



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Máirt, 04 Feabhra 2014*

*Tuesday, 04 February 2014*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 14.00 p.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Irish Water Funding

82. **Deputy Barry Cowen** asked the Minister for the Environment, Community and Local Government the money that was provided by the Exchequer for the establishment of Irish Water in 2012, 2013 and in 2014; and if he will make a statement on the matter. [5255/14]

**An Leas-Cheann Comhairle:** Does Deputy Cowen wish to introduce his question?

**Deputy Barry Cowen:** I think the past three weeks introduced the question better than I ever could.

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** No Exchequer funding was provided to Bord Gáis or Irish Water in 2012 or 2013 for the establishment costs of Irish Water. In 2014 Irish Water, which now has statutory responsibility for water services, will receive €240 million in equity from the Minister for Finance and €490 million from the Local Government Fund but no other funding from the Department's Vote for establishment or other costs.

My Department has provided funding towards the costs of implementing the water sector reform programme. These costs amount to €15.7 million during the period 2012 to 2013. The majority of this expenditure related to funding provided to local authorities to meet the costs of the pre-installation survey required as part of the domestic metering programme and the staffing costs of the water services transition office, which was put in place to ensure appropriate arrangements for engagement with the local authority sector during the reform process. It is estimated that my Department will provide some €2 million during 2014 in respect of my Department's programme management costs and the cost of the water services transition office. I

also expect that some €5 million will be recouped to local authorities in connection with road opening licence work associated with the national domestic metering programme. I remind the Deputy that Irish Water is currently preparing a business plan which will include its capital investment programme, conservation plan and operational costs for 2014 and 2015.

**Deputy Barry Cowen:** I thank the Minister for clarifying the amount of funding his Department has provided to Irish Water. He stated on television recently that a figure of €180 million was open to being questioned by an Oireachtas committee, but we now know that is not the case because the money was raised by means of a commercial loan between the National Pensions Reserve Fund and Bord Gáis. A commercial loan worth €540 million was also raised from the NPRF for the provision of water meters. Despite the fact that they have committed, as per the order of last week, in relation to the Freedom of Information Act, I want to question the Minister on the contribution made by the Minister of State, Deputy Fergus O'Dowd, subsequent to the motion placed before the Dáil a number of weeks ago.

**An Leas-Cheann Comhairle:** I thank the Deputy.

**Deputy Barry Cowen:** The Leas-Cheann Comhairle must allow me to proceed. I did not elaborate on the introduction of the question and should be allowed a little time to put this question.

**An Leas-Cheann Comhairle:** That is not the way it works.

**Deputy Barry Cowen:** Can the Minister state any question emanating from this side of the House or Government Deputies on the figures of €180 million and €540 million will be answered in the normal fashion because the Minister of State, Deputy Fergus O'Dowd, stated, because of the way the money had been raised, that it was not open to the usual line of questioning by Members?

**Deputy Phil Hogan:** As the Deputy will be aware, we are conscious of the importance of full transparency in these matters, particularly when it comes to funding Irish Water, directly or indirectly. As we promised at the Oireachtas joint committee, we are setting up an office in Irish Water to ensure there will be parliamentary accountability. I hope that work will be completed shortly. Any additional information we can provide, either through the direct presence of Irish Water at an Oireachtas committee or directly through a parliamentary reply, including on the figure of €240 million, will be made available in line with the undertaking the Minister of State and I have given.

**Deputy Barry Cowen:** The Minister is confirming that he is in the process of putting a mechanism in place by which answers may emanate from Irish Water, but, as it stands, in the case of the figures of €180 million and €540 million, it remains the position that the Department is not obliged to answer any question asked of the Minister in the normal fashion by Members of this House on behalf of taxpayers, as would be the case in relation to parliamentary questions.

**Deputy Phil Hogan:** We are conscious of the need to ensure there would be a direct response to Members of this House on money, by loan or otherwise, for the operational or business costs associated with Irish Water. That will be the case and I will certainly see to it that it is carried out.

## **Electricity Generation**

83. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the input of his Department on the environmental aspects of pylons and underground cables as part of the review being established by the Department of Communications, Energy and Natural Resources. [5348/14]

**An Leas-Cheann Comhairle:** Does the Deputy want to introduce the question?

**Deputy Brian Stanley:** No.

**Deputy Phil Hogan:** The strategic environmental assessment, SEA, directive, 2001/42/EC, which has been transposed into Irish law, establishes the process by which environmental considerations are required to be fully integrated into the preparation of plans and programmes prior to their final adoption. It is the responsibility of the competent authority in the relevant sector, in this case EirGrid, to determine if plans and programmes being prepared by it fall within the scope of the SEA directive and to determine whether there is a requirement to carry out an environmental assessment in consultation with the environmental authorities under the regulation. While my Department has no direct role in the process, I understand an environmental report was published on the Grid25 project.

In announcing the establishment of an expert panel to oversee the preparation of reports on the best route options for the provision of high voltage power lines, the Minister for Communications, Energy and Natural Resources also announced additional steps being taken to address matters that may arise in the expert panel's considerations. One of these additional measures is a study that will be commissioned by my Department which will engage expert assistance to review and report on international developments in respect of the potential health risks of electromagnetic fields emanating from transmission grid infrastructure. In March 2007 the Department of Communications, Energy and Natural Resources published the report of the expert group established to examine the health effects of electromagnetic fields. The purpose of the new study will be to provide the best available information on published, peer reviewed scientific literature relating to non-ionising radiation and associated health-related matters, work carried out under and the findings of relevant international bodies, relevant international and national standards and guidelines since the publication of the 2007 report. I expect the invitation to tender to issue shortly through the eTenders website, with a view to commissioning the study by early March. The estimated completion time of the study is approximately two to three months, thus allowing completion and presentation of the final report by early summer.

**Deputy Brian Stanley:** With the establishment of the review, the Minister's colleagues have obviously recognised that this issue needs to be examined further and that the consultation was inadequate. The Minister's view of the current position is obviously based on the fact that there are problems. Is he happy that this development is not having a negative effect on farming, habitats and the environment generally? He seemed to say EirGrid and other companies involved could decide whether they should have an environmental assessment carried out. He basically said it was up to them to decide, but is he happy that his Department will let them do so? Perhaps he might explain how the companies involved in the midlands wind energy for export projects are using underground cables. The former CEO of EirGrid, Mr. Dermot Byrne, who is now with Element Power, one of the companies concerned, has had a Pauline conversion on the issue of undergrounding. As these companies are profit-based, even more so than EirGrid, why have they now decided to place cables underground?

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**Deputy Phil Hogan:** I am not going to speak about a particular company or project. I am not aware of the details involved.

**Deputy Brian Stanley:** No, I am generalising.

**Deputy Phil Hogan:** Yes. The SEA directive which has been transposed into Irish law establishes a process to consider all matters relating to the environment. The expert panel will review all of the processes to see if they are required. It will not be within the sole remit of EirGrid to decide that issue. Some 35,000 submissions were made on these matters. The Government is entitled to examine public opinions as expressed through the submissions and that is what we are doing.

**Deputy Brian Stanley:** I hope the Minister is not taking account only of these 35,000 submissions but also of the opinions that will be expressed on 23 June. I hope that is not the motivation.

**Deputy Phil Hogan:** What is happening on 23 June?

**Deputy Brian Stanley:** I am sorry - 23 May. I hope the 35,000 submissions have made the Minister realise that he needs to take a second look at this issue. He is organising a report on electromagnetic fields and will engage expert assistance, but who does he have in mind in this regard? When will that process begin and conclude? I hope it will not be a cut and paste version of the European Commission's report that is supposed to be issued today.

Will the Minister clarify, with a brief yes or no answer, the position on the North-South interconnector? The Taoiseach now says it is included, but the Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, is unsure. The chairperson of the commission said the expert panel would "Consider what, if anything, we can do." Will the Minister clarify the position for me? Is the North-South interconnector project in or out?

**Deputy Phil Hogan:** The Deputy is correct on one of the options he mentioned; the expert panel will consider the matter concerning the North-South interconnector and come to its view in the next couple of weeks.

As regards the terms of reference of the study which applies to my Department, they are set out on the basis of identifying and examining all relevant peer-reviewed scientific literature, including the study of non-ionising radiation conducted in 2007 by the previous Government. It also includes any work done by the Radiological Protection Institute of Ireland, which is within my Department's area of responsibility. It will be engaging with the process to ensure all of the various national and international standards and the available literature will be reviewed. That will ensure we will have the best possible information available to the expert group.

### **Homeless Accommodation Provision**

84. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government the data his Department collects from homeless officers and agencies in each local authority area; if the demographic breakdown of those seeking emergency accommodation due to homelessness has changed to include a greater proportion of couples, couples with children and persons with children; if he has had any consultation with the Department of Social Protection in relation to this trend in advance of the setting up of the new housing assis-

tance payment, HAP, specifically with regard to targeting those who are at risk of homelessness; and if he will make a statement on the matter. [5356/14]

**Deputy Catherine Murphy:** This question concerns the changing nature of homelessness. There is a major crisis in some parts of the country, including my constituency. In 2011 I recall seeing one homeless family and one single homeless person. In the past month alone, however, I have seen five homeless families, with children being taken out of school. They are normal families one would never consider as being homeless. I have been contacted by 18 more people who are within weeks of becoming homeless. Kildare County Council tells me some 50 families have sought emergency accommodation so far this year. I am talking about families, not single persons. The council has stated the situation is the worst it has ever seen. The issue is really urgent at this stage.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** In February 2013, I published the Government's homelessness policy statement and at that time I announced a set of indicators to be used to demonstrate the dynamics of homelessness as it is addressed. These indicators will give a clearer picture of homelessness in Ireland and, in quantifying its ongoing extent, will support the bringing forward of realistic and practical solutions. The pathway accommodation and support system, PASS, was extended nationally in 2013 and is now operational nationwide. It will assist housing authorities to report on these indicators and 2014 will be the first year for which PASS will produce composite national data on homelessness. These reports will be published on my Department's website as soon as they are available.

The homelessness oversight group, which I established in 2013 for the purposes of reviewing the progress of the approach advocated in the statement, identifying obstacles and proposing solutions, has submitted its first report to me. The report considered information on the homeless population. I am considering this report and its recommendations and I will consult with my Government colleagues on the implementation of these recommendations, as appropriate. A copy of the report is available on my Department's website. The specific demographic information sought is not available at the moment. What I have said indicates it will be available soon.

On 18 July 2013, the Government approved the introduction of the housing assistance payment, HAP. My Department and the Department of Social Protection continue to work closely on the legal, policy and operational issues involved in developing and introducing HAP including adopting a reasonable approach to implementation, which could prioritise certain groups such as the long-term unemployed or those who are homeless or in danger of homelessness, in the early stages.

**Deputy Catherine Murphy:** I have drawn the attention of the Minister of State to the local authority housing waiting list. Some six local authority areas make up 50% of the waiting list, which accounts for 90,000 individuals or families. The areas are Dublin city, Cork city, south Dublin, Fingal, Kildare and Cork county. At the same time, rents in those areas are some of the highest in the country. The rent assistance being provided is below market rent and, between that and the administrative difficulties in getting rent assistance, if there is a choice a landlord can make about who to take, the people on the waiting list dependent on rent assistance are on a hiding to nothing in an environment where there is a shortage of houses to rent.

I accept the Minister of State is answering the question in respect of methodology but I am

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not interested in collecting statistics. I am interested in solutions for people who come into my office and offices in the areas where there is a crisis. People must take children out of schools and try to find inadequate accommodation somewhere else. There is a crisis in some parts of the country and an urgent response is needed.

**Deputy Jan O’Sullivan:** I have listened to the Deputy in respect of the local authority areas with the longest waiting lists and the most urgent problem. I said that in allocating funding, we will put a major focus on those local authorities. We will announce funding in the relatively near future in respect of housing construction and the provision of social housing. Rental caps are the responsibility of the Department of Social Protection but we are working on the introduction of the housing assistance payment. Of the 90,000 people on waiting lists, about half of them are in receipt of rent supplement. We are moving as quickly as possible. My officials had a meeting with the Department of Social Protection officials this morning in respect of homelessness and the implementation of the recommendations of the oversight group. I will bring proposals to Government shortly. It concerns integrating across Departments, including the Department of Social Protection, the Department of Health and the Department of the Environment, Community Local Government.

**Deputy Catherine Murphy:** It is about cross-party co-operation. Does the Minister accept we are talking about a different type of homelessness when we see families with children who are homeless as a consequence of a shortage of accommodation? It has a knock-on effect that will be picked up through the damage done to children because of the crisis in their families. They do not know where they will be in a week or two. Now, a different group is being affected. I have never experienced it in the long time I have been a public representative, mostly at local government level. This is an entirely different position, and I hope there is acceptance at the Government level that this is an emerging crisis. It has already started in some locations.

**Deputy Jan O’Sullivan:** Deputy Murphy’s question was statistical in nature but I acknowledge that, as far as we know, there has been an increase in the number of families declaring themselves homeless or becoming homeless. It is a cause for serious concern. There is the social investment programme, which is directed at families, and it currently operates as a pilot in the Dublin area. It specifically addresses the needs of families becoming homeless, and it is operating this year. The Deputy is raising a real and genuine issue.

We are supplying housing in whatever way we can and there will be approximately 5,000 new housing units this year across a variety of forms. We will continue to use the resources as well as we can to address the needs out there. I acknowledge that certain local authorities, including Kildare, are particularly challenged with these issues.

### **Rural Development Programme Funding**

85. **Deputy Éamon Ó Cuív** asked the Minister for the Environment, Community and Local Government the amount of money that will be provided out of the rural development programme for Leader-type actions for the years 2014 to 2020; and if he will make a statement on the matter. [5256/14]

**Deputy Éamon Ó Cuív:** Since the Minister for Agriculture, Food and the Marine announced the rural development programme and the co-funding from the Government, people are anxious to find out the total provision of EU and national money for Leader-type actions for

2015 to 2020. It is technically for 2014 as well but the Minister knows it will be 2015 before we get going.

**Deputy Phil Hogan:** As the Deputy knows, Ireland has received an allocation from the EU of €2.1 billion for the rural development programme for 2014 to 2020. The EU regulations provide for a 5% minimum allocation for Leader. The Government has decided to increase this to 7% and I welcome this. Therefore, €153 million in EU funding will be available for Leader and this will be co-financed by Exchequer funding.

Ireland is required to submit a draft rural development programme to the European Commission for approval and it is intended that this will be submitted later this year by the Department of Agriculture, Food and the Marine, which has overall responsibility for the programme. The Leader elements of the programme will primarily address priority six of the Union priorities for rural development: promoting social inclusion, poverty reduction and economic development in rural areas. In this context my Department held a stakeholders' consultation meeting on the Leader elements of the programme on 30 January and will be holding an open public consultation meeting on Thursday, 6 February in Tullamore. These consultations, along with the report of the commission for the economic development of rural areas, which I will publish shortly, will inform the draft Leader programme to be submitted to the European Commission as part of the rural development programme.

The Exchequer co-financing element is currently subject to discussions between my Department, the Department of Agriculture, Food and the Marine, and the Department of Public Expenditure and Reform, and following the conclusion of these discussions, I will announce the overall value of the Leader elements of the programme. Following approval by the Commission, my Department will make an open call for submission of local development strategies with a view to allocations being made in the second half of this year and the new Leader programme commencing in early 2015.

**Deputy Éamon Ó Cuív:** Will the Minister tell me how much co-funding is required under the EU regulations, as there are different co-funding rates? Why has co-funding for this programme not been agreed when co-funding for the agricultural elements has been agreed?

**Deputy Phil Hogan:** The agricultural elements of the programme are very different from the Leader elements. That programme will commence spending this year with the agri-environment options scheme and support for disadvantaged areas, which I am sure the Deputy welcomes. In our case, spend on the current Leader programme will continue into 2015, and as the Deputy noted, the programme spend is not expected to start until 2015.

**Deputy Éamon Ó Cuív:** Will the Minister answer the other part of the question? What is the minimum required co-funding for Leader actions?

**Deputy Phil Hogan:** I have already indicated that 5% was the minimum requirement and under the announcement by the Minister for Agriculture, Food and the Marine, Deputy Coveney, 7% is available for funding under the rural development programme. That is €153 million out of the Leader element of the rural development programme. We must negotiate now on a co-funding basis with the Department of Public Expenditure and Reform for the remainder.

**Deputy Éamon Ó Cuív:** The Minister is missing the point. The 5% figure is the amount of the total fund that must be spent on Leader-type actions. The Minister mentioned 7%, which equates to €153 million. What are required are different rates of co-funding by the State and

European Union. I am sure this is in the Minister's notes. Bearing in mind what we are told by the Minister's colleague regarding the bulk of the funding required, is it a 53%-47% co-funding regime or a 75%-25% co-funding regime? In other words, there is a minimum amount of State co-funding required in each case. What is the required co-funding in regard to Leader?

**Deputy Phil Hogan:** The European Commission will co-finance the programme up to 80%. If Ireland avails of this rate, the value of the Leader programme will be €191 million. However, if the Leader elements are co-financed in the same way as other elements of the programme, at a ratio of 54%-46%, that would mean a greater amount of money available to Leader, up to €283 million.

### **Irish Water Establishment**

86. **Deputy Joe Higgins** asked the Minister for the Environment, Community and Local Government his views on the research paper written by Professor John Fitzgerald and Dr. Edgar Morgenroth for his Department in relation to the establishment of Irish Water; and if he will make a statement on the matter. [5339/14]

**Deputy Joe Higgins:** I am seeking the Minister's views on the research paper written some time ago by two professors of the ESRI. Will he comment on the proposals in the paper and its estimates on water charges and savings in water supply?

**Deputy Phil Hogan:** Following the decision by the Government in December 2011 to establish Irish Water, on the basis of an independent assessment conducted by PricewaterhouseCoopers, my Department launched a public consultation process to inform development of the implementation strategy on the reform programme. Almost 300 submissions were received, including a submission from the ESRI. All of these were taken into consideration in developing the implementation strategy published in December 2012.

The submission received from the ESRI concluded that the establishment of the new utility is an opportunity to achieve significant efficiency gains, which will result in lower costs to the taxpayer. The submission noted that the independent assessment indicated that staff numbers would decline over time, and commented that the transfer of staff from local authorities and the terms and employment of staff and services should be at the discretion of the new company.

The model adopted allows Irish Water to build up its own internal capability as it considers appropriate, with competitive processes that draw on expertise within the sector for some roles. Irish Water has entered into service level agreements, SLAs, with each of the 34 authorities for the provision of specified services. Staff in local authorities conducting work under these arrangements will remain local authority employees. The SLA reflects the transformation agenda required for the sector, with provision for annual service plans which will set out required performance, budgets and headcount. The actual headcount which will be required over the period of the agreement is intrinsically linked to the levels of investment within the sector in automation, rationalisation and infrastructure and operational upgrades. The establishment of Irish Water will lead to improved efficiency and effectiveness of water services delivery, and progress in this regard, leading to staff reductions, will be closely monitored in the context of annual service plans. It makes far better sense to accelerate and improve investment in, and management of, water services assets through a single efficient model rather than attempting to replicate systems through over 30 separate local authorities.

We are reforming our water services to address significant deficits and weaknesses in the current system. In particular, 18,000 people on public water supplies have a boil-water restriction or other restriction in place; remedial action is required on 16% of supplies at risk, covering almost 1 million people, including large schemes such as those in parts of Dublin and Cork; there are significant supply constraints in Dublin; unaccounted-for water is unacceptably high, at 40%; the European Commission has launched a pilot infringement in regard to 80 treatment plants.

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

A total of over €1 billion in capital and operational expenditure is required per annum for the provision of water services. This level of investment simply cannot be met through the existing model, without significant cuts to other public services - for example, education and health - or significant tax increases. The Irish Water Utility Model will facilitate new investment, and charges determined through the user-pays model, based on metered usage above a free allowance, will reflect the greater efficiencies and reduced operational costs that a single utility can be expected to deliver.

**Deputy Joe Higgins:** The Minister claims repeatedly that the setting up of Irish Water, Uisce Éireann, will save €2 billion up to 2021. He gives the impression that some kind of magic efficiency is involved. This is the most cynical mendacity. Will he confirm today what Irish Water has confirmed, namely, that the figure of €2 billion will in fact be accounted for by water taxes on households? He has not been honest enough to spell that out.

The ESRI paper estimates that water tax from households could amount to €630 million per annum, or €426 per household, on average. I ask the Minister what estimate his Department is putting on the water charges when they are introduced. Does the Minister agree that this is a tax for a service that is being paid for by householders at the moment and for which they have paid for many years through income tax, VAT and so forth, and that imposing a new tax is a blatant double taxation and is unjust?

**Deputy Phil Hogan:** I am not surprised that Deputy Higgins disagrees with the manner in which we are setting up a semi-state company to deliver, efficiently and effectively, a service that is not being delivered effectively and efficiently through 34 local authorities. We are spending €1.2 billion of taxpayer's money - or working people's money, as Deputy Higgins would have it - to deliver this essential facility through 34 local authorities, but 40% of it is going into the ground in the form of unaccounted-for water. In recent years we have invested in replacing some of the pipe network but we are not able to keep up because of the constraints on the public finances due to the reckless policies pursued in the past. There is also a troika agreement to be met. If we want additional moneys for capital investment in our water infrastructure, we must cut back elsewhere. Can Deputy Higgins make any suggestions as to where we can cut back? Can we cut back in housing, health or education in order to deliver this essential service? We have significant constraints on water supplies in Dublin, including in Deputy Higgins's constituency, and the greater Dublin area. We have significant challenges in terms of capital investment. Can the Deputy tell me where we can get the money?

**Deputy Joe Higgins:** It is a damning indictment of the Fine Gael party, which was in government in the 1990s and again in the last three years, and its predecessors in Fianna Fáil, that 40% of expensively treated water is leaking into the ground. That is because successive governments have failed to invest in our water services or to give adequate funding to the lo-

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cal authorities to fix our water network and make it efficient. How could the local authorities remediate this disgusting and disgraceful waste when they were not given the funding to do so? Furthermore, Fine Gael and Fianna Fáil, when in government, absolutely failed to amend the building regulations to ensure that water-saving devices that would have saved billions of litres of treated water every year were installed in people's homes. Now the Minister has the neck to come in here and say we have to have this water tax for this, that and the other reason. I will tell the Minister how to make savings - stop paying the bondholders billions of euro. The Irish people never incurred that debt; it is not their debt to pay. The Government should stop paying the €9 billion in interest alone and put those funds into our water infrastructure, health and education and transform our society.

What is the Minister's estimate of the water charge per household?

**Deputy Phil Hogan:** Water charges will be decided by the Government and Irish Water when it makes its submission to the Commission on Energy Regulation. The regulator will ultimately decide on what the level of water charges will be. The Deputy must have patience and he will get-----

**Deputy Joe Higgins:** The Government is going to start charging for water from October but will not tell people what the water charges will be until after the local elections.

**An Leas-Cheann Comhairle:** The Minister to reply without interruption.

**Deputy Phil Hogan:** There was a commitment in the memorandum of understanding that we would introduce a property tax and water charges in 2013. We have the property tax but will not have water charges until 2015. The Deputy needs to get his history correct.

I wish to thank the staff of local authorities who are in difficulty at the moment trying to manage supplies along the coastline of our country. Equally, in the Dublin area, they are managing the water supply on a daily and hourly basis to ensure that the Deputy's constituents have an adequate supply. I thank them for that. We will continue to employ those staff because of their knowledge and corporate memory. They have the necessary expertise built up to ensure that this situation continues. We are going to use Irish Water, a commercial semi-state company in public ownership, to get additional moneys to invest in our water services for the future. The Deputy did not give me an answer as to where we will get the money in a realistic sense. He just went on with the old story about the bondholders.

**Deputy Joe Higgins:** Billions has been paid that the people never owed. Is it any wonder that the Minister is short?

*Dáil Éireann*  
**Other Questions**

**Local Authority Housing**

87. **Deputy Bernard J. Durkan** asked the Minister for the Environment, Community and Local Government the extent to which the various relevant local authorities have brought to the attention of his Department the seriousness of the housing crisis which relates to the lack of any available houses in the short term, the emerging problem of homelessness and the ongoing problem of families living apart due to lack of accommodation; if reference has been made to the lack of available private rented property; the lack of suitable family-type accommodation and the attendant emerging social problems arising; if a housing emergency can be declared in those areas most seriously affected by the housing shortage with a view to putting in place urgent measures to tackle the problem immediately; if submissions have been received from the local authorities detailing their respective housing requirements relative to the numbers on their housing lists; if it is expected that the resources made available in the recent budget might be brought on-stream now in order to address the problem; and if he will make a statement on the matter. [4926/14]

**Deputy Bernard J. Durkan:** This question arises as a result of the serious and daily emerging housing crisis that exists in the counties in the eastern region, in particular those adjacent to Dublin - Kildare being one of them - and the urgent need to do something about a problem that, undoubtedly, the Government inherited. However, that should not mean for one moment that we would fail to recognise that it is now a growing crisis that needs to be addressed.

**(Deputy Jan O'Sullivan):** The Government's 2011 housing policy statement clearly outlines that the priority for Government will be to meet the most acute needs of households applying for social housing support. I am addressing that priority in the context of the resources available to me. In July 2012, I announced details of a three-year funding programme of €100 million to deliver some 800 new units of voluntary and local authority-owned social housing. In 2014, funding of more than €587 million is being made available across a range of housing programmes. This includes a €50 million capital stimulus to support construction and related programmes, primarily in the housing area, including €30 million to recommence a State house building programme; €10 million for an unfinished housing estate resolution project; and €10 million for housing adaptation grants. When that is taken into account, funding for housing for 2014 is effectively maintained at 2013 levels.

With the benefit of the additional capital for new housing construction, I intend to announce details of a new social housing construction programme for local authorities for the period 2014 to 2015. I expect that up to 650 new social and voluntary homes will be delivered under these measures. I also intend to announce details of a special investment of €15 million for the retrofitting of boarded-up local authority houses to bring these back into productive use. I expect the measure will deliver some 400 homes for persons in need of social housing. The homelessness oversight group, which I established in 2013 for the purposes of reviewing the progress of the approach being advocated in the homelessness policy statement, has submitted its first report to me which is available on my Department's website, [www.environ.ie](http://www.environ.ie). I am currently considering the group's recommendations.

My Department understands that some local authorities are experiencing difficulties in

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sourcing suitable accommodation for households transferring from rent supplement. That said, in 2013, local authorities transferred more than 4,700 households from rent supplement to the rental accommodation scheme, RAS, and other social housing options. Of this figure, my Department estimates some 2,400 would have been accommodated in the private rented market.

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

My Department maintains regular and effective communication with housing authorities on key housing priorities. This is greatly facilitated through the City and County Managers Association, CCMA, which has a dedicated housing sub-committee in place. In spite of the financial constraints within which we are required to operate, I expect the final output across all social housing programmes for 2014 to be in the region of 5,000 new housing units.

**Deputy Bernard J. Durkan:** I thank the Minister for her comprehensive reply. I know she is doing everything possible. However, I am afraid that events are catching up with us all. In my time in public life I have never seen the urgency of the situation that is now presenting itself. A number of families have presented as homeless that ordinarily would have been able to provide themselves with homes. They cannot rent a house because none is available. They cannot buy a house because no finance is available from the lending sector. The position that is now emerging is not like it was 20 or 30 years ago where somebody got a mobile home and planted it beside a house because that is now prevented by planning rules and regulations. The emergency housing facilities and hostels are full and there is no place to go. Some couples with children are now living in the open air. Due to the severity of the winter for the moment they are accommodated by their respective families but families have broken up as a result of the situation. In light of the situation could an emergency measure be taken to address the more serious parts of the issue with a view to achieving results in the very short term? We do not have time to play with.

**Deputy Jan O'Sullivan:** I recognise that there is huge pressure, in particular on some local authorities. I will ensure in the allocation of funding that we are aware of the local authorities that have the most pressing needs. We are recommencing a reconstruction programme. The fact that public capital budgets were cut to such an extent in recent years because of the recession and the economic collapse has meant that the amount of housing available for social housing by means of the previous system of construction has not been available to us and we have had to use methods such as leasing, which addresses immediate problems for families. However, we are returning to construction. There is no doubt we have to use every measure we can irrespective of whether that involves getting NAMA units. The funding I will be announcing for the voids programme will bring back many local authority houses that are lying idle because they need significant work done to them. We are using every measure we can to address the problem which is acute in certain local authority areas.

**Deputy Bernard J. Durkan:** I thank the Minister for her reply and compliment her on the work she has done to date in identifying the problem. However, I would emphasise that the problem is so serious now that it will not go away. It will explode into a serious social issue which we have not contemplated. There are a large number of families in certain circumstances who are unable to source a house. We now have large families attempting to access two-bedroom accommodation units, which is crazy.

I appeal to the Minister that this matter be dealt with at the highest level, which I know is happening, and an emphasis be placed on the urgent need to meet the housing requirements of

the kind of families to which I and other Members have referred. This is a serious issue, the like of which I have not dealt with before in my time in public life.

**Deputy Jan O'Sullivan:** Some of the issue relates to rent supplement and rent caps. My colleague, the Minister for Social Protection, Deputy Burton, reviewed the rent caps recently but there is a constant pressure in that particular area. The transfer of long-term rent supplement, which came under the Department of Social Protection, to the local authorities, which comes under the Department of the Environment, Community and Local Government, will address the area of rent caps as this will move to a system where people pay rent on the basis of their ability to pay, like local authority tenants do, and move away from dependency on rent supplement.

I appreciate this is an urgent problem but we are doing all we can through various methods to provide housing for those on local authority housing waiting lists and the families as described by Deputy Durkan.

**Deputy Dessie Ellis:** Question No. 89 is identical to this one. Why could they have not been grouped together? We are going to come back to the same question and answer when we take Question No. 89.

**An Leas-Cheann Comhairle:** As we are over time, we will deal with it later. It is the way the Department deals with the questions. We need to move on to Question No. 88 in the name of Deputy Clare Daly.

### **Irish Water Staff**

88. **Deputy Clare Daly** asked the Minister for the Environment, Community and Local Government the analysis conducted by his Department of the PricewaterhouseCoopers, PWC, report which led to the establishment of Irish Water and the discussions he has had with the LAPO, local authority professional officers, of SIPTU, other local authority unions and management on staffing. [5024/14]

**Deputy Clare Daly:** This question relates to the establishment of Irish Water, based on a PWC analysis which local authority engineers stated contained significant errors, omissions and inappropriate comparisons which have led to a frenzy about the idea of local authority workers standing around doing nothing.

**(Deputy Phil Hogan):** I assure Deputy Clare Daly that local authority workers are not standing around doing nothing.

The Government decided in December 2011, based on the recommendations of the independent assessment, to establish a public water utility company to take over the operational and capital delivery functions of local authorities in the water services area. The Government also decided the question of whether the role of Irish Water should be assigned to an existing State Agency merited further analysis. This further analysis considered the capacity and capabilities of a number of State agencies with the potential to incorporate a new water utility and was undertaken by a team comprising my Department and NewERA, in consultation with the Department of Communications, Energy and Natural Resources. The analysis concluded that Bord Gáis had key capabilities which could be brought to bear in the establishment of Irish Wa-

ter. These capabilities could be paired with the experience and commitment to service in local authorities, as well as the specific water and wastewater capabilities and expertise that exist in local government, to build the new organisation within the Bord Gáis Group.

As part of the reform process a specific structure, the Irish Water consultative group, chaired by Mr. Kevin Foley of the Labour Relations Commission, was established in 2012 to facilitate engagement between unions and management on the water sector reform programme. The deliberations of this group included discussions regarding the human resources aspects of the reform process.

**Deputy Clare Daly:** We have been subjected to a frenzy in the media over the past while about local authority workers standing around doing nothing under the new arrangements with Irish Water. It is a campaign led by a media largely owned by Denis O'Brien, who obviously has a vested interest in the whole Irish Water scenario. The decision to set up Irish Water as a stand-alone entity was based on inaccurate comparisons with Scottish Water. As was pointed out to the Minister, the reality is that the aforementioned PricewaterhouseCoopers analysis referred to the Irish water pipe network as being 25,000 km in length when it was actually 50,000 km long. It also referred to a workforce in Scottish Water of approximately 1,600 workers, whereas in reality, the number of workers was nearer to 4,000. As a result, spurious comparisons are being made about workers in local authorities currently engaged in managing the water supply being idle under the new arrangement. Is it not true that the Minister's decision to set up Irish Water has more to do with the possibility of privatising the service in the future than any beneficial advantage in remediating or dealing with Ireland's water supply, which task the local authorities were doing quite well and which they would have been doing a lot better had the Government and its predecessors invested in it properly?

**Deputy Phil Hogan:** First, there will be no privatisation of Irish Water unless the Deputy is going to support this in the future. I have no intention of bringing that proposition to the Government or the Oireachtas and I note it would require an Act of the Oireachtas to change the legislation passed in respect of this matter.

**Deputy Richard Boyd Barrett:** All of the private consultants have it already.

**Deputy Phil Hogan:** The Deputy is welcome to the Chamber. The criteria used to assess the relative merits of an existing utility versus a greenfield operation meant the Government gave consideration to existing semi-State companies. In order to leverage savings and their capability, the Government considered Bord na Móna and Bord Gáis Energy on the grounds of certain criteria, including legal and governance, regulatory or transitional or criteria for dealing with customers, as Bord Gáis was. I suppose that was the overriding advantage as to the reason Bord Gáis was able to deal with the setting up of a new public utility such as Irish Water. It was able to compete better across the range of approximately ten or 12 headings in the view of NewERA and the Department in taking on these new responsibilities. Moreover, by leveraging this expertise and these skills, as well as the software and hardware systems Bord Gáis already had in place, it was possible to save €87 million. This is not a stand-alone entity but is being set up within the local government system through service level agreements and the Bord Gáis group. I agree with the Deputy that the workers of local authorities are doing a great job. They will continue as local government employees with the expertise and knowledge and in the role they have had during the years. Obviously, this will be subject to review each year as part of the service plan.

