



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Business of Dáil	2
Ceisteanna - Questions	2
Priority Questions	2
Free Travel Scheme Review	2
National Internship Scheme Administration	4
Social Welfare Payments Administration	6
Poverty Data	8
Social Insurance Payments	10
Other Questions	12
Community Services Programme	12
Local Enterprise Offices Remit	14
One-Parent Family Payments	16
JobsPlus Scheme	17
Topical Issue Matters	19
Appointment of Ministers of State	20
Leaders' Questions	21
Ceisteanna - Questions (Resumed)	27
Cabinet Committee Meetings	27
Retirement of Garda Commissioner	34
Cabinet Committee Meetings	38
Order of Business	41
Draft Commission of Investigation (Ronan MacLochlainn) Order 2014: Referral to Joint Committee	45
Topical Issue Debate	46
Quality and Qualifications Ireland Accreditation	46
State Examinations Reviews	48
Clinical Trials	51
JobsPlus Scheme	54
Court of Appeal Bill 2014: Committee and Remaining Stages	57
Disability Services: Motion [Private Members]	86
Message from Seanad	110

DÁIL ÉIREANN

Dé Máirt, 15 Iúil 2014

Tuesday, 15 July 2014

Chuaigh an Leas-Cheann Comhairle i gceannas ar 2 p.m.

Paidir.
Prayer.

Business of Dáil

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): I propose that we suspend the House for ten minutes as the Tánaiste has been delayed briefly. She will be present within ten minutes, and with the indulgence of other Members, I request that we adjourn for that period.

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

Sitting suspended at 2.01 p.m. and resumed at 2.10 p.m.

Ceisteanna - Questions

Priority Questions

Free Travel Scheme Review

63. **Deputy Willie O'Dea** asked the Tánaiste and Minister for Social Protection the position regarding the review of the free travel scheme; if she is concerned at the possible withdrawal of private transport services from the scheme; and if she will make a statement on the matter. [31161/14]

Deputy Willie O'Dea: I congratulate the Tánaiste on her elevation. I also congratulate her new sidekick, the Minister of State, Deputy Kevin Humphreys, on his well-deserved promotion. The purpose of the question is to ascertain the impact, if any, of the review of the free travel scheme, on the people who already enjoy the benefits of free travel.

15 July 2014

Tánaiste and Minister for Social Protection (Deputy Joan Burton): I thank the Deputy for his congratulations to me and the Minister of State, Deputy Humphreys.

The free travel scheme is currently available to all people living in the State aged 66 years or over, and to persons under 66 who are in receipt of certain disability-type payments or carer's allowance. When companion and spousal passes are taken into account, more than 1.2 million people benefit at an annual cost of €77 million. The Government, in its statement of priorities for the period 2014 to 2016 published last Friday, is committed to the full retention of the free travel scheme. This commitment recognises the importance of the pass to pensioners, people with disabilities and carers. Since its introduction in the 1960s, it has been highly valued as it allows beneficiaries to participate and remain active in the community. The freeze on funding for the scheme introduced by the previous Government in 2010 has placed pressure on the operation of the scheme as eligible passenger numbers have continued to rise. The Department is aware of the issues being raised by private operators and, in this regard, officials have had discussions with the National Transport Authority and the Coach Tourism and Transport Council of Ireland.

In addition, the Minister for Transport, Tourism and Sport and I established a working group, with representatives from the two Departments as well as from the Department of Public Expenditure and Reform and the National Transport Authority, to review the free travel scheme. I expect that group to complete its work soon and its recommendations will then be considered.

It might also be noted that the Department is investing in the modernisation of the free travel scheme. The introduction of the public services card for free travel customers will provide more accurate information on transport services where integrated ticketing is supported and will also include photo identification and security features. At the start of June 2014, more than 197,000 cards with a free travel variant have been issued. The free travel pass is safe.

As the Deputy will appreciate, there has been a significant investment in the new cards to modernise the administration of the scheme and the identification of people with the photo. The free travel pass is safe.

Deputy Willie O'Dea: I appreciate what the Minister has said about the introduction of the new card which will go a long way towards combatting fraud in the system. I note the Minister said her in reply that the Government is committed to the full retention of the free travel pass. Can the Minister give us an assurance today that there will not be a charge, minimal or otherwise, on people who enjoy the travel pass, that the hours during which the free travel pass can be used will not be restricted, that the modes of transport available to people with free travel will not be restricted, and that all the people who are entitled to free travel at the moment will continue to be equally entitled to it?

Deputy Joan Burton: I have heard some of the suggestions that the Deputy has made, such as annual charges and other restrictions, which have appeared from time to time and have been suggested by people. The Deputy has suggested them here himself.

Deputy Willie O'Dea: No, I have not. I said there have been suggestions; I have not made them. I am asking the Minister to rule them out.

Deputy Joan Burton: Let us say the Deputy has been raising the spectre of charges and restrictions. There are no proposals in that regard. The scheme is almost 50 years old. It has been remarkably robust since its inception in 1967. As I explained in my reply, there are some

problems with the issue of identification and a small level of misuse of the scheme. We have now introduced 197,000 of the new public services cards, which are embedded with the photo of the person who is entitled. In this case, the initial roll-out is to retired people. Embedded also in this card is “FT” for the free travel pass. That allows a high level of safeguarding against fraud and certainty as to the identity and entitlement of the person who is seeking free travel.

Deputy Willie O’Dea: The Minister will also be aware that in some places where public bus services are not available people have access to privately operated services. Approximately 90 private operators operate the free travel scheme. Some of those are threatening to withdraw from the scheme. Can the Minister give us an assurance that she will be able to retain those 90 operators within the scheme? Does the Government have any proposals to increase the number of private operators? I believe it is the Government’s intention for more routes to be privatised or at least that more routes will be given to private operators on some routes currently available only to Bus Éireann.

Deputy Joan Burton: From time to time some operators pull out of the scheme while other operators join it. I am aware there are cost issues for some of the operators. We are anxious to maintain those routes. As the Deputy will be aware, a number of rural transport initiatives are supported not just by my Department, but particularly by the Department of Transport, Tourism and Sport. They can make a very specific provision of small-scale local carriage and bus services, for example, from a small village to a larger town, which are particularly popular with people such as retired people, who may be anxious to go into the next big town in order to do business or attend social events or other public events.

National Internship Scheme Administration

64. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection her views on the decision to withhold the names of 68% of the companies benefitting from a significant public subsidy via the JobBridge scheme; her views that this creates a secret competitive advantage for those companies funded by the State; her further views that her Department was correct to give companies the option of not having their name shown on the JobBridge website and then to equate this with a commitment of secrecy; and the steps she will take to protect the public interest in the proper and accountable use of public moneys channelled through the JobBridge scheme. [31163/14]

Deputy Aengus Ó Snodaigh: Cosúil leis an Teachta O’Dea, ba mhaith liom comhghairdeas a ghabháil leis an mbeirt Airí agus tá súil agam go mbeidh an chuid seo do thréimhse Rialtais i bhfad níos fearr ná an chuid dheireanach agus go mbeidh siad in ann déileáil le roinnt de na ceisteanna a d’ardaigh muid le tamall.

This question is to find out whether the Tánaiste agrees that the public has the right to know the names of the companies which are getting a subsidy of €82.3 million in the form of millions of hours of free labour under the JobBridge scheme and whether she agrees that her Department was wrong to deny my freedom of information request with the release of only 32% of the names of those companies benefitting from this lucrative public subsidy, with 6,500 interns engaged at present and a further 11,000 due over the next year.

Deputy Joan Burton: Ar an gcéad dul síos, ba mhaith liom buíochas a ghabháil don Teachta mar gheall ar a chomhghairdeas dom féin agus don Minister of State, Deputy Kevin Hum-

phreys.

JobBridge has provided a valuable work experience and development opportunity to more than 30,000 unemployed jobseekers with approximately 7,000 jobseekers currently engaged on an internship. Independent research has shown that 61% of interns progress to secure paid employment, a progression rate that is higher than for any other employment programme. JobBridge is designed to overcome the barrier whereby unemployed jobseekers need experience to secure a job offer but cannot gain experience without a job. Although it is a service for the benefit of jobseekers, JobBridge requires the voluntary co-operation and commitment of employers to offer internship opportunities. Host organisations have a responsibility to offer a quality internship and development experience to prospective interns to improve their employment prospects.

Since its inception in 2011, more than 13,000 employers have participated in the JobBridge scheme. All of the funding for the JobBridge scheme goes directly to the intern and no funding is provided to the host organisation. I wish to stress that participation in JobBridge is on a voluntary basis for both interns and host organisations. In line with standard international practice in the recruitment industry, the Department provides employers with an option not to publish their names on the JobBridge website. Regardless of whether the hosts name is published, JobBridge is intensely monitored by the Department. In this regard, more than 6,600 monitoring visits to employers have been carried out to date. In addition, the Department has a mandatory monthly reporting system for both host organisations and interns to ensure compliance with the spirit and rules of the scheme. If any issues are raised, particularly by the intern, these are fully investigated by the Department.

Additional information not given on the floor of the House

I am satisfied that JobBridge is a very successful programme and I am confident that the extensive monitoring system put in place by the Department is effective at preventing any potential abuse of the scheme.

Deputy Aengus Ó Snodaigh: As I stated, I received a partial freedom of information response within which I obtained some of the briefing documents with which the Tánaiste is provided when answering questions, one of which was from November 2013. At that point, in the event of a question being asked about what control measures the Department of Social Protection had in place to monitor internships, the Department deemed the voluntary nature of JobBridge to be an important matter in this regard and advised it was an important part of the control measures and criteria in place to protect the interns and to ensure the integrity of the JobBridge scheme. The intern could, at any stage, leave the internship if he or she so wished. Why did the Tánaiste decide to jettison this important safeguard just two months later, in January 2014, when she announced that JobBridge would be mandatory for young people under the Youth Guarantee?

Deputy Joan Burton: I will take the last question first. The reason is that as the Deputy is aware, very young people who have no engagement in the labour market get a reduced rate of payment. If, for instance, they undertake a JobBridge experience, in some cases young people who have left school early may not even have finished the junior certificate or possibly have not completed the leaving certificate. In the whole approach to the Youth Guarantee, the Government wishes to end the position where unfortunately, a small group of young people in some areas opt to go directly onto social welfare. We want to offer them instead an opportu-

nity to engage in education and training, including apprenticeships and work experience that includes learning. This is part of a strategy of asking young people to engage positively, rather than claiming social welfare and limiting their prospects of securing employment and financial independence.

Deputy Aengus Ó Snodaigh: The Tánaiste referred to progression rates. A recent article listed the number of people who have taken part in JobBridge, the number currently on the scheme and the number of interns who subsequently found employment in the Department in which they did an internship. It found that of 261 interns in Departments, only one was offered a job and in that case the offer was for a six month contract only. Contrary to the figures the Tánaiste repeatedly cites from the Indecon report, only one quarter of interns in the public sector got a job afterwards and many of the positions they secured were not related to the internship.

Deputy Joan Burton: The Indecon evaluation of JobBridge found that more than two thirds of internships were in private sector organisations, 22% were in the public sector and 9% were in community and voluntary sector organisations. As the Deputy is probably aware from his experience in the community sector, internships are highly sought after because of the number of fantastic people graduating from different courses and training, right up to postgraduate level and other senior levels, who find it almost impossible to get a job because they cannot get experience. Without experience, these graduates are locked into a catch-22 scenario.

The reason for the higher rate of employment among participants who complete their internships in the private sector is that private sector organisations frequently take on an intern in anticipation of hiring the person subsequently. The internship offers a mechanism for commencing a hiring process and giving experience. In the case of small and medium sized companies interns are frequently recruited when the internship finishes. The figure in public sector organisations is 41.2% and the figure in the community and voluntary sector is 43%, which is not as high as in the private sector.

Deputy Aengus Ó Snodaigh: The figure for the subsequent employment of interns in Departments is 0%.

Deputy Joan Burton: That is not true over the-----

An Leas-Cheann Comhairle: We must move on.

Social Welfare Payments Administration

65. **Deputy Thomas Pringle** asked the Tánaiste and Minister for Social Protection her views on whether 21.8 medical assessors, including the chief and deputy chief medical advisers, is an adequate number to assess applications for social welfare payments in view of the fact that more than 56,000 social welfare applications required a medical assessment in 2013; her plans to tackle the backlog and ensure any such assessments are carried out in a timely fashion; and if she will make a statement on the matter. [31166/14]

Deputy Thomas Pringle: If I may, I will congratulate the Tánaiste on her appointment and election as leader of the Labour Party. I also congratulate the new Minister of State, Deputy Kevin Humphreys, on his appointment to the Department.

The question arises from the extraordinary delays being experienced in having social wel-

15 July 2014

fare applications assessed by medical assessors in the Department. In 2013, 21.8 medical assessors had responsibility for dealing with 56,000 applications that required a medical assessment. The purpose of the question is to elicit from the Tánaiste the plans she has to clear the backlog of medical assessments.

Deputy Joan Burton: I thank Deputy Pringle for his words of congratulation to me and the Minister of State, Deputy Kevin Humphreys.

There are no backlogs in the provision of medical opinions on welfare entitlements. At the end of December, the number of medical opinions in process had fallen by 19%, from 3,617 to 2,923. The number of assessments in hand equates to less than four weeks' work. Some 48,000 medical opinions were provided in 2013.

Deputy Pringle will recall the problems caused by the large backlog I inherited when I became Minister. The Department made significant changes in work processes, especially in the area of information technology. I remember that Deputies were extremely patient when we discussed the matter in the House. We have actually cleared those backlogs, although I do not know whether the Deputy has a specific case in mind. Service delivery is a key priority for the Department and we have invested heavily in IT and business processes to ensure claims and appeals are processed as expeditiously as possible. We have made good progress over the past two years in clearing backlogs or schemes involving medical eligibility criteria. Medical assessors have a key role in advising on eligibility.

The Department has a core authorised number of 27 medical assessors, including the chief and deputy chief medical advisers. To ensure there are sufficient medical assessor posts available, the Department recently reached agreement with the Department of Public Expenditure and Reform for the allocation of four additional medical assessor posts to increase the number to 31.

Deputy Thomas Pringle: I thank the Tánaiste for her reply. I have experience of trying to get applications processed that involve a medical assessment. When one tries to find out how long it will take to get such an assessment, the response one gets from the Department is "How long is a piece of string?" There is basically no time limit on medical assessments being carried out. Very often I have had to table a parliamentary question to get the process speeded up. It is noticeable that when one tables a question, one gets an answer within a couple of days whereas it could have been going on for months in advance of that. That is not an adequate way to carry out the assessment process.

Based on the Department's own figures, each medical assessor is dealing with in excess of 2,000 applications annually. That is not counting reviews and other work such assessors have to carry out. Is it the case that only the chief or deputy chief medical assessor can sign off to ensure payment once an assessment has been made?

Deputy Joan Burton: The Deputy has raised an interesting point. He may be frustrated with the scheme but one of its great flexible points is that if one makes an application for something that requires a medical assessor's opinion, we allow the application to be continually subject to review through the input of additional information. The alternative would be to use a flat system of rejection, not allow a review and instead go to appeal. That would have a much less satisfactory outcome for clients who are using the system. We allow appeals, as the Deputy knows. From time to time one meets people who say they applied for something which was

refused. With the Deputy's skills, expertise and knowledge, however, he can examine the application and judge whether the medical evidence submitted is strong enough to warrant whatever payment or other request is made. Allowing the review is an important part of the scheme because it permits people to put in more pertinent, up-to-date and stronger medical evidence which in turn will assist them with their applications.

Deputy Thomas Pringle: There is no doubt that the review system allows extra medical evidence to be submitted. However, the fact that each medical assessor must process more than 2,800 new applications every year, not to mention further reviews, is surely a heavy workload. That workload issue is identified by the fact that the Minister has received approval for four additional assessors. Is it the case that one of the two senior medical assessors must sign off on the medical evidence review after it has taken place in order to get a payment out to a person?

Deputy Joan Burton: As I said, in the business process structure we would expect a medical assessment to be done and the application to be dealt with in four weeks. That is a reasonable timeframe in the context of the work that has to be done. More importantly, we also provide significant resources amounting to approximately €47 million to the Citizens Information Board and the Money Advice & Budgeting Service specifically to provide people with a confidential and private information service on how they can progress their applications and submit the appropriate information, accompanied by the relevant medical certification, in support of their cases. We come across quite a few cases where people supply general certification which does not really support their case, as opposed to direct certification. Currently, there is no backlog in terms of the processing times.

Poverty Data

66. **Deputy Willie O'Dea** asked the Tánaiste and Minister for Social Protection the actions she will take to address the increasing poverty levels here; if she will commit to protecting the universal payment of child benefit at its current levels; and if she will make a statement on the matter. [31162/14]

Deputy Willie O'Dea: My question relates to the fact that the most recent statistics on levels of poverty and income distribution in Ireland are two years old. I want to ascertain the progress made by the Government in dealing with these matters in the past two years.

Deputy Joan Burton: The Department of Social Protection will spend approximately €19.6 billion on income support payments in 2014. Core weekly payment rates have been fully maintained over the past three years in line with the programme for Government. Child benefit is paid for almost 1.2 million children in over 600,000 families, with an estimated expenditure of €1.9 billion in 2014. Income support payments play a major role in reducing poverty. CSO data show that in 2012, income supports and other social transfers reduced the at risk of poverty rate from 50.3% to 16.5%, thereby lifting one third of the population out of relative poverty. This represents a poverty reduction effect of 67.2%. Ireland is among the best performing EU countries in reducing poverty through social transfers.

Child benefit assists all parents with the costs associated with raising children and is a key component of income support for children at risk of poverty. Child benefit is complemented by targeted payments such as qualified child increases at just under €30 per week per child, back-to-school clothing and footwear allowance and family income supplement to support low

income families.

The Statement of Government Priorities 2014–2016, which we announced last Friday, contains a commitment to introduce measures in budget 2015 to assist low-income families by improving the system of child income supports, particularly for families in which one or both parents are moving from welfare to work. This will be informed by the work of the advisory group on tax and social welfare.

Deputy Willie O’Dea: We know that social welfare will always work to reduce poverty. If we did not have social welfare, we would obviously have much more poverty. Regrettably, however, the latest statistics on the incidence of poverty and income distribution are two years old. I do not blame the Minister specifically for this situation but it should be addressed by the Government. We are in the unusual position whereby I can get up-to-date CSO figures on the number of cows in County Limerick but I do not know the incidence of poverty in that county for 2014.

The figures from 2012 revealed that one in six people was living below the internationally accepted poverty line. The poverty line had decreased because of the economic downturn in the preceding years. One in six of the population equates to 750,000 people. The 2012 figures also showed that the deprivation rate, whereby people go without at least two of the 11 basic necessities, was 26.9%, which equates to a staggering 1.2 million people. Is the Minister confident that the statistics for 2014 will show an improvement in that situation?

Deputy Joan Burton: As the Deputy is aware, preparation of statistics in this area is a matter for the CSO. I would welcome the provision of statistics on a more timely basis. The EU is currently publishing the statistics on income and living conditions, SILC, for Europe and Ireland compares very favourably, principally because we have a level of social transfers which we maintained during the depression. The poverty reduction effects of social protection payments in Ireland are among the highest in the European Union. The best route from poverty or being at risk of poverty is to find employment. Over a period I have emphasised family income supplement, expanded the programme and made it easier to apply for when parents with children are returning to work. That will provide significant support for parents returning to work.

Deputy Willie O’Dea: The best obvious route from poverty is to find a job but the Minister may find it surprising that 16% of the people ascertained as living below the poverty line have a job. There is a specific commitment on page 22 of the programme for Government to combat and reduce incidence of poverty. In the Government’s national reform programme for 2012, the target for Ireland was that consistent poverty would be reduced to 4% by 2016 and 2% by 2020. The figure in 2012 was 7.7%, so how confident is the Minister that we will achieve the target?

Deputy Joan Burton: The national social target for poverty reduction is to achieve 4% by 2016 and 2% or less by 2020. A diverse range of actions in support of the target are set out in the National Action Plan for Social Inclusion, with annual updates in the national reform programme under the Europe 2020 strategy. We have also recently adopted a child-specific poverty sub-target in the policy framework for children and young people, which is to reduce the number of children in consistent poverty by 70,000 by 2020, which is a reduction of two thirds on 2011.

The Deputy may be aware the Government’s proposals published last Friday referred to people in work on very low wages. We have committed to the establishment of a low pay com-

mission, as there are a number of issues. The minimum wage, at €8.65 per hour, is relatively good but if a person only has ten hours of work per week, he or she will rely on social welfare for the balance of income. We have put significant extra resources into family income supplement to assist families in low income at work with children. We will continue to extend initiatives in that area to support families.

Social Insurance Payments

67. **Deputy Thomas Pringle** asked the Tánaiste and Minister for Social Protection her plans to provide unemployment and disability benefits for self-employed PRSI contributors; if she will consider introducing changes to PRSI contributions to provide for same; and if she will make a statement on the matter. [31168/14]

Deputy Thomas Pringle: This relates to self-employed PRSI contributors and the Minister's plans, if any, to provide unemployment and disability benefits for them.

Deputy Joan Burton: Self-employed people are liable for PRSI at the class S rate of 4%. This entitles them to access valuable long-term benefits, including benefits such as the contributory State pension and widow's, widower's and surviving civil partner's contributory pension, as well as maternity benefit. The advisory group on tax and social welfare found the current system of means-tested jobseeker's allowance payments adequately provides cover to self-employed people for the risks associated with unemployment. The group was not convinced there was a need for the extension of social insurance for the self-employed to provide cover for jobseeker's benefit.

The group also found that extending social insurance for the self-employed was warranted in cases related to long-term sickness or injuries. To this end, the group recommended that class S benefits should be extended to provide cover for people who are permanently incapable of work because of a long-term illness or incapacity through the invalidity pension and the partial capacity benefit schemes. In this regard the group recommended that the rate of contribution for class S should be increased by at least 1.5 percentage points, payable on a compulsory basis. This recommendation will require further consideration in conjunction with the findings of the most recent actuarial review of the Social Insurance Fund, which indicated that the self-employed achieve better value for money compared with employed workers. If we are to extend the benefits, we would have to have an additional contribution. The Deputy is probably aware that in the legislation, which was passed recently by the House, we extended the right to insurance to the spouses and partners of people who are self-employed. I estimate that will benefit an additional 5,000 to 6,000 people, many probably coming from the farming community.

Deputy Thomas Pringle: The extension of the class S contribution to allow for invalidity pension is a welcome development for self-employed people. A greater issue than the cost and value for money is the fact of having a safety net if one is self-employed. Many are forced to be self-employed and do not choose it. To have the safety net of an entitlement to jobseeker's benefit would be of great benefit to them and would encourage people to take up self-employment. Self-employed people would be less likely to become unemployed and would be less of a drain on the State.

While the Department of Social Protection has moved to ease the burden for self-employed people to get jobseeker's allowance, having an entitlement to jobseeker's benefit would encour-

age them to become self-employed. That should be examined. The Minister says that people entitled to invalidity pension and unemployment assistance would also be entitled to a disability allowance, which is a continuous payment. I do not see why she can extend some payments and not others.

Deputy Joan Burton: The advisory group found that the current system of means-tested jobseeker's allowance payments, to which the Deputy refers, adequately covers the self-employed. I am not sure that many people appreciate the point that almost nine out of every ten self-employed people who claimed the means-tested jobseeker's allowance during the three-year period from 2009 to 2011 received payment. Many of those would have been working in construction or allied trades. A very high percentage of those who applied for jobseeker's allowance got it. The group recommended the extension of social insurance cover for self-employed people who are permanently out of work through long-term illness or incapacity. It recommended a compulsory basis rather than an opt-in or out system because for social insurance one needs national cover. The contribution rate for the self-employed is 4% for the important benefits they get, whereas the contribution for people in employment, through the employer's and their own contribution, is close to 15%. If self-employed people wanted the full range of cover they would have to contribute 15%.

Deputy Thomas Pringle: While I recognise the contribution for the self-employed is much lower than for those in employment, there should be recognition that they are self-employed and are quite likely to be employers themselves through the nature of their business. A lower rate of around 8% should be brought in to allow them have all the benefits such as jobseeker's benefit if they become unemployed through no fault of their own. While people who ended up unemployed got jobseeker's allowance, this did not happen until after they had gone through a tortuous process. In some cases I have dealt with, people have had to wait for between a year and a year and a half to get their payments. The demands made when the Department placed the onus on them were difficult to achieve. The nub of the problem is that the contributory old age pension is the only thing self-employed people who made contributions but ended up unemployed through no fault of their own are entitled to. It is very difficult for people in their 30s to comprehend that they will have to wait until they are 67 or 68 to benefit from their PRSI contributions. We should give serious consideration to this proposal in recognition of the contribution of the self-employed and the fact that they are likely to be employers. It should be taken on board.

Deputy Joan Burton: Everybody present in the Chamber will recall that the set of circumstances outlined by Deputy Pringle was a strong and sad feature of the 2011 general election campaign. Each of us met many people who had been left in this precise situation. It seemed to be taking years for them to have success in applying for the means-tested jobseeker's allowance. When I became Minister shortly after the election, I changed the way the applications worked by allowing people to detail their current circumstances. The previous Administration had based the applications on having full sets of accounts, tax data and everything like that.

Deputy Éamon Ó Cuív: That is incorrect.

Deputy Joan Burton: We updated the information that people could bring in. We allowed them to bring in details of their current circumstances. As a consequence of that review and update, far more people qualified to get jobseeker's allowance.

Deputy Willie O'Dea: There is no difference in practice between now and before.

Deputy Joan Burton: That is why nine out of ten people now qualify to get it.

Deputy Éamon Ó Cuív: If the Minister checks the record, she will find that it was always allowed under the current circumstances, as opposed to the historic circumstances. If she checks the replies to parliamentary questions that I gave as Minister, she will find that she has given the House incorrect information. I hope she will study the matter and correct the record of the House.

Deputy Joan Burton: Perhaps the experience was different in the Deputy's local area. In Dublin and many city areas, it was quite difficult for one to access a jobseeker's assistance payment unless one had very detailed accounting records. I assume this could partly be attributed to the sudden and serious nature of the collapse, particularly as it applied to self-employed contractors and subcontractors. The situation is now clarified. People can bring in and use their current details. The rules may have permitted that when the Deputy's party was in power, but the system was not operating in that way. Anyone who knocked on doors during the 2011 election campaign will recall repeatedly coming across families who found it extremely difficult to access these benefits. I am pleased to say the advisory group has acknowledged that nine out of ten people who can qualify for assistance payments are now qualifying for them.

Other Questions

Community Services Programme

68. **Deputy Éamon Ó Cuív** asked the Tánaiste and Minister for Social Protection her plans for the community services programme; and if she will make a statement on the matter. [30809/14]

Deputy Éamon Ó Cuív: I congratulate the Minister, Deputy Burton, on her appointment as Tánaiste. I also congratulate the Aire Stáit, Deputy Kevin Humphreys, on his appointment as Minister of State with responsibility for activation. The idea behind putting the activation programmes in the Department with the social welfare payments was to try to reduce the amount being paid to people to do nothing and to increase their opportunities to do something. The community services programme, which has not been expanded in recent years, is one of the best schemes because of the social, practical and community gains associated with it. I would like to Minister of State to tell us what he is going to do to use the potential of the community services programme for the good of society. I know it is a bit early for him to reflect on the matter, given that he has been in office for just an hour

Deputy Joan Burton: I thank the Deputy for the congratulations he has extended to myself and the Aire Stáit.

Regarding the community services programme, CSP, it is designed to address gaps in service delivery and disadvantage and ensure community facilities are utilised. It is a very valuable resource for important work done by not-for-profit companies and co-operatives in local communities throughout the country as well as supporting employment. The programme is funded by the Department with day-to-day management of contracts undertaken by Pobal. Around 420 not-for-profit companies and co-operatives shared annual funding of €46 million under the

15 July 2014

programme in 2013, with similar levels of funding being provided this year.

Contract holders operate community or social enterprises that are able to deliver tangible services capable of generating non-public revenues from their operations by way, in some cases, of charging fees, sales and-or fund-raising. The programme is not intended to represent full funding for any operation. Rather, funding is provided on the basis of a contribution to the cost of full-time staffing positions to support the delivery of the service and can include management and non-management elements. The contribution to a management position is €32,000 per annum and €19,033 to a non-management position.

Additional information not given on the floor of the House

The programme can also provide additional financial support where revenue-earning opportunities are limited, to support the development or transition of a service provider and-or to meet other short duration cashflow shortfalls.

The programme directly supported around 2,700 people in the delivery of services during 2013. In addition, the Department estimates that between 300 and 400 additional people are engaged in supported companies without further State support.

CSP is one of a number of schemes operated by my Department which contributes to the social economy in this country. As Minister, I will be making provision for this scheme in that context in the forthcoming budget.

Deputy Éamon Ó Cuív: I thank the Minister for the graphic description of and information on a scheme I set up. Explaining to me how the scheme works is superfluous; I have a fair idea how the scheme works. The question was not about how the scheme works. If I had wanted to ask that question I would have asked it. I want to know the Minister's plans for the future and what she intends to do to expand the scheme. As she is aware, many well-built, large community facilities throughout the country are not open as many hours as we would wish. They have income-generating capacity but not to pay the full cost. We have many heritage sites, tourist facilities and so on. I mentioned the *Dunbrody* in Wexford, an ideal case of a loss leader in the town funded through the community services programme or, for example, Athenry Castle in the Leas-Cheann Comhairle's constituency. It would not survive without the community service programme, which is of huge benefit to the wider economy. I could name endless projects throughout the country.

An Leas-Cheann Comhairle: Go raibh maith agat.

Deputy Éamon Ó Cuív: Has the Minister plans to expand the scheme to provide services the public needs, to make sure facilities on which a great deal of money was spent are used to their ultimate ability to give people the opportunity to work, and to give an opportunity for these facilities to generate more income?

An Leas-Cheann Comhairle: I will come back to the Deputy.

Deputy Joan Burton: I am aware of the Deputy's role in the scheme. As I said, it is a valuable scheme that is continuing to flourish. While I cannot comment on any budgetary matter regarding next year's budget, I value the scheme. Some 2,700 people are directly supported in the delivery of services during 2013, and the Department estimates that between 300 and 400 additional people are engaged in supported companies without further State support because

of the other fund-raising or revenue-based activities they are able to generate. It contributes strongly to the social economy. I confirm that I will be providing for this scheme in that context in the forthcoming budget but I am not in a position at this point, as the Deputy will appreciate, to indicate the level of funding in the forthcoming budget.

Deputy Éamon Ó Cuív: It would be remiss of me not to mention that there was another huge plus with this scheme for people who would not normally access employment opportunities such as people with disabilities, Travellers and so on. It ensured people who might not otherwise access employment got real employment in a real job under the scheme. Will the Tánaiste agree that this is within her remit because taking into account that most of these projects employ extra people and pay extra wages out of their own resources, in other words, they generate their own income, and taking into account the savings in social welfare, the tax contributions, the PRSI contributions and so on, the scheme is self-financing?

3 o'clock

Could she articulate that it is her intention in expanding activation, which is why her good Minister of State is beside her, that the community services programme will play a key role, as I would hope the rural social and Tús schemes would, in the expansion of activation opportunities, in particular for the long-term unemployed?

Deputy Joan Burton: I am glad the Deputy is so supportive of activation. As the Deputy is probably aware, at this point in time, the amount spent by the Department of Social Protection on activation is approximately €1 billion. It is a very significant increase at a time when budgets are under severe pressure. That €1 billion does not include family income supplement for families with children on low income. This year I estimate that we will spend a further €280 million on family income supplement. The matters which the Deputy raised are at the centre of activation.

I was glad to hear the Deputy refer to the Tús scheme. At any one time, there are approximately 7,700 people on the Tús scheme. I will ask the new Aire Stáit to look at all of these areas. I meet people all the time who have taken up a Tús scheme place and, by and large, they are anxious to contribute. Sometimes people talk about people being obliged to get involved in schemes. My experience is entirely contrary - I see the Deputy nodding - and there is a queue of people who are anxious to take up places, get active and participate in the community. Obviously, it is subject to overall budgetary requirements but I am with the Deputy on that.

Local Enterprise Offices Remit

69. **Deputy Seán Kyne** asked the Tánaiste and Minister for Social Protection the level of engagement between her Department and its local offices and the newly-established local enterprise offices in terms of assisting persons with securing employment or support for establishing a new business; and if she will make a statement on the matter. [30896/14]

Deputy Seán Kyne: I too congratulate the Minister on her appointment as Tánaiste and Deputy Kevin Humphreys on his appointment as Minister of State. I wish to ask the Tánaiste about the level of engagement between her Department and its local offices and the newly established local enterprise offices in terms of assisting persons with securing employment or establishing a new business.

15 July 2014

Deputy Joan Burton: I thank the Deputy for his congratulations to myself and the Minister of State, Deputy Kevin Humphreys.

