. There are gaps in the service and if we want to carry out proper inspections, these must be filled.

### **Child Care Services Regulation**

2. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Children and Youth Affairs the steps she has taken to address the disturbing lack of management standards and the clear

breaches of regulations exposed in the recent RTE “Prime Time” programme which focused on a number of crèches in the greater Dublin area; and if she will make a statement on the matter. [32643/13]

**Deputy Frances Fitzgerald:** I have previously outlined to the Oireachtas that I found the scenes broadcast on the “Prime Time” programme distressing, shocking, and absolutely unacceptable. There is no question about that. The mistreatment of young children is currently, and rightly, the subject of a thorough and comprehensive investigation by the HSE and Garda.

The owners and managers of child care services, in deciding to offer care services to parents, assume important responsibilities. They are entrusted with the care of the youngest members of society. A primary responsibility of pre-school managers, as set out in the child care regulations, is that they must ensure that a sufficient number of suitable and competent adults are working directly with pre-school children at all times. As well as ensuring that staff receive Garda vetting, management must put in place proper human resource procedures for the recruitment of staff, including the seeking and careful scrutiny of references. The onus is on management to ensure that staff new to a service are supervised and monitored on an ongoing basis.

As advised in response to the previous question, I am working on a comprehensive pre-school quality agenda. This will make a difference to the quality of care provided. As already stated, this agenda includes the introduction of national quality standards which will be implemented later this year. These standards contain a section on organisation and management which includes the following criteria: that all staff should commence induction training in respect of all the policies and procedures of the service during their first week of employment; and that each staff member should receive regular supervision and support regarding all areas of their work. People were stunned by the lack of intervention in the footage broadcast on the “Prime Time” programme and inquired about the absence of supervision and support. Another criterion which will come into play in this regard relates to ensuring that the ongoing training needs of all staff will be identified, addressed and provided for on a regular basis.

It is essential that the owners and managers of child care services have in place proper management structures and procedures to ensure their staff are properly managed and supervised in order to make certain that children attending the service receive the highest quality care. A robust inspection regime provides a system of external verification but this reinforces - rather than replaces - the requirement for providers to have quality at the centre of the services they offer. That is what parents expect and it is what young children should receive.

*Additional information not given on the floor of the House*

In line with my pre-school quality agenda, the pre-school inspection service will develop a clear set of national pre-school standards according to which services will be inspected; ensure that those wishing to operate in this sector will be subject to advance registration based upon an assessment of suitability; ensure the inspection system operates on a nationally consistent basis and is robust and proportionate in response to non-compliance; ensure that inspection reports are published online so that they will be accessible to parents and the general public; and advise my Department in its review and updating of sanctions for non-compliance. There are many excellent providers who are motivated by the highest standards of care and professionalism. If there are any who are ambivalent on these matters they should engage themselves elsewhere. The pre-school inspection services will robustly tackle those who are in serious breach of the regulations and will have my fullest support in doing so.

**Deputy Caoimhghín Ó Caoláin:** I thank the Minister for her reply. It is appropriate to say that what we witnessed on our television screens in the “Prime Time” programme was absolutely appalling. It represented a dereliction of duty and care, the appalling mistreatment of children and examples of the poorest practice in terms of the conduct and management of care provision. Is there an update on the engagement by Pobal with the three child care providers featured in the “Prime Time” programme? Is there a further indication of the steps being undertaken to address those particular child care providers or those particular multiples, to which some of them clearly belong?

Mr. Gordon Jeyes, the CEO designate of the Child and Family Agency, has commissioned a review and analysis of past inspection reports to identify whether there is a pattern of non-compliance with particular reference to the for-profit chains. Will an interim report be published? When does the Minister expect to have receipt of it? That is hugely important.

I refer to the eight areas of action the Minister indicated at the last meeting of the Oireachtas Joint Committee on Health and Children at which we addressed this. The first of those was publishing inspection reports online as soon as possible. Has that happened? Can the Minister indicate when comprehensive online access will exist for parents throughout the country whose concerns are real as a result of the exposure of the incidents shown on “Prime Time”?

**Deputy Frances Fitzgerald:** I can confirm that Pobal is in contact with the particular providers because it provides the compliance for my Department in regard to the early child care and education scheme. Those providers provide the ECCE scheme, so it would be appropriate that Pobal meet the providers and investigate the various issues in regard to compliance which arose. It is in the process of doing that and has completed some of those exchanges. I do not want to say anything which would prejudice, in any way, the investigation being carried out by the HSE and the Garda but that interaction is taking place.

That is important because Pobal has a role in regard to compliance in those services. I would want Pobal to discuss with those providers what I saw on television. I have also asked Pobal to make a link between the work it and the HSE inspectorate are doing, which was not happening in the past but which is very important.

I expect an interim report from Mr. Gordon Jeyes. Obviously, that had to go to tender. He has asked for the report in two parts - a preliminary report and a more substantial report later in the year. It will be a two part process and it should be published. I will arrange for its publication as soon as we have those reports. It is extremely important that we analyse the pattern of compliance in the voluntary and community sector and in the businesses which were under review in the television programme. That has not happened before.

I refer to the Deputy’s question about accessing reports online. I repeat there has been a huge amount of contact from parents asking about reports. Parents will be given the details and they can ask providers for a copy of the report without having to go online at all. However, we have made arrangements with Pobal for it to host the online reports. From 1 July, any new reports done will go up as soon as they become available and the providers have had a chance to respond to them. We will also put up any reports done in recent weeks and months.

**Deputy Caoimhghín Ó Caoláin:** I thank the Minister for her reply. It is the case that only new reports will go up and it will take a period of time before there is a full complement of reports relevant to the various care facilities throughout the country. In some areas of the country,



including in my own area, a situation is not in place for regular and repeat checks. It is clear from the information to hand that some areas of the country are less catered for but that is not to suggest for one moment that care providers in those parts of the country are in any way deleterious in regard to their responsibilities as, in my experience, the contrary is the case. However, I urge the Minister to look at what can be done to ensure that early reports are secured and that they are put up online. This is not just an issue of concern in the greater Dublin area but it is of concern to people throughout the jurisdiction.

