



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 22 Aibreán 2015

Wednesday, 22 April 2015

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.30 a.m.

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

European Court of Human Rights Rulings

1. **Deputy Charlie McConalogue** asked the Minister for Education and Skills with regard to the ruling by the European Court of Human Rights in the case of a person (details supplied), if she will commit to making compensation packages available to victims of abuse who were abused prior to a complaint being made against a perpetrator; if she will commit to ensuring those who had dropped their case against her Department, on the advice of the State Claims Agency prior to the European Court of Human Rights ruling, will also be included in the Government's compensation scheme; if she will remove the payment cap on the scheme to ensure any award reflects the individual circumstances of victims; and if she will make a statement on the matter. [15670/15]

Deputy Charlie McConalogue: The purpose of the question is to ask the Minister, with regard to the ruling by the European Court of Human Rights in the case of Ms Louise O'Keeffe, if she will commit to making compensation packages available to victims of abuse who were abused prior to a complaint being made against a perpetrator; if she will commit to ensuring that those who dropped their cases against the Department on the advice of the State Claims Agency in advance of the ECHR ruling will be included in the Government's compensation scheme; and if she will remove the payment cap on the scheme to ensure any award reflects the individual circumstances of victims.

Minister for Education and Skills (Deputy Jan O'Sullivan): Settlement discussions are being offered in cases coming within the terms of the European Court of Human Rights decision which satisfy the Statute of Limitations. In pursuing these settlements, the State Claims

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Agency will consider cases where there was a prior complaint about the teacher concerned. This is because these are the circumstances on which the decision was based.

The cap reflects the total amount paid by the State in the O’Keeffe case. While the Government will not meet the liabilities of other defendants, where there is agreement on the value of the claim, the agency may seek to initially settle the claim on an equal basis, with the apportionment of liability among the co-defendants being subsequently determined by the court.

I will report to Government shortly to clarify the position of those who had not progressed their claims. The Government will then consider whether any measures will be taken.

Deputy Charlie McConalogue: In announcing a compensation package following the decision of the European Court of Human Rights in the O’Keeffe case, the Minister stated:

I think anybody who has any feeling for someone who was sexually abused, must have regret for what Louise had to go through. She has been an extraordinary, courageous fighter all along... In the past, the State along with many other powerful institutions have failed children. We’ve left them alone and vulnerable to the worst possible threats... We need to face up to that responsibility and try to make amends for the grave failings of the past.

There is no indication in the Minister’s reply of any feeling for what the victims with whom the Government is dealing and who were failed by the State are going through. The Minister has proposed to confine the compensation packages to the victims in the 45 cases taken against the Department that were still live when the European Court of Human Rights overturned the judgment in the case of Louise O’Keeffe. A further 90 victims dropped their cases on the basis that the Department had indicated it would pursue them for costs. These victims have not been included in the compensation package and the Minister has not given any indication that she will accept her responsibility towards them. Will she give an assurance that she will live up to her responsibility in this matter by ensuring the State does not continue to fail victims who it unfortunately failed in the past?

Deputy Jan O’Sullivan: I reiterate my words of regret and my admiration for Louise O’Keeffe and the way in which she has consistently pursued the issues surrounding the abuse she and others suffered.

With regard to the Deputy’s specific question on discontinued cases, in other words, those involving individuals who received letters and subsequently withdrew from or discontinued their cases, we have asked the State Claims Agency to pursue this matter and check out all the cases in question before reverting to the Department. As the agency is still working on this issue, we have not yet received a full response.

With regard to the cap, the figure was arrived at on the basis of the money Ms O’Keeffe received directly from the State. The other aspects of the decision fall within the parameters of the judgment of the European Court of Human Rights. This is the reason for the amount being offered by the State. It should be noted that this is an offer and people may pursue cases through the courts if they so decide.

Deputy Charlie McConalogue: The Department fought the victims and fought Louise O’Keeffe all the way through the High Court, Supreme Court and European Court of Human Rights, which overturned the previous decisions in Ms O’Keeffe’s case. It is clear the Minister’s approach now is to do the absolute minimum to cover herself and the Department on this.

Her approach does not have at its centre an acceptance of the hurt and damage that many of these victims experienced as a result of their abuse, nor does it try to address that. She is still taking a legal minimalist approach to the victims who have been failed. In response to the Department's decision to offer the compensation package only in the 45 cases in which the victims continued with their cases despite threats of being pursued for legal action, Louise O'Keeffe said: "It's a shocking discrimination, and it's like I told the Minister: she is giving a settlement to one and she is telling the other to go to hell." These are the words of Louise O'Keeffe, who fought the State all the way on this.