I welcome the establishment of the new network of 31 local enterprise offices. These will be the key mechanism through which people will connect at local level with all the appropriate information that they need in order to start, grow and succeed in business. As part of Pathways to Work, we are also working to enhance the co-ordination of activities across all State organisations which deal with employers. In this context, a protocol of co-operation was signed in November 2013 between the Department, the Department of Jobs, Enterprise and Innovation and all of the enterprise development agencies, not only the local enterprise offices, LEOs, but also Enterprise Ireland and the IDA. A briefing for Department's regional managers and their LEO counterparts was held in Dublin Castle last February. The briefing was attended by top management from all of the relevant Departments and the education and training boards and senior management from the various enterprise agencies, including the IDA and Enterprise Ireland.

From the Department's perspective, the aim of this interaction is to maximise the opportunities for the recruitment of jobseekers from the live register to facilitate the taking up of self-employment and to ensure that their companies are properly informed of, and have access to, the employment supports provided by my Department. These actions are delivered at a local and regional level between the Department's operating divisions and its enterprise agency counterparts, including the LEOs.

The Department's employer pack contains information on the range of supports and services provided by the Department, including the back-to-work enterprise allowance, which is very popular. At any one time, approximately 10,000 people are exercising that option. It is for people who wish to become self-employed or to start their own businesses on a slightly bigger scale. There are more than 10,000 persons starting up businesses supported by this payment from the Department. In addition, other supports are available such as JobPlus which provides incentives to employers to recruit the long-term unemployed as well as JobBridge. I am very open to better and to more co-operation.

Deputy Seán Kyne: I thank the Minister for her response. I welcome the agreement between the Department, local enterprise offices, IDA Ireland, education and training boards, and Enterprise Ireland. Is she confident this arrangement is working on the ground? Is she confident someone on social welfare assistance can get back into it if their new employment or business does not work out? Recently, I was dealing with an individual who got a short period of employment but could not get through to the social welfare office in Galway on the 1890 500 800 number. His claim was eventually stopped and it took some time to get it restarted. There was talk about introducing a text system for those social welfare recipients who get short periods of employment. Has this been considered?

Deputy Joan Burton: To help jobseekers and get employers more involved, we have set up an employer engagement unit in the Department which now has more than 35 staff. Up to 600 staff in the Department's regional divisions work on employment services with both employers and jobseekers. As part of this structure, there are dedicated officers at the senior management level leading the employment process with employers at divisional level. Some time ago, I also established with the Taoiseach a labour market advisory council, chaired by Mr. Martin Murphy, managing director of Hewlett Packard Ireland, and made up of a significant number of large employers. This has resulted again in a strong focus on getting employers to include

people from the live register for job interviews and, it is hoped, possible employment.

An Leas-Cheann Comhairle: Deputy Tóibín is not in the Chamber for his question, so it will be taken with Written Answers.

Question No. 70 replied to with Written Answers.

One-Parent Family Payments

71. **Deputy Finian McGrath** asked the Tánaiste and Minister for Social Protection not to allow the 27% cut to the lone-parent allowance in July as this will lead to more families and children in poverty; and if she will make a statement on the matter. [30948/14]

(Deputy Joan Burton): The one-parent family payment, OFP scheme supports over 74,400 recipients at an estimated cost of €863 million in 2014. Despite significant levels of State spending, the results have been poor in tackling poverty rates among lone-parent families. The aim of the current reforms is to provide the necessary supports to lone parents to help them to escape joblessness by providing them with improved access to education, training and employment programmes.

The reforms to the OFP scheme are being introduced on a phased basis over several years. On 3 July, the latest phase of the OFP reforms was implemented when 5,140 lone parents transferred entitlement from OFP to other schemes. Affected persons with a child aged under 14 years will be entitled to the jobseeker's allowance transitional arrangement, which exempts them from having to be genuinely seeking, and available for, full-time employment. This enables lone parents with young children who are working part-time, for example, mornings only, to remain in work and to receive income and activation supports as appropriate. Others affected will transfer to family income supplement, jobseeker's allowance, carer's allowance and some other schemes.

The majority of recipients will not suffer any reduction in their new payment as they are not working. However, lone parents who are working and who transfer to jobseeker's allowance may suffer a reduction in their payment due to the fact that the jobseeker's allowance means test is less generous than the OFP means test. The exact amount of this reduction will depend on the customers' earnings. However, the Department has advised all individuals that where they work a minimum of 19 hours per week or can increase their hours to that level, to apply for the family income supplement as this is the most beneficial income support available to them.

Deputy Finian McGrath: I thank the Minister for her response. I also congratulate her and wish her well in her new portfolio. I also wish my former city council colleague, Deputy Kevin Humphreys, all the best and congratulate him on his appointment as Minister of State. It is a great day for his family and all his friends and I wish him well in the future. To be honest, I know he will have a good feel for social welfare.

It is very important that we keep our eye on the ball in dealing with children living in poverty. It is necessary to intervene early and to give support to families. I welcome what the Minister said about family income supplement. It is a key part of the strategy. If we want children to develop, we must target those in poverty. I urge the Minister to make the issue a major priority in the next two years.

15 July 2014

Deputy Joan Burton: I thank the Deputy for his kind remarks, in particular those relating to his former city council colleague, the Minister of State, Deputy Kevin Humphreys.

The critical issue is to focus on the outcomes. Although the State has invested, properly, very significant resources in one-parent families, I remain concerned that, as has been shown in a range of studies, the outcomes are not as strong as they might be. With the new structures we are moving to, we will be doing what many countries we admire in terms of social welfare provision are doing, which is to encourage people at a certain stage, when their children are well settled in school, and through a whole set of supports to go back to education, training and ultimately to employment. I have made significant additional resources available in respect of family income supplement to provide a top-up for families with children. The Deputy might have seen a recent report by the ESRI showing that among households without significant amounts of work for adults, lone parents are among the family units which might have such difficulty. We will emphasise the opportunities around training and education in order that people can take them up at an appropriate time, and we hope that will help many people to get a fairly well-paying job.

An Leas-Cheann Comhairle: As Deputy O'Donovan is not present we will move on to a question from Deputy Kyne.

Questions Nos. 72 and 73 replied to with Written Answers.

JobsPlus Scheme

74. **Deputy Seán Kyne** asked the Tánaiste and Minister for Social Protection the progress to date of the JobsPlus scheme; the number of participants; if there are figures available to show the performance of the initiative on a regional basis; and if she will make a statement on the matter. [30897/14]

Deputy Seán Kyne: I wish to ask the Minister about the progress on the JobsPlus scheme, the number of participants and the performance of the scheme on a regional basis.

Deputy Joan Burton: JobsPlus provides a direct monthly financial incentive to employers who recruit employees from those who are long term on the live register. The incentive is payable monthly over two years if the employee is retained in full-time employment for those two years. JobsPlus is biased in favour of those who are longer-term unemployed. The value of the aggregate monthly payment is €7,500 for employing a jobseeker who has been on the live register for 12 to 24 months and €10,000 if the jobseeker was on the live register for more than two years, in other words, very long-term unemployed. A provision of €13.5 million has been included in the Vote of the Department for the scheme in 2014. Since its launch in July 2013 to the end of June 2014, JobsPlus has supported 2,634 jobseekers in full-time employment with 2,007 employers nationally. Approximately 60% of jobseekers being supported had been on the live register for more than two years at the time of recruitment. That is a very positive outcome. I am sure Deputy Kyne will appreciate that the longer people are unemployed, often the harder it is for them to get a breakthrough in getting back to work.

<i>County</i>	<i>Number of Employees</i>
<i>Dublin</i>	<i>724</i>
<i>Cork</i>	<i>233</i>
<i>Galway</i>	<i>143</i>
<i>Waterford</i>	<i>121</i>
<i>Tipperary</i>	<i>103</i>
<i>Donegal</i>	<i>101</i>
<i>Kildare</i>	<i>99</i>
<i>Limerick</i>	<i>99</i>
<i>Louth</i>	<i>98</i>
<i>Wicklow</i>	<i>86</i>
<i>Kerry</i>	<i>84</i>
<i>Meath</i>	<i>81</i>
<i>Wexford</i>	<i>78</i>
<i>Mayo</i>	<i>68</i>
<i>Westmeath</i>	<i>66</i>
<i>Laois</i>	<i>59</i>
<i>Monaghan</i>	<i>53</i>
<i>Kilkenny</i>	<i>50</i>
<i>Clare</i>	<i>44</i>
<i>Carlow</i>	<i>43</i>
<i>Sligo</i>	<i>43</i>
<i>Cavan</i>	<i>42</i>
<i>Longford</i>	<i>36</i>
<i>Offaly</i>	<i>36</i>
<i>Roscommon</i>	<i>26</i>
<i>Leitrim</i>	<i>18</i>
<i>Total</i>	<i>2,634</i>

Deputy Seán Kyne: I thank the Minister for the information. The scheme has been welcomed by many companies in Galway where there has been significant progression towards employment.

Deputy Joan Burton: I thank the Deputy. As the House is filling up I ask all Deputies to make sure that employers in their constituency and local area are knowledgeable about the availability of JobsPlus because it is a very positive achievement for an individual who has been on the live register for one year or two years to get back to work. It is also very positive for their families and the local community.

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 Jim Daly - the need to review the traffic flow arrangements at Owena-hincha junction on the N71 at Rosscarbery, County Cork; (2) Deputy Michael McNamara - the need for Irish Water to develop a communications strategy; (3) Deputy Colm Keaveney - the need to ensure the north Galway Free Legal Advice Centre receives sufficient funding to enable it to re-open; (4) Deputy Sean Fleming - the need for funding for the school meals local projects scheme for Scoil Bhríde, Portlaoise, County Laois; (5) Deputy Patrick O'Donovan - the need to have the current valuation process leading to the calculation of commercial rates in Limerick city and county addressed; (6) Deputy Willie Penrose - the need to amend the Protection of Employees (Employers' Insolvency) Acts 1984 to 2006; (7) Deputy Éamon Ó Cuív - the need to provide direct funding to various voluntary groups such as Muintir na Tíre, Traveller groups and the National Women's Community Network; (8) Deputy Mattie McGrath - the need to provide immediate emergency funding for Muintir na Tíre; (9) Deputy Denis Naughten - the need to engage with the European Commission to have current failures in the Common Market surrounding the export of live cattle to Northern Ireland and Britain addressed; (10) Deputy Michelle Mulherin - the need for the Minister for Health to urgently review the new authorisation procedure for the conduct of veterinary clinical trials being operated by the Health Products Regulatory Authority, formerly the Irish Medicines Board, pursuant to the transposition of EU Directive 2010/63 into Irish law, which is having a severe adverse effect on the ability of indigenous companies to compete for such business internationally; (11) Deputy Terence Flanagan - the need for Irish Water to ensure water meters are fully accessible to those with disabilities; (12) Deputy Jonathan O'Brien - to discuss the matter of Quality and Qualifications Ireland fees being charged to community education providers; (13) Deputy Richard Boyd Barrett - the Israeli assault on Gaza; (14) Deputy Timmy Dooley - the need for the Minister for the Environment, Community and Local Government to provide funding for flood damage repairs in County Clare; (15) Deputy Noel Harrington - the delays in developing a primary care centre in Bantry, County Cork; (16) Deputy Derek Nolan - the urgent need to discuss and formally condemn the unnecessary and appalling acts of violence witnessed in the Gaza Strip in the past week; (17) Deputy Maureen O'Sullivan - the need to discuss Bank of Ireland's ban on trade with Cuba after the US ruling; (18) Deputy Michael Colreavy - to discuss the level of emergency fire and ambulance services being made available for the week of the all-Ireland Fleadh Cheoil in Sligo from 10 to 17 August 2014; (19) Deputy Ciara Conway - the need for single parents to be able to participate in the JobsPlus programme; (20) Deputy Paul J. Connaughton - the provisions that are being put in place to provide solutions for horse owners who do not have proper documentation for their animals and who are unable to dispose of them; (21) Deputy Billy Timmins - the steps the Minister can take to assist in obtaining a ceasefire in Gaza; (22) Deputy Thomas P. Broughan - the plans the Minister has for the remainder of 2014 to deal with the chronic shortage of social housing provision, particularly in Dublin city, including Dublin Bay North where there are well in excess of 4,000 families and individuals on the housing list, and to address the ongoing problems raised as a result of the collapse of the rental accommodation scheme; (23) Deputy Joan Collins - to raise the serious issue that all the neurological charities under the umbrella of the Neurological Alliance of Ireland, including the NAI, have had their application for funding turned down, impacting on 70,000 people; (24) Deputy Clare Daly - to discuss the crisis in Gaza; (25) Deputy Caoimhghín Ó Caoláin - the wrong done to the women victims of symphysiotomy, the need for full acknowledgement and an apology, and the right of the survivors to be heard and to be appropriately compensated; (26) Deputy Mick Wallace - to discuss Israel's ongoing military offensive against the Gaza Strip; (27) Deputy Billy Kelleher - the need for the Government to outline what action it can and will take to reduce the cost of clinical indemnity for hospital consultants; (28) Deputy Brendan Smith - the need

for the Minister for Foreign Affairs and Trade to encourage EU action in seeking peace in the Middle East; (29) Deputy Dessie Ellis - to discuss the ongoing crisis in Palestine; (30) Deputy John Browne - the need to reinstate funding to the 26 disability and caring-focused organisations that saw their funding revoked in the allocations for the 2014 to 2016 round of the scheme to support national organisations; (31) Deputy Michael P. Kitt - the need for the Minister for Arts, Heritage and the Gaeltacht to discuss the winding-up of Comhdháil Náisiúnta na Gaeilge; (32) Deputy Ruth Coppinger - the Israeli Defence Force's Operation Protective Edge and the current political and military situation in Israel and Palestine; (33) Deputy Charlie McConalogue - the need to suspend junior certificate reform for one year to find a resolution to the issues surrounding its implementation; (34) Deputy Barry Cowen - to ask the Minister for the Environment, Community and Local Government to discuss Irish Water's data gathering; (35) Deputy Catherine Byrne - the high cost of phone rental and standing charges for senior citizens; (36) Deputy Brendan Griffin - the importance of the retention of the 9% rate of VAT for tourism; (37) Deputy Helen McEntee - to ask the Minister for Education and Skills if she will consider examining the manner in which primary schools are allocated their teachers; and (38) Deputy Anthony Lawlor - if the Government could actively pursue a ban on settler product from the West Bank coming into the EU.

The matters raised by Deputies Jonathan O'Brien, Charlie McConalogue, Michelle Mulherin and Ciara Conway have been selected for discussion.

Appointment of Ministers of State

The Taoiseach: I wish to announce formally for the information of the Dáil that, having informed the President that Dáil Éireann had approved my nomination of Deputies Jan O'Sullivan, Alan Kelly, Alex White, Paschal Donohoe and Heather Humphreys to be members of the Government, the President, on 11 July 2014, appointed them accordingly, and subsequently, on 11 July, I assigned the Department of Defence to Deputy Simon Coveney, the Department of Children and Youth Affairs to Deputy James Reilly, the Department of Health to Deputy Leo Varadkar, the Department of Foreign Affairs and Trade to Deputy Charlie Flanagan, the Department of Education and Skills to Deputy Jan O'Sullivan, the Department of the Environment, Community and Local Government to Deputy Alan Kelly, the Department of Communications, Energy and Natural Resources to Deputy Alex White, the Department of Transport, Tourism and Sport to Deputy Paschal Donohoe, and the Department of Arts, Heritage and the Gaeltacht to Deputy Heather Humphreys.

On 11 July, the Government appointed Deputy Gerald Nash as Minister of State at the Department of Jobs, Enterprise and Innovation with special responsibility for business and employment, and Deputy Jimmy Deenihan as Minister of State at the Department of the Taoiseach and the Department of Foreign Affairs and Trade with special responsibility for the Irish diaspora.

I accepted the resignation of Deputies Dinny McGinley, John Perry, Fergus O'Dowd, Ciarán Cannon and Joe Costello as Ministers of State on 15 July, and the Government today appointed Deputy Kathleen Lynch as Minister of State at the Department of Health with special responsibility for primary care, mental health and disability, Deputy Sean Sherlock as Minister of State at the Department of Foreign Affairs and Trade with special responsibility for overseas development aid, trade promotion and North-South co-operation, Deputy Damien English as Minister

15 July 2014

of State at the Department of Education and Skills and the Department of Jobs, Enterprise and Innovation with special responsibility for skills, research and innovation, Deputy Joe McHugh as Minister of State at the Department of Arts, Heritage and the Gaeltacht and the Department of Communications, Energy and Natural Resources with special responsibility for Gaeltacht affairs and natural resources, Deputy Paudie Coffey as Minister of State at the Department of the Environment, Community and Local Government with special responsibility for housing, planning and co-ordination of the Construction 2020 strategy, Deputy Simon Harris as Minister of State at the Department of Finance, the Department of Public Expenditure and Reform and the Department of the Taoiseach with special responsibility for the Office of Public Works, public procurement and international banking, including the IFSC clearing house group, Deputy Kevin Humphreys as Minister of State at the Department of Social Protection with special responsibility for employment, community and social support, Deputy Dara Murphy as Minister of State at the Department of the Taoiseach and the Department of Foreign Affairs and Trade with special responsibility for European affairs and data protection, Deputy Aodhán Ó Ríordáin as Minister of State at the Department of Justice and Equality and the Department of Arts, Heritage and the Gaeltacht with special responsibility for communities, culture and equality, and Deputy Ann Phelan as Minister of State at the Department of Agriculture, Food and the Marine and the Department of Transport, Tourism and Sport with special responsibility for rural economic development - implementation of the CEDRA report - and rural transport. Deputies Paul Kehoe, Michael Ring and Tom Hayes will remain in their current Minister of State posts.

Leaders' Questions

Deputy Micheál Martin: I congratulate all the newly appointed Ministers of State and extend my sympathies to those who did not make it as there are quite a number of them.

Two weeks ago, around 26 organisations working in the disability and caring sector lost funding under the scheme to support national organisations, SSNO, that funds community and voluntary organisations. This has been a devastating blow. All 11 organisations in the Neurological Alliance of Ireland lost their funding, for example, and the total lost across all 26 organisations is €1.2 million. These organisations support people enduring very rare conditions, such as those inherited genetically and so on. The Irish Deaf Society had to close its deaf advocacy services and the Irish Motor Neurone Disease Association closed its front-line visitor programme. Chronic Pain Ireland faces closure in less than 12 months, MS Ireland will lose its information, advocacy and research officer, the Alzheimer's Society of Ireland will not be able to put in place early intervention services for people with dementia and the Huntington's Disease Association of Ireland has been forced to end direct front-line services, such as counselling, equipment and carer meetings, due to loss of core funding. The Huntington's Disease Association of Ireland received €22,000 per year through this scheme but the Government has cut this. Huntington's Disease is a rare, degenerative condition and this is an appalling act by the Taoiseach and the Government. Muscular Dystrophy Ireland's front-line facilities manager post cannot now be filled and the Irish Heart Foundation's stroke action community support programme will be severely curtailed.

In *The Irish Times* today Fintan O'Toole's column described this action by the Government as simply crass stupidity. It is difficult to disagree with him. Many other organisations that help volunteers to help people with rare conditions have been affected. When elected as leader of the Labour Party, the Tánaiste, Deputy Burton, said we govern perhaps too much with the head

and not enough with the heart. This decision reveals to me that this Government governs with neither the head nor the heart. Will the Taoiseach intervene to ensure €1.2 million, at least, is restored to the organisations concerned? They have suffered too much already and there is no justification for this.

The Taoiseach: Deputy Martin is aware there is a formal appeals process open to any organisation that experiences a cut in funding. The Government, across all Departments, takes the disability sector very seriously and currently provides almost €5 billion to disability services across different sectors. Some €1.4 billion of this is provided for health and personal social services through the Health Service Executive's national service plan for 2014. Particular residential services are provided for 9,000 people by 60 agencies in 1,200 different locations and these range from small to large community group homes that support independent living. Day services are provided by 80 organisations to 22,000 people living with intellectual, physical or sensory challenges or autism at 850 different locations around the country. There are now 6,000 people with intellectual or physical disabilities availing of respite residential support and some 3.7 million hours of home support are provided by personal assistants.

Other services provided under the disability services programme include respite, early childhood family support, community-based medical, nursing and therapy services and rehabilitative training aids and appliances. Most disability services are now provided by the voluntary sector. As I said in last week's statement of Government priorities, the Tánaiste and I have committed to implementing the report of the value for money and policy review of the disability services programme. This will revolutionise how the State interacts with people with disabilities and will mean a whole new model of personalised, community-based service providing greater choice for people with disabilities. This means the disability service will be restructured by linking budgets to activity, quality and outcomes for service users. These are important developments in difficult financial circumstances and they indicate the Government's commitment to improving quality of life for people with disabilities and to allocating resources based on personal needs. We are adamant that public services for people with disabilities must be as effective and responsive as possible.

A formal independent appeals process is open to any organisation that has seen a reduction in funding and I suggest this is the route to follow.

Deputy Micheál Martin: I do not know what planet the Taoiseach inhabits. I am talking about a figure in the region of €1 million and the figure relating to the Huntington's Disease Association of Ireland is €22,000 per year. The Taoiseach should forget the appeals process and sort this out.

Deputy Róisín Shortall: Hear, hear.

Deputy Micheál Martin: This would not have happened if there was a national disability strategy as such a strategy is meant to allow for cross-cutting decision making. According to the former Minister of State, Deputy O'Dowd, the former Minister for the Environment, Community and Local Government, Deputy Phil Hogan, gave this matter careful assessment before announcing the grants. Money has been taken from these organisations. The Neurological Alliance of Ireland is only receiving €60,000 per year and will have to cease operations by the end of the year as a result of this decision.

Deputy Willie O'Dea: The total available is €5 billion.

15 July 2014

Deputy Micheál Martin: There is no heart in this decision and it is appalling. It is indefensible and unjustifiable. Mr. John Dolan of the Disability Federation of Ireland made a speech on this and said that at this rate the federation will not have the basic elements to support people with disabilities by the end of next year. The Government's disability strategy is in shreds. In fact, there has not been a co-ordinated disability strategy for the past three years. Cuts have been made left, right and centre and the respite grant has fallen a great deal so the Taoiseach has a nerve even to mention it in this House. Despite the rhetoric, at the heart of the Government there is no clear, co-ordinated focus on disability and this is evident in the fact that these organisations have lost their paltry funding. I ask the Taoiseach to intervene to sort this out and reallocate the €1 million to the organisations concerned.

The Taoiseach: Deputy Martin is very strong on rhetoric but his memory has slipped again.

Deputy Willie O'Dea: Deputy Martin gave the facts.

The Taoiseach: Deputy Martin drove the cut of €16.40 per week for people with disabilities. He also represents the party that cut the blind person's allowance, not once but twice, without any consultations. Fianna Fáil cut mobility allowances, carer's allowance, carer's benefit and removed the Christmas bonus from all of these groups. Shame on Fianna Fáil. Deputy Martin has a cheek talking about decisions led by the heart and the head.

Deputy Bernard J. Durkan: Hear, hear.

Deputy Robert Troy: Why does the Taoiseach not bring back the Christmas bonus if that is how he feels?

Deputy Micheál Martin: The Taoiseach should stop talking nonsense.

The Taoiseach: Deputy Martin often stood on the other side of the House, as is his duty, to say Ireland needs an effective response to the spending of public money. There is a disability strategy and, as the Minister of State, Deputy Kathleen Lynch, pointed out, we are now moving to implement the strategy nationally.

Deputy Willie O'Dea: The Taoiseach is a hypocrite.

Deputy Micheál Martin: This would not have happened if we had a disability strategy.

Deputy Bernard J. Durkan: Fianna Fáil left the country broke.

Deputy Willie O'Dea: This only requires €1 million from a €5 billion budget.

The Taoiseach: The point is that Pobal carried out an independent assessment of the effectiveness of how public money is spent on these services. There is an appeals process for any group that has had a cut in its allocation. Pobal carried out the assessment to ensure the money is spent most effectively on the people that need the funding. I will not accept the nonsense spoken by Deputy Martin.

Deputy Micheál Martin: The Department of the Environment, Community and Local Government said forget about health and disability. Is the Taoiseach saying the Huntington's Disease Association of Ireland did not spend €22,000 properly?

Deputy Michael Healy-Rae: Fine Gael has been in government for three years.

Deputy Gerry Adams: Ar dtús, ba mhaith liom comhghairdeachas a ghabháil leis na Teachtaí Dála a fuair Aireacht sóisearach inniu. Go n-éirí an t-ádh leo uilig. Feicimid an tslí ina mbeidh siad ag dul ar aghaidh ó seo amach.

The State's policies towards women and children are being scrutinised by the UN Human Rights Committee in Geneva. Committee members have been made aware of the results of a toxic political culture which existed in the State since its foundation and in which women and children were denied their rights. It is evident in the sorry saga of scandal which includes the Magdalen laundries, Bethany Home, the mother and baby homes, the illegal trafficking of children, child abuse in church and State institutions and the unequal status of women in the Constitution. The committee will hear other examples of dereliction of duty by the State towards its citizens, including members of the Traveller community and prisoners.

A 50-page report by victims of symphysiotomy will show how the State failed to protect more than 1,500 women who endured this barbaric practice and who still suffer physically and psychologically from its consequences decades later. The Government undertook to right this wrong so why did it ignore the call from survivors for the Statute of Limitations to be lifted to allow them the choice of going to court? Why did it produce a redress scheme which denies acknowledgement of the grievous wrong done to these women? Why provide only a minimalist financial package? Why deny the women an independent medical board and the right to advocacy? Yesterday and today the UN committee has asked why the State refuses to accept responsibility for the clear abuse of the rights of Irish women over decades. I put this question to the Taoiseach. Why does the State deny or refuse to accept responsibility for the clear abuse of these women over decades?

The Taoiseach: The Deputy's question is serious. Why did the State deny its responsibility in respect of Magdalen laundries, Bethany Home and mother and baby homes and why did it not do something about symphysiotomy before this? This is a list of sensitive personal serious issues which have been left lying around in the country for up to 60 or 70 years. They are being dealt with now. I am not quite sure whether the Deputy is proposing in respect of these women who underwent symphysiotomy that they should now be subjected to court appearances in a very aggressive confrontational manner. The State has looked at this, following the reports published, and has put forward a suggestion and proposition to deal with the challenges and difficulties, personal and serious, which the women went through during these symphysiotomy interventions. It is the case of a range of serious social and personal issues left lying around for years which are now being dealt with by the State. It is a matter for the group and individuals which course they wish to pursue. Nobody wants to see long drawn-out controversial, antagonistic or aggressive court hearings about something like this. Here is an opportunity, no more than the avoidance of all these difficulties in court sessions with the Magdalen women, of arriving at a conclusion, recognition of the situation and a recompense of some scale for those women who were subjected to what I have described as barbaric treatment. The Minister for Justice and Equality was in Geneva at the UN Human Rights Committee, of which Ireland is a member, outlining for it the actions which have been taken by the Government to deal with issues which have been swept under the carpet and left lying there for decades.

Deputy Gerry Adams: I thank the Taoiseach, but my question is in the present tense and not the past tense. Why did the Taoiseach ignore the call from survivors for the Statute of Limitations to be lifted? The Taoiseach cannot patronise these women and say he does not want to put them through a long court procedure if this is what they want to do. Why provide only a minimalist financial package? A question asked by the chairperson of the UN Human Rights

Committee suggests there may be a question over the legality of the State's plan for redress. The UN Human Rights Committee rapporteur asked whether the scheme is compatible with the State's obligations under international human rights treaties. There is also the huge issue that these symphysiotomy operations were involuntary. This question is also being asked. There is a lack of judicial review and an absence of individual assessment and the fact that those who apply for the redress scheme will have to give up their legal rights. They are told they can have this redress scheme but they must give up their legal rights. What is most important is that while some women may go for the redress scheme, which is their entitlement, the vast majority have stated they do not want it, that they want acknowledgement of their ill-treatment and proper compensation commensurate with the trauma they have suffered. These issues are not being raised just by me. Deputies have raised these issues for some time. Is it not time for the Government to reflect and rethink its approach on this issue? It is time for the Taoiseach to meet the survivors to put together a comprehensive approach which meets the needs of all the victims of symphysiotomy. I know the Minister for Health has met them.

The Taoiseach: The decision of the Government was based on formal legal advice in respect of the Statute of Limitations being addressed. A €34 million fund has been put together in regard to the women who went through symphysiotomy. It is a choice they are entitled to make, either to avail of the redress scheme or, if they choose, to take a court case.

Deputy Gerry Adams: The Government will not lift the Statute of Limitations.

The Taoiseach: If a woman decides to choose the redress path and is not happy with the outcome she has the right and opportunity to appeal it if she believes it is appropriate. There is a *ex gratia* scheme to be administered by the State Claims Agency of €34 million as recognition of the difficulties, challenges and personal trauma these women went through. They have the right to take the case to court if they wish. They have the right to go through the redress scheme if they wish. If they are not happy with the outcome of it, they have every right to have it appealed. In respect of the Statute of Limitations, it is on the basis of formal legal advice. In many of these cases there are no notes available about what happened and it is not known who the doctor was who might have performed the intervention. The women could wait for a long period of between five and ten years before getting a court decision.

Deputy Gerry Adams: That is why the Government needs to tackle it properly.

Deputy Maureen O'Sullivan: For a number of weeks there was heightened speculation about Ministers and who would lose his or her job and who would be promoted, with all revealed on Friday. Then we had a similar situation with Ministers of State and all was revealed today. While I wish everybody well in their new role, the question is what difference they will make to the communities and groups in society who are struggling. What are vital are the policies being pursued. Incidentally, I did not notice any mention of drugs, particularly when one takes into account that based on statistics, three times as many deaths occur because of drugs than on the roads.

Deputy Finian McGrath: Hear, hear.

Deputy Maureen O'Sullivan: There is no doubt there has been an unfairness in economic policy. Regardless of budget, austerity or recession, the lives of some people in society do not change one iota, while those in the low and middle income groups suffer disproportionately. We are told we are in recovery, and we have various statistics to show this, but it is not filtering

down through society. Economic policy has dominated the political agenda and I suggest this is at the expense of social policy. If social policy is ignored, it contributes to economic inequality. Various think tanks have shown us we have very unacceptable levels of economic inequality. I was struck by a recent newspaper survey which stated the 250 richest people in Ireland are worth €50 billion. I wonder what contribution they have been making to our recovery when so many of them have become non-resident for the purpose of tax avoidance and others have found other methods in order to avoid paying those taxes. We know the social consequences of that economic policy, including emigration, the housing crisis, homelessness and what is happening in our communities as pointed out recently by Br. Kevin Crowley from the Capuchin day centre. We have communities and groups that are struggling as we approach the budget season. What are the values that will determine the decisions to be made at budget time?

The Taoiseach: I thank the Deputy for her question. She will have noted the comments made, particularly by the Tánaiste in recent days, in respect of social repair, the necessity for social housing and the necessity to restructure many of the systems to reflect the difficulties people have had arising from the economic collapse a number of years ago. It is because of social welfare transfers - social welfare payments - the at-risk-of-poverty level has been reduced by 61%. The structure of how social welfare payments have been made is of direct assistance to the local economies because it is spent in those economies.

This morning the Government gave authorisation to the Minister for the Environment, Community and Local Government to proceed to draft heads of a Bill in respect of approved housing authorities with particular reference to social housing, which is an issue of pressure in this city and other areas. Given the scale of the economic collapse a number of years ago, clearly the priority had to be to rectify our public finances and get our house in order, and for that reason to have our deficit below 3% by 2015, which target will be achieved.

The sacrifices of the people in recent years have benefitted our country's standing in terms of improvement of our economic performance. We now need to spread that benefit through the different regions of the country. That is why housing and social repair in many of these vulnerable communities is of such importance. All of these are set out in the economic strategy statement approved by the Government last week. It is our intention to implement those targets and objectives to the benefit of people all over the country. It is not a case of focusing on particular areas where there is a problem now and just dealing with that. It is clear that the sacrifices people made need to be reflected in the benefit for the people and that is where we need to be.

The statement of economic strategy reflects very strongly the issues of social repair and how we intend to deal with social deprivation in the time ahead. It is a balance between continuing to get the economy on a growth pattern while at the same time being able to reflect that in dealing with socially vulnerable areas as outlined by the Tánaiste on a number of occasions.

Deputy Maureen O'Sullivan: Listening to the Taoiseach's answer, we see the disconnect between the theory on the one part and the reality on the other. We know about sacrifices, but those sacrifices have been disproportionate. There are people in this country who have not made one sacrifice because they have been protected by the economic policy. There is no doubt that the cuts have undermined people's rights - rights to a decent living, housing, education and health. Certain vulnerable groups are being affected disproportionately, including women, children, the elderly and the disabled. The Convention on the Constitution has recognised the need for a referendum on economic, social and cultural rights.

15 July 2014

One of the reasons budget cuts are not fairer all around is that we do not have a democratic participation of all sectors in the budget process meaning that the principles of social justice and human sympathy are missing. We need to give a sense of dignity through those policies to those groups that are vulnerable. There are two ways to do that. One is the equality proofing of budgets - the social-impact analysis of budgets. The other is to listen in a meaningful way to the social actors who are directly involved with communities and groups that are struggling and not just pay them lip service.