One of the points the Minister highlighted at the Oireachtas Joint Committee on Health and Children engagement was increasing and widening the sanctions which can be imposed for non-compliance. Would she like to comment further on that? I am interested to know if they will be imposed. Increased and wider sanctions are one thing but most people who saw the expose on “Prime Time” want to know that sanctions will be enforced.

**Deputy Frances Fitzgerald:** In regard to the Deputy’s question about access to inspection reports online, I have asked that any recent reports, reports prior to 1 July, which can be put online are put online. I have asked that any other reports, which are ready and are suitable, are put online, although there is a question about, and much background work to be done on, formats and there are legal, insurance issues etc. I expect we will see some of those more recent reports going online shortly.

The Deputy made the point about different parts of the country. The reports will go up online county by county. The Deputy was right that there are gaps in certain areas, which is unacceptable. I am in discussions with the Minister for Public Expenditure and Reform, Deputy Howlin, to ensure we have basic services throughout the country because inspectors from other areas are being asked to go in, on a priority basis, to counties where there is no inspection. That will be dealt with. What was the Deputy’s third question?

**Deputy Caoimhghín Ó Caoláin:** It was about enforcement of the sanctions.

**Deputy Frances Fitzgerald:** This is linked to the way the inspection reports are done. We need a very clear statement in those reports as to whether a prosecution is taking place. If a prosecution is deemed necessary, that must be very clearly indicated. We must start to put a range of sanctions in place because there is not a range of sanctions in place currently. There were three prosecutions last year, of which I informed the committee, but we need more clarity in the inspection reports where standards are not being met and we need a greater range of sanctions if there is not compliance. We need to implement them but I believe that will require changes to the legislation.

## **Missing Children**

3. **Deputy Joan Collins** asked the Minister for Children and Youth Affairs with the launch of the new 116000 number, the number of calls that have been received to date; the amount spent on advertising the line; where this advertising has been targeted; the number of countries that have an operational 116000 service; if long-term funding is now in place for the continuance of the service; and if she will make a statement on the matter. [32670/13]

**Deputy Frances Fitzgerald:** I welcome the launch of the 116000 missing children hotline in Ireland which is being funded by my Department together with the EU. The 116000 missing

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children hotline is an EU-wide initiative designed to provide a single point of contact across the European Union for missing children and their families. The number is currently operational in 23 EU countries and the number has been allocated and is soon to be operational in a further four countries, including Croatia, the newest EU member state. In Ireland the service is operated by the ISPCC. I thank it for the work it has done on this. We have provided it with funding to establish this hotline. It is now available 24 hours a day as a support for families in a dreadful position and also for children who are in a position to use it. Funding is provided through the Daphne funding system and the service is overseen by a cross-sectoral project team chaired by my Department. My Department provided €50,000 in 2012 to support the Irish Society for Protection of Cruelty to Children, ISPCC, in establishing the hotline and €88,000 this year. The funding received from both the EU Daphne project and my Department included the establishment costs and national promotion and advertisement of the service. In common with all Exchequer funding, requirements for the operation of the service in future years will be considered in the context of the usual Estimates process. We give very serious funding to the ISPCC in order for it to deliver the range of services it does so effectively.

The missing children hotline has been operating on a limited hours pilot basis in Ireland since December 2012 and on a full-time, 24 hours a day, seven days a week basis since April this year. The service was officially launched on 7 June and as it has been operating only for a very short period, reliable data on calls is not available at this time. Any available data at this point will necessarily include a substantial volume of test calls by groups such as the ISPCC, my own Department and others. We will have robust and more accurate data on calls to the service in the next quarter and after that on a quarterly basis. It is important to see how many children or family members are calling the service, and the ISPCC will provide that data on a quarterly basis.

*Additional information not given on the floor of the House*

A key component of the service is a successful awareness programme. It is vital that those who could benefit from the service know that it exists and that users are aware of the scope of the service. During the initial set-up phase of the service, the ISPCC focused on community-based promotion of the service, and this included presentations to local community groups. Posters, flyers and business cards have been distributed to all Garda stations from Garda headquarters, and promotional material has been distributed to a variety of community-based projects in various locations throughout the country. Furthermore, the ISPCC has made extensive use of social media such as Facebook and Twitter to advertise this service on an ongoing basis. The successful launch of the service on 7 June 2013 also provided the opportunity to further promote the service.

The 116000 missing children hotline website, [www.missingchildrenhotline.ie](http://www.missingchildrenhotline.ie), has also been launched to promote the service. To date, €35,000 has been spent on awareness measures and this amount will be doubled for further awareness measures in the remainder of 2013. It is important to note that the 116000 number is not an emergency number. Emergency calls should always be directed to the 999 or 112 number in the first instance, where the relevant emergency responses, including the recently launched Garda missing children amber alert mechanism, may be activated. The establishment of the 116000 line will, however, be of valuable support and assistance to families of missing children and to missing children themselves.

**Deputy Joan Collins:** We all welcome the introduction of the hotline number and many people have sought its introduction for a long time. I particularly mention Mr. Tom Brown,

who has campaigned for a long time since his sister went missing.

The Minister indicated that the hotline would be used in 23 countries. There seems to be a problem with Finland. What is happening in that regard? The report of the third annual conference on missing children indicates that for the process to be effective across Europe, all countries must be involved. There are 250,000 children missing throughout the EU member states. I am also concerned about advertising and getting the number out there. What is being targeted in that respect? Are we looking to get the number into airports or perhaps getting it on the RTE news once a month? A lack of public awareness of the 116000 number was mentioned during the conference I attended.