**Deputy Clare Daly:** The dogs on the streets know that Irish Water has been a ridiculous waste of money and that there is no benefit to it.

**Deputy Phil Hogan:** I do not know to what dogs the Deputy has been speaking.

**Deputy Clare Daly:** I am unsure whether the Minister heard the point I was making, which was that the decision and the analysis made to set up Irish Water were based on inaccurate and, frankly, wrong information. Incorrect figures were given for the pipe network in Ireland, as well as the number of people employed in Scottish Water. As a result of that incorrect analysis, the Government has had a false policy. The local authorities, where they could do so, were dealing with improving water conservation and fixing leaks but instead, under the guise of allegedly dealing with Ireland's primitive water structure, one has the establishment of a new company. While all of the waste products, septic tanks and wastewater facilities, are being left in the hands of local authorities, responsibility for the water service is being given to Irish Water and the only logic to this scenario pertains to the commodification of the water supply. The Minister is well aware that once one starts to charge for a public service in this way, one cannot stop private operators from bidding to get their greedy claws on it. Consequently, his commitments that there will be no privatisation, frankly, are not very comforting.

**Deputy Phil Hogan:** I do not know to what dogs the Deputy has been talking on the street, but I assure her that there will be no privatisation of water services by the Government. Although I do not know, perhaps she might support a future Government in that regard and may have something in mind. All I can do is to set out what is the current and the future position of the two parties in government on Irish Water. There will be no privatisation.

The Government carried out a highly detailed analysis - not just that contained in the PwC report - of water services. It is making a significant investment in respect of the quantities and quality required for the Deputy's constituency, the greater Dublin area and the east coast, in general. A capital investment programme will be announced in the next couple of weeks by Irish Water which I hope will identify many of the gaps and demands to ensure and safeguard the supply of water that evidently is wholly inadequate in the Dublin area. The margin one needs in any particular area is 15%, but we are down to a figure of just 3%. Maybe Deputy Clare Daly is happy to allow the waste of water in the existing system to continue. We are not. We want to double the amount of investment and we will do that through one centralised model rather than through 34 local authorities. I am surprised Deputy Clare Daly does not welcome the fact that it is being done through public ownership and a public utility.

**Deputy Clare Daly:** We will see.

### **Local Authority Housing Provision**

89. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the number of new social housing units that were built by local authorities in 2013; the current number of local authority homes here; and the amount by which he intends to increase that number by the end of 2014. [5030/14]

**Deputy Brian Stanley:** We spoke earlier in answer to a previous question on the housing shortage. What I want to know specifically is the number of housing units built by local authorities in 2013, the number of local authority houses we have in the State and what the Minister

will do about this crisis we have.

**(Deputy Jan O’Sullivan):** While the figures in respect of housing completions for the fourth quarter of 2013 are not yet available, I expect that some 5,000 units of accommodation were delivered across the full range of social housing measures last year. Delivery of social housing is significantly facilitated through more flexible funding models such as the rental accommodation scheme and leasing, but the Government continues to be committed to other funding mechanisms, including the use of private finance by approved housing bodies, AHBs, for the construction and acquisition of social housing units.

In July 2012 my Department announced a construction and acquisition programme for the local authority and voluntary sectors over the period 2012 to 2014. This comprised 808 units of accommodation in total, involving 185 units by way of local authority construction, 246 local authority house purchases, 111 units of construction under my Department’s capital assistance scheme and 266 acquisitions by AHBs.

Over the course of 2013 my Department issued funding approval for the acquisition of a further 385 units of accommodation involving 250 local authority and 135 AHB house purchases. As I am awaiting returns for quarter four in respect of housing completions, I cannot as yet provide firm figures for the year as a whole. However, at the end of September more than 400 units had been completed.

In terms of overall social housing numbers, the eighth annual report on service indicators published by the local government management services board in April 2013, which details service indicators in local authorities in 2011, put the total number of dwellings in the local authority social housing stock at 130,810. Looking ahead to 2014, I recently signalled a return to modest levels of new housing construction over the next two years. I expect around 1,000 new starts over that period. Some 400 of these will be delivered under the local authority housing construction programme, 250 will be delivered by approved housing bodies and 350 new homes will be provided under regeneration. I will be making more detailed announcements on each of these measures shortly.

**Deputy Brian Stanley:** I thank the Minister of State, but the problem is that she is only scratching the surface. There is a major housing crisis. The Minister of State said 185 council houses were built last year. There are more than 100,000 people on the waiting list. Housing need has doubled. In County Laois the housing waiting list has more than doubled over the last four years. Fewer than 500 NAMA properties have been developed. Private rents are increasing. Some of the rental accommodation scheme, RAS, tenants who rely on social leasing are being moved on because landlords decide they want to end the contract. There is a major housing need. Dublin City Council built only 29 houses last year although it has a waiting list of 16,000.

I want the Minister of State to view this differently. She might have a job convincing her partners in the Government, but back in the Marian year, under her party, many council houses were built. I want the Minister to consider the economics. In County Laois, for example, I estimate that the amount of rent revenue coming in will be almost €5 million this year. The amount spent on housing maintenance is €700,000. Local authority or council housing does not have to be a drag on the economy or on local authority budgets. House building is cheap now. I want the Minister of State to view this differently. We need a significant house building programme.

**Deputy Jan O’Sullivan:** I have no ideological argument with Deputy Stanley. That is why we are commencing-----

**Deputy Brian Stanley:** What about Deputy Hogan?

**Deputy Jan O’Sullivan:** Deputy Hogan is not stopping me from building houses either. Unfortunately, what stopped us from building houses over the last number of years was the Celtic tiger boom and bust during which, despite the fact that a very large number of private houses were built, the local authority house building programme was not enormous. Later it was seriously constrained by the agreement with the troika whereby capital funding had to be cut back year on year. We have turned the corner and are in recovery, which is why we are beginning again to construct local authority housing and I intend to ensure we continue with this. I accept what the Deputy has said in terms of need, but, unfortunately, we inherited the situation as it was and we are only now beginning to get back to construction. For that reason, we are using whatever methods we can, including NAMA units, leasing, the RAS and all of the other methods, to house people.

One of the more positive programmes this year will be the voids programme, a programme for dealing with void or empty local authority housing that can be brought back into use. We also want to encourage local authorities to turn around their empty houses as quickly as possible. Some are much better than others at placing new occupants in houses as soon as they are vacated.

**An Leas-Cheann Comhairle:** We are almost out of time as we only have six minutes for each question. I ask Deputy Brian Stanley to be as brief as he can be.

**Deputy Brian Stanley:** The programme to deal with void units is a good measure, but there are very few such units in County Laois. On funding, I accept that there is no crock of gold anywhere, but the European Investment Bank will lend at low rates for genuine projects where we can show a revenue stream and a cash return. There is no cash return in the leasing of social housing, as money is just being poured into black holes. I accept the budgetary position has been difficult in the past few years, but the Minister of State has said we have turned the corner. We are in a different position on housing and there are sources of funding. I put it to the Minister of State that in accessing money and it showing up on the balance sheet, there is an opportunity to set up housing trusts through the local authorities in order that the moneys can be sourced off balance sheet, invested and provide a return. A key element of such a scheme is that after rent has been collected for ten or 20 years, the house can be sold to the tenant, if he or she wishes to purchase it. The problem with social leasing and the RAS is that the moneys go into a black hole and cannot be taken back, yet we still have to find a home for these tenants and families. Leasing and the RAS are very short-term measures.

**Deputy Jan O’Sullivan:** We have made an application to the European Investment Bank for €100 million, to be used for the provision of local authority apartments in major cities. However, it will probably not affect County Laois. This is the first application we have submitted, but we will keep the option in mind for other construction projects.

**Deputy Brian Stanley:** I hope the Minister of State is not considering Labour Party heartlands only.

**Deputy Jan O’Sullivan:** With regard to trusts, if local authorities want to set up voluntary housing bodies, we will not stop them. Also, we are moving towards regulation of the voluntary

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sector in order that it will be better able to raise funds. In that regard, I will meet the new regulatory authority tomorrow, but at this stage we are only implementing a voluntary regulatory code, in conjunction with the voluntary housing sector. We are moving towards new ways of providing funding in order to provide social housing.

**Deputy Brian Stanley:** I must ask the Minister of State to look beyond the Pale. If the Government is borrowing €100 million, she must look beyond Dublin to other parts of the country. Houses are needed throughout.

### **Irish Water Establishment**

90. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government if he will make available a full copy of the foundation document compiled in his Department in 2013 in relation to Irish Water; and if he will make a statement on the matter. [4978/14]

455. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government if he will make available a full copy of the foundation document compiled in his Department in 2013 in relation to Irish Water; and if he will make a statement on the matter. [5141/14]

**Deputy Catherine Murphy:** This question calls for all documents relating to the creation of Irish Water to be made available to the public. One thing that causes concern and encourages people to believe something else is happening other than what is put in the public domain is the need for them to retrospectively root out information. The creation of Irish Water should have been a much more open process from the start; it should not be about trying to extract information. The Minister said he was not going to micro-manage the project, but why would people not start to think there is something more to the project when the Minister will not provide information publicly? I call for the foundation document to be provided.

**Deputy Phil Hogan:** I propose to answer Questions Nos. 90 and 455 together.

I have no difficulty with providing any information and if there are documents such as a foundation document, I will make them available to the Deputy. The document to which I assume she is referring is the project initiation document - the starting process in the early days in the Department back in 2012 - which was compiled by Bord Gáis Energy and related to all of the issues that needed to be examined in the setting up of Irish Water. If this project initiation document is the document to which the Deputy refers, I will be glad to make it available to her and all Deputies and place it in the Oireachtas Library.

*3 o'clock*

It deals with the assumptions underlying the programme and the objectives, scope, plan and structure for the programme. It outlines a detailed view of the blueprint of the organisation and the critical path for delivery, including tasks associated with the establishment of the company, the appropriate organisational structure, the functional and business capability and a detailed analysis of what is required from a financial, legal, regulatory, customer and people perspective to achieve establishment in the required timeframe. All of these issues were referred to in detail by the Irish Water executive when it appeared before the committee.

**Deputy Catherine Murphy:** We do not want to discover in six months time that there is another piece of information. It is essential that whatever is available is provided in order that people can scrutinise it and ask questions. Whatever the merits of Irish Water, we need to have this process. The Minister for Public Expenditure and Reform constantly comes here to speak about new ways of doing things, stating it is not about freedom of information but having a more transparent approach from the word go. That is exactly what should have happened in this case. As we keep speaking about this being a major initiative, why has this position not been adopted? If doing things differently is the ultimate aspiration, why is this about retrospective freedom of information rather than a transparent approach?

**Deputy Phil Hogan:** The Minister, Deputy Brendan Howlin, has dealt with the issues regarding freedom of information. We have put in place and set in train the necessary orders to ensure it will happen as quickly as possible. We have absolutely nothing to hide with regard to the establishment of Irish Water. It is a very difficult task to establish a new public water utility in the timeframe laid down by the troika. Constraints were put on us and work had to be done in the first place to ensure the right decision was made in the view of the Government with regard to all of the studies conducted. We must do it in a new way because the existing 34 authorities delivering on behalf of the taxpayer do not work as 40% of the pipe network leaks. Successive Governments have invested much money in rehabilitating the pipe network, but 40% of it still leaks. We are examining new and innovative ways to get more capital into the system and deliver the water service product because if we do not, we will have serious problems in the Deputy's constituency and the Dublin area, in particular.

**Deputy Catherine Murphy:** My question is whether Irish Water has merits or if it has been hugely discredited by virtue of the fact that information has been dragged out of the Department. Even with regard to the amount of money invested, it came as a huge surprise to many that it had gone to private consultancies. To be perfectly honest, I am still trying to get my head around how €40 million could have been spent on IT in a very short period of nine months because it suggests a major project could be delivered in such a short space of time. This is the money that was spent. Why would people not have been concerned when they saw neither a framework for spending the money in advance nor a more transparent process?

**Deputy Mick Wallace:** The Minister has stated successive Governments spent lots of money in trying to fix the leaks from the pipes. In reality, neither the previous Government nor this one spent any money on fixing the pipes. Almost 12 months ago when I asked the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, whether he would fix the pipes before he started spending money on installing meters, he stated absolutely, even if it cost €500 million. Wastewater services will remain within the remit of Irish Water, but local authorities want to deal with pollution. Is this fair, given that it seems local authorities will be cleaning up after problems created by Irish Water's failure to deal with wastewater properly? Responsibility for surface water will remain with local authorities. We all know flooding will be a big factor in the future and is unpredictable. Does the private sector not have an appetite to deal with the unpredictable, such as water problems?

**Deputy Phil Hogan:** Deputy Mick Wallace is very familiar with difficulties we had in the construction boom in pipes being put just under the surface of the ground, the lack of building controls and dealing with various other issues. We are trying to deal with those as well, and we will deal with them in respect of new building code regulations as well as investment in the first-leak policy.

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**Deputy Mick Wallace:** Most of the problems with the leaks in this city are 4 m and 5 m down.

**Deputy Phil Hogan:** The Deputy knows all about it.

**An Leas-Cheann Comhairle:** Please, Deputy. The Minister to reply.

**Deputy Phil Hogan:** What we are trying to do is deal with a huge legacy in regard to under-investment in water services, and we must do that under the constraints of a public capital programme, which will be a problem for the next few years whether we like it or not. Dublin, and the east coast in particular, cannot wait that long for investment in water.

Deputy Murphy should be aware that in the traditional sense we have spent approximately €12 million on consultants in terms of legal and accountancy services. The hardware and software IT systems are essential to setting up a new public water utility company in the same way as they were for the single electricity market for electricity generation on which €256 million was spent. By dealing with Bord Gáis in this way we are saving €87 million.

The Deputy might want to be politically blind about this because after all the explanations she got from the Irish Water people as well as the Joint Committee on the Environment, Culture and the Gaeltacht she does not want to see where these savings are made or that we have to do it in this particular way. I challenge the Deputy to tell me the cutbacks she will make in housing, education and health to provide the capital programme for water. The Deputy will find that very difficult to do but we have to find a new way of getting investment in water. This is the vehicle we intend to use to ensure we will not run out of water on the east coast in eight to ten years time.

### Planning Issues

91. **Deputy Denis Naughten** asked the Minister for the Environment, Community and Local Government his plans to revise the planning legislation on the taking in charge of housing developments; and if he will make a statement on the matter. [4839/14]

**Deputy Denis Naughten:** I have tabled this question because the regulations in the legislation have changed in that previously they stated that the majority of residents could request that an estate be taken in charge. That has changed now to refer to the legal owner. Where owner-occupiers form a minority in an estate, that causes huge problems.

**(Deputy Jan O'Sullivan):** My Department is currently considering, in consultation with Irish Water, the amendments to section 180 of the Planning and Development Act 2000, which relates to the taking in charge of housing developments, that will be required in the context of the establishment of Irish Water and the transfer of water and wastewater infrastructure assets to Irish Water. My Department will also consider whether it is appropriate to make further amendments to section 180 on the taking in charge provisions generally in the context of the forthcoming planning Bill, which is being progressed primarily to implement the main recommendation of the Mahon tribunal for the establishment of the Office of the Planning Regulator but which will also review other elements of the Planning and Development Act. I intend that the necessary legislative amendments would be made as soon as possible.

I appreciate that is a general answer and the Deputy has raised a specific issue on which he

may have further questions.

**Deputy Denis Naughten:** I have raised a specific issue because section 181 of the Act was changed. It stated that the majority of the people on the register of electors could sign a petition to the local authority requesting that an estate be taken in charge but the law has been changed now to refer to the legal owners. That causes two problems. First, because of the tax designation and so forth in many parts of my constituency, developers are continuing to hold on to some of the properties. The owner-occupiers, therefore, do not form a majority of the residents in the estate and it is very difficult for them to force the local authority to take the estate in charge. That causes huge problems. Second, in terms of trying to source that legal documentation, particularly if one is in difficulty with the bank, the last thing one wants to do is go into the bank to look for legal documentation that one can show to the local authority to prove one is the legal owner of the property.

**Deputy Jan O'Sullivan:** I appreciate that there is a specific issue in that regard. The legislation refers to the owners of housing units. As I said, significant planning legislation is due to come forward and I will examine it to see whether, with regard to taking estates in charge, there are areas that need to be changed. I would make the point, however, that the local authority does not have to wait to get this request from the legal owners. It can initiate the process of taking in charge but I appreciate the Deputy is raising a specific issue, which relates to changing demographics and the fact that the majority of occupiers of houses in any one estate may not necessarily be the owners. I appreciate the Deputy raising the issue.

**Deputy Denis Naughten:** I would make two points. First, the Minister of State needs to check that because she may be legally incorrect in that regard. A request has to be made by either the developer or the legal residents for the estate to be taken in charge.

**Deputy Jan O'Sullivan:** The developer can request it as well.

**Deputy Denis Naughten:** The difficulty is that the developer is left with responsibility for it because of the way the legislation is worded. Why was the reference changed from residents - that is, the people who are on the register of electors - to the legal owners? Given the amount of bureaucracy involved in proving legal ownership, would it not make more sense to use the property register as a mechanism to identify owner-occupiers, who have a long-term interest in their estates, rather than landlords or developers?

**Deputy Jan O'Sullivan:** I could comment on why the legislation was changed but, obviously, I was not the person who changed it. Deputy Naughten asked me to examine the current situation. I will consider the issue in the context of forthcoming legislation.

**Deputy Dessie Ellis:** I also wish to express concern about this issue. It has always been the case that residents were consulted in regard to estates being taken in charge. However, the process of taking an estate in charge can last between four and eight years. We are still chasing the completion of certain estates to this day. I fear the final decision will be left to people who own their properties. It would be outrageous to tell people living on these estates that they do not have a say or cannot request that they be taken in charge. We cannot leave it to a small number of people to make the decision.

**Deputy Jan O'Sullivan:** As I noted earlier, we will be introducing significant planning legislation in the near future. The primary intention of the legislation is to implement recommendations arising from the Mahon tribunal and to ensure the planning system is trusted. Any

Member who has been on a local authority will be aware that issues relating to taking in charge of estates occupy a significant amount of attention for councillors and residents. I agree that we should examine the legislation in this regard on a regular basis. With regard to the Deputy's questions about the length of time involved and ownership versus occupancy, we will have an opportunity to debate these and other issues in the context of the forthcoming legislation.

### **Local Authority Housing**

92. **Deputy Bernard J. Durkan** asked the Minister for the Environment, Community and Local Government if provision will be made to augment the direct local authority house building programme proposed in the recent budget, with particular reference to the urgent need to tackle the housing shortage in County Kildare and adjoining counties; if arrangements will be made for senior officials in his Department to engage with officials of the respective local authorities with a view to taking immediate steps to address what is now a serious housing crisis; if urgent provision will be made to put in place a major house building programme to yield sufficient housing units to meet the requirements of those families who are now on the local authority waiting lists, some for up to ten years; if such provision will address the problem that has arisen due to a lack of adequate provision in this regard since 2002; and if he will make a statement on the matter. [4927/14]

**Deputy Bernard J. Durkan:** My question pertains to the serious housing crisis in north Kildare and the need for senior officials in the Department of the Environment, Community and Local Government to liaise with the relevant officials in Kildare County Council with a view to identifying how best to proceed. There are currently 8,500 families on the local authority's waiting list and the figure is growing on a daily basis.

**Deputy Jan O'Sullivan:** This is an issue we have discussed already in the context of an earlier question.

**Deputy Barry Cowen:** On a point of order, who grouped the questions?

**Deputy Richard Boyd Barrett:** I also want to hear the answer to that question.

**An Leas-Cheann Comhairle:** I understand the Department groups the questions.

**Deputy Barry Cowen:** It will be another six weeks before the Ministers opposite are before us again for Question Time, and the last time they were here was six weeks ago. In the space of 12 weeks, we cannot get answers to the questions we table in the House. They tell us we have openness and transparency but the only change has been for the worse.

**Deputy Dessie Ellis:** We cannot even get answers to questions we have tabled.

**An Leas-Cheann Comhairle:** This is Deputy Durkan's question. Questions are answered by lottery and we must operate the system we have agreed.

**Deputy Jan O'Sullivan:** As outlined in the Government's housing policy statement of 2011, the main focus in terms of housing supports provided by Government will be on meeting acute needs, with increased reliance on more flexible, revenue-based approaches based around the rental accommodation scheme, the leasing of properties and the use of private finance by approved housing bodies for the construction and purchase of properties. The constraints on

the State's finances and the necessity to reduce public expenditure to sustainable levels rule out a return to large-scale local authority housing construction programmes. That said, I recently signalled a return to modest levels of new social housing construction, with 1,000 new starts expected over the period 2014-15. Four hundred of these will be delivered under the local authority housing programme, 250 will be delivered by approved housing bodies and 350 new homes will be provided under regeneration. I will be making more detailed announcements with regard to each of these measures shortly, including on projects in Kildare. In addition, my Department and the Housing Agency continue to engage with NAMA to ensure continued delivery of housing units for social use.

This year, in addition to the funding levels set out in the abridged Estimates for 2014 in respect of my Department's social housing investment programme, a further €30 million has been approved for the delivery of social housing. Some €15 million of this will go towards the local authority construction programme, with €15 million being invested in bringing boarded-up houses back into productive use. As a result, I expect that some 450 vacant houses will be made available to persons on housing waiting lists this year.

In terms of the consultation process, my Department's housing division maintains regular and effective communication with housing authorities on key housing priorities. This is greatly facilitated through the City and County Managers' Association, which has a dedicated housing sub-committee comprising a representative group of managers and directors of housing. Meetings between this group and my Department take place at regular intervals, including twice-yearly plenary sessions with all directors of housing in attendance. My Department will also be meeting with directors of housing from all local authorities shortly as part of our annual housing action plan process. These routine meetings at housing practitioner level provide a forum for effective oversight of capital budgets and housing programme management.

**Deputy Bernard J. Durkan:** I thank the Minister of State for her comprehensive reply. Even since I first stood up to introduce this question, however, I have received a text message regarding a family who will be homeless tonight. This is happening on an hourly basis. Will the Minister of State instruct senior officials in her Department to make contact with the relevant officials in Kildare County Council with a view to taking emergency steps to address the emerging crisis?

**Deputy Jan O'Sullivan:** As I noted previously, we have resumed construction of local authority housing. That is an important development in terms of the Government's intentions and we intend to continue investment in this area. Officials in my Department meet regularly with directors of housing and county and city managers, but if it is necessary to hold a meeting specifically with officials from Kildare County Council, I am sure my officials would be happy to do so at the earliest opportunity.

### **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 Helen McEntee - the need to include children with Down's syndrome and autism in the long-term illness scheme; (2) Deputy John Lyons - RTE's reported compensation to Iona Institute and others; (3) Deputy Peadar Tóibín - the need to include the proposed North-South 400 kV interconnector in the terms of reference of the recently announced commission; (4) Deputy Thomas P. Broughan - the offshore renewable energy development plan; (5) Deputy Dan Neville - the increasing risk of Lyme disease in Ireland; (6) Deputy Catherine Byrne - the need to conduct a review of the extent to which the pub and nightclub industry adheres to the Advertising Standards Authority for Ireland's code on alcohol promotion; (7) Deputy Denis Naughten - the need for the Minister for Health to reassure expectant mothers on foot of the RTE "Prime Time" report on Portlaoise general hospital; (8) Deputy Charlie McConalogue - the need for the Minister for Education and Skills to outline his position on the teaching of religion in primary schools; (9) Deputy Sean Fleming - the need for the Minister for Health to make a statement on the deaths of four babies at the Midland Regional Hospital, Portlaoise; (10) Deputy Michael McCarthy - the position regarding the claw-back of single farm payments and the ongoing land parcel review; (11) Deputy Charles Flanagan - the issues to be addressed following the deaths of four babies in the maternity unit at the Midland Regional Hospital, Portlaoise; (12) Deputy Marcella Corcoran Kennedy - job losses in Offaly as a result of an Offaly company not being awarded the contract by Irish Water to continue to provide water services to Offaly County Council; (13) Deputies Willie O'Dea and Kieran O'Donnell - the need to address the serious flooding crises in Limerick city; (14) Deputy Éamon Ó Cuív - the need for the Government to take urgent action in relation to the damage caused by recent storms, particularly with regard to the cumulative effect of these storms over the last two months; (15) Deputy Brian Stanley - maternity services and staffing at Portlaoise hospital; (16) Deputy Lucinda Creighton - the need for the Minister for Health to reassure expectant mothers on foot of the RTE "Prime Time" report on the Midland Regional Hospital, Portlaoise; (17) Deputy Catherine Murphy - the apology and payment of damages by the national broadcaster to a private organisation and several individuals without substantive just cause and the dangerous precedent for public discourse this action sets; (18) Deputy Jerry Buttimer - the censorship of debate regarding issues of homophobia and the obligations on public service broadcasters to facilitate free and open debate; (19) Deputy Jack Wall - the position of members of the Permanent Defence Forces recruited since 1994 who have not reached the rank of sergeant and who therefore remain on contracts that may not exceed 21 years, which may lead to many committed men and women of the Defence Forces being dismissed from April 2015, despite excellent service records; (20) Deputy Michael McNamara - the urgent calls on the Government for a rapid and effective response to storm damage; (21) Deputies Kevin Humphreys and Ciarán Lynch - the progress in relation to provision of insurance cover for areas affected by recent flooding; (22) Deputy Jonathan O'Brien - the future funding of the Life Centre, Sunday's Well, Cork; (23) Deputy Brendan Griffin - the dangers of Nekomination on Facebook; (24) Deputy Derek Keating - the serious national issue of Nekomination and the uncontrolled practice on Facebook of young people putting their own and others' lives at risk; (25) Deputy Billy Kelleher - the need for the Minister for Health to ensure that any new GP contract does not restrict doctors from bringing issues of concern to public attention; (26) Deputy Dessie Ellis - the serious problems with the build quality of the local authority estate Hillview in Wicklow town; (27) Deputy John Halligan - recent storm damage and the continuing effects; (28) Deputy Michael Moynihan - the need for the Government to discuss the abuse of social network sites which endanger our young people, with particular reference to the dangerous neknomination activity; (29) Deputy Clare Daly - to discuss how RTE handles legal threats following the fallout from Brendan O'Connor's Rory O'Neill interview and the need for the Minister to have this matter investigated; (30) Deputy

Eamonn Maloney - the need to reassess and cap tax refunds on voluntary contributions which transfer more advantage to private education; (31) Deputy Mick Wallace - to discuss the manner in which RTE deals with legal threats following the recent interview with Rory O'Neill on the "Saturday Night Show" and the implications for public discourse; (32) Deputy Michael Colreavy - to discuss the payment of compensation by RTE to six individuals after RTE's "Saturday Night Show"; (33) Deputy John Browne - the need to provide funding to repair Courtown Harbour pier following recent storm damage; and (34) Deputy Martin Ferris - to discuss the impact of the recent flooding and the long-term response to it.

The matters raised by Deputies Willie O'Dea and Kieran O'Donnell; Kevin Humphreys and Ciarán Lynch; Helen McEntee; and Jonathan O'Brien have been selected for discussion.

### **Leaders' Questions**

**Deputy Micheál Martin:** Last Thursday evening, an episode of "Prime Time Investigates", entitled "Fatal Failures", revealed a disturbing and unacceptable situation relating to the preventable deaths of four newborn babies over a period of six years. There were similarities between the deaths and reports were produced in respect of each fatality. I sympathise with the parents of the babies who died - unnecessarily, in my view - at Portlaoise hospital. What shocked viewers of the programme was not only the manner of the care and the manner in which the babies died, but also the shocking way that the parents were treated subsequently by hospital management and HSE officials.

It is clear that there was secrecy in what was revealed to the parents. There was an unacceptable degree of obfuscation - of deliberately withholding the truth. Shockingly, in one case, we are looking at a two-year delay in letting the parents know that a report had been carried out into the death of their baby. In another case, the delay is up to five years. These parents never realised that a report had been carried out by the hospital which would have at least explained to some extent the why of what happened and could have helped the parents in dealing with a very tragic situation. It was only when Roisin Molloy heard Shauna Keyes describe her son Joshua's death that they came in contact. Shauna said it was like somebody lit a bulb in her head, such were the similarities of both their experiences.

There is the failure to implement the recommendations of reports into previous deaths at the hospital. These recommendations, if implemented, could have saved the lives of those babies who subsequently died. There were similarities in CTG tracings and an inappropriate use of drugs.

The point I want to make to the Taoiseach - I do this in a non-political way - is that in a situation like this we need to learn and a fully independent inquiry is called for. I do not believe health authorities can investigate themselves in situations such as this. I would ask him to ensure that a fully transparent inquiry independent of the health authorities would be carried out and that subsequently a wider review of maternity practice in the country would also be initiated and conducted.

**The Taoiseach:** It is a matter of the utmost sensitivity and seriousness that Deputy Martin raises. I do not think anybody can disagree with the sentiments expressed about the impact on

parents of the death of their children, in this case, Nathan, Joshua and Mark. All parents can understand how that impacts on the parents' lives. This is a matter of the gravest concern.

The Minister for Health, Deputy Reilly, was deeply shocked by this programme and by the revelations that came therefrom. He spent six hours on Sunday with the parents of the children, in a private way talking to them about their stories and their feelings about what happened. He met Natasha Molyneaux, Shauna Keyes and Joey Cornally, and Roisin and Mark Molloy, all parents of exceptional diligence and commitment in wanting to find out the truth of what happened here. As one said, when she was transferred to a different hospital she felt treated like a mother.

The Minister wrote to the Chairman of the Joint Committee on Health and Children expressing grave concerns over a number of areas, not least the manner in which families were dealt with following the tragic death of their newborn infants. He is anxious that we would learn from these past mistakes, inefficiencies and tragedies and, therefore, parents must have proper, full and comprehensive access to information and communication about all of this.

The HSE will now meet all the families concerned to discuss how their legitimate complaints can be fully addressed. The Minister has instructed the Chief Medical Officer, Dr. Holohan, to prepare a report on the cases. That report will be of use to HIQA in deciding the scope and nature of investigations to take place.

The Minister for Health has clearly indicated that he is not happy with the situation in so far as Portlaoise hospital is concerned and that the hospital, no more than all others, should be in a position to provide a safe service to expectant mothers. Everybody knows the figures, in terms of safety for maternity and births in the country.

The Minister directed earlier this year that a new patient safety agency would be established this year. If this had been in place a number of years ago, these kind of cases might not have arisen in the first place. Everybody in the health service needs to understand that there are lessons to be learned from this kind of adverse event.

Finally, a national policy on open disclosure has been jointly developed by the HSE and the State Claims Agency and was launched by the Minister for Health in 2013. This is designed to have an open and consistent approach to communicating with patients when things go wrong in the health care area. That policy has been rolled out across the country.

It is not sufficient for people to say there have been inadequate budgets provided here. Portlaoise's has been reduced by less than 1%. Based on projected spending, not on historic budgets, the focus has to be on the delivery of absolute safety in respect of maternity for all the expectant mothers in the country. There is a proud record to be lived up to. Unfortunately, in these cases this was not so. The Minister has asked for an immediate response from the Chief Medical Officer and will obviously come back to the House on that.

**Deputy Micheál Martin:** I know the Chief Medical Officer. I have confidence in him, but that step is not the appropriate one to take. I beg to differ with that and it is no reflection on the Chief Medical Officer at all. In situations like this where there have been four deaths over the past six years, there should be a mechanism that triggers an immediate independent inquiry where all documentation and records can be accessed. That is the basic point I am putting to the Taoiseach.

In such a situation, there can be instinctive reactions, both on a campus and elsewhere. For example, the delay and the absolute obfuscation that occurred between the hospital management and the parents was quite shocking. It is truly shocking that reports were prepared on the death of their babies and the parents were not told for years afterwards. There are clinical and non-clinical issues here. There is clear maladministration here and it seems that a comprehensive inquiry at arm's length is called for. Ultimately, part of the strength of the response to the death of Ms Savita Halappanavar was the independent nature of the inquiry and its personnel. I would put it to the Taoiseach that that was effective in the end.

We can talk all we like about our good record but that is of no consolation to the parents concerned. If it was not for Mark and Roisin Molloy, the parents of baby Mark, I do not think we would be here today. Their tenacity and pursuit of this led to what we now know. I put it to the Taoiseach in good faith that when situations like this emerge the way to restore the confidence of the people in the services is for an independent inquiry to be held as soon as possible.

**The Taoiseach:** The seriousness of this is not underestimated. The Minister, Deputy Reilly, as a family doctor, was struck hard by the revelations in the RTE programme. That is why on Sunday he spent six hours in the company of a number of the parents.

Clearly, the system did not measure up here. The culture, in so far as the treatment of the mothers-to-be was concerned, was not what one would expect.

As a first step, what the Minister has commissioned is the right approach - namely to get the Chief Medical Officer to furnish him with an immediate report. Last October the HIQA report on the death of Savita Halappanavar - God rest her - made recommendations on the safety, quality and standards of services for critically ill patients, including critically ill pregnant women. These recommendations are being implemented in full across the country. HIQA is completely independent in the way it does its business, but the first step is to allow the Minister to receive the report from the Chief Medical Officer. He is engaging with the parents concerned and the HSE will meet all of them. The Chairman of the Oireachtas Joint Committee on Health and Children has received a letter from the Minister, following his interest in this issue, expressing his grave concerns about a number of matters, a few of which the Deputy has mentioned. All of these issues need to be dealt with. There is a need for openness, communication and absolute transparency leading to trust and belief in the country's maternity services and safety for the women involved.

I know that Deputy Micheál Martin has not raised this matter in a party political way; it is an issue that transcends politics. It is about life, health, belief, standards and integrity which the Minister will ensure will apply in this case. I thank the Deputy for the way in which he has raised the matter.