The Taoiseach: Last week the Tánaiste and Minister for Social Protection met all the social groups in Dublin Castle over a period of five or six hours and engaged directly with each of them to hear at first hand their views of what might be able to be reflected in October's budget. There are now 70,000 more people working than previously. For 24 months we have had a continuous drop in the live register of unemployed people. The previous Government decided to reduce the minimum wage from €8.65 to €7.65. When elected to government and following the negotiations with the troika that was reversed. Some 330,000 people were taken out of the requirement to pay the universal social charge. There were socially advantageous decisions for vulnerable groups. Now, as the economy begins to improve, we need to do more of that and reflect it in the best way we can.

I have also pointed out that in the statement of economic strategy for the period ahead, the Government intends to set up a commission dealing with low pay so that there will be proper transparency and discussion about that. Attention will also be given to the very high rate of tax of 52% that is paid by middle and low-income workers in order to restructure that over a number of budgets. These will all be advantages to various people and will go some distance to bring about that necessary social repair.

Ceisteanna - Questions (Resumed)

Cabinet Committee Meetings

1. **Deputy Gerry Adams** asked the Taoiseach the number of meetings of the European affairs committee of the Cabinet has held since Christmas. [14764/14]

2. **Deputy Joe Higgins** asked the Taoiseach the number of meetings of the Cabinet committee on European affairs has held since the winter recess. [19934/14]

The Taoiseach: I propose to take Questions Nos. 1 and 2 together.

The Cabinet committee on EU affairs has met three times this year to date, most recently on Monday, 30 June and also on 31 March and 24 February. This year is a time of major institutional change in the European Union. The new European Parliament officially took up office last week in Strasbourg, and we will have a new European Commission, High Representative for Foreign Affairs and President of the European Council in coming months.

The Cabinet committee on EU affairs will continue to meet throughout the year to discuss and shape Ireland's strategic approach to our EU engagement. The committee will work to ensure a coherent approach across all policy areas, particularly on priority issues for Ireland and above all to anchor Ireland's influence and interest in Brussels. This strategic approach at

EU level will continue to include bilateral engagement with fellow member states and alliance building with key partners.

Deputy Gerry Adams: Is the Taoiseach satisfied with the number of meetings of this committee that have taken place? Is he confident there have been enough to enable the Government to have a proper focus? He has said that part of its remit is to set priority issues for Ireland. Clearly our relationship with Europe is vital for the State. There are other issues that should be priority issues which are not entirely domestic or even internal EU issues. I am thinking here of conflict-resolution necessities. For example, when the EU heads of mission Jerusalem report was published recently, I asked for the Government, which then held the EU Presidency, to give leadership on this vital matter of international concern and to act urgently on the information and recommendations made by EU officials. This heads of mission report on Jerusalem indicted the Israeli Government of violating international humanitarian law but, sadly, nothing was done. I was unable to establish whether this was discussed at any pertinent meeting or forum within the leadership of the European Union and, this year, Members can see a repeat of all the sad and tragic events of 2012 and 2009. Does the issue of conflict resolution constitute a priority for this State? Members should revisit for a moment or two the fact that within a short period almost 200 people have been killed in the Gaza Strip as a result of the Israeli assault. Human rights groups have stated that 75% of the dead have been non-combatants and the United Nations agency for Palestinian refugees has stated that more than one quarter of them have been children. Moreover, 70,000 people have fled their homes, particularly in northern Gaza. While there is now a possibility of a sos on foot of the proposition being forward by Egypt, this could just become another lull, as has been seen in the past. Surely the Irish Government and the aforementioned committee could focus on these matters and ensure that all efforts are made to assist and encourage peacemaking in the Middle East, to uphold the rights of the people of the Palestinian territories and to use our good offices within the European Union to ensure this is not just another temporary lull before violence resumes once again.

The Taoiseach: Obviously, issues like this that arise are monitored constantly by the European Union and are the focus of much attention from the High Representative. To date, Baroness Catherine Ashton has been very active in dealing with a range of difficult situations arising in Syria, Jordan, Lebanon, Crimea, Ukraine and now, Israel and Gaza. Clearly, this situation cannot be allowed to get out of hand. Members see the reports on a daily basis of the numbers of innocent women and children being killed here, as well as hearing of reports of indiscriminate firing of rockets from areas in Gaza, which is a contributory factor to this matter going the way it has. The Minister for Foreign Affairs and Trade has made contact with a number of personnel involved in this. No one wishes to see this happen and, ultimately, they clearly must sit down around a table and work these things out. The solution here has been proposed for a very long time, which is a viable two-state solution that represents the only sustainable basis for a just resolution of the Israeli-Arab conflict. However, it will not be an easy task to get from the current position to that point. When I attend the European Council meeting to be held tomorrow and on Thursday in Brussels, a great deal of attention will be given to this matter. One does not desire a situation in which another conflict gets out of hand with the horrendous maiming and deaths of innocent women and children.

At the three meetings to which I referred, this matter was not discussed in detail because it is discussed as part of the European Council focus. There always is a special section given over to issues that arise in which the High Representative makes her case and gives an up-to-date report on whatever conflict is around at the time, be it in Ukraine, the Crimea or wherever. I hope that

15 July 2014

sanity can prevail in this regard and it is not a good situation when, as I understand, citizens are being put *in situ* around buildings that subsequently are blown up. We wish to avoid deaths that are unnecessary - not that any of them are necessary - but this is a situation that requires clear heads, sanity and negotiation to allow people to get on with their lives. The situation that applies in Gaza and Israel now is exceptionally difficult.

An Ceann Comhairle: Deputy Higgins has Question No. 2.

Deputy Joe Higgins: I ask the Taoiseach to restate briefly the role of the European affairs committee of the Cabinet. Does it have any particular role with regard to the issue of the retrospective repayment by the European banking system of the tens of billions of euro with which the Irish people were forced, by the institutions of the European Union and the European Central Bank, to bail out Irish and European bondholders and speculators? Does it have a role in reviewing the outcome of the summit of June 2012 when the Taoiseach stated the special position of Ireland had been recognised and that a seismic shift had taken place in European policy with regard to bank recapitalisation? This clearly suggested that the huge moneys that were taken from the pockets of our people, with the resultant disastrous austerity that was imposed, would be recouped. What is the role of the aforementioned European affairs committee with regard to progressing this matter because no progress has been seen over the past two years. Lest Members did miss a manifestation of the seismic shift since then, can the Taoiseach tell Members when and where did it happen? I ask in particular against the background of some studies stating that more than 40% of European bad debt was forced onto the shoulders of our people, which was totally unsustainable as we have seen.

Second, I refer again to the European affairs committee of the Cabinet and the issue of the Middle East. Is one of the roles of that Cabinet committee to review European policy and, more importantly, European actions by the Commission and the bureaucracy of the European Union towards the whole Israeli-Palestine crisis? In that regard, why does the Taoiseach tolerate a situation in which the European Union as an institution continually favours Israel in trade matters, for example, as well as in other areas, in view of the horrific affliction of repression and enormous suffering occasioned by the bombardment of the Palestinian people, 1.8 million of whom are imprisoned in a tiny strip of land in the most horrific circumstances? Does this not cry out for an absolute cessation of the Israeli bombardment and repression and for an entire change in policy?

I will state, in order that I am not misunderstood, that rockets fired by Hamas are indefensible.

An Ceann Comhairle: Deputy, we are straying a bit now.

Deputy Joe Higgins: Any indiscriminate firing towards a civilian population is utterly taboo. However, they have not killed anybody, thankfully, but nearly 200 Palestinians have died.

4 o'clock

Is it not incredible that a State that is supposedly democratic and civilised and is put forward as such by the European Union and United States believes it is okay to massacre innocent relatives - women, men and children - when targeting a police official? If the European Union believes any of what it says about standing for civil and human rights worldwide, must it not take very strong action on this matter?

An Ceann Comhairle: I have been a little liberal in allowing the discussion to stray from questions on the number of times a Cabinet committee has met.

The Taoiseach: The Deputy asked two questions in respect of whether the Cabinet committee considered recapitalisation and the decision taken by the European Council in 2012. The committee does not reflect in detail on these matters as they are dealt with by the Department of Finance. Notwithstanding the comments made here, including the statement by Deputy Higgins that nothing had happened in two and a half years, the facts are that the promissory notes have been replaced; the former Anglo Irish Bank and Irish Nationwide Building Society are being liquidated; the minimum wage has been reinstated; the interest rate on European Union funds has been reduced, which will save taxpayers €9 billion; the EU loans to Ireland have been extended; and agreement has been reached to allow half of the proceeds from sales of State assets to be retained for investment in jobs.

Following on this detailed work, the Eurogroup agreed that retrospective recapitalisation may be decided on a case-by-case basis in line with the decision that was made on 29 June 2012. The euro area Heads of State and Government confirmed this position and mandated EU finance Ministers to prepare an operational framework to deal with this matter by mid-2013. The European Stability Mechanism direct bank recapitalisation instrument, the technical mechanism that provides for this, has been approved. We have succeeded in having specific provision for retrospective recapitalisation included in the main features of the operational programme, which states: “The potential retroactive application of the instrument should be decided on a case-by-case basis and by mutual agreement.” This agreement gives Ireland the option of applying to the European Stability Mechanism for a retrospective direct recapitalisation of the Irish banks. An application can only occur, as Deputy Higgins is well aware, after the single supervisory mechanism becomes operational, which is most likely to occur towards the end of 2014. Any application for retrospective recapitalisation will be considered in light of the potential returns to the State from alternative options for realising the value of the State’s bank holdings. The agreement on the single resolution mechanism between member states will protect European taxpayers from the costs of bank failures.

Deputy Higgins should note that of the total national debt of €203 billion, €40 billion relates to banks and the cost of servicing this part of the debt is now less than €1 billion. Sometimes figures are used to suggest that all the national debt is related to banks whereas bank related debt accounts for €40 billion of the total of €203 billion.

The position in Gaza is exceptionally difficult. I happened to visit Gaza a number of years ago with other public representatives and I recall that an Irishman, Mr. John Ging from Dublin, was in charge of UN operations in Gaza in respect of providing water, education and food services. Mr. Ging did an extraordinary job.

I agree with Deputy Higgins that rockets are indefensible and any death is one death too many. This issue will be discussed at the European Council meeting on Wednesday and Thursday. Egypt has made a proposition that may or may not be acceptable to some of those around the table. No more than in any other conflict, the current conflict will not be concluded by aggressive military action. It must be concluded by an agreement on a set of conditions for a ceasefire that allows people to get on with their lives. People in this country, where 3,000 people lost their lives over a long period, know this only too well. Peace was concluded with the Good Friday Agreement when people were in a position to talk, negotiate and discuss. It was a fragile peace in the beginning and while it remains fragile in many ways, it has been kept

on track.

The Cabinet committee does not deal with the detail of these issues. The Minister of State with responsibility for European Affairs deals with these issues as they arise at European level. They also come before the European Council meeting at which regular reports and updates are provided by the High Representative and I expect this will be done again this week.

An Ceann Comhairle: I remind Deputies that this is the final time we will have questions to the Taoiseach in this session. I ask them not to stray further from the questions because we want to dispose of some the remaining questions.

Deputy Seán Ó Fearghail: I will try not to stray.

In the context of the meetings of the Cabinet committee on European affairs, has consideration been given to specific individuals who may replace the President of the European Council, Mr. Herman Van Rompuy, or High Representative, Baroness Catherine Ashton? If so, to what extent has the Government engaged with these potential replacements on the issues that have been raised in respect of retrospective recapitalisation? Will the replacements be announced at the forthcoming summit meeting or are further delays anticipated?

In terms of the Taoiseach's engagement with the replacements, may the House assume that his support for a new High Representative and, more important, a new President of the Council, will be contingent on the level of support the candidates will give to Ireland on retrospective recapitalisation? In terms of the timescale for this vital initiative, may we also assume from the Taoiseach's reply that the Government may make an application for retrospective recapitalisation towards the end of this year? If that is the case, when does the Taoiseach expect our EU partners to make a decision on the matter?

We all welcome the intervention in Gaza by Egypt as it attempts to broker a ceasefire and all of us will use this occasion to condemn the slaughter of the innocent we have witnessed recently. As an Irishman and a European, it has saddened me greatly on this occasion and on many previous occasions that, time and again, it is the Americans who are at the centre of intervention, whether on the issue of Ukraine or on the age-old problem of Israel and Palestine. The European Union must appoint a High Commissioner on foreign affairs who will actively engage on the issue of Ukraine given that he or she is more likely to be successful in terms of an approach to the Russian authorities.

On Gaza, Palestine and Israel, it is horrific to note the decline of the Palestinian economy. Is there an opportunity for the Cabinet committee to engage in discussions on the economic crisis facing 1.8 million people in Palestine and how the Palestinian economy could be developed to meet their needs? I understand a critical problem is developing in the water supply to Palestinian people. If, in addition to a failed economy and energy supply system, the water supply fails, it will spell disaster.

Deputy Gerry Adams: I am trying to get my head around these matters and the sub-committee. It may be helpful if the Taoiseach could spell out the terms of reference for the European Affairs Committee. He said the issue that I raised was not discussed at this meeting on the EU heads of mission Jerusalem report. He went on to say that the issue of the Middle East would be dealt with on Wednesday, but who gives the guidance to our representatives for that meeting at which these matters will be discussed?

I think both the Taoiseach and I are agreed that the EU has a vital role to play in helping to end conflict, but that needs leadership. The Taoiseach remarked earlier that he hoped the insanity will end. Let me tell him, however, that the insanity will not end - it has to be ended. Therefore, politics has to be made to work and these international fora are a perfect mechanism for asserting the peacemaking imperative, particularly when the EU itself has reports from its own heads of mission, which point the way forward. If these matters were not discussed within our Cabinet sub-committee and if, as far as I can establish, the Government has not raised them, then who gives guidance? As I am trying to get my head round all of this, it would be useful to get the terms of reference for the European Affairs Committee.

I hope I am quoting the Taoiseach properly, but in his response he said that civilians are being put *in situ* around buildings which are then blown up. Can he clarify that for the House in some way? All the independent agencies as well as the UN, other human rights agencies and NGOs, are not saying that. The Israeli Government is saying it.

The Taoiseach also said that the two-state solution, which I accept, is the solution but the Palestinians do not have a state. Surely, we as a State which has experience of peacemaking can use our good offices to try to expedite, encourage and assist the process of peacemaking and peacekeeping in the Middle East.

The Taoiseach: I understand from some reports that people have been placed *in situ* around buildings and are subsequently used as shields around buildings which, unfortunately and tragically, are blown up. There are different reports coming through on that basis which is why I made that comment.

Deputy Ó Fearghaíl raised a question about retrospective recapitalisation. He is aware of the fund that is left aside from the ESM for that purpose. All the different elements and pieces of the jigsaw have to be put in place, including a single supervisory mechanism. This is principally driven by skilled officials from the Department of Finance in co-operation with their counterparts. That was accepted by the Council of Finance Ministers and adopted and approved by the European Council. All those structures have now been put in place. To make it kick in, the mechanism has to be operational which it will be towards the end of the year. That means that Ireland, or any other country that thinks it might qualify, can then make an application.

As I told Deputy Adams, the Eurogroup already agreed that retrospective recapitalisation could be put forward on a case by case basis against any alternative options for realising the value of the State's bank holdings. That requires not so much the support of representatives at various levels, such as the President of the Commission, the President of the Council or the High Representative but - while these are very important positions - the board of the ESM which will, or will not, approve an application for retrospective recapitalisation. It has got to be a unanimous decision. For instance, if the President of the European Commission, the President of the European Council or the European Union's High Representative were to offer support for a recapitalisation application, it does not follow that it would happen. Much more important is the fact that the European Council has already adopted, approved and reiterated on a number of occasions that decision of 29 June 2012, and that there should be the option and possibility of direct recapitalisation following an application made by a country being approved. The point is that all those sections are now in place. When it becomes operational at the back-end of this year, Ireland will then consider lodging an application. For that application to be successful it will require the unanimous endorsement of the ESM board. That is the important point to bear in mind. It has already received the full consent from the European Council which has been

reiterated on many occasions.

I am not sure what time the vote is today for the approval by the European Parliament of Jean-Claude Juncker to be President of the Commission. Deputies will be aware that there was an EPP congress in Dublin, including a selection contest and a vote. Mr. Juncker defeated Michel Barnier and thus became the EPP candidate. The Lisbon treaty provides that the outcome of the European Parliament elections must be taken into account. The outcome was that the EPP bloc happened to be the largest grouping in the Parliament, so Mr. Juncker became the EPP's nominee and I expect he will be backed by the socialist grouping today to become President of the Commission.

The Deputy asked if the EU committee discussed the appointment of the President of the Council or the High Representative. No, these matters are discussed by the Council of heads of state and government, which will be reflected again this week. It is important that a decision be made on the High Representative this week because that is an important position. It allows the President of the Commission to move on with the appointment and endorsement of Commissioners, as nominated by the various countries. In this case, the former Minister, Deputy Phil Hogan, has been nominated by Ireland. In consideration of what portfolio might be given to him by the President of the Commission, Mr. Juncker, that goes before the European Parliament for assessment, scrutiny and engagement with the different nominees. From that point of view, the naming of a person to be the High Representative will be dealt with this week because it allows President Juncker to move on with his business.

The whole geopolitics of the Middle East is changing, as the United States becomes more independent in terms of energy. Europe has got to look differently at the Middle East, including Saudi Arabia, Syria, Lebanon, Jordan and all those countries. That issue is becoming prevalent. Clearly, Russia supplies huge amounts of gas to Hungary, Germany and other countries. This issue is of great concern to Europe where energy costs have risen by 60%, while they have dropped by 60% in America.

The supply of water was also mentioned. The former Minister, Deputy Shatter, had an ongoing engagement seeking consent in respect of Turkey, concerning the situation in Gaza and Israel, for the supply of quality water to Gaza. That has become very difficult with the current situation but I hope to take it up again when things, hopefully, improve.

Deputy Adams mentioned diplomatic interventions by the EU High Representative and the member states. Of course it must be asked how can any conflict be ended unless politics works. Who knows better than Deputy Adams the difficult situations that can arise. In so far as the EU is concerned, we will attempt to drive that further this week in asserting peace and the right of people to live without fear of being blown into oblivion.

It was remarked that rockets from Gaza are directed by Hamas, while there is a response from Israel. Some 200 deaths have resulted, so we want to see this ended. People should be allowed to get on with their lives in so far as that can be asserted in Gaza. Of all the places I have ever been, I have to say that I found it exceptionally difficult to see how an economy can function there or to see how people can have a life to live, given the difficulties they have to encounter. On the other hand, citizens in Israel, whether Jerusalem, Tel Aviv or anywhere else, have the right to go about their business without fear of stray rockets coming from whatever quarter.

An Ceann Comhairle: Deputy Mattie McGrath, who tabled Question No. 3, is not present.

Retirement of Garda Commissioner

3. **Deputy Mattie McGrath** asked the Taoiseach the role he or his office or Department played in communicating with former Garda Commissioner Martin Callinan immediately prior to his resignation; and if he will make a statement on the matter. [16083/14]

4. **Deputy Gerry Adams** asked the Taoiseach the communication he had with Garda Commissioner Martin Callinan prior to his resignation. [19969/14]

5. **Deputy Joe Higgins** asked the Taoiseach if he had any communication with former Garda Commissioner Martin Callinan before his resignation; and if he will make a statement on the matter. [30902/14]

The Taoiseach: I propose to take Questions Nos. 3 to 5, inclusive, together.

I have already outlined to the House how the Attorney General brought matters of serious concern relating to An Garda Síochána to my attention on Sunday, 23 March and the actions I took as a consequence. On Monday, 24 March, I asked the Secretary of the Department of Justice and Equality to convey to the then Commissioner my deep concern about these matters and the fact that I would be reporting them to the Cabinet and the Dáil.

The Fennelly commission of investigation, which was established by the Government in April is currently investigating the sequence of events leading up to the retirement of the former Commissioner on 25 March, as well as the other matters covered in its terms of reference. I look forward to discussing the relevant issues fully in this House when the commission's report is available.

Deputy Gerry Adams: The Fennelly commission was established by the Government to review the bugging of telephone conversations in Garda stations, as well as the background to and circumstances of a letter sent to the Secretary General of the Department of Justice and Equality from the former Garda Commissioner on 10 March. The commission also has the task of investigating and reporting on the sequence of events that led up to the retirement of the former Garda Commissioner, Martin Callinan, on 25 March.

As part of the process of establishing that commission, the Joint Committee on Justice, Defence and Equality wrote to the Taoiseach to request that the terms of reference for the commission be amended. It wanted to ensure that the sequence of events leading to the resignation of the former Commissioner would be front loaded to the first eight weeks of the commission's work and that the evidence would be taken in public, if possible. The Taoiseach refused this entirely reasonable request. It would be useful to hear and understand his reasons for refusing. We then had what was described as a farce when the Secretary General of the Department of Justice and Equality, Mr. Brian Purcell, appeared before the committee and refused to answer questions about his role in the events that led to the resignation of the former Commissioner. In the interest of fairness and trying to understand all of this, I ask the Taoiseach to explain to the Dáil why he refused the committee's requests to front load the first eight weeks of the commission's work and to take evidence in public.

The Taoiseach: I do not have the authority to direct any commission of investigation to do

its work in a particular way. Obviously it is the responsibility and the right of the sole member to do as he or she might wish. It is true that the committee made a request that specific terms of reference be included for the commission of investigation regarding matters leading up to the retirement of the former Commissioner and to deal with the furnishing of a letter to the then Minister, which was sent by the former Commissioner on 10 March. These were the two specific requests from the committee. The Government accepted both of the requests and they are included as specific terms of reference for the Fennelly commission. It is not a case of refusing anything; it is a case of not having the right to direct the sole member to act in a particular way. It is, of course, open to the sole member to decide in what form and when he might wish to deal with any element of the commission of investigation. That is his right and I have no authority whatsoever to interfere in that. In respect of the request made by the committee, the specific wording requested has been put directly into the commission of investigation and I leave it to the sole member to follow that through.

Deputy Joe Higgins: The question put to the Taoiseach pertained to the role that he played in communications with the former Garda Commissioner prior to the latter's resignation. As the Taoiseach did not answer the question, can he tell us what was his role and what were the reasons for the communication? He knew that the Commissioner would have no option but to resign in view of the messages sent through the Secretary General of the Department of Justice and Equality. Is it not true that the aim of the intervention was to secure the resignation of the Garda Commissioner and divert attention from the disastrous handling of many controversial issues by the then Minister for Justice and Equality, Deputy Shatter, and by the Taoiseach, in endorsing the huge misjudgments, mistakes and arrogance evident in the then Minister? Why did he choose 24 March to send his message when for weeks and, indeed, months before that he had stood over the actions of the Minister and the Garda Commissioners in terms of their abuse of whistleblowers who had attempted to bring irregularities to their attention and to the attention of the Government? Why did he chose that particular time when the issue about which he communicated the supposed concerns of the Government, namely, the secret taping of conversations in certain Garda stations, had been well known to Members of the Government for several months and was being discussed by representatives of the Government and the former Commissioner? Can he give us an explanation that is credible and in accordance with the facts? It is just a matter of confirming what everybody knows but it is important that the Taoiseach confirms it.

The Taoiseach: I disagree with the Deputy. I have already answered the question that was asked. I said that I was made aware by the Attorney General of serious matters relating to An Garda Síochána. These were brought to my attention on Sunday, 23 March. I outlined to the House on many occasions the actions I took as a consequence of that. On Monday, 24 March I asked that the Secretary General of the Department of Justice and Equality would convey to the then Commissioner my concerns about what had been revealed to me by the Attorney General.

I disagree with the Deputy's assertion on what I had in mind because it is not open to me as Taoiseach to remove anybody from office. I do not accept his assertion in that regard at all. This matter was brought to the attention of the Attorney General by the updating process in regard to sensitive cases that had to be reported to Government. Clearly a discovery process was in train regarding an unsolved murder in Cork, in respect of which material to be discovered to the legal team of Mr. Bailey was to be sent to that individual on the Tuesday of that week, and the extent of what transpired to be the taping of conversations in certain Garda stations over an extended period, in terms of not knowing what was in any of these. In that sense, the available

options were, first, to convey to the Commissioner my concerns about the material that had been presented to me by the Attorney General and, second, to hear from the former Commissioner what action had been taken in the meantime and what actions he was taking under his responsibility for the matter. These were a number of options open to the Commissioner but in the following period, he announced his retirement. The material due to be discovered to the Bailey legal team was sent to it. Deputy Joe Higgins is aware that the Government previously commissioned both the Cooke and Guerin reports.

Deputy Gerry Adams: The Taoiseach indicates he does not have the authority to direct the commission and I accept that entirely, as it would be absolutely self-defeating if he had such authority. I may be in ignorance so perhaps the Taoiseach could put me right. When the Government establishes a commission, does it not set out the terms of reference?

The Taoiseach: Yes.

Deputy Gerry Adams: It is within the gift of the Government to set out terms of reference to deal with all these issues. My question was quite direct in asking the Taoiseach the communication he had with the former Garda Commissioner, Mr. Martin Callinan, prior to his resignation. The Taoiseach ignored that question and gave more information in response to the question asked by Teachta Higgins. Why does the Taoiseach not make a full statement on these matters here and clear up the issues? The Secretary General indicated he would not answer any questions about his role in these events after months of controversy and of arguing back and forth here and in the media. We saw undermining of whistleblowers and other citizens who put their heads above the parapet. Citizens see all this developing, with the Government taking its position and the Secretary General not answering questions before the justice committee.

I am not suggesting the Taoiseach has done anything wrong with this but I just want to be clear about what has occurred. When the Taoiseach indicates he looks forward to being asked to go before the commission, would it not be more simple to spell out, as I asked, what communication he had with the former Garda Commissioner prior to this resignation?

The Taoiseach: There was none, other than to say that when the information was brought to my attention by the Attorney General, as I indicated in the House before, I felt it only appropriate heading to a Cabinet meeting two days later that I should have the Garda Commissioner appraised of how seriously I viewed the report given to me. It was not for me to call the Garda Commissioner, as that would have brought a very different response. The normal method of communication would have been through the Secretary General of the Department of Justice and Equality.

Deputy Gerry Adams: I suggest it would have been through the Minister for Justice and Equality.

The Taoiseach: That would have been the normal method of communication and I wanted the Garda Commissioner to understand my concerns and to hear from him his proposed action, etc., in the knowledge I would attend a Cabinet meeting on the Tuesday morning. There was also the need for the information relevant to the taping in Garda stations and so on to be sent to discovery for Mr. Bailey's legal team.

It is the responsibility of the Government to set the terms of reference and they have already been published. The final term of reference is that the commission of investigation is "directed to conduct the task assigned to it under these terms of reference and to report to the Government

15 July 2014

no later than 31st December 2014, subject to section 6(6) of the Commissions of Investigations Act 2004.” The terms of reference are clear and explicit. They include two specific terms of reference at 2(n) and 2(o) that were the formal request of the Oireachtas justice committee. The Government signed off on the terms of reference in consultation with the sole member and it will report to the Government by 31 December this year. It is a matter strictly for the sole member as to how the business of the commission would be conducted, including how the modules take place. I do not have any right or intention to interfere with any of this as it is not my area of responsibility. Specific terms of reference requested by the Oireachtas committee are included and have been accepted by the Government. There is a direction that the commission of investigation would respond by 31 December 2014.

Deputy Seán Ó Fearghaíl: I will not impute any malintent from the Taoiseach in all of this and I take many of his points. We look forward to the commission reporting. Nevertheless, two issues arise. There was a meeting on the Monday night before the Secretary General was dispatched to the Garda Commissioner. Were there notes or a record of that meeting? The Taoiseach is on record speaking about the meetings concerned with the banking issue and he has expressed some concern about the lack of notes, as he described it. Were notes taken on that occasion, given the importance rightly attributed by the Taoiseach to the issues? This involved recordings at Garda stations and the appalling case of the Sophie Toscan du Plantier murder, which continues to hang over the country like a black cloud.

Does the Taoiseach accept that what is really at issue is public confidence in the system of government and the rule of law? There is a public view that the Taoiseach dispatched a senior civil servant to the Garda Commissioner with a message to take himself off the pitch.

An Ceann Comhairle: Thank you.

Deputy Seán Ó Fearghaíl: A Cheann Comhairle, could I make the point?

An Ceann Comhairle: I want to get to the other questions.

Deputy Seán Ó Fearghaíl: The Ceann Comhairle could give me 30 seconds.

An Ceann Comhairle: It would be unfair to other Deputies.

Deputy Seán Ó Fearghaíl: There is no law, Standing Order or custom I can identify which prevents the Taoiseach from clearing the air with all of this and letting the public and Members know what happened.

An Ceann Comhairle: We are dealing with two specific questions.

The Taoiseach: I have dealt with this up-front with Deputies Ó Fearghaíl, Adams and Higgins, as I have done on many occasions already. As somebody who will in due course be called before the Fennelly commission, I will attend both as a citizen and with respect to my responsibilities.

I know the Deputy does not intend any malice. I had a duty and responsibility when the level of revelation was brought to my attention. What was I to do? Would I do nothing, leave it aside when I attended a Cabinet meeting the following morning and not tell anybody I had been appraised of this? Would it not be natural to say that we should find out what has happened and convey concerns about the matter to the Garda Commissioner?

As I stated to Deputy Adams, the process of discovery was under way and all the material relevant to an unsolved murder in Cork and tapings in Garda stations, etc., was being transmitted to the legal team on the Tuesday, although the date was subsequently put back by a few days. I had a duty and responsibility to say I was concerned about the matter, have the former Garda Commissioner apprised of it and hear what action he was taking. That became obvious in the subsequent letter of 10 March. It is not a case of me not making a statement. That was the position. As somebody who will go before the Fennelly commission in due course, I will be happy to attend.

Cabinet Committee Meetings

6. **Deputy Gerry Adams** asked the Taoiseach if the Cabinet committee on justice reform has been held. [17507/14]

7. **Deputy Micheál Martin** asked the Taoiseach when the first meeting of the Cabinet committee on justice will take place. [17511/14]

8. **Deputy Gerry Adams** asked the Taoiseach the number of times the new Cabinet committee on justice reform has met since it was established. [19916/14]

9. **Deputy Joe Higgins** asked the Taoiseach the number of meetings held of the Cabinet committee on justice. [19935/14]

10. **Deputy Gerry Adams** asked the Taoiseach the number of times the Cabinet committee on justice reform has met. [19966/14]

11. **Deputy Richard Boyd Barrett** asked the Taoiseach the number of times the Cabinet committee on justice reform has met. [26751/14]

The Taoiseach: I propose to take questions Nos. 6 to 11, inclusive, together.

The Cabinet Committee on Justice Reform has met on three occasions to date, 28 April 2014, 20 May 2014 and 30 June 2014. A further meeting is scheduled for 24 July.

Deputy Gerry Adams: I thank the Taoiseach for his answer. This is a very important committee, given the series of scandals and crises which led to its establishment. There was at that time serious public disquiet and a loss of public confidence in the senior management of An Garda Síochána as well as a lack of confidence on the part of rank and file gardaí in their senior management. How often does the Taoiseach expect this committee will meet? Can he clarify whether the recent Cabinet changes will impact on its membership? I do not know if my next question is in order but I am trying to get to terms with the Garda Síochána (Amendment) Bill 2014-----

An Ceann Comhairle: That is a separate issue.

Deputy Gerry Adams: Will the committee have a role in that and can it invite recognised experts in the field of policing and if so, would the Taoiseach consider bringing in the people involved in the Independent Commission on Policing for Northern Ireland, the Patten commission? Does the committee intend to examine the Patten process in order to find a way to put in place the type of reforms necessary to have an accountable civic policing service, one that lives

15 July 2014

up to the expectations and sacrifices of members of An Garda Síochána and their families as well as citizens of the State?

The Taoiseach: It is a matter of great importance that the public has faith and belief in the integrity and credibility of the Garda Síochána. It is equally important that the members who serve in the force can have pride in the force they represent, in the way they engage with the public and that facilities are put at their disposal to enable them to do their job as one would expect. The day to day running of the Garda Síochána is a matter for the Commissioner at all times. The Commissioner of the day advises Government through the Minister for Justice and Equality, in respect of preparation of budgets and requirements for facilities.

The committee has met on several occasions as I have outlined. It has dealt with the terms of reference for the commission of investigation into the Guerin report. That matter has not been finalised yet. It dealt with the preparation of a draft scheme of a Bill to deal with the Garda Síochána Ombudsman Commission, GSOC, and with the process for a review of how to deal with a couple of hundred cases that came in covering a range of issues about, complaints against and matters relevant to the gardaí, going back over a very long period.

The Government made two decisions, one, to advertise for a Garda Commissioner and a process for doing so, including advertising internationally. I think those advertisements will be placed this week or next week. It also decided to establish an independent Garda authority. That is a major decision on the part of Government and will bring about a new way of making appointments to An Garda Síochána.