**Deputy Frances Fitzgerald:** During the initial set-up of the hotline, the ISPCC focused on community-based promotion of the service, holding many presentations for local community groups and producing posters, flyers and business cards for distribution to all Garda stations from headquarters. The Garda has been very co-operative in the development of this hotline and many businesses have also been informed. The ISPCC has used social media, including Facebook and Twitter, to advertise the service on an ongoing basis. When the service was launched there was much promotion, but if any businesses or media outlets want to offer support to the promotion of this hotline, I invite them to do so. It is a very important service. The Deputy mentioned airports and perhaps we could get some support from the airport authorities, so I will raise it with the Minister for Transport, Tourism and Sport, Deputy Varadkar, and see if we can take the initiative in that regard. We must ensure people are alert to the fact that the missing children hotline number is available and should be used by people if they have information or need support.

I attended the launch of the child helpline in Brussels two weeks ago which brought together data from European countries. It is extraordinary that there have been 58 million calls to European child helplines over ten years from children, with 3 million calls from children regarding violence and abuse, primarily at the hands of family members. These are really disturbing statistics. The top concern in calls made by children was mental health, at 18% of calls, with abuse and violence also at 18%. Peer relationships were the subject of 15% of calls and bullying featured quite strongly also. There is a real need to gather the data from these helplines, although they are not all concerned with missing children; they are the general helplines that children can use in all member states. Children are using them and we must ensure we build bridges between those helplines and national services so we can respond to the concerns that children have. There are new and emerging issues, such as cyber-bullying, which also featured quite strongly in the calls to hotlines. There is much information about concerns of children and we must act on that.

**Deputy Joan Collins:** That is the benefit of a hotline number, as the data can tell us what is happening on the ground. A point was made by Ms Delphine Moralis, the secretary general of Missing Children Europe, indicating that the response rate in 15 member states is 1%, but in Italy and Belgium, where the number is best known, the response rates are 6% and 4% respectively. This relates to promotion of the number. We should work with the Minister for Transport, Tourism and Sport to promote it on all transport modes, including buses, trains, airports and motorways. Those are the lines along which children would move if on their own or abducted. The Minister did not really answer the question about Finland.

**Deputy Frances Fitzgerald:** It is surprising that Finland, a very child-centred country which has good services for children, does not operate the hotline. I understand initiatives are

being taken to ensure all member states will have the hotline.

This 116000 number is not an emergency contact. If there is an emergency, people should contact 999. It is a support and alert service for children who are in a position to use it. It is worth noting that the Childline service, which is operated by the ISPCC, has a high number of calls in comparison with its European counterparts. One could have another debate on why that is so and the issues that children feel they need to raise.

### **Child Protection Issues**

4. **Deputy Robert Troy** asked the Minister for Children and Youth Affairs when she expects to publish the Children First legislation; and if she will make a statement on the matter. [32681/13]

**Deputy Frances Fitzgerald:** In July I published revised Children First national guidance and my Department initiated work on an implementation framework. That is extremely important because it means all the services coming into contact with children will be alert to Children First. We know from a variety of reports that there is inconsistency in that regard. The revised guidance and implementation framework were designed to address concerns about inconsistent implementation and compliance with Children First since its original publication in 1999, including concerns expressed by the Ombudsman for Children.

Implementation measures progressed to date include the publication and dissemination by the HSE of a child protection and welfare practice handbook, which I launched with Mr. Gordon Jeyes and which is extremely useful for practitioners in the field; training for front-line professionals, including joint training between gardaí and social workers; and the establishment of a Children First implementation interdepartmental group, because different Departments have responsibility for implementing the guidelines. For example, all sports organisations have a job to do in this respect.

On 25 April 2012 I published the draft heads and general scheme of the Children First Bill and immediately referred it to the Oireachtas Committee on Health and Children, which published a report in July 2012. As part of the joint committee's consultation process, a number of submissions were received. Overall, it was welcomed that the legislation would increase the focus on child protection, although the contributions in the main came from organisations already implementing Children First. The historic nature of the proposals and their implications for those providing services to children were acknowledged, as was the importance of the precise nature of the duties, responsibilities and sanctions contained in the legislation for successful implementation. The submissions received by the committee were not all in agreement and many points emerging needed to be considered and reconciled. This involves consideration of policy and operational issues as well the best legal approach to achieving Children First.

I have had a substantive series of meetings and consultations with key stakeholders and experts since then, including other relevant Departments and statutory agencies, to discuss and review this issue. We have also commissioned an academic study on key aspects of the relevant mandatory legislation in place internationally. All these factors are informing the preparation of enhanced policy proposals. It is my intention to submit further proposals in the form of a revised general scheme and heads of Bill to Government as soon as possible with a view to drafting the Children First Bill.

**Deputy Robert Troy:** I will remind the Minister of what she said on 25 May 2011:

It is a matter of particular concern to me that, despite a commitment by the previous Minister in July 2009, no draft legislation had been prepared to put the Children First Guidelines on a statutory footing. This will be a key priority for me as Minister. I am pleased to say that substantial work has been done to progress this in the past weeks. I will be outlining further details of these proposals very shortly.

On 15 July 2011, she said, “Earlier this week I sought and received Government approval to bring forward legislation to require, for the first time, statutory compliance with Children First”. The Government’s legislative programme listed it for publication before Easter this year. That is going back two years. Does the Minister accept that in the absence of this legislation, children are being left in vulnerable situations? When can she give a definitive timeframe as to when this crucial piece of legislation will come before this House? We are supportive of her with regard to this and all her reforms yet she is failing to meet target after target, which she and nobody else set.

**Deputy Frances Fitzgerald:** The Deputy should recognise the substantial work being carried out in respect of developing the Children First legislation. We want to make sure we have robust and substantial legislation. There is a range of issues I have outlined to the Deputy. I gave him a detailed response with regard to the range of issues that arose. I made the decision after I made some of those comments with reference to the relevant committee. The Deputy knows there was a 600-page report from the committee. The substantial issues in that report must be addressed and a range of work has been done.

What is very important is how the Children First guidelines are being implemented. Clearly, if somebody believes a child is at risk of abuse, that situation should be reported under the Children First guidelines and the practice handbook that has been published, to which I have already referred. If anybody knows that a child is at risk, that should be reported.