**Deputy Gerry Adams:** In the same spirit, Sinn Féin supports the call for an independent inquiry into the tragic deaths of infants in Portlaoise and the treatment of their parents.

My question is about the plight of other citizens - those living in flooded areas. I commend the members of communities who rallied to the aid of their neighbours. They include those who provided food and clothing, as well as distributing sandbags and looking after elderly citizens, all before officialdom was mobilised. It demonstrates the very best qualities of Irish people. I also commend the front-line services. In many parts of the country flooding incidents are nothing new. Parts of Cork city and county, as well as Waterford, Limerick and Dublin, frequently

experience significant flooding. With climate change, rising sea levels and increased rainfall, the position is expected to get worse in the years ahead. It is now five years since Cork city experienced some of the worst flooding ever seen on the island when thousands of homes and businesses were damaged, yet the city still does not have adequate flood defences. The position is the same in Limerick where mostly working-class people have been totally devastated by the destruction of their homes and belongings. Most of the people concerned are not able to get insurance because the insurance companies will not cover them. What is required immediately is financial aid for those worst hit by the latest crisis. Will the Taoiseach give a commitment that the Government will provide adequate assistance for the householders affected by the floods who have no insurance? Will he tell the House what level of financial assistance will be provided by the State for the many households which have been left devastated by the floods? When will such assistance be made available?

**The Taoiseach:** I thank the Deputy for raising this matter. On 1 February exceptionally high tides and storms, as well as exceptional rainfall in recent weeks, caused damage and disruption in the western, southern and south-eastern regions. This is not the first time we have had flooding in various parts of the country, including along the River Shannon, Blackwater and other regions. However, it was unprecedented in its scale and power of destruction. I agree with the Deputy on the response by communities, from neighbours and the emergency services which worked day and night to rescue people and ease their discomfort. Some 300 homes were flooded in the St. Mary's Park and King's Island areas of Limerick which were visited yesterday by the Minister for Finance, Deputy Michael Noonan, and the Minister of State, Deputy Brian Hayes. Between 1,200 and 2,000 people were affected by the flooding in Limerick, with 60 residents being evacuated from their homes. There was also flooding in Cork, Waterford and Wexford. Quite a number of coastal areas were hit, with resulting damage to roads, graveyards and piers, while sea walls were breached. In addition, parts of Drogheda have been flooded. The problem is continuing and the weather forecast for this evening and tomorrow is not great in some areas. We must consider whether this is a consequence of climate change.

There are issues of immediate and interim concern, including what one should do in the long-term in providing structural defences, where necessary. Yesterday I visited Spanish Arch in Galway, a low-lying mediaeval part of the city. The power of the water coming out of Lough Corrib was indescribable in its ferocity. It has been pumping in for the past few months. Even if one had 5 or 6 ft high walls down to the open sea, when there is a tide that is 20 ft higher than normal, it inevitably backs up. Consequently, the drainage into the river backs up onto the streets, with enormous consequences.

The Government considered the matter this morning. The Minister for Social Protection and her colleagues have put together a humanitarian fund of €15 million, pending an assessment, to deal with the immediate causes of hardship, discomfort and relocation. Committees of local authorities have already been calling to those affected to assess the structural damage and humanitarian circumstances that apply. That work is being done in conjunction with local community organisations such as the Society of St. Vincent De Paul, community councils and residents' associations. The results are reported to the Department of Social Protection which has already made payments in a number of areas for the provision of immediate relief, including food and clothing. When houses begin to dry out, white goods and basic furniture can be provided. The Ballynanty Centre in Limerick will remain open until late, with information being provided on local radio in order that people can contact necessary services. As the Deputy knows, it is not possible to put basic items into houses that are still flooded or have not yet been

dried out. As the days go by, the high tides may well abate, but these matters are unpredictable. In Galway the surge, with the westerly winds, increased the high tide by almost 2 m on top of an abnormally high tide.

The structures are now in place and next Thursday we will have a special meeting on jobs. An update will be provided by the Department's emergency response section. Next Tuesday the Minister, Deputy Phil Hogan, the Minister of State, Deputy Brian Hayes, and other Ministers will have more accurate assessments from all local authorities of the scale of the problem and the requirements identified. There are, however, immediate humanitarian problems concerning those who have had to relocate to alternative accommodation, including the homes of relatives. There is also the question of structural damage throughout the country. The Government is taking a very active approach in this regard.

**Deputy Gerry Adams:** Two issues arise. My first question was about those people who had not been able to get insurance, but the Taoiseach has totally avoided that issue. I am advised that some people thought they were insured for flood damage, but they discovered that they were not. Others cannot obtain insurance. The same happened in Dublin a year or two ago and I ask the Taoiseach to focus on that question. It is not the people's fault that their homes have been devastated. How will they replace their possessions, including furniture, television sets, carpets, beds, bedding and linen?

My second question was about the State's response. The Government does not appear to be capable of engaging in strategic planning. During the fodder crisis last year Sinn Féin argued that the Government needed to put in place contingency plans to deal with the consequences of severe weather. However, it does not appear to have been done on this occasion. The Office of Public Works has already undertaken a risk assessment of coastal erosion. The onus appears to be on local authorities to sort out this problem. The Taoiseach mentioned the sum of €15 million. Pardon the pun, but €15 million is a drop in the ocean. As the Government has taken €320 million from the local government fund, how can local authorities deal with a crisis of these dimensions? It is always the same old story - there is lots of money for consultants. Irony of ironies, these are consultants in Uisce Éireann. There is money for bankers and politicians but none for citizens in need. My initial question was about the folks who, through no fault of their own, are not insured. Will they be assisted by the Government? What about strategic planning? How can we take the Taoiseach seriously if he has not put in place any of the contingencies when we already know there will be more severe weather in the time ahead?

**The Taoiseach:** Perhaps Deputy Adams misunderstands what I was saying. The initial response of the Government was to consider the matter in respect of the humanitarian issues that arise now. The Government has put in place a fund of €15 million, pending assessment, to deal with the humanitarian issues immediately. That is why the emergency response unit at the Department of the Environment, Community and Local Government, together with local authorities and their committees working with agencies, community organisations, residents associations and the St. Vincent de Paul, are collating information about structural damage and the human circumstances that apply in cases of flooding. We know where they are and I have outlined some of them here. That is a €15 million fund for humanitarian-only issues, pending assessment.

On the issue of structural damage and the capital resources needed, some €250 million has been spent on capital works. I remember Clonmel, which Deputy Healy is aware of, Fermoy and Kilkenny where it has taken a long time to put defences in place. I walked Bertra Beach a

number of weeks ago and what took 10,000 years to put in place was gone in 12 hours because of the open Atlantic Ocean. The same applies to Glenbeigh in County Kerry or other places where damage has been inflicted through the movement of cliffs and cliff faces. It is a more long-term operation. How do we provide the longer-term defences in Clontarf, Limerick, Galway or Cork, which have been flooded on a number of occasions?

Yesterday, I met people whose businesses had been flooded three times in three years. There is no insurance after the first claim is made, which is an issue of great concern to people in business. One woman said to me she would be closed until the end of April to repair the flood of yesterday morning. It will cost €250,000 to repair the damage to a medieval building that soaks up water like a sponge. The Government is very serious about this. The €15 million is for humanitarian issues now and structures exist to deal with that. We will have an update on Thursday and a full report on the scale and impact across the country from the Minister of State, Deputy Brian Hayes, and the Minister for Finance, Deputy Noonan, next Tuesday. The Government will respond in the best way it can.

We will make an application, if appropriate, to Europe. This morning I heard a spokeswoman saying we could collate damages across the country into a single application. We will consider that based on the extent of what is needed.

**Deputy Seamus Healy:** The Water Services Bill provides for the introduction of water charges and it was guillotined and bulldozed through the Dáil before Christmas. It was supported by the Labour Party and a Labour Party Tánaiste who built his career on opposition to water charges.

**Deputy Timmy Dooley:** Now he is cutting the property tax.

**Deputy Seamus Healy:** Be that as it may, in a few short months we will have water charges imposed by this Government. There are many unanswered questions and I hope the Taoiseach can provide answers to the House and the public this evening. Where water is not fit for purpose, such as in the case of the 18,000 families subject to boil water notices like residences in my constituency served by the Burncourt regional water supply scheme, will families be charged for water? Where hard water is supplied and is corroding electric kettles, shower heads, washing machines and dishwashers, as is the case across the northern part of Clonmel, will the families be charged for water?

A huge number of premises will not be metered before the introduction of the charges. How will the bills for these families be calculated? What will be the free water allowance? Will larger households get a larger free allowance of water? Where individuals have special needs for extra drinking water, will the extra amount be free? Will individuals with medical conditions requiring frequent use of toilet facilities, for example those suffering from incontinence, prostate problems or Crohn's disease, be provided with extra free water for sanitation? These are some of the many questions still unanswered. The public and the House have a right to know the answer to the questions. I hope the Taoiseach answers the question.

**The Taoiseach:** Deputy Seamus Healy has made the case for the introduction of Irish Water or the Irish water board. In 2014, we cannot continue with 18,000 families having to boil water and having boil water notices issued to them on a regular basis. That is not on anymore. We cannot have a situation where up to 1,000,000 homes are the subject of intensive inquiries from the Environmental Protection Agency because of the inadequacy of the water system, nor

can we have 40% of water produced, which the people pay for, leaking into the ground. As an example, some 60,000 litres of water leaked away from one house in Galway last year. This is not sustainable.

Given the extent of rainfall we have naturally, this should not be the case. Some people are not in a position to consume the water that flows through the pipes and that cannot be allowed to continue. In the next couple of weeks, the Government will bring to the House the financial and structural model under which Irish Water will operate and it will include a very clear analysis and presentation of how it will operate, the extent of the charges that will apply, the follow through on the use of an allowance of water and the charge thereafter. The Government has taken this into account. It is in the interests of Irish Water being able to operate as a semi-State entity and being able to borrow money on the open market for real investment in the network of piping that is being retained in public ownership so that people do not have to boil water and so that we do not have 1 million houses under threat and so that businesses can say they will have an adequate supply of pristine, high-quality water. In all my time in here, I have listened, year after year, to people speaking about leaking pipes, asking why there is not a national scheme to fix it once and saying that, for a country that is able to build the rest of the world, surely we should be in a position to provide adequate water for people, consumers and businesses. This is putting in place a structure to carry us through the next 50 years. That is the reason for Irish Water and the financial and structural business model will set out all the details in the coming weeks.

**Deputy Timmy Dooley:** What about group water schemes?

**Deputy Finian McGrath:** Like the Cabinet, it is full of leaks.

**Deputy Seamus Healy:** As usual, the Taoiseach has answered none of my questions. I asked policy questions for the Government, not questions for Irish Water, the regulator or anyone else. We can only assume that, by refusing to answer questions, the Taoiseach is kicking the issue down the road beyond the local and European elections. Is the Taoiseach aware of the European right to water campaign, which believes that water is a human right, as does the United Nations? The campaign includes 1.5 million European citizens who have signed a petition calling on the European Union to legislate to ensure all member states vindicate the right in laws. The vindication of the right is an obligation of sovereign governments. Will the Government support the call of the 1.5 million European citizens for an EU directive enforcing the principle? Will the Taoiseach instruct the Government's representatives to be present at European Parliament hearings on 17 February and to support the call? Will this country be shamed again like we were in 2010, when the previous Government of Fianna Fáil and the Green Party abstained on the issue at the United Nations?

**Deputy Patrick O'Donovan:** Was Deputy Finian McGrath a member of the Government at that time?

**Deputy Finian McGrath:** No, I was not there that time.

**The Taoiseach:** I accept the Deputy's challenge in the assumption that this will be kicked out beyond the local and European elections. I have always been a believer in explaining to people what is involved so they know in advance.

**Deputy Timmy Dooley:** Was that a conversion over the weekend?

**Deputy Micheál Martin:** What will it cost?

**The Taoiseach:** The Deputy can take it from me that the Government will, before the local and European elections, present its business and financial model so people can know what is involved, in the very same way as we determined the property charges.

**Deputy Seamus Healy:** The Taoiseach has answered none of the questions.

**Deputy Michael Noonan:** So those opposite will have to stop making up stories.

**The Taoiseach:** The fact that something becomes a human right does not mean it is always free. The Deputy's assertion is that this is some kind of political camouflage that will end beyond May. Deputy Healy can forget that, as the matter will be dealt with upfront and in advance so that people will know about it. The business and financial model to be produced here in a couple of weeks will set out the structure, method, allowance and the charge that will apply, so everybody will know in advance what it will be. The Deputy should understand that the charges which drive this are in respect of the Irish consumer and not Uisce Éireann, the people who work for Uisce Éireann or anybody else. This will be driven by consumer needs and requirements.

We are talking about providing an opportunity for the next two generations to have a system and supply of water that stands up to the needs of a modern country. We cannot go on with the business of 40% of produced water leaking into the ground. We cannot stand on doorsteps and say that we are so incompetent that we must continue to boil water or that 1 million homes are under threat because of irregular and inadequate supplies. It is time to end all that and put in place a basis for a supply of water of which every person in the country can be truly proud. The charges will be driven by the requirements of the consumer and not anybody else.

## **Ceisteanna - Questions (Resumed)**

### **Freedom of Information Requests**

1. **Deputy Micheál Martin** asked the Taoiseach the number of Freedom of Information requests his Department received in 2013; the number that were fully processed and replied to; and if he will make a statement on the matter. [41827/13]

**The Taoiseach:** My Department received a total of 91 freedom of information requests in 2013. Of the 91 requests received, 60 were granted or partly granted; six were refused; in 11 cases no records existed; ten requests were withdrawn and the remaining four requests are ongoing. All requests received in my Department are processed by statutorily designated officials in accordance with the Freedom of Information Acts. If a requester has difficulty with a decision, he or she may seek an internal review, followed by appeal to the Information Commissioner.

**Deputy Micheál Martin:** I thank the Taoiseach for his reply. The figure of 91 freedom of information requests is quite a sizeable number for the Taoiseach's Department. Throughout

the past three years the Taoiseach has articulated his full commitment to the concept of freedom of information, and he has often come to the Chamber and promised to release information in advance so that there may not be need for recourse to freedom of information processes. There was a famous meeting in Brussels of which I could never get to the bottom because I could not get access to freedom of information either here or in Brussels. The issue was ping-ponged between both headquarters.

The Irish Water debacle really reveals the problem we have as for two years there was complete secrecy on the issue. The Department has had 91 freedom of information requests and if there was a far greater degree of voluntary and upfront disclosure and transparency, there would be no need for 91 requests. We only found out about Irish Water because of an interview on RTE 1 between the chief executive of Irish Water and a reporter, Mr. Sean O'Rourke, despite many parliamentary questions tabled by various Deputies, including Deputy Barry Cowen. The proposal was not to include Irish Water in the freedom of information process and exclude it from the ambit. That was the decision of the Minister until the likes of Deputies Fleming, Stanley and others raised the matter; the Minister has now conceded the point in light of the controversy surrounding Irish Water, hidden costs and secrecy.

The Taoiseach last week told me he did not know whether county managers had retired with lump sum pensions and got jobs in Irish Water. He sort of feigned that he did not know anything about that but everybody knew about it. The indication was that the chief executive would write to the Minister and give me the information, and through a circuitous route I would eventually find out. If we had far more voluntary disclosure, we would not need to table so many freedom of information requests, which are quite costly, with the cost maintained by the Minister for Public Expenditure and Reform, Deputy Howlin. He has spoken much about it but he has not delivered much. Deputy Sean Fleming has had to put down a Bill relating to EirGrid, for example, and whether it will be subject to freedom of information requests.

Is the Taoiseach concerned that voluntary disclosure of information is now so rare in Government administrative circles? If Deputies and citizens really want to get to the bottom of something, in general they must have recourse to freedom of information as a first rather than last resort.

**The Taoiseach:** As a general rule I have always favoured giving instructions as a Minister to Secretaries General that when parliamentary questions arrive, they should be answered, where possible, in as comprehensive and full a fashion as possible. Deputies are entitled to information that is not secret in any event. I do not see the freedom of information requests at all as they are dealt with by officials in every Department. I do not know what is the difference between what would be answered in parliamentary questions go flúirseach and what else is available under the freedom of information documents that are released. From speaking with some Ministers, I know there may be pages of individual requests that may include ten or 15 entirely different requests.

In the case of Irish Water, freedom of information could not be applicable until the body was set up. It took up responsibility on 1 January and the Minister has backdated that to its official inception. As it had not been set up when people were seeking information, there were claims of secrecy. The Minister has already included full parliamentary accountability, although I do not know about the issue here. When requests came for replies to parliamentary questions, they were transmitted to Irish Water but were not followed through. I think the Minister issued an apology about that. The Minister has since answered questions in the House about Irish Water

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and will continue to do so. The Minister, Deputy Howlin, made that very clear when he addressed the matter in the Dáil debate.

When the Minister, Deputy Howlin, introduced the freedom of information legislation last July, it provided for the process to be extended to a number of high-profile financial bodies, including the National Treasury Management Agency, NTMA, the National Pensions Reserve Fund and the National Development Finance Agency. They have all been brought within the jurisdiction of the Act for the first time, and they will be subject to the maintenance of strict confidentiality in engagement with commercial counterparts and so on.

The Minister, Deputy Howlin, addressed the matter of Irish Water last week when he indicated it would be made subject to the freedom of information legislation and rather than wait for the enactment of the new freedom of information Bill, arrangements will be made to provide for this by its inclusion under the existing freedom of information regime from its date of legal establishment in 2013. He will do that as soon as possible.

*4 o'clock*

Full inclusion in the freedom of information system is achieved faster or more expeditiously by using existing freedom of information legislation rather than by amending it or including the body in the freedom of information Bill going through the House. That is the assessment the Minister for Public Expenditure and Reform has received. What I describe will happen as quickly as possible.

In general, I do not disagree with the Deputy. I would like Deputies who ask questions to be given as much comprehensive information as possible, except where it is sensitive or commercially sensitive. In a previous role the Ceann Comhairle was a strong proponent of Deputies having access to information through parliamentary questions. It would be a great advantage if a response to a parliamentary question included everything a response to a freedom of information request included, where possible. I am not sure what the difference is, but perhaps I will examine in my Department the difference between responses given to questions and replies to freedom of information requests where information was released.

**Deputy Mary Lou McDonald:** The new freedom of information legislation is very welcome. It is a pity that the Taoiseach has decided to stick with a charge for requests. He remarked on multiple requests. Very often they are a consequence of the fact that the State charges for information, which is a great pity. When questions were asked of Irish Water, the Taoiseach made the case that it had not been fully established. Many of the parliamentary questions related to its set-up budget and costs, but time and again Deputies were deliberately frustrated and left in the dark. Of course, we had to obtain from a media outlet at least some of the information Deputies had sought. It is welcome that Irish Water is now subject to the freedom of information system. Will the Taoiseach clarify absolutely that where parliamentary questions on Irish Water are asked, they will be answered fully and that there will be no more smoke and mirrors, or games and messing? The deliberate strategy to keep information from Deputies should not happen again.

**The Taoiseach:** The answer to that question is "Yes". If the Deputy were to ask a question here, raise a Topical Issue or private notice question, the Minister would have to answer it. It is a public utility and there is nothing to be hidden, except where there are commercial sensitivities. I do not mean this as a cliché covering a range of circumstances. Until Irish Water

becomes a fully operating semi-State entity, rather than a brand new organisation in the set-up state, I will be the first to say there could be confusion, as there certainly was. Confusion leads to uncertainty and uncertainty leads to suspicion. The set-up costs were given in great detail over several hours during the proceedings of the committee which the Deputy attended. The answer to her question is “Yes”. The Minister, Deputy Phil Hogan, or the Minister of State, Deputy Fergus O’Dowd, will answer questions in the House for all Deputies on Irish Water. I trust the answers to their requests will be full and comprehensive.

**Deputy Micheál Martin:** The Taoiseach referred to the difference between replies to parliamentary questions and responses to freedom of information requests. The matter is very simple. In some instances, very basic requests were not answered, which is why the apologies were made. I presume the Department of the Environment, Community and Local Government apologised to the Deputies concerned only because no information at all was forthcoming. That was acknowledged by the Department. With regard to the transition office established, who was on the transition team and what was the cost? What is the detail on the service level agreements, for example? These agreements were not laid before the House and we learned more about them last week in the media. This makes the House continually irrelevant and marginalises the Parliament which is catching up all the time with revelations in the media. It is not for the want of asking but because of the lack of genuine transparency or an unwillingness to volunteer the information at hand. All of the information was at hand, but it was not presented to the House over a 15-month period. The Taoiseach said during Leaders’ Questions on one occasion that any question on Irish Water would be answered and that there would be no necessity for freedom of information requests. That very night the Minister of State stood up and said the complete opposite. He said the Minister would not answer questions on the entity because of something to do with the NTMA or the EMC, the economic management committee of the Cabinet.

**The Taoiseach:** It has now been cleared up.

**Deputy Micheál Martin:** It has been cleared up because, as I heard on the grapevine, the Taoiseach went back to the Minister. The point is that the instinct of the Minister and the Department is to tell people nothing. They believe they do not have to account for this and that it is not their business. They believe it is someone else’s business, although they are setting up the utility. They believe that, technically, they can get out of it and do not have to be hung on a hook on it. They believe it is someone else’s hook. That is what went on. If the Taoiseach was honest, despite what he said, which I welcome, he would admit the deadline for the local elections was a key factor. The idea was to keep as much of this as possible buried until well after the local elections. The Government believed Mary and Joe Murphy might find out a lot after the elections and that it should ensure they would not find out anything before them.

The most dreaded person on the horizon is the one coming to install the water meter. I know this from having been on doorsteps. People are awaiting with dread the arrival of the meter man who is to install the meter in the footpath. This is the feeling in estates because of the lack of transparency and voluntary disclosure. There were 91 freedom of information requests. When people make such requests, they generally get to the bottom of some of the issues concerned and determine what is occurring within Departments and between Ministries. That is the difference. There is a fundamental lack of voluntary disclosure on many issues.

**The Taoiseach:** I have given my view. I like to see accurate responses that contain as much information as possible. This is appropriate when Deputies ask questions. I have discussed this

issue with the Secretary General and, in a spirit of openness, the Department of the Taoiseach publishes on its website a range of details on a quarterly basis. They include details of foreign travel expenses, purchase orders in excess of €20,000, minutes of the IFSC Clearing House Group, minutes of the Department's management advisory committee, the Secretary General's diary and a log of freedom of information requests. This is published normally and there has never been a question about it. In a voluntary sense, if one offers these items of information, it may well deal with the issue the Deputy raises.

The new legislation will require public bodies to prepare and publish publication schemes that are consistent with international best practice in this area to promote the proactive publication of information outside the freedom of information system. My Department will do this following enactment of the legislation. If one wants to ask a parliamentary question, one should receive the same response – whatever the question is – but I have seen pages of entirely different matters, not one consequent on the other. The charge is being reduced. The reduction of fees for internal review is from €75 to €30, while for an appeal, it is from €150 to €75. Applications in respect of personal requests remain free of charge, while the €15 application fee will remain in place for non-personal requests. The Minister for Public Expenditure and Reform has said on many occasions that it is not unreasonable to expect a small contribution to be made towards the cost of information retrieval in respect of requests for non-personal information. I hope that as we proceed, other Departments will follow suit and put as much information as they can on themselves on their websites and make it available to everybody. There is always a culture of saying one received information from the Department through the freedom of information system that one could not get through a parliamentary question and that there is, therefore, considerable secrecy about matters. If information on these matters is published on the website for the general public to see, there is no great scéal in it, no secrecy. Therefore, it is in line with the issue raised by the Deputy. If Ministers or Secretaries General have no concerns about the way their Departments are run, that is fair enough.

**Deputy Micheál Martin:** Deputy Burton might want to let *The Irish Times* know about the great battles she fights.

**The Taoiseach:** In any event, questions from Members will be answered here by the Ministers concerned with the environment and Irish Water, and that is as it should be. This is a public utility. There is nothing secret about it and all of these issues will be teased out as appropriate. Deputy McDonald is aware from meetings of the Committee of Public Accounts of the full, exhaustive lengths that were gone into about these charges. As this moves on, when the financial and business model is presented by the Government, people will be fully aware of exactly how this is structured and set up to operate in the interests of the Irish people, the Irish consumer, as a public utility. This is an issue to which we will return again.

**Deputy Richard Boyd Barrett:** I welcome the Taoiseach's commitments to a greater level of transparency and accountability, although we can debate what led to them. Some of us feel that the scandal of the consultants at Irish Water is what forced his hand on this, but whatever the reason, we are moving on with the commitment from the Taoiseach to open things up and to have more information in the public domain and on his and other Departments' websites.

One of the issues that emerges from all of this, in the context of Irish Water and the recent discussions on the Estimates, which contain fairly significant sums for consultants, is that there is a gap in information concerning what is behind the headline payments to consultants. Let us take Irish Water as an example and the sum of €44 million-----

**An Ceann Comhairle:** The Deputy must ask a question.

**Deputy Richard Boyd Barrett:** It is a question. It is absolutely a question and I want the Taoiseach to answer it. What is behind that sum of €44 million? When one considers the level of scrutiny of other areas of public expenditure, including how much public servants are paid, their hourly rates, what the Taoiseach's salary is, what my salary is, what our expenses are and so forth, then the same level of detail should be provided, as a matter of course, on the remuneration for consultants who are paid out of the public purse. No issue of commercial sensitivity can insulate people who are in receipt of large amounts of public money from the requirement to provide detailed information as to their hourly rates, how many people they are employing and so forth. When one looks at the scale of the figures, one must conclude that they are being paid massive amounts of money.

**An Ceann Comhairle:** Deputy, please co-operate.

**Deputy Richard Boyd Barrett:** The public are entitled to that information. Will the Taoiseach furnish us with that level of detail?

**The Taoiseach:** I know that the word "consultant" is like a red rag to a bull and causes absolute rage. The companies that tendered services to Irish Water were not sitting in an office telling Irish Water what it should do. They tendered for the provision of services, facilities and equipment. IBM, for example, provided hardware and software to put a system in place that actually works. We can be penny wise and pound foolish and invest in an entity like Irish Water but find that it is completely inadequate as time goes on. If we do not invest properly and put in the proper foundations, it will never operate in the way we want. The consultants here are not people sitting in offices with aluminium briefcases saying, "Tell them this is what they should do." It is a tender process for the provision of a service and a facility as a component for providing a platform so that Irish Water can deliver what the Government wants it to deliver - a service for our people, for business and private consumers all over the country - a service that they can be very happy about.

A number of years ago in the west of Ireland I attended the bundling of three rural water schemes. All three schemes were metered, the pipes were all checked and the sources of leaks were dealt with. The 1,200 consumers there were exceptionally happy about this because not only were they metered, but the meters showed that they saved half a billion litres of water in the first year. We cannot go on with the situation in which water is leaking into the ground. Our systems are inadequate and in some cases have been in place for more than 100 years. That is not adequate for the future.

**Deputy Richard Boyd Barrett:** That is not what I asked about. Can we know the hourly rate for the consultants?

**An Ceann Comhairle:** Hold on, Deputy.

**The Taoiseach:** The Deputy was asking me-----

**An Ceann Comhairle:** Comments must be directed through the Chair.

**The Taoiseach:** The Deputy was asking me about a tendered service by some of the major companies for software and hardware as part of the provision of the facility. The salaries of the engineers who work-----

**An Ceann Comhairle:** The original question was about freedom of information requests.

**The Taoiseach:** -----for Irish Water and of those agents of local authorities are known. All the details of the hours they work are known because they are all logged in. As I said earlier, the charges involved are driven by the needs of Irish consumers, not Irish Water or anybody else. The consumer is the priority here.

### Seanad Reform

2. **Deputy Micheál Martin** asked the Taoiseach his proposed reforms for Seanad Éireann; and if he will make a statement on the matter. [43141/13]

3. **Deputy Micheál Martin** asked the Taoiseach if he has considered an all-party group to consider legislative reforms in Seanad Éireann; and if he will make a statement on the matter. [43142/13]

4. **Deputy Joe Higgins** asked the Taoiseach if he intends to propose reforms to Seanad Éireann; and if he will make a statement on the matter. [50126/13]

**The Taoiseach:** I propose to take Questions Nos. 2 to 4, inclusive, together.

I met the leaders of the different parties and groupings in the Dáil and Seanad on 18 December last to discuss how best to proceed with reform of the Seanad. During the discussions everyone was given the opportunity to express his or her views and it was agreed that work on procedural reform could proceed immediately. All the parties and groupings in both Houses would present their proposals to the Seanad Committee on Procedures and Privileges early in 2014 and the Government would submit its proposals through the Leader of the Seanad. It was further agreed that a task force, representative of the different parties and groupings within the Oireachtas, would look at the matter of electoral reform. The parties or groupings could present their proposals to this task force, which would be in a better position to propose a timeframe for the enactment of legislation once it had scoped out the nature and extent of the legislation proposed and examined any possible constitutional implications. There was also a broad consensus at the meeting that the question of constitutional reform, which would require a referendum or referendums, could be considered at a later date.

The House will be aware that the Government has already decided that draft legislation should be prepared to give effect to the 1979 referendum decision which allowed the State to extend the provisions for the election of Members to the Seanad by certain universities to other institutions of higher education in the State. The general scheme of the Bill, when ready, will be referred to the Seanad, the Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht and other stakeholders, including the institutions of higher education in the State, for their consideration. I can confirm to the House that this matter will be dealt with at the Government meeting next Tuesday.

**Deputy Micheál Martin:** I thank the Taoiseach for his reply. The Taoiseach referred to the referendum result as a “wallop”. He said that the Irish people had given him one hell of a “wallop”. The reason was that he did not listen to the people before the referendum, and he is still not listening. He has outlined the meeting that took place between party leaders. He will recall that he was asked in the House to refer the issue of Seanad abolition to the Constitutional

Convention but he refused to do so. He did not put the question of reform before the people; it was simply a take-it-or-leave-it proposal to abolish the Seanad. A lot of this is far from the democratic revolution that was promised.

The Taoiseach's response since the referendum has not been in the spirit of the decision taken by the people. The fundamental issue is the franchise. We need a direct franchise so that the people have a say in voting for their Senators. When we met I put that issue to the Taoiseach, but I do not sense any intention by the Government to push that issue or to facilitate the development of a consensus so that we could agree on legislation that would change the manner of election to Seanad Éireann within the parameters of the Constitution; in other words, legislative change that would not necessitate another referendum in the lifetime of this Oireachtas. It is within the capacity of this Oireachtas to pass legislation to give every citizen the right to vote in a Seanad election. I note that Senators Zappone and Quinn published a Bill in the Seanad. I published a Bill in this House, while others have also published Bills on Seanad reform. The Committee on Procedure and Privileges of the Seanad will deal with procedural issues. It is tinkering at the edges; it is not going to the heart of the issue that emanates from the referendum debate. Nobody argued for no reform; the entire debate was about reform of the Seanad. The reason for this was the Taoiseach's party, the Labour Party, my party, Sinn Féin and others – every elected Deputy – had signed up for profound reform of the political system and, in particular, the Seanad, but nothing fundamental has happened in that regard.

The Taoiseach has said the Committee on Procedure and Privileges of the Seanad will take the lead in introducing procedural change. He also said a task force composed of all parties could be established. What is the position on the task force? Who will take the initiative in setting it up? Will it include Senators Katherine Zappone and Feargal Quinn, for example, who have meaningful ideas on the subject?

Timelines are another issue of concern. The Taoiseach's reply was well written by experienced public servants. I do not mean that in a disparaging way to the Taoiseach or anyone else, but when I read about scoping and timelining, I draw my own conclusions as to the timeline for fundamental change. The core issue is whether the Taoiseach favours a direct franchise in Seanad elections and if he will engage actively to bring about consensus to support legislation during the lifetime of this Oireachtas to make that happen?

**The Taoiseach:** That is too simplistic. When the Deputy talks about extending the franchise to all to elect people to the Seanad, there must be enormous consideration of the implications. I have no intention of putting in place a system over which there would be no control in the sense of citizens of Irish descent in Australia, America, Britain or Northern Ireland being able to directly elect a second House which potentially would be at loggerheads with this House elected by Irish citizens living in this jurisdiction. Such issues are all wonderful to theorise about, but it is a very different matter when one considers the implications. The Constitution requires a Dáil and a Seanad. This has been endorsed by the people and I respect that. I intend to bring to the Government next Tuesday the legislative changes required to deal with the decision of the people in 1979.

When one looks at all of the recommendations made since 1937, including more recent ones by esteemed members of Deputy Micheál Martin's party, there are very different views which range from an examination of the Taoiseach's nominees to reform of the Order of Business in the Seanad. If we are serious about the matter, a range of options could be considered. Party leaders were asked to submit their propositions to the Committee on Procedure and Privileges

of the Seanad, but that has not yet happened. I do not see why we cannot initiate more Bills in the Seanad, but that would mean that the Seanad would have to plan its work far more carefully. Ministers have a responsibility to this House and must answer to it under the Constitution. In respect of the legislative programme of the Dáil, if Ministers are to attend in the Seanad, it means a clearer, longer term strategy in terms of planning is required as to what will be taken in the Seanad. That is not something to which I would object. Neither would I object to the Seanad having a far greater role in the new pre-legislative stage for non-emergency Bills. That is something that has applied since January. When the heads of a Bill go to the Government, they are sent to the relevant Oireachtas committee, which is now normal practice, for its consideration and consultation, and people come before it to give their views.