A seminar was held in Farmleigh dealing with the groups and organisations which wish to make submissions and give their views on how an independent authority might function, how it should be set up, its terms of reference and so on. These are important matters to consider. I expect that when the committee meets next week we should be in a position to make recommendations as to the sort of structure, nature, composition and work of the independent policing authority. In the latter part of the year we want the process for the appointment of a Garda Commissioner and the process for the setting up of the independent Garda authority to coincide. It would be appropriate for the person to be considered for the position of Garda Commissioner to have some capacity to reflect on the structure of an independent statutory authority.

All of that is being done to improve the perception, relationship and reputation of An Garda Síochána to allow it have standards that apply across the board of which it can be proud. The public will know that this process is removed entirely from the political process and that the police force can do its job as befits a modern democracy in the appropriate way.

Deputy Seán Ó Fearghail: Does the Taoiseach envisage the structure of the Cabinet committee changing in the aftermath of the reshuffle?

Does he accept that the Acting Commissioner, Noirín O'Sullivan, has done a superb job having taken up her post in very difficult circumstances, probably the most difficult circumstances the force has ever been in?

Does the Taoiseach have any principled view of the appointment of a new Commissioner? Would it be important to him that the person come from inside or outside the force?

It must be without precedent that the Minister for Justice and Equality has not expressed confidence in the Secretary General of the Department of Justice and Equality. Does the Tao-

iseach have confidence in him?

Deputy Joe Higgins: Could the Cabinet committee take on the following issue? Substantial numbers of people in this State feel they have been grievously wronged, and many have, by elements of the justice system, the Garda, the Judiciary, solicitors etc. and that they have no redress and come up against blank walls. Lives are ruined. I am sure the Taoiseach receives letters from people, whose lives are ruined by injustices of this kind. When the Taoiseach received files sent by Sergeant McCabe he asked a senior counsel to look into them. He found there was serious substance in the files and the Minister for Justice and Equality resigned. That is because the files were brought to the Taoiseach's attention in a very controversial and particular way. Ordinary people around the country do not have such access to the power in this society. Does the Taoiseach see my point? Does he not think some kind of appeal system should be set up for people who find themselves innocent victims of grievous injustice and that there should be redress for them?

Deputy Gerry Adams: The Taoiseach failed to answer my question about the Patten process and commission. One of the Sinn Féin submissions to the Patten commission, which I thought was crucial, was to invite it into neighbourhoods and communities to listen to people and hear their experience of policing. That changed the entire chemistry of the commission's engagement. That is why the majority of people, despite the history of the place, support the Police Service of Northern Ireland, PSNI. Could the Taoiseach deal with the question about the Patten process? Would he consider an initiative such as the one I have just outlined?

The Taoiseach: I do not envisage any great change in the structure of the Cabinet sub-committees. Personnel will change because some Ministers have changed. I find the Cabinet sub-committee structure a good way to force things onto the agenda so that matters that might have been hanging around for a long time can be concluded.

I agree that the Acting Commissioner of An Garda Síochána is doing a remarkable job in the sense of being open, very different and engaging with different groups. She has visited many Garda stations and has invited gardaí to give her their views of the force and so on. I also note her comments that people with a different voice or view are quite entitled to have their say. That is a very commendable way to restore morale to the Garda force, which is very important for us. I do not want to speak for the Minister for Justice and Equality. Every Minister is entitled to a period of engagement and reflection in respect of his or her working arrangements with any Secretary General of a Department. I am sure the Minister for Justice and Equality will speak on that in due course.

Deputy Higgins's contention that no redress is available in the justice system and lives have been ruined as a result is true in more than one sector. That is why the Government has moved to change the responsibilities of the Garda Síochána Ombudsman Commission, set up an independent Garda authority and put in place an independent structure for the appointment of a suitable person as Garda Commissioner. It is clear that when the Garda Síochána Ombudsman Commission is revamped and reorganised, the public and the gardaí themselves will have a different opportunity to see that things are as they should be.

I will reflect on what Deputy Adams has said about an important element of engaging directly with communities. It might be appropriate to go through the process with the independent authority, which can look at engaging with communities depending on how they see that engagement taking place. When we examine the recommendations for the process, procedure

15 July 2014

and structure of the independent statutory authority at next week's meeting, we will consider whether it would be better to do it before or after. Clearly, it is important to engage with the public, which is what the interim commissioner is doing. It is all about engagement with people. If the issues that have been raised over the years are to be dealt with, the public must believe in the integrity and credibility of this professional force and know that it is acting professionally in the duties it has to carry out.

Written Answers follow Adjournment.

Order of Business

The Taoiseach: The Order of Business is No. 7, motion re referral to joint committee of proposed approval by Dáil Éireann of the draft Commission of Investigation (Ronan MacLochlainn) Order 2014; and No. 20, Court of Appeal Bill 2014 - Committee and Remaining Stages. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than 11 p.m.; that No. 7 shall be decided without debate; and that in the event a division is in progress at the time fixed for taking Private Members' business, which shall be No. 154, motion re people with disabilities, Standing Order 121(3) shall not apply and Private Members' business shall adjourn after 90 minutes. Tomorrow's business after Oral Questions shall be No. 21, Freedom of Information Bill 2013 - Order for Report, Report and Final Stages.

An Ceann Comhairle: There are three proposals to be put to the House. Is the proposal for dealing with the late sitting agreed to? Agreed. Is the proposal for dealing with No. 7, motion re referral to joint committee of proposed approval of the draft Commission of Investigation (Ronan MacLochlainn) Order 2014, without debate agreed to? Agreed. Is the proposal for dealing with Private Members' business agreed to? Agreed.

Deputy Seán Ó Fearghail: I would like to raise three matters. On 4 July, the Minister for the Environment, Community and Local Government produced a statutory instrument, No. 296, in respect of the local property tax. Does the Taoiseach accept that the restrictions imposed by this set of regulations are so excessive that they will make it virtually impossible for local authorities to give effect in the current year to the legislative provision whereby they may increase or decrease the property tax by 15%?

We learned this morning that Irish Water intends to collect people's personal public service numbers to allow it to introduce the free allowance and to enable children to have free water. Will this initiative require any legislative underpinning? I raise it particularly in the context of the possibility that Irish Water, as a semi-State body, might be privatised at some future stage, which would give rise to a situation in which private companies would have possession of people's personal public service numbers.

I do not want to raise the Garth Brooks issue again as it was well ventilated at a committee meeting this morning. In light of the concerns expressed by the Taoiseach, the suggestion at this morning's meeting that the planning system is very autocratic and the fact that our planning legislation has not been the subject of any radical change since 2000, when the country was in the midst of a boom, does the Taoiseach believe planning legislation might need to be amended? Does he consider that the planning legislation we have is serving the public interest?

An Ceann Comhairle: I think that is a separate issue.

The Taoiseach: Is the Deputy asking about planning legislation as it applies to concerts?

Deputy Seán Ó Fearghail: I am asking about planning legislation in general. Obviously, there is an issue with the planning of concerts. Is the general planning regime serving the public interest?

An Ceann Comhairle: Is there promised legislation in that area?

The Taoiseach: There is planning legislation pending. It will be produced fairly soon. I suppose one could say that this particular issue is played out at this stage.

Deputy Finian McGrath: I have two tickets. I want my money back.

The Taoiseach: It is necessary to change the process that was put in place here many years ago because it is not satisfactory and it caused this difficulty. No appeals system was built into it when it was brought forward by Deputy Ó Fearghail's party many years ago. It needs to be changed and will be changed.

It is necessary for personal public service numbers to be available to Irish Water so that it can tell how many children are in families on the basis of the amount of child benefit they are receiving, as is their right. It needs this information so it can ensure families get their proper services and the proper amount of water to which they are entitled.

Clearly, the principle that has been established with regard to the property tax is that no local authority will be worse off. Provision has been made for 80% of the receipts to be retained within the local authority area. Some other elements of this matter still have to be decided on by the Government. Counties that have a surplus will be entitled to legislation for a reduction if they wish to do so. There is some work going on around that remaining element of the decision here.

Deputy Gerry Adams: Tá dhá cheist agam. I want to ask the Taoiseach about the proposed low pay commission. The hourly minimum wage, which is €6 for those under the age of 18 and €8.65 for experienced adult workers, has not increased since 2007. Over 300,000 workers are earning less than the living wage of €11.45 an hour. When does the Taoiseach expect the necessary legislation to be published? When does he expect the low pay commission to be established? Does the Government support the creation of a living wage for workers?

Last week, the Taoiseach promised to write to me on an issue I had raised regarding the status of the Palestinian mission and the need for it to be accorded embassy status under the 1961 Vienna Convention. The Taoiseach has not written to me at all on this matter. Can he tell me whether the Government is prepared to give the Palestinian mission the embassy status it warrants under the Vienna Convention?

An Ceann Comhairle: I am afraid that is not really a matter for the Order of Business.

The Taoiseach: The Government has decided to set up a low pay commission. There is a structure and a process to be followed here. There will have to be consultation, terms of reference will have to be set out and a determination will have to be made on how the commission will do its job. This is important. It used to be the case that the Government of the day would receive a recommendation from those involved in the social partnership process about a figure,

15 July 2014

arbitrary or otherwise. It is important that there is proper and comprehensive analysis, discussion, negotiation and transparency in this regard. I cannot give the Deputy a date for when it will be up and running and when it will actually report. It will be driven by the Minister for Jobs, Enterprise and Innovation and the Minister of State with responsibility for business and employment. The Bill will eventually be taken through the House by the Minister of State, Deputy Nash. I would like to make it clear in response to the Deputy's question about a living wage that we want to create more jobs that pay people enough money to show the difference between working and not working. The fact that 70,000 jobs have been created in the last 12 months speaks for itself.

I will write to Deputy Adams about the Palestinian convention.

Deputy Gerry Adams: Go raibh maith agat.

Deputy Bernard J. Durkan: Can I ask whether any work has been done on the legislation that has been promised to provide for the continuing regulation and supervision of the carrying out of insurance and reinsurance business by undertakings that are excluded under the second solvency directive on insurance, which is due to be transposed by 31 March next? When is the Bill in question, which is No. 90 on the Government's legislative programme, likely to come before the House? Will that happen before the end of the current year?

5 o'clock

Similarly, has work been undertaken on No. 96, the Bill to provide a scheme to make individual payments to people with severe disabilities as a contribution towards their transport costs where they cannot access public transport? Have the heads been cleared, and will it be brought to the House before the end of the year?

The Taoiseach: Regarding No. 98, we do not have a date for that. I think it will be next year before that Bill comes in. A good deal of work has been done in respect of No. 96 dealing with the mobility allowance. The heads of the Bill have not been cleared by Government yet but it will be published before the end of this year.

Deputy Michael Healy-Rae: I want to raise three items. First, where is the legislation to deal with the problem of upward-only rents? Second, with regard to the recent debacle over the concert that was to be held in Dublin, Ministers have said that legislation is promised to deal with concerts held in the future. When will that legislation come before the House? Is work being done on it? Third, referring to the programme for Government, any person who needed to stay overnight in an acute hospital will have seen the massive numbers of people waiting on trolleys in the accident and emergency department. Where are the Government's proposals to deal with that very serious problem? The staff are working in a tremendously pressurised environment trying to deal with patients lying on trolleys overnight. That is wrong. The Government promised in the programme for Government that it would bring an end to that. What is it doing about it? What will the new Minister for Health do about it? I ask the Taoiseach to clarify that very important issue.

An Ceann Comhairle: That is not really a matter for the Order of Business but the other two-----

Deputy Michael Healy-Rae: It is in the programme for Government.

The Taoiseach: In respect of the upward-only rent review, we had constitutional advice that it was impossible to legislate for that. I have said that on many occasions in the House.

Regarding the position about the concert events, the Minister, Deputy Kelly, has made known his intention to change the law to put a proper system in place to ensure that what happened-----

Deputy Michael Healy-Rae: Two days ago he said he would sort it out.

The Taoiseach: -----should not happen in the future. At the same time we do not want to do down the right to hold smaller events around the country in terms of them being too restricted. As the Minister pointed out on many occasions, the reduction in trolley waiting times is always an issue in every hospital, as Deputy Healy-Rae is aware. These situations flare up at different times. Nobody wants to see elderly people in particular lying on trolleys. The Minister can give an update at any time in respect of the figures that occur any day.

Deputy Éamon Ó Cuív: Ba mhaith liom comhghairdeachas a dhéanamh leis na hAirí agus na hAirí Stáit ar fad a ceapadh le seachtain anuas. I ask the Taoiseach if it is intended to have a debate on the appointment of the Ministers of State, particularly in view of the concern raised in Irish language circles that as far as people understand, neither the Minister nor the Minister of State, who are fine people, are capable of conducting comfortably their daily business through the medium of the Irish language.

An Ceann Comhairle: I do not think that is a matter for the Order of Business.

The Taoiseach: It is not usual to have a debate in the House about the appointment by the Government of Ministers of State, although it is something to which I do not object. Ministers will be subject to a lot of public comment. The first action of the Minister of State appointed to the Department of Arts, Heritage and the Gaeltacht has been to book in for a refresher course in Oideas Gael-----

Deputy Michael Healy-Rae: An Irish college.

The Taoiseach: -----in Gleann Cholm Cille, which will help the Ministers to be able to debate the issues that matter with Deputy Ó Cuív on TG4, Raidió na Gaeltachta or any other forum. It is an example, as I saw previously in this House over the years, of somebody whose Irish might be a bit rusty getting back into action and bringing it up to standard.

Deputy Éamon Ó Cuív: Would the Taoiseach give a truck driver a job and say they can get the licence afterwards?

An Ceann Comhairle: No, Deputy. Resume your seat. We are not having a debate on this. I call Deputy Finian McGrath.

Deputy Finian McGrath: I ask the Taoiseach for an update on the noise nuisance Bill, which is an issue that has emerged in many communities, particularly for families living in blocks of apartments as a result of the Celtic tiger who often have to deal with anti-social neighbours and major noise emanating from other apartments.

The Taoiseach: There is no date for its publication but if neighbours are being unduly unruly or causing social disruption, there is a way of dealing with that in terms of having them moved out.

15 July 2014

Deputy Michael Healy-Rae: What about the noise from the backbenchers?

Deputy Martin Heydon: On promised legislation, what progress has been made on the Valuation Bill in terms of the need to address the valuation process in light of the difficulties businesses are under, the changes regarding the town councils and the change in respect of harmonising rates?

The Taoiseach: That is an important Bill, which is on Committee Stage in the Seanad. There are quite a number of amendments to it on which some legal work has been done. I assume, given where we are this week, that it will be the next session before it is passed by both Dáil and Seanad.

Draft Commission of Investigation (Ronan MacLochlainn) Order 2014: Referral to Joint Committee

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

That the proposal that Dáil Éireann:

bearing in mind the specific matters considered by Government to be of significant public concern arising from the fatal shooting of Ronan MacLochlainn by members of the Garda Síochána during the course of an attempted armed robbery of a Securicor van in Co. Wicklow on 1st May, 1998;

noting that it is the opinion of the Government that a Commission of Investigation represents the best method of addressing the issues involved; and

further noting that a draft of the proposed Commission of Investigation (Ronan MacLochlainn) Order 2014 and a statement of the reasons for establishing the commission have been laid before Dáil Éireann resolves to approve the draft, be referred to the Joint Committee on Justice, Defence and Equality, in accordance with Standing Order 82A(4)(j), which, not later than 17th July, 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.

Topical Issue Debate

Quality and Qualifications Ireland Accreditation

Deputy Jonathan O’Brien: I congratulate the Minister on her appointment to the Department of Education and Skills. I look forward to working with her over the remaining term of this Dáil to try to further education provision to our citizens. It is a huge task and there are many pressing issues. I am sure the Minister will have a very busy summer reading the portfolio, particularly with a number of immediate concerns that need to be addressed.

I refer to community education. The Minister will be aware from briefings before taking

this Topical Issue matter that an issue arises with regard to what is known as a re-engagement fee for community education providers with Quality and Qualifications Ireland, QQI. QQI is proposing to charge a fee to existing providers of registered FETAC community education groups that want to continue to offer accredited programmes under the National Framework of Qualifications, NFQ.

I am sure the Minister is aware from her constituency of the value of community education groups. They offer a quality education provision that is learner centred, responds to the local communities needs, and has the ability to tailor particular courses to those individuals. The progression rates for those individuals who have taken part in community education provision are very successful. They offer a number of things the statutory and private sector does not have the ability to offer. They offer education in local communities that is learner centred. They appeal to individuals who may have been out of the education for many years or who may not have had positive experiences when they were in education. They offer a ray of hope to individuals who I am sure feel very far removed from the labour market. The value of community education is there for everyone to see. They are also very effective in reaching individuals who are long-term unemployed and looking to upskill and increase their ability to get back into the labour market.

Community education provision is dependent on the ability to continue to offer accredited programmes. We do not know yet what will be the proposed re-engagement fee. QQI is due to report back to the Minister's Department on this issue but some of the figures bandied about, which are probably accurate, are in the region of €5,000. Many of the community education providers are under-funded. They do not have access to large sums of money. It will force many of the community education providers to re-evaluation their position. The ability of a community education provider to provide these accredited courses, which are vital to local communities, will be affected if this fee is imposed by QQI.

We ask that the Minister's Department take a look at this. I know there is a proposal in some quarters that community education providers should come together and form consortiums. In theory, that would seem to be a realistic solution but in practice, it would negate the very ethos of what community education provision is about. Many of these groups are stand alone and the value is there to be seen. I ask the Minister to comment on that.

Minister for Education and Skills (Deputy Jan O'Sullivan): I thank Deputy O'Brien for his good wishes. I look forward to working with him and other Opposition spokespersons. I thank him for raising this issue and agree with him on the value of community education. We would be very well aware of it in both of our communities.

As the Deputy will be aware, Quality and Qualifications Ireland, QQI, was established in November 2012 under the Qualifications and Quality Assurance (Education and Training) Act 2012 through the amalgamation of the Further Education and Training Awards Council, the Higher Education and Training Awards Council and the National Qualifications Authority of Ireland. QQI was given responsibility for the functions of those bodies across further and higher education and training as well as for the external quality assurance function formerly carried out by the Irish Universities Quality Board.

The purpose of the amalgamation of those bodies into QQI was to bring greater coherence to the sector, creating a single body which can deliver a more efficient and integrated service and uphold the quality of Ireland's qualifications and educational institutions while bringing a

stronger focus to the creation of flexible pathways for learners.

QQI has very wide-ranging responsibilities, both in terms of the quality assurance of further and higher education and training providers and as an awarding body for certain providers, including many of those in the community and voluntary sector. QQI also has responsibility for safeguarding the standard and quality of its qualifications, all of which are included in the national framework of qualifications.

The 2012 Act provides for the fees to be determined in regard to a number of activities and services carried out by QQI, including agreement of quality assurance procedures, programme validation and the making of awards. To date, fees have been determined for only a limited number of these services, including access to QQI programme validation for providers which do not have an existing relationship with QQI. I understand that QQI is due to publish its policy in regard to re-engagement with providers with which it has an existing relationship, known as legacy providers, shortly.

Re-engagement, or the formal agreement of quality assurance procedures with QQI, is a requirement for legacy providers under the 2012 Act. It will happen only once for a provider. Thereafter, the provider will have to undergo periodic review of the effectiveness of its quality assurance procedures.

The re-engagement process will allow providers to demonstrate their capacity to provide and maintain, on an ongoing and sustainable basis, the infrastructure required to develop programmes consistent with national standards and to assess the achievement of stated learning outcomes by learners.

The fees involved in the re-engagement process have not yet been determined, as the Deputy said. The proposed levels of fee and any associated issues will be considered when the proposal is made by QQI.

I can assure the Deputy that the role played by the community and voluntary sector in providing training and educational opportunities to marginalised communities is both important and valued. However, it must be recognised that learners, in particular those who may be disadvantaged due to unemployment or who come from marginalised communities, deserve and must be assured of the quality of the programmes they undertake and of the awards they receive.

Deputy Jonathan O'Brien: I completely agree with the Minister on the last point that learners from very disadvantaged communities must be assured that the courses in which they partake are delivered to the highest quality. I have no issue with that. As for QQI itself, I have no issue with it either. When the legislation in regard to it was going through the House, all parties supported it. It has a very valuable and, I suppose, very positive contribution to make to ensure quality assurance in the courses provided.

I do not even have an issue with the re-engagement process because we must ensure that those who provide these courses provide them to the best of their ability, that they are delivered with high education quality and that the progression rates are weighed up. They must also prove that they have the ability and capacity to provide those courses.

The issue I have is around the proposed re-engagement fee. It has not yet been set and it will be looked at when the report is published but we discussed this at the Joint Committee on Education and Social Protection and I think all sides have come to the conclusion that one is talking

about several thousand euro. It has yet to be determined whether it is €3,000, €5,000 or €6,000.

We are asking for the possibility of a waiver system for community education groups. In my understanding, from reading the QQI legislation, that section 80 gives the Minister the power to introduce a waiver scheme for community education providers. Will the Minister look at that once the report has been published and the costs have been established? It is critical that a re-engagement fee does not become a barrier to community education providers being able to prove that they have the capacity and expertise to deliver these accredited programmes. My concern is not the process but the fee that could be attached to it.

Deputy Jan O’Sullivan: The fees have not yet been determined. QQI has already engaged with a number of representative bodies, including Aontas, the Community Education Network and the community sector committee of the Irish Congress of Trade Unions. It will certainly continue that engagement. The Deputy said it is encouraging some co-operation among providers and I know it would hope that at least would be considered by the many community providers. I encourage them to work with QQI to ensure we get something that works.

I agree with Deputy O’Brien that we do not want any insurmountable barriers, given the importance of community education in all of our communities. I am obviously new to the job but I will be interested in finding a resolution that will work for everybody.

State Examinations Reviews

Deputy Charlie McConalogue: I welcome the Minister to this role and wish her the very best. I have no doubt that with her background and experience in other Departments and the ability she has shown in politics, she will do her best and justify her appointment. I look forward to working with her. On the day that is in it, I wish the outgoing Minister of State, Deputy Ciaran Cannon, the very best. He was very good to work with. He worked very hard and was very committed to his role. It is unfortunate that he is moving on and someone else is taking over. However, I wish the Minister of State, Deputy Damien English, well in his appointment. No doubt Deputy Cannon will contribute further in many other roles and I particularly wish him well today.

I remind the Minister that there are many issues which must be a priority for her as she begins her new tenure. The future of small rural schools is one on which I sincerely hope she will change tack from her predecessor. I also hope she will reverse the damage done to guidance counselling and to the post-leaving certificate sector. However, one of the biggest issues facing her as the new Minister is the question of junior certificate reform.

I want to be clear from the outset that my party and I accept there is a strong case, rationale and need for junior cycle reform in our secondary schools. We also acknowledge that such reform must include change in terms of how examinations are done to ensure the junior certificate examination process becomes a much lower stakes examination and that the focus is on learning and not on final examinations and on teaching to an examination. However, we believe that such a substantial reform of our education system needs to have detailed implementation plan and we hold that it is essential to involve all stakeholders in a process of consultation and implementation and that teachers in our post-primary schools must have confidence in these reforms. Above all, we believe that any reform of the system should not diminish the integrity and transparency of the current junior cycle.

15 July 2014

It is almost two years since the former Minister, Deputy Quinn, launched his reforms. Right from the start, there was deep concern about the absence of any independent assessment of the new proposed junior cycle student award. This concern was underscored by the fact that the Minister ignored the recommendations of the National Council for Curriculum and Assessment to retain some element of a final independent examination. At no stage did the former Minister appear to be engaging seriously with post-primary teachers on the reforms. Now, there is a very real prospect of industrial action in our schools on foot of this.

Teachers, parents and students alike want to ensure there is consistency in the marks given for the junior cycle student award across the country, that students can have faith their results are genuine and the marking system is independent. That is a fair request. A recent survey indicated over 60% of parents are in favour of retaining independent assessment at junior cycle level. Speaking to many students myself, I know they very much believe in the need for independent assessment.

In this the last week before the recess, will the Minister engage on these issues and delay the start of the implementation of the new junior cycle so that English begins the following September alongside science? In that way, the overall roll-out will not be delayed. This will ensure everyone is working together and we see a new approach in addressing the issues I have outlined.

Deputy Jan O’Sullivan: I thank Deputy McConalogue for his good wishes. I am sure we will have much engagement in the future.

I am committed to reform of the junior certificate to ensure our young students have a programme and an assessment framework that best serves their interests. This reform is best pursued through dialogue and consultation with all stakeholders so the maximum degree of consensus on the reform agenda can be developed.

The introduction of the junior cycle has been slowed down considerably following consultations with all of the partners in education. Phased implementation of junior cycle reform will commence this September with only one subject being changed, English. For those students sitting the junior cycle student award in 2017, only English will be different. All other subjects will be as they are now.

New specifications for the remaining subjects will be introduced on a phased basis between now and September 2019. The junior cycle for teachers support service has seen a highly positive response to its continuing professional development programmes not only in the last academic year, but also from the registration data available for the coming academic year. Up to 4,814 English teachers attended continuing professional development during 2013 and 2014, that is, 90% of English teachers registered with the junior cycle for teachers support service; 5,385 English teachers have registered for the forthcoming school year 2014-15; some 1,690 science teachers across 371 schools have registered with the junior cycle for teachers support service; 1,240 school leaders attended the junior cycle for teachers support service school leadership seminars during 2013-14; and 509 schools have, to date, requested the junior cycle for teachers support service to facilitate junior cycle whole-school continuing professional development during 2014-15.

It is clear a significant number of our schools, their teachers and their leaders, are interested in implementing the new framework. In addition, new members are being added to the junior

cycle for teachers support service team this autumn. A deputy director for assessment has been appointed, as has a team of six full-time members, to address whole-school continuing professional development. This team will be supported by 60 to 80 associates who will be recruited in the autumn to work part-time on whole-school development.

Notwithstanding this, I am eager that all voices in education are heard on the matter of junior cycle reform and I am anxious to have a meaningful dialogue with teacher unions on this vital issue. I have also asked my officials to continue to have discussions with the partners on junior cycle reform. A report of the working group, established by my predecessor to enable discussion to take place, was published in May. This report indicated some progress has been achieved and many constructive proposals have been made, particularly by the management-patron bodies, which will inform the discussions. I look forward to receiving similar written submissions from the teacher unions. There is clearly further work to be done to achieve all necessary elements of the reform. Without a written submission from teachers, it is not possible to have a balanced debate, representing their views alongside those of the other partners.

The provision of quality education with its emphasis on skills development and of assessing to improve learning is key to engaging our young people in a meaningful education that relates to their lives, to their experiences and to the opportunities that surround them. The junior cycle should be about learning to learn. Most of all, however, it should be about motivating our young people with the expectations and aspirations they can achieve and progress with confidence, full of creativity and innovation, into their senior cycle. It is essential we begin this work as soon as possible.

Deputy Charlie McConalogue: The Minister outlined how it is important junior cycle reform is achieved through dialogue, consultation and consensus. Unfortunately, these were absent in the approach taken by the former Minister, Deputy Ruairí Quinn. Despite his welcome willingness to bring reforms forward in the junior certificate, the way he went about it has left very few of the stakeholders on the bus with the first reforms being introduced in September with the possibility of industrial action occurring. All of this is happening with the former Minister, Deputy Quinn, not in charge of it anymore. It is important the new Minister, Deputy Jan O'Sullivan, takes a different approach to ensure these reforms are implemented successfully. It is not the right footing to start off on when there is an industrial dispute in the background.

The Minister informed me that 10% of English teachers have not taken part in the necessary induction courses for the new curriculum which will start on 1 September. She also said the timetable as to how the other reforms will be rolled out has already been re-arranged because of the impasse. It is now time to take a fresh approach. The Minister should postpone the introduction of the new English curriculum in September until the following year alongside science. By that stage, all involved will be on board. The genuine concerns of parents, teachers and the wider community about independent assessment of the written part of the examination, accounting for 60% of it, will have been addressed. My party and the rest of the House support much-needed junior certificate reform. However, we do not support the approach taken by the former Minister, Deputy Ruairí Quinn, which has left the reforms, so important to our education system, mired and will result in them taking off on the wrong footing. Will she consider deferring the implementation of the new junior certificate for 12 months to ensure we are properly prepared for it and that it happens in an appropriate manner?

Deputy Jan O'Sullivan: I expect to meet with the education partners in the near future and look forward to hearing their views, as well as having a constructive relationship. I will

15 July 2014

not give any commitments today in advance of these discussions. The phased approach gives everyone involved the opportunity to develop competences, capacity and to manage the reform in a measured way. This was the approach of my predecessor and will continue to be the approach.

Deputy Charlie McConalogue: What about the 10% of teachers not trained?

Deputy Jan O’Sullivan: I gave the Deputy figures for the numbers who have signed up for the coming year. There has been a considerable engagement from teachers. There are other partners involved as well and I intend to listen to them all before I make any decisions on changing the timetable set out already. When one gets to the point of having discussions, that generally resolves issues. That is the approach I intend to take.

Clinical Trials

Deputy Michelle Mulherin: I appreciate the opportunity to debate this critical issue. From the information I have garnered it appears that if the matter is not addressed it will seriously and adversely impact on our current and emerging indigenous clinical research industry and our ability to grow the sector. That will, in turn, affect our ability to engage in research and development for veterinary medicines, medical devices and human pharmaceuticals. We are a big player in the latter area given the number of multinational pharmaceutical companies in this country.

I congratulate the new Minister for Health, Deputy Varadkar, on his appointment. I wish him a fruitful tenure. I think this might be his first time in the Chamber in his new position. There is an urgent need for a review of the new authorisation procedure, which commenced on 1 January this year, for the conduct of clinical trials on animals being operated by the Health Products Regulatory Authority, HPRA, formerly the Irish Medicines Board, which arises from the transposition of EU Directive 2010/63 into Irish law.

The European Union (Protection of Animals Used for Scientific Purposes) Regulations 2012, which give effect to the directive, will severely impede the ability of existing Irish companies to compete for such work internationally, as licences which they hold for this activity under the previous regime expire. As we speak, it is crushing the ability of fledgling and start-up companies to get business at all.

Affected individuals and companies explained to me that the physical care and treatment they give to the animals will not change under the new regulations so there will not be any changes affecting animal welfare. They already operate to the highest animal welfare standards and under the previous licensing regime companies conducting such clinical trials were regularly inspected by the Department of Agriculture, Food and the Marine. In fact, from the point of view of standards, Ireland is a very desirable place to have the necessary clinical trials conducted. In a recent interview with *The Irish Times*, Mr. Pat O’Mahony, chief executive of the Health Products Regulatory Agency set out his belief that we should “ramp up Ireland’s presence in clinical trials where we should be running about four times our current level”. He said we should be big players in the sector.

The problems with the new authorisation process are excessive and inappropriate costs and difficulties with the timelines for processing applications and paperwork. In effect, what is at

issue is additional red tape and bureaucracy on an existing system of checks and monitoring for animal welfare. The regime does not appear to be implemented in such a burdensome manner on business in other EU jurisdictions. The business conducted by Irish companies is now beginning to go to eastern Europe and further afield.

The issues of concern which are affecting competitiveness include the fees which became operative on 1 January - €1,000 to process an application, €2,000 for an ethical review and a further €2,000 to fast-track an application. When the Minister hears the timelines involved he will understand the need to fast-track applications. Every job requires authorisation, regardless of size, and the same cost applies. Let us contrast that with the previous regime in which companies operated where no fees applied and a five-year licence was issued. Regular inspections were part of the system. The new regime involves major additional expense that companies must pass on to customers, and it is disproportionate for small projects. For a job worth €800 a company would have to potentially add €5,000. Companies have said work is going abroad as a result. The timeframe of 54 days can be reduced to 21 days on payment of an additional €2,000 but that is still not fast enough. One company described to me how it lost out to a company in the Czech Republic which can do the work in two weeks. Therefore, we seem to be out of synch.

The HPRA requires an ethical review is provided. That, in itself, is acceptable but eight people are required to perform it, which is not feasible for small companies. Such an approach is not prescribed in the directive. While, in theory, such work could be farmed out, due to the sensitive nature of the information companies do not wish to engage the services of a third party. There also appears to be a disparity between the approach being taken in this country and what is required by the EU Commission. The Commission says one thing and we appear to have interpreted matters in another way.

Minister for Health (Deputy Leo Varadkar): Deputy Mulherin is correct that this is my first appearance in the Chamber as Minister for Health. I am at a disadvantage as she knows much more about the matter than I do at this stage. I thank the Deputy for raising this matter as it provides me with an opportunity to outline to the House the position in regard to this matter.

Directive 2010/63/EU on the protection of animals used for scientific purposes introduced a significant change in the systems for authorisation and conduct of scientific procedures on animals. The introduction of the legislation into Irish law will significantly enhance the welfare of animals used for scientific purposes. My Department has designated the Health Products Regulatory Authority, formerly the Irish Medicines Board, as the competent authority for the purposes of this legislation. This includes ensuring the application of the 3Rs. These are replacement, reduction and refinement. The HPRA has the relevant expertise in relation to both human and veterinary medicine to undertake this regulatory work. Given that many of the additional requirements under the above directive are of a highly specialised nature, the HPRA has put in place a small but expert cadre of officials well versed and experienced in this area. In preparing for its role as competent authority in this area, the HPRA undertook extensive engagement with the industry on implementation of the directive and I am informed that it continues to do so.