What assurance can the Minister give this morning to victims who have not been included in the compensation package that the State understands and accepts its responsibility in regard to them? Also, what assurance can she give in regard to the overall cap imposed by her? This, again, is minimalist and does not take into account the particular circumstances of individual victims. What assurance can the Minister give that she will revise that cap?

Deputy Jan O'Sullivan: With regard to the cap, that figure was arrived at by measuring the amount of money that was awarded to Louise O'Keeffe directly by the State. That is the reason for the figure, and in my view and that of the State, it is a fair offering in the context of the judgment of the European Court of Human Rights.

People are not obliged to accept that settlement, which is a settlement on behalf of the State for its part. In most cases, the person has also taken other parties to court, and I am sure the Deputy would agree with me the State should not take on the obligations of the other parties being taken to court by people who suffered abuse in schools. The State takes its responsibility seriously, and that is why it is making this offer, which I consider a fair offer to victims.

Student Universal Support Ireland Administration

2. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills her views on the report from the Comptroller and Auditor General on the issue of the operation of Student Universal Support Ireland; and her plans to make appropriate changes. [15740/15]

Deputy Jonathan O'Brien: My question seeks the Minister's views on the report of the Comptroller and Auditor General on the operation of the SUSI grant system.

Deputy Jan O'Sullivan: I welcome the publication of this report by the Comptroller and Auditor General. While SUSI's first year of operation in 2012-13 was problematic, it is widely acknowledged that since then it has achieved a dramatic improvement and that the new system has bedded down successfully and is working well. SUSI is engaged in an ongoing process of continuous improvement. My Department, the Department of Public Expenditure and Reform and the City of Dublin Education and Training Board, CDET, have accepted the recommendations of the report, and significant progress has been made on all of them. The report reflects the valuable lessons arising from the experience gained in this project for other major reform projects in both the education sector and the wider public service. Consistent with the report's recommendations, significant steps have been taken by my Department to address its approach to key reform projects.

Deputy Jonathan O'Brien: It is clear that SUSI was a disaster in the initial set-up year, and all sides would recognise that, including the report from the Comptroller and Auditor General,

which states that many of the expected benefits of the new centralised process did not materialise in 2012-13.

I wish to focus on the appeals process and the high level of appeals. In 2013, 74% of decisions were overturned on appeal by an independent board, and in 2014 the number overturned dropped to 60%. This is a significant number. Let us look at how the appeals process works. Applicants have 30 days to submit an appeal, and 30 days are allowed for the appeal to be processed. If the outcome is negative, the applicant has a further 30 days to appeal the decision to an independent board, and that board then has a maximum of 60 days to make a judgment. This means it could take up to 150 days to complete the appeals process. When we consider the high level of decisions overturned, that indicates that significant numbers of students are under unbelievable stress. Some are dropping out of college as a result of the stress from an appeals system that appears to be failing. For some reason, there are failings within SUSI in regard to students' eligibility for grants.

Deputy Jan O'Sullivan: I acknowledge that there were serious difficulties in SUSI's first year, but efforts have since been made to improve the situation and to speed up the process. The reason for the various appeal procedures is to be fair to students. However, I agree with the Deputy that the number of appeals is high. We have an opportunity to review the scheme each year and I have been looking at it to see if we can make some improvements this year. We will publish the scheme for this year in the near future.

We need to keep the scheme under review because it is still relatively new and the award of grants is important to each student. In the early years of the scheme, the number of appeals was significantly higher than would have been expected, but the system is under continuous review.

Deputy Jonathan O'Brien: I acknowledge that there has been an improvement in the situation, so I will not be completely negative. In the 2013-14 academic year, there was an increase of 70% in the speed at which grants were allocated, which was welcome. However, the appeal system is still failing students and some 60% of decisions are being overturned by the independent appeals board. This is unacceptable. The rate is too high and indicates a systemic failing in the SUSI review process for appeals.

If we are considering a review of the SUSI scheme, it should be a complete review, because there are significant issues in regard to estrangement, adjacent rates and how they are applied, and eligibility criteria. Any review should encompass those issues, and I implore the Minister to consider them also.