Innovative initiatives such as the Seanad Public Consultation Committee have given the Seanad an opportunity to fulfil its vocational role. The capacity of the Seanad to review the work of the North-South Ministerial Council is an issue in which people have an interest. Engagement could also be provided for by means of ministerial statements to the Seanad following meetings of the British-Irish Council. The Seanad could review the work of the North-South Implementation Bodies and examine cross-Border issues such as the Narrow Water project, the Maze museum development, energy interconnectors among others. It could continue to engage with minority and other special interest groups, as it has done some work in that regard. Other initiatives could include the development of the young Senators initiative to enhance the parliamentary and democratic process and review the reports of public bodies covering matters related to vocational areas such as those represented by the Seanad electoral panels. That is an enormous body of work that the Seanad could do and it could be implemented quickly.

The Deputy takes the view that there should be a universal franchise in the case of the Seanad. Does he intend to include all citizens on the island of Ireland or those who carry Irish passports? Does he refer to the 1 million plus people living in Britain who have Irish passports and are of direct Irish descent? Does he refer to the one third of the population in Australia - 30 million - depending on how far one goes back, those living in the United States and all those throughout Europe? How would the system be structured so as to allow for universal franchise on the same day to prevent candidates standing in two elections? That is not an issue to be taken lightly. I do not wish to be party to a situation where one has strangulation in the Dáil and the Seanad-----

**Deputy Micheál Martin:** One would not have that.

**The Taoiseach:** -----by virtue of the fact one has two directly elected Houses that could have entirely opposite views, one elected by a vast majority, way in excess of the electorate in the jurisdiction electing the Government of the people.

**Deputy Micheál Martin:** No.

**The Taoiseach:** Such a Seanad could have an entirely different view for entirely different reasons about where we stood. Such an issue will not be decided between now and 2016. It might well be something that could be considered beyond that time, but we should enable the Seanad, now that its existence has been confirmed, to do far more engaging work in a procedural sense and extend the vote to all those who have graduated from third level institutions, as the people decided back in 1979 but no Government in between decided to do anything about it. This one will. The matter will come before the Government next Tuesday and the heads of the Bill will go to the Seanad and the appropriate committee for discussion and consultation.

**Deputy Joe Higgins:** I suppose the Taoiseach would agree that his life would be much simpler if he could do things along the lines of his newly acquired Saudi Arabian friends – just threaten to cut off people’s heads if they do not agree with the governing party. He would then have no problem.

**Deputy Brendan Howlin:** What? From where did that come?

**Deputy Joe Higgins:** Does the Taoiseach agree that he should have carried the referendum to abolish the Seanad with a landslide vote, considering how totally undemocratic is the manner of its appointment, but that he lost it because the people did not trust him or the Labour Party, mainly because of all their broken promises? Coming to the House with one proposal, namely, to extend the franchise to graduates in colleges not currently included in the right to vote in Seanad elections, is a huge compounding of the undemocratic privilege that characterises the appointment of that body. Why should 23 year olds who have gone through a few years in college be more privileged than their parents and grandparents who have worked all their lives and paid taxes and have a lot more wisdom be allowed to vote in elections to one of the Chambers of this Parliament? Does the Taoiseach agree that, in any Parliament which has more than one House, the Upper House could begin to claim some democratic legitimacy only if all citizens living in the state had a vote? How else can a chamber be democratic if it is not elected in that way?

I wish to put a more profound question. There has been much said about the Seanad, the Taoiseach’s reforms and bringing about a democratic revolution. Will the Taoiseach agree that this was all set at nought when the then president of the European Central Bank, Mr. Trichet, threatened to set an economic bomb underneath the Government if it had the temerity to burn some of the financial kingpins in European financial markets? When the Taoiseach capitulated to that threat, is it not the case that he sacrificed any claim to democratic legitimacy or stand for anything that could be called real democracy in this country?

**The Taoiseach:** I am not sure what the relationship is between Jean-Claude Trichet and the Seanad referendum. If I recall correctly, the Deputy campaigned for the abolition of the Seanad.

**Deputy Joe Higgins:** Yes, for 40 years, including when the Taoiseach was appointing his pals to it 30 years ago.

**The Taoiseach:** The question of trust also applies to Deputy Joseph Higgins. He cannot come in with that one. The people decided in the referendum to retain the Seanad. For a long time I have understood one never argues with the people in a referendum or an election. Their decision is final; one cannot alter it.

**Deputy Micheál Martin:** The Taoiseach did not argue at all during the referendum.

**The Taoiseach:** I did not debate. Never argue with the people’s voice - I accept this and it is perfectly clear. Deputy Joe Higgins claims we have only one proposal for the Seanad. The one proposal that is very clear in the voice of the people over 30 years ago, in a referendum in 1979, is that all graduates should have a vote in Seanad elections. We will deal with that issue next week and the Seanad and the Oireachtas committee will have their chance to debate it.

Earlier I listed for Deputies Micheál Martin and Mary Lou McDonald several suggestions of work the Seanad could usefully do in the immediate future, including the initiation of more Bills, especially ones dealing with the interests and topics on which its vocational panels are based such as education, language, culture, agriculture, labour, industry and commerce and

public administration.

**Deputy Joe Higgins:** The Government has a majority in the Seanad. Why does it not do this?

**Deputy Micheál Martin:** Do it then.

**The Taoiseach:** The Seanad could review pre-legislation stage reports from committees and make recommendations to Ministers. Why not? New arrangements could be put in place for it to consider amendments on Committee Stage of non-emergency Bills of a detailed or technical nature. How many times have we heard about the wondrous amendments brought forward by the Seanad during the years? Give it the chance to look again at all Committee Stage recommendations. Why not have more time for Private Members' Bills? The Government will outline its priorities for the year in early March to the Seanad in the same week it will do so in the Dáil. Taking Adjournment matters at midnight in the Seanad will be replaced by commencement debates earlier in the day. The Seanad could review reports of joint committees and make recommendations to relevant Ministers.

**Deputy Joe Higgins:** Who is blocking all of this?

**Deputy Micheál Martin:** The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, looks impressed.

**Deputy Brendan Howlin:** It is impressive.

**The Taoiseach:** The Seanad could review the reports laid before the Houses by public bodies. There have been references to the wondrous contributions made by Seanad Members. Accordingly, we should give them the opportunity to debate reports, make recommendations and see how far we get. The Seanad could review joint committee reports on EU policy reviews and the European Union's annual work programme, as well as debating motions on reasoned opinions from committees on compliance with the principle of subsidiarity. When I attended the Chamber recently, Senators said they would like to deal with all EU secondary legislation. It could debate reports from the North-South Ministerial Councils and implementation bodies, the British-Irish Council, with Ministers making statements to the Seanad after attending such meetings. I see a full week's programme for the Seanad, not once in a blue moon but every week.

When the legislation is passed to enable all graduates to have a vote in Seanad elections, it will certainly increase the work rate of those Senators who come from confined quarters. This programme of work will allow Senators to engage in a much more extensive review of important issues about which they have been concerned for a long time.

**Deputy Joe Higgins:** What mysterious force is stopping the Taoiseach from doing this?

**Deputy Micheál Martin:** The Taoiseach's response gives the lie to his earlier reply to my question that a task force is to be established to examine the issue of legislation. He has just said this issue will not be looked at for the duration of this Oireachtas. Everything else he said apropos of reform has already been mooted. The Seanad initiating Bills is nothing new. It has happened before and will happen again. It depends on the Government and the majority within the Seanad. That is all Committee on Procedure and Privileges stuff within the Seanad. These proposals do not go to the core of the reform agenda and what people want. They want a

Chamber that is not elitist but elected by direct franchise. The idea in all party groups coming together would be to give a response to the people and debate. We said we would change politics, but we are not doing that. Nothing of a fundamental nature has happened since the general election, other than the Government gaining more control over this House, not less.

The one Seanad proposal the Taoiseach can introduce is providing for a direct franchise within constitutional parameters. One will not be changing the existing powers of the Seanad *vis-à-vis* the power of the Dáil. The Seanad will continue to have the limited powers it currently has, with no powers in financial matters. This argument the Taoiseach raised about the two Chambers being at loggerheads with each other is bogus and invalid. I recall his Glenties speech before he decided he would abolish the Seanad. He wanted the Diaspora to be included in everything. When Fine Gael was in opposition, every one of its policy documents had a paragraph about the Diaspora. They should be included in this body, that body and whatever you were having yourself. Now the Taoiseach is saying it is not such a good idea anymore. That matter could be debated by an all-party grouping committed to changing the way we elect people to the Seanad within existing constitutional parameters. We could do it. It would just take political will and for the Taoiseach to listen to the people, not dismiss them yet again. They spoke very loudly in rejecting the Taoiseach's proposition, but they did not say keep the Seanad as it was. They wanted reform of the Seanad. The most fundamental point the Taoiseach's party kept arguing during the referendum - he did not debate it individually but got the Minister, Deputy Richard Bruton to do so - was how elitist the Seanad was. He could change this; the Oireachtas could change it by bringing forward legislation.

What is the role of the task force and when will it be established? Will it be considering the core issue to which I referred?

**Deputy Billy Timmins:** I agree with the Taoiseach in his assertion for several months that the Seanad is dysfunctional and elitist, points we all recognise. This has happened because of the way various Governments treated the Seanad. Snowing it under with additional work might not be the solution. There is enough consensus around the House to make the Seanad more productive, more representative of the people and for it to go back to the vocational concept where it would be similar to a credit review control as opposed to replicating what is done in this House.

The Taoiseach referred to a forum for feeding into proposals on how the Seanad could develop. Some Members are not part of any recognised group in the Oireachtas. Is there any mechanism for those outside the recognised groups to feed into that forum?

**Deputy Mary Lou McDonald:** I detected a note of sarcasm in the Taoiseach's utterances about the Seanad, but perhaps I am wrong.

**Deputy Eric Byrne:** The Deputy is wrong.

**Deputy Mary Lou McDonald:** It strikes me that the Taoiseach, after the people administered a wallop to him, is walloping back. Perhaps the Taoiseach is telling them they wanted the Seanad and they have the Seanad. It is beyond lame for the Taoiseach to state that 35 years later, the great new dawn for the Seanad will be an extension of the franchise to include all third level graduates or graduates of higher education. The Taoiseach is aware that this is absolutely farcical and he is on the record on this matter.

Everything the Taoiseach has said strengthens the argument for passing this issue to the

Constitutional Convention. While it is all very well for political groupings to submit their ideas and to have discussions on it, a broader discussion on the issue is required. I am at a loss as to the reason the Taoiseach always blocks any suggestion that the Constitutional Convention consider this issue. Its deliberations have been thorough on all the matters put before it. Its debates have been well-informed and reasoned and the convention has managed to arrive at conclusions. Therefore, what is the issue in this regard? Even if the Taoiseach's interim position is to extend the franchise along the lines of the 1979 referendum result, big deal - the Government should go ahead and do it as it is long overdue. However, it certainly is not enough and it is farcical to have a second Chamber that is not directly elected by universal franchise. I believe there would be broad public support for that, but whatever are the Government's short-term plans, the Taoiseach should explain the reason he will not allow the Constitutional Convention to consider, debate and report on this issue and to bring forward a recommendation. It strikes me that if Members' concern is about a democratic deficit in respect of the Seanad, a democratic remedy would be to allow the convention in its full sitting to consider these matters and to bring forward a conclusion.

**Deputy Richard Boyd Barrett:** Arising from the results of the referendum on the Seanad, any conclusion that does not conclude there is deep alienation and disaffection from the political system as a whole is not facing reality. It was not simply about the Seanad but was about politics and politicians in general. There is deep distrust of the lot of them - that is, of all of us.

**An Ceann Comhairle:** Hold on a second. We are not having a debate about the reason the people voted a particular way. This is about the Seanad and what it should do. I ask the Deputy to stick to that.

**Deputy Richard Boyd Barrett:** I am. My point was on the conclusion one should draw from the Seanad result and how that should inform how we deal with the Seanad issue. While the Taoiseach may smirk all he likes, that is the level of anger that exists.

**Deputy Michael Healy-Rae:** It is no laughing matter.

**Deputy Brendan Howlin:** The Deputy is welcome.

**Deputy Richard Boyd Barrett:** One point that has been clearly expressed in this Chamber and which is the subject of an absolute consensus across the wider public is that one cannot have a democratic institution in which all citizens do not have a say. There are finer points to that debate as to how one would make it universal and not merely a replica of this institution, and they must be discussed. However, everyone would expect a universal franchise and the Taoiseach should accept that. If he does not, he is not confronting the reality.

The other issue concerns something the Taoiseach, if he intends to knock on doors in the next few months, will encounter absolutely everywhere. Can politicians, be they in the Seanad, the Dáil or anywhere else, be held accountable for the promises they make? Alternatively, must one wait for five years to hold them accountable? Most people believe this is not good enough. Therefore, Members should start to discuss what the citizens are discussing, namely, whether a mechanism can be put in place for recall or accountability between elections. Obviously, this would have to be without destabilising government altogether, which is what the Taoiseach will protest. However, can a mechanism be put in place whereby the public, in between elections, can have some say about policy matters or regarding their opinions if they believe politicians have not delivered on the promises they made? Were Members to have such a serious discus-

sion and were they to make a serious effort to put in place mechanisms that responded to these concerns, they would be doing a good job for democracy in Ireland. In addition, by so doing they might also begin to restore some of the lost legitimacy and credibility of the political process.

**Deputy Joe Higgins:** The profound link between the supposed democratic institutions of the Irish State, which are being discussed here in the Dáil today, and institutions such as the European Central Bank is that the Government, at the beginning of this Administration, claimed to be a champion of democracy and promised a democratic revolution. Is that not true? On the other hand, is it not true that this claim is utterly bogus, given that a month or two after the election, when a powerful European institution threatened the Government, the Economic Management Council, the composition of which is half Fine Gael and half Labour Party, scurried away like frightened rabbits to their burrow-----

**An Ceann Comhairle:** I am sorry, but the Deputy must get back to the Seanad.

**Deputy Joe Higgins:** -----and allowed the dictatorship of the European Central Bank to decide that our people would be obliged to carry the massive burden of the bondholders? Might the Taoiseach also not have-----

**An Ceann Comhairle:** Deputy, we are not discussing all of that now.

**Deputy Joe Higgins:** Well, it does----

**An Ceann Comhairle:** We are discussing the Seanad.

**Deputy Michael Healy-Rae:** The Deputy should leave the Rabbitte out of it.

**Deputy Joe Higgins:** Might the Taoiseach not as well be the Prime Minister in Saudi Arabia, where the King gives the order and then the Parliament jumps? What is the difference?

**An Ceann Comhairle:** The Taoiseach, on a variety of supplementary questions.

**The Taoiseach:** Deputy Martin asked a question about what would change.

**Deputy Micheál Martin:** No; I asked the Taoiseach about the task force.

**The Taoiseach:** I will be followed in this Chamber by the Minister for Public Expenditure and Reform to deal with the Freedom of Information Acts and the whistleblower legislation.

**Deputy Micheál Martin:** No, I did not ask that at all. I asked about the task force.

**The Taoiseach:** The Deputy asked about what was going to change and stated that the Government had promised things would change.

**Deputy Micheál Martin:** No.

**The Taoiseach:** I am telling the Deputy about two elements of that. I would like to know what both Deputies Martin and McDonald mean by a democratic franchise in this regard.

**Deputy Micheál Martin:** I published a Bill on it.

**An Ceann Comhairle:** Please.

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**The Taoiseach:** Are they talking about the global diaspora of 70 million people being entitled to vote in the Seanad elections or do they propose to limit this to those who have emigrated, who have left the country or who work for any of the institutions abroad for a short period? There must be some clarity regarding the extent of this proposition.

**Deputy Micheál Martin:** No problem.

**The Taoiseach:** I considered this matter with the former Tánaiste, Dick Spring, more than 20 years ago and it certainly is not as simple as the Deputy suggests to give a democratic franchise in a global sense. Are the citizens of Belfast, Derry, Coleraine and Newtownards entitled to vote under the Deputy's proposition for election to the Seanad here in this location?

**Deputy Mary Lou McDonald:** Yes.

**The Taoiseach:** Are they entitled to nominate candidates from the jurisdiction in which they live?

**Deputy Mary Lou McDonald:** Yes.

**The Taoiseach:** There is a raft of questions that Deputy Martin and Deputy McDonald certainly would need to answer in that regard.

**Deputy Micheál Martin:** I simply am asking the Taoiseach to get on with it.

**The Taoiseach:** When I discussed this point about the diaspora previously-----

**Deputy Micheál Martin:** Was that with Dick Spring?

**The Taoiseach:** -----Deputy Martin suggested that the organisations representing the diaspora in America, Australia, Britain and so on would get together and nominate a person to attend the Seanad. However, when I first broached it with them, the list of those who wished to be appointed to represent the diaspora in the Seanad went from Leinster House to Newport-----

**Deputy Micheál Martin:** Was this just another Opposition policy document? Was it the kind of thing one does before elections?

**The Taoiseach:** -----or from Brisbane to San Diego.

**Deputy Micheál Martin:** Was it that kind of proposal?

**The Taoiseach:** Consequently, it is a question of dealing with the elitism that exists in that sense.

Deputy Timmins made a valid point. As the Deputy is not a representative of an official political party, I am sure his views as an experienced Member would be welcome to be fed in through the system here by sending his observations-----

**Deputy Micheál Martin:** The Taoiseach is the system.

**The Taoiseach:** -----to the Clerk of the Seanad to be given to the Seanad Committee on Procedure and Privileges and to be fed into the system in that way, as it is there that the observations will be taken from the parties and from individuals. I suggest the Deputy could do this.

In response to Deputy McDonald, I would not in any way show sarcasm about many col-

leagues in the Seanad, whom I have known for many years. If the Deputy likes, it may not be a big deal 35 years later, but why did someone not do it before this?

**Deputy Mary Lou McDonald:** The Taoiseach was in government during that period. Why did he not do so?

**The Taoiseach:** Yes, of course. My point to Deputy McDonald is that it has not been done but will be done now. The point is that this is one democratic piece of progress-----

**Deputy Mary Lou McDonald:** No, it is not.

**The Taoiseach:** -----that extends the remit to the many thousands of graduates over the years who were disenfranchised by the elitism of the current system that applied under the NUI.

**Deputy Micheál Martin:** And who are living all over the world.

**The Taoiseach:** Deputy Higgins again mentioned the European Central Bank and the making of bogus promises. The promise that was made in regard to the Seanad was to hold a referendum.

**Deputy Micheál Martin:** The Labour Party had a different policy.

**The Taoiseach:** The people decided very clearly in that referendum. I accept that decision, and we have moved on from there to engage with the Seanad, to make it more meaningful, to implement the recommendations of the referendum.

**Deputy Mary Lou McDonald:** What about the Constitutional Convention?

**The Taoiseach:** Deputy Boyd Barrett talks about his consistency of protest, the political system and promises that were made.

**Deputy Richard Boyd Barrett:** I did not mention protest.

**The Taoiseach:** That promise was to hold a referendum on the Seanad and let the people decide, and they have given their decision very clearly.

**Deputy Richard Boyd Barrett:** We should have a system of recall.

**Deputy Micheál Martin:** A task force.

**The Taoiseach:** I agree with Deputy Boyd Barrett that where a change has occurred it is very necessary that people be able to engage with the political process. That is why we have changed the system so that heads of Bills go from Cabinet to the Oireachtas committees, there is consultation with the chairmen and they can call in members of the public, organisations, agencies or individuals to engage with civic society in drafting legislation that is more comprehensive and thorough. As time goes on, people will see the benefit of that. Those to whom I have spoken are very pleased with the opportunity to come before an Oireachtas committee and give their views in whatever way about an issue that is being considered there.

**Deputy Mary Lou McDonald:** What about the Constitutional Convention?

**Deputy Micheál Martin:** What about the task force?

**The Taoiseach:** On the task force, I have no difficulty with this, but in respect of real en-

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gagement by the Seanad within the existing rules, we must change the legislation consequent on the referendum about the extension of the vote. There is a whole raft of work about which I intend to engage with the Committee of Procedures and Privileges. The question of a task force examining some future options will not be considered within the lifetime of this Government.

**Deputy Micheál Martin:** Why did the Taoiseach say it would be so?

**The Taoiseach:** Because Deputy Martin has not answered any question about the people in Brisbane, Adelaide, Melbourne, Sydney, Canberra, Los Angeles, San Francisco, Britain, Northern Ireland or anywhere else.

**Deputy Micheál Martin:** The Taoiseach just said, in a formal reply, that a task force would be established.

**The Taoiseach:** He wants them all to vote.

**Deputy Micheál Martin:** Would the Taoiseach withdraw the answer?

**The Taoiseach:** He has put no thought whatsoever into it.

**Deputy Micheál Martin:** This is extraordinary.

**The Taoiseach:** He should come back with his paper.

**Deputy Micheál Martin:** This is unprecedented.

**The Taoiseach:** He can have all the task forces he likes, but give them something to think about.

**Deputy Michael Healy-Rae:** It is a Dallas moment, with Bobby coming out of the shower.

**Deputy Micheál Martin:** In the space of 45 minutes the Taoiseach has said one thing and the entire opposite in the compass of one reply.

**An Ceann Comhairle:** Deputy Martin cannot be jumping up and down in the middle of a reply.

**Deputy Micheál Martin:** Does the Taoiseach withdraw his earlier response?

**The Taoiseach:** No.

**Deputy Micheál Martin:** What is the task force? What will that do?

**An Ceann Comhairle:** With the permission of the House, that completes parliamentary questions.

**Deputy Micheál Martin:** I seek clarification on that. The Taoiseach said there would be a task force. He is now saying there will not be a task force.

**An Ceann Comhairle:** I cannot comment on the replies given.

**Deputy Michael Healy-Rae:** It is a Dallas moment. He has forgotten all about it.

**Deputy Micheál Martin:** Bizarre.

**An Ceann Comhairle:** With the agreement of the House, we will move on to the Order of Business.

**Deputy Bernard J. Durkan:** We were having a bit of fun.

*Written Answers follow Adjournment.*

### **Order of Business**

**The Taoiseach:** It is proposed to take No. 11, motion re referral to joint committee of proposed approval by Dáil Éireann for a regulation of the European Parliament and of the Council amending regulation (EC) No. 861/2007 establishing a European small claims procedure and regulation (EC) No. 1896/2006 creating a European order for payment procedure; and No. 1, Protected Disclosures Bill 2013 [*Seanad*] - Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that No. 11 shall be decided without debate; Private Members' business, which shall be No. 45, Companies (Amendment) Bill 2014 - Second Stage, shall, if not previously concluded, be brought to a conclusion at 9 p.m. on Wednesday, 5 February 2014; and tomorrow's business after Oral Questions shall be No. 1, Protected Disclosures Bill 2013 [*Seanad*] - Second Stage (resumed if not previously concluded) and No. 4, Roads Bill 2014 - Order for Second Stage and Second Stage.

**An Ceann Comhairle:** There are two proposals to be put to the House. Is the proposal for dealing with No. 11 without debate agreed to? Agreed. Is the proposal for dealing with Private Members' business agreed to? Agreed.

**Deputy Micheál Martin:** Extraordinary damage has been done across the country to many families, homes and businesses, particularly in Limerick, Galway, Cork and Clare, and the various coastlines. There has been an extraordinary degree of damage across the board and there is great concern out there about people's capacity to insure and reinsure their property and maintain their insurance in all these locations. In the UK, legislation was passed which obliges insurance companies not to discontinue insurance policies with households, entities and business people in such situations. Many people and businesses are potentially facing ruin if this question of insurance is not adequately addressed.

The Government has promised an insurance Bill. Could the Taoiseach indicate when that will be published and whether it will deal with the issues concerning the level and degree of insurance and reinsurance in cases of flooding and severe weather damage? In the context of the Finance Bill, people are getting tired of hearing annually from Ministers after flood damage or weather events that funding will be made available, and then a couple of months later nobody can find the funding or access it. That happened last year. We need to know how much money, in addition to what was already provided in the annual Estimates, will be made available and whether a Supplementary Estimate is required to put flesh on the bones of the Government's response to these appalling situations.

**The Taoiseach:** As I said earlier, there have been capital works worth €250 million over the

last four years. The humanitarian amount is €15 million, pending assessment, for immediate response to the humanitarian issues. We hope to have a full-scale analysis presented to Cabinet next Tuesday from the local authorities, the emergency planning group within the Department of the Environment, Community and Local Government, the OPW, etc. Perhaps it might be appropriate for the Dáil to debate the outcome of that next week. I am sure the Whip could make arrangements for that. Deputies could give their views on what we must do. We must deal with the immediate, interim and longer-term challenges. Insurance is an issue. I do not have a date for the publication of the insurance Bill as listed, but let us see the full-scale report before Cabinet next week. That can be published and can determine elements of the debate that we can have next week.

**Deputy Mary Lou McDonald:** One of the Taoiseach's Ministers has prepared a memorandum of understanding to be signed by the Irish Insurance Federation. It falls short of a legislative remedy for those families that cannot get insurance for their homes, but I welcome the Taoiseach's sentiment expressed here today that perhaps when that legislation is introduced, the matter of some form of State guarantee or fund for those householders might be considered. It is long overdue.

Today the Taoiseach discussed the findings of the European Court of Human Rights in the Louise O'Keeffe case. When does the Taoiseach propose to make a full and formal response to that court judgment? Does he propose to reiterate his apology to Ms O'Keeffe here in this House? Does he intend to extend it to all other survivors of abuse in primary schools? Does he propose any new legislation in the wake of the Louise O'Keeffe judgement? Is the Government minded to provide time for a debate on the very far-reaching consequences of that judgement?

On the adoption (information and tracing) Bill, I do not know if the Taoiseach had occasion to hear "Today with Seán O'Rourke" on RTE Radio 1 this morning. It had very compelling and moving testimony from a now-adult man and his birth mother and their particular experiences in the mother and baby home in Bessborough, County Cork, the removal of the child from his birth mother and all that transpired since. The Taoiseach and I both know there is a huge story to be told about these institutions. We have not even begun to shine a light on these issues.

*5 o'clock*

It is essential and urgent that this legislation is published and that adopted persons and parents searching for their children have the opportunity to access records, because currently they are frustrated in their efforts.

**The Taoiseach:** This Bill is listed for publication this year. This is an enormously sensitive issue for those involved and there are legal and constitutional issues that must be clarified before the Bill can progress further.

In respect of the case of Louise O'Keeffe, I was glad that Ms O'Keeffe accepted my apology and that of the Tánaiste for the horrendous experience she went through as a young girl in the school she attended. The Government is mindful that it should follow the binding ruling of the European Court of Human Rights and make the payments due under that judgment. It has six months to submit a reply in full detail to the Council of Europe, which will be presented by the Tánaiste and Minister for Foreign Affairs. All of the issues raised by Deputy McDonald here will be dealt with in so far as possible in preparing for that presentation.

As the House is aware, the judgment is one of exceptional complexity, given our High Court

and Supreme Court determine the clarity of what Irish law means. In terms of our legislation and jurisdiction, the Supreme Court is the final arbiter in that regard. The difference between what it decided and what the European Court of Human Rights decided is a matter that must be considered in the preparation of the report that is to be submitted within six months to the Council of Europe. The issues the Deputy raised and others will be dealt with in the context of the preparation of that report. For now, the Government accepts the binding nature of the ruling and will make arrangements, through the Minister, to make the payments due quickly and speedily and will then move on to deal with the broader implications of this complex report.

**Deputy Billy Timmins:** I understand that time will be provided tomorrow for No. 23 on the Order Paper, statements on the current situation in Northern Ireland. Does the Taoiseach propose to allocate time to discuss the findings of the Smithwick tribunal report? It was published several months ago and is now in a vacuum, which may be unhelpful in the long term.

**The Taoiseach:** Yes, I propose to provide time for that debate, but not tomorrow when we will have general statements on Northern Ireland. We committed to a full scale debate on the Smithwick tribunal and it will take place within the next couple of weeks.

**Deputy Michael Healy-Rae:** Recently, the Minister of State, Deputy Hayes, stated that the Irish Coastal Protection Strategy Study was currently mapping the coastline. It will have to map it again because the coastline has changed as the events of the past couple of weeks have done so much damage. Does the Government intend to source funding from the EU solidarity fund as a matter of urgency to help the poor people who have been hurt, whose homes have been destroyed and whose towns have been ravaged?

**An Ceann Comhairle:** That is an important issue, but I suggest the Deputy should submit a Topical Issue because it is not in order on the Order of Business.

**Deputy Michael Healy-Rae:** Will the Taoiseach please comment on this and the EU solidarity fund.

**An Ceann Comhairle:** The Deputy is asking the Taoiseach to breach the rules of the House.

**Deputy Michael Healy-Rae:** I am not.

**An Ceann Comhairle:** With the greatest respect, like everybody else, he is allowed to deal only with what is allowed on the Order of Business. We cannot have debates on the Order of Business. I now call Deputy Butler.

**Deputy Ray Butler:** I wish to ask about two Bills. When will the trust Bill, which will reform and consolidate the law relating to trustees and require them to deal better with and protect trust assets, be published? Also, when will the family leave Bill, which will amend and consolidate all family leave legislation, be published?

**The Taoiseach:** Both of these Bills are listed for next year. The trust assets Bill will be published later next year and the family leave Bill will be published early next year.

**Deputy Patrick Nulty:** It is now almost 12 months since access to the mobility allowance was closed for new applicants. When will this matter be resolved and is legislation promised to deal with the issue? Citizens have been affected by this as they rely on the allowance to be able to go to work, to access education and so on. Twelve months is a more than reasonable time for a resolution to be found. When will the issue be resolved conclusively and has legislation been

promised to deal with the issue?

**The Taoiseach:** The health (transport support) Bill, which will deal with the issue of the mobility allowance, is due this year.

**Deputy Frank Feighan:** When is the Red Cross (amendment) Bill due for publication? This Bill will repeal the Red Cross Act 1938 and put in place a new legal framework for the Irish Red Cross.

**The Taoiseach:** That Bill is due next year.

**Deputy Peter Fitzpatrick:** When will the harbours (amendment) Bill, which will amend the Harbour Acts 1996-2009 to allow the transfer of control of certain port companies to local authorities and amend existing provisions regarding board membership and repeal the Harbours Act 1946 and provide for further related matters be published?

**The Taoiseach:** That Bill is being considered, but is not due until next year. Significant discussion has yet to take place between the relevant port authorities.

**Deputy Martin Heydon:** In light of the recent report by the Joint Oireachtas Committee on Agriculture, Food and the Marine, calling for a statutory code of conduct for the grocery goods sector and for an ombudsman, as have been put in place in the United Kingdom, will the Taoiseach update us on progress on the consumer protection and competition Bill?

**The Taoiseach:** That Bill is due shortly. Work is well advanced on the Bill and I will update the Deputy on the current position.

**Deputy Patrick O'Donovan:** In light of the reforms the Minister for the Environment, Community and Local Government is introducing in the area of local government, what recommendations are to be included in the planning Bill following the Mahon tribunal report to the Dáil? When is it expected the planning Bill will come before the House?

**The Taoiseach:** I do not have a publication date for that Bill, but I will send the Deputy a note on the current position regarding the work on the Bill.

**Deputy Bernard J. Durkan:** I wish to raise two topical matters. What progress has been made on the Teaching Council (vetting and protection of children and vulnerable persons) Bill? Have the heads of the Bill been cleared and when is the Bill likely to be published and brought before the House?

The climate action low carbon development Bill has also been promised. In view of recent events and the urgent need for this, will the Taoiseach give some indication as to when this Bill will come before the House?

**The Taoiseach:** The climate action Bill has gone to committee for observations. The heads of the Teaching Council Bill were cleared in December and it is due for publication this session.

**Deputy Willie O'Dea:** In regard to an earlier response, is it the intention of the Government to include in the forthcoming insurance Bill, whenever it is produced, a provision along the lines of legislation which is going through the British House of Commons currently, to compel insurance companies to insure against flooding? Also, will the Taoiseach confirm or deny that the Government has signed or intends to sign a memorandum of understanding with the insur-

ance industry?

**The Taoiseach:** I do not want to comment on the potential content of a particular Bill. We will have a debate next week on the implications of flooding. The insurance Bill is not due for quite some time, but these matters will be raised. I am not in a position to comment on whether a memorandum of understanding is about to be signed. Deputy McDonald brought this to my attention, but I do not have information to hand on that.

### **Seanad Reform Bill 2014: First Stage**

**Deputy Micheál Martin:** I move:

That leave be granted to introduce a Bill entitled an Act to reform the method of election of members of Seanad Éireann and to provide for related matters.

On behalf of Fianna Fáil I wish to move First Stage of this, the Seanad Reform Bill, and to explain briefly our reason for introducing it. In the last general election, every party and Deputy represented in this House promised to support a profound reform of politics in our country. Three years later, there has been no significant reform of any of the political institutions of the State.

The Government's control of Parliament has been increased and even the Chief Whip has described its treatment of the Dáil as deplorable. Although the Dáil sits for longer, serious issues are less and less likely to be allowed proper debate and Ministers regularly withhold basic information. While claims to have delivered reform are constantly repeated the reality is exactly the opposite. We saw this in operation last year when the Taoiseach refused to allow consultation or debate before pushing through a referendum proposing to abolish Seanad Éireann while concentrating all power in an unreformed Government-controlled and Government-dominated Dáil. In spite of the major resources spent by the Government, and the active support of Sinn Féin and many commentators, the people saw through the proposal. They recognised it as a proposal which had nothing to do with reform. The Taoiseach got his wallop but has subsequently refused to listen to the people. Nobody on the "No" side of the referendum argued for the retention of the Seanad in its current form, but the Government's reaction has been to state it is not interested in reform beyond a minor and tokenistic change of the electorate for one tenth of the Seanad.

