



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Déardaoin, 2 Aibreán 2015

Thursday, 2 April 2015

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Garda Complaints Procedures

1. **Deputy Niall Collins** asked the Minister for Justice and Equality when the independent review mechanism will complete its work; the actions that will be taken following its recommendations; if a commission of investigation will be established; and if she will make a statement on the matter. [13369/15]

Deputy Niall Collins: I ask the Minister for an update relating to the independent review mechanism. She will recall that it was established in July 2014 and it was initially indicated that there would be an outcome of the process within eight to 12 weeks. We are now many months on from last July. Can the Minister give an update on when the work will be completed, the possible recommendations that will flow from it and whether a commission of investigation will arise from it?

Minister for Justice and Equality (Deputy Frances Fitzgerald): I express my ongoing thanks to the panel of counsel examining these cases.

The Deputy is referring to the mechanism established last year for the independent review of certain allegations of Garda misconduct, or inadequacies in the investigation of certain allegations, which had been made to a variety of Members of this House. A panel consisting of two senior and five junior counsel was established for the purpose, all selected on the basis of their experience of the criminal justice system.

The volume and complexity of cases has led to the review taking longer than originally anticipated, but it is important that counsel take the time necessary to consider each case fully and carefully. Given the fact that there are more than 300 cases and the complexity and sensitivity of the matters involved, the process has taken longer than initially envisaged, but I did not seek to rush the process at any stage, as that would not have been fair to counsel or to the people

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whose cases were being examined.

The independent review is now at a very advanced stage in the vast majority of cases. In some cases, new material came in and they had to be referred back again so that we could consider the new material. Although counsel have not finished their work, my Department has now received a number of recommendations from counsel, and shortly after Easter I intend to start the process of notifying the persons concerned of the outcome of the review of their cases.

The recommendation in each case is a matter for counsel. Clearly, there are a number of possible options for further investigation, in particular by way of referral to GSOC. However, I feel it is important to point out that in a large proportion of cases, counsel will likely recommend that no further action can reasonably be taken. This might be, for example, because a case has already been through due process even though the complainant remains unhappy with the outcome. The crucial point, however, is that every case will have been reviewed by independent counsel, who will have made an objective recommendation.

The Deputy will appreciate that I should, in the first instance, inform the individuals in question of the outcome in their individual cases. It would not be appropriate for me to say what the outcomes are at this stage. I have also asked counsel, in addition to making recommendations in individual cases, to produce a general overview of the issues and trends identified through this process.

Deputy Niall Collins: There is no doubt that the volume of cases is quite immense, and I accept that there is a reason for the delay, but this reason should be communicated to each of the people who submitted papers for consideration. I am no different from others in this House who have submitted documentation on behalf of various people. Many of those people have got back to me because there has been a lack of communication and their confidence is being undermined as a result. It would be timely on the Minister's part even to send a holding letter just to tell them what her intention is. She has told us she believes the review will be ready after Easter.

One particular case is that of Ms Sarah Bland, who has been in contact with me on a number of occasions. Her case was not considered under the independent review mechanism but it is a very serious case which goes back many years. I have met with Ms Bland and I wonder if the Minister would consider meeting with her to hear her case as a public representative.

An Ceann Comhairle: I thank the Deputy. I will allow him to speak again.

Deputy Niall Collins: We need to find a mechanism to help this individual.

Deputy Frances Fitzgerald: I would prefer not to comment on individual cases. There are very wide criteria for referrals to the review mechanism. There has been no filter except where cases clearly fall outside the criteria. We have been very open to referring the cases that the Deputies have referred to us, and the vast majority have been referred to the review mechanism. If a case has not been referred, it has been for a very good reason. I will examine the case to which the Deputy refers to see precisely what happened.

I am sure the recommendations of the review mechanism will be tough for some complainants to accept, but as this process has progressed I have been advised that counsel has identified a number of overarching and cross-cutting themes. It is very important for us to study these cases - more than 300 of them - and find the common issues that emerge in order to identify

what further action we should take.

Deputy Niall Collins: I will give the Minister the details of Ms Sarah Bland after this session. Maybe the Minister can contact her directly herself, because it is a very serious case which did not make it into the review mechanism. There is an injustice in the case of Sarah Bland and a mechanism to address it must be found. I will provide the Minister with details afterwards.

Is it fair to state the Minister is not ruling out a commission of investigation following the completion of the work by the panel of barristers who comprise this independent review mechanism? I believe a formal commission of investigation will be merited in a number of cases that are in the public domain. Can the Minister confirm to Members today that a formal commission of investigation established by the Oireachtas is a potential outcome arising from the review mechanism?

Deputy Frances Fitzgerald: When replying to the Deputy, I must stress that counsel have been asked to make a recommendation to me on what action, if any, might be appropriate in each case. The panel is independent and there is no restriction on the nature of the recommendations it might take. A wide range of actions could be taken in respect of any particular case, such as referral to the Garda Síochána Ombudsman Commission, GSOC, referral to the Garda Commissioner for further information or for disciplinary action or referral to a commission for examination. This remains open as an option to counsel if they believe a commission of inquiry is warranted. There are no restrictions on them and I must await the outcome of the 300-plus cases to ascertain whether there is a recommendation for a commission in any of them. Obviously, if such a recommendation is made, I will follow up with that, but I must await the outcome of the investigation of the cases.

Garda Misconduct Allegations

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality if she will provide an update on the progress of the work of the independent panel of counsel that is reviewing allegations of Garda malpractice; and when its recommendations are due. [13425/15]

Deputy Pádraig Mac Lochlainn: As the Minister can see, this question is on the same theme. I thank her for taking the two questions separately to give to the matter the length of time it requires. The question pertains to the length of time, which obviously adds to the distress of the families who await an outcome.

Deputy Frances Fitzgerald: Many of these cases have been around for more than ten years, and some for 20 years. I have made clear that they are cases for which, in many ways, nobody else has ever found a solution to the satisfaction of the complainants. This is the first time a Government has taken this number of cases that have been on the desks of Deputies or have been of concern and, if one likes, has gathered them together and referred them to an independent process. It is completely independent, as the panel is taking the cases for some of which there are volumes of files. The panel members have examined them thoroughly in an independent manner to ascertain whether there is any further legal or administrative action that can be taken. This is the reason for the review mechanism. It is extremely time-consuming, and I made the decision to await the comprehensive result from the review mechanism. However, as I stated, after Easter I will start to examine the recommendations that have come to

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the Department, and I will write to the people involved in each of the cases. I note it will be quite a job even to craft a response. We will get the file with the recommendations. I imagine there will be an analysis of the cases, and it will be quite a job to pull together the detail and the recommendations and make sure that in the Department's response to each individual case the recommendations made are dealt with comprehensively. However, the Deputy should reassure anyone with whom he is in touch that this will happen after Easter. I certainly can put something into the public arena to make clear that this is what is happening. After Easter, the people concerned will begin to hear of individual cases that have been referred. The entire process is not yet complete, as cases remain outstanding, but the panel is working on them. Nevertheless, at this point I believe I should begin to give information to individual complainants.

Deputy Pádraig Mac Lochlainn: The Minister will appreciate, particularly regarding the Guerin report and some cases that have come to public prominence, that many families may have let their own cases rest or become dormant but later came forward. Many people in politics on both sides of the House have been meeting families and listening to their cases, which is why I welcomed this initiative when it took place. While I accept that the panel is independent, have its members been meeting the persons who made the allegations to follow up and clarify the documentation submitted? Have the panel members examined the original Garda files? How rigorous is the process involved? As the Minister is aware, I am sure there will be many disappointed people whenever the matters come forward. While some cases undoubtedly will not justify further action, I believe that some will. If there are disappointed families, it will be important to demonstrate that this process was both independent and rigorous and that, unfortunately, nothing more can be done in the independent view of the barristers, having engaged in a rigorous process.

Deputy Frances Fitzgerald: I have made clear previously that this is a review of the written files, and the counsel have not met individuals. The Deputy mentioned how the time taken already has been long, but that really would have taken much longer. It was never envisaged that it would be that type of process. It is a comprehensive review of all the information, and in several debates on this matter I have made clear on the floor of the Chamber that if the people involved in the cases so wished, further information could be submitted. This has happened, and in some cases where a recommendation was made, further information came in and my Department sent it back to counsel for further attention. While not all of complainants have made clear when their complaints originated, in cases in which they have made it clear, it is possible to state that at least 65 complaints originated before the year 2000, with the oldest complaint dating back to events that occurred in 1969. There is a lot of information involved.

I take the Deputy's point that people may well be disappointed. I believe this is true, because if one has pursued a case for many years in the belief that something was not done that should have been, such a belief may well remain with one and it may not be possible for any legal or administrative action to be taken that would satisfy one's belief or where further action could lead to another outcome. This is what I have asked the counsel to examine, namely, to ascertain whether there is another pathway or if there has been malpractice or if something is clearly missing and some action should have been taken. However, I note, for example, that in the vast majority of complaints to police forces internationally-----

An Ceann Comhairle: I will let the Minister back in.

Deputy Frances Fitzgerald: -----only approximately 5% to 10% of cases require further action.

Deputy Pádraig Mac Lochlainn: In fairness, Members are aware from the history of policing in the State that the level of professionalism in investigations has evolved over the years.

Deputy Frances Fitzgerald: Yes.

Deputy Pádraig Mac Lochlainn: Obviously, Members commend the most recent case in the past week, in which some superb policing took place. However, it has not always been of that standard. My concern is that some families are highly resourceful and have the capacity, perhaps with professional assistance, to summarise coherently what are the issues for them. However, other families may not have that type of resource available to them and perhaps the documentation does not do them justice. Members raised this matter two months ago and thought it would be dealt with within a month. I urge that these matters be brought to a conclusion.

Another concern expressed was that people would not receive feedback unless the entire grouping of allegations was dealt with in its entirety. In other words, were someone to make a new allegation, it would be necessary to investigate it before the original group of complainants would receive their feedback. I urge that the process of giving people their outcomes begin as soon as possible. Finally, has the panel been looking at the original Garda files?

Deputy Frances Fitzgerald: Yes, any files that have been submitted, and where the panel has sought additional information on a case, its members can obviously request that. I confirm to the Deputy that even though the entirety of complaints that have come in have not been examined at this point, I have taken a decision to begin the feedback after Easter to individual complainants where the cases have been completed, when I will start to send out those letters to individuals. I wish to provide some further information to Members. The majority of the complaints are against An Garda Síochána, approximately 99 are against GSOC and 128 involve other bodies. One of the reasons I was waiting to have as many as possible completed before I started giving out recommendations was to be able to give a comprehensive report. I have asked for that report and will publish it with its analysis and recommendations.

Garda Síochána Ombudsman Commission

3. **Deputy Mick Wallace** asked the Minister for Justice and Equality if she will update Dáil Éireann on the appointment of a replacement for the former Chairperson of the Garda Síochána Ombudsman Commission, GSOC; if she is satisfied that the Commission is sufficiently resourced to deal with challenges facing it; and if she will make a statement on the matter. [13488/15]

Deputy Mick Wallace: When will the Minister appoint a replacement for Simon O'Brien? It is strange that it has not happened. What process does she intend to use? I understand that section 65 of the Garda Síochána Act 2005 allows for a 100% political appointment. Has the Minister considered changing that system in any way? It is obvious that despite the Minister having given an extra €1 million to GSOC this year, it is under-resourced and does not have the potential to do what it is supposed to do.

Deputy Frances Fitzgerald: It is vital that the public has strong confidence in the Garda Síochána and the system of oversight of the Garda Síochána. The Government is implementing a comprehensive programme of reform in the areas of policing and justice. As part of the pro-

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gramme of change, the Garda Síochána (Amendment) Act 2015, which I will be commencing very shortly, will strengthen and clarify the remit and capacity of GSOC, and I will keep under review the case for further change.

I remain in contact with GSOC and the Department of Public Expenditure and Reform in relation to resources for GSOC. I should mention in this regard that the recent budget granted GSOC an increase of €1 million in its allocation for 2015.

Mr. Simon O'Brien resigned from his position as chairperson of GSOC on 30 January 2015. Mr. O'Brien made an important contribution in his role as the chairperson of GSOC, as well as in his previous role as deputy to the chief inspector in the Garda Inspectorate, and I again put on record my appreciation for his service.

With regard to the vacancy that arose on foot of Mr. O'Brien's resignation, the 2005 Act provides for a situation where a member of GSOC has resigned his or her position and permits GSOC to act notwithstanding the vacancy. The appointment of members of GSOC is governed by section 65 of the 2005 Act. This stipulates that the commission consists of three members, all of whom are to be appointed by the President on the nomination of the Government, following the passage of resolutions by both Houses of the Oireachtas recommending the appointments. The 2005 Act requires that the Government must be satisfied that persons nominated have the appropriate experience, qualifications, training or expertise for appointment having regard to the functions of GSOC. The person who will be appointed to GSOC will serve out Mr. O'Brien's term of office which will expire at the end of December 2016. That is in line with the Act.

I wish to inform the House that following careful consideration of the matters, I have decided to advertise the position of chairperson of GSOC for the remainder of the term.

Deputy Mick Wallace: The Minister said GSOC can carry on its work while waiting for the third commissioner to be appointed. The sad point is that it cannot carry out its work. It is under too much pressure. The extra workload involved in giving it the job of confidential recipient seems to be beyond it. For example, the case of a whistleblower named Keith Harrison was referred to GSOC last September. He spoke to Simon O'Brien in December and Mr. O'Brien said he was taking it very seriously but he has not heard a word since then and it is now April. Another whistleblower complained to GSOC in November 2014 and has heard nothing. They are both gardaí. GSOC does not have the capacity to behave as a confidential recipient.

GSOC's remit was always intended to be investigatory, rather than review and oversight. It does not have a prayer of being an investigatory body without the necessary resources.

Deputy Frances Fitzgerald: I meet with GSOC. We gave it €1 million extra in the recent budget and it recruited extra people. It is getting on with the job of investigation. I received its report for this year late yesterday which outlines its work. I cannot comment on individual cases but I am very keen that the public and the Garda have confidence in GSOC and that it gets on with the work of investigating. It is doing that.

The Deputy is quoting particular cases and timeframes. I do not know the reasons for those delays but it is examining the cases that come before it. The chairperson will be replaced soon. In the meantime, the other officers are getting on with the work.

Deputy Mick Wallace: The Minister says the public has confidence in GSOC. That is not

true. The Minister knows that it does not. As she said in response to the previous question, many complaints are based on the fact that people did not get satisfaction from GSOC. It is not that the people in GSOC are bad people, rather it does not have the potential to be the body it was intended to be. We all realise that it was structured in the first place not to succeed and sadly that remains the case.

In 2013, the UN rapporteur on human rights expressed concerns about how GSOC worked and said that the excessive dependence on the Department of Justice and Equality was worrying. It said that it should be an independent body. The Garda Síochána (Amendment) (No.3) Bill 2014 that the Minister brought in does not make it independent. It is too dependent on the Department and the Minister. The Minister has retained control over its ability to investigate the Garda Commissioner. It is not allowed to investigate retired gardaí. It does not expand the grounds of admissibility, does not require mandatory involvement of GSOC in all investigations, does not prohibit gardaí from serving in GSOC and does not reform the informal resolution mechanism. It was a very disappointing effort. The lack of resources is crucial. The Government will not get a GSOC that is fit for purpose until it gives it far more resources than it has done. If it wants it to work properly, it will have to resource it.

Deputy Frances Fitzgerald: Resources are an ongoing problem for every body. I reject what the Deputy says about GSOC's independence. GSOC gets on with its work in an independent manner. Last year, it had an increase of 11% in referrals. We changed the legislation to give it more power. Under the provisions of the new Act, for the first time, there is an inclusion of the Garda Commissioner within GSOC's investigative remit, there is a broadening of the scope for me to refer cases to it, and there is the conferral of additional police powers for criminal investigation and greater autonomy for it in examining Garda practices, policies and procedures. Any reasonable person would accept that it has been given greater powers and has been given an extra €1 million-----

Deputy Mick Wallace: That is not true. The Minister has kept control.

Deputy Frances Fitzgerald: In a very exceptional way, as the Deputy knows. It is getting on with its work day to day. Any reasonable person knows and would accept that. There has been an 11% increase in the number of cases coming to it. An extra €1 million has been allocated. It is getting on with its work, investigating complaints it receives. I am sure one could make improvements and legislative change in every body. We have done that this year. We have brought in legislation to strengthen its powers. The Bill regarding the police authority will come up later this year. If there are further changes to be made, we can use that Bill.

Garda Recruitment

4. **Deputy Niall Collins** asked the Minister for Justice and Equality the optimum level of membership of An Garda Síochána; her views of the high level of sick leave within An Garda Síochána; and if she will make a statement on the matter.

Deputy Niall Collins: In light of the revelation that since 1 January 2015 there are 12,799 gardaí, what does the Minister believe is the optimum head count for the force, bearing in mind that on average, on any given day, up to 500 may be out sick?

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Deputy Frances Fitzgerald: This is an issue I have hugely committed to, as seen from the announcement yesterday of a further 250 gardaí being recruited. This brings to 550 the number of gardaí to be recruited between September of last year and October of this year. We also have 1,100 Garda reserve members and a further 45 in training and 2,000 Garda civilian staff. The latest date for which figures are available shows 12,763 members of the Garda Síochána. I am very pleased that my colleague the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, agreed to the resumption of Garda recruitment. We have had three intakes and the first of these will attest as sworn members of the force in May, with the additional recruits attesting in September and October.

There is no particular scientific basis for calculating an optimum number but clearly there must be sufficient gardaí, supported by skilled personnel and with sufficient resources, to deliver the policing service the public expect and deserve. This is why we have put the focus on Garda recruitment and opened up Templemore and that is why I have committed to seamless, ongoing recruitment, which I am delivering on. We must look at the reforms the Garda Commissioner has started, with the establishment of the strategic transformation office to oversee the organisational changes necessary, and we must overhaul the information and communications technology.

All of these factors must come together if we are to have an efficient police force that is able to meet the objectives of the kind of community policing we want to see and the proper investigation of criminal activity. We must ensure there is the best use of all Garda resources, which is featured strongly in the recent Garda Inspectorate report on crime investigation.

With regard to sick leave, the following table shows the level of sick leave in the Garda Síochána between comparable periods in 2013 and 2014, which includes the period since the introduction of the new public service sick leave scheme. Comparing the period April to December of each year, there is a reduction in 30% in the number of days lost through sick leave. This is a welcome development.

Sick Leave Statistics comparing 01 Apr-31 Dec 2013 to 01 Apr-31 Dec 2014

Sworn Members

PERIOD	Overall Sick Leave	Ordinary Illness	Injury On Duty
2013 (Apr-Dec)	173,884.5	142,257	31,627.5
2014 (Apr-Dec)	121,579	94,115	27,464
% Decrease	30%	34%	13%

NB - The above figures are as recorded on Sick Absence Management System (SAMS) and reported as at 12.02.2015.

The total number of sick days recorded on SAMS are the number of calendar days that staff are absent and may include weekends and rest days

Sick Leave Statistics comparing 01 Apr-31 Dec 2013 to 01 Apr-31 Dec 2014

Sworn Members (5/7 formula applied)

PERIOD	Overall Sick Leave	Ordinary Illness	Injury On Duty
2013 (Apr-Dec)	124,203	101,612	22,591
2014 (Apr-Dec)	86,842	67,225	19,617
% Decrease	30%	34%	13%

NB - The above figures are as recorded on SAMS and reported at 12.02.2015*

The total numbers of sick days recorded on SAMS are the number of calendar days that staff are absent and may include weekends and rest days.

To align the lost time rate for AGS in line with other public sectors the formula of 5/7 was applied to the number of sick days recorded as “ORDINARY SICK LEAVE” for 2013.

This formula was applied notwithstanding that the majority of gardaí work a roster over ten weeks, working ten hour shifts, six days on and resting for four days.