We have made a decision to bring in Children First legislation. Unlike previous promises made in respect of Children First, I have done the work and brought the memorandums to Government. A second memorandum is about to go to Government. I have brought in the experts to examine this issue and this Government has given a commitment to bring in the legislation.

**Deputy Robert Troy:** The Minister has a dedicated Department. In the two and a half years since that Department has been in existence, no legislation, apart from a technical Bill relating to an amendment to the Child Care Act, has come before this House. I am not putting any targets on the Minister. These are her own targets, not mine or anybody else’s, and she has failed to deliver on them. I agree we have Children First guidelines but the Minister, Members on all sides of the House and I acknowledge the need to put them on a statutory footing. Once again, the Minister is unable to give a definitive timeframe as to when this will come before the House. I have said before and will say again that we are here to help and facilitate the passage of this legislation in any way we can just as we supported the passage of the children’s referendum and the Minister’s reform agenda on the child and family support agency. However, she is at the helm, it is her Department and we want to know when we can expect to see this legislation before the House.

**Deputy Frances Fitzgerald:** Let me remind the Deputy that his own party promised for 12 years to put a children’s referendum before the people. That involved a considerable amount



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of preparation and legislation. Let me remind him that a new agency is being created, a huge amount of work has been done on that and legislation will be in the House very shortly. Let me remind him that his party promised many years ago to deliver on Children First. That will be delivered under this Government. We have already done substantial work, as I outlined to the Deputy today. I want to make sure this legislation deals with the issues raised in the committee.

**Deputy Robert Troy:** Will the Minister answer the question?

**Deputy Frances Fitzgerald:** I am answering the question. Those are extremely complex issues relating to reporting of concerns for organisations and individuals. There will be criminal sanctions. I have had very good consultations with stakeholders concerning the development of this legislation and very substantial heads of the Bill will be going to Government shortly. It will be worked on over the summer period and I will review progress later in the year.

### **Child Detention Centres**

5. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Children and Youth Affairs in view of the 2012 annual report of the Ombudsman for Children, the current capacity, work and accommodation conditions at Trinity House, Oberstown boys and Oberstown girls schools; the implementation of the new working roster and the implications of same for staff and for children; the date on which the investigation by Victor McElfattrick will be published; and if she will make a statement on the matter. [32644/13]

**Deputy Frances Fitzgerald:** I wish to update the House on the significant and ground-breaking programme of work being implemented by this Government in the area of child detention. I am sure the Deputy will acknowledge that we are the first Government to have ended the detention of 16 year olds in St. Patrick's Institution. In addition, we have provided capital funding of €50 million for the development of the national child detention facilities at Oberstown. Other Governments have talked for decades about ending this practice but capital was never allocated. We have allocated the capital to ensure that Oberstown will be built. Regulations were signed last year by the Minister for Justice and Equality and me to extend the remit of the Ombudsman for Children to include St. Patrick's Institution. We have established a dedicated multidisciplinary assessment and therapeutic care team for children in detention and special care. Yesterday, we became the first Government to move to close St. Patrick's Institution.

In respect of the Deputy's question about the development of the national child detention facilities at Oberstown, this project is required in order to give effect to the programme for Government commitment to end the practice of detaining children in adult prison facilities. My officials have, in conjunction with the Office of Public Works, completed the design process and secured planning permission for the capital development. This will result in an increase in the overall detention capacity on the campus from 52 places at present to 90 places in total, along with associated education, visiting and other facilities. The required capacity to enable the assignment of responsibility for all children under the age of 18 years to the Oberstown campus is to be delivered in the first phase of the project by mid-2014.

There is legal provision under the Children Act 2001 for 24 male bed spaces in Trinity House School, eight female bed spaces in Oberstown Girls School and 20 male bed spaces in Oberstown Boys School. However, only 16 of the certified 24 male bed spaces in Trinity House School are currently available for use due to staffing issues. The Irish Youth Justice Service,

which is based in my Department, is currently in discussions with management and staff on the Oberstown campus on an initiative to reorganise the detention capacity for male and female bed places in order to meet the increased demand for male bed places from the courts. There has been a 70% increase in referrals. This is being progressed so as to achieve its earliest possible commencement.

*4 o'clock*

The first ever campus-wide roster with a set of harmonised conditions for hours worked was implemented on 25 February 2013 following protracted negotiation and agreement between staff and management at the Labour Relations Commission. I recognise the co-operation of staff. There is a number of outstanding issues which are the subject of ongoing consideration in conjunction with implementation of the campus-wide roster. There is an ongoing industrial relations process on the campus as well as discussion with respect to the Haddington Road agreement and the implications it will have-----

**An Leas-Cheann Comhairle:** Thank you Minister.

**Deputy Frances Fitzgerald:** -----for the delivery of these services, which I want to see.

**An Leas-Cheann Comhairle:** We are over time on the question.

**Deputy Caoimhghín Ó Caoláin:** I very much welcome the news of the impending closure of St Patrick's Institution. I heard an interview earlier today with the Ombudsman for Children. Will the Minister advise us whether an interim situation exists for the transfer from St. Patrick's Institution to Wheatfield Prison? Is an arrangement in place pending availability of the required accommodation and supports in terms of staffing and resources at Oberstown?

From inquiries I made after the recent comments of Mr. Justice Ryan, I was very concerned about the situation for boys and girls at Oberstown and Trinity House. Mr. Justice Ryan was unable to send offenders there because they were not in a position to take additional numbers. Nevertheless, and the Minister has confirmed this, there is bed capacity there. We need a full explanation as to why these beds are not in use and available. I am told insufficient staff cover the services there and this is from people very close to the service. They work under extreme stress and pressure. One must conclude this is clearly serving neither staff nor children. As a result - I know this is not something the Minister or I would want to be associated with in any shape or form - the State is failing in its responsibility to provide for children in these situations and failing in its duty of care.

**An Leas-Cheann Comhairle:** Thank you Deputy.

**Deputy Caoimhghín Ó Caoláin:** Mr. Justice Ryan's remarks are hugely important and we must take them very seriously. In the context of Victor McElfattrick's report what steps will the Minister take and how quickly will we see the full complement of beds in use at Oberstown and for how long does she expect the Wheatfield interim arrangement to last?