Deputy Jan O'Sullivan: We are looking to address issues in the current scheme, and that review will issue in the near future. SUSI has made an effort to be as fair as possible to students, and this may be one of the reasons for the review process followed by the appeals process. This process is designed to ensure that students get their entitlement. I accept that the process can cause significant stress and difficulties for students. I met with SUSI recently and raised some of the issues the Deputy has raised. I will do my best to improve the scheme for this year. I have raised the issues of estrangement and the adjacent rate with SUSI. We need to ensure there is clarity for students and that the system is fair to everybody.

Schools Building Projects Status

3. **Deputy Stephen S. Donnelly** asked the Minister for Education and Skills if she will provide an update on the location, patronage, timeline and proposed opening date of the recently announced primary school in Greystones, County Wicklow; and if she will make a statement on the matter. [15678/15]

Deputy Stephen S. Donnelly: The Department announced a new primary school for the Greystones area, which is very welcome. The local system is under severe pressure due to the number of students, and I am being inundated with requests from parents who are keen to know when the new school will open and its patronage process. Will the school open this September and are there short-term plans in place before the new school is built?

Deputy Jan O'Sullivan: I can give the Deputy one straight answer. The new primary school for the Greystones-Delgany school feeder area will open in September 2015. However, I do not have a definite answer on the other parts of his question.

The patronage determination process to establish who will run the school is at an advanced stage, but is not yet completed. A site for permanent accommodation for the school is being actively pursued. Pending a site acquisition, interim temporary accommodation is being arranged in Greystones for the school.

Deputy Stephen S. Donnelly: I thank the Minister for the update and am delighted to hear that the opening date for the school is confirmed for September. I also want to record my thanks to the Department's officials who spent significant time with me on this over the past two years. The parents will be very relieved about the September opening date. I know a process has to be gone through but I would like to point out to the Minister that there is an obvious site for the school, namely, a large housing estate in the Charlesland area with land zoned for a school that never happened. I support that location but I appreciate the officials have to go through the full process.

On a related issue, Wicklow has the fourth highest class sizes in the country. Nearly 30% of students in Wicklow are in classes with more than 30 pupils. In the context of new schools being provided to meet demographic pressures, which is right and proper, are there plans afoot to deploy resources accordingly to balance and reduce class sizes in areas like Wicklow with high class sizes?

Deputy Jan O'Sullivan: I know the officials have engaged with the Deputy, the Minister of State, Deputy Simon Harris, and other public representatives for the area on this matter. I am pleased we have got to this point. Obviously, I have to wait until the new school establishment group makes the recommendation on patronage before we can clarify this. As always with the acquiring of school sites, it is sensitive in terms of price, etc. We cannot divulge any information on this until the process is over the line.

With regard to class sizes in general, I have indicated this is an issue that I am interested in addressing as soon as we are in a financial position to do so but I cannot pre-empt the next or future budgets. The pupil-teacher ratio has been maintained in recent years. We have not made it any worse than it was. We have neither reduced nor increased it. I would certainly like to see an improvement in class size, however. They vary in different parts of the country. Schools have to make decisions around whether they have smaller infant classes or larger senior classes.

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The actual size of each child's class can vary but the overall pupil-teacher ratio is the same for the whole country.

Deputy Stephen S. Donnelly: I disagree with the Minister on class sizes. Her predecessor claimed class sizes had not been affected but a significant number of resource teachers have been taken away, resources for schools in the delivering equality of opportunity in schools, DEIS, programme have been decimated and secondary schools have had their career guidance counsellors taken away. I do not believe it is a reflection of reality or that any teacher or principal would agree with the claim that class sizes have not been hit. Every teacher knows they are under more pressure. It may be possible mathematically to find a ratio and claim it has not changed. As we all know, however, supports for schools have gone down. I respectfully disagree with the Minister on that.

I am glad the Minister will be looking at new resources and at more teachers, something for which I have been advocating for several years. In the deployment of, and in increasing the number of, new teachers, will she agree, as a principle, we should look at balancing it across the country rather than having an imbalanced system? I do not know how it has come to be an imbalanced system but the deployment of public resources around the country in education and in other areas is quite uneven. Will the Minister agree, in the context of more budgets for education and more teachers, that the deployment of new teachers should seek, in part, to target areas where the class sizes are particularly high?

An Leas-Cheann Comhairle: The Deputy has widened the debate somewhat.

Deputy Jan O'Sullivan: We have not cut funding to DEIS. We have increased the number of resource teachers. In fact, there are an extra 1,900 posts between resource teachers, class teachers and special needs assistants, SNAs, in the system this year alone. We have not increased the pupil-teacher ratio.