Our position in successfully campaigning for a "No" vote was that the Seanad could and must be reformed. This should ultimately involve a new referendum drawn up on the basis of proper consultation and reform of the Dáil. However, it is not essential to wait for a referendum; just because the Government arrogantly insisted on putting its own crude proposal to the people there is no reason to sit back and state nothing can be done. The Bill we introduce today addresses the most important element of reform which is possible immediately. This is to open up the Seanad to all citizens. By adopting the Bill we could immediately end the elitism about which the Government and Sinn Féin were concerned during the referendum. We could make our entire Parliament representative of the direct will of the people. The Bill proposes to open voting for Seanad panels to all citizens, including those who do not live in the State. Given the Seanad will continue to have limited powers, and no powers regarding financial matters, ex-

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tending the Seanad franchise to all Irish people is reasonable and fair. We do not have available to us the level of support staff the Government can use for legislation but we have shown quite clearly it is possible to significantly open up the Seanad even if the Government continues to refuse to hold a referendum on real reform. Many issues are to be addressed and refined in the Bill through a full debate on various Stages, but the core point stands. The people demanded reform last year and we have the duty and ability to deliver it. To fail to act, or to do the minimum possible and move on to other issues, would be an act of political arrogance which would reinforce the growing public disillusionment with the failure to reform Irish politics.

**An Ceann Comhairle:** Is the Bill opposed?

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** No.

Question put and agreed to.

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

**Deputy Micheál Martin:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **European Regulations: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That the proposal that Dáil Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 861/2007 of the European Parliament and the Council of 11th July, 2007 establishing a European Small Claims Procedure and Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12th December, 2006 creating a European order for payment procedure,

a copy of which was laid before Dáil Éireann on 27 November 2013, be referred to the Joint Committee on Justice, Defence and Equality, in accordance with Standing Order 82A(4)(j), which, not later than 6 February 2014, shall send a message to the Dáil in the manner prescribed in Standing Order 87, and Standing Order 86(2) shall accordingly apply.

Question put and agreed to.

*Dáil Éireann*  
**Topical Issue Debate**

**Flood Relief Schemes Funding**

**Deputy Willie O’Dea:** I thank the Ceann Comhairle for allowing me to raise this very important topic. With all due respect to the rules of the House, I do not believe two minutes is adequate to properly deal with the devastation and disaster visited on the city of Limerick over the weekend, or with the destitution, misery, hopelessness and despair which followed in its wake. My constituents in Kings Island in Limerick city awoke on Saturday morning to their own particular version of Dante’s *Inferno* and but for the dedication and professionalism of the emergency services, whom I thank and congratulate, there is no doubt lives would have been lost.

In the very short time available to me I wish to ask the Minister of State practical questions and I would appreciate direct answers because I am asking them on behalf of my constituents who are asking me the same questions. What will be the position on people whose houses have been destroyed and rendered uninhabitable? These houses fall into two categories, namely, those owned and rented by the local authority and those privately owned. Will the local authority effect repairs to these houses? Is it possible to repair them? Does the local authority intend to rehouse people, and if so when will something happen in this regard? Is it possible to have a timetable for this? The Minister of State will be aware from his visit to Limerick yesterday, which I welcome, that many of these people have been put into facilities for the homeless and others have gone to live with relatives. This situation cannot continue indefinitely. What is the position with regard to those who own their houses, particularly those who do not have insurance because they are specifically excluded from having flood insurance?

The Minister of State is aware the way of life of many people has been grievously disrupted by the events of the weekend. Some people have lost boilers and have no way of heating their houses and others have lost fridges or freezers and have no way of keeping food. Some have lost their cars. With regard to emergency provision for these people, how many social welfare officers have been allocated? What is the total amount of specific funding that has been allocated to deal with these issues? What is the timescale between application and payment? What is the Government’s intention on general compensation? The Minister of State is aware that when 20 houses were flooded 15 years ago we received general compensation of £500,000.

**Deputy Kieran O’Donnell:** The flooding in Limerick is unprecedented. I have visited the areas affected and the spirit shown by the people living there is nothing short of phenomenal. They rallied and worked with the services. Outside of Saint Mary’s Park and Lee Estate, areas such as Athlunkard Street, Corbally Road, the Mill Road in Corbally and areas in Thomondgate were badly affected. People should never have to go through this again. Will the Minister of State advise us on the defences and procedures to be put in place to ensure this never happens again?

I welcome the fact €15 million has been set aside, but this must operate in a very efficient manner. Ballynanty Health Centre has been established as the location for the community welfare office but services for those who cannot physically visit the centre must be ensured.

The issue of insurance has been raised. Many of those living in the affected areas do not

have insurance because they could not obtain it. How is this being considered in discussions with the insurance industry and in dealing with the loss of possession and homes, which Deputy O'Dea also raised?

Sean Hogan, the head of the National Directorate for Fire and Emergency Management, was in Limerick on Sunday and the Minister of State was there yesterday. The Government appreciates the overwhelming impact this has had on people's lives. Will the Minister of State ensure the €15 million of humanitarian aid is fast-tracked for people living in the areas? Will he also deal with the issues of insurance and the defences being put in place? This is a real-life story for people living in the areas. That is why I felt it important that the Minister, and Sean Hogan also, would visit the area to get an appreciation of what occurred. We now need to see timelines in terms of these measures being put in place for the people I represent in Limerick.

**An Ceann Comhairle:** I remind the House that the other two Deputies have a separate Topical Issue in regard to the insurance matter. They will be dealt with separately.

**Minister of State at the Department of Finance (Deputy Brian Hayes):** I thank both Deputies for raising this matter and I welcome the opportunity to address the House on the subject of the flooding in Limerick city. As the House will be aware, I visited Limerick city yesterday to see the situation for myself and to meet with people whose homes had been flooded, and it was heartbreaking to see the devastation that was caused. The Minister, Deputy Noonan, the Minister of State, Deputy O'Sullivan, and I, who were joined on that occasion by Deputy O'Donnell, assured the flood victims that support will be made available to them. I very much welcome the announcement earlier by the Taoiseach that an additional amount of €15 million in humanitarian aid is being made available by the Government to assist those affected. This will go some way towards dealing with the immediate financial needs of the people whose homes have been damaged.

I want to pay tribute to the tremendous efforts of the emergency response team, as both my colleagues have done, who put themselves in the front line in sometimes very dangerous conditions and whose dedication and skill helped to mitigate the very worst effects of the flooding event that occurred on Saturday morning. I would like to take this opportunity of thanking them personally for their work since this cycle of storms and flooding started. In addition, I would like to say that the community spirit, which came to the fore in Limerick city at the weekend, was heartening, with neighbours helping each other to deal with a situation that was very difficult. One of my abiding memories will be meeting a group of young men and women, a Civil Defence team, all under 18 years of age, who had been out over the weekend helping their fellow citizens. It was a fantastic sight to see the work of those young people.

The flooding levels reached in Limerick city at the weekend were the highest since the Office of Public Works, OPW, hydrometric section began recording data in the 1950s. Substantial flooding occurred at King's Island and at St. Mary's Park.

With the Minister and the Minister of State, Deputies Noonan and O'Sullivan, I visited the local coordination centre yesterday to assess the current situation and to offer appropriate help and assistance to the affected areas. It was agreed that works will commence straight away on the installation of a temporary barrier to adequately protect the island area from future flooding. I spoke this afternoon with the county manager and we have agreed that Limerick County Council will immediately begin putting in place this temporary measure, assisted and funded by the OPW. We want to see the work start immediately and both the manager and I agree that

it will be started as soon as possible, funded by and with assistance from the OPW.

It was agreed also that the regeneration project for this area will proceed and that a permanent solution for flood protection of the island will be incorporated into the overall regeneration of the island. Limerick City and County Council will take the lead role and will be advised and funded by the OPW in regard to the flood relief elements of the works.

Some works have already been carried out to enhance flood defences in Limerick city. They date back to recent years and I will not go into them at this stage as I do not want to waste time.

The House will be aware that the interim report of the severe weather group was presented to Government on 13 January, which provided a preliminary estimate of the financial impact of the storm. A second report comprising updated and more detailed costings from affected local authorities on the storm damage and recent floods is being prepared, and the Government will respond accordingly when it examines that report. The Deputies should be aware that we have asked all the local authorities to submit reports by today. A memorandum will go to Government next week, 11 February, and as we have information from Limerick, Limerick's situation will be included in terms of the longer-term structural cost to homes, which I will deal with in a moment.

Obviously, what is needed in Limerick city, as in other parts of the Shannon, is to proceed with the catchment flood risk assessment and management, CFRAM, programme and that plan is already under way. We have established the Shannon CFRAM study. Jacobs have been the consultants. They were appointed in January 2011.

Much has been done and much progress has been made in tackling flooding problems throughout the country. In the past ten years we have spent approximately €370 million but it is fair to say much more needs to be done. Can I have some indulgence, Sir, in answering the questions the Deputies asked because I think it only fair?

**An Ceann Comhairle:** The Minister can do that when he comes back in. The Minister's time has expired. If the Deputies wish to-----

**Deputy Willie O'Dea:** I have some brief questions for the Minister of State. First, is it the Government's intention to introduce legislation along the lines of what has been done in the United Kingdom to make it compulsory for insurance companies to insure against flooding for reasonable cost? Second, can the Minister give me an assurance that funds will not be diverted from the regeneration project in Limerick, and that this will be separate funding? Third, I welcome the provision of €15 million but does he consider it will be enough? In my opinion it will not be enough. Is it the Government's intention to increase provision if this is deemed to be insufficient? Fourth, has any application been made to the European Union for funding? My understanding from a contribution in the Seanad last week by the Minister of State, Deputy Costello, was that we would not be eligible under the EU funding scheme. The Taoiseach, on the other hand, stated today that he was examining the possibility of applying to the EU. Bizarrely, he mentioned the time the Rhine flooded. I am not too concerned about people living on the banks of the old River Rhine; I am concerned about people living on the banks of the Shannon, in Limerick. What is the position about applying to the EU for funding?

**Deputy Kieran O'Donnell:** There is an enormous sense of urgency in terms of Limerick because many people are out of their homes. Up to 300 homes are affected. The questions are simple. On an immediate issue, first, when does the Minister anticipate the Government will

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be in a position to do an overall assessment of the level of humanitarian aid that is needed in Limerick? Second, insurance is an enormously urgent issue in Limerick because as many of the people were living on a flood plain they do not have insurance, and we are talking about their homes. I ask the Minister to give us the timeframe in terms of when he will be in a position to provide conclusions and certainty to the people living in these areas in Limerick in respect of their homes.

**Deputy Brian Hayes:** On the question of EU funding, the Government is reviewing this issue. We have over 100 days before an application can be made from when the initial storm damage was done in the first week of January. Limerick can be included in that.

As to the potential of funding, no one knows until we see the full scale of the damage. We have an initial amount of €65 million for the western counties from the first week of January, but more information is coming to hand. We have an open view about that. If we can obtain funding from it, we certainly will do so.

The Deputy asked me about my views on the €15 million immediate humanitarian aid. This is an immediate fund that we are putting in place. If more needs to be done, more will be provided. It is important, as Deputy O'Donnell stated, that people would start applying for the funds and that they can be turned around very quickly. I am aware some already have done that. The Minister, Deputy Burton, who is responsible in this area, has set up a separate section dealing with this issue in the Ballynanty Health Centre area. I understand they are staying open late. Equally, they have people on the ground to make sure we can turn around those applications as soon as possible.

If we need a separate fund for Limerick because of the scale of the structural damage, that will only become known once the full assessment is in by the local authority. In fairness to the local authority, and the Deputy will appreciate this, it is dealing with this since the weekend. It is dealing with it on a day to day basis at the moment.

There are three categories. There are local authority homes, which are ultimately the responsibility of the landlord, in this case Limerick City Council, and it will have to make applications to us as to what it wants to do with those particular homes. There is no question that the regeneration funds will in some way be supplementing the funds for flood defences but we must have regeneration and flood defence schemes operating hand in hand. As I walked around St. Mary's Park yesterday I discovered that some of the houses were due for demolition anyway because of the regeneration project. We have got to work at that on the same basis.

I met people yesterday who had insurance, and obviously their assessors are in place. We want the insurance companies to pay up in that circumstance.

For people who have major structural problems with their home but who do not have insurance, I would have thought that will require capital funding from the State. It is too early to say whether that can be obtained in the original €15 million allocation but, ultimately, a great deal of damage has been done. Structural damage has been done. Tens of thousands of euro worth of damage has been done to each individual home and if someone does not have insurance, we will have to work out with them exactly what can be obtained in each case as a means of making that house habitable again for that family or individual. I have done my best to answer all the questions. This will be an issue in the coming weeks and I presume we will return to it.

**Deputy Kevin Humphreys:** Last Sunday was the 12th anniversary of the flooding of more

than 400 homes in Ringsend and Irishtown. The issue of flood insurance has been on the agenda for those 12 years. Hundreds of my constituents can see the Aviva stadium on the horizon when they leave their homes every morning but they cannot get flood insurance from Aviva or any other company. Geocoding has been a disaster for Dublin and across the country because people can no longer get insurance for their properties. Action is urgently needed. In March 2013, the Joint Committee on the Environment, Community and the Gaeltacht heard that more than 50,000 homes were no longer able to get flood insurance. I would estimate the current figure to be closer to 100,000 hard-pressed homeowners, who are being discriminated against by the insurance industry. I am concerned that a cartel is forming to the effect that local households and business owners who have been geozoned cannot get flood insurance. In my constituency, the OPW has spent €15 million on flood defences and it is due to spend a further €10 million on the stretch from Ballsbridge to Clonskeagh. Even when this work is finished, however, the residents in the area will not be able to get flood insurance. In the UK there is an agreement with insurance companies whereby in return for the UK State's investment in flood defences, companies will continue to offer cover to homes at risk. Every pound invested in flood defences in the UK saves the insurance industry £7. We are investing the money but we are not getting the return. The Minister of State suggested on "Prime Time" last night that the State may consider becoming insurer of last resort. I ask him to update the House on that suggestion.

**Deputy Ciarán Lynch:** I thank the Minister of State for coming to the House to take this issue. I ask him the status of the memorandum of understanding between the OPW and the insurance industry on ensuring that insurance is offered to households and businesses where flood remediation work has been carried out. This evening, people in Cork are bracing themselves for a flood that is expected to arrive at 8.30 p.m.

We have seen in Limerick that the trauma created for households and businesses is almost immeasurable. However, those businesses and households will face another trauma once they recover from the flooding because they will not be able to get insurance. They will have been geozoned, that is, the industry will have decided that it can no longer offer flood cover to their area. I do not suggest that areas of high risk should have normalised insurance but the current practice is that everybody is locked out from insurance cover once an area is geozoned. This has serious consequences for house values because the banks' engineers will not permit future purchasers to get mortgages on them. Businesses will be unable to trade into the future because they cannot get insurance on their stock.

When millions of euro are spent by the OPW and local authorities on remedial works, people should be able to change their geozoned status in order to get insurance. When is it expected that the memorandum of understanding will be put in place and what powers will it contain to ensure that insurance companies comply with it?

**Deputy Brian Hayes:** I thank the Deputies for raising this important issue, which Deputy Ciarán Lynch previously raised in committee last week. I am aware of the impact of flooding on businesses and households across the country. In regard to the issue of renewing existing flood cover, this is a commercial matter for insurance companies and must be based on a proper assessment of the risks they are accepting. These risks are often considered on a case-by-case basis and neither the Government nor the Central Bank has any influence in this regard. The Central Bank's consumer protection code does not include any provision to compel an insurance company to accept a particular insurance risk. Flood insurance is sometimes not economically viable for insurance companies and, in the interest of keeping premiums affordable for

policy holders in general, insurers decline new or renewed flood cover for certain risks. These are commercial decisions that insurers make in the circumstances they face.

The fact, however, that at least 2% of households cannot obtain flood insurance is a cause of concern for the Government. The OPW has actively engaged with the insurance industry for some time on this matter. In January 2013 a working group, comprising representatives from the OPW, Insurance Ireland and the main household insurance companies in the Irish market, was established to consider the matter. It is important that the group's specific purpose and the role of the OPW in relation to it are clearly understood. The OPW has no role or function in regard to the oversight or regulation of the insurance industry. The discussions between the OPW, Insurance Ireland and the companies concerned are focused solely on agreeing a basis on which information can be provided to the insurance industry on flood relief schemes completed or funded by the OPW, and the standard of protection offered by these schemes. The discussions have been complex and technical in nature because it is important that all elements are addressed in a way that provides a robust and reliable system of data exchange.

The working group has made good progress and agreement has been reached on a data sharing platform which will facilitate the transfer of detailed information on completed OPW flood relief schemes on an ongoing basis. This will allow the insurance industry to take account of the levels of capital investment in flood protection measures over several decades by the OPW when assessing flood risk in the relevant localities. The initial focus of the group's work is the provision of information on schemes which provide protection for one in 100 year flooding events. The OPW provided an initial batch of information to the insurance companies and the latter are currently integrating the information into their respective operating systems.

A memorandum of understanding to guide current and future interaction between the industry and the OPW in regard to communications regarding completed flood defence works effectively has been agreed. I expect to be in a position to make an announcement in this regard as soon as the outstanding technical difficulties are resolved by the insurance companies. While the agreement on the memorandum of understanding is to be welcomed, ultimately it is for the insurance companies themselves to decide how they will use the information provided on completed flood defence works. They have committed to take into account the information in their own risk assessments and it is hoped this will facilitate the provision of flood cover in all areas protected by completed schemes.

I assure the Deputies of my intention to progress the matter with the industry and remind them of the avenue that is available to those with difficulties, complaints or queries in regard to insurance cover through Insurance Ireland's free insurance information service. In addition, the Financial Services Ombudsman deals independently with unresolved complaints from consumers about their dealings with financial service providers.

**Deputy Kevin Humphreys:** I am very disappointed with the working group. It has been meeting since January 2013 but we still do not have a solution. I find the Minister of State's answer unsatisfactory. The 2% figure to which he referred was inaccurate when it was first estimated and it has become even more inaccurate since then. We are talking about 100,000 families.

This Government has to come up with solutions. In the United States, they have the national flood insurance program for areas such as Florida and Texas. In the United Kingdom, there is the statement of principles and memorandum of understanding involving a possible insurance

levy of £10 per policy. A model was presented to the Joint Committee on the Environment, Culture and the Gaeltacht by the National Flood Forum. There are solutions out there. We need to pick them and move on.

I have been at this since 2002. It has gone on far too long. The Minister of State may not have created the problem but it has landed on his desk. We need a solution. I thought there was some hope when the Minister of State stated on “Prime Time” last night that the State may have to be the insurer of last resort. These families want to have insurance. They want to pay for insurance. They cannot access it. The upshot of it is that the taxpayer still has to pick up the bill. If homes are damaged or undermined by flooding, we will have to put an emergency fund in place.

There are good precedents elsewhere as to how this could be dealt with. There are good ideas coming from the National Flood Forum. We have gone past the time for talk and moved on to the time for action.

**Deputy Ciarán Lynch:** We are talking about a process of accreditation that exists in other jurisdictions, with which insurance companies operating in Ireland, such as Zurich, and others in Germany comply. It would mean that when the Office of Public Works or local authorities carry out accredited engineering, remedial or flood-prevention works in those areas, the insurance company would be compelled to buy into it.

The difficulty in Ireland is that this is even bad for the insurance sector. Households and businesses where works have been carried out are low-risk enterprises for the insurance sector, yet the sector has locked itself out of them. In fact, this is a devouring process and it is a race to the bottom that is in no-one’s interest.

If we have a memorandum of understanding that does not have teeth, it will not have bite. I hope, and want the Minister of State to confirm, that we are not giving guidelines to the insurance sector because it has not adhered to guidelines to date. What they need is specific instruction, and if needs be, we then need to regulate. I am not saying that the insurance companies must be exposed to adverse risk. What I am saying is that in areas where the State has spent tens of millions of euro on rectifying works ensuring that these risks are removed and where the insurance company is still refusing to insure businesses and households, a process should be put in place where the insurance company must be brought to the table to give people insurance cover at an appropriate price.

**Deputy Brian Hayes:** I want to be clear about what I and my officials have been engaged in for the past year and a half. As I have stated repeatedly, we have been sitting down with the insurance sector to find an agreement: first, that where we do work, such as major capital schemes up and down the country, the insurance sector would understand that the standard of such work reaches a minimum threshold of a one-in-100-year event; second, that such data will be transferred to the insurance sector in such a way that it can understand that such work has been completed and it has confidence in the work that the OPW has stood over or that has been contracted by other authorities on behalf of the OPW; and third, that the insurance sector can communicate that to its members so that there is clarity about the standard of that work. It is a memorandum of understanding. It is a voluntary agreement between two parties: on behalf of the State, this party; and PLCs. Private entities in their own right, these insurance companies can come and go from the Irish insurance market as they choose and can decide to insure what they want. In the great majority of cases, as the Deputies will be aware, the insurance compa-

nies have the information ahead of the State. They have had the information for years. They know where the flood risks are and they know the local authorities that have been building on flood plains as well.

Agreement has been the objective of the exercise and I want to bring that to a conclusion. I am not standing in its way. I am not the person who is preventing this happening. It is a matter now for the insurance sector to agree and I appeal to it to agree. I appeal to them to accept that the memorandum is a sign of good faith on the part of the State to prove to them that the State has committed many millions of euro in funding on behalf of the Irish taxpayer - €390 million in the course of the past decade - for the purposes of flood defences. The objective of the exercise is that when we get to the end of this process they will at least accept that the work that has been done by the State reaches that standard. We cannot then compel them to insure people and I never said we could. Despite the misinterpretation by some, I never said that. What I want to do is have that agreement in place.

If others are talking about a State indemnification scheme for insurance, that is a wider issue that involves many in government, much more senior than I. I would suggest to my colleagues opposite, if they are arguing for that on this complex issue where the liability to the State is a multiple of billions of euro, which may well determine the amount of liability that the State can cover, that we need to have that debate. That is what I was referring to yesterday on “Prime Time”.

My objective is to get the memorandum through so that everyone agrees what we have done and the standard is there, which will at least provide some opportunity for people to get flood insurance cover. If, however, commentators are looking for some centralist or corporatist approach to this by way of a State indemnification scheme, they need to say how much that will cost, how much it will increase insurance premiums and the total potential liability, because if they are saying so, that is what it involves.

### **Long-Term Illness Scheme Coverage**

**Deputy Helen McEntee:** I thank the Minister of State at the Department of Health, Deputy White, for taking this Topical Issue.

The reason I raised the matter is that since I was elected last year it has continuously come to my door. I suppose it is an issue that has been raised on several different levels. I am not the first person to raise this topic, not by a long shot.

The Department of Health is under severe budgetary constraints and the Minister, Deputy Reilly, and the Minister of State, Deputy White, are doing an exceptional job with the funding available to them. Free GP care is on the cards for everybody in the coming years, and those under six years are the first recipients of this. It does not take away from the fact that parents of children with Down’s syndrome and autism are being discriminated against. Many of them do not know what they are entitled to and this is where the problem lies.

The medical card is means tested. One is not awarded a medical card on the basis of one’s medical condition; one is awarded it on the basis of whether one can pay for the care that is needed. With regard to the long-term illness card, this is not the case. There is no income requirement and it is not means-tested. It allows a person to get drugs, medicines and medi-

cal appliances directly related to the treatment of his or her illness. In order to qualify for the scheme, a person must be resident in Ireland, have a PPS number, and be suffering from one of the 17 illnesses or disabilities listed.

I welcome the recent addition of ADHD to the list. The recent investigation by the Ombudsman regarding the case of a child with ADHD found that a child with ADHD or autism was discriminated against on the basis of geography, which is a whole other area. The investigation of the office found that in some areas ADHD qualified as a mental illness and the child was included under the long-term illness scheme, whereas in other areas one did not qualify. There was a lot of uncertainty. Obviously, I welcome the fact that this has been addressed. However, the same problem is, perhaps, being replicated for those with Down's syndrome and autism. In most cases a child born with Down's syndrome will need some sort of medical attention for the rest of his or her life. These people grow up and live their lives with Down's syndrome.

A child born with autism has a severe disability that affects the normal development of the brain in areas of social interaction and communication. This, too, is a lifelong disability and there is no cure. Perhaps some day medical research might be able to do something about that, but for now these children and young adults should be entitled to some sort of long-term care scheme.

Perhaps the Minister of State could clarify that up to the age of 16, children with Down's syndrome or autism can avail of the long-term illness scheme on the basis of an intellectual disability. I am not sure whether this comes under mental illness or mental handicap. Perhaps he could clarify that. Under the mental illness category, a person is only covered up to the age of 16 years. However, a person with Down's syndrome or autism who is being cared for by his or her parents or other next of kin should not be taken off the long-term illness scheme at 16 years of age. Coverage should continue for longer as the process is inconsistent. Down Syndrome Ireland told me recently that most children did qualify, albeit in a roundabout manner. Many such families, however, have to go through an appeals process which can be draining, upsetting and unnecessary. There are approximately 3,500 people in Ireland with Down's syndrome, of whom two thirds are under 16 years. If the majority already qualify for long-term illness cards, there would not be much of a change in the provision of necessary additional funding. As families spend thousands of euro in getting their children assessed every year, this would be a way to repay and help them. Last year the Minister for Education and Skills, Deputy Ruairi Quinn, announced that his Department would review the manner in which resource hours were distributed. Could such a review also take place in the Department of Health?

**Minister of State at the Department of Health (Deputy Alex White):** I thank the Deputy for raising this issue. The long-term illness, LTI, scheme is a non-means-tested scheme which was introduced in 1971. It provides free medicines and medical and surgical appliances for people with specified conditions. The conditions covered by the scheme are: mental handicap, mental illness - under 16 years only, phenylketonuria, cystic fibrosis, spina bifida, hydrocephalus, diabetes mellitus, diabetes insipidus, haemophilia, cerebral palsy, epilepsy, conditions attributable to the use of thalidomide, multiple sclerosis, muscular dystrophies, Parkinsonism and acute leukaemia. Down's syndrome is classed as a qualifying condition under the mental handicap heading of the scheme. Persons diagnosed with Down's syndrome are supplied with an LTI scheme book and receive prescribed medication associated with the condition free of charge. However, autism is not a qualifying condition under the scheme.

Mental illness, under 16 years, is one of the illnesses covered under the long-term illness

scheme. Previously some HSE areas regarded attention deficit hyperactivity disorder or ADHD as a form of mental illness for the purposes of the scheme, while others did not. The Ombudsman examined the operation of the scheme with reference to ADHD on foot of a complaint and issued a report to the HSE in July 2013 with recommendations for implementation by the end of October that year. In particular, the Ombudsman recommended that a uniform policy be put in place on ADHD across the country. The HSE advised the Ombudsman on 15 August 2013 that it accepted the findings made in the report and the recommendations in principle. Subsequently, it issued appropriate national guidelines for the uniform administration of the scheme. Implementation of the guidelines will ensure all children with ADHD are treated equally when they apply for a long-term illness scheme book.

There are no plans to extend the list of conditions covered by the long-term illness scheme. People who cannot, without undue hardship, arrange for the provision of medical services for themselves and their dependants may be entitled to a medical card. In the assessment process the Health Service Executive can take into account medical costs incurred by an individual or a family. Those who are not eligible for a medical card may still be able to avail of a GP visit card which covers the cost of a general practice consultation. Non-medical card holders and people whose illness is not covered by the scheme, can use the drug payment scheme which protects against excessive medicine costs. Under this scheme, no individual or family pays more than €144 per calendar month towards the cost of approved prescribed medicines. The scheme significantly reduces the cost burden for families and individuals incurring ongoing expenditure on medicines. In addition, non-reimbursed medical expenses can be offset against tax.

The Government is embarking on a major reform programme for the health system, the aim of which is to deliver a single tier health service, supported by universal health insurance, where there is fair access to services based on need, not ability to pay. The programme for Government commits that everyone will have a choice of insurer. Under the universal health insurance scheme, everyone will be insured and have equal access to a standard package of primary and acute hospital services, including acute mental health services. A new national insurance fund will subsidise or pay insurance premiums for those who qualify for a subsidy. Intensive work is under way on the preparation of a White Paper on universal health insurance which will provide more detail on the UHI model for Ireland, including its overall design, the standard package or basket of services, funding mechanisms and the key stages of the journey to universal health insurance.

The Government is also committed to introducing, on a phased basis, a universal GP service without fees within its term of office, as set out in the programme for Government and the future health strategy framework. Work is under way on legislation in that regard to offer a contract to general practitioners for the provision of this service.

**Deputy Helen McEntee:** Down's syndrome is classified as a qualifying condition under the mental handicap heading of the LTI scheme. In most cases that happens, but having spoken to Down Syndrome Ireland and some families affected, there are cases where families have to go through an appeals process. This is a lot of hassle for them and puts stress and pressure on them. Perhaps, therefore, this issue might be re-examined. There are different points on the spectrum of autism the autism which affects one in every 100 people in this country. One can go through his or her daily life without being affected, but those at the severe end of the spectrum should be considered for inclusion in the LTI scheme.

**Deputy Alex White:** I have listened carefully to what the Deputy said and take her point

on Down's syndrome and the difficulties she noted in the application of the long-term illness scheme to persons classed as having Down's syndrome. I was not aware that there was a particular issue in that regard, but I am willing to examine the specific problem the Deputy has identified. As I indicated, Down's syndrome is classed as a qualifying condition under the mental handicap heading. "Mental handicap" is not a term we use nowadays, but it is taken from the 1971 scheme. We are reviewing the entire operation of the LTI scheme and the classification of different conditions may be one of the issues we ought to examine. The general operation and application of the scheme is under review and we can and will address some of the issues the Deputy has raised in the course of that review.

My general approach to the medical card scheme and the issue of access to GP care is that we should have a universal system. We should not devise new schemes based on illness or conditions, with all of the complexities that go with this. The Deputy has identified some of the difficulties, including how to define various conditions in terms of whether they fall into categories. What is the diagnostic basis and do people constantly have to undergo assessments? Is there an appeals process and do they really have a qualifying condition? None of these matters should apply in providing access to basic health services, particularly GP care. That is why the Government is committed, with the support of the vast majority of Members of this House, to having a universal system of access to GP services. In such a system we would get away from the notion of people having to demonstrate they have this or that condition under this or that category, as defined in 1971. The LTI scheme is a drugs scheme, but there should be universal access to GP care, which is what we are dedicated to achieving.

### **Educational Disadvantage**

**Deputy Jonathan O'Brien:** I raise the issue of funding for the Life Centre in Sunday's Well in Cork city. It is one of four such centres in Ireland. There is one in Belfast, two in Dublin and the one in the heart of the north side of Cork city. I am sure the Minister of State, Deputy Ciarán Cannon, is familiar with the centre's work. The Department of Education and Skills is certainly familiar with it and the Minister, Deputy Ruairí Quinn, has commented publicly on it, as well as on future funding models and the difficulties the centre is facing.

*6 o'clock*

To give some background information on the type of education provided by the centre, the director estimates the centre turns away two referrals on average a day. The centre is at saturation point and cannot take any more students. The centre has a staff of four full-time teachers and 70 volunteers, the majority of whom are qualified teachers who have been unable to find work. They have a passion for teaching and they are volunteering at the Cork Life Centre. The centre has 40 students, according to the latest figures, and just more than half, some 22, have been referred to the centre by various agencies such as the probation service, the HSE, and the national educational and welfare board. There are 25 full-time students, with the remaining 15 or 16 operating on a part-time basis. Some attend for only eight hours a week but the hours are used for educational advancement.

The difference between the Life Centre and mainstream settings can be summed up in the fact that all students attending the Life Centre have dropped out of mainstream education for varying reasons, some of which may be personal or social. Some students may have mental health issues. The Life Centre offers the opportunity to get back into education outside of main-

stream settings. All teaching is on a one-to-one basis. This is something one could never find in a mainstream setting because of resources. The volunteers at the Life Centre and the nature of the work they do means all students receive one-to-one support.

Last year, 15 students completed the junior certificate and, this year, the centre hopes to have three students complete the leaving certificate. The issue facing the Life Centre is the uncertainty of its funding. The main contributor of funds until now was the Christian Brothers, its trustees, but the level of funding offered to the Life Centre by the Christian Brothers has decreased year-on-year. Now, there is no guarantee of funding. Without this, the centre faces huge uncertainty. If the centre goes, many of the students who have dropped out of mainstream education for varying reasons will not have the opportunity of educational achievement in any other setting. That is why I ask the Minister to examine the possibility of the Department of Education and Skills and the Department of Justice and Equality jointly sitting down with the trustees, or at least the directors and the teaching staff, to see what remedies can be arrived at to enable the centre to reopen in September. That does not look like it will be the case at present.

**Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):** I thank the Deputy for raising this issue. My Department currently provides resources for the Life Centre in Dublin and in Cork. In the past academic year, my Department allocated a total of 2,768 teaching hours to the centres under the co-operation hours scheme operated by the local education and training boards, ETBs. In addition, €114,000 is provided annually to the two centres to help meet the day to day running costs. Almost 1,000 co-operation hours and €47,500 in funding are provided to the Cork Life Centre, which was established by the Christian Brothers in 1996 with the assistance of the Holy Faith Sisters. The centre caters for approximately ten young people between the ages of 12 and 16 years who are out of the mainstream school system. The centre provides a model of high-support educational provision incorporating intensive personal, social and educational support. With the hours allocated, tutors are employed by the Cork Education and Training Board to work in the centre and to deliver tuition in civic, social and political education, reading, literacy, arts and crafts, woodwork and home economics. The annual grant of €47,500 is used to meet day to day running costs of the centre. The centre prepares young people for the junior certificate and other education and training pathways.

In addition to the funding provided to the Cork Life Centre, my Department also funds a range of national programmes catering for early school leavers, such as Youthreach, community training centres and youth encounter projects that are represented in Cork. In Cork city, SOLAS funds 100 Youthreach places in four centres through the Cork Education and Training Board. The Youthreach programme provides two years integrated education, training and work experience for unemployed early school leavers with less than upper second level education who are between 15 and 20 years of age. Also, as part of the Youthreach programme, funding is provided for the Cork City learning support service, which caters for up to 70 young early school leavers aged 12 to 18 years of age. The service provides the junior certificate and some FETAC programmes for learners.