**Deputy Frances Fitzgerald:** The Minister for Justice and Equality has announced the closure of St. Patrick's Institution. Discussions will be held and it is intended to move to Wheatfield Prison. As far as 17 year olds on remand are concerned, interim arrangements will have to be made. Clearly some 17 year olds who have been sentenced cannot transfer to Wheatfield Prison. It is intended to have discussions between the Department, the Department of Justice

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and Equality and Oberstown to see what facilities can be made available for 17 year olds. The Deputy has rightly pointed out we must ensure the extra six beds are made available to the courts. I view this issue with the utmost seriousness, which is why the gentleman to whom the Deputy referred was asked to compile a report and work with the staff there. His report has been presented to the board, which is actively engaged on this issue, as is the Irish Youth Justice Service, in terms of coming to a resolution.

As the Deputy is aware, protracted negotiations took place over a very long period to arrive at a point where we have a joint approach between the three facilities to the work being done and with regard to the young people so there can be movement between the three services. Historically, people worked in just one of the services and did not move between the three.

**An Leas-Cheann Comhairle:** Thank you Minister.

**Deputy Frances Fitzgerald:** A roster working across the three services was agreed and began in February 2013. I commend the staff on this. There are ongoing industrial relations issues with regard to releasing the extra beds which are being dealt with and they will have to be resolved. I want these issues to be resolved as quickly as possible-----

**An Leas-Cheann Comhairle:** Thank you Minister.

**Deputy Frances Fitzgerald:** -----so we can meet our obligations to these young people and to the courts.

There is quite a lot of movement of young people in and out of the service and beds become available on a regular basis but the number of referrals from the courts has increased. The average number of 16 year olds in St. Patrick's detention centre was ten but in recent weeks 17 have been referred there by the courts.

**An Leas-Cheann Comhairle:** Thank you Minister. I call Deputy Ó Caoláin.

**Deputy Frances Fitzgerald:** It is important we analyse why more 16 year olds are being referred and what are the underlying factors. We must consider supervision orders and Garda diversion programmes. What is happening is that a greater number of 16 year olds are being referred to the service.

**An Leas-Cheann Comhairle:** Go raibh maith agat. One minute per-----

**Deputy Frances Fitzgerald:** It is critical that we make these beds available as soon as possible

**An Leas-Cheann Comhairle:** It is one minute for a supplementary question.

**Deputy Frances Fitzgerald:** Every effort is being made to ensure this happens.

**Deputy Caoimhghín Ó Caoláin:** I thank the Minister for her reply. Has Mr. McElfattrick reported yet? Has the Minister seen the report? Will it be published? My inquiries suggest the reason the beds were not available to be used was not because an insufficient number of staff is allocated but that there are real issues as a consequence of sick leave, stress leave and assault leave. It is certainly inadequately staffed, but this is exacerbated by the fact it has been insufficient historically. With an increasing number of referrals there just is not the compliment of staff necessary to cope. Does the Minister have any idea of the number of the full complement

of staff at the Oberstown network who are on sick leave, stress leave and assault leave? We do not want to see this. One can understand people being off sick but stress is not acceptable. It would be a stressful employment. We want to avoid assault situations arising.

**An Leas-Cheann Comhairle:** Thank you Deputy.

**Deputy Caoimhghín Ó Caoláin:** Where the situation is already stretched, underresourced or underprovided for these matters will continue to arise. It needs to be addressed holistically in the round so we get to a situation where the mistakes of the past are not repeated.

**An Leas-Cheann Comhairle:** I call the Minister for a final reply. She has one minute.

**Deputy Frances Fitzgerald:** The report was received by the board in May and it is acting on it and working with the staff to ensure the issues highlighted are dealt with. I have also obtained agreement on extra funding for staffing when the new facility comes on board. I will also put in place regulations to ensure we can use the beds allocated for young girls. This will involve a reorganising of staffing and services on the campus but I am confident with the co-operation of the staff we can get to use these beds in the very near future. I thank the staff who have co-operated in getting this roster available. I now want to ensure we can open the extra beds.

Traditionally there has been a high level of sick leave on the campus. Looking after young people in detention is stressful and difficult work and staff need to be supported. I am confident with the staffing numbers we have at present that we will be in a position to open the extra facilities.

## **Other Questions**

### **Youth Services Funding**

6. **Deputy Richard Boyd Barrett** asked the Minister for Children and Youth Affairs if she will provide a cumulative figure for cuts to City of Dublin Youth Services Board since 2008; and if she will make a statement on the matter. [32604/13]

**Deputy Frances Fitzgerald:** The Department provides a range of funding schemes, programmes and supports to the youth sector. Funding of approximately €53.498 million is available in 2013 to support the provision of youth services.

In 2013 an allocation of €11.997 million was provided to City of Dublin Youth Services Board to support the provision of youth services to young people in the city of Dublin area. In 2008 the allocation for such services was €14.892 million, resulting in a cumulative reduction of €2.895 million, or 19%, over the five-year period in question. This funding is provided under the special projects for youth, the young people's facilities and services fund, and local drugs task forces. They are the three schemes that get supported by the CDYSB.

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This reduction, in line with the general trend in public expenditure, reflects the crisis in the public finances which emerged in 2008 and which, despite major progress, continues to limit the funding available to publicly funded programmes. As with all Departments and agencies, funding for the programmes of the Department of Children and Youth Affairs has been reduced in recent years due to the general budgetary situation.

My Department has tried to ensure that in the determination process for the allocations to youth services throughout the country, the front-line youth projects, particularly those for the most vulnerable young people, are protected as far as is possible from the impact of the necessary reductions in funding. Organisations are being asked to consider the scope for reducing administration costs and overheads, if that is at all possible, in order to maintain the front-line youth services for young people. That is in line with the approach adopted within the public service where operational efficiencies and pay cost reductions, most recently through the Haddington Road agreement, have been used to minimise the impact of the fiscal crisis on service availability.