One cannot have the same number of children in every class in every school because there are small schools with three or four teachers, for example. What we have is a fair and transparent system for the pupil-teacher ratio right across the country which I do not intend to change. If the pupil-teacher ratio is changed, it will be changed for every school depending on its size but the part of the country in which it is located will be irrelevant. That is apart from a small number of schools considered to be isolated because there is no other school within 8 km. In those cases, there is a slightly better pupil-teacher ratio.

Educational Disadvantage

4. **Deputy Charlie McConalogue** asked the Minister for Education and Skills if she will commit to removing the cap on the expansion of the Delivering Equality of Opportunity in Schools programme; if she will put in place the measures suggested by the review of the programme by the Economic and Social Research Institute, to enhance funding and supports for urban schools under the programme; and if she will make a statement on the matter. [15671/15]

(Deputy Jan O'Sullivan): The ESRI publication, Learning from the Evaluation of DEIS, provides an opportunity to commence an assessment of the DEIS programme. The report assesses the main findings of research conducted by the Educational Research Centre and the inspectorate of my Department and provides advice to inform future policy direction in educa-

tional disadvantage. I have commenced a consultation process with all the education partners to inform the development of appropriate measures to continue to support those at risk of poor educational outcomes. An interdepartmental working group will be established to ensure a joined-up approach to delivery of services in DEIS, as well as a technical group to develop a revised identification process for schools. This work will take place over the course of the next school year. To expand eligibility for DEIS based on ten-year old criteria would not be fair to schools currently outside the programme. My focus is therefore on developing a revised identification process as referenced above.

Deputy Charlie McConalogue: I thank the Minister for her response. The ESRI report is indeed welcome and it is the first overall review of the DEIS scheme since it was introduced in 2006. The findings show the scheme is working. It is a scheme which my party, Fianna Fáil, was committed to when it established it in 2006. In recent times, we have been calling for it to be expanded. I welcome the fact the Minister is examining the scheme's criteria but that cannot happen too quickly for many of the schools outside of the scheme. What is the timeline for the interdepartmental group to report to the Minister? When does she expect she will be in a position to extend this very valuable scheme to the many schools which would meet the current criteria if the cap were removed?

Deputy Jan O'Sullivan: I agree a review was needed. It is quite some time since 2006 when the scheme was first introduced. Some schools did not even exist then but now have DEIS programme schools all around them and are not in the scheme themselves. The identification process has to happen within the next school year because sometimes this can take time. We can then open the process up to other areas and schools. In the identification process, the interdepartmental group will be working side by side with the Department of Social Protection, responsible for school meals, the Department of Children and Youth Affairs, responsible for the school completion programme and the National Educational Welfare Board, as well my Department and the home school community liaison scheme. It will cross several Departments to ensure a full package will be in place that can be implemented as soon as the identification process has been carried out.

Deputy Charlie McConalogue: The ESRI report showed real progress in several areas. Between 2007 and 2013, significant improvement in reading and maths scores of primary school students across DEIS programme schools was recorded. At the same time, the report pointed out there was a general improvement across all schools in these scores. Accordingly, DEIS programme schools kept pace with improvements and the gap did not narrow. In rural areas, results were very good which emphasises the importance of continuing to invest in rural DEIS.

The report, however, points out that for urban band 1 schools, in particular, there needs to be additional investment because outcomes are not keeping pace with or narrowing the gap between schools with better resources and whose students may come from better-off backgrounds. Will the Minister comment on the ESRI's recommendations on the operation of urban band 1 schools and her intentions for addressing some of the recommendations to double up and improve the resources available to those schools?

10 o'clock

Deputy Jan O'Sullivan: The figures in respect of maths and literacy are encouraging. It is a tribute to the work being done in this area that all schools have improved. However, while DEIS schools have also improved, their improvement was not proportionate with the rest of

the population. In other words, they are the same distance behind other schools. I agree with the Deputy that our focus should be urban band one schools and the specific areas identified in respect of those schools. That does not rule out rural schools, however. I am aware of the Deputy's concerns in that regard. The fact that there has been better progress in rural DEIS schools does not mean they will fail to qualify under the new programme.

Educational Disadvantage

5. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills her views on the Economic and Social Research Institute's report, Learning from the Evaluation of Delivering Equality of Opportunity in Schools Programme; and any changes she plans to make as a result. [15741/15]

Deputy Jonathan O'Brien: This is related to the previous question.