Through SOLAS, my Department provides 155 places in three community training centres which address the training and employment needs of early school leavers, primarily aged between 16 and 21 years. The Matt Talbot adolescent service in Cork provides residential drug and alcohol treatment for 14 to 18 year old boys. It provides educational courses at junior and leaving certificate level, ECDL and FETAC levels 3 and 4. My Department provides €190,000 through Cork Education and Training Board towards the cost of instruction staff at the centre.

My Department also funds the St. Kevin's youth encounter project in Cork, which can accommodate up to 25 children aged 11 to 15 years of age. Children are referred to the school by a number of agencies, including the court system, and mostly come from socially disadvantaged backgrounds, with a multiplicity of problems and issues. The major budgetary pressures within my Department place significant constraints on its capacity to support existing programmes and, consequently, given the significant range of educational disadvantage interventions already supported by my Department, requests for increased funding for the Cork Life Centre simply cannot be considered. Officials of my Department have met on a number of occasions with representatives of the life centres to discuss how the children and young people who avail of the out of school provision provided in the centres might best be supported in the future.

**Deputy Jonathan O'Brien:** I acknowledge the partial funding to the centre from the Department of Education and Skills. The education and training board has been very supportive of the centre and has allocated teaching hours. The Minister of State knows the value of the work done in the centre. It is not just about aiming to pass the leaving certificate or junior certificate; the centre works on socialisation skills as the students who attend the centres come from some of the most disadvantaged backgrounds and have various skills deficits in terms of literacy and numeracy. The majority have dropped out of mainstream education and the centres provide an alternative, hope and opportunity for students between 12 and 18 years of age to get back into education and achieve an academic examination result, such as the junior certificate or the leaving certificate.

The response of the Minister of State was that under current budgetary pressures of the Department no further funding will be made available and that he has met representatives of the Life Centre to see the remedies that can come to pass with the people operating the centre and, more importantly, the students attending it. They are in the middle of studying for the junior certificate or leaving certificate. What remedies can be put in place? I do not know what the remedies will be or what the nature of the discussions can be, but we both know that the other centres doing the same type of work are at saturation point. If the Life Centre closes, it is not simply a case of transferring those 40 students into other centres, such as St. Kevin's, because they are all at saturation point and cannot take any more students. The stark reality is that the centre either closes, with fewer opportunities for a smaller number of people, or somehow funding is made available or an initiative is put in place by the Department, in conjunction with the Department of Justice and Equality, to come up with a remedy to keep the centre open.

**Deputy Ciarán Cannon:** I fully appreciate the points being made by the Deputy. There seems to be some discrepancy between the numbers given by the Deputy, which are described by the Deputy as being close to 40, and our information, which is that they are closer to ten. Perhaps we might try to establish the figure concerned. The issue has primarily arisen from the withdrawal of direct funding of the centre by the Christian Brothers. At this time there is unfortunately no scope to meet any requests for additional funds beyond the level of what is currently allocated. In the current economic climate, my focus and that of my Department must be on maintaining existing funding to all of our provision in Cork for the education of disadvantaged people to the greatest extent possible. Educational disadvantage remains a priority for the Government and we will endeavour to protect and enhance the educational experience of children, young people and students in disadvantaged areas.

I thank the Deputy for raising the issue of the centre. I assure the Deputy that my Department will endeavour to keep him informed of any developments relating to future funding of the centre, and I hope we will not arrive at a position in which the young people find there is no

provision available. We will endeavour to ensure that does not happen.

### **Protected Disclosures Bill 2013 [Seanad]: Second Stage**

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I move: “That the Bill be now read a Second Time.”

The Bill I am introducing here today, which completed its passage through Seanad Éireann on 20 November 2013, fulfils a commitment in the programme for Government to introduce whistleblower legislation and the several commitments I have made to introduce a single overarching framework for protection of workers in all sectors. As I have been anxious to ensure that the Bill stands shoulder to shoulder with the best in class and that the protections available to a whistleblower in Ireland meet with best international practice, the formulation of these proposals involved a wide process of consultation, as Deputies opposite are well aware. I have also closely monitored the recommendations made by the many international bodies and academics working in this area. I am pleased to say, therefore, that in addition to meeting and in some cases improving the frameworks for the protection of whistleblowers set out by many authoritative bodies, such as the G20, the Council of Europe, the OECD, Transparency International and Public Concern at Work, much of the good advice I received from those consultations, and especially from the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, has found its way into the Bill. I thank the Deputies opposite for their input in that regard.

I have said elsewhere that legislative protections for whistleblowers must be seen as more than mere reactive responses to employers who wish to suppress information on darker deeds. I see the introduction of such protections as a catalyst for a change that involves viewing openness and transparency as an asset rather than a liability and a move towards a culture that values the contribution of employees and citizens and recognises those contributions as positive, effective tools in working towards the achievement of the common good rather than as something to be limited or destroyed. Good governance clearly demands that persons in positions of power and management be open, responsible and accountable for their actions. Good employers have nothing to fear from their employees reporting things that are going wrong. The ideal, therefore, is to encourage employers to adopt a culture that readily accepts reports of wrongdoing from its workers. Any responsible employer should be happy to accept such reports so that corrective action can be taken sooner rather than later.

The Protected Disclosures Bill addresses a significant gap in Ireland’s anti-corruption framework. That gap was highlighted in particular in the final report of the Mahon tribunal, which recommended the introduction of pan-sectoral whistleblower protection legislation. The Bill also addresses the significant issue highlighted in the Nyberg report on Ireland’s banking crisis that those expressing contrarian views risked sanctions and potential loss of employment. I can do no better here than to refer to the observation made by the Oireachtas joint committee in response to a comment made to it in the course of its consultations when considering the draft heads of the Bill that the introduction of legislation such as this could damage Ireland’s international reputation. The emphatically made observation was that Ireland’s international reputation could be damaged by not having such legislation.

The Bill introduces a framework which seeks to regulate whistleblowing not only in the best interests of the whistleblower and employer but also in the public interest. It substantially replaces the existing patchwork of sectoral protections and provides a single overarching framework of protection for whistleblowers in a uniform manner in all sectors of the economy. Whereas some special rules for disclosures relating to law enforcement are included, it is important to note that no class of information is excluded from disclosure. A key feature of the Bill is the fact that protection will be afforded for a disclosure which is made on the basis of a reasonable belief, even if the information disclosed ultimately proves to be incorrect. If we are to encourage disclosures, workers must have the right to be wrong and not to be penalised simply for being wrong. Equally, of course, we should not be in the business of encouraging false reports and no protection is provided for such reports.

The definition of “worker” in the Bill covers as many persons interacting with the workplace as possible, and this includes members of An Garda Síochána, who, in common with every other worker in the State, may report instances of wrongdoing. I make special mention of An Garda Síochána because of the issues that have come into the public domain in recent times. It must of course be recognised that having regard to the nature of the matters with which they deal, members of An Garda Síochána operate under very specific sets of rules and procedures particular to them. Notwithstanding this, it remains my desire that members ought to have the capacity to report wrongdoing in the force, if not in exactly the same fashion, at least on an equivalent basis to every other worker in employment in the State.

With this in mind, section 19 of this Bill seeks to update the position on whistleblowing in An Garda Síochána. The provision amends the Garda Síochána Act 2005 so as to require the Minister for Justice and Equality to make new regulations for the making of protected disclosures, within the meaning of this legislation, by members of An Garda Síochána. The new regulations will be made by the Minister following consultation with the Garda Commissioner, the Ombudsman Commission and the inspectorate, and with the approval of the Government.

The new regulations must comply with the thrust of the proposal I am introducing today; that is to say, they must contain provisions for internal and external reporting and distinguish the disclosure rules relating to non-sensitive and sensitive information of the type envisaged in sections 17 and 18 of the Bill. Whereas the matters referred to in sections 17 and 18 - law enforcement, security, defence, international relations and security intelligence matters - are matters of specific concern to An Garda Síochána, it would seem unsustainable to suggest that each and every matter dealt with by An Garda Síochána falls into these particularly sensitive categories and that the regulations must therefore contain separate disclosure rules for matters which do not fall into such sensitive categories.

In addition to such distinctions, the regulations must, in line with the provisions of this Bill, not only provide procedures for the securing of redress following the threat of or actual penalisation but also must similarly provide for the securing of the anonymity of the discloser, an issue of the utmost importance if persons wishing to report wrongdoing are to be encouraged to come forward. I am satisfied that the provision contained in section 19 of this Bill, which has been agreed with the Department of Justice and Equality and the Government, will provide a regulation which not only addresses the particular needs of An Garda Síochána but which will also closely mirror the nature of the protections available to all other workers in the State and not disadvantage any member of An Garda Síochána in terms of the disclosure options available to any other worker.

The stepped disclosure regime in the Bill sets out the specific circumstances under which a disclosure may be made in order to attract the protections envisaged in the Bill. Distinct disclosure channels are available, namely, internal disclosure to an employer, external disclosure to a prescribed person or, subject to certain stringent conditions, disclosure into the public domain where the circumstances are such that this would be warranted. On this basis, it is anticipated, and international experience would show, that the simplest form of disclosure - to an employer - will be availed of most frequently. The threshold for a report to an employer is set at a low level so that, most important, a worker can make such a report on a no-fault basis. There is a clear public interest in the making of such reports so that any real or possible wrongdoing can be addressed at the earliest possible stage.

The protections in the Bill fall into two broad categories, namely, protection for employees from penalisation by employers, and protection from detriment suffered as a consequence of the actions of others. In the case of penalisation by an employer falling short of dismissal, an employee will have access to the normal industrial relations machinery. In the case of a dismissal, the matter may be pursued under the Unfair Dismissals Act, regardless of length of service or other exemptions set out in that Act.

If it is in the public interest that workers be encouraged to disclose wrongdoing in the workplace – I am firmly of the view that it is – it would be perversely contrary to the public interest if a worker who has acted in the public interest were denied the right to financial relief simply because of delays in the adjudication system. In this regard, there is a provision in the Bill, arising as a consequence of an amendment suggested to me in the Seanad, for the making of an application by a worker to the Circuit Court for an order of interim relief pending the outcome of a full unfair dismissal hearing. This was discussed at some length in the other House and I was convinced by the arguments put that we could not wait for a long hearing if somebody was penalised. He or she should have redress to support and compensation immediately. It is worth noting that the usual ceiling on compensation levels set out in the Unfair Dismissals Act – two years' remuneration – is increased to five years in the case of a dismissal in respect of the making of a protected disclosure.

Where a worker suffers detriment as a consequence of the actions of any person other than the person with whom he or she has an employment relationship, there will be capacity to take an action for damages in tort. All workers who make protected disclosures will be provided with a defence against any criminal proceedings in addition to wide immunity from civil liability and qualified privilege against an action for defamation should such an action arise.

The issue of a worker having to seek recourse to the protections contained in this Bill should represent the exception rather than the rule, and most disclosures - or, I hope, the vast majority - should be investigated and resolved at the level of the employer. With this in mind, the Labour Relations Commission, at my request, has already commenced work on the preparation of a statutory code of practice that will set out practically how a disclosure might be made and how an employer ought to handle such a disclosure upon its receipt. Both IBEC and ICTU are engaging with this process, which will continue apace. Both have agreed to disseminate the new code of practice to their members once the legislation is enacted.

In approving this Bill, Members of the Seanad acknowledged that the Protected Disclosures Bill represents a significant step forward in the framework of existing protections for workers. The Bill not only reflects best international practice but is a fair, balanced and proportionate approach that will ensure that Ireland's international reputation in preventing corruption is sig-

nificantly enhanced.

I would like to turn to the specifics of the Bill and give a brief outline of its main provisions. Section 1 sets out the Short Title. Section 2 provides for a review of the legislation after a period of five years and the presentation of a report after such review to the Oireachtas. We had some debate about the timeframe in the other House. There was an understanding that we need to have many concrete examples on the books before carrying out a comprehensive review that would result in a report and debate. Section 3 sets out the interpretations and definitions used in the Bill. Section 4 is a standard provision providing for expenses incurred by the Minister.

With regard to Part 2, section 5 provides that a protected disclosure is a disclosure of “relevant information”. Information is relevant information if in the reasonable belief of the worker it shows or tends to show one or more of the relevant wrongdoings. A broad range of relevant wrongdoings is set out. Section 6 provides for the first step in the stepped disclosures regime, namely, a disclosure to an employer or to another person where the matter falls within the area of responsibility of that person. A disclosure to an employer requires a reasonable belief on the part of the worker that it shows or tends to show one or more of the relevant wrongdoings.

Section 7 provides for the second step in the stepped disclosures regime - that is, an external disclosure to a person prescribed by the Minister. In the case of a disclosure under this section, a worker must have a reasonable belief in the “substantial truth” of the matters disclosed. This is a step up from the simpler reasonable belief requirement in the case of a disclosure to an employer. Section 8 provides that a disclosure by an employee of a public body may be made to the appropriate Minister with responsibility for that public body. Section 9 provides that a disclosure made in the course of obtaining legal advice from a barrister, solicitor or trade union official shall be protected. This is the norm.

Section 10 provides for the third step in the stepped disclosures regime - that is, an external disclosure to another, possibly to a member of the media. If the protections are to be attracted in regard to such a wider form of external disclosure, even stronger qualifying criteria must be met. In addition to the substantial truth requirement, the disclosure must not have been made for personal gain, and at least one of a number of other conditions must be met. These are that the worker must reasonably believe he would be victimised; that the evidence is likely to be concealed or destroyed; or that the wrongdoing is of an exceptionally serious nature.

With regard to Part 3, section 11 amends the Unfair Dismissals Act 1997 so that its protections will, on a day-one basis, be available to employees dismissed for having made a protected disclosure. The compensation payable is increased to five years from two years. This section also includes a provision for the making of an application to the Circuit Court for an interim relief order pending the determination of a claim for unfair dismissal. Section 12 prohibits an employer from penalising or threatening penalisation against an employee or from causing or permitting any other person to penalise or threaten penalisation against an employee for having made a protected disclosure. Section 13 provides a right of action if a third party causes detriment to either the worker or another person because a protected disclosure was made. The term “detriment” is widely defined.

Section 14 provides immunity against civil proceedings. It amends the Defamation Act 2009 with a view to ensuring that a statement made under a protected disclosure will have qualified privilege under that Act. Section 15 provides a defence to criminal prosecution for an offence related to disclosure of information. This section is necessary to overcome the many

provisions relating to nondisclosure included in other legislation. Section 16 imposes a duty on persons handling protected disclosures to protect the identity of the discloser. The necessary and pragmatic exceptions to that duty are also set out. Obviously, it has to be caused to be investigated, for example. A person who suffers loss as a result of a failure to maintain confidentiality of identity may pursue an action for damages.

Let me turn to Part 4. Section 17 sets out a number of further conditions that must be satisfied in addition to those in section 10 for an external disclosure of information relating to law enforcement matters. An external disclosure of such information can be made only to a member of Dáil Éireann or Seanad Éireann or, if it contains taxpayer information, the Comptroller and Auditor General. Section 18 sets out the conditions that apply in the case of an external disclosure of information that could adversely affect the State's security, defence or international relations. The only external person to whom a disclosure of such information may be made is the disclosures recipient, whose role and function are described in schedule 2 of the Bill.

Section 19 provides for the making of regulations covering protected disclosures by members of An Garda Síochána and for the securing of redress where a member has been penalised or threatened with penalisation for having made a protected disclosure. While these regulations will be specific to An Garda Síochána, the protections available to members of the force will, I am assured, reflect the broad thrust of those available to other workers.

Section 20 provides for an amendment to the Ombudsman (Defence Forces) Act of 2004, allowing the Defence Forces Ombudsman to receive and investigate protected disclosures from members of the Defence Forces. Section 21 requires every public body to establish and maintain internal procedures for dealing with protected disclosures while section 22 prohibits the contracting out of the protections provided under the Bill and is designed to prevent employers from preventing workers, by way of gagging clauses, from seeking the protections of this legislation.

Schedule 1 of the Bill sets out the detailed processes and procedures for the making of an application to the Circuit Court for an interim relief order. Schedule 2 sets out the redress provisions in respect of the penalisation - falling short of a dismissal - and reflects the existing standard provisions of the industrial relations dispute mechanisms. Schedule 3 establishes the office and functions of the disclosures recipient. Schedule 4 sets out the amendments to a total of 16 sectoral Acts and one statutory instrument containing whistleblowing-type provisions. They are all being encompassed under one, overarching provision as I promised.

I have dealt with the provisions of the Protected Disclosures Bill in summary form here but am more than happy to expand on any of its provisions during this debate and later at committee. Deputies will also have the opportunity during Committee Stage to examine the Bill in detail. Although it is a short Bill, certain elements are complex and difficult. The Opposition spokespersons have grappled with this when the heads of the Bill were discussed at committee level. I look forward to hearing the contributions of the Deputies opposite and hope the House will support the passage of this Bill and assist me in securing its early enactment so that we can provide the protections of this Bill to workers in every workplace in the State. I commend the Bill to the House.

**Deputy Sean Fleming:** I welcome the opportunity to speak on the Protected Disclosures Bill, which most people will generally refer to as the whistleblowers bill. We welcome the legislation, which is good and important. It is part of the changing society in which we live. Years

ago many people would not have been happy with legislation such as this but now people are more open and up-front in their dealings with others. There is much more coverage of events today and people are quite happy to see greater levels of disclosure. That is why this legislation is so necessary.

My party will be supporting this Bill. As the Minister said, we have had a significant amount of discussion on it at committee level during the pre-legislative stage. Various people made contributions to those discussions. The Bill has already been before the Seanad, where there was quite an amount of discussion on it. Notwithstanding all of that, a number of amendments will need to be considered because the legislation can be improved and clarified in some respects. We will deal with those amendments as we discuss the legislation on Committee and Report Stages.

Given its topicality, I wish to deal with the recent public debate about the whistleblower from the Garda Síochána who appeared before the Committee of Public Accounts. It is very germane to the legislation being discussed now. I was conscious last week, as a member of the Committee of Public Accounts, of this issue and wondered how what was happening in practice would gel with the legislation before us now. I am pleased that the Minister specifically dealt with that issue. I might have a slightly different take on it but I am very pleased that the Minister devoted a page of his script to that issue, which is very important.

The whistleblower who appeared before the Committee of Public Accounts was dealing with the issue of a loss of income to the State, which is very much within the remit of the committee. I understand that a lot of people who commented and reported on it were, perhaps, too busy to check out the source of the issue to begin with. Some of them - members of the media and politicians - were happy to jump on a bandwagon, mainly within the confines of this building and argue that the committee was straying beyond its remit. However, once they got away from the bubble that surrounds Leinster House, they discovered that the public was absolutely delighted that our national Parliament was holding people to account, dealing with the issues, getting answers and making progress. I hope the Committee of Public Accounts will produce a report on its hearings in the very near future because I would not like that report to be delayed for too long. The public of Ireland felt that the Parliament was actually relevant. That did not happen through the Chamber but through the committee system and the people of Ireland were happy that it happened. Members of the committee have heard that from people they meet on a daily basis.

The Committee of Public Accounts has a very specific remit, namely to deal with matters contained in the reports of the Comptroller and Auditor General who wrote a specific chapter on the cancellation of fixed penalty notices as a result of driving incidents. The chapter itself, chapter 7, was quite short but on page 1 of his report, the Comptroller and Auditor General went out of his way to point out that a current serving member of the Garda Síochána called to his office last year and was interviewed for hours. On foot of that interview, the Comptroller and Auditor General, during the course of the audit, proceeded to investigate the points made by the whistleblower. The Comptroller and Auditor General did not reprint, reproduce or take what the whistleblower had said as fact but conducted his own inquiry, having been alerted to an issue and lo and behold, he found that everything the whistleblower had said stood up. In fact, in some cases, the situation was even more serious than the whistleblower had suggested and the Comptroller and Auditor General produced a chapter on that. At around the same time, the whistleblower wrote to the Joint Committee on Justice, Equality and Defence, at the suggestion of the then Minister for Justice and Equality. He also wrote a similar letter to the Committee of

Public Accounts. In fact, the two letters were identical, save for an additional sentence in the letter to the Committee of Public Accounts referring to the fact that the issue referred specifically to a loss of income to the State and should be examined by the committee in that context. It is a standard procedure in this House that no two committees examine the same issue in parallel so the Joint Committee on Justice, Equality and Defence handed it over to the Committee of Public Accounts based on the fact that the issue was dealt with in the Comptroller and Auditor General's report and was related to a loss of income to the State. The whistleblower has suggested that the loss of income could amount to €5 million per annum. The Comptroller and Auditor General does not put a figure on it but that is the type of money we are talking about; he did not check every last one of the cancellations.

Up to 2012, there were 700 cases of notices being cancelled on the basis of "medical emergencies". When the Comptroller and Auditor General produced his report and the hullabaloo started, the Commissioner instructed his people not to cancel fixed penalty notices unless the reasons were verified and genuine and, lo and behold, in the last three months of last year no cancellations were issued. That proves that what was happening was wrong. When the Commissioner got an independent report and not one by written by one of his own staff, it was proven to him externally that an issue existed and he did take action, which resulted in savings to the State. I suggest that the whistleblower has probably ensured the State is €1.5 million better off as a result of his whistleblowing. However, I do not think it was ever admitted by the Garda Síochána that the whistleblower had a valid case. In fact, the Commissioner was disparaging when he said - I paraphrase - that he found the process of what the whistleblower was doing disgusting. It was unfortunate of him to use such a phrase. He kept referring to "my force" and to one of his subordinates doing such a thing. It would lead one to conclude that there would be formal or informal consequences for the individual whistleblower. I hope the purpose of the legislation is to ensure that does not happen.

I hope the spirit of the legislation to which the Minister referred is carried through by the Garda Síochána. Sections 18 and 19 deal with the matter. The inspiration for it comes from the Garda Síochána, which always seems to be a special case. We accept that there must be protection for the State when matters could adversely affect the security of the State, the defence of the State or international relations of the State. I take issue with the latter point because "international relations" covers embassies, consulates and diplomatic missions. Such information could include reasons for taking a decision to close an embassy or to reopen one. The Government should not be given protection in the making of such political or administrative decisions just because they have an impact on relations with other states. In the normal course of a country's business, unless it is a serious issue affecting security or defence, a shield should not be provided for normal functions of the Department of Foreign Affairs and Trade in terms of embassies. Members will understand to what I refer in that regard.

I welcome the provision in section 19 that the Minister will require an amendment to the Garda Síochána Act 2005 to take account of the new legislation. I propose that such an amendment be made by the Minister for Public Expenditure and Reform, Deputy Howlin. That is a compliment to the Minister. I would have more confidence in him in bringing forward the amendment than in the line Minister with responsibility for the Garda Síochána, the Minister for Justice and Equality, Deputy Shatter. The Bill cuts across Departments and the Minister, Deputy Howlin, would get agreement from the Government, including the line Minister.

The legislation will impact on dozens of other pieces of legislation. I will not list them all, but more than 40 items of legislation will be affected. I suggest that the Minister, Deputy How-

lin, amend the legislation in consultation with the Minister for Justice and Equality and that it be done as part of the Bill and not as a separate Bill. That would give the public confidence that the Garda is subject to the legislation under discussion and not that there will be further legislation somewhere along the line when the Commissioner and the Minister have consulted with each other and they feel it is the right thing to do at the time. I urge the Minister, Deputy Howlin, to deal with the amendment because what is proposed in section 19 goes to the heart of what has happened in recent weeks and months.

There has been much debate about the Garda Síochána and whistleblowers in the Chamber in the past year, not just at the Committee of Public Accounts. Several Members have raised the issue. I would be happy if we could deal with the entire issue in this Bill rather than waiting for the Department of Justice and Equality to introduce separate legislation. The Bill outlines that the Minister for Justice and Equality, after consultation with the Garda Commissioner, the Garda Ombudsman Commission, the Garda Inspectorate and the Government, will make regulations on protected disclosure under the proposed legislation for the Department of Justice and Equality. The provision must be amended in order that representatives of the Garda Representative Association, the Association of Garda Sergeants and Inspectors, and other such bodies - for example, a consumer group to represent the public interest - can be consulted as part of the process. Once again, the Commissioner and the Minister are to make the decision and approve the regulations.

**Deputy Brendan Howlin:** The Garda Ombudsman Commission and the Garda Inspectorate are also involved.

**Deputy Sean Fleming:** Yes, absolutely, but as the public would see it, they are all very much within the system. The Garda force involves 13,000 gardaí. I urge the Minister to allow them some representative voice in drawing up the regulations. I have suggested bodies with whom I have not consulted but I was immediately struck by the omission. I am sure the Department of Justice and Equality deliberately intended that they would not be included. The legislation would be better if serving gardaí were happy with what was put forward in the regulations. We are back to a hardy annual that has arisen with every item of legislation we have had to date. We would like to see a draft of the regulations published before the legislation is passed because we will be asked to pass it without sight of the regulations for the Garda Síochána. The issue arose before Christmas in terms of the public service sick pay scheme. We were asked to pass legislation which the Government forced through the House without the regulations, which were dependent on a Labour Court judgment. The Minister is following the same approach. He wants us to pass the legislation without sight of the regulations that will flow from the legislation. I do not think the Minister has anything to hide. He is being good on this issue. He should go the whole way and prepare a draft of the regulations and engage in a consultation process before we get to Committee Stage. It could be the case that the changes do not need to be made by regulation but could be done legislatively, but given the probable level of detail it might be done by regulation. If regulations are required they should be published and laid before the Oireachtas immediately on the passing of the Bill rather than waiting for an unspecified time period for that to happen. I agree with the spirit of what the Minister is trying to do but I do not think he has gone far enough.

As to the purpose of the Bill, everyone remembers the recent case of Louise Bayliss, who temporarily lost her job after she spoke out about the conditions for female psychiatric patients in St. Brendan's Hospital, Grangegorman, Dublin. The case highlighted the need for legislation. People in the health service realised the injustice that was being done in that regard. The

legislation should be seen in the context of important public information being made available not through the mechanism being provided but also through the freedom of information process. Recently, the Minister was forced to extend freedom of information provisions to Irish Water, having previously said he would not do so. Tomorrow I will introduce a Private Members' Bill, which I hope the Minister will accept, to bring EirGrid under the remit of freedom of information legislation. I hope the Minister will allow it to proceed to be debated during one of the Friday sessions. I would ask anyone who would suggest that EirGrid should not come under the remit of freedom of information legislation what planet he or she is on. I hope the Bill will get unanimous support in the House tomorrow.

The Bill does not contain any provision for oversight by any State body, which is an omission in itself. Every public and private body will be subject to protected disclosures being made, yet no mechanism is provided to assess how the process is working after one year or two years, whether it is operating in a consistent manner or if reasonable practices are being established. There is a need for an existing body – not a new organisation, as the Government seems to want to introduce every time a new process is established – such as the Standards in Public Office Commission or the Ombudsman to have the responsibility of monitoring the implementation of the legislation to ensure it is being done in a consistent manner across all relevant bodies.

It is not just in the interests of the country's good reputation that we have such legislation but also in the interests of private companies and businesses, because many things could happen in such organisations of which senior managers, shareholders and directors are unaware. It is maintained that one in four cases of fraud and corruption worldwide is exposed by whistleblowers. In 2010, the Director of Public Prosecutions, James Hamilton, in a rare media appearance, suggested the lack of legal protection for whistleblowers meant fewer witnesses in court. In turn, fewer witnesses meant fewer convictions and fewer convictions meant more white-collar crimes. The Central Bank Governor, Patrick Honohan, made a similar appeal. The absence of a robust whistleblower charter has left courageous people who highlight wrongdoing exposed.

Recently, a journalist argued that whistleblowers should get a reward if they uncover wrongdoing in an organisation. I am concerned such a move could lead to a rash of such reporting if people felt there were a reward. It could also lead to a practice similar to that of planning applications in which people withdraw their objections if they receive a small payment. We need to delve into this matter more. It does happen in the corporate and finance sector in the US, where it has not caused problems. When the system is more embedded here, we should examine its introduction. There was the recent disclosure of large-scale rigging of the London inter-bank offered rate, LIBOR, by a whistleblower.

We are all familiar with the case of Eugene McErlean, an AIB internal auditor, who reported issues at the bank but was removed from his position there. This legislation provides for compensation of up to five times one's annual salary in such cases. Some of the employers' bodies have suggested that this could be too severe for small organisations and that we should instead go along with just twice the salary as contained in the unfair dismissal provisions. I do not go along with that because twice a salary is nothing to a large bank or financial institution. In fact, it would pay five times the whistleblower's salary to get rid of the nuisance. In the cases of financial institutions and whistleblowing, the Financial Regulator needs to conduct an investigation and, if it is found to have committed a wrongdoing, fine the institution too.

The biggest whistleblower case is that of Edward Snowden, who has had to criss-cross the globe to avoid American arrest. Many countries are afraid to take him in because there might

be consequences from the USA. From the Snowden affair, we learned that the USA had bugged the phones of many Heads of State. I do not know if the US authorities thought the Irish Head of State was important enough to waste their time bugging his phone, but I have no doubt it was recorded sometime.

Legislation on whistleblowing may apply to many companies already operating in Ireland. For example, all companies listed on US stock exchanges are subject to US law stipulating that internal procedures be in place to facilitate protected disclosures of a financial nature. The intention of these laws is to protect shareholders rather than the public interest, however.

There was an extensive debate on this legislation at the committee on 18 April 2012. At it, we all agreed that whistleblowers need to be protected. This legislation is intended to provide immunity against civil liability for the whistleblower. Importantly, there is a stepped disclosure regime through which a worker can make a protected disclosure. This legislation will highlight the responsibility of employers to put mechanisms in place to investigate whistleblowing complaints and develop an organisational culture which supports whistleblowing. That is in the interests of every organisation. There needs to be a system in place that will encourage the reporting of wrongdoing down the line to the rarefied atmosphere of headquarter offices.

Some of the employers' groups are concerned about the definition of a worker because it covers subcontractors, direct contractors and people on work experience. This is a broad definition. Practically everyone employed in any of the large State building projects will be a subcontractor, for example. I support the Minister's approach on including subcontractors in the legislation. Some large companies may be uncomfortable with this, but tough on them because there is a larger interest at stake. It is in their interests that they know what is happening on their sites.

The issue of wrongdoing is very well defined in the Bill. The whistleblower does not have to prove the allegation but must have a reasonable belief that it is substantially true. Complaints cannot be vexatious or avenging. One of the more interesting discussions at the committee concerned whether the option of good faith has to be included.

**Deputy Brendan Howlin:** I took it out because of the UK experience in that regard.

**Deputy Sean Fleming:** I support the Minister on that choice. Section 5(7) states, "The motivation for making a disclosure is irrelevant to whether or not it is a protected disclosure." That is an important decision. Just because someone has a gripe does not mean what they are saying is not true.

**Deputy Brendan Howlin:** Some of the best information can come from such a source.

**Deputy Sean Fleming:** The Revenue Commissioners will always say a disgruntled ex-partner or ex-spouse is often their main source of information. Just because someone might have a beef with the person they are reporting does not mean what they are reporting is not true. It is better that the legislation does not rule a disclosure out of order because a whistleblower had a gripe. It will quickly emerge if a disclosure is vexatious with no substance. It is the validity of the complaint that matters, not who said what to whom and when. Let the facts speak for themselves. There are plenty of ruses a company can use to put a whistleblower down, such as suggesting that he or she take time off or get counselling. The legislation needs to ensure these are not allowed to prevent people from making legitimate complaints.

Section 17(2)(b) states, “if it is taxpayer information, it is made in accordance with section 10 to the Comptroller and Auditor General.” It is ironic that this is what the recent Garda whistleblower did. The Minister was correct all along on this provision.

*7 o'clock*

**Deputy Brendan Howlin:** It was in the draft from the outset.

**Deputy Sean Fleming:** I commend the Minister on doing this. That individual had great foresight to know what the Minister was planning and to do it in advance of what the Minister was planning. Perhaps he took note of Members’ discussions last year on whistleblowers. It is probable that if he was interested in the subject, he watched the debate and saw this issue. He did precisely what it says on the tin in this legislation and that is important.

The next paragraph deals with how, in certain cases, admissions can be made to Members of the Houses of Oireachtas, which is fine. The Minister will appreciate there are other cases, which probably relate to matters concerning the administration of law courts, prisons and other functions, that do not come under the normal procedure. Schedule 3 of the Bill provides, “The Taoiseach shall appoint as the Disclosures Recipient a person who is a judge or retired judge of the High Court”. That is fine and I am happy with that. Schedule 3 concludes by providing that, “No later than 31 March in each year the Disclosures Recipient shall submit to the Taoiseach a report on his or her activities in the immediately preceding year”. While this also is fine, I believe this report should be published. It should be anonymised or whatever phrase people wish to use. I would go as far as to state it is unfair to the Taoiseach if such things are going on, it all lands on his or her desk and he or she is unable to tell anyone about it. It would not be good for the Taoiseach’s karma to keep it all to himself or herself. Consequently, there is a case for publication with appropriate protections for those involved, to prevent them from being in any way identifiable. The legislation should be amended for this report to be published.

The point has been well covered that disclosure under this legislation can be made by a worker who must reasonably believe that his or her disclosures tend to show more than one wrongdoing. In general, it will not be a single-incident issue. The information must come to the attention of the worker in connection with his or her employment and the worker must decide to whom to make the disclosure. Members have mentioned a variety of channels, in that it can go to the Minister if it is a public body or to an employer and the procedures for the Garda and for the courts in respect of what will be presented to the Taoiseach also have been covered. As people will be interested in the practicalities of what this means, the Oireachtas Library and Research Service has helpfully provided Members with a few examples. It will only take me a few seconds to outline who will and will not be covered. One example provided is a scenario in which Siobhan worked in the marketing department of a supermarket chain. She suspected that misrepresented promotions amounted to overcharging and reported her case. The outcome in this case would be that Siobhan would enjoy the same protection as any worker reporting wrongdoing under the Bill and would be covered. Another example concerns a garda who suspected wrongdoing among colleagues interfering with evidence. As for the outcome in this case:

the provisions of the Bill will apply to members of An Garda Síochána. The Garda Síochána Act will be amended to provide for redress provisions specific to the force.