A comprehensive value for money and policy review of youth funding has been commenced in the Department and it is anticipated that the findings of this report will inform the future development of youth programmes and services.

*Additional information not given on the floor of the House*

I know that the restrictions in funding are challenging for youth organisations. I have met, and continue to meet, many youth organisations and groups to try to see how we can work together to minimise the impact of the necessary savings to ensure the provision of quality youth services to young people is sustained in these challenging times.

During the course of Ireland's EU Presidency, which came to a close in recent days, I used my position as President of the Council of EU Youth Ministers to secure agreement on a policy agenda which aimed at raising the profile of youth work and seeking greater access for the youth work sector to EU funding opportunities, in particular funding to be provided under the youth employment initiative and as part of the implementation of the youth guarantee.

**Deputy Richard Boyd Barrett:** When we listened on the Anglo tapes to bankers laughing as their grubby and greedy activities propelled an entire country towards bankruptcy, it is worth reminding ourselves of the other side of that coin, the human impact. Nowhere provides a more stark indication of the appalling and unacceptable impact of that than cuts to youth services, which as the Minister acknowledged, have suffered an enormous cut of 19% since the recession hit. What will the Minister do to reverse this unacceptable situation? There is no justification for young people, of all people, in particular vulnerable young people in disadvantaged areas, to pay the price for what those laughing, contemptuous bankers did.

During the EU Presidency the Government spoke about the youth guarantee and a report is being launched on how it will be applied in this country. Will the youth guarantee mean a reversal of the cuts? Could the Minister provide assurances that there will be no further cuts in the coming budget? The head of Dublin city youth services said that entire projects will disappear if there are any more cuts in the forthcoming budget. What assurances can the Minister provide that there will be no more of these utterly unacceptable cuts and that the youth guarantee will ensure a reversal of the extremely damaging cuts?

**Deputy Frances Fitzgerald:** It is important that the Deputy has raised the youth guarantee



and the potential it could have in this country. As he is aware, initially the sum of €6 billion was agreed. The Minister for Social Protection, Deputy Burton, succeeded in steering that through at EU level. It is a superb initiative and is very important in dealing with the crisis in youth unemployment. The Deputy asked whether the youth guarantee has any relevance for youth work groups in this country. In fact, I believe it does. The fund has increased to €8 billion, to be front-loaded over the next two years. I have been in discussions with the youth work sector and I worked during the Presidency to ensure youth work is seen as part of the continuum that helps young people to access education, training and work.

The youth guarantee should be used to support youth work groups and the projects and programmes they run. I have already had some discussions with the Minister for Social Protection, Deputy Burton, on the matter. In the coming weeks and months she plans to put a group together to examine how the youth guarantee can have an impact in this country. As Deputy Boyd Barrett correctly pointed out, the youth work services should be part and parcel of an approach to support young people who face the levels of youth unemployment experienced in this country and in Europe.

**Deputy Richard Boyd Barrett:** I welcome the response and the aspiration expressed. There can be no doubt that if we do not provide the resources and supports for teenagers and young people then all the talk about youth employment guarantees will mean little because huge numbers of people will just drop out of the system and get into trouble and difficulty. If the youth guarantee is to mean anything then it must apply in this area and be part of a continuum that goes from the teenage years right through to getting people into employment.

What can we hope for and expect in terms of what that might mean for forthcoming budget cuts or cuts that have been imposed? Those involved in providing youth services say they cannot take any more. Serious damage has been done. Youth worker jobs have been lost and services and projects have been cut. The cuts must be reversed because every cut does damage and means more young people dropping out of the system and getting into trouble. What assurance can the Minister provide that there will be no further attacks and that there will be a reversal of some of the cuts that have been imposed?

**Deputy Sandra McLellan:** Following my meeting with the Minister last week, could she confirm that she has met SIPTU about the cuts to the City of Dublin Youth Services Board and could she advise of any progress made during the course of the meeting?

**Deputy Frances Fitzgerald:** Deputy Boyd Barrett is aware of the budgetary situation. I will do everything I can to protect the services. It is very important not to create unnecessary fear in the sector. I am in contact with the youth sector all the time and I visit projects frequently and see the work that is being done. It is important to say how much good work is being done despite the very difficult budgetary situation. The majority of the funding has been protected. There had been a huge increase in funding but that is not to say that once the budgetary situation eases, I would not want to invest further in the youth sector. I believe fully in the youth sector and the initiatives and support it offers to young people. I will do my very best to protect the budget.

The youth guarantee offers a way to support the sector as well that should be utilised fully in the coming months. We must also ask the youth sector to respond itself to the potential the youth guarantee offers. I have asked a number of youth services to put together projects that could potentially attract funding under the youth guarantee. I would welcome Deputy Boyd

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Barrett's support in that regard because opportunities exist. It is important that the youth work sector avails of, and is helped to avail of, the funding. The work will be done between the Department of Social Protection, my Department and other Departments.

I had a meeting with SIPTU which was very helpful. SIPTU suggested a number of initiatives to me. It highlighted in particular its concern at the need to give better information to the youth sector on the funding proposals for it. We have put a process in place for ongoing discussion with SIPTU on the issues raised.

### **Ombudsman for Children Reports**

7. **Deputy Gerry Adams** asked the Minister for Children and Youth Affairs her views on the Ombudsman for Children's annual report for 2012. [32596/13]

**Deputy Frances Fitzgerald:** As the Deputy is aware, the Ombudsman for Children is an independent officer of the State and accounts for her statutory functions to the Oireachtas. She performs a very valuable ongoing role in advancing the rights and welfare of children in Ireland since her appointment to that role in 2003. As well as investigating individual complaints she also makes contributions to Oireachtas committees, provides advice to Government on legislation, policy and practices and raises public awareness of issues impacting on the lives of children and families. I acknowledge her support in terms of developing legislation. Her office was involved in the consultations I have held on Children First and the development of the new agency, among other aspects of legislation.