Deputy Niall Collins: I heard the Minister’s announcement yesterday and I think more recruitment needs to be done over and above the 250 announced. I raised this with the Garda Commissioner last week when she attended the meeting of the Joint Committee on Justice, Defence and Equality. If the Garda Commissioner must roll out a multi-annual policing plan, she must be allowed to engage in multi-annual planning. Unfortunately, manpower is the biggest resource she needs. When I attend public meetings about crime around Dublin and throughout the country, the biggest issue raised is Garda response times because of the availability of gardaí to respond to calls. Some 1,498 members are eligible to retire today, which is a staggering figure. They will not all retire within the one year or month but it is significant. The Minister must have another conversation about recruitment with the Minister for Public Expenditure and Reform, Deputy Brendan Howlin.

I raised the matter of the Garda reserve before and, lo and behold, I got two calls from people last week who were called for interview. There seems to be something happening in examining the people who applied to be members of the Garda reserve. How many will be taken on as a result of the interview process the Public Appointments Service is undertaking?

Deputy Frances Fitzgerald: The deployment of operational resources the Garda Commissioner has is an operational issue. Members of the Garda Síochána are getting on with the work. I have been struck by comments from colleagues in the House and members of the public about their appreciation of work in local cases and high-profile cases. People have been impressed with the commitment of members of the Garda Síochána, the level of criminal investigation and quality of work. Deputy Mac Lochlainn spoke earlier about how methods developed and there have been huge improvements made in standards. That is very obvious in terms of the Molloy report, which I published this week. Today’s standards of investigation are quite different.

Response times are improving and greater recruitment will give greater flexibility. The point of the extra recruitment is flexibility to deploy people as they are needed in local communities. Opening up recruitment and having 550 new gardaí to deal with the issues described is a significant step to have taken this year.

Deputy Niall Collins: Everyone is happy to see recruitment under way but I am emphasising the figure of 1,498 gardaí eligible to retire. I remind the Minister of what the Garda Commissioner said at the committee meeting last week that she can easily have 500 members put

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through training in Templemore per annum. I emphasise that there will be an issue if there are 1,498 eligible to retire today in terms of the level of recruitment. It will fall short if we are to maintain headcount in the Garda Síochána at the magic number of 13,000. The Minister said 45 reserves were in training. How many will there be in the next intake? Can the Minister give an insight into the grand plan?

Deputy Frances Fitzgerald: In 2012 and 2013, the Public Appointments Service received a record number of expressions of interest in joining the Garda reserve. That is probably linked to the new recruitment campaign and people wanted to show they were interested. Twenty-three of the first batch of 100 recruits were members of the reserve, 17 former reserve members were in the second batch of 100 new recruits and 13 former reserve members were in the third batch of 100 new full-time recruits. I explained that recruitment to the Garda reserve is ongoing but was slow in 2014 because of resource issues in the Public Appointments Service, which decided to concentrate on recruitment to the full-time force. This is expected to change in 2015 and the new powers will be rolled out to the Garda reserve shortly. If someone has been in the Garda reserve, it is a factor that the Public Appointments Service takes into account when doing interviews. It is relevant experience and is an important aspect of an applicant's CV when a decision has been taken.

Deputy David Stanton: On a point of order, with respect-----

An Ceann Comhairle: This is Question Time.

Deputy David Stanton: We have gone ten minutes over the 30 minutes allocated for Priority Questions and it is eating into Oral Questions for ordinary Members. I just want to bring it to the attention of the Ceann Comhairle.

An Ceann Comhairle: I am trying my best.

Garda Oversight

5. **Deputy Mick Wallace** asked the Minister for Justice and Equality in view of the fact that it is over one year since the departure of the former Garda Commissioner, if she is satisfied with efforts made to change the culture and workings of An Garda Síochána; and if she will make a statement on the matter. [13489/15]

Deputy Mick Wallace: It is over a year since the Commissioner went and nearly a year since the Minister went but it is hard to see any serious change. Will the Minister tell me when she expects the police authority to be up and running? With regard to the implementation steering group, the Cabinet sub-committee oversees it. Is there external oversight of it? With regard to the Garda professional standards unit, GPSU, report on fixed charge notices, will the Minister tell me if anyone has been disciplined or any sanctions brought? What was the outcome of the internal disciplinary proceedings of the three gardaí referred to in the O'Mahoney report?

Deputy Frances Fitzgerald: The question asks whether I am satisfied with efforts made to change the culture and workings of the Garda Síochána and to make a statement on that. Significant change, under the leadership of the new Garda Commissioner, is under way in the Garda Síochána. I unequivocally reject any suggestion otherwise. I will be publishing the policing authority Bill by the end of April or in May and we are working hard on it. That legislation an-

nounces the most profound reform of the Garda organisation in its 93 year history.

Another important change was the appointment, for the very first time, of the new Commissioner by way of an open competition. This is a clear indication that change has come, and the Commissioner has not wasted any time in bringing about organisational and operational change. A new strategic transformation office has been established to ensure changes are being delivered correctly and on schedule. Risk compliance and continuous improvements offices have been set up in each region, headed by a superintendent, to deliver changes at regional level in a standard and consistent way. New units have been established to focus expertise more effectively in particular areas, such as organised crime, domestic and sexual violence, and human exploitation. Detective superintendents in the regions have been charged with delivering a co-ordinated and effective approach to crime. The policing plan for 2015, which has been laid before the Houses, sets out clearly the Garda objectives for this year. I encourage Deputies to look through it. Finally, the Deputy is familiar with the Government's programme of legislative reform, which includes a range of initiatives in this area.

Deputy Mick Wallace: I acknowledge that problems within the Garda organisation have been pinpointed. The difficulty, however, is that we still have not seen the necessary reforms implemented. The Minister did not indicate when she expects the police authority to be up and running. Will she clarify whether any disciplinary action was taken arising out of the Garda professional standards unit, GPSU, report into fixed charge notices? Were any sanctions applied in respect of the Garda Inspectorate report? The latter represents a very serious body of work but there is a problem in that an internal Garda body is involved in the implementation steering group. As I pointed out to the Taoiseach earlier this week, a chief superintendent involved in that work is the subject of three separate ongoing investigations. That is very worrying. It is vital that there be independent oversight of the implementation of the Garda Inspectorate report. Will the Minister give a progress report on the 200 recommendations it contains and indicate how many meetings of the implementation steering group have taken place? Without independent oversight, we will not see much change.

Deputy Frances Fitzgerald: The Deputy refers to change and oversight. It is useful to consider just one example of change, namely, the reform of the fixed charge penalty system, FCPS, cancellation process. I have appointed Judge Matthew Deery, a former President of the Circuit Court, to act as head of an independent oversight authority for the cancellation process. That role is in addition to the ongoing internal audit of the system. Judge Deery will be free to inspect at random any fixed-charge notice cancellation and report his findings on the operation of the system to the Minister. The practical arrangements for him to take up this role are being put in place at present. Three people will now be charged with making those decisions and the criteria are much sharper. That is evidence of real change. Any reasonable person considering this and other reforms would accept we are seeing real cultural and administrative change within the force.

I will shortly begin the process of advertising for applications for membership of the police authority and putting in place a shadow board. I expect the authority to be up and running in the course of this year.

Deputy Mick Wallace: Any reasonable person would see the Minister is not prepared to answer all my questions. Were any sanctions or disciplines imposed on people found to be out of step in the GPSU report? What was the outcome of the internal disciplinary proceedings against the three gardaí referred to in the O'Mahoney report? The Garda Síochána (Amend-

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ment) (No. 3) Act 2015 is weak but at least there is something in it. When will that legislation be commenced and will it be done in its entirety? The Minister did not answer my question about the importance of ensuring there is some independent oversight of the steering group that was established to implement the recommendations of the Garda Inspectorate report. Finally, we wish things were better and had changed in the wake of the appointment of the new Commissioner but the reality is there are two Garda whistleblowers claiming that in the case of two internal investigations the person against whom they made a complaint was kept informed about the investigation while the complainants were harassed. How in God's name is this different from what was going on before?

Deputy Frances Fitzgerald: The Taoiseach asked the Deputy for information when the Deputy raised this matter with him. If he has information, he should supply it.

Deputy Mick Wallace: The Garda has the information.

Deputy Frances Fitzgerald: Regarding disciplinary proceedings, I will get an update on that issue and put it on the record of the House. I understand the investigation in that regard is ongoing. It is important that An Garda Síochána should take responsibility to implement the many findings of the Garda Inspectorate report. There are short-term, medium-term and longer-term recommendations included in the report. The Garda authorities are getting on with that work and are in ongoing contact with the Garda Inspectorate. The latter is an independent body which clearly has an interest in the implementation of its recommendations, as does my Department. Many initiatives have been undertaken by An Garda Síochána to begin the implementation of the Garda Inspectorate report.

Other Questions

Youth Justice Strategy

6. **Deputy Niall Collins** asked the Minister for Justice and Equality if she is satisfied with the number of persons under 25 years of age being committed to prison; the current number of persons under 25 years of age in prison; and if she will make a statement on the matter. [13371/15]

Deputy Niall Collins: Will the Minister outline the number of prisoners aged under 25 currently within the prison system? The most recent information available to me indicates there are 844 such prisoners. We have had two reports which referred to this matter, the report by the Oireachtas justice committee on penal reform and the strategic review on penal policy. Will the Minister indicate any plans or proposals she has in light of the recommendations of those two reports?

Deputy Frances Fitzgerald: On 28 February 2015, there were 774 prisoners in custody under the age of 25. This represents 20% of the total prisoner population of 3,780 on that day. It also represents a 25% decrease when compared with the same date in 2012.

This reduction is due to several factors, including the successful implementation of the Children Act 2001 and the very successful Garda diversion programmes in place throughout the country. We intend to expand that programme this year. Other factors in the reduction in pris-

oner numbers are the successful supervision of young offenders by the young persons probation service and the provision by the Health Service Executive of high support and special care units, which act as a diversion for complex cases. The children in these units are now receiving more appropriate care than they would have done in the past.

The primary role of the Irish Prison Service is to provide safe and secure custody for prisoners. The service must accept all persons committed by the courts into custody and does not have the option of refusing committals. The service collates and publishes excellent statistical data on a daily, monthly and a quarterly basis, and the data are available on its website.

Responsibility for 16 year old males was assigned to the Oberstown campus in 2012. I take this opportunity to thank the Inspector of Prisons and Places of Detention for his ongoing work in this area. In line with his recommendations to effect changes in regime and culture and to ensure the safe and secure custody of juvenile and young adult offenders, a Government decision was taken to close St. Patrick's Institution and invest €56 million in the Oberstown campus.

All 17 year old males currently serving a sentence are in custody in Wheatfield Place of Detention, which focuses on the provision of a comprehensive work and training programme for all offenders, specifically targeting those prisoners aged 21 years and younger.

Additional information not given on the floor of the House

Males of 18 years and older may be sentenced to any committal prison, at the direction of the presiding judge. Prisoners aged 18 years or older may also be transferred from Wheatfield Place of Detention to other prisons for family and other compassionate reasons.

With effect from last Monday, 30 March 2015, the Oberstown Campus is receiving 17 year old males who are remanded in custody. Such children were previously remanded to St. Patrick's Institution, which has long been a matter of concern. Responsibility for the remand of 17 year old males on new remand warrants is now assigned to Oberstown. However, all 17 year old children currently remanded in custody in St. Patrick's will remain there until the expiration of their current remand order. The Irish Prison Service has prepared a contingency plan, where it may be unavoidable that a child has to be temporarily remanded in custody to St. Patrick's Institution, and any such case will be actively managed by close co-ordination with the Irish Youth Justice Service. This is an important further step towards the implementation of the programme for Government commitment to end the detention of children in adult facilities.

In co-operation with the Minister for Children and Youth Affairs, I am anxious to ensure the ending of the practice at the earliest possible date of detaining children in adult prison facilities. I have requested the various agencies concerned in the criminal justice system to co-operate closely in the implementation of this measure. These arrangements will apply until additional facilities have been opened in Oberstown and the Children Act 2001 has been amended during 2015, which will enable the full transfer of responsibility for 17 year old males to the Oberstown Campus, including 17 year olds who are serving a sentence in Wheatfield Place of Detention.

The statistics requested by the Deputy are set out in the following table.

Table 1 - Prisoners aged 17-24 by location

Prison	17	18-20	21-24	Total
Arbour Hill Prison	0	0	8	8

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Prison	17	18-20	21-24	Total
Castlerea Prison	0	22	55	77
Cloverhill Remand Prison	0	30	50	80
Cork Prison	0	24	32	56
Limerick Prison (Female)	0	2	4	6
Limerick Prison (Male)	0	14	48	62
Loughan House	0	2	17	19
Midlands Prison	0	32	97	129
Mountjoy Prison (Female)	0	5	7	12
Mountjoy Prison (Male)	0	9	96	105
Portlaoise Prison	0	3	33	36
Shelton Abbey	0	0	13	13
St. Patrick's Institution	6	1	0	7
The Training Unit	0	3	8	11
Wheatfield Place of Detention	13	68	72	153
Total	19	215	540	774

Deputy Niall Collins: We all recognise that there must be consequences for young people who break the law, but the focus should be on rehabilitation rather than imprisonment. The problem is that the current prison regime is not focused on rehabilitation. The statistics in regard to recidivism prove that, with up to 62.3% of prisoners re-offending within three years. Of that 62%, 80% reoffend within one year. People are coming out without being rehabilitated. They are possibly gaining a greater knowledge of crime while in the prison system. I acknowledge that the number of under-25s who are in prison has fallen by a significant amount. However, the focus on rehabilitation has to be a priority. How does the Minister intend to address the high reoffending rate, particularly among younger people who reoffend when they leave prison? Will the Minister comment on any plans she has to roll out community courts? The introduction of such courts was a recommendation of the Oireachtas justice committee and the strategic review of penal policy.

Deputy Frances Fitzgerald: I am interested to hear the Deputy's views on how to deal with young people. I am also happy to hear his support for the 25% decrease in the numbers of young people under 25 going into prison and his support for alternative initiatives. I agree with the Deputy that it is extremely important to give people a second chance by way of community diversion programmes. Good inter-agency work is being done by the Probation Service and the Prison Service. This kind of inter-agency work is key in the future. I have appointed a chairperson to begin to implement the recommendations in the report the Deputy mentioned. I intend to implement that report. The report analysed carefully how we can best help and how penal reform policy should develop in the period ahead.

Deputy Niall Collins: Will the Minister comment on the roll-out of community courts? Is this a priority for the Government? We have seen in other jurisdictions that it is a significant positive factor in contributing to rehabilitation. People who offend up to a certain level in the community face sanction within the community rather than being committed to prison. Levels of recidivism and reoffending by people exiting the current system are high. The system is working against society. Given the considerable amount of low-level crime across communi-

ties in this country, the roll-out of community courts would be a positive development.

Deputy Frances Fitzgerald: I thank members of the committee and the chair of the committee, Deputy David Stanton, for the work done in this area. It is clear that it is a worthwhile initiative and I hope to progress it. I would also like to see the development of family courts and I hope to introduce legislation to establish family courts. During the passage of the recent Children and Family Relationships Bill, it was clear that many Members of this House were dissatisfied with the current approach, including the hearing of family cases in the middle of many other cases, and that they wanted to see the development of family courts.

As the Deputy knows, we have just established the Court of Appeal. There is therefore quite a lot of change already under way. This is important. The Courts Service and the Chief Justice are very conscious of the kind of changes which are necessary to streamline our courts and to ensure people are not delayed in the hearing of cases. Progress is being made with the new Court of Appeal in that regard. It is clear that there are a range of issues which need ongoing attention. As priorities permit, I hope to continue to develop the reform of the courts in the way I have outlined.

Anti-Racism Measures

7. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality if she will renew the national action plan against racism and take steps to actively and effectively tackle racism. [13287/15]

Deputy Pádraig Mac Lochlainn: Will the Minister renew the national action plan against racism, and will she examine this area in terms of statistics and the recording of racist incidents?

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): The Government is firmly committed to combatting and challenging any and all manifestations of racism. Ireland was one of the first states in the world to develop a national action plan against racism. When the National Action Plan against Racism 2005-2008 was launched, it was conceived as a four-year programme to run until the end of 2008. It was designed to provide strategic direction towards developing a more intercultural and inclusive society in Ireland, and was integration-driven. Under the plan, support was provided towards the development of a number of national and local strategies, including greater integration in key role model profession workplaces such as An Garda Síochána, the health service, the education system, the arts and sports sectors and within our local authorities.

The Office for the Promotion of Migrant Integration in my Department is the focal point for the Government's commitment on anti-racism as a key aspect of integration, diversity management and broader national social policy. The office continues to work with all the relevant sectors to further progress the integration and diversity management agenda. Many of the initiatives which were instigated through the National Action Plan against Racism 2005-2008 continue to be developed and progressed through the support and work of the office.

A review of our approach to the integration of migrants was launched last year. This review will provide the basis for a new and updated migrant integration strategy. Work on the integration strategy is ongoing and a draft will be sent to key stakeholders for their observations before the summer with a view to publication as soon as possible thereafter. I expect that the integra-

tion strategy, when developed, will include a strong anti-racism component.

Deputy Pádraig Mac Lochlainn: Yesterday we had a presentation before the Oireachtas justice committee about the issue of migrants in Ireland. I think the name of the organisation making the presentation was the Immigration Control Platform. The views being put to our committee were not popular with the committee. I said I would guarantee that when the committee's proceedings were reported on *thejournal.ie* in the evening, the majority of the comments would be in support of the anti-migrant views being put forward. I was absolutely correct. They were overwhelmingly in support of the views put forward.

This country has a real issue of latent resentment of migrants. I do not believe Ireland is a racist country, but there is a significant fear of migrants, which is ironic given our huge history of emigration. My concern is that there is no record or CSO data on racist incidents. The overwhelming majority of racist incidents are not reported because, perhaps, the victims feel there is no point or that the issue was not serious enough. There is a hell of a lot more work to be done.

An Ceann Comhairle: I will let the Minister of State comment now.

Deputy Pádraig Mac Lochlainn: That is fair enough. I will reply.

Deputy Aodhán Ó Ríordáin: I appreciate where the Deputy is coming from. Last night in the Seanad I said that we should be reasonably satisfied, without being complacent in any way, that the political system and political debate in this country have not been strangled by the issue of immigration. If one looks at what is happening in the UK and across Europe at the moment, one can see that xenophobic tendencies are getting into the mainstream and immigration is at the heart of political debate in election campaigns.

We have to tackle the issue of racism, but the issue of integration is, to my mind, closely associated with it. We have asked sports clubs to have anti-racism strategies when applying for sports capital grants. That is not enough any more. Sports clubs, and all those in society, need to find strategies to positively interact and reach out, and they need to have integration strategies. Having reactions to particular negative incidents is fine and well and important. However, it is much more challenging for Irish society or aspects of Irish society to reach out. That is why having people of different ethnic backgrounds in key role model professions is also very important.

Deputy Pádraig Mac Lochlainn: Everyone of us in these Houses knows that to advocate for the rights of migrants, asylum seekers and Travellers is not politically popular. If this is the case, there is a racism issue. I am not saying that every person who does not want migrants in Ireland is racist, but there clearly will be a section of people who are. There is clearly a challenge. We can go a long way in taking action to deal with these issues if we deliver on Traveller ethnicity, radically reform the direct provision system and look at the regularisation of migrants as proposed by the Migrant Rights Centre Ireland. The core point today is that it is time for a new action plan on racism. We need to focus on this area again. We need to win hearts and minds. It appears that most Members in these Houses advocate for these matters, but they are not popular issues. We are doing something wrong, and the best way to deal with that is to put in place concrete actions and measures to combat the views out there.