The Minister should make the amendment pertaining to the Garda Síochána in this Bill and

should not leave it to another Minister. I trust the Minister, Deputy Howlin, more in this regard. I will conclude with a final example of Brian, who is a care worker who has had a gripe with one of his co-workers and who made a malicious complaint. He clearly is not covered and rightly not. These are some specific examples.

I support the Minister in bringing forward the Bill. Fianna Fáil will table amendments on Committee Stage and I look forward to discussing them in detail then.

**Deputy Mary Lou McDonald:** At the outset, I will read some of the Minister's comments and sentiments that I share back to him. I also:

see the introduction of such protections as a catalyst for a change which views openness and transparency as an asset rather than a liability and as a change towards a culture that values the contribution of employees and citizens and recognises those contributions as positive, effective tools in working towards the achievement of the common good rather than as something to be limited or destroyed. Good governance clearly demands that persons in positions of power and management, be open, responsible and accountable for their actions.

I say "Bravo" to that.

I welcome this legislation and acknowledge the Minister's personal efforts to ensure the commitment to whistleblower legislation was included in the programme for Government and now is being delivered. However, the irony of the Minister presenting the Protected Disclosures Bill will not be lost on the many people who have followed recent events and in particular those pertaining to the Committee of Public Accounts. It is the Minister's own commitment to this legislation and its spirit that makes public commentary by Ministers, including the Minister himself, in advance of the Garda whistleblower coming before the Committee of Public Accounts last week so unsatisfactory. I believe Ministers cynically used the media to undermine the motivation of the Opposition members of that committee and in turn the committee itself and perhaps even the credibility of the whistleblower himself. However, the Government had form in this regard. The Minister, Deputy Howlin, will recall that on the occasion of the publication of the O'Mahony report, which was an internal Garda investigation into the penalty points issue, the Minister for Justice and Equality, Deputy Shatter, rubbished whistleblowers within An Garda Síochána, and the serious charges they had made. I refer to the serious issues they had raised with An Garda Síochána confidential recipient, in respect of which they had been in contact with the Departments of the Taoiseach and Transport, Tourism and Sport, the serious allegations that caused them to make contact with the Road Safety Authority and which brought them to the Office of the Comptroller and Auditor General. However, the Minister, Deputy Shatter, chose to abuse his position as Minister for Justice and Equality and to make derogatory remarks in respect of these two individuals. One cannot have it both ways. Either the Government, in its totality, genuinely is committed to a culture of openness and transparency and values the essential role of whistleblowers in good governance and accountability or it does not. The problem, as this debate gets under way, is that the Government has sent out a clear message that whistleblowers, certainly in respect of An Garda Síochána, were to shut up and put up. This position is wildly at variance with the Minister's words this evening, which I read back to him. This should give everyone cause for reflection.

It is my view that the Committee of Public Accounts, of which I am a member, has been and always is vigilant in its public commentary on the allegations of the Garda whistleblowers. This is a matter of significant public interest and one should not forget that under the exist-

ing legislation, gardaí are permitted to bring such matters to the attention of Members of the Oireachtas. As the Minister is aware, it is the responsibility of the Committee of Public Accounts to examine reports by the Comptroller and Auditor General and this it did. Moreover, as part of its routine work, committee members can and routinely do seek oral and written evidence to support their investigations. I of course accept the penalty points allegations could have been referred to the Garda Síochána Ombudsman Commission some time ago when it became clear the internal mechanisms of An Garda Síochána had not dealt adequately with the matter. More than a year had passed since my colleague, Deputy Mac Lochlainn, first called for an independent inquiry into the matter and for a referral to the Garda Síochána Ombudsman Commission, as it was clear at that stage that the totality of issues could not be resolved internally. In this respect, the Minister for Justice and Equality and the Cabinet, of which the Minister is a member, failed miserably to show the necessary leadership in a difficult situation. Instead, the problems, allegations and worries rumbled on in the public domain until at last, it ended up at the door of the Committee of Public Accounts. The comments of the Minister and his colleagues were unwarranted, unfair and not based in fact, and were deliberately aimed at undermining the aims of the Committee of Public Accounts.

**Deputy Brendan Howlin:** Would Deputy McDonald quote my comments?

**Deputy Mary Lou McDonald:** In doing that, the Minister, with his ministerial colleagues, has done a grave disservice to the work we do as Members of the Oireachtas and as members of that committee.

**Deputy Brendan Howlin:** Can Deputy McDonald quote the comments? The Deputy is making a charge. Can she substantiate that charge?

**Deputy Mary Lou McDonald:** A grave disservice was equally done to the notion of whistleblowers, protected disclosures and protecting-----

**Deputy Brendan Howlin:** On a point of order, the Deputy is making a charge against me. Could she substantiate that charge?

**Deputy Mary Lou McDonald:** I am speaking. I have the floor.

**An Leas-Cheann Comhairle:** Does the Deputy accept the point of order?

**Deputy Mary Lou McDonald:** No. I have the floor. The Minister will have his opportunity to respond.

**Deputy Brendan Howlin:** It is for the Leas-Cheann Comhairle to accept the point of order, not the Deputy.

**Deputy Mary Lou McDonald:** I have the floor.

**An Leas-Cheann Comhairle:** I will take the point of order.

**Deputy Brendan Howlin:** The Deputy is making a charge against me. I would like her to quote the comments I have made that made her draw her conclusions, please.

**Deputy Mary Lou McDonald:** The comments, as the Minister is very well aware, relate to the appearance of the whistleblower before the Committee of Public Accounts. Those comments, along with others of his colleagues, were a calculated and failed attempt to frustrate the

work of the Committee of Public Accounts.

**Deputy Brendan Howlin:** The Deputy cannot quote them. She is making it up, again.

**Deputy Mary Lou McDonald:** A grave disservice has been done to the notion of whistleblowers, protected disclosures and the kinds of protections that must exist for persons who step forward, whether they are members of the Garda Síochána, any other agency of the State or any private entity. It is a deep irony that the Minister is bringing forward this very welcome legislation this evening while last week he was happy to join in the chorus-----

**Deputy Brendan Howlin:** The Deputy should read out the quote.

**Deputy Mary Lou McDonald:** -----suggesting that the Committee of Public Accounts had acted improperly in a bid to prevent this particular whistleblower from presenting his case to us.

**Deputy Brendan Howlin:** It is entirely false.

**Deputy Mary Lou McDonald:** The other irony is that in the course of this controversy, the only names that have been bandied about, and with wild abandon, have been the names of the two Garda whistleblowers. They have had comments made about them during committee proceedings by, among others, the Garda Commissioner. My colleague Deputy Sean Fleming referred to some of those remarks. Yet we had to hear from the whistleblower in private session, not least because of an utterly contrived political atmosphere of which the Minister, Deputy Howlin, was part and parcel.

**Deputy Brendan Howlin:** That is a shocking and scandalous untruth.

**Deputy Mary Lou McDonald:** It was indeed shocking and scandalous.

**An Leas-Cheann Comhairle:** On the legislation.

**Deputy Mary Lou McDonald:** Let me turn to the legislation.

**Deputy Brendan Howlin:** She is not interested in the legislation. She is interested only in muck-raking, as is her wont.

**Deputy Mary Lou McDonald:** It is not my wont. I am sorry if a statement of the facts offends the Minister's delicate sensibilities, but there you go.

I have welcomed the introduction of this legislation and particularly commend the work of officials in the Department of Public Expenditure and Reform. The European Commission anti-corruption report on resourcing and the regulatory impact assessment of the Bill concluded that the legislation was a fair, balanced and proportionate approach which will ensure that Ireland's international reputation in preventing corruption is significantly enhanced. The EU has also recognised the State's progress; however, the Commission has sounded a note of warning. When dealing specifically with Ireland in its European anti-corruption report published this week the Commission stated that more work could be done to improve the capacity to prosecute and punish corruption cases in a timely manner.

While a number of issues affect the potential efficiency of anti-corruption agencies, there is no doubt that adequate and appropriate resourcing of such agencies is key. I have raised this matter with the Minister before. Research has shown that even where significant cases of illegality have been identified - for example, the Ansbacher tax scandal - prosecutions can be very

difficult. The Commission's report identifies access to databases and intelligence and the provision of necessary resources and skills as factors affecting the success of anti-corruption agencies across Europe. Ireland is no different in this regard. Transparency International's 2012 national integrity study notes that "full analysis of trends is impeded by an absence of clear and consolidated statistics on investigations or prosecutions for corruption-related offences by law-enforcement agencies and the various regulatory bodies."

The legislation provides for the establishment of a disclosures recipient. The RIA states that it is hoped that the volume of reports to the disclosures recipient will be minimised by virtue of the structure of the legislation, which is designed to encourage reporting to an employer in the first instance. I support that staged approach. While the expenses associated with the appointment of a disclosures recipient are not anticipated to give rise to significant costs to the Exchequer, I would like to sound a note of caution. There is in the public mind an understandable reluctance to establish new public bodies, or what might be termed quangos, and that is fair enough. However, we need to be mindful of the danger of automatically regarding every new agency, regulatory body or service provider as surplus to requirements. That would be wrong, and I take a different view. While we need to be cautious about waste in the system, we need to resource agencies properly, particularly those that have oversight and accountability roles. In the long run, a fully resourced disclosures recipient office will more than pay for itself.

On interim relief, employees, be they public or private sector workers, must be protected when they report wrongdoing. Whistleblowers are regularly portrayed by those they make complaints against as difficult or contrarian. This is true the world over. Their motivation is questioned and retaliation is often a first response by those who employ them. Those who expose wrongdoing need legal protections and it is very welcome that the State recognises this. My colleague Senator Kathryn Reilly raised the need for an interim relief provision in the legislation and I thank the Minister for engaging constructively on this matter. Concern remains in the event that an interim relief order is in place and an employer who is found to have acted correctly seeks to recover the moneys paid before the conclusion of the case. That matter is still outstanding and I look forward to discussing it with the Minister on Committee Stage.

Section 19 of the Bill amends the Garda Síochána Act 2005 by requiring the Minister for Justice and Equality to make regulations providing procedures for protected disclosures by members of the Garda Síochána. In light of recent events and controversies, it would be desirable and helpful for us to see those regulations. The Minister might clarify the status of that process and precisely the procedure for these regulations to take effect.

Transparency International Ireland, which has made an exceptionally positive contribution to this legislation, has suggested a number of additional amendments to the Bill which merit consideration by the Minister. It suggested that volunteers should be provided for in the Bill. We cannot encourage citizens to give up their time to support their communities and then not protect them if they expose wrongdoing in an organisation. It has also been proposed that volunteers be afforded immunity against civil proceedings, including qualified privilege against defamation proceedings. There is a concern the current wording of the definitions may exclude external auditors, accountants and professional advisers. Those supplying contracts for services should be free to make a protected disclosure where there is a failure on behalf of their client to comply with legal or codified stands. Fear of a civil action should not deter such persons from making a protected disclosure.

Section 5 does not adequately address breaches of "soft law" mechanisms, such as profes-

sional codes or ethical guidelines. Limiting compliance to “any legal obligation” can exclude mismanagement of conflicts of interest by providers of professional services, breaches of client confidentiality, mismanagement of client funds, abuse and misuse of charitable donations. Transparency International also points out that while public sector codes, such as the code of conduct for officeholders, code of conduct for members of the Legislature, code of practice for the governance of State bodies, and the codes of conduct for employees of local authorities and councillors have statutory effect, a breach of any of these may not automatically amount to a breach of legal duty.

Section 16 appears to place the onus on the persons making a disclosure to make it known that they do not want their identity disclosed. In other words, they are responsible for confidentiality. This introduces a particular risk to workers who have accidentally made a protected disclosure by seeking advice on a matter related to wrongdoing or where that person’s identity is released by a third party, other than an employer, without their knowledge. Transparency International advises that the onus should always be on the person to whom the protected disclosure was made to treat as confidential the identity of the person making a disclosure.

Attention has also been drawn to an amendment submitted by Senators Zappone, van Turnhout, Mac Conghail and O’Brien, which seeks to assess the effectiveness of the legislation annually. This amendment was already raised with the Minister on Report Stage in the Seanad, so I will not rehearse the arguments here. However, I intend to pursue the matter on Committee Stage.

I would like to conclude by commending the work of Transparency International Ireland, which continues to operate the Speak Up helpline for whistleblowers. In the absence of this overarching legislation, this organisation has championed the rights and protection of those who speak up against corruption or wrongdoing. Finally, I am sure the Minister would join with me in commending all of those men and women, from different walks of life, who at different times and junctures have stepped forward and taken a huge risk. They have been quite courageous in speaking out and speaking up about wrongdoing.

**Deputy Thomas Pringle:** I welcome the opportunity to contribute to this debate on the Protected Disclosures Bill, which is an important and welcome piece of legislation.

The Bill sets out to provide a general protection from reprisal to workers who report suspected wrongdoing within their organisations. It applies to both the public and private sectors and its protections are designed to encourage potential whistleblowers to come forward and to prompt higher standards in business, employment and society. The ultimate intention of the legislation is to effect a cultural change right across society, to ensure things are done properly in the future. The Bill applies to those who make a disclosure about wrongdoing in the workplace and provides protections for them if they are penalised by their employer as a result.

In its guidelines on international principles for whistleblower legislation, Transparency International speaks about the right of citizens to report wrongdoing as a natural extension of the right to freedom of expression and as linked to the principles of transparency and integrity. All people have the inherent right to protect the well-being of other citizens and society at large, and in some cases have the duty to report wrongdoing. Transparency International states that the absence of effective protection can, therefore, pose a dilemma for whistleblowers. They are often expected to report corruption and other crimes, but doing so can expose them to retaliation.

Too often we have seen - as we did recently in this State - how whistleblowers are treated. We have a history and culture of viewing whistleblowers as informers or as people who should be looked down on. This legislation needs to change this, but we as a society also need to change to ensure people who expose wrongdoing in the public interest are respected and treated properly and not ostracised or penalised for putting forward remedies in the public interest or exposing bad or illegal practices and criminal wrongdoing in business. It is important this cultural change happens as it will bring more integrity. Perhaps we will even get to a stage in the future where this legislation will not be required. That may be a utopian view, but we should aspire to a situation where there will be no need for this legislation because of a significant culture change where businesses and public bodies do business in the right way.

As has been outlined in the House previously, the current legislation in this area is partial and inconsistent and provides various levels of protection for the employment and industry sectors. Approximately 25 pieces of legislation cover various forms of whistleblowing and different sectoral interests. It is believed that the lack of general protection has stopped potential whistleblowers from coming forward. I believe this is true. Workers who come across wrongdoing in the workplace feel very nervous about exposing it or bringing it to the public domain because of retaliation and the risk involved to themselves. The Bill outlines that a disclosure should be made to an employer in the first instance, but there are other avenues within the legislation workers can take, depending on the circumstances of the case. These include making disclosures to Members of the Dáil. The Bill provides for six channels of disclosure and different tests will apply to decide which disclosure is a protected disclosure and which channel should be used.

Having examined the legislation and read the debates that took place in the Seanad on it, the Bill seems to be very cumbersome. There may be good reasons for this, but there were calls in the Seanad debate for a code of practice and there was mention of the possible publication of such a code. A code of practice is vital and should be published in line with the enactment of the Bill. This code should be made available to all workers and we should have an extensive campaign to make workers aware of it.

**Deputy Brendan Howlin:** And employers.

**Deputy Thomas Pringle:** Yes. Obviously the code will place scrutiny on employers also.

I have a concern with regard to whether a disclosure is made in the wrong place initially. For example, if a worker comes to a Member of this House to make a disclosure that should have been more appropriately made to the employer, what protection will be available for that worker? Will the onus be on us, as Members of the House, to direct workers to the right avenue? Some people may not feel that even with this legislation and its protections, this is something they can do. How will the legislation work in practice in this situation and in the future?

The Bill provides that deliberate false reporting will not be covered under protected disclosure legislation. This makes sense. However, unfortunately, this will be the first defence employers will use and workers who make a disclosure will come under attack initially. They will probably also be subject to abuse from co-workers, possibly because they do not understand the implications of what has been disclosed.

Protection is provided to those making a protected disclosure under this legislation under the Unfair Dismissals Act. A number of other provisions are also made, such as immunity from

civil liability, not making protected disclosure a criminal offence and protection of the identity of the whistleblower. The difficulty with that however is that whistleblowers must signal they want their identity protected when making a disclosure. There should probably be a presumption this is the case.

Debate adjourned.

### **Companies (Amendment) Bill 2014: Second Stage [Private Members]**

**Deputy Stephen S. Donnelly:** I move: “That the Bill be now read a Second Time.”

I will share time with Deputies Finian McGrath and Catherine Murphy.

I am delighted to have the opportunity to introduce Second Stage of the Bill. I thank Mr. Ross Maguire, SC, and Mr. Barry Lyons, solicitor, for all of their work and expertise in drafting the Bill. I also thank the officials of the Bills Office for their Trojan work in helping me and the team last week in getting the Bill ready. I thank the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, and his officials for their time and expertise in recent weeks. I also thank in advance my fellow Deputies who will contribute to the debate today and tomorrow for the time and effort they are putting in.

The Companies (Amendment) Bill 2014 seeks to radically improve Ireland’s examinership process. It would reduce the costs and bureaucracy of examinership and its refinancing requirements. It would address the legacy issue of upward-only rent reviews. In doing all of this, it would for the first time make examinership a real option in Ireland for viable but insolvent small and medium-sized enterprises. If passed, it has the potential to save thousands of companies and tens of thousands of jobs in the coming years. This is not wishful thinking. The solicitor with whom I worked in preparing the Bill has handled more than half of all examinerships in Ireland in the past 12 years. The senior counsel with whom I worked in preparing the Bill has significant experience in insolvency law.

The process described in the Bill and the changes it seeks to make specifically address what is not working in examinership and proposes a better solution. That said, I do not present the Bill as a finished article and have no doubt it can be improved through the legislative process. If the Minister believes there are constitutional issues to be teased out, let us do so through the legislative process. If the Bill is accepted by the Government on Second Stage and passed tomorrow, we will have a structure and momentum to turn the examinership process into something which will provide a second chance for viable businesses throughout the country.

Examinership is a complicated process and I would like to use a real-life example to illustrate the problem and opportunity the Bill addresses. Recently I met the owner of a family-run business in Wicklow. The company manufactures for the domestic and international markets. Its exports have been growing steadily in recent years and it has been particularly successful exporting to the United Kingdom. It employs approximately 20 people and as it grows, it continues to hire more workers. It is profitable but, critically, it is insolvent for the following reason. One creditor in the United Kingdom which bought and received a large quantity of

product went into liquidation. As a result, this profitable, growing, export-oriented company finds itself with a large hole in its profit and loss account and cannot continue to cover all of its costs. In short, it is insolvent.

What options are available to the company? The first is that it can enter voluntary liquidation. In this case it would be shut down, the staff made redundant, the assets sold and the creditors paid some percentage of what they were owed. In short, everybody would lose. The staff would lose their jobs, their families would lose the household income, the shareholders would lose the company, the creditors would only be paid a fraction of what they were owed, the other companies with which the company works would lose a valuable customer and the State would lose corporation tax, income tax and VAT and have 20 more people out of work to support.

The second option is court liquidation. In this case the creditors would apply to the courts for a forced liquidation. This would have all of the same downsides as voluntary liquidation with the additional downside of heavy legal costs for all parties involved. Everyone would lose, but in this case they would all lose a little more and a few lawyers would win a little more.

The third option is receivership. In this case the creditors would appoint receivers for the secured assets. For the company the secured assets are mainly machinery, vehicles and premises which would be sold off, almost certainly at a loss to the creditors. Without these assets the company would not be able to trade, bringing us back to the same destructive outcome as voluntary or forced liquidation.

The fourth option is examinership. According to how examinership is meant to work, an independent accountant would be retained and he or she would review the company's finances and give an opinion on its viability. In the case of this business he or she would almost certainly conclude, based on what I have been told as I have not seen the books, that the company was viable, that the debts should be restructured and that the company was a good candidate for examinership. An examiner would be hired and prepare a court petition seeking examinership protection and the papers would be filed with the courts. Previously they would have been filed with the High Court, but following the Act introduced in December they are now filed with the Circuit Court. Once the papers were filed, the examinership would be advertised and the creditors would find out about the examinership process and come to court. The company directors, the creditors and their lawyers would all appear in court and the judge would decide whether to award protection to the company. In the case of this company I am pretty sure the judge would award protection because it would be an obvious candidate for the examinership process. The court would then give the examiner 70 days to meet all of the interested parties, prepare a survival plan, have it agreed with all of the creditors and, critically and with difficulty in the circumstances, find new investors to refinance the company post-examination. This process could take several trips to court as any one of the parties might dispute various aspects of it. After all of this, if the examiner was successful, all of the parties would return to court for another hearing, at which the plan would be agreed to by the judge and receive court approval. The outcome of this process would be that the company would continue to trade, the employees would keep their jobs and more staff would be hired as the business continued to grow, the companies which trade with the company would retain a valuable customer, the creditors would get back at least as much as they would have through a liquidation or receivership process and the State would continue to receive taxes.

This is a real case in Wicklow and the company has four potential futures, in three of which everybody would lose. In the fourth, examinership, everybody would either win or be no less

worse off than they would be in any of the other three. Given all of this, one would expect this profitable family-owned export-oriented company to come through the examinership process and continue to trade, but as the examinership process works under law today, the chances are that it will not. There is every chance it will end up being forced to close.

This is not an isolated case. In the past three years there have been approximately 4,700 insolvencies and only 64 examinerships. There has been one examinership for every 73 insolvencies. The reason there have been so few examinerships relative to the high number of insolvencies is - I am sure the Minister will agree with me - the examinership process does not work. It is completely unfit for purpose.

I will outline five main reasons the current process does not work. The first is that it is too expensive. The people I prepared the Bill with estimate that an examinership currently costs approximately €70,000 and can be as high as €350,000. Most of that, as we know, is for legal fees due to multiple court appearances. I commend the Minister on his Bill from December, which brought the examinership process from the High Court to the Circuit Court. Based on the contributions made by the Minister at the time, my understanding is that the main reason for this is to drive down costs. I voted for the Bill. I support the Bill, and I welcome the move by the Minister.

The second reason examinership does not work is that it is open to abuse by creditors. I am told that in some examinerships, creditors find ways of forcing proceedings back into the court again and again. I am told they do this to make the examinership process so expensive for the company that the directors are forced to abandon the process.

The third reason the examinership process does not work is that the re-financing costs can be too high. As we know, many banks have so-called on-demand clauses in their loans to small and medium enterprises, SMEs. Therefore, during the examinership they can insist on full repayment against their secured asset. In today's credit-constrained world, the companies cannot find the level of finance needed and again, the process can fail.

The fourth reason the examinership process, as constituted today, fails is that landlords are refusing to budge on upward-only rents, although not in all cases. The people who are doing this on the ground are telling me that some landlords are refusing to budge from the artificially high rent, the bubble era rents, even though they know it means that the company in question will be liquidated.

The fifth reason the examinership process does not work in Ireland is that in some cases essential creditors refused to trade without guarantees. If we take the example of a restaurant, food suppliers may not provide the restaurant with any produce during the examinership process because they are not secured creditors. They will sell the restaurant the fruit, the vegetables and the meat but they know it is in examinership and that if there is any money to be divvied out, they are at the bottom of the pile, and therefore they will not do it. In this case again the examinership process fails because the company cannot continue to trade.

It is the combination of those five problems, and undoubtedly many more, that mean examinership in Ireland is not working for SMEs and because of that, viable companies are being shut down throughout the country and jobs are being lost that should not be lost.

As I said, in the past three years there were approximately 4,700 insolvencies in the country. It is difficult to estimate how many of them could go through a functioning examinership

process but if we are conservative and say that one in five of the companies deemed insolvent go through examinership, then over the past three years nearly 1,000 companies that no longer exist would have been saved.

It is entirely possible that the potential prize is much bigger. There are approximately 15,000 SMEs in Ireland. Sadly, that figure is down by about 2,000 since the start of the crisis, but those 15,000 SMEs still account for 70% of the workforce in this country, according to the Department of Finance and, astoundingly, constitute 99% of all companies operating in the Republic. It is an understatement - we hear it all the time; I hear the Minister say it and I say it - that SMEs are the backbone of this economy, but if 70% of the workforce work in them, and they constitute 99% of the companies in this country, then it is worth repeating that saving these companies and helping the sector is helping the backbone of the economy. However, they urgently need a functioning examinership process.

Just a few weeks ago, in December, the Central Bank reported that up to half of the total amount loaned out to SMEs could be in trouble. Currently, about €50 billion is lent out to SMEs. We could be talking, therefore, about €25 billion in loans to the SME sector that are currently in trouble. At the same time, we know that Irish businesses are finding it hard to raise credit. Some of the banks disagree, and perhaps in some cases they are right, but a recent European Central Bank, ECB, survey shows that Irish SMEs are facing significantly tougher credit conditions than the eurozone average. The ECB is saying it is harder for the SMEs to get credit here than it is for SMEs, on average, to get credit in the eurozone.

What is the likely result of that? The Central Bank says half of the loans could be in trouble. The ECB says it is harder for the Minister's SMEs to re-finance, therefore, the likely result is that many more SMEs that do not need to close down will close down this year, next year and the following year. They are viable SMEs that have had a shock to their profit and loss. That may be partly their own fault or entirely somebody else's fault. That will happen because the examinership process does not work. It is not fit for purpose. That is why I have introduced this Bill. I am fairly sure this is the first Private Members' slot I have had on my own since this Dáil term started nearly three years ago. I have chosen to introduce the examinership Bill in that slot because I believe that if we get this process right, thousands of companies that otherwise would close will continue to trade, and tens of thousands of jobs will continue to exist that otherwise would not.

The Bill radically reduces the cost of examinership. Our best estimate is that it will reduce the average from €70,000 to €20,000. It does this by removing the necessity for all parties to appear in court on multiple occasions, hence lowering the legal fees. There is still full court oversight. Any party can still bring proceedings to court at any stage if they wish, and there is still final court authority. The final examinership agreement must still receive court approval.

The Bill makes it more difficult for vexatious or frivolous court involvement. If a judge deems a creditor to be involving the court for vexatious reasons, legal costs can be awarded against that creditor. That makes it much more difficult for a powerful creditor to bully viable businesses out of the examinership process.

The Bill allows the court to impose lending conditions on secured lenders over five years. That is important. It means that a bank cannot simply activate the on-demand clause and shut down a viable business. However, the bank still does well. It retains its security. It is paid 7% per year interest on that security and after the five years, it can call on the security.

The Bill allows the court to change upward-only rent contracts. In this case the rent is adjusted to market rates plus 7% for five years. We are told that the Government sought opinion on upward-only rent agreements in 2011 and that there might be constitutional issues, therefore, it did not try to legislate for them. The case of examinership, however, is different. Should the company be shut down, the landlord would in future receive market level rent from the next tenant, and will incur the cost of trying to find a tenant and get rid of the existing tenant. Under examinership, they would receive 7% higher than the market rate, and they would not incur any of the costs of securing a new tenant. As such, the landlord has not only not been unfairly prejudiced, the landlord's property rights have not been affected but improved based on what would have happened through a receivership or a liquidation process.

The Bill allows the examiner to give priority to certain essential creditors. To go back to the example of a restaurant, the Bill would allow the examiner, with the approval and authority of the court, to give the same level of protection to the company supplying the food as it gives to the bank. This means that essential but unsecured creditors would continue to trade with the company, meaning the company could continue to trade.

I have discussed this Bill with the Small Firms Association and its members support it. They mentioned that they have been trying for years to get the examinership process changed and that the changes in this Bill would work very well.

I have discussed the Bill with the Dublin Chamber of Commerce, and it stated:

The ultimate aim of examinership is to allow the business to survive and recover. It is important that politicians ensure that legal hurdles to enter the examinership process are in proportion to the size of a business. Making sure the process moves as fast as possible will reduce costs for SMEs, leading to more businesses escaping a situation in which all parties would otherwise lose out.

This Bill achieves all of those goals.

The SME sector in Ireland deserves and needs the Oireachtas to support it, and this Bill does that.

It could save thousands of businesses and tens of thousands of jobs without investing 1 cent of public money. If the Government accepts the Bill on Second Stage, we will begin to see the benefits of the legislation very quickly.

I will conclude with a political point. Government Members regularly criticise the Opposition, not unreasonably, for not proposing solutions to the crisis. This Bill offers a good solution which will save businesses and jobs. The question for the Government is whether it is prepared to accept solutions when they are proposed by Opposition Members. I commend the Bill to the House.

**Deputy Finian McGrath:** I welcome the opportunity to speak on this radical new Bill and commend Deputy Donnelly on his magnificent work and attention to detail in preparing it. The Bill will help real people, real small businesses and, above all, real jobs. It will reduce the cost and time involved in the examinership process and make it more accessible to businesses while retaining all of its current advantages.

At all times, we must maintain our focus on jobs and youth unemployment, which is cur-

rently running at 28%. This is an issue that is often ignored in this House. It is unacceptable that so many talented young people are unemployed. This pool of talent should not be ignored because they are the future for our country. It is time we got them back to work and paying their taxes. Many of them have new ideas, like Deputy Donnelly's Bill, and we need to encourage and support them. They are also an important part of the SME sector. Our future lies with firms that employ fewer than 50 people. This Bill could make a major contribution to the examinership process and job creation. I regularly engage with people working in the SME sector in parts of my constituency such as Artane, Donnycarney, Howth, Sutton, Clontarf, Baldoyle, Marino, Drumcondra and Coolock. I listen to them when they come to me with their problems. On behalf of these people I urge the Government to accept this Bill and support small firms on the northside of Dublin. We will not be able to solve the the jobs crisis or support SMEs unless we deal with the debt issue. This is why I agree with Deputy Mathews that we need strong voices in Europe who will say that we do not accept somebody's else debts. If we do that, we will no longer be choking economic development and the SME sector.

Last week a young business woman discussed the problems facing her small company, which specialised in dog grooming, with me in my clinic in Donnycarney. She is facing an increase of 177% on her commercial rates. How in God's name can a small business get off the ground with rates of that level? Professional dog groomers are calling for VAT fairness. The unfairness of the VAT code as it is currently applied is a disincentive to competition in the dog grooming profession. They want to encourage the cottage industry of dog groomers to leave the grey economy for the legitimate sector, thus increasing tax yield. These young people have ideas and they want to come into the formal sector but they are being undercut by those who work in the black economy. It might cost €50 to have a dog groomed by a tax compliant business but others can do it for €25 because they are not paying rates or taxes.

I noted earlier that young people and SMEs are the future of our country. Mark Little is a former RTE journalist who set up a company that contributed €8 million to the Exchequer when it was sold recently. The company retained its 35 employees following the sale. People who want to expand their companies are saying that the Government needs to wake up, smell the coffee and help them. This Bill is an example of Independent Deputies putting forward positive ideas aimed at resolving the problems that face this State. The cynics who claim that Independent Members do not make a difference are wrong. This Friday I will be putting the Down's Syndrome (Equality of Access) Bill 2013 before the House. Independent Members are not simply lashing out at everybody; we are coming up with constructive solutions.

The Bill provides for a system of examinership in respect of small firms with fewer than 50 employers and a turnover of less than €10 million. Our economic recovery is entirely dependent on employment, which in turn depends on the success of our small firms. I remind the House that 99% of the companies in this State are small businesses. These businesses provide 70% of employment in the country. I acknowledge that we need to attract companies from abroad but we cannot take our eye off the ball in respect of the SME sector. The biggest issue facing small businesses is debt. The examinership process was designed to deal with debt but it has become inaccessible to all but the biggest businesses. When smaller entities avail of the process, the expense involved makes it less likely that they will survive. SMEs are the backbone of the economy. The investments that a company makes in premises, fittings and stock are immediately lost in the event of insolvency. The smallest insolvency means that the promoters are financially wiped out and the employees lose their jobs. The goodwill for the business is lost at a stroke. There is, therefore, a significant financial cost when an entrepreneur tries to

revive the business. The absence of credit means that the money required to create jobs is not available. These are issues for the real economy.

The Bill provides that where two independent financial experts assess a company as having a prospect of survival, it can enter a rescue process designed to play to the financial expertise of those charged with its rescue. The courts will oversee every step in this process. The resulting savings will make the process affordable to many companies, including many that would go into liquidation under the current system.

*8 o'clock*

The company can have certainty regarding its costs into the future. The framework for investment is such that costs of the process are not disproportionate to the investment, which is currently the case. These are the important points on which to focus.

On the proposed changes, the examinership model makes three main changes to the system currently available under the Companies (Amendment) Act 1990. These are: the removal of adversarial court involvement - say, where creditors or contributories require court oversight or where a creditor appeals to the Circuit Court on the ground of unfair prejudice; the ability of the examiner to impose lending conditions on secured lenders over a period of five years based on a minimum altered lending amount to the value of the underlying security plus 7%; and the ability of the examiner to impose changes to leases over a period of five years based on a minimum term of the market plus 7%.

Currently, examinership is an expensive process, running, even in simple cases, to many tens of thousands of euro. Most of the expense is not required as it relates to legal fees and fees incurred by the examiner in preparing for court. The Bill seeks to greatly reduce the costs - we estimate by more than half. This money is then available to be invested in the business.

I welcome the Bill and I commend Deputy Donnelly on its introduction. This is offering a solution. It is helping us in a time of crisis. I urge the Minister, Deputy Bruton, to look at the detail of the legislation.