Deputy Jan O'Sullivan: I welcome the publication of the ESRI report, Learning from the Evaluation of DEIS, which was commissioned by my Department. The report consolidates the evaluations of DEIS that have taken place to date and I regard it as the starting point for a new discussion on the future of the programme. I have commenced a consultation process with education partners to inform the development of appropriate measures to combat educational disadvantage. I intend to establish an interdepartmental group to consider the roles of relevant Departments in delivering DEIS and also establish a technical group to consider appropriate eligibility criteria in regard to the level of need in schools and a revised identification process for schools. It would not be fair to schools currently outside DEIS to expand eligibility for DEIS based on ten year old criteria. My focus, therefore, is on developing a revised identification process, as I have outlined.

Deputy Jonathan O'Brien: Deputy McConalogue raised the main issues identified in the report. One of the authors of the report, Dr. Selina McCoy, drew attention to high levels of disadvantage in and greater complexity of urban DEIS band one schools. This is an issue that the Minister has also acknowledged. It is clear from the report that DEIS has been successful, even in terms of class sizes and pupil-teacher ratios. Most DEIS band one schools have been able to achieve the desired pupil-teacher ratio.

In regard to the proposal to establish a technical group to devise eligibility criteria to identify the level of need in schools, can the Minister clarify that issue further? I understand the group will report in the next school year but is there any possibility that schools might lose resources due to de-categorisation?

Deputy Jan O'Sullivan: While I cannot pre-empt the findings of the technical group, it is not our intention to take resources from schools that currently have them and need them. Our intention is to target resources where they are needed and if changes are needed, particularly in the most disadvantaged areas, I want to ensure we provide the necessary resources. If any element of the programme is not delivering as much as expected of it, we will examine it further. We will also examine the issue of resourcing but it is not our intention to take from some schools to give to others. I anticipate that resource issues will arise as schools which are not currently in the programme are identified as eligible.

Deputy Jonathan O'Brien: One of the challenges outlined in the report is on joining up

the thinking between education and other social services, such as health care and housing. Will the interdepartmental group be assigned this task or will this be addressed separately by the Department? The report also outlines the value of the school completion programme to disadvantaged communities by allowing schools in DEIS areas to supplement after school activities which non-DEIS schools are able to provide through their capacity to raise funds. I am aware that the school completion programme has moved to the Department of Children and Youth Affairs and I raised this issue with the Minister for Children and Youth Affairs last week. Will this issue be taken into account in the effort to improve outcomes? We need joined up thinking between social and economic factors and the educational inputs, including additional funding by the Department of Education and Schools on foot of its re-evaluation of DEIS.

Deputy Jan O’Sullivan: The interdepartmental element will be very important because we need joined up thinking between Departments. The links between children and their parents and communities are an important consideration. Some schools have tried to integrate services provided under a range of Departments, including the Department of Health, with the aim of supporting the welfare of children. I hope the engagement between Departments will be broad and genuine and that we work in a co-operative way rather than stay in our silos. I hope our wide consultation in the education sector will deliver some good proposals or ideas. DEIS is a good programme but it is time to see whether we can make it better.

Other Questions

School Transport Eligibility

6. **Deputy Charlie McConalogue** asked the Minister for Education and Skills if she will put in place an appeal mechanism to facilitate, review and change outcomes generated by the nearest school rule under the school transport scheme, which families affected by this rule consider to be inefficient and unfair; her views on the particular circumstances of a decision referred to in a previous parliamentary question (details supplied); if she will allow for an appeal of the decision; and if she will make a statement on the matter. [15506/15]

Minister of State at the Department of Education and Skills (Deputy Damien English): While it is the prerogative of parents to send their children to the school of their choice, eligibility for school transport is determined by the nearest school, having regard to ethos, language and special needs. From the outset of the scheme, the measurement of the shortest traversable route from a child’s home to the relevant education centre has been used to determine whether a child qualifies for school transport based on the distance criteria. This approach is applied equitably and impartially throughout the country, including in the specific case referred to by the Deputy. The school transport appeals board, which is independent of my Department, determines appeals against decisions made by or on behalf of the Department regarding the provision of school transport services and grant aid under the terms of the scheme. The appeals form is available on my Department’s website.