Deputy Aodhán Ó Ríordáin: I appreciate the Deputy's comments. Work is ongoing in respect of Traveller ethnicity, direct provision, integration and interaction. Yesterday there was positive interaction with the Deputy's committee. One of the points I am quite keen to pursue

under the integration strategy relates to young people. Obviously, a number of young people are between two identities at the moment. They might have come here as migrants or might be the children of migrants. They are now trying to come to terms with being between two identities. I am keen to use that as a positive factor in society in order that people are comfortable with being Irish-Nigerian, Irish-Polish or Irish-Moldovan. We need to ensure we do not make the mistakes made by other countries 50 years ago when they had their first influx of migrants. For example, we can galvanise what is best about the identities of young people who often feel alienated from the mainstream of society and move forward from there. If we make mistakes now, we will reap a whirlwind of discontent for years to come. The needs of the education sector are at the heart of the integration strategy. The challenges faced by young people are of key importance in that context.

Judicial Appointments

8. **Deputy Mattie McGrath** asked the Minister for Justice and Equality the efforts her Department is making to ensure the independence of the judicial appointment process under the current constitutional arrangement; if the current process is robust enough; the measures that will be taken to ensure greater transparency and accountability for the public who have concerns around judicial misconduct; and if she will make a statement on the matter. [13288/15]

Deputy Mattie McGrath: This question relates to the independence of the Judiciary. In its preliminary submission to the Department of Justice and Equality in 2014, the judicial appointments review committee said that “the system of judicial appointment in Ireland is by now demonstrably deficient, fails to meet international standards of best practice, and must be reformed”. When are we going to see the reforms? How is the Minister going to ensure we have a transparently independent judicial system, which is vital in any democracy?

Deputy Frances Fitzgerald: I absolutely agree with the Deputy that it is vital. The Judiciary and the courts are at the heart of the justice system and are constitutionally independent in their operation. Under the Constitution, judges are appointed by the President on the advice of the Government. As the Deputy knows, the current process for the appointment of judges in Ireland is set out in Part IV of the Courts and Court Officers Act 1995, as amended. This Act established the Judicial Appointments Advisory Board, which is the board involved. With regard to the independence of the Judiciary, I was pleased to note the conclusions in the recent report of the Council of Europe’s anti-corruption group, which is known as GRECO. Its fourth round evaluation report on Ireland found that our Judiciary is among the most trusted public institutions in the country. It was gratifying that the principle of judicial independence in this country was recognised by the international evaluation team - GRECO - that did this work and that the independence and professionalism of our judges was not disputed.

The need to ensure and protect the principle of judicial independence was a significant factor in the announcement by my predecessor in December 2013 of a consultation process on the system of judicial appointments. While the Judicial Appointments Advisory Board that we currently have was a model of best practice, it would be timely to review the operation of the judicial appointments system to ensure it reflects current best practice, is open, transparent and accountable and promotes diversity. We got a significant response to our call for submissions. We have those submissions now. They cover many different areas, including criteria for eligibility and the appointment process. A report on the consultation process that is being finalised

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by my Department will inform the provisions of the forthcoming judicial appointments Bill, which will reform and update judicial appointments procedures. I intend to submit this Bill to the Government and publish it later this year.

Additional information not given on the floor of the House

The review and reform of this area which is critical to the functioning of our system of justice provides an opportunity to determine what type of system can best respond to the expectations and needs of a modern state.

As regards allegations of judicial misconduct, the Deputy will be aware that the programme for Government undertakes to “legislate to establish a Judicial Council, with lay representation, to provide an effective mechanism for dealing with complaints against judges”. The judicial council Bill, which is being drafted at present and is on the A list in the current legislative programme, is intended to give effect to this commitment.

Deputy Mattie McGrath: I am awaiting the judicial reform Bill that has been promised. Like many of my colleagues, I have raised it with the Taoiseach on several occasions in the House. Deputy Shane Ross introduced his own Private Members’ Bill on the issue of judicial appointments, but it was rejected by the Government. I am not satisfied at all, regardless of what the European body mentioned by the Minister might have said, or what might have happened in 2013. I am particularly dissatisfied about the handling of cases in the financial courts involving the repossession of people’s homes. The House considered a Private Members’ motion tabled by my colleague, Deputy Michael McGrath, over the past two days. The pressure being experienced by people was mentioned during that debate. We have seen recently that courts have been cleared of members of the public who had come in to help ordinary people who could not afford to pay for legal representation. The courts were cleared and the cases were held behind closed doors. That could not be right or proper. The Master of the High Court has tried to challenge the legality of the process around repossessions, mortgages and court cases. I understand he is under judicial review at this time. Why is an eminent man of his position being silenced? Serious issues of transparency and openness in the courts arise here.

Deputy Frances Fitzgerald: The courts are independent.

Deputy Mattie McGrath: They are meant to be.

Deputy Frances Fitzgerald: Separation of powers is very important. I am not going to comment here on the actions taken in a particular court in relation to repossessions or any other issue. Judges act as they see fit. They have full independence in doing that. I am interested in examining the judicial council. I will be moving ahead to establish a judicial council. That is an important Bill as well. Obviously, my responsibility is in the policy area. I am responsible for bringing in appropriate legislation. It is time we had a judicial council in this area. Such a council will have the various powers I have outlined previously. That legislation is moving ahead. As the Deputy knows, I have had to deal with a number of other priority Bills in recent weeks. We are moving ahead on the judicial council Bill. We will be publishing it this year. As I said earlier, my Department has prepared a report on the submissions that have been made on the judicial appointments legislation. I will go to the Government with that later this year.

Deputy Mattie McGrath: I am not happy with the Minister’s reply. I am not making a blanket criticism of judges. I am saying there are serious question marks over some business in the financial courts. I visited an unfortunate farmer from County Carlow in jail recently. He

was freed after 15 days under *habeas corpus*. He would not be freed if he was imprisoned in proper circumstances, so that is a situation. A good number of members of the Judiciary have not fully disclosed their financial affairs with the banks. How come 98% of financial cases involving mortgage companies and banks are going in favour of the banks? It is not independent. It is not even acting like it is independent. Proper justice is not served when the public is denied access to the courts.

An Ceann Comhairle: The Deputy needs to be very careful.

Deputy Mattie McGrath: I accept fully that if courts are going to be disturbed or upset, we cannot have that. Justice has to be done in public and be seen to be done in public. Justice behind closed doors is not proper justice. There are serious question marks about certain cases, including a case that is in the Court of Appeal today involving another farmer who has been imprisoned on foot of a warrant. Many of these warrants are questionable. The proper process is not being obeyed.

Deputy Frances Fitzgerald: The Deputy is making very serious allegations.

Deputy Mattie McGrath: I will furnish the Minister with the details.

Deputy Frances Fitzgerald: His allegations about judges and about behaviour in courts are very serious.

Deputy Mattie McGrath: I would not make them only for I had them tracked.

Deputy Frances Fitzgerald: In its current form, the judicial council Bill provides for the establishment of a judicial council and board that will promote excellence and high standards of conduct by judges. It will also provide a means of investigating allegations of judicial misconduct. In this context, a judicial conduct committee with lay representation will be established. It is an important Bill. It is important to emphasise that this legislation will facilitate the ongoing support and education of judges through a judicial studies committee and through the establishment of judicial support committees. The Bill is an important part of the infrastructure that needs to be in place in our courts to support the work of our judges and to ensure we have an effective mechanism for dealing with complaints against judges.

Prison Staff

9. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality the commitments she has given to the Prison Officers Association to ensure the safety of its members. [13283/15]

Deputy Pádraig Mac Lochlainn: This question relates to the concerns of the Prison Officers Association. I know the Minister has engaged with the association. I would like to get an update on that engagement. Are the concerns of the association being addressed?

Deputy Frances Fitzgerald: Obviously, the primary role of the Irish Prison Service is to provide safe and secure custody for prisoners. The Deputy will be aware that I take the health and safety of Irish Prison Service staff very seriously, just as he does. I have met the representative association and the head of the Irish Prison Service. I have been assured by the director general of the Irish Prison Service that every action is taken by the service to ensure, as far as

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possible, the safety of all prison staff. That is clearly and absolutely a critical consideration. The director general has assured me that every violent assault is treated as a serious incident, as indeed it should be.

The Deputy will be aware that a serious incident occurred recently when a prisoner assaulted two prison staff while on an escort to Tallaght hospital for medical treatment. In light of this incident, the Irish Prison Service has established a focus group on hospital escorts and procedures, which is being chaired by the director of operations. The focus group is looking at this issue in detail. The purpose of the group is to review the conduct of hospital escorts and to make recommendations to the director general in order that we can have absolute safety. This was a very unusual event. However rare an event of this seriousness is, we must have all the procedures in place. The Prison Service control and restraint advisory group was also convened following the incident to consider several issues including personal protective equipment, defensive equipment, training and communications. Proposals have been identified regarding the requirements for prison escorts. The group's short, interim and long-term recommendations were accepted by the Prison Service's director general. The prison officer national executive sits on the advisory group and contributes to its work. At a meeting which I chaired between the representatives of the prison officers and the governor, it was agreed that any protective equipment, for example, that was needed would be issued.

Deputy Pádraig Mac Lochlainn: One of the main concerns is that 60% of requests for armed escorts from the Prison Service were turned down by An Garda Síochána, meaning out of 166 requests for armed escorts for inmates being transported outside of prisons, 97 were rejected. There is a concern that this may reflect resource limitations. Are there grounds for bringing together the Garda Commissioner and the head of the Prison Service to address these issues? I accept some of these rejections may well be legitimate. Are they purely made on a security basis or do they reflect resources use?

Deputy Frances Fitzgerald: Prison management may make a request for an armed escort based on a risk assessment of a prisoner who is due to be escorted outside the prison. It is sent to the operations directive and then forwarded to An Garda Síochána where it is given careful consideration to determine if the escort is to be granted. Armed escorts are requested for prisoners who pose the highest security risk or escape risk. Criminal gang leaders, subversive prisoners and prisoners requiring an armed escort have a flag enabled on their record on the prison information management system.

Despite the fact a prisoner may be flagged for an armed escort, this does not mean one will be granted by the Garda. While there are certain high-security prisoners who could not be escorted outside prison without the presence of an armed escort, there are others whose escort would proceed, despite the fact that an armed escort request was refused. In these cases, a careful risk assessment would be carried out.

It is not a question of resources but is based on the risk assessment. Where the Garda considers there should be an armed escort, it will be made available.

Deputy Pádraig Mac Lochlainn: In the case of Derek Brockwell, something went wrong. There needs to be a review of the circumstances of this prisoner's escape. This was a prisoner with a violent history who unfortunately proved to be a threat. That case alone shines a spotlight on the need to review the criteria between An Garda Síochána and the Prison Service. Will this happen?

The Prison Officers Association asked for anti-stab vests, incapacitant sprays and extendable batons to be made available to them during prisoner transfers. Will these be made available in future?

Deputy Frances Fitzgerald: The director general of the Prison Service has established an implementation group, chaired by the governor of the Prison Service escort corps, to implement several actions including the purchase of personal protection equipment, provision of training and the identification of high-risk escorts. The transportation of high-risk escorts is to be reviewed and improved lines of communication are to be set up. In addition to these measures, several trials in the use and application of new equipment are to be undertaken.

The recent incident involving a prisoner has triggered a review in several areas. My understanding is that the Prison Officers Association and prisons management are getting on with an implementation plan in which all are involved.

Garda Station Refurbishment

10. **Deputy Seán Kyne** asked the Minister for Justice and Equality if she will provide an update on the provision of the new divisional headquarters for An Garda Síochána in Galway city; the construction timeframe; and if she will make a statement on the matter. [13313/15]

Deputy Frances Fitzgerald: The programme of replacement and refurbishment of Garda accommodation is based on accommodation priorities established by the Garda Síochána. The programme is advanced in close co-operation with the Office of Public Works, which has responsibility for the provision and maintenance of Garda accommodation. Funding for such works is provided for in the Vote of the Office of Public Works.

In July 2012, the Government announced an economic stimulus package which included three major Garda construction projects, namely, the development of new divisional headquarters to replace the existing headquarters at Wexford, Galway and Kevin Street in Dublin. Initially, these projects were to be financed by way of public private partnership. However, the Office of Public Works was subsequently requested to develop the new facilities by way of a traditional procurement process.

Included in budget 2015 is a capital allocation of €42 million to enable the commencement of work on these three new Garda divisional headquarters. I am advised by the Garda authorities that the procurement process for the construction of the new Garda divisional headquarters in Galway is significantly advanced, with work expected to commence in the coming months.

Deputy Seán Kyne: I welcome the Minister's reply and this week's announcement of additional recruitment to An Garda Síochána. I am confident that Galway will get its fair share of them. Will the Minister confirm that the Garda Commissioner will take cognisance of the Gaeltacht areas in Galway and ensure sufficient Garda numbers proficient in the Irish language as required under the various language Acts?

Deputy Frances Fitzgerald: I will raise that issue with the Garda Commissioner. Clearly, these are operational decisions. The fact, however, that there are 550 recruits going through Templemore training college will help in this matter, ensuring local community policing, including in Gaeltacht areas, which is necessary and essential for a proper policing service to

protect the community and interrupt crime.

Garda Complaints Procedures

11. **Deputy Clare Daly** asked the Minister for Justice and Equality the progress with the cases being evaluated under the independent review mechanism; and the reason a process that was supposed to take eight weeks has gone on for more than eight months. [13311/15]

Deputy Clare Daly: This is the same question as Nos. 1 and 2. In her reply to those questions, the Minister referred to some of the delays in some of the cases before the panel with 65 of them before 2000 and some of them going back to 1969, as if that were some problem that could not be overcome. Yesterday, the Minister pardoned somebody who was hanged in 1941. Time is not a reason for not doing this.

My main concern is that where people have gone through procedures before, there is nothing that can be done for them. This is a significant issue as they feel the procedures were faulty and this is what the panel has been asked to examine.

Deputy Frances Fitzgerald: I was not using the time as an excuse. I was pointing out these are complex cases that have been through many different procedures. The very point of the review mechanism is to establish if there has been, as the Deputy described it, a fault in the process used at the time such as if there were a miscarriage of justice, unacceptable behaviour, some issue not explored properly or the investigation was not completed. This is the judgment call the independent review panel is being asked to make.

We are asking for a comprehensive and professional analysis, much like we have seen in other cases where there have been detailed examinations of all the information available and a recommendation made. In the pardon to which the Deputy referred, there was an investigation, a review of all the material and a decision was taken. With the panel, junior and senior counsel will analyse the cases and examine all the actions that happened and review all the material. On the basis of that, they will decide if further action is needed. This is a completely independent legal process of analysis of the material. If extra information came in, it will be handed over to the panel, even if the case has been concluded. We have had discussions in the House and I have made it clear that all of the written information submitted will be examined. Some of the complainants have sent in extra material and all of that is being analysed.

Deputy Clare Daly: That has not been the case in respect of the people who have interacted with the panel. The problem is that there is no transparency or accountability. We cannot challenge the Minister unless we have direct evidence from them, which we do have. I use the example of the Shane Tuohey case. Evidence emerged of 17 CCTV footage tapes on the night Mr. Tuohey was murdered that had been missing for 17 years. A request was made that the panel would look at this. The Minister said this was a matter for the Garda when the Garda are at the heart of the problem as to why these people went to the panel. The Minister has created a huge problem. Given the soundings she is making, we will have a real problem when she starts writing to people with some of the responses.

Deputy Frances Fitzgerald: We are the first Government to take a group of cases like these about which people have had concerns and to put a process in place to examine them in good faith. It is an independent process. All of the information that is available on each of the cases

can be made available to the panel and it can seek extra information if there is some stand-out issue that has not been addressed. In the first instance, each of the particular complainants will get a response. I will start doing that after Easter. I have also asked for a summary report of the process, which I will publish.

Written Answers follow Adjournment.

Education (Miscellaneous Provisions) Bill 2014 [Seanad]: Order for Report Stage

Minister for Education and Skills (Deputy Jan O’Sullivan): I move: “That Report Stage be taken now.”

Question put and agreed to.

Education (Miscellaneous Provisions) Bill 2014 [Seanad]: Report and Final Stages

Acting Chairman (Deputy Olivia Mitchell): Amendment No. 1 is out of order.

Amendment No. 1 not moved.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 2 to 6, inclusive, did not arise out of Committee Stage proceedings so a recommittal is necessary.

Bill recommitted in respect of amendments Nos. 2 to 6, inclusive.

Minister for Education and Skills (Deputy Jan O’Sullivan): I move amendment No. 2:

In page 7, to delete lines 29 to 37 and substitute the following:

“Appeals Board

5. (1) The Minister shall, within 7 days of receipt of a notice of appeal under *section 2(11)* or *section 4(9)*, request nominations from Quality and Qualifications Ireland for persons to appoint to an Appeals Board.

(2) As soon as practicable, and in any event not later than 42 days after the Minister’s request under *subsection (1)*, Quality and Qualifications Ireland shall nominate the following persons for appointment:

(a) 2 persons having a special interest or expertise in, or knowledge of, matters relating to higher education, one of whom shall be the chairperson of and one of whom shall be an ordinary member of the Appeals Board; and

(b) one person to be an ordinary member of the Appeals Board who is either a practising solicitor with not less than 10 years’ experience or a practising barrister with not less than 10 years’ experience.

(3) (a) An employee or member of Quality and Qualifications Ireland shall not be appointed under *subsection (2)(a)*.

(b) A solicitor or barrister who is in the full-time service of the State shall not be ap-

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pointed under *subsection (2)(b)*.

(4) The Minister shall appoint the persons nominated under *subsection (2)* to an Appeals Board for the purposes of hearing the appeal which is the subject of the notice of appeal under *subsection (1)*.”

As Members will be aware, the purpose of sections 2, 3, 4 and 5 of the Bill is to provide for the authorisation by the Minister of the use of the description “university” by a high quality education provider for specified purposes outside the State, which is referred to as university authorisation. The purpose of the proposed amendments is to amend section 5, which sets out provisions relating to the hearing of an appeal against a decision of the Minister either to refuse to grant university authorisation under section 2 or to withdraw university authorisation under section 4. The Bill currently provides that the Minister having regard to certain criteria would upon receipt of an appeal appoint three to five persons to an appeals board. However, the purpose of the appeals board is to hear an appeal against a decision of the Minister and, therefore, the appointment of the appeals board by the Minister could bring into question the independence of an appeals board appointed in this manner.

Amendment No. 2, therefore, provides that the Minister shall upon receipt of an appeal request the nomination by Quality and Qualifications Ireland of three persons to be appointed to the appeals board, two of whom shall be experts in matters relating to higher education and one of whom shall be either a solicitor or barrister. This will ensure that appeals are not only fair but are seen to be fair.

Amendments Nos. 3 and 4 provide greater clarity about how an appeals board would conduct an appeal and provide for the establishment of procedures by an appeals board, the provision of written submissions by parties to the appeal and the holding of hearings where necessary.

The purpose of amendment No. 5 is to provide that appeals will be determined by an appeals board as soon as is practicable after its consideration of an appeal. The Bill currently provides that appeals will be determined within 60 days of the service of a notice of an appeal on the Minister. This is considered to be too tight a deadline given the issues the appeals board will be required to consider in hearing an appeal.

Amendment No. 6 is a technical amendment that sets out a definition for Quality and Qualifications Ireland.

The aim of the amendments is basically to ensure that the appeals system is independent of the Minister and is seen to be independent.

Amendment agreed to.

Deputy Jan O’Sullivan: I move amendment No. 3:

In page 8, between lines 3 and 4, to insert the following:

“(6) An Appeal Board—

(a) shall establish procedures to be followed regarding the making of submissions to the Board and the form of those submissions, and

(b) may establish procedures to be followed regarding—

- (i) the holding of a hearing,
- (ii) the examination by the Board of parties to an appeal,
- (iii) requests for information for the purposes of an appeal and for the provision of such information, and
- (iv) any other matter which the Board considers appropriate for the proper performance of its functions.

(7) For the purposes of an appeal for which the Appeals Board is appointed, the Board shall request written submissions from the education provider making the appeal and the Minister and the provider and the Minister shall furnish the submissions to the Board within the time period specified in the request.”