In transferring the functions involved to the HPRA in 2013, the Department agreed to provide it with the necessary funding for the setting up and provision of the service involved in 2012 and 2013 - the provision of further Exchequer funding for 2014, 2015 and 2016 being gradually scaled back so that the HPRA will ultimately regulate the sector from within its own funding. Accordingly, the HPRA consulted with the sector on the application of an appropriate

15 July 2014

funding model during 2013. Based on the feedback from the consultation the HPRA proposed a fee regimen and my Department sanctioned certain fees for the provision of HPRA services in 2014. The fees are included in the Irish Medicines Board (Fees) Regulations 2013, SI No. 501 of 2013. A similar process will be undertaken during 2014 on the fees for 2015.

The introduction of this legislation into Irish law will significantly enhance the welfare of animals used for scientific purposes. In this regard, the HPRA is obliged to verify compliance with the requirements of the directive in as practical a manner as possible and by so doing assist the industry in its development. Finally, we are mindful of the importance of research to the Irish economy. However, we also need to be cognisant of the potential implications of any changes made in this area for the regulation of other research undertaken by the HPRA.

Deputy Michelle Mulherin: First and foremost, my concern relates to the disparity between the transposition of the directive into Irish law and its transposition in other member states with the result that others areas are put at more of an advantage. I am told the British system is similar to ours but the sheer volume of applications means that it can be more readily self-financing compared to the small number of companies engaged in such activity in this country. Difficulties arise for small companies. Multinationals in this country require the service to develop pharmaceutical products and medical devices but we now face the possibility that such work will be sourced outside this jurisdiction. Certain individuals have told me their companies will go out of business. These companies were up and coming, thriving businesses which dealt with Enterprise Ireland and were expected to grow. However, the new authorisation procedure is crippling them. I referred to a potential cost of €5,000 being added to a job worth €800, for example, or for any other value. That is not feasible. The situation is not tenable. The current one-size-fits-all approach to fees will not work.

I do not argue against the need for animal welfare. I believe we are to the fore in that regard in this country, rightly so. We must continue to take such an approach. The issues I raise relate more to competitiveness than animal welfare. It is untenable to ask the companies involved to carry the entire burden. We will choke them. The Minister is a pragmatic person who is known for his no-nonsense approach. We must cut through red tape to revive the floundering research and development sector. A great deal of hard work has been done to bring multi-national companies here and spin-off companies could carry out their research and development but they cannot do so at the moment due to cost and excessive red tape. This matter must be addressed or we will fail to adhere to our action plan for jobs. The Taoiseach said the 2014 action plan has a strong focus on the domestic economy, improving competitiveness and supporting entrepreneurs and small businesses. There can be no lessening of our efforts until we have full employment. I hope the Minister supports this.

Deputy Leo Varadkar: This relates to a European directive the purpose of which is to advance animal welfare and ensure it is upheld even where animals are used for scientific purposes. As a general point it is appropriate that businesses pay for the cost of their own regulation as this is a principle that applies across the economy. This is a good thing because if businesses do not pay for their own regulation the cost will fall to the taxpayer and taxpayers' money should be used for better things.

I think the essence of Deputy Mulherin's point is the regulation is being interpreted differently in Ireland than in other European countries and as a result the fees are higher with more administrative delays. This may be a cause for concern because Irish research businesses should not be at a disadvantage when compared to European competitors that are bound by the

same laws. I can arrange for the Deputy to meet the lead official on this in the coming weeks to see if something can be done to modify fees or change the system for future years.

Deputy Michelle Mulherin: I thank the Minister.

JobsPlus Scheme

Deputy Ciara Conway: I want to address improvements needed in the JobsPlus scheme, a worthy Government scheme that was launched to great fanfare in my constituency of Waterford last year. Many exciting companies participate in the scheme and speak highly of it, including Eishtec, a locally-owned Waterford company. It encourages and rewards employers that employ jobseekers from the live register. It is designed to encourage employers and businesses to employ people who have been out of work for long periods. Employers get a payment of €7,500 for each citizen recruited who has been unemployed for more than 12 months but less than 24 months and if that person is long-term unemployed the employer gets a payment of up to €10,000 for each such person recruited, but the scheme is far from perfect.

There is an issue in terms of equality of access to this scheme and it seems that JobsPlus is discriminating against lone parents. I am sorry to find myself having to point out that, according to the rules of JobsPlus, a person in receipt of a one-parent family payment is not considered eligible given the focus of the scheme. A single parent getting the one-parent family payment may be eligible to do a springboard programme and the State will give some support in terms of re-entering education. After that, a person who has completed a springboard course might decide to get some experience. However, after education and training a person who was unemployed should, in theory, be able to get a job. Despite having done all this and jumped through various hoops, a person getting the one-parent family payment who is more than 12 months unemployed cannot take part in the JobsPlus scheme. I argue that this amounts to discrimination and said so to the Department of Social Protection.

In reality, if an employer is faced with two possible candidates with similar skills and training but one comes with a guarantee of €10,000 through the JobsPlus scheme and the other is a single parent with no such incentive then who will he or she opt for? With so many businesses and companies struggling in a tough economy the payment incentive that an employee might be able to bring to the table is attractive to employers. We are informed by the Department of Social Protection that periods spent under JobBridge are counted towards eligibility, so why is there deemed to be a difference between a mother trying to get back to work and the long-term unemployed? The answer we get from the Department of Social Protection is that the focus of the scheme does not lie with single mothers.

As I said at the outset, JobsPlus is aimed at people on the live register. Governments like to see the live register coming down and, indeed, the number on the live register dropped by almost 7.5% in Waterford during the past year. However, for people who are flying under the radar, such as those on the one-parent family payment, and are not on the live register, JobsPlus is closed off. Is JobsPlus simply a way of manipulating the live register figures? It is a cynical view, but we need to make sure that people who need this scheme are not being discriminated against.

I call on the Department and the Minister to ensure the JobsPlus scheme is extended to single parents who want to get back to work, given the new focus and cut offs implemented by

15 July 2014

the Department of Social Protection for people in receipt of lone parent payments.

Deputy Leo Varadkar: I am taking this Topical Issue matter on behalf of the Tánaiste and Minister for Social Protection, Deputy Joan Burton. Support for job creation is central to Government policy. The Taoiseach and Tánaiste have re-emphasised this commitment in their statement of Government priorities for the remaining lifetime of this Administration.

Pathways to Work and the action plan for jobs set out the key frameworks within which activation and job creation policies are developed and delivered. Pathways to Work aims to move at least 22,500 long-term unemployed people into employment this year and a total of at least 75,000 by end of 2015. Therefore, the focus of the Tánaiste is to concentrate resources on the long-term unemployed via the various schemes under her Department. JobsPlus replaces two previous schemes that were seen as complicated and difficult to access for employers. This new simplified incentive scheme is working, as shown by feedback from employers and the fact that the initial target of 2,500 jobs has been exceeded earlier than expected.

JobsPlus provides a direct monthly financial incentive to employers who recruit employees from those who are long-term unemployed and the JobsPlus incentive is biased in favour of those who are long-term unemployed. It provides employers with two levels of payment, €7,500 and €10,000, and is paid in monthly instalments over a two year period, provided the employment is maintained. To qualify for the €7,500 incentive a jobseeker must be at least 12 months on the live register in the previous 18 months. For the higher incentive of €10,000 over two years, a jobseeker must be at least 24 months on the live register in the previous 30 months. These are direct grants paid to the employer if they maintain the employment for the full two years.

From its launch in July 2013 to the end of June 2014, JobsPlus has supported 2,634 jobseekers in full-time employment with over 2,000 employers nationally. Approximately 60% of jobseekers thus supported had been on the live register for over 24 months at the time of recruitment, proving the success for the scheme. A provision of €13.5 million has been included in the Vote for the Department for the scheme in 2014. On the basis of the current pace of applications and expenditure, this provision is considered to be adequate to meet the projected costs of the scheme in 2014.

Special arrangements have been introduced to ease the effects of the changes in one-parent family payments, including the introduction of the jobseeker transitional payment. The Minister for Social Protection hopes to be in a position to extend eligibility for JobsPlus to those who qualify for the jobseeker transitional payment in the coming months. The Department is currently completing a review of the initial phase of implementation of JobsPlus. The outcome of this work will inform any proposals for the development and expansion of the scheme. Employer feedback has been positive and the key objective of putting an easy-to-access system in place has been achieved.

While the review will consider a range of matters, including uptake, costs and benefits, altering eligibility requirements and whether changes are needed to improve access and administration, the Tánaiste has informed me that she has asked that the review also consider whether further extension of the eligibility requirements is warranted. However, this, of course, will be subject to budgetary considerations.

Deputy Ciara Conway: I thank the Minister. The Tánaiste's response as outlined became

more positive as it went on. Perhaps allowing a jobseeker's transitional payment recipient to be eligible for JobsPlus is very welcome. Given the Government's thrust towards activation and trying to upskill, educate and motivate people to re-engage in working and seeking work, nobody taking the opportunities afforded to them through education and training should be held back because of a lone parent's payment. The reforms made to the lone parent's allowance means when children reach a certain age, the parent must go on jobseeker's allowance. We will have a limbo for parents who want to get back to work and who may have completed a course or JobsBridge programme as we will ask them to wait until they ratchet up their eligibility while in receipt of jobseeker's payment. This is not the type of proactive social welfare system we want to see. We want to see people who are eager to get back to work being given every opportunity. In financial and real terms for employers, and I agree employers have very warmly responded and welcomed the changes we made to the very cumbersome PRSI scheme which existed, if it comes to employing somebody coming with lone parent's allowance versus somebody with the added incentive of JobsBridge, I can see why they might pick the latter. We need to address this and not allow these parents to linger in limbo.

Deputy Leo Varadkar: In her initial contribution the Deputy asked a very straightforward question as to whether JobsPlus was a cynical way to manipulate the live register. I can say this is certainly not the case. I was involved in some of the discussions on this at Cabinet level. The intention was always to give people who have been on the live register for a long period a fair go, because employers are generally less inclined to hire somebody who has been on the dole for a long period. It was really just give them an extra leg up and a fair go when it came to the employment market. As the Deputy knows, with the social welfare and medical card systems, or any such system, every time one does something one creates a new anomaly or potentially a new injustice. What the Deputy is pointing to here is the fact that single parents who lose their one-parent family payment and are trying to get back into work may now be at a disadvantage over people who have been long-term unemployed who are now more likely to be hired because of this. I totally get what the Deputy is saying. It is progress that the Minister, Deputy Burton, has suggested it could be extended to those on the jobseeker's transitional payment. When I see her in the coming days I will mention it to her. Deputy Conway's point is well made. I am not sure how to solve it without creating another problem, but that is the nature of these schemes, unfortunately.

Court of Appeal Bill 2014: Committee and Remaining Stages

Sections 1 to 7, inclusive, agreed to.

SECTION 8

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move amendment No. 1:

In page 11, to delete lines 19 and 20 and substitute the following:

“(9) In this section—

(a) ‘the establishment day’ has the same meaning as it has in *section 2 of the Act of 2014*, and

15 July 2014

(b) a reference to an ‘interlocutory application’ includes a reference to an application which may be made under any enactment to the Court of Appeal in criminal proceedings concerning the grant of a certificate of entitlement to legal aid.”.”.

This is a technical amendment, as are many of the amendments I will move. It provides clarification as to the meaning of an interlocutory application for the purposes of this section. While it may not be strictly necessary, it was thought desirable to specify that applications of this kind include applications for criminal legal aid. This section as published already contains a definition of “the establishment day” which is defined by reference to section 2 as the day appointed by Government order to be the establishment day.

Amendment agreed to.

Section 8, as amended, agreed to.

SECTION 9

Deputy Frances Fitzgerald: I move amendment No. 2:

In page 12, line 9, to delete “of the proceedings” and substitute the following:

“of those proceedings, which order of discontinuance shall be confined to the grounds upon which the Supreme Court granted leave to appeal”.

Section 9 of the Bill as published allows the court of appeal to stay proceedings to enable an applicant to apply to the Supreme Court for leave to appeal to that court from a decision of the High Court. The provisions of Article 34.5.4° of the Constitution refer. Provision was also made to allow the court of appeal to provide for the discontinuance of proceedings where the Supreme Court grants an application for leave to appeal in respect of those proceedings. However, it became obvious that this discontinuance provision was too broad in scope and that it should be confined solely to the grounds upon which the Supreme Court granted leave to appeal. This is the objective which is achieved by this amendment.

Amendment agreed to.

Section 9, as amended, agreed to.

NEW SECTION

Acting Chairman (Deputy Catherine Byrne): Amendments Nos. 3, 7a, 8 and 16a will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 3:

In page 12, between lines 20 and 21, to insert the following:

“President of Court of Appeal may issue practice directions

10. The Act of 1961 is amended by the insertion of the following section after section 7B (inserted by *section 9 of the Court of Appeal Act 2014*):

“7C. (1) In the interests of the administration of justice and the determination of proceedings in a manner which is just, expeditious and likely to minimise the cost of those proceedings—

(a) the President of the Court of Appeal sitting alone, or

(b) any other judge of the Court of Appeal sitting alone as may be nominated for that purpose by the President of the Court of Appeal,

may, subject to any practice direction issued under subsection (2), make any order or give any direction he or she thinks appropriate in relation to the conduct of proceedings before the Court of Appeal.

(2) In the interests of the administration of justice and the determination of proceedings in a manner which is just, expeditious and likely to minimise the cost of those proceedings, the President of the Court of Appeal may issue directions (in this section referred to as ‘practice directions’) in relation to the conduct of appeals or applications made to the Court of Appeal.

(3) A practice direction may relate to—

(a) civil or criminal proceedings, or both, or

(b) a class or classes of civil or criminal proceedings, or both,

and may make provision for such incidental, supplementary and consequential matters, including in respect of a failure to comply with any matter provided for in a direction, as appear to the President of the Court of Appeal to be necessary or expedient for the purposes of the direction.

(4) A practice direction shall be published in such manner as the President of the Court of Appeal may direct.

(5) This section is without prejudice to any powers of the Court of Appeal in respect of proceedings before it.

(6) In this section—

‘appeal’ includes a cross-appeal or request to vary an order under appeal;

‘party’ includes a notice party or a party permitted by the Court of Appeal to intervene in proceedings.”.”.

While some of amendments on the supplementary list are very technical, simply inserting the word “the” and making a number of other very minor changes, amendment No. 3, and a related amendment which concerns the Supreme Court, are two of the most important amendments which I will bring forward during the course of Committee Stage. This particular amendment seeks to ensure the new court will be equipped with the tools necessary to supervise the progress of the litigation which is before it. Provision is made to allow a single case management judge to be able to manage cases actively on his or her own initiative, independently of any application made to him or her by the parties to the proceedings. It does this by providing the necessary order-making and direction-giving powers to such a judge. I envisage that this provision will be of considerable assistance in meeting our obligations under the European Convention on Human Rights regarding the need to ensure cases before our courts are dealt with in a reasonable time.

The establishment of the court of appeal has provided us with the opportunity to consider

15 July 2014

the most appropriate means of ensuring appeals can be disposed of in an efficient and expeditious manner. The measures being proposed accord with those existing within the procedural regimes which apply in respect of appellate courts in other common law jurisdictions. I believe we would be failing in our duty were we not to act in a way which gets the new court of appeal off to the best possible start by equipping it with the tools to manage the litigation before it in the appropriate manner.

The amendment to section 18 is consequential upon the insertion of a new section 7C into the Courts (Supplemental) Provisions Act 1961.

Amendment agreed to.

Section 10 agreed to.

SECTION 11

Acting Chairman (Deputy Catherine Byrne): Amendments Nos. 4 and 5 are related and will be discussed together.

Deputy Lucinda Creighton: I move amendment No. 4:

In page 14, between lines 5 and 6, to insert the following:

“(d) in section 16 by the substitution of the following subsection for subsection 5:

“(5) Where more than one judicial office in the same court stands vacant, or in advance of more than one vacancy arising in the same court, at the request of the Minister, the Board shall submit to the Minister the name of each person who has informed the Board of his or her wish to be considered for appointment to judicial office and shall recommend to the Minister the names of three persons in respect of each vacancy, and will make public the reasons for recommending these names.”.”.

6 o'clock

This is a timely Bill. Amendments Nos. 4 and 5 are being taken together because obviously they are linked. I hope the Minister will agree that these amendments represent an excellent opportunity to inject two badly required elements into the appointment members of the Judiciary, which sadly has become, or perhaps always was, an inherently political process. These amendments provide an excellent opportunity to take the politicisation out of the appointment of members of the Judiciary and add two improvements to that process. One is to appoint members of the Judiciary on the basis of merit and the second is to inject a much greater degree of transparency into the process which is greatly needed and overdue.

I was pleased recently to have an opportunity to support a Bill sponsored by Deputy Ross, which strove to achieve the same ends. His was a proposed amendment to the Constitution, but I believe this is a very obvious and logical way to achieve essentially the same outcome.

Perhaps to lend weight to the argument and to illustrate that this is not simply something that is being sought from members of the Opposition or perhaps some more silent Members on the Government benches, it is also something the Judiciary itself is seeking. The Chief Justice, Ms Justice Susan Denham, whom I believe everybody in this House would hold in extremely high regard, has explicitly warned about how politicised the appointment process of the Judiciary

continues to be. I am sure the Minister will be well aware that in a report by the judicial appointments review committee in January, which essentially my amendment addresses, the Chief Justice stated: “It is increasingly clear that the relative success of the administration of justice in Ireland has been achieved in spite of, rather than because of the appointment system.” That came from the most senior member of the Judiciary in the land.

The report further stated:

The key to reforming the judicial appointments system rests on reform and development of the Judicial Appointments Advisory Board.

The number of candidates for a single judicial post submitted by the Judicial Appointments Board for Governmental decision should be reduced to three. Where there are multiple vacancies in a Court, the number of candidates should be increased by no more than the number of additional vacancies.

That is precisely what my amendment No. 4 would achieve. If the Minister accepts it, it would without any delay ensure that instead of the ludicrous situation where nine nominees are suggested to Government, the Government would only have a choice of three from which to select.

The establishment of the court of civil appeal is obviously long overdue. We should use this opportunity to provide genuine reform in how the new judges of this court will be appointed and further vacancies for other courts. The Irish legal and judicial system is not comparable to that in many other jurisdictions in Europe and around the world. However, relatively similar common law systems exist in Northern Ireland, Scotland, England, Wales and Australia, all of which have judicial appointments commissions. There are now judicial appointments commissions in the United Kingdom jurisdictions of Northern Ireland, Scotland, England and Wales, while the Commonwealth Attorney General of Australia is statutorily obliged to consult widely with his state counterparts and legal colleagues.

My amendment, which would essentially echo what emerged from the report of the judicial appointments review committee in January, would be a really important, constructive and reforming stepping stone to a radically reformed appointments process. I believe it is urgently needed, as do members of the Judiciary, including the most senior judge in the land. We would end up with, first, a system that is based on appointment on the basis merit and, second, as I said at the outset, a much more transparent system because my amendment would require that an explanation of the three nominees would be provided to Government for consideration.

Further to that, my amendment No. 5 would require that the Government would be required within 14 days in advance of his or her appointment to disclose a report indicating the reason it has recommended a certain person for appointment to the bench or promotion from one court to another.

All of this is logical and tallies with the Government parties’ commitment before the last general election to introduce much more transparency, end cronyism and take the politicking out of these sorts of appointments. It was a clear commitment regarding State boards and so on. It makes sense that we completely depoliticise the Judiciary. I believe we have an excellent Judiciary that has, by and large, served the State with some distinction. However, it is important that the process of appointment is beyond reproach and is entirely independent, and does not come under any form of political intervention, pressure or interference. I believe this is the way

15 July 2014

to achieve it. It is very clear that the Chief Justice also shares that view, as does the independent review body which made its recommendations in January.

Being new to the brief, and with the zeal of a newly aligned Cabinet and a regenerated junior ministerial bench as of today, I hope the Minister will seize the opportunity to introduce a radical and yet long-overdue reform. I look forward to her response. I hope she will accept these two amendments.

Deputy Frances Fitzgerald: We have a commitment in our programme for Government about the reform of judicial appointments that we intend to keep. I believe we have excellent judges in this country, as the Deputy has said. Obviously given the critical importance of the role of our courts and our Judiciary, we have been very fortunate when one considers the experience of other countries in judicial appointments.

Both of these amendments are directed towards modifying the current regime which applies to the appointment of judges. The first amendment seeks to adjust the arrangements whereby the Judicial Appointments Advisory Board gives effect to its functions as a recommending body in respect of judicial vacancies by providing for the recommendation to the Minister of three names in respect of each vacancy.

It may be helpful to outline the provisions that apply to these matters. I am conscious that we recently discussed the same amendments when Deputy Mac Lochlainn recently introduced some legislation in the House. Under the Constitution, judges are appointed by the President on the advice of the Government. The current process for the appointment of judges in Ireland is set out in sections 12 to 17 of the Courts and Courts Officers Act 1995, which established the Judicial Appointments Advisory Board.

Upon request by the Minister, the board advertises and considers applications from persons interested in judicial office. The board is required under section 16 to forward the names of all applicants and recommend a minimum of seven candidates. Where there are fewer than seven applicants and where the board is unable to recommend to the Minister at least seven persons, it must submit to the Minister the name of each person nominated and recommend to the Minister for appointment to that office such of those persons as it considers suitable for appointment. Therefore, the role of the Judicial Appointments Advisory Board is extremely important and it has people of the highest calibre serving on it.

Section 16(5) provides that where more than one judicial office in the same court stands vacant, or in advance of more than one vacancy arising in the same court, at the request of the Minister, the board shall submit to the Minister the name of each person who has informed it of his or her wish to be considered for appointment and shall recommend to the Minister the names of at least seven persons who are suitable for each vacancy or such lesser number of names as the Minister shall specify following consultation with the board. The Deputy seeks to amend this particular provision.

The Deputy is suggesting a new section 16(5) of the Courts and Court Officers Act 1995. This would have the effect of allowing the advisory board to recommend three names for appointment for each vacancy where there is more than one vacancy. However, this would leave intact the existing provision whereby at least seven names would be furnished in respect of a single vacancy under section 16(2). One would have the fairly extraordinary anomaly - I do not believe the Deputy meant this - whereby seven names could be recommended for one judi-

cial vacancy and only six names would be recommended for two vacancies.

Amendment No. 5 tabled by the Deputy seeks to introduce a new provision whereby the Government shall, no later than 14 days in advance of the appointment of a judge, disclose a report indicating the reason it has recommended a person for appointment or promotion. At present, under section 16(6), in advising the President regarding the appointment of a person to a judicial office, the Government must first consider for appointment those persons whose names have been recommended to the Minister, as I have stated, by the Judicial Appointments Advisory Board. Section 16(8) then goes on to recommend that the names must be published in *Iris Oifigiúil* and the notice shall, if it be the case, include a statement that the name of the person was recommended by the board to the Minister pursuant to this section. I note the current Administration certainly has never gone outside the names that have been recommended by the Judicial Appointments Advisory Board.

I observe that, ultimately, a desire for more transparent and accountable procedures must be balanced against the requirements of confidentiality that are relevant to any appointment and it is in this context that the publication of reasons for appointing a person to judicial office needs careful consideration. I am sure the Deputy will agree that if one is to give public reasons regarding a person's appointment or non-appointment, as the case may be, by implication one must consider carefully the objective thereof, how it would be done and what was the precise objective - in respect of the level of detail - of publishing such information in advance of an appointment. I understand the Deputy is proposing that this be done 14 days before the appointment. I am not quite clear what is intended by the Deputy's amendment with regard to that period.

The Deputy will be aware that the Government and I are overseeing a consultation process on the system of judicial appointments with the intention of instituting reforms to enhance the current system. The Department received a significant amount of material earlier this year as part of the process, with views ranging across a significant number of areas including different aspects of the eligibility provisions, the precise role of the Judicial Appointments Advisory Board and a variety of other issues, including the arrangements for appointing judges. Quite a number of submissions were received for that review, which was initiated in December 2013 by the former Minister, Deputy Shatter, and obviously a time limit was set on the consultation period. A report on the outcome of the consultations, signalling key emerging issues, will become available shortly and options for legislative reform are at an advanced stage of preparation in the Department. It is inevitable that when I publish it, this report will become the focus of a further consultative process with all relevant stakeholders. It is anticipated that this process will take place in the second half of this year. I thank all those who made submissions to this process and an outline of legislative proposals will become available towards the end of 2014. In view of the ongoing consultation process in which the Government is involved and the submissions received from a variety of stakeholders on the very issue about which the Deputy has tabled her amendments, I hope she will understand that I do not wish to pre-empt the outcome of the process, which is well under way, and for that reason I am not in a position to accept the amendments.

Deputy Lucinda Creighton: I thank the Minister. I am aware that the consultation process is ongoing. It is obviously wider and broader than the subject matter of these amendments and I do not perceive the process as necessarily being a justification for not considering the application and implementation of the proposal I have outlined. It is simple and is very much in line with the clear recommendation that came from the judicial appointments review committee last

January. I would be surprised were a further consultation process to throw up anything that would be anathema to that or which somehow would deviate from the spirit of my proposals. I accept the perhaps unintentional anomaly. I am sure it is something that could be easily rectified by ministerial amendment, were the Minister so inclined.

I have not suggested for a second that the Government has gone outside the parameters set down by legislation and believe the Government has adhered to the letter of the law. I am talking about changing the letter and the spirit of the law and, essentially, that is what my two amendments aspire to do. It would be in line with commitments in the programme for Government and the pre-election promises of both Government parties, were the Government inclined to do that. The idea of limiting the scope and choice in respect of the numbers that go before the Government obviously would ensure there would be far less scope for ensuring political appointment, which all Members are aware does occur. It would restrict and limit and ultimately would ensure a lot more trust in the process for the public at large, who at this stage are well aware of how politicised is the process of appointment. Moreover, from her remarks, I do not think the Minister disagrees with this in any sense.

At this stage, the Judicial Appointments Advisory Board simply has outlived its useful purpose. It is out of date and is not in line with best international practice, and the procedures that are set out in legislation allow for manipulation of the process. They certainly do lead and have led repeatedly to political appointments. As a member of the Law Library and as a non-practising barrister, I hold my hand up and am well aware, as are all my colleagues, of just how politicised is this process. More than three years into the lifetime of the Government, it is extraordinary that the aforementioned process was only launched before Christmas of last year. It is disappointing and should have been prioritised by the Minister's predecessor because it is actually a simple reform that could have been done very quickly. It is popular in Europe these days to talk about reforms within 100 days and this certainly is a reform that should and could have happened within the first 100 days of the lifetime of the Government. While this did not occur, I really hope the Minister will now accelerate the process. I worry that a further process of consultation will bring Members to the end of this year and who knows what lies ahead in 2015? There could well be an election before the summer of next year and for a Government that promised and was elected on a wave of popular support for radical reform and change, as well as the ending of cronyism and all the political problems which blighted both previous Governments and this country and which created a toxic culture here, it would be a shame for it to miss an opportunity to make such a simple but important reform. It certainly would be a major disappointment not only to those of us who care about transparency in public life, but also to the wider public, who had high hopes for the Government.

The Minister sought clarification on the proposed obligation on the Government to publish its reasons. I do not believe this is anything about which Members should be concerned. I do not believe it would give rise to any sort of confidentiality concerns but simply would oblige the Government to put forward logical and reasoned explanations as to the qualifications and suitability of members of either legal profession in respect of their appointment to the Bench. That is perfectly logical and is something that should be expected and demanded in a free and open democracy such as ours, not something that should be feared. We should be moving well beyond the days of appointments behind closed doors, nods and winks and so on. The process should be clear and transparent and the logic behind this proposal is simple. There is no mystery to it and there is certainly no fear of threat in respect of confidentiality. It is simply that if a person is good enough to be appointed to the Bench, the Government would be obliged to

demonstrate, in appointing the person, that he or she had the requisite talent, experience and qualifications. I see no reason or logic for not doing that.

Deputy Frances Fitzgerald: Deputy Creighton is speaking about qualifications and experience on a curriculum vitae. It was not clear from the amendment precisely what the Deputy had in mind in respect of publication.

I assure Deputy Creighton that the issues of transparency and accountability in the process of judicial appointments will be fully considered in the review process. There should be no doubt about that. I am open to a fundamental and thorough review of the judicial appointments process and the implementation of significant reform. The current system has been in place since 1995, almost 20 years, and it is important that we approach the issue in an overall rather than piecemeal fashion.

Deputy Creighton stated her amendment is straightforward. Views differ, however, on the role of the Judicial Appointments Advisory Board and the numbers involved. The Deputy cited the report published in January. This will form part of our considerations of the submissions we have received. We all accept the issue is important. I intend to address it in a measured manner and I will consider the submissions received. I expect to have legislation prepared by the end of the year. While we all want to move forward on this issue, I am conscious of the need to treat the submissions appropriately. For this reason, I will not accept an amendment that deals with one aspect of reform in advance of consideration of and decisions on the range of recommendations and submissions that have been made, and the Government's decision on how we will handle the overall process.

Deputy Niall Collins: I welcome this discussion on judicial appointments as part of this debate because the issue is integral to the passage of the legislation. I look forward to the outcome of the consultation process. As the Minister pointed out, the current system of judicial appointments has been in situ for more than 20 years and it is time to reform it. The Fianna Fáil Party supports reform of the appointments process and the promotion of transparency. Our position is that the final decision on the appointment of members of the Judiciary should remain with the Government. In that respect, we differ from other political parties which would like the final decision to be made by an independent appointments commission. The appointment of judges should be the responsibility of the Government because Governments can be held to account in the event that something goes wrong.

The House has debated this issue on a number of occasions, notably when my party and Deputies Mac Lochlainn and Ross proposed legislation in this area. Deputy Creighton used the same citation from the Chief Justice, Mrs. Justice Susan Denham, as I used in a previous debate. It is ironic that current members of the Judiciary find fault with the process under which they were appointed. It is also ironic that during debates on the appointment of the Judiciary, Deputies first point out perceived flaws and speak of the need for reforming the system before complimenting current members of the Judiciary on the excellent job they do. We should bear these ironies in mind in this debate.

I can recall only two judges, the former Judges Curtin and Perrin, who had to vacate office. To be fair to the current system, the activities that resulted in the removal from the bench of the two judges in question would not have screened out by any process or system.

Does the proposal to state reasons for the decision to appoint or not appoint candidates for

judicial appointments give rise to privacy or constitutional issues? A person who applies for a job is entitled to privacy. If, for example, a solicitor in employment applies for a judicial position, is he or she entitled to have the application dealt with confidentially? A successful applicant will fill the position, whereas an applicant who fails to be appointed may potentially experience damage to his or her career if this information enters the public domain. I am concerned about this possibility. If the three names that go forward are in the public domain, we will know who the successful candidate is as soon as the appointment is made.

The Minister indicated she does not propose to accept the amendment on this occasion. I am sure the House will debate this issue again once the current consultation process has been completed. I ask the Minister to comment on whether it would be appropriate to issue a public statement setting out the reasons persons have not been appointed. Should those engaged in the appointments process not be afforded some degree of privacy?

Deputy Frances Fitzgerald: I touched on that matter. I take the Deputy's point on some of the ironies that arise in this discussion. While we all accept the need to reform the system after 20 years, we all agree that we have been lucky with the Judiciary. I have no hesitation making that statement and I expect every Deputy agrees with it in respect of judicial action and decision making over the decades.

The Deputy makes an interesting point, although I do not necessarily believe the issue she raised is a constitutional one. One is always conscious of the separation of powers in respect of a decision or initiative the Government takes on the Judiciary. I agree with the Deputy that decision making in this area would need to be carefully calibrated, notwithstanding Deputy Creighton's argument that the amendment is simple and straightforward. Deputy Creighton also referred to curriculum vitae qualifications and expertise, which are straightforward. However, in terms of additional information and the reasons for a decision, it is likely that further issues would arise that would require careful calibration. It is not the case that I am resistant to the idea behind the amendment. We need to know precisely what we are talking about and how it would be done.

Deputy Pádraig Mac Lochlainn: I commend Deputy Creighton on her amendment. The issue here is one of perception. While I do not wish to use terms such as "the majority" or "the overwhelming majority", on the whole the Judiciary has served the State well. A lack of consistency in decision making, particularly in the District Courts, is an issue that arises regularly, although such issues could be addressed through the establishment of a sentencing council which provided clear sentencing guidelines to the Judiciary. There are various ways of addressing that issue.

There remains a perception that many judicial appointments are based on the political affiliations of the person appointed. The Government has justifiably challenged the perception that the legal fraternity has regulated itself over the years. While the Judiciary has a system of regulation in place and there is also an independent adjudicator, the perception persisted that it was regulating itself. This perception is being addressed through the establishment of an independent legal services regulator. The issue is that we must deal once and for all with the perception.