I welcome the launch of the Ombudsman for Children's annual report and note the contents. She was a big supporter of the children's rights referendum, as were Deputy Ó Caoláin and his party. The Government is committed to putting the rights and welfare of children at the centre of our policy and to ensure the services delivered to children are adequate and well organised. The number of complaints dealt with by the Ombudsman in 2012 was 1,465 and related to a range of departmental areas, those being, education, health, finance, welfare, justice, housing-planning and others. Therefore, it is a matter for each Minister, including myself, together with our respective Departments, to consider the issues raised by Ms Logan not only in her reports to the Oireachtas, but also on an ongoing basis.

I meet Ms Logan regularly to ask for input into legislation and to discuss issues. We respond to each of the reports and liaise with other Departments to get their responses to the issues raised. A number of the issues raised this year and in previous reports have been dealt with by various Departments and responses have been provided to the Ombudsman.

**Deputy Caoimhghín Ó Caoláin:** As the Minister will have noted from the Ombudsman's report, two Departments constitute more than 80% of the cases brought to her attention - 43% at the Department of Education and Skills and 39% at the Department of Health. These are the main Departments.

However, I wish to focus on the Ombudsman's comments on public bodies. Her report shows that certain public bodies have demonstrated a failure to consider children's best interests in making decisions about children and families. She also instanced situations in which there was a significant lack of co-operation between State-funded public bodies. As a consequence, children and families did not receive the necessary supports and services. For example,

local authorities did not provide suitable housing despite HSE recommendations, mental health services were not provided to children in care who were relocated because local offices could not agree on whose area of responsibility it was and children needed to remain in hospital despite the fact that medical advice had indicated that they could be cared for at home.

**An Leas-Cheann Comhairle:** I will call the Deputy for a further supplementary question, but I must call the Minister now.

**Deputy Caoimhghín Ó Caoláin:** I will leave it at that. How does the Minister intend to address these significant deficiencies at public body and local authority level? Can her Department insist on the employment of best practice where a child's needs are concerned?

**Deputy Frances Fitzgerald:** The Deputy rightly highlighted one of the issues that he and I know is serious and that the Ombudsman has also highlighted. We also read about it in the child death report, that being, agencies failing to co-operate and share information. That failure has emerged again in this report.

To encourage agencies in this regard, I will build into the legislation that I will introduce shortly on the child and family agency a duty to share information and co-operate. This statutory provision will apply to all agencies that are involved in sharing information on and delivering services for children. It will encourage and support best practice in terms of co-operation.

I was concerned by the issue of housing as it affects children in care, an issue raised by the Deputy. The Ombudsman described a catch-22 situation in her report, that being, a housing Department not being alert to the issue and needing to take it into consideration when deciding whether a family was eligible for housing. I will raise the matter with the Minister for the Environment, Community and Local Government and try to ensure that housing policy takes account of children in care so that, when they return home, the child and family agency's plans to rehabilitate them are included when assessing the family's accommodation needs. Similar issues arise for action in respect of other Departments.

The Deputy mentioned the Department of Education and Skills. It is interesting that many of the complaints received by the office were relevant to education, and many of those related to bullying. The Government action plan on bullying, launched by the Minister, Deputy Quinn, and me, goes quite a way towards addressing the issues raised in the report and allowing schools to take them more seriously.

**An Leas-Cheann Comhairle:** I want to make progress, as other Deputies wish to ask their questions.

**Deputy Caoimhghín Ó Caoláin:** I thank the Leas-Cheann Comhairle. Recently, the Minister and I discussed the issue of children. The traditional attitude of Departments has almost been that of silo entities. The needs of children cross a number of Departments. I have always hoped, and still have every confidence, that the Minister will ensure that her Department is an overarching instrument of oversight to ensure that this type of attitude is not replicated in other public bodies and local authorities. Full co-operation is necessary. The traditional silo approach must be set aside. That all of these entities have a critical role to play in determining that the needs of children are met must be recognised. I assure the Minister of my full support in the pursuit of this.

We will probably address this issue again. After time has elapsed, will the Minister provide

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an update on the progress made in respect of the matters highlighted by the Ombudsman for Children?

**An Leas-Cheann Comhairle:** Was that a question?

**Deputy Caoimhghín Ó Caoláin:** Yes. Will the Minister confirm whether she would be happy to address these matters in an ongoing review?

**Deputy Frances Fitzgerald:** I referred to a cross-departmental implementation plan for Children First. Further discussion would illuminate some of the areas in which co-operation can occur.

### **Child Care Services Provision**

8. **Deputy Niall Collins** asked the Minister for Children and Youth Affairs the way she proposes to improve the quality and qualifications of the workforce in child care facilities with specific emphasis where services are being provided in the age group zero to six years; and if she will make a statement on the matter. [32556/13]

10. **Deputy Michael McGrath** asked the Minister for Children and Youth Affairs the resources that will be required to ensure the successful implementation of the Síolta and Aistear strategies; and if she will make a statement on the matter. [32563/13]

14. **Deputy John Browne** asked the Minister for Children and Youth Affairs her plans to improve the regulation and inspection of child care facilities with specific emphasis where services are being provided in the age group zero to six years; and if she will make a statement on the matter. [32550/13]

19. **Deputy Aodhán Ó Ríordáin** asked the Minister for Children and Youth Affairs if she will provide an update on the actions her Department is taking in terms of child care provision, inspections, rules and regulations following on from the RTE “Breach of Trust” programme. [32350/13]

**Deputy Frances Fitzgerald:** I propose to take Questions Nos. 8, 10, 14 and 19 together.

I thank the Deputies for the range of questions on early years services. I have already outlined to the House the eight action areas through which we are addressing the Deputies’ concerns. It is important to introduce qualification requirements for all staff working in preschool services. For this reason, I have indicated my intention to increase the minimum requirement for preschool leaders delivering the preschool year from level 5 to level 6. It is also my intention to require all preschool assistants and all other staff caring for children in preschool services to hold a minimum qualification at level 5. These new requirements will apply from September 2014 for new services and from September 2015 for existing services.