Amendment agreed to.

Deputy Jan O’Sullivan: I move amendment No. 4:

In page 8, between lines 11 and 12, to insert the following:

“(8) If a hearing is held under subsection (6)—

(a) each of the parties to the appeal is entitled to be heard at the hearing, and

(b) the Appeals Board may adjourn the hearing of a matter at any stage in the proceedings until a date specified by the Board.

(9) A decision of a majority of the members of an Appeals Board shall suffice for any purpose.”

Amendment agreed to.

Deputy Jan O’Sullivan: I move amendment No. 5:

In page 8, lines 12 and 13, to delete “determine an appeal within 60 days of the service of a notice of appeal on the Minister under *section 2(11)* or *section 4(9)* as the case may be” and substitute the following:

“determine an appeal as soon as practicable after the Board has completed its consideration of the appeal”.

Amendment agreed to.

Deputy Jan O’Sullivan: I move amendment No. 6:

In page 8, between lines 28 and 29, to insert the following:

“(13) In this section, “Quality and Qualifications Ireland” means the Qualifications and Quality Assurance Authority of Ireland.”

Amendment agreed to.

Bill reported with amendments.

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Amendment No. 7 not moved.

Bill, as amended, received for final consideration and passed.

Acting Chairman (Deputy Olivia Mitchell): A message shall be sent to the Seanad acquainting it accordingly.

Sitting suspended at 10.55 a.m. and resumed at 12 noon.

12 o'clock

Leaders' Questions

Deputy Billy Kelleher: Today across the country there are up to 6,000 Dunnes Stores workers on strike. This strike is not about an increase in pay; rather, it is about basic rights such as respect, equality and dignity.

Yesterday, the Taoiseach said in the Dáil:

I support the Dunnes Stores workers in having a right to clarity in so far as their working lives and working weeks are concerned ... I would hope this strike does not have to go ahead ... I support the workers in their right to have clarity about their working lives. Therefore, the message to the employers is that this can be sorted out. These workers are loyal workers. They provide services every day of the week on a 24-hour basis. That should be recognised.

Unfortunately, it has not been recognised. Today across this country there are workers outside Dunnes Stores outlets protesting - not about anything extravagant, but highlighting that they are on zero-hour contracts. They do not know from day to day how many hours of work they will get. Nobody is worth zero. There should be some basic element of protection in terms of working hours and conditions.

The point I am making is that Dunnes Stores has not listened to the Taoiseach. The Taoiseach was weak, in my view, in his expressions of solidarity with the Dunnes Stores workers.

Deputy Mattie McGrath: Nobody listens to him any more.

Deputy Colm Keaveney: Milk and water.

Deputy Billy Kelleher: What we need is an unequivocal statement from the Tánaiste that she supports the workers on the picket lines outside the Dunnes Stores outlets today. In terms of a response, Dunnes Stores has offered a 20% discount on online purchases up to midnight tonight. What does this say to the Taoiseach and Dunnes Stores workers? It is high time this Government stood up and stood with the workers on this particular issue.

Dunnes Stores workers have a strong resonance with the people of this country, in light of many of them having stood against apartheid in the 1980s. On the wall in my office is a photograph of myself with the late President of South Africa, Nelson Mandela, taken in Cape Town in 1995. During a meeting with him at that time, he asked me: "How are my girlfriends in Ireland? They meant a lot to me in our struggle." We are today not supporting people who

supported a country that at that time faced greater challenges than this country does today. I urge the Tánaiste to unequivocally condemn the intimidatory and bullying tactics of Dunnes Stores, to stand with the workers and to bring forth legislation to address the issue of zero-hour contracts. Kicking address of this issue to the low pay commission is not good enough.

Deputy Mattie McGrath: Hear, hear.

Deputy Gerald Nash: Fianna Fáil did nothing about it.

Deputy Billy Kelleher: These workers are only looking for their basic rights and entitlements and the Tánaiste should support them unequivocally.

The Tánaiste: I thank the Deputy for his comments. Like many people in this country, my first experience of employment was as a worker in a number of Dunnes Stores outlets, where I was a member of the union that subsequently became Mandate. My period of employment at Dunnes Stores was very short. I salute the level of service, cheerfulness and commitment of the staff of Dunnes Stores down through the years, many of whom are women, and, in particular, the service they provide to older customers who might need support.

With regard to this dispute, I regret that the Dunnes Stores organisation has not utilised the industrial relations machinery of this country. I believe it was wrong not to do so and that it should do so now as soon as possible. As stated by Mr. John Douglas, secretary general of Mandate, in an open letter to Dunnes Stores: "...as with most disputes between parties they can be only resolved via dialogue between the parties."

In regard to the Deputy's reference to South Africa, it has been my privilege to know personally many of the people who were on strike during those years, because at that time I was honorary secretary of the anti-apartheid movement. The Deputy is correct that there is a resonance among people in Ireland with the Dunnes Stores workers who in the 1980s refused to handle South African oranges. The then Minister for Labour, Deputy Ruairí Quinn, sorted out that problem by restricting the importation of oranges at that time.

We know there is an avenue to a solution for this dispute. Staff of Dunnes Stores should not have had to resort to a strike. We know that the issues in dispute have been before the Labour Court on a number of occasions and that Dunnes Stores management has not engaged in the industrial relations machinery.

Like almost everybody in Ireland, I believe this strike is deeply regrettable, but there is an avenue through which the issues can be addressed and settled, namely, the industrial relations machinery of the State. I would encourage the company to use that machinery. It is very clear from all of the statements by Mandate and other spokespersons for the Dunnes Stores workers that they are happy to engage in an industrial relations process to resolve this dispute. Nobody could put it better than Mr. John Douglas when he said that this matter can be only resolved via dialogue between the parties. I strongly support that.

Deputy Billy Kelleher: I thank the Tánaiste for her reply. We need to be unequivocal in this. During a radio programme this morning, some of the staff involved spoke of their working hours being limited to 15 hours per week spread over five days, which means they are not eligible for social assistance from the Department of Social Protection. Not only are they not getting any form of contract from their employer, but they are also being denied access to basic social welfare payments because of the structure of their working hours. There are many

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problems in terms of basic employment rights and the facilitation of people with working hours which allow them to claim their entitlements from the Department of Social Protection.

By way of an aside, has Dunnes Stores ever made an application under the JobBridge scheme?

The Tánaiste: I do not know.

Deputy Billy Kelleher: If so, we would want to revisit that very quickly.

On the broader issue, over the past couple of days we have heard strong words of condemnation, and people have been urging Dunnes Stores and Mandate to involve themselves in negotiations. However, Dunnes Stores has already indicated that it does not accept the findings of the Labour Relations Commission or the Labour Court and is saying to the Government that it does not care what it says or does. Unfortunately the Government has done very little in terms of legislation to address zero-hour contracts. The Tánaiste talked about them mainly being women, which is true. Some of the women I met were very fearful that there may be consequences to their standing on the picket line this morning.

Deputy Mattie McGrath: They are intimidated.

Deputy Billy Kelleher: They believe they have no choice because of the threats from Dunnes Stores management and the fact that it has failed to engage with the industrial relations machinery. The Government seems to be paralysed in addressing this fundamental abuse of basic working rights.

Deputy Finian McGrath: The Tánaiste should visit them on the picket line.

The Tánaiste: I remind the Deputy that for people working in Dunnes Stores, one of the most significant things the Government did and I did in legislation was to reverse the cut Fianna Fáil made to the minimum wage when in office.

Deputy Seán Ó Fearghail: It did not apply to them.

The Tánaiste: The restoration of the minimum wage has been important. Deputy Kelleher had a position of responsibility in that regard at the time.

Deputy Gerald Nash: Deputy Kelleher signed it.

Deputy Timmy Dooley: The Tánaiste is playing political football with people's lives.

An Leas-Cheann Comhairle: The Tánaiste has the floor.

The Tánaiste: Deputy Kelleher had a position of responsibility in that Department at that time. When I became Minister, the first thing I did in legislation was to reverse that cut-----

Deputy Mattie McGrath: They were not cut.

The Tánaiste: ----- which was a very difficult cut for some of the women he mentioned.

Deputy Billy Kelleher: That is factually incorrect.

The Tánaiste: Let us return to the main point.

Deputy Billy Kelleher: It only affected new entrants to the labour market.

An Leas-Cheann Comhairle: Sorry, Deputy-----

The Tánaiste: Let us come to the solution.

An Leas-Cheann Comhairle: The Tánaiste has the floor.

Deputy Mattie McGrath: On a point of order, that is not true.

The Tánaiste: Let us talk about the solution. The first part of the solution, as proposed by the general secretary of Mandate, is dialogue and engagement with the industrial relations process of the State.

Deputy Mattie McGrath: That is not happening.

Deputy Colm Keaveney: They will not do it.

The Tánaiste: The second is through the introduction of collective bargaining legislation which we hope to have before the Dáil and enacted before the summer.

As a former Minister of State in the Department, Deputy Kelleher knows he was unable to do anything about it from the Fianna Fáil benches during its long period of service in government.

Deputy Niall Collins: The Government has been there four years and has done nothing.

The Tánaiste: It will be coming before the Dáil and I hope when it does, Deputy Kelleher, on behalf of his party, can undertake to support the extension of collective bargaining in the State.

Deputy Billy Kelleher: The Tánaiste should ask the Fine Gael Deputies behind her.

Deputy Colm Keaveney: Bernard is nodding. Che Durkan.

The Tánaiste: Absolutely. It is an agreement and the legislation, which is complex, will be before the Houses of the Oireachtas after Easter and enacted by the summer.

Deputy Mattie McGrath: Will it get past the Cabinet?

The Tánaiste: The Deputy spoke about people being fearful of intimidation or victimisation, which is a very serious point. I say to the Dunnes Stores management and owners that that is not in the tradition of that business which over many decades has given employment and service throughout this country, originating in Cork. There will be an anti-victimisation clause in the collective bargaining legislation. That is a key part to allow-----

Deputy Finian McGrath: The next Government.

The Tánaiste: It will be after Easter and I do not think we will be having an election until this time next year.

An Leas-Cheann Comhairle: I thank the Tánaiste.

The Tánaiste: It will be passed, but it has been-----

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Deputy Gerald Nash: Shane does not like collective bargaining.

An Leas-Cheann Comhairle: I call Deputy McDonald.

(Interruptions).

Deputy Mary Lou McDonald: Go raibh maith agat, a Leas-Cheann Comhairle.

(Interruptions).

An Leas-Cheann Comhairle: I remind the House that this is Leaders' Questions.

Deputy Mary Lou McDonald: I join, I hope, everyone else in the Chamber today-----

(Interruptions).

The Tánaiste: I cannot hear.

An Leas-Cheann Comhairle: Stop, please. I ask the Deputy to start again. I cannot hear either.

Deputy Mary Lou McDonald: I join, I hope, everyone else in the Chamber today in sending out a strong message of support to the striking Dunnes Stores workers. I salute them in the action they have taken. At the centre of this dispute is the gross abuse of 15-hour contracts by Dunnes Stores management.

I spoke to one woman whose story is very typical of her co-workers. Mary has worked in Dunnes Stores for 13 years. Her partner also works for Dunnes Stores and has done so for nine years. Both of them are on 15-hour flexi contracts. From week to week they do not know how many hours they will have or what their pay will be. Often their hours are spread across five days and deliberately kept below 19 hours. This means that Mary and her partner cannot claim jobseeker's allowance or the family income supplement. In some weeks Mary and her partner do not have enough money to buy food for their child. It is nothing short of scandalous that Dunnes Stores treats its workers in this manner. They are constantly in a state of fear of losing their jobs and they are deliberately denied the most basic decent conditions and pay. All the while Dunnes Stores maximises its profits.

I agree with the Tánaiste in condemning Dunnes Stores for its failure to engage with the industrial relations mechanisms of the State and with the union representatives. That point is well made. However, Dunnes Stores can only abuse its workers in this way because the Government lets it. Fine Gael and Labour, like Fianna Fáil before them, have failed to protect these workers. How is that? They have failed to implement fully the part-time workers directive and have failed, after four years in government, to introduce collective bargaining legislation. That is where it is at. While the Tánaiste correctly condemns the proprietors and management of Dunnes Stores, this is happening on her Government's watch and because of its failure to act.

An Leas-Cheann Comhairle: I thank the Deputy.

Deputy Mary Lou McDonald: Why have these two crucial pieces of legislation to protect working people like Mary not been introduced? Has the Tánaiste raised these urgent matters with the Taoiseach? Why amidst her condemnation and words of support does she tell us in her next breath that we have to wait again for these two pieces of legislation? This is an emergency matter.

The Tánaiste described the strike action as regrettable. I put it to her that the regrettable piece is the behaviour of Dunnes Stores management. The strike itself is inevitable. Inevitably workers will not tolerate these abuses endlessly. The Government can make that stop by introducing the necessary legislation. Why has there been such an unacceptable delay?

The Tánaiste: The Deputy may be aware of the history regarding Dunnes Stores. The company and the union were party to a collective agreement which provided a framework within which disputes and differences could be resolved by negotiation and dialogue. The Labour Court has pointed to this as a mechanism and an avenue to resolve the dispute, as the general secretary of the union has also said.

It is in fact open to the owners and management of Dunnes Stores to have a resolution of the dispute through dialogue. I urge them to take that avenue as soon as possible. The company has a long history of employment, service and business in this country and has employed very many people down the years. Having worked there on brief occasions, I am very aware of the staff who work in Dunnes Stores and give great service to the public. They are not particularly well paid and certainly the advent of minimum hours contracts-----

Deputy Billy Kelleher: Zero hours.

The Tánaiste: ----- has made life very difficult either for a single worker or for a couple, and there are many couples who work in Dunnes Stores. As people have been describing, it is actually very difficult. That is why the collective bargaining legislation, which will come before the Dáil and be enacted in the next term, before the summer recess, will be absolutely critical to modernising our industrial relations framework. That is why I have asked the Minister of State, Deputy Nash, to prioritise it and he has done so. It has involved intensive discussions with the trade unions, which are strong supporters of it, and the employers, who, in many cases, have to be persuaded of the merits and value of collective bargaining to modern businesses.

The inclusion in the collective bargaining legislation of anti-victimisation clauses is to overcome the understandable fears of the workers who may have taken strike action in this situation. I hope that Sinn Féin will support this legislation.

Deputy Mattie McGrath: Along with Fine Gael.

The Tánaiste: As a result of the Organisation of Working Time Act, as people involved in industrial relations will know, there is a framework of 15 hours. However, for many people 15 hours is not enough and they need certainty as to when their hours of work are to be in order that they can make arrangements - this applies in particular to women - for their families, whether their children or perhaps older parents they are helping to look after. That is what we want to see in terms of the collective bargaining legislation.

There is an avenue open to the Dunnes Stores group before that happens and I urge Dunnes Stores to use that mechanism.

Deputy Mary Lou McDonald: I am sure people will be interested to know that the Tánaiste worked in Dunnes Stores once upon a time.

The Tánaiste: Briefly, as did tens of thousands of other people.

Deputy Mary Lou McDonald: Exactly, but that is of little comfort or consequence to people who find themselves in the circumstances here and now.

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Deputy Mattie McGrath: Will the Tánaiste go back?

Deputy Mary Lou McDonald: They cannot plan with any certainty their level of income from one week to the next. They are only one example of working people living in poverty. This is not by any means unique to Dunnes Stores; we are all aware of that. The Tánaiste urges the Dunnes Stores management and the proprietor to engage with the industrial relations machinery. The Tánaiste refers back to the 1996 agreement. At this stage, those responsible in Dunnes Stores have made it very clear that they are not minded to engage with those structures. Frankly, they do not give a curse about any agreement that they may have previously signed up to.

I put to the Tánaiste that it is not sufficient for her to urge Dunnes Stores or any other enterprise or concern, on the basis of goodwill, to engage with the system. It is now abundantly clear that we need legislation to end the opt-out that Dunnes Stores currently enjoys. We need the legislation before the House. The Tánaiste has been in government for four years. The Labour Party has now been in government for four years and it is still long-fingering this legislation.

Deputy Aodhán Ó Ríordáin: This is the first time Sinn Féin has raised it.

Deputy Gerald Nash: This is the first time the matter has been raised.

Deputy Mary Lou McDonald: Why not bring it in?

Deputy Gerald Nash: Sinn Féin never raised the problem before now.

An Leas-Cheann Comhairle: Order, please. A question, please.

Deputy Mary Lou McDonald: Why not bring it in as an emergency matter?

Deputy Gerald Nash: Sinn Féin has no understanding of it.

Deputy Mary Lou McDonald: We all know that when it comes to other matters this institution can sit late into the small hours. Why not on this matter? Why not give the striking workers the certainty of knowing that the law will protect them, that Dunnes Stores can no longer act with impunity and can no longer snub its nose at workers like Mary, and her family, who, as I have told the Tánaiste, struggle from week to week to feed their child?

An Leas-Cheann Comhairle: Thank you, Deputy. I call on the Tánaiste to conclude.

The Tánaiste: I am sure as the deputy leader of Sinn Féin Deputy McDonald has had an opportunity to be briefed in respect of her party's position in the North. In the North, approximately 32,000 workers are on zero-hour contracts. Sinn Féin gave a public commitment that the party's position was to ban them outright. Then, when the relevant Northern Ireland Minister undertook a review on behalf of the Northern Ireland Executive, to which Sinn Féin is a party, Sinn Féin changed its position to a matter of regulation.

(Interruptions).

The Tánaiste: Let me say in respect of Ireland-----

Deputy Finian McGrath: The Labour Party has been doing that for four years.

The Tánaiste: The Organisation of Working Time Act is significantly stronger than what

pertains in the North. In Sinn Féin's time in government or in the Dáil, that party has never, to my knowledge, taken any interest in collective bargaining.

Deputy Sandra McLellan: That is nonsense.

Deputy Brian Stanley: We have raised it many times.

Deputy Gerald Nash: The Sinn Féin Deputies do not understand it.

Deputy Aodhán Ó Ríordáin: They do not care. It is not in their make-up.

The Tánaiste: The collective bargaining legislation will be coming before the Dáil in the next term. It will be enacted before the recess. That work has been done. It has involved complex and detailed negotiations and consultation with employers and trade unions. As an economy, we want legislation that works because we want our people at work. We do not want anyone having to resort to strike action.

Deputy Mary Lou McDonald: Does the Tánaiste understand the collective bargaining rights enjoyed in the North?

The Tánaiste: We are strengthening workers rights in the collective bargaining legislation.

Deputy Mary Lou McDonald: Does the Tánaiste wish to comment on that, not that it is of any use to the Dunnes Stores workers?

The Tánaiste: I hope that, unlike in the North, Sinn Féin will be good enough to support the collective bargaining legislation when it comes before the Dáil.

An Leas-Cheann Comhairle: I call Deputy Paul Murphy from the Technical Group. Can we have order, please?

Deputy Paul Murphy: Listening to the Tánaiste, one could certainly be forgiven for thinking that her Labour Party is not in government. Yesterday, there was a statement from the Labour Party to the effect that it believes the Dunnes Stores workers deserve its unqualified support. Today, from the Tánaiste, we have what is perhaps more qualified support, but words of support none the less, as if we do not have a Labour Party in government and as if we have not had a Labour Party in government. It is as if the Labour Party has no power to do anything relating to this matter. If Marie Antoinette said, "Let them eat cake", the Tánaiste says, "Let them wait for collective bargaining legislation".

I spent the morning visiting picket lines and discussing the matter with Dunnes Stores workers, expressing my support and that of the Anti-Austerity Alliance.

Deputy Robert Dowds: So did we.

Deputy Paul Murphy: The stories of bullying, harassment and intimidation were shocking. Workers were brought in groups to be put under pressure not to go on strike.

(Interruptions).

An Leas-Cheann Comhairle: Deputy Murphy has the floor, please.