When one speaks of members of the Judiciary who have served the State well the Chief Justice, Mrs. Justice Susan Denham, must feature at the top of the list. She has produced a measured set of proposals on behalf of fellow members of the Judiciary. A number of Deputies, including me, have introduced various Bills to address the issue. I flatter myself in stating that

the Chief Justice's proposal was identical to mine in that it recommended having the Judicial Appointments Advisory Board draw up a short-list of three names, from which the Government would make an appointment, with provision also to have the reasons published. That is the purpose of the amendment.

The Legal Services Regulation Bill has been dragging on for three years. There is a myth abroad that the previous Minister took on vested interests who were popping champagne corks when he departed from office. They did not have much to fear given that it took three years to pass the legislation to establish an independent regulator and address a perception. The legislation will not address to any great extent the main issue facing people, namely, the cost of legal services. The idea that the previous Minister was courageously taking on vested interests was a myth and nonsense. He did not deal with this issue, but it could be dealt with so quickly. It is really frustrating. I commend Deputy Creighton for availing of this opportunity to raise the issue. I appreciate that we are not going to change the Minister's mind today, but the sooner she gets this perception of judicial appointments sorted out the better.

For example, there are people who had affiliations to political parties, as members or candidates, and that is okay. It may well be that a person ran for Fine Gael, Sinn Féin or Labour and happened to be the best person for the job. Somebody's political affiliation should not rule them out from being appointed to the Judiciary. If we have a transparent and open process that is beyond challenge, it takes away any negative perception. That is the issue. The sooner we get to that place the better and particularly for the Judiciary.

It makes our job easier on this side of the House that somebody of Mrs. Justice Susan Denham's calibre has led the way in providing a solution. It is pretty much the solution that both I and Deputy Creighton have put forward in this amendment. If the Minister is not going to accept the amendment today, she should get the review concluded as soon as possible so as to address this matter.

Amendment put and declared lost.

Amendment No. 5 not moved.

Section 11 agreed to.

Section 12 agreed to.

SECTION 13

Acting Chairman (Deputy Catherine Byrne): Amendment No. 6 is in the name of Deputy Mattie McGrath who is not here. Amendments Nos. 6 and 7 are related.

Amendment No. 6 not moved.

Amendment No. 7 not moved.

Section 13 agreed to.

Sections 14 to 17, inclusive, agreed to.

SECTION 18

Deputy Frances Fitzgerald: I move amendment No. 7a

15 July 2014

In page 17, line 33, to delete “section 7B” and substitute “section 7C”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 8:

In page 17, line 35, to delete “7C. It shall” and substitute “7D. It shall”.

Amendment agreed to.

Section 18, as amended, agreed to.

Sections 19 to 42, inclusive, agreed to.

SECTION 43

An Ceann Comhairle: Amendments Nos. 9, 41 and 42 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 9:

In page 28, to delete lines 24 to 27 and substitute the following:

“(i) by the insertion of the following subsection after subsection (3):

“(3A) Without prejudice to the generality of subsection (3), an interlocutory application relating to an appeal before the Supreme Court or, unless the appeal itself is confined to a procedural matter, any procedural application or motion in the matter, may be heard and determined by—

(a) the Chief Justice sitting alone, or

(b) any other judge of the Supreme Court sitting alone as may be nominated for that purpose by the Chief Justice.”,

(ii) in subsection (4), by the insertion of “or subsection (4) of section 1A” after “section 1”,

(iii) in subsection (5), by the insertion of “or subsection (4) of section 1A” after “section 1”,

(iv) by the insertion of the following subsections after subsection (5):

“(6) In the interests of the administration of justice and the determination of proceedings in a manner which is just, expeditious and likely to minimise the cost of those proceedings—

(a) the Chief Justice sitting alone, or

(b) any other judge of the Supreme Court sitting alone as may be nominated for that purpose by the Chief Justice, may, subject to any practice direction issued under subsection (7), make any order, or give any direction he or she thinks appropriate in relation to the conduct of proceedings before the Supreme Court.

(7) In the interests of the administration of justice and the determination of proceedings in a manner which is just, expeditious and likely to minimise the cost of those proceedings

and, without prejudice to the generality of Article 64 of the Constitution and the powers of the Supreme Court in that regard, the Chief Justice may issue directions (in this section referred to as ‘practice directions’) in relation to the conduct of appeals or applications made to the Supreme Court.

(8) A practice direction may relate to—

- (a) civil or criminal proceedings, or both, or
- (b) a class or classes of civil or criminal proceedings, or both, and may make provision for such incidental, supplementary and consequential matters, including in respect of a failure to comply with any matter provided for in a practice direction as appear to the Chief Justice to be necessary or expedient for the purposes of the direction.

(9) A practice direction under this section shall be published in such manner as the Chief Justice may direct.

(10) Subject to subsection (11), the following applications may be determined by the Supreme Court otherwise than with an oral hearing:

- (a) an application seeking leave to appeal against a decision of the Court of Appeal or the High Court, as the case may be, (in this section referred to as ‘leave to appeal’);
- (b) an application referred to in Article 64.3.3° of the Constitution;
- (c) an application referred to in Article 64.4.1° of the Constitution.

(11) Where the Supreme Court considers it appropriate to do, having considered the documents lodged in respect of an application referred to in subsection (10), it may direct that the application, or any matter arising on the application, be determined with an oral hearing.

(12) Where the Supreme Court directs under subsection (11) that an application be determined with an oral hearing, the direction shall be published in such manner as the Chief Justice shall direct.

(13) Subject to subsections (14) and (15), the determination of an application referred to in subsection (10) shall be published in such form and manner as the Chief Justice shall direct.

(14) Leave to appeal shall be granted by way of a certificate of the Supreme Court specifying the ground or grounds on which such appeal may be brought.

(15) Where the Supreme Court determines an application referred to in subsection (10), the Court shall state its reasons for the determination and such reasons may be stated briefly and in general terms.

(16) Where, upon application to it in that behalf by any party to an appeal against a decision of the High Court, the Supreme Court grants leave to appeal against the decision of the High Court, such grant of leave to appeal shall operate—

- (a) where an appeal has also been made to the Court of Appeal, to discontinue the appeal proceedings before the Court of Appeal in respect of the grounds on which the Supreme Court has granted leave to appeal, or

15 July 2014

(b) where no appeal has, at the time of the grant of the leave to appeal, been made to the Court of Appeal, to preclude such an appeal being made to the Court of Appeal on those grounds.

(17) Subsections (6) to (16) are without prejudice to any powers of the Supreme Court in respect of proceedings before it.

(18) In this section—

(a) ‘appeal’ includes a cross-appeal or request to vary an order under appeal, ‘party’ includes a notice party or a party permitted by the Supreme Court to intervene in proceedings,

(b) a reference to an ‘interlocutory application’ includes a reference to an application which may be made under any enactment to the Supreme Court in criminal proceedings concerning the grant of a certificate of entitlement to legal aid.”,”.

There are three elements contained in amendment No. 9, which I should like to highlight for the information of Deputies. The amendment itself concerns proceedings in the Supreme Court. The first element provides a statutory basis for the determination of interlocutory applications, either by the Chief Justice sitting alone or by such other judge of the Supreme Court as may be nominated by the Chief Justice. This is addressed in the new subsection (3A).

The second element deals with case management and practice directions. It mirrors the provisions which I have already detailed in relation to the Court of Appeal. The new subsections (6) to (9) refer.

The third and final element – new subsections (10) to (16) - is an innovation and relates directly to certain provisions which are now set out in the Constitution. Essentially it means that it will be possible to deal with a limited category of applications on the papers, that is, without the need for an oral hearing. This is in keeping with the practice in other common law jurisdictions and should enhance the capacity of the Supreme Court to hear and determine substantive appeals.

The applications in question are the following: applications for leave to appeal to the Supreme Court from a decision of the Court of Appeal or the High Court; applications referred to in Article 64.3.3o of the Constitution seeking to cancel the effect of a direction that a particular appeal be determinable by the Court of Appeal; and applications referred to in Article 64.4.1o seeking to have a particular appeal determinable by the Court of Appeal. It is provided that the determination of these applications will be made available publicly by electronic and other means. Leave to appeal will be granted by way of a certificate specifying the grounds on which the appeal may be brought. In an additional transparency measure, it is further provided that the court is to state its reasons for any determination which it makes. However, in an appropriate case it will be possible for the Supreme Court to decide that an oral hearing should take place and, again, any direction in this matter will be published in such manner as the Chief Justice shall direct.

The new provisions also deal with what is to happen when the Supreme Court grants leave to appeal against a decision of the High Court. Essentially this will act to preclude an appeal being made to the Court of Appeal or to discontinue any proceedings which are in being before that court. In both cases this is limited by reference to the grounds on which the Supreme Court

has decided to entertain the proceedings.

The remaining amendments Nos. 41 and 42 relate to the Long Title and are consequential upon the proposals which I have just outlined

Amendment agreed to.

Section 43, as amended, agreed to.

SECTION 44

An Ceann Comhairle: Amendments Nos. 10 to 13, inclusive, are related. Amendments Nos. 10 and 11 are consequential on amendment No. 12, therefore, amendments Nos. 10 to 13, inclusive, will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 10:

In page 32, to delete line 24.

Notwithstanding the amount of text contained in these amendments, they are in reality very straightforward and, like many of the other amendments relating to this Bill, they are also quite technical. In essence, they introduce a further amendment into the Criminal Justice (Legal Aid) Act 1962 to cater specifically for the various scenarios which may arise where an appeal or application is before the Supreme Court and the appeal in question is subsequently dealt with by the Court of Appeal. They provide that, in the event that a legal aid (Supreme Court) certificate is in being, a legal aid (appeal) certificate or a legal aid (case stated appeal) certificate shall be deemed to have been granted in respect of the person who is the subject of the Court of Appeal proceedings. This is simply an efficiency measure which is intended to minimise the duplication which would otherwise ensue if a further hearing were to be necessary in relation to an application to obtain legal aid for the Court of Appeal case.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 11:

In page 32, line 42, after “person.”, to insert “and”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 12:

In page 32, after line 42, to insert the following:

“(iv) by the insertion of the following subsections after subsection (3):

“(4) Where on or after the establishment day --

(a) an appeal before the Supreme Court is subsequently determinable by the Court of Appeal pursuant to a direction given under Article 64.3.1° of the Constitution or an order made under Article 64.4.1° of the Constitution, or

(b) an application to the Supreme Court seeking leave to appeal against a decision of the High Court is refused by the Supreme Court and an appeal against the decision of the High Court is subsequently brought to the Court of Appeal,

15 July 2014

and a legal aid (Supreme Court) certificate was granted in respect of the person the subject of the appeal referred to in paragraph (a) or the application referred to in paragraph (b), as the case may be, a legal aid (appeal) certificate or a legal aid (case stated appeal) certificate, as the case may be, shall be deemed to have been granted in respect of the person in relation to the proceedings before the Court of Appeal.

(5) In this section “the establishment day” has the same meaning as it has in section 2 of the *Court of Appeal Act 2014*.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 13:

In page 33, line 5, to delete “application” and substitute “appeal”.

Amendment agreed to.

Section No. 44, as amended, agreed to.

Section 45 agreed to.

NEW SECTION

Deputy Frances Fitzgerald: I move amendment No. 14:

In page 33, between lines 17 and 18, to insert the following:

“Amendment of section 34 of Criminal Procedure Act 1967

46. Section 34 of the Criminal Procedure Act 1967 is amended --

(a) in subsection (1), by the substitution of “may, without prejudice to the verdict or decision in favour of the accused person, refer a question of law arising during the trial to the Court of Appeal for determination or, in the case of a person who is tried on indictment in the Central Criminal Court, make application to the Supreme Court under Article 34.5.4° of the Constitution to refer a question of law arising during the trial to it for determination” for “may, without prejudice to the verdict or decision in favour of the accused person, refer a question of law arising during the trial to the Supreme Court for determination”,

(b) in subsection (2), by the substitution of “the Court of Appeal or the Supreme Court, as the case may be,” for “the Supreme Court”,

(c) in subsection (3), by the substitution of “the Court of Appeal or the Supreme Court, as the case may be,” for “the Supreme Court”,

(d) in subsection (4), by the substitution of “The Court of Appeal or the Supreme Court, as the case may be,” for “The Supreme Court”,

(e) in subsection (5), by the substitution of --

(i) “The Court of Appeal or the Supreme Court, as the case may be,” for “The Supreme Court”, and

(ii) “referred to in this section” for “under this section”,

(f) by the substitution of the following subsection for subsection (6) --

“(6) If the acquitted person wishes to be represented in proceedings referred to in this section before the Court of Appeal or the Supreme Court, as the case may be, and a legal aid (appeal) certificate, or as the case may be, a legal aid (Supreme Court) certificate, is granted under subsection (7) or is deemed to have been granted under subsection (8), he or she shall be entitled to free legal aid in the preparation and presentation of any argument that he or she wishes to make to the Court of Appeal or the Supreme Court, as the case may be, and to have a solicitor and counsel assigned to him or her for that purpose in the manner prescribed by regulations under section 10 of the Criminal Justice (Legal Aid) Act 1962.”,

(g) by the substitution of the following subsection for subsection (7):

“(7) The acquitted person may, in relation to proceedings referred to in this section, apply for a legal aid (appeal) certificate to the Court of Appeal or a legal aid (Supreme Court) certificate to the Supreme Court, as the case may be, either --

(a) by letter to the registrar of the Court of Appeal or, as the case may be, the registrar of the Supreme Court, setting out the facts of the case and the grounds of the application, or

(b) to the Court of Appeal, or the Supreme Court, itself, as the case may be,

and the Court concerned shall grant the certificate if (but only if) it appears to the Court that the means of the person are insufficient to enable him or her to obtain legal aid.”,

(h) in subsection (8), by the substitution of --

(i) “a legal aid (appeal) certificate or a legal aid (Supreme Court) certificate, as the case may be,” for “a legal aid (Supreme Court) certificate”, and

(ii) “referred to in” for “under this”,

and

(i) in subsection (9), by the insertion of “, ‘legal aid (appeal) certificate’” after “‘legal aid (Supreme Court) certificate’”.

This amendment is primarily directed towards modifying section 34 of the Criminal Procedure Act 1967 to take account of the establishment of the court of appeal and I would stress that it does not change the substance of the section in any way. Section 34 of the 1967 Act allows the Attorney General or the DPP, as the case may be, to refer a question of law which has arisen during a trial to the Supreme Court for determination in circumstances where the person tried on indictment has been acquitted. This referral is without prejudice to the verdict in favour of the accused person.

15 July 2014

The key modification is introduced in subsection (1) of the 1967 Act. The amendment provides that the referral on a question of law will now be to the court of appeal rather than to the Supreme Court. It also makes provision, in the case of a person tried on indictment in the Central Criminal Court, for an application to be made to the Supreme Court under Article 34.5.4° of the Constitution seeking the leave of that court to refer the question to it. It will be recalled that Article 34.5.4° of the Constitution envisages that in exceptional circumstances the Supreme Court shall have appellate jurisdiction from a decision of the High Court. The remaining amendments are consequential upon the amendment to subsection (1) and, unless the Deputies wish for some additional information in relation to them I do not propose to dwell upon them further.

Amendment agreed to.

Sections 46 to 48, inclusive, agreed to.

NEW SECTION

Deputy Frances Fitzgerald: I move amendment No. 15:

In page 35, between lines 8 and 9, to insert the following:

“Amendment of section 4 of Criminal Justice Act 1993

49. Section 4 of the Criminal Justice Act 1993 is amended by the substitution of the following subsection for subsection (2):

“(2) Where an application has been made to the Court of Appeal under section 2

--

(a) a legal aid (appeal) certificate shall be deemed for the purposes of the Criminal Justice (Legal Aid) Act 1962 to have been granted in respect of the person whose sentence is the subject of the application, and

(b) the person shall be entitled to free legal aid in the preparation and conduct of his or her case before the Court of Appeal and to have a solicitor and counsel assigned to him or her for that purpose in the manner prescribed by regulations under section 10 of that Act.”.”.

This amendment is also technical in nature. Section 4 of the Criminal Justice Act 1993 contains a number of minor provisions to facilitate the operation of that Act, such as the giving of sentencing reports to the DPP and the provision of legal aid. The amendment involves the deletion of references to the Supreme Court in that section.

Amendment agreed to.

Sections 49 to 55, inclusive, agreed to.

NEW SECTION

An Ceann Comhairle: Amendments Nos. 16 and 20 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 16:

In page 37, between lines 17 and 18, to insert the following:

“Amendment of Jurisdiction of Courts and Enforcement of Judgments Act 1998

56. The Jurisdiction of Courts and Enforcement of Judgments Act 1998 is amended

--

(a) in the First Schedule, by the substitution --

(i) in Article 37(2) of the English text, of “in Ireland, by an appeal on a point of law to the Court of Appeal,” for “in Ireland, by an appeal on a point of law to the Supreme Court,”,

(ii) in Article 37(2) of the Irish text, of “in Éirinn, trí achomharc ar phointe dlí chuig an gCúirt Achomhairc;” for “in Éirinn, trí achomharc ar phointe dlí chuig an gCúirt Uachtarach;”,

(iii) in Article 41 of the English text, of “in Ireland, by an appeal on a point of law to the Court of Appeal,” for “in Ireland, by an appeal on a point of law to the Supreme Court,”, and

(iv) in Article 41 of the Irish text, of “in Éirinn, trí achomharc ar phointe dlí chuig an gCúirt Achomhairc;” for “in Éirinn, trí achomharc ar phointe dlí chuig an gCúirt Uachtarach;”,

and

(b) in the Tenth Schedule (inserted by section 1(b) of the Jurisdiction of Courts and Enforcement of Judgments (Amendment) Act 2012), by the substitution, in Annex IV, of “in Ireland: an appeal on a point of law to the Court of Appeal,” for “in Ireland: an appeal on a point of law to the Supreme Court,”.”.

Amendment 16 relates to the Brussels Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which used to govern relationships in these matters between EU member states, and to a companion convention which continues to govern relationships between the EU and Iceland, Norway and Switzerland. All that is being proposed is that the possibility to lodge an appeal on a point of law will henceforth lie to the court of appeal rather than to the Supreme Court. Amendment 20 is directed to the same purpose and relates to the Council regulation which now governs the recognition and enforcement regime between EU member states.

Amendment agreed to.

Sections 56 to 59, inclusive, agreed to.

SECTION 60

Question proposed: “That section 60 be deleted.”

Deputy Frances Fitzgerald: The proposed deletion is linked with Amendment No. 17 which is a direct replacement for it. The reason for the deletion is that the original amending section was located in the wrong place.

15 July 2014

Question put and agreed to.

SECTION 61

Deputy Frances Fitzgerald: I move amendment No. 16a:

In page 40, line 8, to delete “section 7C” and substitute “section 7D”

Amendment agreed to.

Section 61, as amended, agreed to.

NEW SECTIONS

Deputy Frances Fitzgerald: I move amendment No. 17:

In page 40, between lines 10 and 11, to insert the following:

“Amendment of Criminal Law (Insanity) Act 2006

62. The Criminal Law (Insanity) Act 2006 is amended--

(a) in section 7, by the deletion of subsection (5), and

(b) in Schedule 1, in paragraph 2, by the insertion of “, Court of Appeal” after “High Court”.”.

This amendment was in the Bill as published. However it was in the wrong place and the amendment simply corrects the unintended error.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 18:

In page 40, between lines 10 and 11, to insert the following:

“Amendment of section 181 of Criminal Justice Act 2006

63. Section 181(4) of the Criminal Justice Act 2006 is amended by the substitution of the following paragraph for paragraph (c):

“(c) in relation to proceedings before the Central Criminal Court, to a judge of the Court of Appeal,”.”.

The purpose of section 181 of the Criminal Justice Act 2006 was to provide for anonymity for witnesses with a medical condition who might be reluctant to come forward and give evidence because in giving such evidence they might have to reveal their medical condition. If the application for anonymity is refused by the Central Criminal Court or the court of appeal, provision is currently made for an appeal from that refusal to be made to the Supreme Court. The effect of the amendment will be to direct such applications to the court of appeal.

Amendment agreed to.

Sections 62 to 65, inclusive, agreed to.

Dáil Éireann
NEW SECTION

Deputy Frances Fitzgerald: I move amendment No. 19:

In page 42, between lines 18 and 19, to insert the following:

“Amendment of Criminal Procedure Act 2010

66. The Criminal Procedure Act 2010 is amended --

(a) in section 2(1), by the insertion of the following definition:

“ ‘legal aid (appeal) certificate’ has the meaning it has in the Act of 1962;”.

(b) in section 23 --

(i) by the substitution, in subsection (1), for “may, subject to subsection (3) and section 24, appeal the acquittal in respect of the offence concerned on a question of law to the Supreme Court” of “may, subject to subsection (3) and section 24, appeal the acquittal in respect of the offence concerned on a question of law to --

(I) the Court of Appeal, or

(II) in the case of a person who is tried on indictment in the Central Criminal Court, the Court of Appeal or the Supreme Court under Article 34.5.4° of the Constitution”,

(ii) by the substitution of the following subsection for subsection (2):

“(2) Where a person’s conviction of an offence on indictment is quashed on appeal by the Court of Appeal and the Court makes no order for the retrial of the person in respect of the offence, the Director, if he or she is the prosecuting authority in the trial, or the Attorney General, as may be appropriate, may, subject to subsection (3) and section 24, appeal the decision of the Court of Appeal not to order a re-trial of the offence concerned on a question of law to the Supreme Court under Article 34.5.3° of the Constitution.”,

(iii) in subsection (3) --

(I) by the substitution of “An appeal referred to in this section” for “An appeal under this section”,

(II) by the substitution of the following paragraph for paragraph (a):

“(a) a ruling was made by a court --

(i) during the course of a trial referred to in subsection (1), or

(ii) during the hearing of an appeal referred to in subsection (2), which erroneously excluded compelling evidence, or”,

(iv) by the substitution of the following subsection for subsection (4):

“(4) An appeal referred to in this section shall be made on notice to the person who is the subject of the appeal within 28 days or such longer period not exceeding 56 days as --

(a) in the case of an appeal referred to in subsection (1), the Court of Appeal or the Supreme Court, as the case may be, or

(b) in the case of an appeal referred to in subsection (2), the Supreme Court, may, on application to it in that behalf, determine, from the day on which the person was acquitted or the conviction was quashed, as the case may be.”,

(v) in subsection (5), by the substitution of “the Supreme Court or the Court of Appeal, as the case may be,” for “the Supreme Court”,

(vi) in subsection (6), by the substitution of “For the purposes of considering an appeal referred to in this section the Supreme Court or the Court of Appeal, as the case may be,” for “For the purposes of considering an appeal under this section the Supreme Court”,

(vii) in subsection (7), by the substitution of “The Supreme Court or the Court of Appeal, as the case may be, shall assign counsel to argue in support of the acquittal referred to in subsection (1) or the decision not to order a re-trial referred to in subsection (2), as the case may be, if” for “The Supreme Court shall assign counsel to argue in support of the acquittal referred to in subsection (1) or the decision of the Court of Criminal Appeal not to order a re-trial referred to in subsection (2), as the case may be, if”,

(viii) by the substitution of the following subsection for subsection (8):

“(8) Where an appeal referred to in this section has been made to the Court of Appeal or the Supreme Court and a legal aid (appeal) certificate or, as the case may be, a legal aid (Supreme Court) certificate, is granted under subsection (9), or deemed to have been granted under subsection (10), in respect of the person who is the subject of the appeal, he or she shall be entitled to free legal aid in the preparation and conduct of any argument that he or she wishes to make to the Court of Appeal or the Supreme Court, as the case may be, and to have a solicitor and counsel assigned to him or her for that purpose in the manner prescribed by regulations under section 10 of the Act of 1962.”,

(ix) by the substitution of the following subsection for subsection (9):

“(9) The person may, in relation to an appeal referred to in this section, apply for a legal aid (appeal) certificate to the Court of Appeal or a legal aid (Supreme Court) certificate to the Supreme Court, as the case may be, either --

(a) by letter to the registrar of the Court of Appeal or, as the case may be, the registrar of the Supreme Court, setting out the facts of the case and the grounds of the application, or

(b) to the Court of Appeal, or the Supreme Court, itself, as the case

may be, and the Court concerned shall grant the certificate if (but only if) it appears to the Court that the means of the person are insufficient to enable him or her to obtain legal aid.”,

(x) in subsection (10) --

(I) by the substitution of “a legal aid (Supreme Court) certificate or a legal aid (appeal) certificate, as the case may be,” for “a legal aid (Supreme Court) certificate”, and

(II) by the substitution of “in relation to an appeal referred to in this section” for “in relation to the proceedings under this section”,

(xi) in subsection (11) --

(I) by the substitution of “On hearing an appeal referred to in subsection (1) the Court of Appeal may” for “On hearing an appeal under this section the Supreme Court may”,

(II) in paragraph (a) --

(A) by the deletion of “or reverse the decision of the Court of Criminal Appeal, as the case may be,”, and

(B) in subparagraph (i) by the substitution of “subsection (3)(a)(i) or (b)” for “subsection (3)(a) or (3)(b)”, and

(III) in paragraph (b), by the deletion of “or the decision of the Court of Criminal Appeal, as the case may be”,

(xii) by the insertion of the following subsection after subsection (11):

“(11A) On hearing an appeal referred to in this section, the Supreme Court may --

(a) quash the acquittal or reverse the decision of the Court of Appeal, as the case may be, and order the person to be re-tried for the offence concerned if it is satisfied --

(i) that the requirements of subsection (3)(a) or (b), as the case may be, are met, and

(ii) that, having regard to the matters referred to in subsection (12), it is, in all the circumstances, in the interests of justice to do so,

or

(b) if it is not so satisfied, affirm the acquittal or the decision of the Court of Appeal, as the case may be.”,

(xiii) in subsection (12), by the substitution of “In determining whether to make an order under paragraph (a) of subsection (11) or (11A), the Court of Appeal or the Supreme Court, as the case may be,” for “In determining whether to make an order under subsection (11)(a), the Supreme Court”, and

(xiv) in subsection (13) --

(I) by the substitution, in paragraph (a), of “The Court of Appeal or the Supreme Court, as the case may be,” for “The Supreme Court”, and

(II) by the substitution, in paragraph (b), of “the Court of Appeal or the Supreme Court, as the case may be,” for “the Supreme Court”,

(c) in section 25 --

(i) by the substitution, in subsection (2), of “the Court of Appeal or the Supreme Court, as the case may be,” for “the Supreme Court”, and

(ii) by the substitution, in subsection (3), of “The Court of Appeal or the Supreme Court, as the case may be,” for “The Supreme Court”,

and

(d) in section 26 --

(i) by the substitution, in subsection (2), of “the Court of Appeal or the Supreme Court, as the case may be,” for “the Supreme Court”, and

(ii) by the substitution, in subsection (3), of “A legal aid (appeal) certificate or a legal aid (Supreme Court) certificate” for “A legal aid (Supreme Court) certificate”.”.

On the face of it this is a lengthy and complex amendment. However, on closer scrutiny it will be seen that it involves extensive adaptation of just one key section in the Criminal Procedure Act 2010 to take account of the establishment of the court of appeal. I emphasise that no substantive change is being made to the section and any such change would clearly be outside the scope of this Bill. It may help if I outline briefly the background to section 23. When introduced it provided, for the first time, for a with prejudice appeal against an acquittal at first instance and an appeal against a decision of the Central Criminal Court not to order a retrial. These appeals are restricted to points of law relating to the erroneous exclusion of compelling evidence or an erroneous direction to a jury to acquit.

At the time the decision was taken that an appeal against a first instance acquittal should lie to the Supreme Court rather than to the Court of Criminal Appeal, with the former being a superior court with full constitutional jurisdiction. Clearly, with the establishment of the court of appeal, it is now appropriate that an appeal against acquittal should lie to that court, and that is one of the key changes introduced by the proposed amendment to subsection (1) of section 23. Due to the leapfrogging jurisdiction set out in Article 34.5.4o of the Constitution, a reference to the Supreme Court is also retained in that subsection.

The only other change I would like to dwell upon relates to that being made to subsection (2) of section 23. That subsection concerns the right of the DPP or of the Attorney General to appeal a decision of the Court of Criminal Appeal not to order a retrial where a person’s conviction for an offence on indictment has been quashed by that court. That right of appeal is subject to the conditions which I mentioned at the outset. Under the new constitutional dispensation, were this subsection to be repealed, the DPP would be at liberty to appeal every case where a retrial was not ordered provided the conditions for an appeal as set out in the Constitution were

met. The view taken was that this did not accord well with the decision taken by the Oireachtas a few short years ago that this was a matter where some regulation was desirable. However, if the subsection was not to be repealed it clearly could not stand completely unaltered. The approach proposed is to continue to regulate the circumstances in which the DPP may appeal a decision not to order a retrial. However this is not in any way to except such appeals from the Supreme Court. Rather, the legal advice received is that it amounts to a permissible regulation under the Constitution. In this context I draw the attention of Deputies to the Article 34 reference which is also to be included in the subsection, courtesy of the amendment. This is to reinforce the basic idea that we are regulating the circumstances in which the Director of Public Prosecutions may appeal rather than seeking to exclude cases from the Supreme Court. I do not propose to dwell on the other amendments as they flow from the approach I outlined and are technical in nature to allow for the change outlined.

Amendment agreed to.

Sections 66 and 67 agreed to.

SECTION 68

Deputy Frances Fitzgerald: I move amendment No. 20:

In page 43, between lines 16 and 17, to insert the following:

“(4) The reference in Annex IV to Council Regulation (EC) No. 44/2001 of 22 December 2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters, to “in Ireland, an appeal on a point of law to the Supreme Court” shall, without prejudice to Article 34.5.4° of the Constitution, be construed as a reference to “in Ireland, an appeal on a point of law to the Court of Appeal”, unless the context otherwise requires.”.

Amendment agreed to.

Section 68, as amended, agreed to.

SECTION 69

Deputy Frances Fitzgerald: I move amendment No. 21:

In page 43, to delete lines 23 and 24 and substitute the following:

“the High Court, or as the case may be, the Supreme Court—

(a) shall be construed as being without prejudice to Article 34.5.4° of the Constitution, and

(b) in respect of a reference in that regard to the “Supreme Court”, shall be con-

15 July 2014

strued as a reference to the Court of Appeal unless the context otherwise requires.”.

As it stands, section 69 specifies that references in any enactment to decisions of the High Court being final, subject to a right of appeal to the Supreme Court in certain circumstances, are to be construed as being without prejudice to Article 35.5.4° of the Constitution. By virtue of that article the Supreme Court has jurisdiction to hear an appeal from the High Court where there are exceptional circumstances warranting such an appeal.

The exceptional circumstances set out in the Constitution would not necessarily dovetail with the existing statutory regulation. For example, it is not unusual to provide that an appeal to the Supreme Court on a point of law requires certification by the High Court that the decision in question involves a point of law of exceptional public importance. Another formula applied is that an appeal on a point of law is subject to the leave of the High Court. Under the new constitutional regime such regulation is no longer possible in so far as the Supreme Court is concerned. However, it is possible with the court of appeal. The amendment is intended to make clear that any regulation in existing legislation which attaches a leave or certification requirement before an appeal can be taken to the Supreme Court is to be read as attaching such a requirement to the court of appeal.

Amendment agreed to.

Section 69, as amended, agreed to.

Section 70 agreed to.

SECTION 71

Deputy Frances Fitzgerald: I move amendment No. 22:

In page 43, line 31, to delete “*section 68*” and substitute “*section 72*”.

This is a technical amendment relating to an incorrect cross-reference included in the Bill as published.

Amendment agreed to.

Section 71, as amended, agreed to.

SECTION 72

An Ceann Comhairle: Amendments Nos. 23 to 30, inclusive, and amendments Nos. 32 to 39, inclusive, are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 23:

In page 44, line 2, to delete “an appeal to it that has been” and substitute “any proceedings before it that have been”.

On the face of it we seem to have a large number of amendments to section 72 but these amendments are technical. They spring from the fact that in reviewing the section, there was some concern that the use of the word “appeal” might needlessly curtail the effect of the transitional provisions. This is because it is possible to have applications to the Court of Criminal Appeal which are not strictly appeals, such as applications to activate a suspended sentence. The fundamental change made by the amendments is that the term “appeal” is replaced by “proceedings”. The other changes to that section flow from that amendment.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 24:

In page 44, line 4, to delete “has been heard” and substitute “heard”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 25:

In page 44, line 5, to delete “appellate jurisdiction in respect of the appeal” and substitute “jurisdiction in respect of the proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 26:

In page 44, lines 6 and 7, to delete “that appeal” and substitute “those proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 27:

In page 44, line 8, to delete “an appeal to it that has been” and substitute “any proceedings before it that have been”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 28:

In page 44, line 10, to delete “has been heard” and substitute “heard”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 29:

In page 44, line 11, to delete “appellate jurisdiction in respect of the appeal” and substitute “jurisdiction in respect of the proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 30:

In page 44, line 13, to delete “that appeal” and substitute “those proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 31:

In page 44, to delete lines 14 and 15 and substitute the following:

“(3) Nothing in this Act shall operate to affect the application of section 14 of the Courts-Martial Appeals Act 1983 in respect of a determination of the Courts-Martial Appeal Court made—

(a) before the establishment day, or

(b) in the case of proceedings referred to in *subsection (2)*, on or after the establishment day.”.