**Deputy Catherine Murphy:** I also welcome this Bill and commend Deputy Donnelly on his work. Obviously, a lot of work has gone into it. The Bill is timely. In fact, I suspect that Deputy Donnelly would say that if it had been published 12 months ago, it would have been even more timely. The focus of it is absolutely right.

Rightly, there is a lot of focus on job creation. I would acknowledge that some of the new jobs have become obvious in my constituency and the sense of good feeling that is created when there is hope for people. Job retention is just as important. When one considers the amount of money that goes in, even from the State side in unemployment payments, retraining the unemployed and paying redundancies, and the knock-on effects when a small business fails where other business may well end up being lost as well, not to mention that often suppliers are not paid, one can see that job retention needs to be looked at in a holistic way. It involves much more than the small business. There is a knock-on effect.

The present law governing examinerships was written some years ago and reforms have not been easily forthcoming. I note that the consolidated Companies Bill 2012 is wending its way through the Dáil and is on Committee Stage, but that Bill does not represent the kind of radical reform needed in this area. The Companies Bill 2012 is almost like a copy of the Golden Pages.

It is a huge piece of legislation. It was started some years ago - up to ten years ago in the case of some aspects. Some of its provisions are of the era prior to the current one, and much has changed since then. We can all expect many amendments to that Bill. Examinership was quite rare prior to the crash. Today, because of the wider economic problems, it is much more likely.

This Bill focuses on small to medium-sized companies. These are quite large, when one considers that they employ up to 50 people. The Bill is targeted at such companies that find themselves in difficulty getting credit - for instance, because of lower demand and costs - and that perhaps took on developments during the boom and are trying to service them.

The Bill seeks to tackle the power imbalance that currently exists in Irish law in the area of examinership. That is critical. The banks retain significant power in the process. That is something that Deputy Donnelly has identified as needing better regulation and I hope that will be taken on board. The Bill seeks to put in place a clear process outside the courts system, but not without recourse to the courts, which avoids hefty legal costs and endless litigation and represents a good chance for creditors to collect on their debts ultimately.

At present, the strong have the power and they are the ones who are surviving. It is the small indigenous companies that are the ones that are going to be in most difficulty. It is interesting that we look at solutions such as mediation in family law. Whereas that was unheard of 15 years ago, it is now seen as a valuable process. This demonstrates that one can operate differently.

It is not only a matter of the constant visits to the courts and the cost. There is a human cost of having this hanging over people, which means they cannot invest their energies, time and expertise in what they should be focusing on - namely, the business. Many in the small business sector who have got into difficulty will tell of the weeks and months they have not slept with worry. There is a human cost that we must factor into this.

The examinership process would provide a bit of breathing space for small to medium-sized firms and would help to ensure the survival of more businesses that are in trouble. There are safeguards in the legislation, and rightly so. Banks, as I said, have been extraordinarily powerful in determining whether businesses live or die, calling in loans and collateral far too early. That may net some return for the banks, many of which are foreign banks which were happy to cut their losses and go, but the wider effect on the economy of firm closures must be taken into consideration. We all can accept that this is in the banks' interest too, and in our interest, because we need to have banks that are functioning.

This Bill tackles the problem of requiring banks to keep lending where there is a reasonable chance of a firm returning to profitability. That has been outlined well by Deputy Donnelly in a practical way. Similarly, the Bill tackles the issue of landlords moving to evict companies from leased premises by allowing for a set formula to be applied where a landlord would receive market rent plus 7% provided the lease has not been terminated. Obviously, there is a focus here on upward-only rent reviews. One can see where the big companies have been able to do that, where they have gone into examinership and been able to renegotiate and one sees the jobs coming back. We need to see that model expanded to the small to medium-sized sector.

The measures contained in the Bill are forward-thinking. I strongly urge the Government not to oppose it. Even if it is a question of taking aspects of it and including them in the Bill that is under way, that would be a positive step.

We all know of small businesses that were encouraged to develop when there was plenty

of money. They were almost made to feel stupid if they did not expand by building an extension onto the side of their premises or whatever. It is the same banks that are putting the same businesses under pressure to deliver within unrealistic timeframes. As I said, there is a knock-on effect if workers are made redundant in that they must be retrained, whereas if small firms survive, there is the possibility of ramping up when the economy improves and their position improves.

We need to take a holistic approach. If one travels the country, one will notice in every village all the “To let” and “For sale” signs, the loss of passive security on the main streets, the loss of commercial rates and the dereliction. It is not a pretty sight. Many of these small or medium-sized businesses will not survive. However, if more of them survive there will be a return to local authorities by way of commercial rates. There is also a range of other areas in which advantages will accrue.

I welcome the Bill and hope the Minister will find a way of accepting its main provisions. I also hope that the Government will decide not to oppose it.

**Acting Chairman (Deputy Peter Mathews):** I call on the Minister, Deputy Bruton, to reply. I understand he is sharing time.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I wish to share time with Deputies Damien English, Áine Collins, Tom Barry and Paul Connaughton.

**Acting Chairman (Deputy Peter Mathews):** Is that agreed? Agreed. I understand the Minister is taking ten minutes and the other speakers will have five minutes each.

**Deputy Richard Bruton:** I would like to thank Deputy Donnelly and those who have worked with him on this Bill for bringing it forward. I can see that a lot of work has gone into it. I have had an opportunity to meet Deputy Donnelly and there is absolutely no doubt about the bona fides of what he is trying to do. This debate is timely because we continue to have a serious challenge in this area.

I took up this issue myself as a serious challenge and referred the matter to the Company Law Review Group. That group is composed not only of legal and technical experts but also representative bodies including ICTU and ISME. The group studied this issue and reverted to me with recommendations as to what could be done. The first thing the group proposed was that examinership should continue to be the vehicle we would use in seeking to deal with companies in these difficulties, as Deputy Donnelly accepts.

The group also recommended that we should move from the High Court which added unnecessary cost to the Circuit Court, and I have done that. I acknowledge the support of the House in doing so. It was done with a view to taking out 30% of the legal costs or reducing 70% of the legal costs, which would be 30% of the costs in the High Court. Like Deputy Donnelly, I believe that by making that change we can move from a situation whereby only 60 to 80 companies avail of examinership to one where it is more prevalent.

The other issue the group recommended was to introduce a simplified administrative initiation of examinership for small private companies. The group talked about the need to identify an appropriate agency that would receive the preliminary evaluation. It would provide an alternative that takes the court hearing out of the first route of examinership. However, the group made it clear that the simplified procedure should only extend to the appointment of an

examiner and that any scheme or proposal formulated by the examiner must be approved by the Circuit Court. The group believed that oversight by the court remained an important element.

I am now setting up a working group to examine that proposal further and see if that route is viable. I will certainly look at some of the items raised by Deputy Donnelly in the course of that working group. Unfortunately, however, I am not in a position to support this Bill on Second Stage. I think there are too many difficulties that would render it unworkable and open to challenge, so I simply cannot support it.

This is a complex area and the Deputy has acknowledged that. In any situation of examinership one is seeking to balance the interests of some creditors against others. We all want to see a company that is basically viable get the opportunity to recover. Equally, one must ensure that there is balance in their treatment, and that those who are losing out in that situation will get a fair hearing for their position and will be protected in a fair and equitable process. They, too, can be small businesses who happen to be trading in good faith with that company. They may find that their debts become unsecured or subject to significant losses. There is therefore always a balance to be struck where one is looking at a company that has got into difficulties and is seeking its creditors, and other people it is trading with, to be paid less. One must ensure that it is done fairly and there is clearly a public interest in seeing that businesses are viable and jobs can be saved.

The trouble with Deputy Donnelly's Bill is that he has made so many changes in this area, and has removed the court from so much of the oversight, that it would create significant risks that the measure would be unconstitutional. The last thing we need to do is introduce a piece of legislation that would build up hope or expectation and then fall at the very first hurdle.

In a number of areas the Deputy has departed from the existing process and that creates serious concerns. For starters, the examiner is not appointed by a court - it is appointed by the company without any test of independence. The examiner then goes on to issue the protection order itself and the court oversight is only in respect of being worthy within the various thresholds. The court has a role in receiving the protection order but simply to ensure that it conforms.

A creditor would then have to appeal against the protective certificate being issued. However, Deputy Donnelly's Bill has created some pretty high hurdles concerning what that creditor would have to meet. It includes being able to show the court that matters of a material nature are not disclosed in the independent accountant's report, or that the company has been acting to defraud its creditors. The hurdle of proof for someone who is at risk of losing their position is very high, including demands of an evidential nature for a person challenging it at that early stage.

The examiner is also given the role to take over the power of directors in the Bill, again without court oversight of that process. The examiner need only form an opinion that they are obstructing him or her to have the right to take over directors' powers.

The scheme of arrangement involves the final deal. Yet again, the onus is very heavily put onto the creditor who may also be in a weak position struggling with a business. A creditor must not only vote against the scheme of arrangement but must also go to court to prove that he or she has been unfairly prejudiced. The court is already given a direction in this Bill that it must have particular regard to the opinion of the examiner over and above the opinion of an individual creditor that might be challenging. When it comes to the issue of costs, the challeng-

ing creditor must bear his or her own costs. This significantly changes the balance in this area. We have a Constitution that protects the property rights of people whatever position they are in. The argument is strongly presented that this is going to such a degree of rebalancing those rights that it is going extremely far.

While taking the court out and placing many hurdles before the creditor, the Bill also gives a lot of new powers to the examiner to repudiate leases and write down secured debts. Against a background of the creditor's position being significantly weakened, this could be seen as unjustified and disproportionate interference in the property rights of those involved.

With this Bill we are running the risk of serious constitutional problems concerning the protection of property rights. While I understand the Deputy's motivation, that is not a risk I can take. The last thing we need is to create what seems to be a sound Bill, but which is so flawed that we would have serious difficulties with it. I intend to continue to work to produce a more effective examinership system. I intend to push on with this work to see if we can develop, as the Company Law Review Group has indicated, a process that will make it cheaper for an examinership to be undertaken. This involves seeking to remove the hearings from the first part of the examinership process. Having court oversight and fairer access for a creditor than is provided for in the Bill are inherent in the way the examinership process must work. While clearly the intentions of Deputy Stephen Donnelly are good, he has gone too far in the Bill and it is not one I can support.

**Deputy Damien English:** I am grateful for the opportunity to speak about the Bill proposed by Deputy Stephen Donnelly, the Companies (Amendment) Bill 2014. While I may not agree with all its contents, I agree with the intent behind it, to protect viable companies, jobs and State revenue that could be lost if businesses were to fail. The Deputy was helped by Mr. Barry Lyons, solicitor, and Mr. Ross Maguire, senior counsel, who are totally genuine. Having read the Bill and listened to the Deputy's speech, this is an attempt to bring about a change that we would all like to see in making the process simpler, easier to access and less costly. The Minister has championed this change in the past two years. It was also highlighted in the programme for Government. We all want to do something about it and tabling a Bill helps the debate and will move it forward. I do not agree with some parts of the Bill and the Minister has outlined many more instances where the Government does not agree with it.

The same protections would not be available under the Bill as under the current system. While I accept the proposed changes to the examinership process would significantly reduce the cost and the time involved in the process and make it more accessible to business, I do not agree that they retain all of its current advantages. It would retain them for the company which would be protected by a receiver, a liquidator, a sheriff in seizing goods, in the enforcement of personal guarantees and other court proceedings. It would also have the opportunity, in this examinership model, to retain key staff, management and goodwill and use the existing customer base and contracts and seek to increase them, as well as keeping the assets. All of the advantages would be with the company that chose to enter into the process.

I fear the Bill would not retain the current advantages for the creditors of a business. In practice, creditors accept the examinership process as opposed to receivership or liquidation because they have some hope of getting something back. I would, therefore, like to see the examinership system used more. Deputy Stephen Donnelly's proposal would lessen the rights of creditors, which would be slightly unfair. In the past couple of years people talking about creditors are thinking of banks, the debt they are owed, the write-off received and wondering why

they cannot get a write-off. Many creditors are suppliers of goods, other small businesses and sole traders. They are also ones we want to protect. It is very important, therefore, that a new model protect all rights. While it could make it easier for the company in trouble that could be viable with the right procedures, we cannot lessen the rights of creditors. These are other small businesses and if we lessen their rights, we will not achieve enough in this process. Examinership is a model that is generally beneficial to creditors and that will continue to be the case.

A problem arises if a creditor does not agree to the survival plan put forward by an examiner. The Bill would force creditors to initiate a court case if they objected to the plan. This would make it more difficult for creditors that have supplied goods and services to defend their interests. This would place an unfair onus on the creditor which could be a small business or a sole trader to take on the risk and the cost of a court challenge. The onus should remain on the company, through the examiner, to establish the case for the plan and have it independently judged and assessed. That independence is provided for in the court process. We could certainly reduce costs by taking this process out of the courts system, but we must retain some independence.

I welcome the Minister's intention and desire, mentioned tonight and on previous occasions, to establish a working group to examine the feasibility of allowing small private companies to initiate an application to be placed in examinership through an administrative procedure. That model could work best and may involve a combination of what is proposed in respect of the administrative panel. However, there must be independence in this matter. We cannot have creditors being forced into court to protect their interests. That would be going too far and unfair. That is my reading of the Bill and if I am wrong, Deputy Stephen Donnelly can correct me. It refers to where creditors would have to go to court to have the plan judged if they did not accept it. That is not fair.

**Deputy Stephen S. Donnelly:** They must go to court anyway.

**Deputy Damien English:** I accept that, but they do not have to cover the costs involved and in this instance they would take on all of the risk.

**Deputy Stephen S. Donnelly:** They do.

**Deputy Damien English:** The creditors go to court together. Under this model, at a later stage when the plan had been produced, if they were unhappy, they would have to go to court. That is not the way to go about it, although I accept what the Deputy is trying to do.

We must find a procedure that has the correct balance between the cost of examinership and the protection offered to companies. We want to see progress made, but we must protect as many businesses as possible. We all know of many companies that would be viable if they did not have debts and if they were not being dragged down by property debt. We must find new solutions. I, therefore, urge the Minister to move forward with his suggestions as quickly as possible. We want change, although not as far as Deputy Stephen Donnelly proposes.

**Deputy Áine Collins:** I welcome the opportunity to debate ways of helping viable small business to survive through difficult times. This means helping all small businesses. If businesses can enter examinership too easily and without proper supervision and fair procedures being applied, their creditors may end up suffering. These creditors, for the large part, could also be small businesses and end up being forced to close. The current examinership process has been used effectively by some larger firms to deal effectively with issues such as upward only

rent reviews. Viable businesses have been kept in operation and protected jobs; therefore, the examinership process can work well. However, the process of going through the High Court is far too expensive for small companies or sole traders. We, therefore, need to find a solution to provide a similar process but one in which smaller companies could avoid the costs associated with going to the High Court. In trying to achieve this, it is equally important to protect the rights and welfare of creditors. The balance has to be right and, as the Minister mentioned, there are constitutional issues to be taken into account.

We have to find a solution. Deputy Stephen Donnelly is right that we need to develop an examinership process that is workable for viable small businesses and protect associated jobs. The Minister agrees with the general principles of the Bill and has taken and will continue to take steps to achieve the same results in a more balanced way. The programme for Government has proposed introducing new, legally binding voluntary administration procedures. However, in reporting to the Minister, the company law review group, CLRG advised that it would not be viable to introduce a fully non-judicial debt settlement scheme, as proposed in the Bill, as such a scheme would require the consent of all creditors. From past experience of trying to do this before a company entered liquidation, it is very difficult and highly unlikely. Nobody wins when a company ends up in liquidation. The Minister sees merit in the proposal, but, in the light of the advice received, has decided that further work needs to be done. He proposes to set up a working group to examine the feasibility of allowing small private companies to be placed in examinership with the minimum of court oversight. This debate and discussion should help to guide the working group to arrive at an appropriate recommendation that would have the correct balance between the rights of the person seeking examinership and those of the creditors. In this context, it is important to note that the Minister has been progressing a commitment whereby small businesses can apply for examinership to the Circuit Court, which we all agree would be a far less expensive option. Enabling legislation has already been passed - the Companies (Miscellaneous Provisions) Bill - which will come into force once a commencement order is issued. I look forward to seeing a strong working group being established and hope a much less costly and burdensome examinership process can be found for small businesses.

Much work has been done on the Bill by Deputy Stephen Donnelly and also in the subsequent analysis of it by the Company Law Review Group and the Department. Therefore I hope the next steps to find a solution will be taken as quickly as possible, as time is of the essence for many viable companies all over the country. We must also set this in place if we are to develop entrepreneurship and encourage people to set up businesses, as if things do not work out, there must be a process in place which is not hugely burdensome.

**Deputy Tom Barry:** I welcome the opportunity to speak to this Bill, as it is good to see concern for small and medium enterprises, SMEs, and jobs. I am one of the 15,000 people who runs an SME in the country, as mentioned by Deputy Donnelly. After 20 years running the enterprise, I have come across most of the ups and downs at this stage. In the limited time available, I will discuss some of my reservations about the Bill, although I am glad this important matter is being discussed. There are issues nonetheless.

The Bill would give way too much power to the examiner and it would make me, as a supplier of goods, nervous to see an examiner with that much power. It would be there to be mistreated. I have not seen mentioned any qualifications for the examiner. I spoke with the Director of Corporate Enforcement a while back and the qualifications of people doing this job must be pinned down a little more firmly. We cannot sidestep the oversight of the court, and although I am sure that is not what the Deputy is aiming to do, we must say that quite clearly, as

required. I cannot stand the idea of costs going to the creditor. In many cases the creditor may be just surviving, and this is just about adding another cost. We have all spoken about getting rid of the costs to businesses today but this would add such a cost. In business, people are only as good as their next year, so I do not like that extra cost.

I do not see the need to give executive functions to the examiner, and to be blunt, this seems to be a back door Bill for challenging upward-only rents. Why do upward-only rents come about? Both sides in such agreements would have had legal advice, with one side looking to get the best possible deal and the other seeking the best premises. These parties would have signed up to crazy rents that could only go in one direction; in some instances there was an element of greed. I am involved in much renting of land and if I rented half of County Cork at a ridiculous rate, although I would have the land I would not be able to pay for it. That is not the way business works. There is no onus to save people who make terrible business decisions, and we must realise that because business is competitive, those who are successful are usually the people who make good decisions.

With regard to the proposed section 36J(2), I have to ask if the same would apply if the roles were reversed. I am not sure it would. This proposed section would bring about a negative effect if creditors saw how they would be less secure in their supply of goods.

The Deputy mentioned five main points. He argued that examinership is too expensive, which is absolutely true. I am not sure what Deputy Donnelly meant by “abuse by creditors”, as most creditors just want to be paid. They do not want anything more than that. The Deputy indicated that refinancing costs are too high, which is true. I am thankful that many of us in business have very good rates if we did well in the good times and still held those rates. That is not only applicable to examinership and would apply if loans were to be rescheduled. Currently, by the time the loans are rescheduled, the interest rates might make them higher than if current lower rates are applied. The Deputy also mentioned upward-only rents being applied by landlords, and I have gone through that. A landlord may get a similar deal with a business that will honour its commitments so if there is a problem, the business owner must sit down with that landlord. The Deputy’s last point was that creditors will not trade without guarantees, and who would want to do business and feel they might not be paid?

There is an element of burning the people supplying goods in this. One may argue that a landlord has unearned income but the person supplying goods deserves to be paid. There is nothing worse than supplying goods or services to somebody and not being paid. Any business will go through a creditors’ book and aim to pay its bills. I accept this is a serious issue but I have some reservations that must be addressed. We should discuss the matter further.

**Deputy Paul J. Connaughton:** I thank the Ceann Comhairle for the opportunity to speak to the Bill, which aims to secure the future of Ireland’s small businesses via the examiner process. Although there are many laudable aspects in this proposed legislation, there are others that may well be impractical, given the short interval in which an examiner must work. That is why the Government is unable to support this legislation.

Deputy Donnelly has correctly highlighted the need to reduce the cost of entering examinership and is attempting to remove some of the current barriers to business that are causing otherwise viable companies to falter in prevailing economic conditions. Proof that the Government recognises the need to reduce examinership costs is contained in the Companies (Miscellaneous Provisions) Bill 2013, which would permit small businesses to apply for examinership in the

Circuit Court, where costs are significantly lower. They may be up to a third lower. Although this is welcome, we should consider a structure that would suit even smaller businesses. For example, the legislation defines small companies as those with fewer than 50 employees and a turnover not exceeding €8.8 million. We should also consider providing a smaller framework for companies with fewer than ten employees and a turnover of less than €1 million.

As employment levels rise in tandem with economic prospects on the domestic front, these small or micro-companies need time to recuperate and build resources and capacity before re-engaging with debts. High rents are one reason small companies, as defined in the legislation, are seeking the protection of examinership, but the micro-companies of which I speak are also facing this problem. They are often dissuaded from entering examinership because of prohibitive, albeit reduced, court costs.

Problems with the Bill include the removal of obligatory court oversight and the prospect of allowing the examiner to assume the powers of directors if it is believed that directors are trying to stymie the examiner process. This would result in an examiner acting as judge and jury and would leave no avenue for appeal open to directors. Requirements that the examiner would report to the Director of Corporate Enforcement are unworkable and would effectively change the nature of examinership while broadening its remit significantly beyond what is currently intended.

Valued issues are raised in the Bill, including the need for a more effective rescue system for ailing businesses. However, small businesses are interdependent and allowing firms easier access to writing down debt would in turn damage many viable firms both now and for years to come. Similarly, the provision in the Bill that creditors should bear their costs is contrary to common law and would cause unforeseen and unwanted costs on many small companies whose debtors enter the examinership process.

This Government is committed to supporting job creation and helping companies of all sizes to survive the downturn of recent years and avail of opportunities as the economic climate - locally, nationally and globally - improves. Much of the focus of this Government over the past three years has been about reducing costs for businesses, with an emphasis on building an economy based on enterprise, innovation and exports. It is only through a focused enterprise culture that Ireland can prompt the innovation so necessary for companies of all sizes in today's rapidly changing economic climate.

The focus on jobs has been intense and efforts by the Minister, Deputy Bruton, and his Department have borne significant fruit, improving the country's competitiveness and placing all the necessary back-up infrastructure at the disposal of Ireland's export countries. Ireland has gained several places in ratings of world competitiveness in the past two years, which is proof that real steps are being taken to cut the costs of doing business in Ireland, and this is increasingly being recognised on a global level. A number of innovative measures have been put in place to allow small and medium companies greater access to finance, including the credit guarantee scheme and the micro-enterprise loan fund. To date, over €10 million has been approved through the credit guarantee scheme alone, which is a very significant injection of funds for companies which in turn has helped create and maintain over 650 jobs.

This Bill highlights areas to be addressed but the Government has set out the reasons it cannot be supported at this time.

**Deputy Dara Calleary:** I welcome the chance to discuss Deputy Donnelly's Bill, which we will support if only to allow it proceed to Committee Stage, where many of the concerns expressed by previous speakers could be discussed, rather than at a working group immediately outside the House. Bringing it to Committee Stage points to a problem. We have a very good jobs committee, chaired by Deputy English, and party jerseys are left outside the door. For whatever reason, however, the Technical Group does not participate and we do not have the benefit of this type of discussion at committee meetings. If we did, perhaps we would be able to make progress on some of these issues. This could be reviewed as a consequence of this debate in the interest of the Bill.

It is to the Minister's credit that he introduced what we know as the mini-companies Bill immediately prior to Christmas. This opens up the examinership process but it is still ludicrously expensive and time-consuming. Considering the pressure placed on companies, many will shy away from the process.

A number of the costs to which Deputy Donnelly referred are legal costs. We are three years into the life of the Government. Within a number of months it introduced the Legal Services Regulation Bill, but it is still parked. It is discussed by the committee every so often in terms of the transformative effect on legal costs. Invariably, legal fees are associated with examinership and company restructuring. However, until the Government takes firm action and stops kicking the can down the road regarding the legal services legislation, and while there is some sort of tug-of-war between the two Government parties, legal costs will still be too high for small companies, including the types of company that this legislation affects. This is unfortunate. While I acknowledge it is outside the jurisdiction of the Minister for Jobs, Enterprise and Innovation, action needs to be taken.

The examinership process is particularly intensive. The new Bill opens up all sorts of possibilities for it. However, there has to be a discussion in this House and broader society on helping SMEs to move away from legacy debt. They should be able to grow their businesses on the tide of a recovering economy and deal with the debt when they have an ability to do so. Too many jobs and successful businesses are being lost on the back of legacy debt. Viable businesses that are providing a service and employment are being lost. Their day-to-day operations may be healthy and viable, yet they have little alternative but to proceed to liquidation or receivership. It is too early to determine the impact of the Companies Bill 2013. Immediately prior to Christmas, some very high-profile large companies did a deal with their banks and had considerable debts written down. However, this is not the preserve of many SMEs. One will not read about many SMEs who have faced this situation in the business pages of any of our national newspapers. They close and leave debt and unemployment behind them. We need to have a realistic discussion and arrive at a solution quickly in this regard.

The key issue for any business in terms of expansion and getting out of financial difficulty is access to credit and finance for working capital to allow it to grow, take advantage of opportunities that may arise and create employment. The Minister and I have discussed already my inability, as an Opposition spokesperson, to call the effectiveness or otherwise of his plans. For instance, when we put a question to the Minister for Finance, Deputy Noonan, on the €2.5 billion that the two pillar banks have loaned to SMEs, he says they have loaned on target. I do not doubt him, but when I ask whether this involves new lending or restructuring of existing lending, and when I ask about the sectors of the economy that are benefiting, I do not get a breakdown. I understand much of the money has been loaned to those in the agriculture and food sectors. This is fine as it is creating employment. However, we cannot get a breakdown

because of commercial sensitivity. Microfinance Ireland and the credit guarantee scheme are way below target. There is now a lacuna in Microfinance Ireland as it recruits a new chief executive. I do not know what happened in this regard because the chief executive that was in place and the current chairman are two very impressive people. When they appeared before the committee, they were very focused. I fear we will lose that focus. It is still very hard to call the effectiveness or otherwise of lending to SMEs. We are supposed to believe the Department of Finance's contention that we have met the targets, that €2.5 billion has been lent and that we will do more. We are supposed to believe the CRO without being given the empirical evidence to study. I ask the Minister to provide the relevant information to allow us to have a proper discussion on SME financing.

Since the examinership process began in 1990, it has served a purpose. Until now, however, small companies have been absolutely excluded because of the cost. From January 2012 to November 2012, there were 26 examinerships. There were 19 in 2013, representing a decrease of 27%. The inability to pay for examinership was the difference between surviving and failing for many companies.

There has been much discussion on upward-only rent reviews this evening. The difficulty for Government Deputies in advocating discussion on this or criticising or wringing their hands over upward-only rent reviews is that they made it an issue. Both of the parties in government made promises before the last general election that they would resolve the problem in spite of their being in possession of the legal opinion of the then Attorney General. The Government - the Labour Party, in particular - then maintained there was eminent legal advice to the effect that the problem could be solved. It said it would address the matter in the programme for Government and votes were won as a consequence. The problem was not addressed, however, because it cannot be addressed constitutionally. This was known to the Government. All the wringing of hands we will witness tonight and tomorrow on the other side of the House over upward-only rent reviews should be put in that context. It will be very difficult to get around it except through some sort of examinership process. Until now, this has been the preserve of the large chain companies as they have been able to renegotiate rents and use their clout to maintain rents. This facility is not open to the small operator. A property solution for SMEs is essential to allow them to recover.

Business costs in general are not decreasing as they should. Energy costs are still higher than they should be. I acknowledge that this is an island country, which results in extra costs, but energy costs for businesses are not moving in the way they should. Labour costs have decreased considerably but they are beginning to creep up again. We are beginning to see skills shortages in the economy and we need to address that. The notion that we can suddenly start lobbying in claims for huge pay increases because some green shoots are beginning to appear is absolutely crazy in the context of the current business climate. It is a very fragile recovery and the notion of making pay increase claims as soon as there is some sort of recovery is unfair on businesses. Businesses that can afford to pay should do so. The majority of businesses cannot do so as they are struggling to get by in this the recovery. One is completely excluded from dealing with labour costs in the examinership process, apart from making people redundant.

What Deputy Donnelly has done in terms of putting this matter on the agenda is such that we must, in the context of the Companies Bill, Report Stage of which will be considered next week, apply a test or standard to determine whether it will help companies to maintain and create employment. Second, we must question the cost test involved in terms of the services a company needs. Everybody accepts that legal costs are too high. Urgency is needed from

the Department. Accountancy costs and costs associated with examinership are generally too high. We tabled a number of amendments to the companies legislation of 2013 which would require those seeking to serve companies going into examinership to be up-front about their costs and publish them. They were turned down. I ask the Minister to pursue this with the agencies in his Department. This Bill or the companies legislation of 2013 should have some sort of mechanism whereby people can investigate prices in advance. There are some companies moving into this market for the sake of making a quick buck and they are using the stress small companies are under to increase legal, accountancy and consultancy fees in the context of the new markers available to them. There needs to be considerable transparency regarding the process and its cost.

While I am concerned about elements of Deputy Donnelly's Bill, such as the lack of any kind of court protection or supervision, and the associated weakness, it could be addressed during a proper Committee Stage debate rather than parking it with a working group in the hope that we will not return to it. We will return to it because the recovery for small and medium-sized companies will not be real until the €50 billion in outstanding loans to SMEs are dealt with. Half of these loans are non-performing. Until we deal with this issue, we cannot begin to expect the SME sector to increase employment. We cannot expect them to expand during the recovery until that elephant in the room is dealt with. We are beginning to deal with it for mortgages and other arrears, although far too slowly. Until we deal with this issue, how can we expect the sector to create and grow employment? How can we expect those who own businesses, people such as Deputy Barry, to look forward to a time when they might be able to grow out of their debts if we do not give them the mechanisms to do so? The Companies (Miscellaneous Provisions) Bill 2013, the so-called baby Bill, does not do it for a lot of businesses. It is unfortunate that the Minister has decided to oppose this Bill rather than allow it to progress to Committee Stage to see how we could improve it.

**Deputy Jonathan O'Brien:** I congratulate Deputy Donnelly for publishing this Bill and getting it on the agenda of the House as quickly as he did. It is a topical issue and now is the right time to discuss it further, following the passage of what is known as the baby Bill in December, when, in fairness to the Minister, he recognised that there was an issue around the whole examinership process, particularly for smaller companies, and introduced legislation to try to deal with it. He changed the system by moving the process from the High Court to the Circuit Court, which will make it easier for some companies to access the examinership process, particularly viable companies.

When I listened earlier to Deputy Donnelly introducing the Bill, he spoke in great detail about what he hopes this legislation can and will achieve if enacted. It has been the Minister's policy to try to open up the examinership process to as many companies as possible. We spoke during the Second Stage debate on the Companies (Miscellaneous Provisions) Bill 2013 about what the Minister was trying to achieve and how important it was that the examinership process did not become the preserve of larger companies, some of which have used and abused it to try to deal with issues such as upward-only rent reviews and other legacy issues. I note that Deputy Barry said this Bill was being used, in his opinion, as a back-door way of dealing with upward-only rent reviews, but that would not be the case if the Government had implemented its own programme for Government and introduced legislation to deal with upward-only rents. The Government is saying it cannot be done, on the advice of the Attorney General, but we have not seen that advice. If that is the case, let us see the advice. Let it be put before the Oireachtas Joint Committee on Jobs, Enterprise and Innovation and let us discuss it, because it is our con-

tention that we can introduce legislation to deal with upward-only rents. In fact, Deputy Tóibín, the Sinn Féin spokesperson on jobs, introduced legislation previously to deal with this issue.

Over the next two nights we will hear a lot about the importance of the SME sector, how 99% of enterprises are in this sector, how it provides 70% of all employment, and how it is the lifeblood of the economy. All of that is correct, so any proposals that come before this Chamber to help that sector should be examined and welcomed and should not be dismissed out of hand. Unfortunately, that is what the Government has decided to do with regard to this particular Bill published by Deputy Donnelly. Deputy Donnelly was very honest in saying that his Bill, as published, is not the finished article. He admitted that there was room for improvement and pointed out that he did not have access to the expertise within the Minister's Department. However, some of the people who have worked on the Bill are experts in their own right. Ross Maguire was one of them and I cannot recall-----

**Deputy Stephen S. Donnelly:** Barry Lyons.

**Deputy Jonathan O'Brien:** They have both been involved in the examinership process for many years and have dealt with over 50% of the examinerships that have come before the courts. There was a lot of expertise involved in the drafting of Deputy Donnelly's Bill and it would have made more sense if the Government had taken on board what Deputy Donnelly has said and embraced his willingness to work with the Government to try to improve the Bill. It is not a case of trying to improve the Bill to give Deputy Donnelly any kudos; it is about trying to improve a Bill which he and I believe has the potential to make the examinership process easier and cheaper for businesses to access. It is in the interests of the Government and of SMEs in particular to allow this Bill to go to Committee Stage and be debated openly to see if we can further improve on what the Minister introduced in December.

It is a fact of life that businesses get into financial trouble. Viable businesses, because of legacy debt, are being faced with the option of closing because they cannot deal with those debts and with other difficulties from the past. They are viable companies but they just need a little bit of a leg up. They need a little bit of help and we all have a responsibility to try to bring forward legislation to deal with that. Deputy Donnelly's Bill has the potential to do that, which is why it is disappointing that the Government has decided not to allow it to progress to Committee Stage. The challenge, now that the Minister has made the decision not to accept this Bill, is for him to bring forward legislation himself to try to do what Deputy Donnelly has set out to do in this legislation. We cannot just leave it with what was passed in December. We have to continually review and improve policy in this area because if we do not, more and more companies will go to the wall and more and more jobs will be lost.

Debate adjourned.

The Dáil adjourned at 8.55 p.m. until 9.30 a.m. on Wednesday, 5 February 2014.