Deputy Paul Murphy: Workers on probation contracts were told point-blank that if they went on strike they would not be employed. A worker on a temporary contract was told that if

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she went on strike her contract would not be renewed. This kind of bullying, harassment and abuse of workers is widespread throughout the stores. This is the second largest private sector employer in the State with 10,000 employees. It is a highly profitable company with estimated profits of approximately €350 million per year. This is a company whose owners have a collective wealth, according to the Sunday Independent rich list, of €758 million.

(Interruptions).

Deputy Paul Murphy: The owners are behaving like 19th century dock owners, using their ability to give or withhold work as a means of control, punishment and reward to create a submissive workforce. They were able to do so because of the inaction of this Government and because of the abuse of low-hour 15-hour contracts. I salute those workers for standing up today in the face of bullying and exploitation. I encourage them to continue to do so if Dunnes Stores does not back down. Those in the Labour Party should hang their heads in shame today because they could have taken action.

An Leas-Cheann Comhairle: A question, please, Deputy.

Deputy Paul Murphy: They could have counteracted the major power imbalance between a ruthless employer like Dunnes Stores and low-paid workers. They could have introduced collective bargaining legislation. They could have fully transposed the EU directive on part-time work. They could have outlawed exclusivity contracts, which even the Tories in Britain have done. Instead of subsidising low-pay employers through the family income supplement and social welfare, they could have introduced a living wage.

This is my question. Is this the model of the Tánaiste and the Labour Party for a so-called recovery? Is the vision based on the best small country to exploit workers and a recovery for the rich built on the super-exploitation of the rest, people working for free, low-hour contracts and precarious work as well as bullying and exploitation of workers like those in Dunnes Stores?

The Tánaiste: I suppose, of all the people in this House, the Deputy probably knows a little bit more about bullying, intimidation and threat than almost anybody else-----

Deputy Gerald Nash: The bully with the silver spoon in his mouth.

The Tánaiste: -----whether on these benches or on the benches opposite. He is kind of a connoisseur. With regard to the Dunnes Stores workers or to any other dispute, we want everybody at work. Yesterday, the live register fell below 350,000 for the first time since January 2009.

Deputy Finian McGrath: They are all in Sydney.

The Tánaiste: I was out yesterday, talking to workers on the National Gallery site, where there is a €26 million project underway and building workers back at work. That is what we want. The way to have a proper industrial relations system in any country is to have good industrial relations structures.

Deputy Brian Stanley: We have the weakest in Europe.

The Tánaiste: We have that and will be bringing legislation before the Dáil. It will be intriguing to see, when it comes before the Dáil, whether the Deputy will actually support collective bargaining legislation.

Deputy Mary Lou McDonald: Of course, we will. That is stupid.

Deputy Gerald Nash: He will find a reason why he will not.

The Tánaiste: Generally speaking, the Deputy is somebody who looks for the negative in almost everything. The people in Dunnes Stores who have gone on strike are vindicating their rights as Irish citizens to seek, through their union, proper terms and conditions of work, and fairness at work. Fairness at work is the hallmark of the industrial relations structure in this country, which will be enhanced by the collective bargaining legislation that will come before the Dáil. That will be an opportunity for the Deputy to put his money where his mouth is and actually support it when it comes before the Dáil. We will await the day, and we will see what he actually does. He tends to be somebody who has torrents and rivers of language but, as a legislator, he has very little to show for it. He should come in here and do the work on the collective bargaining legislation to enhance our industrial relations situation.

Going back to the current strike, there is a mechanism open, as the secretary general of that union has said, and he has advised on behalf of the workers he represents that the employer should actually enter a dialogue. I do not know if the Deputy is opposed to a dialogue with the employer. What the Labour Party has stood for since its foundation is to actually have a mechanism of dialogue so that workers do not have to endure strikes but that they have fair pay and fair conditions built in to their terms and conditions of work.

Deputy Paul Murphy: Words, words, mere words, no matter from the heart.

Deputy Aodhán Ó Ríordáin: The Blackrock College debating society - go on.

Deputy Paul Murphy: It is useless, from the point of view of these workers, for the Tánaiste to be promising something coming in the future. I am for dialogue with employers but it is useless for the Tánaiste to come in and for her answer to be that she urges the employers to come and have a dialogue. It is clear that Dunnes Stores has no interest in a dialogue with the workers.

Deputy Aodhán Ó Ríordáin: How many questions did the Deputy ask before today?

Deputy Brendan Howlin: He has no interest.

An Leas-Cheann Comhairle: Minister, please.

Deputy Paul Murphy: They refuse to engage with the industrial relations mechanism. That is precisely what has taken place over the past series of years. Therefore, the so-called voluntarist model of industrial relations, which this Government still touts in answers to parliamentary questions again and again, needs to go. When we have collective bargaining legislation, will the Government accept amendments from this side of the House to strengthen that legislation and to force employers to deal honestly and fairly with unions that represent a majority of their workers?

Deputy Finian McGrath: Answer that question.

Deputy Paul Murphy: Will the Government accept those amendments? I note a press statement from the Minister of State, Deputy Nash, almost a year ago, a few days before the local and European elections, which stated: "Today the Labour Party has delivered on that historic commitment [for a new bargaining law]". Convenient timing. We still have not seen it.

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Deputy Ruth Coppinger: Another broken promise.

Deputy Paul Murphy: We still have not seen the heads of a Bill.

An Leas-Cheann Comhairle: A question, please, Deputy.

Deputy Gerald Nash: The Deputy will have to vote on it soon. It was published back in December.

The Tánaiste: Did the Deputy turn up for it?

An Leas-Cheann Comhairle: Please, Tánaiste.

Deputy Paul Murphy: Let us see the heads of a Bill. Will we have a break with the so-called voluntarist notion of industrial relations? Will we have legislation that ends anti-union practices by employers like Dunnes? In addition - I note the Labour Party when in opposition asked this repeatedly of the previous Government - can we have a full transposition of the EU directive on part-time work to enable part-time workers to avail of more hours, if available, which would make a real difference to the lives of the Dunnes workers right now?

The Tánaiste: The Deputy must recall that the heads of the Bill were published last December and that, on their publication, the Irish Congress of Trade Unions described it as the greatest advance in terms of workers' rights since 1913 - I am quoting the general secretary of congress. I want to ask the Deputy does he support the Irish Congress of Trade Unions and its leadership-----

Deputy Brendan Howlin: Not at all.

Deputy Gerald Nash: They are sell outs - is that not right?

The Tánaiste: -----and the secretary general of the workers' union in this dispute-----

Deputy Aodhán Ó Ríordáin: He is for the Blackrock boys union.

An Leas-Cheann Comhairle: Please, the Tánaiste has the floor.

The Tánaiste: -----who says there is a way to a rapid conclusion of the dispute by the employer entering into a dialogue.

I am not quite sure what the Deputy's reference is to a voluntarist system because, in this country, we have a very elaborate system of legislation and of industrial relations, including the Labour Court, the Labour Relations Commission and custom and practice in regard to trade disputes.

Deputy Mary Lou McDonald: It is still a voluntarist system.

Deputy Brian Stanley: Dunnes has ignored it for 20 years.

The Tánaiste: Yes, it does mean both sides coming together, including the workers and their representatives, the trade unions. However, I get the sense that none of that machinery of voluntarism, as the Deputy describes it, is enough for him. What is it the Deputy wants - some kind of Leninist approach to how industrial relations works in this country? Is that what he wants?

Deputy Paul Murphy: Force them to deal with the union.

A Deputy: That has worked well, has it not?

Deputy Finian McGrath: That is what James Connolly wanted. Check the history books.

The Tánaiste: That approach has not worked very well outside countries like North Korea, if that is what the Deputy is talking about. We want an actual legal framework which will be enhanced by the new legislation so we get actual results for workers. As we saw yesterday, more and more people are going back to work. We now have a situation where unemployment is down to 348,000. Instead of celebrating working people going back to work, the Deputy seems to want to strew every obstacle in their way.

Deputy Aodhán Ó Ríordáin: It would protect Irish Water workers as well, by the way.

Deputy Brendan Howlin: From bullying.

An Leas-Cheann Comhairle: That concludes Leaders' Questions. I call the Tánaiste on the Order of Business.

The Tánaiste: I have not heard so much eloquence since I listened to a megaphone a couple of months ago. I think the megaphone was manned by the Deputy but he has not lost it.

An Leas-Cheann Comhairle: We must move to the Order of Business.

Deputy Gerald Nash: Megaphones do not pay wages.

Deputy Ruth Coppinger: A Leas-Cheann Comhairle, is the Tánaiste to be allowed to make this type of comment?

Deputy Brendan Howlin: It is called free speech.

An Leas-Cheann Comhairle: I call the Tánaiste.

Deputy Ruth Coppinger: She has stood up in Dáil today and cast aspersions on Deputy Murphy and she should withdraw those remarks. She is a specialist in the snide remark anyway.

Deputy Brendan Howlin: Free speech.

An Leas-Cheann Comhairle: We will move to the Order of Business. The Tánaiste is well able to deal with it.

Order of Business

The Tánaiste: It is proposed to take No. 12, motion re proposed approval by Dáil Éireann of the Freedom of Information Act 2014 (Effective Date for Certain Bodies) Order 2015 (back from committee); and No. 13, motion re proposed approval by Dáil Éireann of the Freedom of Information Act 2014 (Exempted Public Bodies) Order 2015 (back from committee). It is proposed, notwithstanding anything in Standing Orders, that: Nos. 12 and 13 shall be debated together and shall, if not previously concluded be brought to a conclusion after 25 minutes and the following arrangements shall apply: the speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called

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upon in that order, shall not exceed five minutes in each case and such Members may share their time; and a Minister or Minister of State shall be called upon to make a speech in reply which shall not exceed five minutes; and the Dáil on its rising today shall adjourn until Wednesday, 15 April 2015 at 2.30 p.m.

An Leas-Cheann Comhairle: There are two proposals to be put to the House today. Is the proposal for dealing with Nos. 12 and 13 agreed?

Deputy Mary Lou McDonald: It is not agreed. These matters, which were presented by the Minister for Public Expenditure and Reform, Deputy Howlin, came before a committee yesterday. One is of particular concern and relates to the refugee applications commissioner and the Refugee Appeals Tribunal. This matter requires further discussion, consideration and debate. I do not think it should be rushed through in this manner. The Minister is bringing forward the proposal at the behest of the Minister for Justice and Equality and it is a very negative development. I object to the proposal and the manner of its handling.

The Tánaiste: The debate is due to commence immediately after the Order of Business.

Deputy Mary Lou McDonald: I will have five minutes.

The Tánaiste: The Deputy will have an opportunity to debate it with the Minister.

Question, "That the proposal for dealing with Nos. 12 and 13 be agreed to", put and declared carried.

An Leas-Cheann Comhairle: Is the proposal that the Dáil on its rising today shall adjourn until Wednesday, 15 April 2015 at 2.30 p.m. agreed? Agreed.

Deputy Billy Kelleher: The Order of Business under this Government could be described at the very best as an oxymoron, because on a fairly regular basis we have looked at our screens to find that the Dáil has suspended after running out of business.

Deputy Bernard J. Durkan: The Deputy was not here.

Deputy Billy Kelleher: The Deputy knows how it works around here. He has been around here a long time.

Deputy Mattie McGrath: The noise pollution Act is coming.

Deputy Bernard J. Durkan: The Deputy was not here either.

Deputy Mattie McGrath: I was here.

An Leas-Cheann Comhairle: Please. Deputy Kelleher has the floor.

Deputy Billy Kelleher: Despite the fact that the Government consistently takes credit for extra sitting days, many of the days are quite unproductive because we simply do not have business before the House. Could we have a commitment from the Tánaiste that in future the ordering of business will be done in such a way as to run seamlessly from one item to another, as opposed to having adjournments and suspensions?

Deputy Emmet Stagg: Nobody from the Opposition turned up this morning.

Deputy Billy Kelleher: I remind the Deputy that he is the deputy Whip.

Deputy Bernard J. Durkan: We have the Bills. Does the Opposition want them?

Deputy Emmet Stagg: Not one person turned up.

Deputy Billy Kelleher: The Deputy will have to have a chat with his deputy Whip because he seems to be incapable of organising the business of the House.

Deputy Finian McGrath: On the picket lines.

Deputy Billy Kelleher: I refer to the Tánaiste's intervention today on the commitment to bring forward legislation very quickly on collective bargaining. Will employers be obliged to enter into collective bargaining discussions? In the context of discussions today on zero-hour contracts and the current strike by Dunne's Stores workers, will there be separate legislation to deal with such contracts? When does the Tánaiste intend to bring such a Bill to the House? The Minister of State sitting beside her was involved in setting up the commission.

The Tánaiste: On the Order of Business and the time allowed for debate on the Bill, the Education (Miscellaneous Provisions) Bill was scheduled today and concluded within ten minutes because there were no Opposition Members in attendance.

Deputy Mattie McGrath: I was here.

Deputy Niall Collins: Where was the next piece of legislation?

The Tánaiste: When the schedule is being prepared it is normally-----

An Leas-Cheann Comhairle: Can we settle down, please?

The Tánaiste: -----anticipated that for a significantly important Bill like that, the Opposition parties would be represented.

Deputy Mattie McGrath: It is not our job to have a quorum.

Deputy Billy Kelleher: I remind the Tánaiste that the Labour Party has more Deputies than we have. They might make an effort.

The Tánaiste: On collective bargaining, where there is a similar case to Dunnes Stores and the employer does not engage with the industrial relations machinery of the State, the court can make a recommendation under the proposed collective bargaining legislation which can then be enforced by the Circuit Court. The answer to the Deputy's question is "Yes".

Deputy Billy Kelleher: We are back to where we were.

Deputy Brendan Howlin: Deputy Keaveney's party was in office for 14 years before he joined.

Deputy Colm Keaveney: Is the Minister working for Brussels or Ireland?

An Leas-Cheann Comhairle: Could we have order, please?

Deputy Mary Lou McDonald: As we rise for the Easter break, I want to return to the water services Bill or legislation which will allow the Government to deduct - essentially to pickpocket - water charges from wages, social welfare payments and pensions. When might we see it? The Minister, Deputy Kelly, has clearly signposted it. The Tánaiste was somewhat

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equivocal the other day on her position, but we know she supports these measures.

The Tánaiste: No proposal has been brought to the Cabinet by the Minister. That normally happens first, and if there is to be legislation it would happen thereafter.

Deputy Mary Lou McDonald: Why the delay?

The Tánaiste: There is no delay.

Deputy Mary Lou McDonald: It is not going to do it. How interesting.

Deputy Mattie McGrath: The Tánaiste nicknamed the cuts introduced by Charlie McCreevy the “Dirty Dozen”, but there have been at least 20 cuts to social welfare. I refer to the Social Welfare (Miscellaneous Provisions) Bill and carers. Applications for carer’s allowance will no longer involve a family GP, but will instead be done by a civil servant.

An Leas-Cheann Comhairle: To which legislation is the Deputy referring?

Deputy Mattie McGrath: The Social Welfare (Miscellaneous Provisions) Bill. It is another sneaky cut which was introduced in the budget. The Tánaiste will have to face up to the issue because carers are waiting long enough for assessments, which can take from 15 to 18 months. A family GP knows the most about the needs of families or people being cared for.

An Leas-Cheann Comhairle: There are a lot of details we could get some other way.

The Tánaiste: The Deputy will know that the only discussion on carers in the context of the current legislation and its implications for lone parents is that lone parents who care for their child and receive the domiciliary care allowance and a carer’s allowance will not be affected in any way by the legislation, nor is there any impact on lone parents who are caring for other people or family members.

Deputy Mattie McGrath: What about family carers?

The Tánaiste: The amendment was introduced to clarify that point. I saw the e-mail to which the Deputy referred; it was a round robin to many Deputies. I did not understand it because the legislation already excluded carers who were acting as carers for their children and in receipt of domiciliary care allowance. The legislation clarified that lone parents in receipt of a carer’s allowance and caring for anybody outside of their children would retain in full their half-rate carer’s allowance for as long as their caring situation continues.

Deputy Michael McNamara: The Government is now into its last year in office. Practically all of the reforms required of Ireland by the EU-IMF bailout have been carried out, except those reforms which exclusively affect the most powerful in society, such as reform to increase the deterrent for corporate crime and reform of our legal profession. I accept that ordinary people in society are not in a position to bring Cabinet Ministers to lunches and dinners, on Constitution Hill or elsewhere, or to visit the Benchers’ Room and be bowed to by eager young barristers. I appreciate that could turn a person’s head. Where is the Legal Services Bill? When will it be introduced? When will we see reforms which will affect the most powerful in our society?

The Tánaiste: I understand the Bill will come before the House in the third week of April.

Deputy Tony McLoughlin: My question relates to institutes of technology, such as the

Institute of Technology, Sligo, and their ability to merge into new technological universities. When can we expect the technological universities Bill to be brought before the House for debate?

The Tánaiste: I hope it will come before the Dáil this session.

Deputy Sandra McLellan: Ba mhaith liom ceist a chur faoin farm safety scheme. So far this year there have been three fatal accidents on Irish farms. These deaths account for 60% of all fatal work accidents since the start of the year but farming accounts for less than 6% of the workforce. Last year was the worst in more than two decades for farm deaths, with 30 people, five of them children, dying on farms. That was an 87% increase in the number of fatalities in 2013. The high number of fatal accidents is a clear reflection of the difficult working conditions farmers must endure. Despite this, the Health and Safety Authority has indicated it intends cutting the number of inspections this year.

An Leas-Cheann Comhairle: Thank you.

Deputy Sandra McLellan: Commissioner Phil Hogan has repeated his threat to reduce farm payments for non-compliance in the farm safety area. Will the Government support this? When will the new farm safety scheme be introduced in 2015?

Deputy Finian McGrath: Fair play, Deputy McLellan. That was a fine speech.

Deputy Gerald Nash: It is happening at the grassroots.

The Tánaiste: There is much work and promotion to try to end the tragedy of the many fatal farm accidents that have happened to young people, children and people at work on farms. I know the Minister for Agriculture, Food and the Marine and the Minister of State, Deputy Gerald Nash, together with the Health and Safety Authority, have been involved with an enormous range of initiatives throughout the country and particularly on family farms. As the Deputy knows, the biggest dangers are slurry pits and the risks they pose for farmers and children. I am not clear to what legislation the Deputy is referring.

Deputy Sandra McLellan: I was referring to farm safety schemes.

The Tánaiste: There are no legislative plans but there are plans being actively implemented in the form of safety programmes and awareness campaigns. As the Deputy knows, all the media have been giving much coverage to the issue of farm safety. I am thankful as it is very important.

An Leas-Cheann Comhairle: Before calling Deputy Stanley, I remind Members that they should be brief as many Members are offering to contribute.

Deputy Brian Stanley: I ask about the EU's part-time worker directive. There were a few attempts this morning to raise the issue in the context of Dunnes Stores workers trying to secure their jobs and hours of work, as well as fair pay and the right to representation by a trade union.

An Leas-Cheann Comhairle: To what legislation is the Deputy referring?

Deputy Brian Stanley: When will the Government fully transpose the EU part-time worker directive into legislation to provide protection? There was a long discussion today but the workers still need protection. This EU directive, if fully transposed, would help to protect

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Dunnes Stores workers and secure their hours and terms and conditions. Will the Government give a clear answer, as there has been no answer yet this morning?

The Tánaiste: I do not have a date for that as it is secondary legislation. I will ask someone from the Department to revert to the Deputy.

Deputy Seán Ó Feargháil: I refer to two pieces of legislation. The Tánaiste mentioned the collective bargaining legislation that will be brought forward. The reference to Marie Antoinette may be a little unfortunate. If the Tánaiste or the Taoiseach could lift the phone today to Ms Margaret Heffernan, they might be able to do more about this dispute than any legislation.

Deputy Peter Mathews: Hear, hear.