This is essentially a technical amendment. Section 14 of the Courts-Martial Appeals Act 1983 deals with appeals to the Supreme Court. The provision in the Bill as published specifies that nothing in this Bill is to operate to affect any matter commenced under that section but not completed before establishment day. The amendment expands upon the existing provision by making it clear that section 14 will continue to apply to determinations of the Courts-Martial Appeal Court made before establishment day and to determinations made for appeals for which it continues to have jurisdiction under the transitional provisions which apply to it.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 32:

In page 44, line 16, to delete “an appeal” and substitute “proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 33:

In page 44, line 19, to delete “appeal” where it firstly occurs and substitute “proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 34:

In page 44, line 19, to delete “appeal is” and substitute “proceedings are”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 35:

In page 44, line 20, to delete “court of Criminal Appeal” and substitute “Court of Criminal Appeal”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 36:

In page 44, line 21, to delete “in the matter” and substitute “relating to the proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 37:

In page 44, line 23, after “application” to insert “, procedural application or motion”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 38:

In page 44, line 24, to delete “an appeal which is” and substitute “proceedings which are”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 39:

In page 44, line 26, to delete “appeal” and substitute “proceedings”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 40:

In page 44, between lines 28 and 29, to insert the following:

“(5) Where an order has been made by the Supreme Court in relation to an interlocutory application, procedural application or motion concerning an appeal which is subsequently determinable by the Court of Appeal pursuant to a direction given under Article 64.3.1° of the Constitution or an order made under Article 64.4.1° of the Constitution, the order shall be binding on the Court of Appeal in respect of the issue which is the subject of the appeal.

(6) *Subsection (5)* is without prejudice to any change of circumstance which may warrant a variation in the terms of the order referred to in that subsection.”.

Deputies may recall that under Article 64.3.1° of the Constitution provision is made for the Chief Justice to give a direction that a class of appeals specified in the direction be heard and determined by the court of appeal. However, that article only applies where the appeal in question has not been heard in full or in part by the Supreme Court before establishment day. In general, the mere hearing of an interlocutory application will not in itself mean that the appeal has been heard in part by the Supreme Court. However, it may be appropriate for the Supreme Court’s order to be binding on the court of appeal and the amendment is directed towards achieving that end. If there is a change in the circumstances which informed the original order, it will be possible to apply to the court of appeal to vary its terms.

Amendment agreed to.

Section 72, as amended, agreed to.

Section 73 agreed to.

Schedules 1 and 2 agreed to.

TITLE

Deputy Frances Fitzgerald: I move amendment No. 41:

In page 7, line 8, to delete “that court, and” and substitute the following:

“that court; to provide that the Supreme Court may, in certain circumstances, hear certain applications made to it in respect of decisions of the Court of Appeal or the High Court otherwise than with an oral hearing; to provide that the Chief Justice or the President of the Court of Appeal may issue directions in relation to the conduct of appeals or applications made to the Supreme Court or the Court of Appeal; to make provision in relation to the conduct of proceedings before those courts;”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 42:

In page 7, to delete line 11, and substitute the following:

“repeal of certain enactments; and to provide for related matters.”.

Amendment agreed to.

7 o'clock

Title, as amended, agreed to. Bill reported with amendment and received for final consideration.

Question proposed: “That the Bill do now pass.”

Deputy Niall Collins: I welcome the passage of this Bill because it will enable the establishment of the court of appeal which will help people access justice more quickly. When will the court sit and be in a position to hear cases? Will that happen in the autumn term after the courts' summer recess?

We have been debating legal costs for several years in respect of the Legal Services Regulation Bill 2014. The costs had gone out of control and access to justice was a problem on two fronts, First, in gaining access to courts and second, the cost of legal services and representation is a barrier. One of the concerns that I and my colleague, Deputy Mac Lochlainn, articulated in the debate on the Legal Services Regulation Bill 2014, was that while there is a perception the Bill would deal with vested interests and legal costs for the public, that is not the case. There is nothing in the Bill which will force or drive costs down. The opposite is the case, particularly in the multidisciplinary practices. With that in mind, and given that the High Court goes on circuit outside Dublin, will the court of appeal also sit outside Dublin? If the court sits outside Dublin, where the main actors in the appeals and their legal representatives are based, it would lead to lower costs.

Minister for Justice and Equality (Deputy Frances Fitzgerald): Establishment day is

envisaged for October and yes, provision is made in the Bill for judges in the court of appeal to go on circuit.

I thank those present, Deputies Niall Collins and MacLochlainn, for the support they have given this Bill and for their assistance in ensuring its smooth passage. It is important if we are to reach that establishment day in October that the Bill complete its passage through the Houses of the Oireachtas. The Government and I appreciate the Deputies' support for the establishment of the court of appeal. It was decided by the people by way of referendum to establish it but it was important to ensure its smooth passage here. It is a very important court, and an important milestone on the way to modernising our court system. As both Deputies have said, and everybody agrees, it should be of considerable benefit to a wide range of litigants. In progressing the Bill we are creating a very valuable and worthwhile legacy. I am confident that it will stand the test of time. I look forward to the establishment of the court in October. Many people, not least the judges, have been concerned about the delays in hearings in the Supreme Court. This new court provides a real opportunity to deal with those issues. Passing this legislation is a historic event.

Question put and agreed to.

Sitting suspended at 7.05 p.m. and resumed at 7.30 p.m.

Disability Services: Motion [Private Members]

Deputy Finian McGrath: I move:

That Dáil Éireann:

notes:

- the vital role people with a disability play in Irish society;
- that 45% of people with disabilities experienced income poverty;
- that 36% of people with a disability experienced basic deprivation;
- that as 85% of working-age disability is acquired and households headed by people with a disability are twice as likely to experience unemployment than those that are not headed by a person with a disability, this issue cannot go unaddressed if we are to reduce poverty in Ireland;
- that over half of those living in jobless households are either children or adults with a disability;
- that people with disabilities must not become the new underclass of workers and they must be afforded an adequate working wage; and
- that any further cuts to respite, day-care or residential places are not sustainable;

and calls on the Government to:

- ensure that all people with a disability are guaranteed a quality service as a

right;

— end all cuts to front-line services;

— appoint a senior Minister with a dedicated responsibility for disability inclusion;

— prioritise funding of disability services in line with the Taoiseach and Tánaiste's solemn pre-election commitments to disability; and

— pursue the implementation of agreed measures, targets and timelines for disability.

I wish to share time with Deputies Thomas Pringle, Catherine Murphy, Maureen O'Sullivan, Tom Fleming and Stephen Donnelly.

Acting Chairman (Deputy Brian Walsh): Is that agreed? Agreed.

Deputy Finian McGrath: I have tabled this motion to highlight the urgent need to protect the rights of people with disabilities as citizens of this State and to propose sensible solutions to the difficulties being experienced in providing quality services to all people with disabilities. This motion, which contains a new and radical proposal to “appoint a senior Minister with a dedicated responsibility for disability inclusion”, speaks for itself. It is about equality and inclusion. It highlights the disconnect between the Government and broader society. We saw a classic example of this in recent days, when a request made by the Irish Deaf Society and Senator Mark Daly that an Irish Sign Language interpreter be made available in the Dáil was refused. Senator Daly had written to the Ceann Comhairle on behalf of the society, requesting that an Irish Sign Language interpreter be in place to facilitate members of the deaf community who will be present in the Visitors Gallery for Question Time this Thursday, but that request was refused.

I will give another example of exclusion and the lack of equality in Irish society. The Irish Deaf Society's national advocacy service for deaf people was forced to close its office, with a full loss of staff, after the Department of the Environment, Community and Local Government announced that funding was to be discontinued. It is estimated that 5,000 people will be affected by this announcement, which has brought a halt to 11 years of service provision to the deaf population of Ireland.

I would like to develop further the proposal in the motion that a senior Minister should be responsible for people with disabilities. I do not care who that person is, as long as he or she can focus on the issue. We know from the most recent census that 595,355 people, or 13% of the population, have a disability. I remind the House that a full-time senior Minister is responsible for the approximately 120,000 farmers who are involved in the rural agriculture industry. Similarly, a full-time Minister is responsible for between 50,000 and 60,000 teachers who work in our education service. In that context, it is valid to mention that more than 595,000 people are living with disabilities but do not have a full-time Minister. The Government missed a glorious opportunity to deal with this issue in the recent reshuffle. I appreciate that the Minister of State, Deputy Kathleen Lynch, deals with disability in her Department but I would like a more prominent role to be given to a senior Minister as well.

I wish to pay tribute to all the voluntary groups that work with and campaign for people with

disabilities all the time. I welcome Mr. John Dolan of the Disability Federation of Ireland to the Gallery. I thank such people for all the work they do for people with disabilities. I would also like to thank another important group that provides a great service. I refer to the parents, families and friends of people with disabilities, who often comprise the backbone of the disability service through the work they do with their friends, their children and the adults in their families. I pay tribute to them and thank them for doing a service for people with disabilities.

What does it mean to have a disability in the Ireland of 2014? As I said earlier, over 595,000 people have a disability, according to the most recent census. At least one in ten adults of working age - between the ages of 15 and 64 - has a disability. It is clear that disability increases sharply with age. Just 5.4% of those under the age of 15 have a disability, whereas 38% of those over the age of 65 fall into this category.

People with disabilities face difficulties and delays in accessing supports and services. Three quarters of people who use disability services are not satisfied with the level of control they have over their lives. This is something we have to tackle. Approximately 48% of disability service users are very dissatisfied with the quality of the services being provided. Some 13,655 applications for disability allowance were turned down in 2013. That represents a refusal rate of 55%. I understand that 58% of appeals in these cases were later accepted. Almost 4,000 people with disabilities were in need of social housing last year. At the end of last year, more than 32,000 children remained on waiting lists for speech and language assessments and interventions. In 2013, some 15,813 people were waiting for an assessment by an occupational therapist. Approximately 2,500 of them, including approximately 1,900 children, had been waiting for more than a year.

As I mentioned earlier, people with disabilities experience high levels of poverty. Families where the head of the household is not at work due to illness or disability had the lowest level of annual disposable income - an average of €21,492 - in 2012. This represents a decrease of 11.4% since 2010. Individuals who are not at work due to illness or disability endure some of the highest levels of consistent poverty. The level in question - 17.6% - overshadows the national average of 7.7%. Some 48.5% of those who are not at work due to illness or disability are at risk of deprivation. This is in contrast to the national average of 26.9%. Such people struggle with the cost of adequate clothing and heating. They cannot afford to eat a meal with meat or fish more frequently than every second day.

I raise these facts because this is the Ireland of 2014 and this is the reality for many families of people with disabilities. I would like to bring a more human touch to this debate by reading from a letter I was sent by a parent during the week in relation to a particular service:

I am a parent of a child who attends St Michael's Special National School in Baldoyle. I am shocked and dismayed at the news that there will be a further cut to teaching staff and to the number of Special Needs Assistants in this school. As I am sure you are aware, this school lost a teacher the last 3 years in a row. I would like to make you aware that the standard ratio of 1 teacher to 6 pupils (SERC Report, 1993) is absolutely not appropriate for children in this school. Children who attend this school not only have severe to profound intellectual disabilities but many are also severely physically disabled and have other highly complex needs. Much of the school day is taken up with personal care such as peg feeding (tube feeding), toileting, dealing with seizures, hoisting, ensuring the safety of the mobile children, and dealing with various medical issues. This takes up most, if not all of the SNA's time. As a result, the teachers are trying to teach our children in groups. As you surely must

15 July 2014

be aware, these severely and profoundly disabled children ideally require one to one tuition.

That is a letter from a parent using a service in St. Michael's House, Baldoyle, in my constituency, which is an excellent service. The final paragraph states:

I am asking you to please reconsider this appalling decision regarding the loss of a teacher and special needs assistants. Failing this, can you please outline how you intend to maintain both the health and safety and education standards in the school?

She sent this letter to the Minister for Education and Skills as well. That is just one example of a family with severely disabled children, physically and intellectually.

I turn now to the people with an intellectual disability. A total of 27,256 people with intellectual disability, representing 99% of the total population registered on the NIDD, were in receipt of services. That was the highest number of people in receipt of services since the database was established. The following services will be needed for the period 2013 to 2017. With regard to day care services, when we look at the figures we see there is potential to sort this area. A total of 197 people require a new day service, that is, they are currently without a day service and require one. Surely that is one we can fix. The second figure is more broad but I am referring to the period from 2013 to 2017. These are figures from the Minister's Department. A total of 10,304 day places will require changes or enhancements.

Regarding residential services, 2,271 full-time people who are without residential placements require one in the next five years. Most need is immediate. A total of 2,711 residential places will require changes or enhancements, for example, a person in a residential centre who requires a move to a community group home setting. That is in the residential area.

In the respite services, 2,054 require residential support services for the first time. A total of 1,637 residential support places will require changes or enhancements, generally increased hours of support.

If some of these figures applied to one year, we would say they are very high, but when we look at it over a four or five-year plan, there is huge potential to act. I emphasise the day care services and when we see figures such as 197 people, that is an issue that can be solved.

I mentioned the Irish Deaf Society that took a severe cut in recent days. It is very important we do not ignore all the other groups in the disability sector that have got the chop, so to speak, in the past week. The Taoiseach said in the Dáil earlier that some of these organisations can appeal that but the Minister must be vigilant. She must protect and defend the advocates and the support services for all people with disabilities.

I accept the point, and I have said this publicly in recent years, that when there is a downturn or if there is a shortage of resources, certain sections of society must be prioritised. We had the medical cards row where people with disabilities got caught in the crossfire. We have to take the tough decisions. We have to admit we have a problem, that the revolution cannot happen overnight but that priority must be given to sick children and children with a disability. That is a sensible point.

Another issue we cannot forget is the 187,000 carers in this State who work closely with their families. Legislation should be implemented to ensure a statutory entitlement to home care community services. There should be the provision of adequate supports for carers caring

for those with a mental health illness. There should be the restoration of cuts applied to the respite care grant and household benefits package. The €100 water allowance should apply to all full-time carers regardless of whether they are in receipt of the household benefits package. There should be an extension of the local property tax exemptions to include households where a high level of care is provided. I am talking about 187,000 people who are doing a fantastic job against the odds. They are saving the Exchequer and saving the State.

The broader vision is about protecting and demanding rights for people with a physical and intellectual disability. We have moved on, and I accept there are examples of good practices in the services. We have some top-class services but there are also major anomalies that we have to deal with today.

I urge the Minister, and the Government, to read carefully the contents of this motion as it sets out a clear path to ensure all people with disability are acknowledged and supported with a decent service. This motion is about representing the rights of all people with disability. I thank all my colleagues in the Technical Group and all the Independent Deputies for their great support for this motion.

I call on the Government to implement the plans and the vision in this motion. I urge Deputies on all sides of the House to look seriously at the issue because I believe strongly that a great deal can be done to resolve it.

Acting Chairman (Deputy Brian Walsh): I understand the Deputy has agreed to share his time with Deputies Thomas Pringle, Catherine Murphy, Maureen O'Sullivan, Tom Fleming and Stephen Donnelly.

Deputy Finian McGrath: Correct.

Acting Chairman (Deputy Brian Walsh): Is that agreed? Agreed. I call Deputy Pringle.

Deputy Thomas Pringle: I welcome the opportunity to contribute to this debate in support of people with disabilities. I commend Deputy McGrath on tabling this motion. It is important and timely, in light of the recent cuts that have taken place, that we should be debating this issue tonight and tomorrow night.

The Statement of Government Priorities 2014-2016 published last Friday stated:

The Government will implement the Report of the Value for Money and Policy Review of the Disability Services Programme, which recommends a significant restructuring of the disability service by linking budgets to activity, outputs, quality and outcomes for service users. The new model of personalised, community-based service must provide greater choice for people with disabilities.

Those are fine words but one of the recommendations, No. 3.8, of the value for money review states that the role and funding of agencies that are wholly or substantially engaged in representation rather than direct service provision should be reappraised having regard to the recommendations in this review.

It seems in this case the Government has hit the ground running because before these priorities were published, it had already cut the funding for 26 groups to save the whopping sum of €1.2 million. I refer to groups that play a vital advocacy role on behalf of people with disabilities to push for and ensure the services are retained for them and that the services are developed

15 July 2014

for those people with disabilities. I refer to groups like the Irish Deaf Society which had its funding cut and had to close its advocacy service, which was used by more than 5,000 people every year. That is the impact these cuts are having on these groups.

Groups such as the Neurological Alliance of Ireland will have to shut down their services in December unless they can source alternative funding. This is a group that represents more than 700,000 people with neurological conditions. The Department of the Environment, Community and Local Government turned down its grant on the grounds that the people it represents do not constitute a disadvantaged group. How could people suffering from a wide range of neurological conditions such as Alzheimer's, multiple sclerosis, Huntington's disease and epilepsy not represent a disadvantaged group?

The review and the change in the Government's priorities in implementing the change in disability services may be the right way to go but the way to do it would have been to maintain the groups that work on behalf of people with disabilities while rolling out the service. It seems the Government has taken away their voice before these new services have started to be implemented. When will the evaluation of the service by service users take place? These groups could play a vitally important role in contributing to the roll-out and the benefits disability services might gain for their members and the people they represent by having an input into the changes taking place, but their voices are not being heard, and all to save €1.2 million.

The Government should reinstate the funding for these groups. If the proper services for people with disabilities are put in place and the Government opts for the person-centred role, as it has said it will do, there will be no need for these groups in the future and their funding can be wound down while the roll-out of the service takes place. It smacks of getting the voices out of the way before implementing the services. Unfortunately, we will be here in a couple of years' time debating this and wondering when and how this will be rolled out in an effective manner, which will help and benefit people with disabilities.

The CSO published a survey, *Work and Poverty in Ireland*, which found that the risk of living in a jobless household is higher where the household has an adult with a disability. More than one third of those living in jobless households were children and almost one fifth were adults with a disability. These groups are being targeted by the withdrawal of the funding for their national organisations which advocate on their behalf. These organisations advocate for the need for proper services and for the development of services on their behalf and they should continue to be funded while the Government rolls out this new disability service.

It is interesting that the UN Convention on the Rights of Persons with Disabilities was adopted by the General Assembly in 2006 and signed by Ireland in 2007 but we have not yet ratified and implemented it seven years down the road. That shows the commitment of previous Governments and this Government to people with disabilities to ensure they get the services they deserve and need so they can live a reasonable life.

People with disabilities and their families must fight for every single service and benefit they get. Their lives seem to be consumed by fighting the system. When will we have a system which recognises them as equal citizens and people who have an equal role to play in our society and they get service as of right? It does not auger well when one sees that their advocates have had their funding withdrawn in advance of the roll out of this.

Deputy Catherine Murphy: I thank Deputy Finian McGrath for tabling this Private Mem-

bers' motion. While it mainly focuses on services for people with disabilities, every one of us will probably refer to the cutbacks to the Pobal grant scheme which were announced. Some 26 organisations, which provide essential advocacy for people with disabilities, face serious curtailment or closure. One of the things people talk about when they get a diagnosis for a child with a disability is the isolation. Very often the support groups are the most important part of dealing with the issue. We will see organisations being closed down, because we have been told the grant scheme has been oversubscribed, without evaluating the consequences of that, which will be immense.

I cannot believe the Government keeps inflicting this kind of thing on itself. We saw the medical card fiasco, which was focused on discretionary medical cards, and the issue of the domiciliary care allowance last year. It is entirely predictable that these things will be problematic. To take away or to reduce services provided by organisations like MS Ireland, Muscular Dystrophy Ireland, the Irish Motor Neurone Disease Association, the Huntington's Disease Association of Ireland - Huntington's is a really cruel disease - and the Alzheimer's Society of Ireland is unbelievable and it will have a major impact in the autumn. This should be looked at again as a matter of urgency before the Dáil rises.

Our neurological services are ranked among the worst in Europe behind Croatia and Serbia, which have very difficult economic situations to overcome. We have the lowest number of consultant neurologists in Europe. More than 700,000 people in Ireland live with a neurological condition. This is set to increase to 860,000 in ten years' time. It is a huge proportion of our population. Some 15,000 people require specialist rehabilitation each year and 89,000 individuals are made disabled by neurological conditions and yet this group's advocacy services are being reduced.

This is happening at a time when the charity sector is under serious pressure, some of which is self-inflicted damage as in the case of Rehab and the CRC. There are, however, a lot of empty pockets which would have been contributors to some of these vital services. This needs to be looked at again as a matter of urgency this week.

I would like to draw attention to an organisation in my constituency - Kare - which was established as far back as 1967. It started by dealing with children with an intellectual disability. Very often it stepped into the breach where there was not a public service. It is a front-line service provider, it has expanded its services over the years to provide critical services across a range of different areas, such as clinical care, day and residential care, and it has received awards for excellence. However, according to the chairperson, it is increasingly difficult for it to try to maintain its front-line services as each year, there have been cuts. I think this could be replicated around the country.

If we do not have those front-line services, it will cost us at some point. We have a very short-term approach to counting costs. They will arise later in terms of residential care or something else. This really needs to be looked at a more holistic way across the various Departments. I do not know if the Minister of State knew these supports would be lost. Was she even consulted about it? I would have thought that would have been critical in terms of the delivery of a broad range of advocacy and support services through those organisations which, in turn, can generate quite a lot of voluntary activity. The Minister of State might say whether she was consulted in her contribution. If she was not consulted, will she give a commitment to talk to the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, who is a member of her party, with a view to reversing those cuts because it is not a question of ap-

peeling them as they should not have happened in the first place?

Deputy Maureen O’Sullivan: My question today on Leaders’ Questions was about values and the values underpinning our economic policies. I made the point that there is a lack of a social policy component to economic policy. Also missing from economic policy are principles of social justice and human sympathy. All of that is creating unacceptable levels of economic inequality and that applies to people with disabilities.

Research from the Centre for Economic and Social Rights shows that poorly managed recession followed by a series of austerity budgets with a lack of social participation and a reliance on regressive cuts to spending over progressive tax reforms undermines basic rights. The people most affected are women, children, the elderly and people with a disability.

I acknowledge Deputy Finian McGrath’s lifetime commitment to, and his voice for, people with a disability. I noticed he called for a senior Minister with a dedicated responsibility for disability. Some weeks ago I made a similar request to the Taoiseach, that is, for a dedicated Minister for alcohol or drugs issues or at least a Minister of State whose sole remit would be alcohol and drugs issues. I went through the list of Ministers of State today and I am sure there are reasons for each of those jobs but I wondered where was the Minister of State dedicated to vulnerable communities and vulnerable groups, notwithstanding the Minister of State, Deputy Kathleen Lynch’s work, especially in regard to mental health.

When the eight topics were chosen for the Constitutional Convention, myself and others were disappointed that human rights were not included, in particular rights for people with mental and physical disabilities. We know the difficulties those people face and the difficulties faced by those who love and care for them. We are looking for a commitment to equality for those people and that there are no additional stresses on them. Instead of that we have seen the stresses on them over the past few years, whether around home help, personal assistance provision, community care, respite care, special needs assistance or resource hours. We know of the number of parents who have had to go to court to get basic rights for their children, whether for education, health or care. When one thinks about the money spent in court, it could have gone to much better use.

Last week, 26 organisations supporting people with disabilities had their funding cut with a total loss of €1.2 million, which is not a huge amount when one considers the work they do and the people they reach. I know of the work of the Irish Deaf Society and I tabled a Topical Issue on its cut. I know of the silent world of the deaf community and the need for a voice. I know of the work of the Post Polio Support Group which was totally left behind when so many other groups were looked after. The Centre for Independent Living had funding cut as did the Alzheimer’s Society of Ireland. This affects a small number of people but one must ask what sort of message that sends to those people with disabilities.

8 o’clock

The Government’s amendment reads, “it is committed to facilitating the full inclusion of people with disabilities in the life of the community”. However, those organisations which facilitate this have had their funding cut. One group I know well is the Irish Motor Neurone Disease Association, IMNDA, because of my friendship with someone who battled motor neurone disease for several years, as well as two Members I knew. I have taken part in several fund-raising events and even gone down the catwalk at a fashion show. While we are raising

funds for this organisation, however, the Government has taken funding from it. It is completely illogical. Eleven neurological organisations had their applications for funding turned down. If there were issues with these organisations, surely they could have been brought to their attention before it reached the stage where funding was cut, services were undermined and some people lost their jobs.

One third of people with a disability have emotional, psychological and mental health conditions. Up to 87% of those with mental health conditions have at least one other disability, which highlights the need for integrated services. There is also a need for integrated services for those with a mental health issue who have an addiction and are homeless, a point I have made before. There are several agencies dealing with each aspect instead of just one dealing with all of them. Another group includes those released from prison who have a mental health condition but who still have an addiction or are coping with recovery who find themselves homeless. A small amount spent at an early stage would prevent further spending at a later stage.

Deputy Tom Fleming: Social justice means ensuring everyone, no matter who they are or where they live, has the opportunity to develop, be self-determining and participate positively in the community. The barriers that deny social justice for people with disabilities are well recognised. For instance, there are ignorant attitudes, inaccessible facilities, inappropriate and inadequate services and supports. It is relevant that the Taoiseach and the former Tánaiste, Deputy Eamon Gilmore, acknowledged these barriers in the 2011 general election campaign. It is significant they both identified disabilities as their key social policy priority.

The objective of a right to education, as described by the United Nations Committee on the Rights of the Child, is to maximise the child's ability and opportunity to participate fully and responsibly in a free society. The committee, in its 2006 concluding observations on Ireland, welcomed efforts to strengthen the legal and policy framework for special educational needs. However, it also noted concerns about the cost of education materials, the participation of children in decisions affecting them and the high drop-out rate among children with disabilities. It made a series of recommendations to address these shortcomings which included improving school buildings and facilities and dealing with bullying.

Article 28 of the UN Convention on the Rights of the Child recognises the right of the child to an education. It states: "States parties shall promote and encourage international co-operation in matters relating to education, in particular [with a view to contributing] to the elimination of ... illiteracy". It is about equipping a child with adequate literacy and numeracy skills which are essential and central to their progression from a life of poverty, disadvantage and marginalisation. Every state must ensure every child's basic right to development is vindicated to the maximum extent. One of the aims of education under the convention is the development of the child's personality, talents, as well as mental and physical abilities to his or her full potential. Children with disabilities have the right to assistance appropriate to their condition which is designed to ensure the child has effective access to education and receives an education in a manner conducive to achieving his or her full social integration and individual development.

The former Minister for Health, Deputy James Reilly, has met representatives of St. Francis special school in Beaufort, County Kerry, which provides an excellent service for pupils aged between four and 18 years who have been assessed with a moderate to profound general learning disability. Up until the end of the 2013 school year, the school delivered physiotherapy, as well as speech and occupational therapy by on-site therapists. The services were adequate and met the most essential needs of the children. Since the reconfiguration and implementation of

the progressing disability services for children and young people programme by the Health Service Executive, the therapists have been removed from the site. Accordingly, the children have been denied these therapies which are essential for their well-being. I know that the former Minister gave a positive response to the school and public representatives when he met them to discuss this matter. Will the Minister of State, Deputy Kathleen Lynch, intercede to improve the services further with more therapists? When will the four therapists promised for County Kerry be hired? How many of them will go to making up the shortfall in services at St. Francis special school? When will the public sector recruitment embargo be lifted to replace staff on maternity or sick leave or who have retired?

Deputy Stephen S. Donnelly: I commend Deputy Finian McGrath for tabling this sensible motion to recognise the value of people with disabilities and the need for further supports for them. Like most Members, before I was elected, I knew a few people with various disabilities. In the past three years as a Deputy I have spent a lot more time with adults and children with disabilities, be they physical, intellectual or both, their families and supporters in places such as St. Catherine's Association and Sunbeam House in County Wicklow. The biggest point I have learned is how hard it is for all of them. When meeting and helping them, the main thing I have learned is how tough it is for the families and supporters involved. It is physically, mentally and emotionally tough. It is bloody hard work and they are fighting day in, day out for dignity, a decent standard of life for their children, brothers, sisters or those whom they support. It is also financially tough. Half of those with disabilities experience income poverty. More than one third experience basic deprivation. This is just not good enough. I know that a lot of money is put into the disability sector. That we in Ireland, one of the wealthiest and most developed countries on Earth, would allow over one third of citizens with disabilities to experience deprivation is just not good enough. Since 2008, the sector has faced a 14% cut made by the Government. If one factors in inflation, in real terms it a cut of about 20%. At the same time the number of people being supported with disabilities, because they are living longer and more disabilities are being recognised and supported, is even higher, so we are probably looking at about a 25% per person cut since 2008. That is simply not okay and the cry that there is no money is hollow because there was money for the banks, the bondholders, AIB's pension fund, to pay for the children of foreign executives to go to private schools and to give 41% tax rebates to people with very expensive pensions. There is plenty of money for things that are chosen and yet there is not enough money for men, women and children with disabilities.

Deputy Finian McGrath: Hear, hear.

Deputy Stephen S. Donnelly: We are talking about a cut of about 25% per person with a disability. It is not okay. It is a bad mark on this country. What we cannot afford is more cuts. This year in Wicklow, Sunbeam House faced huge cuts. We managed to get some of them restored but still services had to be squeezed. Currently, St. Catherine's in Wicklow, which supports about 250 children with medium, profound and severe disabilities, is facing very serious cuts. In fairness to the HSE managers, they are working with St. Catherine's. I accept there were governance issues but those HSE managers have to balance budgets that are being cut and cut and the people who suffer are the most marginalised and under-protected in the country. That is just not good enough. That is not okay.

What can we do? The Government could promise immediately that there would be no more cuts and that it would prioritise those men, women and children more than the bankers and the people with the big pensions. We could ratify the UN Convention on the Rights of Persons with Disabilities. We are one of only three European countries that has not done this to date. We

signed the convention in March 2007. That is not good enough. We could target unemployment better. The Minister of State, Deputy Lynch, has introduced a ten-year plan for the National Disability Authority to examine the issue. The annual budget, the social welfare system and other areas must also be brought in line to target unemployment.

We must introduce equality budgeting. For three years on budget day I have asked the Government to bring in a piece of paper to Dáil Éireann to show how the budget affects people with disabilities, those on low incomes and both genders but for three years the Government has refused to provide the information. The only conclusion I can reach after three years of this most reasonable request is that the Government is hiding the effects of what it is doing; it is embarrassed about those effects and it is not willing to face up to that. There are four ideas for things that can and must change.

Acting Chairman (Deputy Brian Walsh): Is it agreed that the Minister of State, Deputy Kathleen Lynch, will share with Deputies Dowds and Farrell? Agreed.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I move amendment No. 1:

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

“values the role which people with disabilities play in Irish society and is committed to facilitating the full inclusion of people with disabilities in the life of the community through access to individualised personal social supports and services;

recognises the Government’s commitment to ensuring that the quality of life of people with disabilities is enhanced and that resources are allocated on the basis of need;

affirms the Government’s commitment to the provision of effective and responsive public services for people with disabilities;

notes that the Government spends almost €5 billion annually on disability services and income supports (in addition to expenditure of over €1 billion on income supports for illness and invalidity); and the health service alone will spend €1.4 billion in 2014 on health and social services for people with disabilities, including:

— residential services to over 9,000 people with a disability;

— day services to over 22,000 people with intellectual, physical or sensory disabilities and autism;

— respite residential support for nearly 6,000 people with disabilities; and

— 1.68 million hours of personal assistant/home support hours;

notes that additional funding of €14 million has been provided to address priority needs within disability services identified by the Minister for Health and advised to the Health Service Executive, including:

— €7 million for additional places for school-leavers and rehabilitative training graduates;

— €3 million for emergency residential placements; and

15 July 2014

— €4 million to support the development of services for children with disabilities under the National Programme on Progressing Disability Services for Children and Young People;

acknowledges the key Programme for Government commitments and recognises the progress to date in implementing them, particularly in:

— the publication of an implementation plan for the National Disability Strategy;

— the publication of the Value for Money and Policy Review of the Disability Services in Ireland which lays the foundations for a person-centred supports model which will allow people to exercise greater choice and control, enabling them to live fully inclusive, active and independent lives within the community; and

— the introduction of independent inspections for residential services for people with disabilities;

acknowledges the range of income and work-related supports provided by the Department of Social Protection for people with disabilities, and notes that:

— expenditure on the Illness, Disability and Carers programme is estimated to be €3.33 billion in 2014, which represents 17 per cent of total Departmental expenditure;

— the purpose of the Illness, Disability and Carers programme is to provide an income for persons in the event of short and long term illness or disability and to support the valuable service provided by their care givers; and

— social transfers, such as Disability Allowance, help to support people to participate in society in a positive way and prevent poverty for those with serious illnesses and disabilities;

recognises the central role which work plays in the lives of people with disabilities and is committed to the development of a comprehensive employment strategy for people with disabilities, which will be published this year, as set out in the Action Plan for Jobs 2014;

notes that the Department of Education and Skills spends approximately €1.3 billion, or 15 per cent of its entire budget, in support of children and young persons with disabilities and Special Educational Needs and, despite the significant economic challenges of recent years, has continued to protect this investment; and

recognises that the Department of Education and Skills is focused on ensuring that all children can have access to an education appropriate to their needs.”