As the Minister for Children and Youth Affairs, driving the early childhood care and education quality agenda is one of my Department’s key objectives. I am working closely with the Department of Education and Skills in this regard. I wish to clarify that Síolta and Aistear are not strategies, but practice frameworks developed to support quality early childhood care and education. They have been in place for a number of years and are based on extensive research. We must ensure that the various services have the supports necessary to implement them. I am

in discussions with the Minister for Public Expenditure and Reform, Deputy Howlin, regarding a number of initiatives in the budget that would support the development of *Síolta* and *Aistear* in the services throughout the country.

The implementation of these frameworks to date has included the publication and dissemination of manuals and guidelines as well as an online toolkit. In addition, the Department of Education and Skills has developed a *Síolta* quality assurance programme, which has been field-tested in 135 early childhood care and education settings. An evaluation of this mentoring-based programme is being completed. This will provide the model for the roll-out of the frameworks. It is important that this sector be supported in delivering them and in developing the quality services that providers want to ensure children receive.

**An Leas-Cheann Comhairle:** I call Deputies Troy, Ó Ríordáin and Harris. They may ask one question each, as we are almost out of time.

**Deputy Robert Troy:** I will be brief. I acknowledge that raising the quality of standards will require a concerted effort by the Government and that this will take time. I know the Minister is committed to the roll-out of *Síolta* and *Aistear*, which is welcome. Both documents were produced by the previous government. The Minister said that the quality of adults working with children is a key factor, and I accept that.

With regard to the increase in qualification levels from FETAC level 5 to level 6, how will the Minister ensure that parents will not be charged increased fees for child care as a result? The cost of child care is already quite high.

In answer to my earlier question, the Minister said she was in discussions with the Minister for Public Expenditure and Reform, Deputy Howlin, regarding approval for additional inspectors. Has that been successful and, if so, will those inspectors be in place in September? In the interim, when we are moving to implement *Síolta* and *Aistear*, could inspectors work with the county child care committees to ensure that the implementation of regulation 5 is adhered to? In that way, the education, development and welfare of the children will be protected. The way to do this, as the Minister herself suggested in committee, is to amend the Child Care (Amendment) Act to ensure that stricter penalties apply for breaches of regulations. Perhaps the Minister could examine that matter. Earlier this year, we facilitated an amendment of the Child Care Act, which went through both Houses of the Oireachtas in a matter of hours when we worked with the Minister. This could also be done in a matter of hours before September.

**Deputy Aodhán Ó Ríordáin:** I very much welcome the Minister's comments on the qualification standards that are being rolled out. Compared to child care workers, education professionals such as teachers have a level of job security and status, as well as being trusted and respected. They are reasonably well paid in addition to having solid terms and conditions. People who work in the child care sector tell me that they were horrified by what they saw on the RTE programme. It is for their benefit that these qualification standards will be rolled out in *Síolta* and *Aistear*. However, they feel that their terms and conditions of employment are not great. They do not have much job security and their pay is very low.

If we are to genuinely invest in this sector, we need people who feel they are respected and wanted and that their contribution is valued. Not only must we concentrate on the qualifications of such workers, but we must also ensure that their terms and conditions of employment are improved, for their own benefit and that of the entire sector.



**Deputy Simon Harris:** I very much welcome the Minister's work on qualifications for the child care sector. I wish to raise a slightly different aspect, however. In my constituency, the Bray Institute of Further Education already offers a level 5 course in childhood care and education and a level 6 course in early childhood and education. BIFE is really leading the way in this regard, but the difficulty is capacity. More people are applying for these courses than there are places.

This week, the new education and training boards were established to replace VECs. Surely there is a degree of overlap in the work the Minister needs to do and what the Department of Education and Skills needs to do to ensure there is capacity for people who, as Deputy Ó Ríordáin correctly says, want to improve their skills and obtain these qualifications.

**Deputy Frances Fitzgerald:** As regards Deputy Troy's question, of course the child care committees have a role. They are working with providers and clearly have a role to play in ensuring that regulation 5 is effectively being met. They do work with inspectors; there is no question about that.

I do not expect that the implementation of Síolta and Aistear will lead to an increase in fees for parents. Irish parents already pay among the highest fees for child care. That is certainly not envisaged.

As Deputy Ó Ríordáin rightly pointed out, the sector needs support. The sector has been neglected, yet we give the care of our under-fives to workers who have terms and conditions such as he described. It is to their credit that despite those terms and conditions - which are as the Deputy outlined - so many of them give such a wonderful, professional service in providing high-quality care for children. What can we do to support them and ensure they remain in the sector? The way to do this is to support them in undertaking further training, which many of them are doing voluntarily at present. The mentoring scheme must also be developed. I have seen it in operation in the Deputy's own area. It is terrific to see Síolta and Aistear being supported in some services, but we need to support mentoring also. I am in discussion with the Minister for Public Expenditure and Reform, Deputy Howlin, about how we can roll out a mentoring support service to child care providers around the country. It is essential to give that kind of support to child care workers and to value the work they do. There is no doubt that parents also value that work. We must ensure, however, that the sector gets the kind of support that has been lacking up to now. They are doing such an important job with very young children, so they need training and support. Many of those workers are undertaking training voluntarily, but we need to encourage further training for them. By laying down those basic qualifications we can ensure that the sector is recognised more and more in a variety of ways.

The universal ECCE year is a great financial support to the services. It helps them to continue delivering the other services they also provide. If we were in a position to develop a second free school year it would be a major boost to the sector. Clearly, however, we will have to deal with these training and quality issues first before introducing a second year. It is my objective to introduce a second year once these quality issues have been dealt with. It would be a great support to parents, as well as doing the right thing for children. In addition, it would ensure that the sector would continue to develop to the highest possible standards.

As regards Deputy Harris's question, I have met with the Department of Education and Skills about the number of places that are available. The Department has undertaken to examine the quality and number of courses. If the Deputy can give me details of the particular courses he

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referred to which have capacity issues, I will undertake to have that matter examined.

*Written Answers follow Adjournment.*

The Dáil adjourned at 4.37 p.m. until 10.30 a.m. on Friday, 5 July 2013.