Deputy Seán Ó Feargháil: Will the Tánaiste consider doing so? I also ask about the patient safety licensing Bill, which is to provide for a mandatory system of licensing for public and private health care facilities. We are well aware of the work the Health Information and Quality Authority has been doing, but the public is concerned about what has been disclosed in respect of a number of facilities. I am aware in my constituency, not of poor quality care of patients but rather interference with the meagre financial resources of some residences.

An Leas-Cheann Comhairle: We cannot get into detail now.

Deputy Seán Ó Feargháil: When will that important legislation be brought before the House?

The Tánaiste: The establishment of a patient safety agency is being reviewed in the context of the strategic reform of health services and the measures taken to strengthen patient safety, including advocacy and related services within the Health Service Executive. This review will allow the Minister for Health to decide on a course of action that will be in the best interests of patients. As the Deputy knows, this Government introduced the inspection by HIQA of units or locations catering for people with intellectual disabilities. It was because of that reform by this Government in extending HIQA oversight to such institutions that the dreadful scenes we saw in the coverage of Áras Attracta came to light. It is a priority for the Government and the Minister to address what has been a very distressing case for the patients and relatives.

Deputy Seán Ó Feargháil: Will the Tánaiste lift the phone to Ms Heffernan?

Deputy Michael Fitzmaurice: With respect to social welfare legislation, a problem throughout the country has come to my attention. Under Tús and other schemes, there are certain criteria for qualification. I welcome that the criteria applying to those aged between 18 and 25 has been adjusted to four months. There is a problem with voluntary groups, however, so will the Tánaiste consider bringing all the criteria back to four months? There is a scarcity of people to fill these positions.

An Leas-Cheann Comhairle: That could be raised some other way.

The Tánaiste: As numbers of people who were unemployed are going back to work, there continues to be a significant fall in the live register, and that will certainly allow us to review the qualification period. I am certainly open to reviewing it. I hope the Deputy understands that when we came into office, before he was elected to the House, the live register was heading for 500,000 people. That is what all the economists were talking about. It is now down to 348,000, which is still very high. The Deputy will understand that the emphasis in the Department has

been on offering the opportunities on Tús, community employment schemes and Gateway especially to people who are long-term unemployed. As the number of people on the live register falls, we have opened the community employment schemes and Tús, for example, to people aged 21 to 25, and reduced the time period to four months. I will certainly keep the issue under review as we expect the numbers to keep falling. With Tús and Gateway, we are also allowing self-referral by people who qualify in terms of the length of time on the live register. We get many people seeking places, notwithstanding the debate we hear in the House sometimes where the argument is that no one ever wants to be involved with a scheme.

Deputy Bernard J. Durkan: On legal matters, when is the legal aid Bill likely to come before the House? Have the heads been discussed by Cabinet? Is it likely to pass in the current year? The credit guarantee (amendment) Bill is a proposal to amend the 2012 Act but has it been discussed at Cabinet in preparation for introduction to the House? If it has, when are we likely to see it?

The Tánaiste: The credit guarantee Bill should come before the House in this session. The legal aid Bill will be later this year.

Deputy Derek Keating: Will the Tánaiste update the Dáil on the nursing home support scheme (amendment) Bill? It would provide support for women who receive funding under certain schemes and would ensure such funding would not be taken into account under the nursing home support scheme.

The Tánaiste: That will be this year. On a related note, I am delighted to indicate that a €70 million package was announced today relating to the fair deal scheme and people buying home care packages. That will significantly assist in tackling the issue, as people have been seeking more services than could be supplied.

Deputy Finian McGrath: The health (transport support) Bill deals with individual payments to people with severe disabilities who cannot access public transport.

1 o'clock

Can I have an update on the legislation?

The Tánaiste: It will come before the Dáil later this year.

Deputy David Stanton: I wish to make a statement to the whole House and the Office of the Ceann Comhairle in particular. Most days, priority questions drift beyond the allocated 30 minutes, which means many of us cannot get questions in. Can we discuss staying within Standing Orders to ensure priority question time does not drift to an hour? Although Standing Orders allocate 30 minutes for priority questions, it drifts, and today it was 20 minutes over time, which meant at least four or five ordinary questions were not reached.

Deputy Brendan Howlin: Stay to it, like the Order of Business.

Deputy David Stanton: It is unfair on those of us who go to the trouble of asking questions.

An Leas-Cheann Comhairle: I am being a little more indulgent today. I will take it up with the Ceann Comhairle. Technically, 32.5 minutes are allocated for the first five priority questions, given that half a minute is allocated for an introduction to each question.

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Deputy Patrick O'Donovan: Last week, the Oireachtas Joint Committee on Transport and Communications discussed bias within the State broadcaster. Later that evening, during the Private Members' motion, the issue was raised again, particularly surrounding the implementation of Irish Water. In this context, when is it expected that the broadcasting (amendment) Bill, which is to deal with the transition from the television licence to a broadcasting charge, will come before the House? Is it expected that the comments in the Oireachtas committee and here last week regarding bias will form part of the context of it?

Deputy Finian McGrath: The Deputy should not bully RTE. It is a free press.

The Tánaiste: I have no date for the legislation.

Deputy Peter Mathews: What I want to ask, and how I want to ask it, is in an omnibus sense, wide reaching across many areas of legislation. The collective bargaining legislation is coming soon. Three Private Members' Bills have been dismissed and watered down. Could I have the Tánaiste's attention? Our country is still burgeoning with distress over many areas. Some 300,000 variable rate mortgages-----

An Leas-Cheann Comhairle: Which legislation is this?

Deputy Peter Mathews: It is a question on legislation. There is large-scale homelessness and there are deeply distressed mortgages leading to repossession.

Deputy Brendan Howlin: A Leas-Cheann Comhairle, please.

Deputy Peter Mathews: The Government has one year left out of a five-year term and the biggest majority ever in the history of the State.

Deputy Patrick O'Donovan: The Deputy left the Government. He should have stayed.

An Leas-Cheann Comhairle: This is not on the Order of Business, and you know it.

Deputy Peter Mathews: It is.

Deputy Patrick O'Donovan: Deputy Mathews had his chance.

An Leas-Cheann Comhairle: Ask a question on promised legislation.

Deputy Peter Mathews: I have a list of A, B and C legislation. I am asking the Tánaiste to turbo-charge and concentrate the effectiveness of what is on the tracks.

Deputy Paul Kehoe: Deputy Mathews had more effect when he was over here.

Deputy Peter Mathews: The Government is going at the same pace as if nothing had changed seven years ago. The country is in the work-out stage, like a post-war stage of reconstruction and the methodology of dealing with it is ineffective.

Deputy Brendan Howlin: A Leas-Cheann Comhairle, please.

Deputy John McGuinness: Deputy Mathews is entitled to be heard.

Deputy Peter Mathews: Is there some connection between the way the Government members talk about it and the way they legislate?

Deputy Patrick O'Donovan: The only thing disconnected here is Deputy Mathews.

An Leas-Cheann Comhairle: The Deputy should put down a Topical Issue on it.

Deputy Patrick O'Donovan: Ráiméis.

Deputy Peter Mathews: Deputy Ó Feargháil made a very practical suggestion that the Tánaiste lift the phone to Ms Heffernan.

Deputy Patrick O'Donovan: The Deputy will end up in Fianna Fáil.

Deputy Peter Mathews: The Tánaiste should not underestimate her ability. Lift the phone to Ms Heffernan. It would be a new approach.

An Leas-Cheann Comhairle: The Deputy has covered a huge area.

Deputy Joe Carey: When will the greyhound industry (amendment) Bill be published and brought before the House for debate?

Deputy Finian McGrath: Let the dogs see the rabbit.

The Tánaiste: It will be out of the traps later in the year.

Universal Jurisdiction of Human Rights Bill 2015: First Stage

Deputy Mick Wallace: I move:

That leave be granted to introduce a Bill entitled an Act to provide for a universal jurisdiction of human rights; to enable the charging and conviction of persons who breach international human rights law in cases of but not limited to genocide, war crimes, torture and crimes against humanity, whether these breaches have occurred inside or outside the State; for these purposes to amend the Criminal Justice (United Nations Convention against Torture) Act 2000 and the International Criminal Court Act 2006.

The Bill seeks to enable the charging and conviction of persons who breach international human rights law in cases of genocide, war crimes, torture and crimes against humanity, whether these breaches have occurred inside or outside the State. Universal jurisdiction can play a crucial part in the quest to obtain international justice for those who have suffered horrendous crimes.

There are two types of universal jurisdiction. The first type can be enacted when a person who has breached international human rights enters the territory of a state which wishes to charge him or her. The offender's presence grants the state this universal jurisdiction. The second type of universal jurisdiction is practiced *in absentia*. This occurs when the person in question is not present in the state for the trial, but is tried for the crimes regardless. Spain, Germany, Belgium, France and Britain have long had universal jurisdiction statutes, which allow their national courts to pursue and prosecute war criminals. However, there is an unspoken rule in the West never to use international law against each other. This changed in 1998, when Spain, supported by France, Switzerland and Belgium, indicted the Chilean dictator, Augusto Pinochet, and sought his extradition from Britain, where he was having an operation. John Pilger has made the point that had Pinochet been sent for trial, he almost certainly would have im-

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plicated at least one British Prime Minister and two US Presidents in crimes against humanity. He was not extradited. Although unsuccessful, this attempt by Spain should be commended.

It has also been argued that the use of universal jurisdiction by states has lost some of its relevance since the creation of the International Criminal Court, which was established as a permanent court for cases of genocide, war crimes, torture and crimes against humanity. However, the court has been a disaster since its inception in 1998. An example of this is the record number of petitions the court has received for Tony Blair to stand trial for war crimes. He has yet to be called before the court. How surprising. Mr. Blair was partially responsible for the deaths of more than 1 million people, has created almost 4 million refugees and has caused untold misery in the Middle East region, through the invasions of Afghanistan in 2011 and Iraq in 2003. He lied to both the British public and Parliament in the run up to the invasion in Iraq in 2003, claiming that Saddam Hussein had weapons of mass destruction. He later got to work for the US, EU and UN as a Middle East envoy. I must be missing something. Ireland has become complicit in some of these war crimes by allowing the United States to use Shannon Airport as a military air base. More than 2.25 million troops have passed through on their way to wars which have led to more than 1 million deaths.

There have been many crimes against humanity, such as the mass murders in Rwanda and the slaughter by Suharto in Indonesia, the US in Vietnam, the Khmer Rouge in Cambodia and the Israeli defence forces in Gaza. There have been stories of families, wedding parties and whole villages being wiped out in Afghanistan, Pakistan, Iraq, Libya and Yemen by the US, initiated by Barack Obama, George W. Bush and NATO forces. There have been reports of the disappearance of students in Mexico.

Deputy Brendan Howlin: Would the Deputy include ISIS?

Deputy Mick Wallace: I would definitely include ISIS, and would throw the Russians in too, given that Russia has committed some serious crimes.

Deputy Brendan Howlin: Excellent.

Deputy Mick Wallace: There has been much debate recently in the Chamber regarding the issue of Irish neutrality. Sadly, we are not neutral, but have taken sides, and the Irish people are becoming more aware of this. It would be great if we could become a leader, not a follower, in the international community. The implementation of universal jurisdiction in Irish law would give us the power to try war criminals such as Tony Blair, George W. Bush, Barack Obama, Binyamin Netanyahu and Vladimir Putin for their horrendous crimes. I came across a quote from Henry Kissinger on universal jurisdiction:

Any universal system should contain procedures not only to punish the wicked but also to constrain the righteous. It must not allow legal principles to be used as weapons to settle political scores.

It is interesting that he said this, given that he was largely responsible for the deaths of 600,000 innocent people in Cambodia, when the US bombed the living daylights out of the country between 1969 and 1973. He is wanted for questioning in France, Chile and Argentina on these charges. Later, he said universal jurisdiction was a breach of each state's sovereignty, which translates as, the US can do what it likes when it likes where it likes, and if people do not like it, tough.

This is a good reason for us to introduce the Bill and stand up for human rights and justice.

An Leas-Cheann Comhairle: Is the Bill opposed?

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): No.

Question put and agreed to.

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

Deputy Mick Wallace: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Communications Regulation (Amendment) Bill 2015: First Stage

Deputy Michael Colreavy: I move:

That leave be granted to introduced a Bill entitled an Act to amend the Communications Regulation Act 2002 to enact a complaints mechanism for electronic communication services.

This is simple, non-controversial legislation. My aim is to provide the legislative basis and the legislative imperative for this and future Governments to monitor on an ongoing basis the adequacy of Internet, landline and mobile telephone services throughout the State. We need to set up a database where people can log issues with inadequate services. The database will support the communication of the steps involved in resolving those issues. It will collate data to provide an online, real-time overview of the occurrences of so-called blackspots throughout the State.

Sinn Féin and I enthusiastically supported the former Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, in this regard and we support the current Minister in his attempts to ensure every person in the State can have access to reliable quality Internet and telephone services. We recognise that such services are as essential as electricity if remote rural areas, in particular, are to survive and prosper. My proposal would not cost an arm and a leg; in fact, it would save money. I am sure the Government has access to a systems analyst who could undertake the analysis, design and programming necessary to create the database and I would offer to help if it is required. It would not require the engagement of management consultants at a cost of tens of thousands of euro, and it would mean that a future Government would not have to engage expensive consultants or depend on service providers for a map of blackspots or problem areas.

An Leas-Cheann Comhairle: Is the Bill opposed?

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): No.

Question put and agreed to.

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

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Deputy Michael Colreavy: I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

Office of Fiscal Prosecution Bill 2015: First Stage

Deputy Michael McNamara: I move:

That leave be granted to introduced a Bill entitled an Act to provide for the establishment of the Office of Fiscal Prosecution, to provide for the investigation and prosecution by the Office of Fiscal Prosecution of cases of certain offences and, for that purpose, to enable proceedings relating to such cases to be taken expeditiously, to provide for criminal and civil enforcement and to provide for matters incidental upon the establishment of the Office of Fiscal Prosecution and the establishment of a European public prosecutor and a European delegated prosecutor with other related matters.

The Bill contains a list of scheduled offences, the prosecution of which is slightly amended by it, and it also provides for civil enforcement in parallel. The list of offences relates to banking, investment of funds and other financial activities, company law, money laundering and financing terrorism, theft and fraud, bribery and corruption, competition and consumer protection and crimes related to the raising and collection of taxes and duties. It is about the more serious offences which relate to these. The Schedule is similar to that in the Criminal Justice Act 2011. The Bill provides for mandatory imprisonment in the case of conviction for these offences. Currently, on summary conviction or on conviction on indictment, discretion is available in respect of whether to fine or imprison offenders. The EU-IMF bailout document suggests that there is an insufficient deterrent to corporate crime, particularly when summarily prosecuted.

Section 5 provides for the establishment of an office of fiscal prosecutor headed by the director of fiscal prosecution, and they will be tasked with investigating these scheduled offences. I am not convinced that the current regime is sufficient to investigate or prosecute corporate crime. We have witnessed high-profile prosecutions but the offices involved in them have publicly stated that all their resources were used to pursue these investigations and I am concerned that if corporate crimes are being reported to the Garda, be it in the Leas-Cheann Comhairle’s constituency of Galway East or in Clare or Limerick, the force does not have the resources or the capability to investigate them. As we are about to rise for Easter, I am reminded of the funeral sequence in “The Godfather II”, which took place at that time. One character says, “One lawyer with a briefcase can steal more than 100 men with guns”. I am not convinced that our criminal justice system has the capability to investigate and prosecute corporate crime.

Section 11 provides that the relevant offences may be tried in the Special Criminal Court where the circumstances required by Article 38.3.1° exist and that is because subversives within the State and organised crime gangs are moving from the street to corporate crime, as the Mafia did in the US. This was celebrated in the film to which I referred.

The legislation also provides for a civil enforcement procedure where there is suspected non-compliance with statutory duties. This does not create any new legal duties but it provides for an enforcement mechanism to ensure existing statutory duties can be enforced more expeditiously and, upon the completion of civil proceedings, a person who has failed to comply with

the statutory duty may be ordered to pay a sum to a third party under an order of restitution. The purpose of this is remedial in order that the damage caused by corporate crime can be remedied. That would be a huge deterrent because unlike other crimes which may be motivated by passion and so on, corporate crime is simply motivated by greed and it should be made easier to take the ill-gotten gains from such crimes from offenders without them suffering an additional penalty. An additional penalty would be unconstitutional because of the Supreme Court's decision in the Melling case, which involved the smuggling of butter, a long time ago. Nevertheless it set the benchmark for what criminal and civil prosecutions are allowed. This provision would mean offenders would lose the ill-gotten gains of corporate crime.

Section 19 ensures a person may be made liable for the debts of a company upon the application of the director of fiscal prosecution in certain circumstances where the person has knowingly used the company to accrue debts he knew could never be repaid. Throughout Ireland, tradesmen in the construction sector, in particular, have been stung by companies when people used the protection of the company law structure to knowingly accrue debts that could not be repaid. Ordinary people do not have the financial wherewithal or time to have the so-called corporate veil lifted to impose personal liability on those who wrongfully use companies in this regard. This is not about people who get it wrong in companies. It is about people who knowingly use companies to accrue debts they know cannot be paid back. That does not serve our economy well. It is unjust and remedies must be provided. The Bill is an attempt to do that.

The legislation finally provides for a public consultation on a merger with the Office of the Director of Corporate Enforcement. If the office of the fiscal prosecutor is introduced, it would be beneficial after a specified period to examine how it is working and how it interacts with existing mechanisms, which are not working properly.

An Leas-Cheann Comhairle: Is the Bill opposed?

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): No.

Question put and agreed to.

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

Deputy Michael McNamara: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Freedom of Information Act 2014: Motions

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move:

That Dáil Éireann approves the following Order in draft:

Freedom of Information Act 2014 (Effective Date for Certain Bodies) Order 2015,
copies of which Order in draft were laid before Dáil Éireann on 10 March 2015.

I am seeking the support of the House for these orders, which I am proposing to make under the Freedom of Information Act 2014, one providing for a different effective date for certain

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bodies under freedom of information and a second order providing for exemptions from freedom of information in whole or in part for certain bodies. Both of these orders are to be made under section 6 of the Freedom of Information Act and require a positive resolution of both Houses before they can be made. We had a useful discussion on these matters at the Joint Committee on Finance, Public Expenditure and Reform yesterday.

I will explain to the House, for the benefit of Members who were not present at the committee, what I have in mind. I will deal first with the effective date order. In the context of freedom of information, effective date means the retrospective date back to which records are available from a freedom of information body. While the standard effective date for new bodies under the 2014 Act is 21 April 2008, which is a long way back, I have the power under the Act to set a different effective date by order. I have received various submissions, but the only applications I have agreed and propose to provide for by way of order are those from the Refugee Applications Commissioner and the Refugee Appeals Tribunal, for which I am proposing an effective date of 14 October 2014, which is the date the legislation was brought into force, and the Private Residential Tenancies Board, for which I am proposing an effective date of 21 April 2012. The rationale for my decision is that these two organisations hold large volumes of information and for them to process freedom of information requests back to 2008 would impose a significant administrative burden and lead to delays in the administration of their core business. As the bulk of the records held by both bodies are personal in nature, any personal records will be available to the individual to whom they relate and would not be affected by my decision to allow a later effective date.

On the exemptions order, a generic definition of what constitutes a public body was included in the 2014 Act and this enables freedom of information to apply to the widest possible definition of public bodies. As a result of this approach, by way of explanation to Members who were not in the committee meeting, up to now, freedom of information applied to bodies that were specifically included. Under the new law that we enacted last year, everyone is in unless specifically excluded by the Oireachtas through a positive vote. An order will be needed if a body is to be made exempt from freedom of information. I have only approved exemptions where it is clear that the application of freedom of information to those bodies, in whole or in part, would affect their ability to perform their core functions or, for example, in the interests of the security or financial position of the State.