Like other speakers, I thank Deputy Finian McGrath for introducing the motion and the Technical Group for allowing the matter to be chosen. It probably always has been and will be one of the issues that rounds off a term in the Dáil. Every year, it is either health, mental health or disability, but that is a good thing as we need to continue to focus on where we need to be.

I welcome this opportunity to state once again the Government’s commitment to the provision of effective and responsive public services for people with disabilities and to strongly reaffirm the Government’s commitment to the national disability strategy. The Government is also committed to the implementation of the reform programme for the disability sector, as set out in the value for money and policy review.

Deputies Donnelly and Pringle raised the ratification of the UN convention. We signed it, and as we have always done with conventions, we then put in place the various pieces of legislation in order that when we ratify at least we will not be like other countries that ratify and do not put the legislation in place and when they are called to account do not live up to the promise they gave in the ratification process. We are currently dealing with the assisted decision-making (capacity) legislation. Members will have an opportunity to deal with it. That is the biggest aspect of what remains to be done. It is not the case that we ratified the convention and did not bother to do anything else. We intend to complete the legislation. When we tidy up another few aspects of the Bill we will be in a position to ratify the convention.

That intention has been highlighted again in the Statement of Government Priorities 2014 - 2016, which has just been published, which states:

The Government will implement the report of the value for money and policy review of the disability services programme, which recommends a significant restructuring of the disability service by linking budgets to activity, outputs, quality and outcomes for service users. The new model of personalised, community-based service must provide greater choice for people with disabilities.

Certain people might have a mild, moderate or profound disability but in all categories there are usually people who cannot advocate on their own behalf. I was not involved in the decision on funding but I had already committed to speak to the Department of the Environment, Community and Local Government to see what could be done. I do not promise anything. I do not do that, but I will definitely take up the matter with the Department. Deputies Catherine Murphy and Maureen O'Sullivan are particularly interested in the issue and it is important that such issues would be examined.

I have often expressed my strongly-held view that people with disabilities are not ill and do not require to be fixed. What people with disabilities need is for us to break down the barriers society puts in the way of them living a full life - a life that is worth living. They also need the supports necessary for them to live a fully inclusive life. That is the aim of the national disability strategy, which was launched in September 2004 and which continues to be the focus of Government policy for the sector. The programme for Government contained a commitment on the publication of the first ever implementation plan for the strategy and to the achievement of even greater levels of progress. With that in mind, I established, and have been personally chairing, the national disability strategy implementation group, which was tasked with developing and monitoring the implementation plan.

The objective is to engage with the disability sector and build on the constructive and co-operative approach of the community and voluntary sector. Acknowledging the current economic climate, this implementation plan seeks to ensure available resources are used to best effect in ensuring people with disabilities have more choice and control in their lives and more support in achieving their aspirations for the future.

Collaboration is key to progressing the national disability strategy and the value for money review. I am a passionate exponent of the motto "Nothing about us, without us". I have always been committed to working with people with disabilities and to opening channels of communication wherever I can. As another means of engagement with the disability sector, I set up a disability forum under the stewardship of the National Disability Authority. One of its first tasks was to provide an input into the development of the national disability strategy

implementation plan. Progress on the implementation plan is reviewed by the implementation group through thematic meetings which deal with specific issues. This brings me to an issue of key importance - employment. The next thematic meeting of the national disability strategy implementation group will focus on employment. The importance of work to an individual's psychological as well as the financial well-being is well recognised, and that applies in equal measure to people with disabilities.

We know that people with disabilities are only half as likely to be in employment as others of working age and that the reasons for this are complex and multifaceted. The national disability strategy implementation plan contains a commitment to publish a comprehensive employment strategy for people with disabilities. To progress this commitment, I requested the National Disability Authority and Mr. Christy Lynch, who is a founder member of the Irish Association of Supported Employment, to lead on the cross-sectoral development of a comprehensive employment strategy. The strategy will bring together actions by different Departments and State agencies in a concerted effort to address the barriers and challenges that impact on the employment of people with disabilities. Significant work has been undertaken to date, in consultation with relevant Departments, disability organisations, employment organisations and social partners. I reviewed the first draft in conjunction with the national disability strategy implementation group in June and identified certain aspects of the strategy that need further development. Work in this regard is ongoing and, as I previously mentioned, a themed meeting on employment is scheduled for September and will progress this matter further.

To further support the mainstreaming of this initiative, we have included its publication in the Department of Enterprise, Trade and Employment's Action Plan for Jobs. This is where it belongs as this must be a cross-departmental initiative. Its subsequent implementation will be overseen by the Cabinet committee on Pathways to Work because it is important not to divide and stigmatise people with disabilities. Supporting people with disabilities to live a fully inclusive life is also fundamental to the value for money and policy review of disability services funded by the health sector, which I published in 2012. The review is pivotal in progressing and supporting the implementation of significant elements of the national disability strategy and echoes the health care reforms signalled in Future Health, the Government's blueprint for the restructuring of health services. Implementation of the review is being monitored and guided by a steering group, which is undertaking an ambitious work plan for 2014 to 2015 with dedicated resources provided by the HSE.

A key aspect of Future Health is the emphasis on treating people at the lowest level of complexity. One of the bulwarks of this reform will be the strengthening of the primary care system. The statement of Government priorities for 2014 to 2016 commits to the publication of a new primary care strategy that puts primary and community care at the heart of our health system and that prioritises access to primary and community care for those with medical needs as resources become available. This is a commitment that will be of great relevance to those with disabilities, who will receive more and more of their primary care services in the community as the implementation of the disability reform programme progresses.

This is a time of major change in the delivery of social care in this country and we have embarked on a transformation programme that will put the citizen at the heart of everything we do. This change can best be illustrated by the disability services provided by the health sector, which is migrating from a segregated, group-delivered service to a person-centred and individually chosen supports model. The implementation of this new model requires a more effective, transparent and accountable use of the €1.4 billion annual health budget for disability

services. The HSE must maximise the provision of services within available resources and maintain a consistent level of service compared to last year. Both the HSE and the voluntary disability service providers have introduced significant efficiencies over recent years and are continuing to examine further ways of streamlining governance arrangements and maximising operational efficiency as part of the implementation of the value for money review and the Had-dington Road agreement.

Despite the difficult economic conditions in which we find ourselves, there can be no compromise on the quality and safety of the services we deliver. The scheme of registration and inspection of residential services came into operation on 1 November 2013. The regulations, which are being enforced by the Health Information and Quality Authority, HIQA, seek to ensure that the unique and complex needs of each child and adult with a disability in a residential service are met in an appropriate and effective manner by service providers and staff. This is a positive development for everyone concerned and will set the bar for quality care in the years ahead. I have mentioned that the way in which we support people with disabilities to live normal lives is undergoing a seismic change. The HSE's report entitled *Time to Move on from Congregated Settings* proposes a new model of support where people will move to housing in ordinary communities provided mainly by housing authorities.

The process of moving towards a community-based model of residential services has been happening gradually for a number of years and is now gathering momentum. Together with the Department of the Environment, Community and Local Government, the Department of Health has developed a housing strategy for people with disabilities and an implementation framework which aims to support people with disabilities to live in their communities with maximum independence and choice. The framework that supports people with disabilities in living in their own communities is an excellent example of cross-sectoral work and the whole-Government approach that is a central theme of the national disability strategy.

The health sector has invested significant resources in services for children with disabilities, including autism, over the past number of years. In addition, the HSE has recognised that there is a need to standardise early intervention services and services for school-aged children with disabilities. To this end a major reconfiguration of therapy resources for children aged up to 18 years with disabilities is currently under way.

The HSE's national programme on progressing disability services for children and young people from zero to 18 years, to which Deputy Tom Fleming referred, aims to achieve a national unified approach to delivering disability health services so that there is a clear pathway to services for all children, including those with autism, regardless of where they live, what school they attend or the nature of their disabilities. The programme aims to provide one clear pathway to services for all children with disabilities, according to need. It also seeks to ensure that resources are used to the greatest benefit of all children and families and that health and education strategies work together to support children in achieving their potential.

An additional €4 million has been specifically allocated in the national service plan for 2014 to drive implementation of the programme. The HSE has decided on the allocation of an additional 80 posts, including speech and language therapists, occupational therapists, physiotherapists and psychologists. In addition, during the remainder of the year some funding from the allocation will be utilised on a targeted basis to tackle priority waiting lists at local level, using capacity within the public, voluntary and private systems. I do not have specific details on the area mentioned by Deputy Tom Fleming but I will get them.

15 July 2014

This Government has defended spending on special education needs since coming into office and has given it the highest priority. The level of resources devoted to supporting children with special educational needs has been protected and in some areas has been increased in 2014 to take account of demand and demographic growth. Some €1.3 billion will be spent in support of children with special educational needs this year. This level of investment represents approximately 15% of the entire educational spend of the Department of Education and Skills and means that the majority of pupils with special educational needs can continue to be educated in an inclusive environment in mainstream schools along with their peers. It also means that pupils who require intensive interventions in a specialised environment, special classes and special school placements can continue to receive the services they need.

There is now a greater number of resource teachers and special needs assistants, SNAs, in schools than at any time previously. Last December, the Government announced it was increasing the number of SNAs available for allocation to schools to reflect demographic growth and increased demand. By the end of the year there will be almost 11,000 posts available, which is the highest ever level of SNA allocation. The number of special classes has increased by over 60% since the 2010 to 2011 school year. The Department also makes provision for enhanced capitation payments for special schools and special classes, specialist transport arrangements and assistive technology support.

Every year young people finish their formal education and progress to the next stage of their lives and Deputy Finian McGrath spoke of children progressing from first and second-level formal education. For most children, including those with disabilities, the aim is to progress directly to further education, vocational training or employment and I have described the resources provided by the Department of Education and Skills to facilitate this. However, for around 900 young people who have higher support needs, the requirement is for life skills training or day supports provided by the HSE. After following an appropriate life-skills training programme many of this cohort will also progress in time to mainstream training and employment, with personal social supports provided by the HSE where needed.

The HSE national service plan includes an additional €7 million and 35 posts to provide training places and day services for young people who will finish their formal education this year. The provision of services to more than 900 young people and almost 450 life-skills graduates has been challenging even with the additional funding. Not alone does the provision of these new services stretch resources as far as they will go, but the logistics of putting new services in place for so many young people in a tight timeframe provides the HSE with a major challenge every year. To meet the challenge the HSE has implemented a new centralised application process and national operational approach to school leaver placements.

Three years in a row I stood here and asked why it came as a surprise every year that young people leave school and need a place. In the normal course of events if a child is to continue to third level education he or she fills out a CAO form and one knows in advance. We asked for a similar system and we have it this year, which is why Deputies are not receiving the usual torrent of phone calls. It was simply a matter of putting the process in place. I hope it will work well and will become embedded in the system. I am very pleased to say this process has been completed for 2014, and the HSE has assured me that in all but a very small number of cases school leavers and their families have been notified of the placement which will be available to them in September. In the remaining cases, the HSE, service providers and families are still in discussions regarding the most suitable placement for the school leaver and strenuous efforts are being made to reach a satisfactory resolution for each young person concerned. This is a

significant achievement by all concerned and a great improvement on the position in recent years.

Training is only part of the journey people with special needs must face to obtain longer-term sustainable employment. In the area of disability activation, the Government is committed to supporting people to participate more fully in training and employment through activation measures, income supports and work-related supports. The integration of the employment services and community services divisions of FÁS into the Department of Social Protection is enhancing the delivery of employment services for all people, including people with disabilities, and will assist in overcoming barriers in this area. Services for people with disabilities include the Employ Ability service, which is a supported employment programme, the wage subsidy scheme and the disability support and awareness grants and schemes. Other measures include funding for innovative disability projects and grants for reasonable accommodations in the private sector which aim at encouraging the employment of people with disabilities. In addition, the Department initiated a disability activation project, with funding of more than €7 million, which aims to identify the optimum approaches to mainstreaming labour market activation measures for people with disabilities.

As well as activation measures, the Department of Social Protection also provides an illness, disability and carers' programme which provides an income for persons in the event of short and long-term illness or disability and supports the valuable service provided by their care givers. Social transfers such as disability allowance help to support people to participate in society in a positive way and prevent poverty for those with serious illness and disabilities.

In total, the Department of Social Protection will spend an estimated €3.33 billion this year on the illness, disability and carers' programme, which is 17% of the Department's total expenditure for the year and is a very considerable and tangible testament to the Government's commitment to provide income supports for people with disabilities and their care givers.

I welcome the opportunity provided by the debate to put on record the Government's position on services for people with disabilities. There is an onus on us all to use the substantial resources committed to disability services throughout the public sector more effectively, and to achieve better outcomes for this funding and to bring about a real and substantial improvement in the lives of people with disabilities. This is a central tenet of the national disability strategy and a high priority for the Government and one to which I am fully committed.

The most significant developments with regard to disability in the past 12 months have been the appointment of a director with sole responsibility for social care, which is disability and older people, and the fact people now fully control their own budget and are enabled to have the flexibility to use it in a way which rewards but which also penalises people who do not deliver the type of service to which we feel people with disabilities have a right.

Deputy Robert Dowds: I acknowledge the importance of this subject and wish to put on record my appreciation for the work done by the Minister of State, Deputy Kathleen Lynch, in this area. We are lucky to have somebody who is as dedicated as she is. It is an area where we all need to be on our toes all the time because no matter how much money we spend or what commitment we give there are always ways in which improvements can be made in the area of disability.

It is important to put on record that a huge amount of Government money is put towards

15 July 2014

disability services, and this is outlined in the Government amendment with regard to the €5 billion spent annually on disability services and the €1 billion on income supports for illness and invalidity. Many resources are put towards this and rightly so; it should always be the case. We should always be looking at ways to improve the situation for people with a disability, particularly with the focus on their needs and giving them the greatest degree of independence possible, which varies greatly. Disability varies, from the degree of disability I have to severe disability which makes life extremely difficult and independent living not possible for quite a few people unfortunately.

I have experience of working in a school for children with a disability. It is most important that those dealing with people with a disability, particularly children, entice and encourage them to live their lives to the full, to whatever degree that is. It would be foolish to say it is to the same degree for each individual because disability very much relates to the person and the extent of the disability varies. I remember two boys whose parents had different attitudes, which had a huge outcome on their educational progress. The view of one mother was that her son should participate as fully as possible in everything and he was able to switch to mainstream school. The other mother was totally focused on the disability and how unfair it was on her child, and this stunted his possibilities, which was very sad, despite many attempts to get around it. I am making a general point with regard to dealing with children with a disability, although I am sure it applies to a lesser degree to adults with a disability. People should be made aware to the greatest extent possible that they should be able to live independently to the greatest degree possible.

The value for money and policy review of disability services published in July 2012 was very important. The focus of the recommendations is very important, namely to migrate from an approach that is predominantly organised around group-based services towards a model of person-centred individual chosen supports. That is so important because each person's disability is in a sense unique to that person. Their needs are unique to them even though there will be people with similar needs and so on. The implementation of a more effective method of assessing need, allocating resources and monitoring resource use needs to be a continual focus for everyone involved in providing services for people with disabilities.

In that regard could I say-----

Acting Chairman (Deputy Brian Walsh): I am afraid I must ask the Deputy to conclude his remarks.

Deputy Robert Dowds: I will wind up on this point. In that regard it is very important to monitor the work done by charitable organisations that work with people with disability because while great work is done by those organisations, in certain cases the organisations overlap. It is really important that the maximum of the money that is put into it goes to the benefit of those with disability. I support the amendment.

Deputy Alan Farrell: I congratulate the Minister of State on her enlarged portfolio and I hope her cold gets better very soon. She sounds like she is suffering at the moment.

I acknowledge the motion and the amendment, and I welcome the opportunity to speak on it. It is very clear that we must provide people with disabilities and their families with every support possible to ensure we foster a society which is inclusive of them in all aspects.

The Minister of State, Deputy Kathleen Lynch, through her work as Minister of State with

responsibility for disability, equality, mental health and older people, has consistently worked for the benefit of people with disabilities and the Government is committed to providing them with the best possible support. The Minister of State established the national disability strategy implementation group which developed a plan for the progression of the national disability strategy following a commitment in the programme for Government. The aim of this plan is to increase engagement with the disability sector and lead to the development of more effective and innovative services which will address the issues currently being faced by this sector. During recent tough economic times, all sectors of society have had to deal with reduced levels of resources. However, what is important is that diminished resources are used in the best possible manner to provide maximum support to those with a disability.

Furthermore, included within that strategy plan is a comprehensive employment strategy for people who have disabilities. The aim of this is to provide affected persons with access to employment and to ensure that the services available to them at local level are co-ordinated. In addition, it aims to ensure that agency boundaries do not hinder the provision of joined-up access to what should be seamless support. This is of fundamental importance and I commend the Minister of State on her work in this area, specifically for requesting the drafting of the comprehensive employment strategy. We must ensure that people with disabilities are provided with the support necessary to put them in a position where their access to employment is at an equal level to that of everybody else in society.

The Government currently provides approximately €5 billion to disability services across all Departments. It is regrettable that some organisations which work with, and on behalf of, disabled people lost funding under the scheme to support national organisations. Applications for funding under this scheme were examined based upon the consideration of their social and economic benefits in addition to their consistency with the main priorities, policies, role and remit of the Department of the Environment, Community and Local Government.

These applications were assessed primarily by Pobal, not by the Department itself. Therefore, a decision not to fund any organisation is not a reflection on the work carried out, but rather that it did not score sufficiently on the assessment criteria. Perhaps such criteria need to be changed. The sad fact is that many valuable and worthwhile organisations lost out on funding as a result of this and I urge them to look to the appeals process being run by Pobal, the timeframe for which, I understand, is very tight.

Examining the support provided to disabled people by the Government, from a health perspective, shows that the Government is committed to providing them with a means to fulfil their full potential both socially and economically. The commitment in the Statement of Government Priorities 2014-2016 published on Friday that the Government will implement the report of the value and policy review of the disability services programme is welcome. I welcome the refocusing of the programme for Government on that measure.

Regarding the funding of services on an individualised basis the focus should be placed upon the individual as opposed to groups, as Deputy Dowds and the Minister of State have mentioned. The implementation of the value-for-money review will place an emphasis on providing choice for such individuals rather than by a professional or administrator. This marks a significant shift in policy, ensuring that the individual is at the core of the process.

I remind Members that the Government, unlike previous governments, has done its utmost to provide for vulnerable groups in society under very harsh economic circumstances. No such

15 July 2014

support was shown by the previous Administration, given it cut payments, such as the widow's pension, the carer's allowance, the blind pension, the invalidity pension and the disability allowance, not once, but twice.

Education is a key issue for those with disabilities and ensuring they have the highest level of educational support is paramount in providing them with the best opportunities in life. The 2014 budget in the Department of Education and Skills allocated €1.3 billion to supporting children with special needs. We have increased the number of SNAs each year, including an additional 390 in the most recent budget. Following on from this, the allocation of additional funding in excess of €7 million to the HSE social care operational plan is a very positive step that will assist more than 1,400 school-leavers and rehabilitation training graduates.

I am certain that the Minister of State would spend twice her budget for such services if she had it, but clearly our present economic circumstances demand that we achieve the best value for money. I commend the Minister of State on her work in this area. I am certain it will have a long-lasting effect on disability sector.

Deputy Éamon Ó Cuív: I congratulate the Minister of State on getting her many new responsibilities. I wish her well in those responsibilities. She always has been a genuinely committed person. I was very impressed that she once admitted openly on radio that she came into this House with one view, but found that most Deputies on all sides of the House work hard for people.

The last remarks by the previous speaker disappointed me because when I became a Minister, if I thought the previous Administration had made mistakes or did things I did not agree with, I reversed them. If the Deputy's party disagrees with the decisions we made in the area of social welfare and if he believes there are other cuts or other savings in the budget, the simple decision in the past three years was to reverse those cuts and apply some other cuts, extra taxes or whatever in their place. I would have thought that after three years the Government would have begun to accept responsibility for its own decisions and would have realised that to borrow more today is to mortgage the children's future tomorrow.

I am glad to see the acting Cathaoirleach in the Chair. Every year at this time those of us from Galway West faced the problem of the school-leavers because it was done on a regional basis rather than on a national basis. I recently got a phone call from the HSE to advise me that the new process was working and that following a very simple operational change it would be able to indicate to parents that they would have a place in the autumn. It has also meant that, contrary to what happened in other years where those with the lesser disabilities got fixed up first, those with greater disabilities, over whom there would be a much greater concern as to what would happen because of the cost factor, got equal if not priority treatment this year. I am not above giving recognition to the Minister of State for sorting out an issue that we had discussed with her.

It is very easy to say so many billions of euro are spent on disability. There is always the old saying that there are lies, damned lies and statistics and that we spend €3.3 billion in social welfare on disability. Perhaps we do and perhaps we do not but ultimately, if those concerned were not getting a disability payment they would be getting some other social welfare payment. Since they are citizens of our State, it is not really an additional burden on the State because were they all suddenly to be out looking for jobs, would the Government have 100,000 jobs to give them tomorrow? In the case of people in receipt of invalidity pension, does the Govern-

ment have 53,000 jobs to give them, were they all to seek jobs? As the answer is “No”, one way or another they would be likely to be a burden on the Exchequer in any event.

Another point this society must accept is that while we are very good at times about extra money for everything, at other times we the taxpayers are very reluctant to give the money that is to be spent. In the long term, one cannot rely on borrowing for day-to-day expenditure and one can only pay out what one gets in. I always think that were Members to recognise some of the basic ground rules, they could do a lot more for people. They could target the money better and could be much more productive in this Chamber. I find that in the committees, one often gets away from this type of big-speech debate onto a much greater focus.

I wish to target an issue on which I was working while Minister for Social Protection and on which I regret more progress has not been made in the meantime. It was an issue that came up when the famous cutbacks were being considered. As the Minister of State and every practising politician is aware, from dealing with people in receipt of disability allowance and invalidity pension, the spectrum of cases moving from a jobseeker’s allowance case into a disability payments case is a continuum. There are people on either side of the line for whom a case could be made to be on the other side of the line. However, as one goes further along the continuum, the disability becomes increasingly profound. Many people are receiving payments because they are not fit for work and are unlikely to be fit for work for more than a year but who do not have severe disabilities in the concept of what people understand severe disabilities to be. On the other hand, people are receiving those payments who are profoundly disabled. Some cannot walk, some cannot talk and others cannot do much for themselves at all. The entire spectrum is in play.

When I was in the Department of Social Protection, the officials had developed an idea on which I was very keen, namely, that for the first time ever in a scheme, one would grade disability from profound to moderate to mild. I introduced legislation for invalidity pensioners returning to the workforce to provide what was called partial capacity benefit. The Department decided it could differentiate and would stick its neck out and do so, although a person could appeal the differentiation, if he or she was not happy. This meant that someone who had a severe disability and who got a job would keep 100% of the payment, while someone with a moderate disability would keep 50% of the payment. If one had a mild disability and got a job, one would not keep the payment but would get it again automatically if one went back on invalidity pension. This was meant to be the beginning of a process that would have graded all disability and long-term illness payments or in other words, invalidity pension. Incidentally, Members should be honest about it, as the only main difference between the two is that in one case, people have a social contribution record and in the other, they do not. The idea was that having carried out such grading, one could then give a costed disability payment effectively. One could give a higher rate of payment to those with a profound disability, a slightly enhanced payment to those with a moderate disability and obviously, those with a mild disability would get a payment that was not much different than those of working age because one wished to avoid migration.

This issue became particularly acute when money became scarce, because I considered every way to avoid cutting payments to people with moderate and profound abilities. However, the problem was that the methods were not in place to do it within a three-month period. Nevertheless, I thought this approach should have been taken in the subsequent years and that it is vital to recognise that the more severe the disability, the higher the living cost. I have to hand figures stating 53,000 people are in receipt of invalidity pension, while 106,000 people are in receipt of disability allowance. In other words, approximately 160,000 people are involved and

15 July 2014

consequently, it takes a lot of money to give even an additional tenner a week to that number of people. However, if one segregates the categories, one might find that the number with a profound disability was actually quite low and that even in these times, one could afford to do something for them. The wider one makes the number of qualified people, the more difficult one will find it to do anything. If one takes 100,000 people at, say, €500 per week, that is €5 million to find and that is only at a tenner a week. However, if the number was much smaller, it would be much easier to do. This issue must be considered.

The second issue concerns employment and it is very sad to see that 106,000 people are in receipt of disability allowance. This means they did not have a contribution record that entitled them to an invalidity payment. Many of them probably never worked and one should not perceive work as being a burden on people. This is because in their heart and soul, while they may grouse about getting up in the morning, most people want to work. Moreover, it is well-attested in studies that because of socialisation of work and whatever, those who do not have somewhere to go to work enjoy worse health than those who do. This is even leaving aside any disabilities and applies even if one is merely unemployed. People should be afforded the opportunity to engage in the workplace. While I am unsure how it is working, an extension of the type of approach exemplified by the partial capacity benefit is needed. While I was Minister for Social Protection, I was very supportive of putting together all the schemes that facilitated people to get into employment in order that information was available. Moreover, I worked with the employability organisations to try to highlight that supports were available to employers to employ people. Some barriers did exist, such as, for example, people who moved from disability allowance into a work situation often lost free travel and many of them, because of their disability, could not drive a car. At the time, my Department and I were trying to find a way around that problem and Members should continue to work to ascertain what can be done in this regard.

Earlier today, I was talking about the community services programme. It is a great programme because it employs people in real work. It employs people doing things that need to be done and it gives them a wage. It is not like a community employment scheme or a Tús scheme, in that it actually gives people a real wage. Moreover, the employer can top up the wage if overtime is done and so on. All the organisations that employ people under this scheme must have their own income. Members should think of projects like the Dunbrody Famine Ship in County Wexford, Athenry Castle and many good examples nationwide. Some community facilities that are not open all day and which are not used to their full potential, despite the huge capital invested, could use such schemes. One idea I was developing at the time was that when groups were employing people under these schemes, the target groups, such as people with disabilities or Travellers, would have to form a certain percentage of the cohort of people employed. Consequently, if one created 1,000 new jobs and migrated money from disability payments over to such a scheme, the participants would be obliged to take a cohort of people and offer positions to them, in order that the playing pitch would be levelled in respect of employment. When most employers take on people with disabilities, they suddenly find that people with disabilities are very good workers and can make a huge contribution. Again, I believe the longer one is away from the workforce, the harder it is to break into it and there is no better way of breaking into the workforce than getting one's first job and somebody finding out that one is really able to do a job. Thereafter, one might move onto other employment.

As for disability services, I liked one sentence in particular in the Minister of State's speech. I have always had reservations about disability being under the auspices of the Department

of Health. Disability is not an illness but is a condition and that is simply a statement of fact. Therefore, I perceive it to be more of a community issue than a health issue although I think most people perceive it to be a health issue.

9 o'clock

It is about ensuring people have a proper lifestyle. The Government of which I was part introduced disability legislation and while it may contain flaws, at least it is on the Statute Book. Existing law can be built on, whereas the absence of law means one must draft new legislation. It was clear that a bedding down period for the legislation would be needed but progress has been made.

One of the most significant developments in recent years, and one to which the Minister of State referred, is the move away from congregational settings. We have a recognition in the education system and beyond, including in lifestyle choices, that the preference must be integration in the community and assisting people to live at home. It is widely recognised that this approach results in a better service at a lower cost. Nevertheless, one cannot count everything solely in money terms. One must also factor in the quality of the service provided. There is nothing wrong with providing better services for less money provided the setting is better.

I recall some houses that were rented, bought or built - preferably bought or built - and funded through various schemes. The aim was to move people from what would have been regimental settings into independent living. They included a fantastic development for people with significant disabilities run by the Brothers of Charity in Galway. I have visited the facility on a good number of occasions. Each person has an apartment in the complex, which also has communal dining rooms and so forth. It is worth visiting because a five star hotel would not be better, which is as it should be. We should not be shy about giving people the best, nor should we take the view that one cannot do things well because the money belongs to the State. In fairness to the developer of the estate in question, he had a social conscience and did things well and to a high standard. In fairness to the Brothers of Charity, they did a fantastic job. A great deal can be done to move forward, even when money is tight.

I noted the Minister of State's arguments on education, school settings and so forth. The other night I made a personal visit to a couple, both of whom are teachers. One of them is involved with students who have disabilities. I was disappointed to learn that while the set-up in the school in question is good until the junior certificate year, thereafter there are no challenges or proper programmes and supports in place for students with a disability. It is sad that children with disabilities are not being offered a programme that would lead to some qualification or a sense of personal achievement. It is not good enough to spend money until the junior certificate has been completed and then decide the job is done. We must ensure each individual can achieve his or her personal best.

I could have argued that everything the Minister of State is doing is wrong. She and I both know the challenges we face. I congratulate my colleagues in the Technical Group on tabling the motion. We must ask how we can persuade taxpayers to give more money for services. However, even with the money available to us, we could implement significant reforms that would result in the provision of better services.

Deputy Caoimhghín Ó Caoláin: I welcome the motion and commend Deputy Finian McGrath and his colleagues who tabled it. I also welcome the Minister of State back on her feet.

15 July 2014

Throughout my time in the Dáil I have argued for a rights-based approach to services for people with disabilities. Regrettably, successive Governments have failed to take such an approach. The result has been that people with disabilities and their organisations, networks and services have been at the mercy of arbitrary cutbacks in budget after budget. I propose to highlight the latest round of such cuts.

At the start of July, the Irish Deaf Society was refused funding under the scheme to support national organisations, SSNO, and had to close its operation. It subsequently came to light that 25 other health and disability-related organisations had also been denied further funding. The scheme to support national organisations is administered by Pobal under the Department of the Environment, Community and Local Government and the current scheme runs from now until 2016. The Neurological Alliance of Ireland is facing closure after losing its core funding under the SSNO. All 11 neurological organisations that were receiving support from the scheme have lost their funding, as a result of which various front line and other important services will be axed and jobs lost. In the case of the Neurological Alliance of Ireland, the organisation will be forced to effectively cease operations by the year end unless an alternative source is found to replace lost funding of €60,000 per annum.

The other neurological organisations affected include the Multiple Sclerosis Society of Ireland, Muscular Dystrophy Ireland, the Irish Motor Neurone Disease Association, the Migraine Association of Ireland, the Huntington's Disease Association of Ireland, Chronic Pain Ireland, Acquired Brain Injury Ireland, the Alzheimer Society of Ireland and the Irish Heart Foundation Stroke Action. The Irish Motor Neurone Disease Association has had to end its front-line visitor programme and MS Ireland will lose its information, advocacy and research officer. The Alzheimer Society of Ireland will not be able to put in place vital early intervention services for people with dementia. Chronic Pain Ireland will cease operations in less than 12 months. The Migraine Association of Ireland will lose one third of its staff and Muscular Dystrophy Ireland's front-line facilities manager post cannot be filled. The Huntington's Disease Association of Ireland is being forced to end direct front-line services, such as counselling, equipment and carer meetings owing to the loss of core funding support, and the Irish Heart Foundation Stroke Action's community stroke support programme will be severely curtailed.

This is a but a snapshot of what is happening as a consequence of decisions affecting a sector that focuses specifically on people with neurological needs. Overall, some 26 disability and health and caring-related organisations have had their funding revoked in the allocations for the 2014-2016 round of the scheme to support national organisations, at a total loss of approximately €1.2 million annually. The Disability Federation of Ireland has called on the new Cabinet to enact measures to restore this funding.

These cuts are disgraceful - there is no other way to describe them - mean and penny-pinching. Their impact will extend far beyond their monetary value. Services' advocates and resources for people with disabilities and others are being lost. I appeal to the Minister of State, who now has an enhanced portfolio responsibility, that while the decision does not rest within her Department, she should use her own long-proven record of advocacy, before the summer recess commences at the end of this week, to have a commitment from the new Minister for the Environment, Community and Local Government - her own party colleague, Deputy Alan Kelly - to overturn these cuts and restore funding to these important organisations. They are providing critical front-line services to people who most certainly need them. I would be grateful if, in her reply to this debate tomorrow, the Minister of State might be able to give us some hope of a reversal of these cuts.

Debate adjourned.

Message from Seanad

Acting Chairman (Deputy Brian Walsh): Seanad Éireann has passed the Radiological Protection (Miscellaneous Provisions) Bill 2014 and the State Airports (Shannon Group) Bill 2014, without amendment.

The Dáil adjourned at 9.15 p.m. until 9.30 a.m. on Wednesday, 16 July 2014.