I propose to exempt the Irish Red Cross, which, because it was established under legislation, inadvertently came under the definition of a public body, as I explained to the committee yesterday. I will, however, revisit this in the context of making non-public bodies, including charities, amenable to freedom of information in the future. The Shannon Group will also be exempt because it operates in a fully commercial environment. The reason it needs to be exempted now is that it came into being after the enactment of the legislation. Certain records of the Strategic Banking Corporation of Ireland, SBCI, will also be exempt, whether they are held by the SBCI itself or the National Treasury Management Agency, to reflect the level of confidentiality expected of such transactions in the marketplace. Records relating to the new legal cost claims management functions conferred on the NTMA, which relate to costs of third parties in the context of the Mahon and Moriarty tribunals, will also be exempt. I also propose to exempt Oifig Choimisinéir na dTeangacha Oifigiúla, to put that office in the same position in relation to freedom of information as other ombudsman's offices. I am also making a technical change to the exemption for schools to ensure all schools, other than education and training board schools, will remain exempt from freedom of information, as was the original policy

when we enacted the law.

I am bringing these motions to the House today seeking a positive resolution in order for me to be authorised to sign these orders.

Deputy Sean Fleming: I am pleased we are having this short debate on these U-turns in respect of freedom of information being proposed by the Minister. The Government's original plan was to have it taken here without debate, but we said there had to be a proper debate and have succeeded in getting five minutes for each of the Opposition speakers, which is welcome and is better than where we were. I acknowledge we had an extensive debate yesterday at the committee meeting. The Minister came into office and trumpeted himself as the saviour of freedom of information. He said he was going to restore it and amend the various butchering procedures that had happened on previous occasions. Within a few short months, and less than six months after the legislation came into effect, he is rethinking his policies and rowing back on a number of measures. If these measures had not gone through, we would not have this rowing back of freedom of information.

The Minister is excluding the performance of the new Strategic Banking Corporation of Ireland and aspects of the National Treasury Management Agency's work. He is also excluding the Shannon Group in its entirety. I am looking at the Minister's script from yesterday, which states that "given the very important responsibilities assigned by Government to the Shannon Group in terms of regional development in the mid-west region, it is obviously critical to ensure that the organisation is not put at a commercial disadvantage". I can understand that in respect of Shannon Airport and so on, but if it is a regional development agency, like a large version of Leader companies or other development companies like the IDA or Enterprise Ireland, which come within this legislation, the regional development aspect should not be excluded.

The Minister said the Irish Red Cross was inadvertently included and I understand there are many difficulties at senior level in that organisation. It is a little dysfunctional on the managerial level at the moment and probably needs a little extra time. There is provision in the legislation to extend the date by which organisations come under freedom of information legislation to later in the year, namely, to next October. He is taking that particular option for EirGrid and perhaps some other bodies as well. I proposed yesterday that this might have been a better measure for the Red Cross. Restrictions also apply to the Coimisinéir Teanga. That is fine in terms of the investigations the office carries out.

Some of the critical issues are the change in the official date by which information can be obtained when the new regime comes in. It is scheduled to come into effect for many organisations on 14 April, which is just a few days away, and the Minister is making changes to this at the 11th hour. The reason he gave in the briefing note for this change in the effective date was that the Private Residential Tenancies Board is in the process of taking on significant additional responsibilities in taking security deposits of approximately €1,000 per tenancy from 300,000 tenants and is dealing with new approved housing bodies, which will comprise 28,000 households. As I said yesterday, I understand that has not yet commenced, so I do not see how the timing of the Freedom of Information Act impacts on that issue. The Minister said it was the date from which records were computerised, but people are entitled to access non-computerised or computerised documentation and there should not be a different date depending on whether it is computerised.

I have a difficulty with changing the effective date for information from the Refugee Appli-

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cations Commissioner and the Refugees Application Tribunal. In the briefing note, the Minister said he only considered making these changes having had requests from the line Ministers and Departments. He said he only approved a few, but he did not indicate how many he refused. It might have helped him to tell us all the ones he refused and to show us how he tried to keep freedom of information-----

Deputy Brendan Howlin: The Deputy will have to make an freedom of information request.

Deputy Sean Fleming: Exactly. I will have to go to all 14 Departments and there might be a search and retrieval fee. The Minister acknowledged in the briefing note we received that in the case of the refugee bodies, an additional concern communicated by the Department of Justice and Equality was that third-party freedom of information requests would have the potential to delay judicial reviews of the organisation's decision-making, giving rise to significant additional costs in direct provision. That opens up a whole new vista. Is that the real reason behind it?

In light of those reservations and objections to these changes to freedom of information, Fianna Fáil will be voting against these motions.

Deputy Mary Lou McDonald: Like Deputy Sean Fleming I oppose both motions. However, I wish to zero in on what I believe to be the most troubling development in respect of the motions, that is, the Minister's proposal to change the effective date of FOI for the Refugee Applications Commissioner and the Refugee Appeals Tribunal from April 2008 to October 2014, which is six months ago. The Minister wants to create a scenario in which third parties can only access data information and documents from the Refugee Applications Commissioner and the Refugee Appeals Tribunal up to six months ago.

It is farcical - the Minister has not set it out here - but in the briefing document to which Deputy Sean Fleming referred and which was circulated to us the request was made by the line Department, the Department of Justice and Equality, not by the agencies, on the very spurious grounds that it had concerns around third party access to personal data. That is rubbish: that was never going to happen. People's personal information is protected. The other concern was that third party FOIs might delay judicial reviews of the organisation's decision making and give rise to significant additional costs in direct provision.

We have in this jurisdiction an absolutely disgraceful regime for dealing with refugees and asylum seekers. Not only is it disgraceful in its shape and resourcing and incredibly slow, it is above all shrouded in secrecy. The Minister and I know that one of the big criticisms of the current Ombudsman and the previous Ombudsman was that they did not have oversight of this whole area of policy and decision making. There are people who have languished in direct provision for many years and have raised their children in direct provision. Children have been injured and damaged in direct provision because they do not have the basic facilities that any child needs and deserves. We know this because at this stage it is very well documented and because many of the citizens living in direct provision have taken the trouble to come to the Oireachtas to tell their personal stories. The Minister with responsibility for freedom of information thinks it appropriate to add to the shrouded secrecy around this scandalous area of policy.

The Minister knows that within the system of direct provision and within the entire system

of asylum in the State a scandal has slowly and painfully unfolded under our watchful eyes. We know that the system is banjaxed. We know the system is failing those who are engaged with it. We know all of that and we know that it is all terribly secretive and rather than shine a light on this area the Minister wants to maintain that secrecy. I do not buy the rationale forwarded to him by the Department of Justice and Equality for making this change. I doubt that the Minister buys it as I would credit him with more basic intelligence than that. The question then arises, what is there to be hidden?

Individuals can access their personal records and data, one would expect that, but why cannot third parties such as advocates, politicians, perhaps, journalists, analysts and so on have access to this documentation and data-----

Deputy Brendan Howlin: They can.

Deputy Mary Lou McDonald: ----- going back to 2008? What is the purpose of all of this? I said to the Minister in the committee that this is not only a very bad idea, it is extremely alarming, and I am disappointed that he would bring forward such a motion at the behest of a Fine Gael Minister for Justice and Equality. Far from enhancing freedom of information or this area of policy it sets the clock back.

An Leas-Cheann Comhairle: I understand Deputies Finian McGrath and Mick Wallace are sharing five minutes.

Deputy Finian McGrath: I thank the Leas-Cheann Comhairle for the opportunity to participate in this important debate on the Freedom of Information Act. I agree with many of my colleagues that it is important that we have this debate. Freedom and information are two very important elements in any democracy that claims to be open and transparent. Wherever we see a Government or Ministers rowing back we have to focus on it. I support the concept of respect for an open democracy and transparency for different Ministers and different Departments and, generally, in regard to reforms in the public sector. There are genuine concerns about changing the effective dates.

The Government was elected on the promise of reform and change, an issue on which we need to up our game in terms of this issue, particularly 12 months out from a general election. We need to ensure that the reforms put in place are effective. Freedom of information is a key issue.

The Minister mentioned the Refugee Applications Commissioner and the Private Residential Tenancy Board for whom he is proposing an effective date of 21 April 2012. In the current climate there is a huge crisis in terms of many families who are being intimidated by landlords and put out of their homes. Yesterday, a lovely family in my constituency, whose rent was increased by 47%, was told they have to be out of their home by June. While we have organisations who support these people, some landlords are running riot over tenants and exploiting many people.

I take the Minister's point about a significant administrative burden and the delays in the administration's core business but we have to focus on the important issue in this debate, the freedom of information. Direct costs is also dealt with. We know there is a history of this public body having major issues and also the Shannon group. There are major concerns coming from people and Opposition Deputies. That we are having this debate is a step in the right direction because previously there was an attempt to close it down.

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Deputy Mick Wallace: If one was investigating the culture of secrecy and the absence of transparency in Ireland there would be no need to go much further than the tool one needs to carry out that investigation. The Freedom of Information Act is a travesty paraded as real democratic reform in action, to quote the Minister. Only under pressure from civil liberties groups and after being reminded of election promises and the OECD and Council of Europe recommendations were the upfront fees abolished. What we have now is a system whereby one could be charged from €100 to €500 for a freedom of information request if it takes in excess of five hours to fulfil. This is not best international practice. For example, the UK legislation provides for public authorities either to charge for or decline requests for information that would cost the public authority either more than £600 for central Government or £450 for other public authorities to deal with the request. Furthermore, the list of exempt bodies makes a mockery of the Minister's claims. There are already 38 explicitly exempt bodies and the records of 35 bodies and institutions are only partially included. If the Minister considers that the media and the public seek too many freedom of information requests, if there was less secrecy in Ireland they would not have to seek so many FOIs. Of course, there are some bodies that merit exclusion from FOI for reasons of national security and individual privacy but the almost entire exclusion of the police force from the remit of FOI requests is a disaster and the amount of newly available information is minuscule to the point of being of little or no consequence. On this issue, the Bill knowingly flies in the face of a recent UN report on compliance with the International Covenant on Civil and Political Rights. The Office of the Director of Public Prosecutions acts as a secret society. The National Asset Management Agency, NAMA, and the National Treasury Management Agency, NTMA, are inaccessible. The Irish Bank Resolution Corporation acts in the shadows.

The motion before us is simply more of the same, a further extension of the uselessness of Ireland's freedom of information legislation. Thomas Jefferson said that if democracy is to flourish, every day a citizen must be a participant in the government of affairs. This Bill ensures that genuine democracy is not possible in Ireland. If this is real democratic reform in action, the aim of the Minister's reforms must be to abolish democracy.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): In response to Deputy Fleming, there are no U-turns or rethink on policy. It is exactly the policy I set out, which is to have a comprehensive review of the disaster which the Deputy's party made of freedom of information in 2003. To repeat, I am very confident that the 2014 Act I introduced will stand the test of time, unlike the abomination the Deputy supported in 2003. The changes I am proposing today are the manifestation of democracy in action, in that nothing can be excluded without the explicit will of the Houses. That is the change for which I am seeking the endorsement of the House.

Deputy McDonald talked about the effective day being changed for a couple of organisations. The answer is "Yes", and that is for practical reasons. For the first time we are bringing the Refugee Applications Commissioner and the Refugee Appeals Tribunal under the remit of freedom of information legislation in a comprehensive manner.

Deputy Mary Lou McDonald: It is only six months ago.

Deputy Brendan Howlin: Is the Deputy going to shout me down? It will be there for all time into the future.

Deputy Mary Lou McDonald: I am just supplementing the facts.

Deputy Brendan Howlin: We have backdated it to last year for practical reasons. As I told the Deputy yesterday, the Refugee Applications Commissioner has 4 million paper files, so there must be some level of understanding of practicality. However, from last year, everything will be amenable to freedom of information and that will be the case into the future, for the first time.

It is very difficult to listen to lectures from Deputy Fleming, who eviscerated the original freedom of information legislation introduced by a Labour Party Minister, or to listen to words such as “a shroud of secrecy” from Sinn Féin, and particularly from Deputy McDonald, who could lift the shroud of secrecy on many goings-on if she had the courage-----

Deputy Mary Lou McDonald: Dear divine Jesus, is that the best the Minister can do?

An Leas-Cheann Comhairle: The Minister has the floor.

Deputy Brendan Howlin: The Deputy can dish it out, but she cannot take it.

Deputy Mary Lou McDonald: Is that the best the Minister can do?

Deputy Brendan Howlin: If she wished to engage in freedom of information, she has information or has the wherewithal to ensure that information can be provided.

Deputy Mary Lou McDonald: A Leas-Cheann Comhairle-----

Deputy Brendan Howlin: Can I deal with-----

Deputy Mary Lou McDonald: No, you cannot.

An Leas-Cheann Comhairle: Is the Deputy making a point of order?

Deputy Mary Lou McDonald: My point is that the Minister might address himself to the changes he proposes in respect-----

Deputy Brendan Howlin: The Deputy loves to make charges.

Deputy Mary Lou McDonald: -----of the regime surrounding refugee and asylum, not throw slurs against my character. The Minister should deal with the issue, if he can and if he can defend what he is trying to do here.

Deputy Brendan Howlin: Deputy McDonald can obviously dish it out, but cannot face the truth herself.

Deputy Mary Lou McDonald: That is pathetic.

Deputy Brendan Howlin: There are two simple proposals before the House. One is to change the effective date for two bodies, the Refugee Applications Commissioner and the Refugee Appeals Tribunal, for a practical reason. It brings the date back to last year for practical reasons, because of the volume-----

Deputy Mary Lou McDonald: To six months ago.

Deputy Brendan Howlin: It is very difficult to talk when one is being shouted down continuously.

An Leas-Cheann Comhairle: We will hear just one voice now.

Deputy Brendan Howlin: The bodies were never included previously and will now be included. The other date that is being backdated relates to the Private Residential Tenancies Board and it is backdated to 2012. That is the date from which the board has electronic data available to it. Before that, it had 1.2 million paper records annually and it would simply clog up the board to require it to go back to 2008, as well as make it dysfunctional. Personal records, of course, are available. Anybody who seeks their personal records, be they an asylum seeker or otherwise, will be unaffected by this and will have access to their records.

I wish to comment on Deputy McDonald's commentary on direct provision. As she knows, a review on direct provision is taking place at present and I look forward to the result of it being sent to the Government. There are real concerns across the House and the country about the operation of direct provision.

Deputy Finian McGrath spoke about openness. Unfortunately, he has left the Chamber but this measure is part of a suite of reforms dealing with openness, including the regulation of lobbyists, freedom of information, the protection of whistleblowers and our involvement in the Open Government Partnership. All of that is important.

Finally, Deputy Wallace spoke about this being a travesty, but we do not judge ourselves by Deputy Wallace's criteria. International bodies regard this as exemplary legislation.

Deputy Mick Wallace: That is not true.

Deputy Brendan Howlin: I am aware that if it is not to the Deputy's liking it is not right.

The vast bulk of freedom of information requests are under five hours. The idea is to disaggregate requests. One can put in as many as one wishes, for no cost. There is no limitation. However, it makes sense when one gets the request to know exactly what is required, as opposed to receiving an omnibus request. More than 500 bodies are covered by this legislation, many of them for the first time. This is ground breaking, good legislation. Is it perfect? No, but it will be reviewed and refined into the future, like all legislation. However, most objective people would regard this as an extraordinarily important advance.

Question put:

<i>The Dáil divided: Tá, 56; Níl, 31.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Broughan, Thomas P.</i>
<i>Breen, Pat.</i>	<i>Collins, Niall.</i>
<i>Burton, Joan.</i>	<i>Colreavy, Michael.</i>
<i>Butler, Ray.</i>	<i>Daly, Clare.</i>
<i>Buttimer, Jerry.</i>	<i>Donnelly, Stephen S.</i>
<i>Byrne, Eric.</i>	<i>Dooley, Timmy.</i>
<i>Carey, Joe.</i>	<i>Ellis, Dessie.</i>
<i>Coffey, Paudie.</i>	<i>Ferris, Martin.</i>
<i>Conaghan, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Conlan, Seán.</i>	<i>Fleming, Sean.</i>

<i>Connaughton, Paul J.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Grealish, Noel.</i>
<i>Creed, Michael.</i>	<i>Keaveney, Colm.</i>
<i>Daly, Jim.</i>	<i>Kelleher, Billy.</i>
<i>Deasy, John.</i>	<i>Kitt, Michael P.</i>
<i>Deering, Pat.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Doherty, Regina.</i>	<i>McConalogue, Charlie.</i>
<i>Dowds, Robert.</i>	<i>McDonald, Mary Lou.</i>
<i>Doyle, Andrew.</i>	<i>McGrath, Finian.</i>
<i>Durkan, Bernard J.</i>	<i>McGrath, Mattie.</i>
<i>Farrell, Alan.</i>	<i>McGuinness, John.</i>
<i>Feighan, Frank.</i>	<i>McLellan, Sandra.</i>
<i>Ferris, Anne.</i>	<i>Murphy, Catherine.</i>
<i>Gilmore, Eamon.</i>	<i>Murphy, Paul.</i>
<i>Griffin, Brendan.</i>	<i>Ó Cuív, Éamon.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Fearghail, Seán.</i>
<i>Harrington, Noel.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Heydon, Martin.</i>	<i>Ross, Shane.</i>
<i>Howlin, Brendan.</i>	<i>Smith, Brendan.</i>
<i>Keating, Derek.</i>	<i>Stanley, Brian.</i>
<i>Kehoe, Paul.</i>	<i>Wallace, Mick.</i>
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>McEntee, Helen.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	

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<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Sean Fleming and Aengus Ó Snodaigh.

Question declared carried.

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): I move:

That Dáil Éireann approves the following Order in draft:

Freedom of Information Act 2014 (Exempted Public Bodies) Order 2015,
copies of which Order in draft were laid before Dáil Éireann on 12 March 2015.

Question put and declared carried.

2 o'clock

Topical Issue Matters

Acting Chairman (Deputy Marcella Corcoran Kennedy): 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 Seán Ó Feargháil - concerns regarding reports that specially designed ambulances for the Defence Forces have been found to pose a high risk of injury to paramedics; (2) Deputy Brendan Griffin - the need to upgrade the N22 Kerry to Cork Road; (3) Deputy Thomas P. Broughan - the need to allocate funding to address the waiting list for disability extensions for citizens with a disability and high medical priority; (4) Deputy Charlie McConalogue - recent recommendations to reduce the reliance on temporary and short-term contracts in the education sector; (5) Deputy Richard Boyd Barrett - the lack of availability of inpatient beds for children with mental health difficulties; (6) Deputy Brendan Smith - the need for EirGrid to consider alternatives to overhead power lines and pylons for the North-South interconnector; (7) Deputy Anthony Lawlor - the availability of Regorafenib through the Health Service Executive for the treatment of patients with cancer; (8) Deputy Brian Stanley - the need to legislate in respect of zero-hour contracts in the context of today's large scale industrial action by employees of Dunnes Stores; (9) Deputy Dessie Ellis - the need to address barriers to borrowing from the Housing Finance Agency for housing associations; (10) Deputy Dan Neville - the need for regulation of counselling and psychotherapy; (11) Deputy Lucinda Creighton - the need to secure the future of the school completions programmes and to oversee its expansion by ring-fencing funding in future years; (12) Deputy Clare Daly - the need for the management of Dunnes Stores to engage with its workers and to resolve their legitimate demands; (13) Deputy Robert Troy - the need to address local authority social housing targets and to provide details on how local authorities will be expected to provide the additional housing units within the budget provided; (14) Deputy Colm Keaveney - regional variation in the provision of early intervention services for children; (15) Deputy David Stanton - on World

Autism Day, the progress made in the development of a network of autism spectrum disorder special classes and early intervention classes in primary and post-primary schools and also the role in the involvement in the development of a national autism strategy; (16) Deputy Dara Calleary - the need to outline his response to the HIQA inspection at the Áras Attracta care home in Swinford, County Mayo; and (17) Deputy Aengus Ó Snodaigh - concerns regarding the industrial action being taken today by employees of Dunnes Store, the most extensive action that has taken place in the State for some time, arising from the prevalence of low paid insecure work and its impact on the economy.

The matters raised by Deputies David Stanton, Charlie McConalogue, Dan Neville and Dessie Ellis have been selected for discussion.

Topical Issue Debate

Autism Support Services

Deputy David Stanton: I thank the Ceann Comhairle's office for allowing me to raise this issue on World Autism Day. It is apt that we do so. Autism is a lifelong developmental condition with an autism spectrum going from mild to acute and severe.

Acting Chairman (Deputy Marcella Corcoran Kennedy): Will Members who are not engaging in this debate please leave the Chamber and allow the Deputy continue making his contribution?

Deputy David Stanton: We are not really sure as to the prevalence of autism. Research by the National Council for Special Education, NCSE, indicates it is one in 100, totalling 450,000 people in Ireland. Research from the United States indicates it is one in 68 people, a more alarming statistic. This is an issue on which we need to focus.

Apart from the day that is in it, another reason I am raising this issue is because quite a number of parents have raised concerns with me about intervention classes at primary and, particularly, post-primary level. Does the Department of Education and Skills or the NCSE collect information on how many children in schools have ASD, autism spectrum disorder, diagnoses? If the Minister for Education and Skills does not have that information today, will she communicate it to me later? If the information is not available, how can the Department plan for how many children it needs to cater? Will the Minister inform me if her colleague the Minister of State, Deputy Kathleen Lynch, has appointed an ASD expert to the national disability strategy implementation group, as decided by the relevant Cabinet sub-committee? Has the strategy been autism-proofed?

In some instances, where children have an acute form of autism, will the Minister consider that integration into mainstream education is not the way to go and they need special second level schools? Many schools in my area, as well as across the country, have long waiting lists. This is causing significant distress for families with children with autism because they have no school places for their children.

Our colleague, Deputy Michael McCarthy, published a Bill to have a national autism strategy similar to what pertains in Scotland. Will the Minister move on this issue? If the numbers

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are as high as indicated, this is a major issue on which we need to focus. Home tuition is available for many parents but many would prefer to send their children to special schools in severe cases or special classes in a mainstream school in the cases of moderate conditions. This is a particular problem for second level schools as they might not have the space, facilities and expertise to assist, support and teach children on the autistic spectrum.

When will the comprehensive policy on how best children with special needs can be supported be finalised? Will the House debate it when it is?

Minister for Education and Skills (Deputy Jan O’Sullivan): I thank the Deputy for raising this issue on World Autism Day as it gives me an opportunity to outline the progress and current position regarding the education of children with autism. Having a debate on this can be discussed with the Whips.

World Autism Day provides an opportunity to raise awareness of autism and to consider the challenges faced by children with autism and their families. The Government’s commitment is to ensure all children with special educational needs, including those with autism, can have access to an education appropriate to their needs, preferably in school settings through the primary and post-primary school network.

The Department provides for a range of placement options and supports for schools which have enrolled pupils with autism to ensure wherever a child is enrolled, they will have access to an appropriate education. Children with autism can enrol in an early intervention class from the age of three and, if they are assessed younger, home tuition can be provided from the age of two and a half. Children with autism may be enrolled in a mainstream school and can attend all mainstream classes. In such cases, these children will receive additional teaching support through the learning support and the resource teacher and where appropriate will receive access to special needs assistance and assistive technology if required.

In respect of children with autism who cannot be accommodated in mainstream education, they may be enrolled in special classes or special schools where more intensive and supportive interventions are provided. This will normally include a pupil teacher ratio of 6:1 and special needs assistant support normally amounting to two special needs assistants, SNAs, for a class of six children. Progress in developing this network has been significant and in addition to the special school placements there are now approximately 625 special classes nationwide in mainstream schools, 95 of which are early intervention settings, 378 in primary schools and 152 at post-primary level. Other units will open in September.

The NCSE is at an advanced stage in the preparation of policy advice on the education of children with autism. I expect that the NCSE final report, which is due to be delivered in the coming months, will reflect the broadest possible range of views, both national and international, and will provide recommendations which will assist the development of policy for future years.

This Government is committed to developing a programme of actions specific to the needs of those with autism for incorporation in the national disability strategy implementation plan. Last year, the National Disability Authority undertook a consultation exercise to find out how the implementation of the national disability strategy implementation plan can most effectively address the needs of people with autism. The National Disability Authority has been tasked to work bilaterally with each Department to develop time-bound actions to address the needs of

people with autism for incorporation in the national disability strategy implementation plan. Officials in my Department are fully engaged with the National Disability Authority in the development of these actions.

I know the Deputy was looking for specific information about the number, which I do not have today so I will come back to him that. The Deputy also raised the issue of the Minister of State at the Department of Health, Deputy Kathleen Lynch, which I will clarify with her in respect of an ASD expert for the National Disability Authority implementation group, so I will have to come back to Deputy Stanton about that as well. I know there is strong demand for special schools. We are constantly updating our data relating to children who need supports. Additional special units will come on stream this year. I held a meeting yesterday with some principals of special schools, although they were not specifically schools for autism. I know there is a lot of pressure on the special school in my constituency and I am aware this is the case in other parts of the country. We need to continue to identify the needs as early as possible to ensure we have appropriate provision. Early intervention is important and there is provision for that. There is evidence that the numbers with autism is increasing and is quite high.

Deputy David Stanton: I thank the Minister for her comprehensive response and look forward to receiving the information she mentioned. In the north Lee area in my constituency there is a very long waiting list to get a diagnosis because without that, early intervention cannot happen.

If the condition is acute, I think special schools are the way to go. The difficulty is that sometimes these schools are a long way from the homes of the children and travelling to and from these schools can be very problematic and can add to the stress and pressure. Could the Minister carry out a national examination of the location of special schools and see where there are areas where there is demand but no school in order that children will not have to travel, leading to more expense in the form of taxis and buses?

Could the Minister come back to me on autism-specific teams? I know this is possibly crossing over into health. This is a problem because this area is a cross between health and education. It also involves other areas such as enterprise and employment and environment as people get older. This is why we need a strategy to pull it all together rather than it being a case of who does what. Certain provisions of the Education for Persons with Special Educational Needs, EPSEN, Act were geared towards children with special needs, but much of that Act has been parked and has not been developed or brought into force. Will the Minister tell us her plans regarding bringing that into force?

I note that under the Disability Act, when a child was diagnosed, the diagnosis was to include information about what the child would need. I understand that the Department of Education and Skills is saying the assessor cannot and should not specify exactly what the child needs. This is completely against the spirit of the Act and I ask the Minister to change that.

Deputy Jan O'Sullivan: The NCSE will furnish me with a report soon with advice on the education of children on the autism spectrum. This will advise me regarding where gaps exist and what needs to be done. I think the Deputy will be aware that I visited the Middletown Centre for Autism in County Armagh with the Minister from the Northern Ireland Executive last week. The Deputy and I were members on the committee when the centre was being set up some years ago. We need to be aware of the very good work being done in that centre in terms of the support given to schools and individual families. I met a set of parents from County

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Kildare who were very pleased with their child's progress because of the intervention in the centre.

I know there are issues relating to special needs that cross over between my Department and the Department of Health and Children and I have discussed them with the Minister of State, Deputy Kathleen Lynch. We need to continue discussing these issues.

The NCSE developed a new model for support for children with special needs. We are unable to proceed with that in September but we hope it will be ready to proceed in the near future. In advance of that, I pulled together some of the supports that are available for children with special needs in the NCSE. I acknowledge that there is more to be done across Departments in terms of support for these children.

Teaching Contracts

Deputy Charlie McConalogue: I thank the Minister for coming to the House today to update us on the recommendations in the report by Peter Ward. As the Minister is aware, following on from the Haddington Road agreement, it was agreed that a special committee would be set up to assess the very real problem within our primary and secondary school system of part-time and fixed-term contracts for teachers. The situation has become so chronic that it is estimated that 35% of all teachers teaching in secondary schools are on fixed-term or part-time contracts and cannot get permanency. The figure at primary level is estimated to be lower at 9%.

The Ward report made some very significant recommendations after a very thorough assessment of the problems and the type of solutions that could be put forward to address them. Peter Ward also recommended having specific timelines and suggested that most of the recommendations should kick in from this September. Will the Minister update us today and assure us that these recommendations will be acted upon and implemented?

The period for gaining permanency through contracts of indefinite duration, CID, is four years for most professions. The Ward report recommended that from this September, after two years in either fixed-term or part-time employment in a school, a teacher would become eligible for a CID. Will the Minister confirm whether this will be the case?

The Ward report also recommended that any teacher employed on a CID should hold an employment status equal to that of teacher who is permanent. He recommended that teachers who qualify for a CID on the basis of two years employment in accordance with his recommendations would be liable to redeployment in circumstances where their subject or subjects become surplus to the school with which they have the CID. This is to ensure that there continues to be some flexibility for schools to manage their affairs.

The report makes a recommendation in respect of teachers replacing teachers on career break or on secondment. Up to now at secondary and primary level, someone who has replaced a teacher on career break or on secondment does not qualify for a CID, even if they have been there for a number of years. This is very unfair. Some secondments and career breaks can last for five years, yet people who take up those positions have not been in a position to qualify for a CID.

It is crucial that another recommendation is delivered this September. I am speaking of teachers on contracts of indefinite duration and for less than full-time hours who subsequently work additional hours. I am asking that in such cases teachers be entitled to a contract in respect of the additional hours after one year. That is a fair proposal and it is important it is delivered on this September. I hope the Minister is in a position to update the House on the current status in this regard.

Deputy Jan O'Sullivan: I thank the Deputy for raising this issue as it gives me an opportunity to provide an update on the implementation of the recommendations of the expert group on fixed-term and part-time employment in primary and second level education. As stated by the Deputy, the Haddington Road agreement provided for the establishment of an expert group to consider and report on the level of fixed-term and part-time employment in teaching, having regard to the importance for teachers of employment stability and security and taking account of system and school needs and Teaching Council registration requirements.

The group was established and chaired by Mr. Peter Ward SC, who consulted extensively with all the stakeholders and interested parties. The report noted the high level of casualisation of employment, particularly in second level teaching where 35% of teachers are fixed-term, part-time, or both. The equivalent figure in primary teaching is 9%. An over-reliance on fixed-term and part-time employment has implications for the security of employment of teachers and has led to concerns about the future attractiveness of teaching as a professional career, with implications for the quality of the education provided to pupils. The report of the expert group was published in September 2014. At the time of publication, I gave a commitment to implement the report with effect from September 2015.

The report recommends a suite of measures which will lead to more job security for fixed-term and part-time teachers. It recommends seven changes should take place from the commencement of the 2015 school year. These changes would allow fixed-term teachers to acquire permanent status more easily and quickly. The report also provides for extended redeployment arrangements that give school management more flexibility in redeploying teachers in the event of mismatch between teacher qualifications and the curricular needs of schools.

At the time of publication, I gave a commitment to implement the report with effect from September 2015. Following consultation with the education partners, circulars 23/2015 and 24/2015 detailing the arrangements and procedures for the implementation of the recommendations of the report were published on 27 March. These arrangements and procedures, as set out in these circulars, are for implementation from the commencement of the 2015 to 2016 school year. Copies of the circulars are available on my Department's website. The circulars address issues such as the granting of an initial contract of indefinite duration, in respect of which the timeframe has been reduced from three years to two years, and the other issues raised by the Deputy. There was extensive discussion of these issues with the various stakeholders in education prior to publication of the circulars. My understanding is that it is accepted that the recommendations are appropriately captured in the circulars. However, I have not yet had any feedback in that regard and would be interested in any feedback in that regard from the Deputy. The intention is to implement the recommendations fully for the next school year.

Deputy Charlie McConalogue: I welcome that the Minister has published the circulars and that there will be some movement in terms of implementation of the key recommendations this September.

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The Ward report also makes medium and long term recommendations and, in particular, calls for the putting in place of a structured process for the medium and long-term planning of teacher provision with a view to better matching the qualifications of teachers with the subject requirement of pupils. What is the current position with regard to that recommendation and what are the Minister's plans in this regard? The difficulty is that there does not appear to be any planning in relation to ensuring we have a supply of teachers in key subject areas, in respect of which future demand is likely to be high. It is important that recommendation is acted upon.

Another key issue not addressed in the Ward report is newly qualified teachers being probated, which is a disincentive to current students considering a career in teaching. Many newly qualified teachers are finding it exceptionally difficult to get the level of hours required to ensure they are probated. The Minister will be aware that to be probated, a newly qualified teacher requires a minimum of 100 days teaching in at least two 50-day blocks. I am aware of many teachers who after three or four periods of part-time teaching still have not managed to be probated. This issue needs to be addressed. The Department needs to grapple with how it can assist students in this regard.

Another issue which is making the profession less attractive is qualification allowances. The incentive previously in place to ensure teachers continued to upskill and engage with further education courses has been abolished. That decision should be reviewed by the Minister. Overall, the profession has not been appropriately valued in recent years. It is important the outstanding measures to which I have referred are addressed by the Department. I welcome that the recommendations of the Ward report will be acted upon or implemented this coming September.

Deputy Jan O'Sullivan: The medium-term recommendations are still under discussion. I have made it very clear that I intend to implement all the recommendations. In terms of opportunities generally, the Deputy will be aware that owing to growing demographics, additional teachers are being employed each year. This provides us with an opportunity to address many of the issues raised by him.

The probation of newly qualified teachers is an issue on which I would be concerned to ensure we make progress. Overall, it is important this report was as precise as it was. Mr. Ward did a great job in terms of identifying the issues that need to be addressed and what needs to be done in that regard. I again thank Mr. Ward and the other members of the group for their work. I also thank the education partners for their contribution to implementation of the report's recommendations. The attitude in Ireland to teaching is largely positive. People very much prize it as a job. This is evident from the number of people who apply each year to become teachers. We need to ensure this continues.

Acting Chairman (Deputy Marcella Corcoran Kennedy): The next Topical Issue matter is in the name of Deputy Dan Neville.

Deputy Dan Neville: As the Minister, Deputy Varadkar, is currently in discussions with the Ceann Comhairle, I would like discussion on this issue to be postponed until after the Easter break.

Acting Chairman (Deputy Marcella Corcoran Kennedy): That is fine. We will move on to the next Topical Issue matter in the name of Deputy Ellis.

Housing Finance Agency Funding

Deputy Dessie Ellis: In raising this issue I am not criticising the Housing Finance Agency which does a very important job. The HFA's handling of funds with responsibility and care is crucial to its success. However, these funds need to be accessible. It is important that worthwhile projects are not delayed because of the lengthy HFA application process. I have met many of the large approved housing bodies, representatives of which told me they found the process of applying for funding for social housing projects more difficult and protracted than necessary and that in some cases it had forced them to seek funding from commercial banks.

Currently, we have a major crisis in terms of a shortage of affordable rental housing for low-paid people and those out of work. This has driven up rents and increased homelessness, which in the end is very costly to the public purse. The Government is only now recognising this but is doing its best to put in place money to tackle the crisis. The European Investment Bank has made €150 million available through the HFA for social housing projects. This money is vital to increasing our social housing stock as soon as possible, to stem the tide of tenants into homelessness, to end the static condition in emergency accommodation and to lower rents across the rental market. The Housing Finance Agency is in place to source funding for social housing projects by approved housing bodies like Focus Ireland, Respond, Simon or the many other excellent groups that are seeking to build homes now. It was set up by the State to help these bodies to fund projects and has done so, but many groups in the absence of schemes like CAS are finding the HFA's application process prohibitive. It has done great work in the past but it needs to reform some practices in order for it to be fit for the challenge today.

This is not risky business. We are talking about providing homes in a time of unrivalled demand and applicants that have proven themselves as diligent and responsible housing providers. Unfortunately 120-page applications and protracted processes have led to some groups going to commercial banks which despite improved regulations in the wake of the economic crisis have proven easier to get credit from albeit they are a little more expensive in terms of interest.

It is in the interest of the Government for the HFA to be lending the EIB funding it has received to tackle the housing crisis. We need the Minister to work with the HFA to look at how commercial banks are lending and to find a middle ground which will be responsible but also accessible.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I am in contact with many of the housing agencies and the difficulties have not been brought to my attention. The Deputy raises a very important issue. The Housing Finance Agency is a public limited company and in that context the Minister for the Environment, Community and Local Government has no function in the lending decisions and practices of that agency.

The main function of the Housing Finance Agency is to advance funds to local authorities to be used by them for any purpose authorised under the Housing Acts and to borrow or raise funds for these purposes. All of the issued share capital of the agency is beneficially owned by the Minister for Finance. The agency operates as a company and is therefore subject to usual accounting disciplines. The legislation under which it was set up enjoins it to at least break even in its operations and it operates without Government subvention.

Until recently, significant levels of capital funding were available to approved housing bod-

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ies through capital funding schemes, namely the capital assistance scheme the Deputy mentioned, and the capital loan and subsidy scheme. However, in recent years the approved housing body sector has had to shift from capital-funded programmes of construction and acquisition to more revenue-funded options and this has been a challenging process for the sector. The use of standard leasing agreements and loan finance from both commercial lending institutions and the Housing Finance Agency has allowed the sector to cope with this shift.

The Housing Finance Agency, in accordance with section 17 of the Housing (Miscellaneous Provisions) Act 2002 is empowered to, and does, provide lending facilities directly to approved housing bodies. Approved housing bodies can apply directly to the Housing Finance Agency for loan finance to buy or build new units to be leased for social housing purposes with lease payments used by the approved housing body to remunerate their borrowings from the Housing Finance Agency.

Each approved housing body wishing to draw funds directly must be deemed a qualifying body on foot of an assessment by the Housing Finance Agency. This is to ensure that the approved housing body is capable of managing all aspects of a social housing scheme from design and construction stage all the way through to rent collection and maintenance over the life of a project. Particular attention is paid in the assessment to financial and governance arrangements. Once an approved housing body has made it through the pre-qualification assessment, applications for lending are made to the Housing Finance Agency on a project-by-project basis and are assessed by the Housing Finance Agency's credit committee.

To date, 11 approved housing bodies have achieved certified borrower status with the Housing Finance Agency. It is anticipated that the remainder of 2015 will see continued growth in the level of lending in this area.

Deputy Dessie Ellis: There seems to be a significant bureaucracy in terms of accessing funds. I did not realise it was so messy until recently. There is no doubt the approved housing bodies are doing great work, but we have a major crisis with housing and homelessness. Some 45 new families join the homeless list every month. The plan was to deliver something like 7,400 units this year, 5,000 of which were to come from the rental market or leasing. The reality is these houses are not available. We can talk about getting 5,000 units as part of a plan, but where will they be found?

We need to ensure that the housing bodies are delivering and that there are no obstacles to them accessing funding. However, there seems to be a bit of an obstacle. There is certainly some money there but accessing it seems to be a big problem. I am asking the Minister of State to look at this to see if it can be improved. She should talk to representatives of the HFA to see how the bureaucratic system in place can be speeded up. People are crying out and hundreds of people are staying in hotels throughout the country and particularly in the Dublin region, which is unacceptable. Any bureaucracy that is put in the way needs to be dealt with.

Deputy Ann Phelan: I draw the attention of the House to the very substantial allocations given yesterday to the local authorities, including €65 million across my constituency, Carlow-Kilkenny. That will address 44% of the local authority housing list. That is one of the biggest allocations I can ever remember. They have also offered the local authorities the flexibility to do that under a lease, buy or build scenario. I expect to see considerable work in that area over the course of this year.

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I accept what the Deputy has said and I will discuss it with the Minister to see if housing agencies are experiencing particular difficulties. I am sure the Minister, Deputy Kelly, is in constant contact with the housing agencies. I will certainly speak to him about this and inform the Deputy of any areas of difficulty or pressure they may be experiencing at this time.

The Dáil adjourned at 2.40 p.m. until 2.30 p.m. on Wednesday, 15 April 2015.