Deputy McConalogue has claimed that the scheme is inefficient and unfair. The rules of the scheme were changed in budget 2011 but the changes were not implemented until the 2012-13 school year to give parents advance warning. The scheme was introduced with the aim of achieving cost savings and to better manage the system. Many parents might regard the chang-

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es to the criteria as unfair if their children are already attending a certain school. Eligibility is now based on the closest school, which is the most efficient way to fund transport on behalf of the taxpayer. It is a parent's prerogative to chose a different school but the scheme cannot continue to fund transport to any school they might choose.

Deputy Charlie McConalogue: I understand that any appeal must be decided according to the criteria set out by the Department of Education and Skills. The appeals board would consider the criteria and rules, and if a decision by Bus Éireann meets the criteria, the board cannot change it. Is my understanding correct?

Deputy Damien English: The appeals board uses the criteria that have been set out. It is necessary to have a system.

Deputy Charlie McConalogue: Since the Government changed the rules in 2012, I have raised numerous cases in which the rule was unfairly applied. Even in cases where older children in a family have qualified for transport to a certain school, younger siblings are required to attend a different school if it is closer or else pay €350 per year to take the same bus as their older brother or sister. That is an exceptionally unfair and unjust position in which to put many of those families. For families which do not have the money, it is an excruciating decision whether to allow a child to go with his or her older brother or sister and stump up the €350 or to send the child alone to a different school.

The specific instance to which I refer relates to a decision by Bus Éireann in recent weeks in respect of the Urris area in County Donegal and using what is called Mamore Gap, a mountain road 800 ft above sea level. Despite the fact it is just beside the coast, it is not passable for most of the winter. For those families to continue to go to Carndonagh community school, to which they have always had transport in the past, they will have to pay €350 per child or €650 per family if there are more than two children in the family. Currently, there are no means by which unfair decisions like that can be addressed by the Department. I am asking the Minister of State to look at the circumstances of that case to try to ensure that common sense prevails. In other instances, of which there has been a number, he should try to bring some sense to the situation and not continue with the head-in-the-sand approach we have seen over the last two or three years.

Deputy Damien English: I am familiar with the case and have answered parliamentary questions on this before. The Deputy keeps saying it is unfair. The scheme, the system and the policy have to be fair and equitable throughout the country. The same rules are applied across the board. Bus Éireann operates on behalf of the Department and has measured this route and has picked the shortest route. That is the criteria and the job Bus Éireann does and it is implemented across the country. The local inspectors will make recommendations as well, and that is key.

The Deputy says this is unfair. It is going to be complicated in the first seven or eight years when one changes from one system, based on catchment boundaries, to a new system. The new system is probably more logical but it is complicated because there are families which already started under the old criteria. There is no doubt it is complicated for families. We know that. However, a decision was made to make this the most efficient way to provide a service on behalf of the taxpayers and people of this country and to ensure those who needed bus transport to their nearest school would get it. It has been implemented across the board. Some 63,000 people availed of that in the last year alone, and the system is fair. It might be difficult and more

complicated for families to which two sets of rules apply. I have acknowledged it is difficult. At all times, Bus Éireann has tried to judge this fairly and pick the nearest route but also to find concessionary placing for families and siblings if and when it can.

Deputy Charlie McConalogue: I am very disappointed and will continue to highlight the Minister of State's refusal to address the situation and overturn the previous decision. Unfortunately, it is unfair. The rule the Minister of State's Government is enforcing and requiring Bus Éireann to enforce on its behalf is leading to this unfair situation. In the example of the Urris area and Clonmany parish in County Donegal - there are a number of areas in a similar situation across the country, but this is the most extreme one I have seen - the Minister of State is asking people to go over a mountain pass. The reply I got from the Minister of State said that the road does not have to be traversable by bus - indeed, it can be a pedestrian route that determines what the nearest school is. The Minister of State is now telling the people in the Urris area that they have to use that mountain pass and they will only get free transport to Buncrana schools.

Deputy Mattie McGrath: Fog and snow.

Deputy Charlie McConalogue: If a school bus was provided to them, it simply could not go over Mamore Gap. It would have to go along the route it currently takes to deliver students to Carndonagh community school and would then have to continue on even further as it would now have to go to Buncrana. That will cost the Department a lot more and will cost the students in terms of time. It will also cost money to families which want to continue to go to Carndonagh community school if they decide to do that. It makes no sense, it is totally unfair and it is a situation the Minister of State, together with the Minister, Deputy O'Sullivan, need to look at. There needs to be a mechanism in place to look at situations where unusual circumstances are thrown up by the brute application of this very cut and dried rule. I ask the Minister of State to look at this again to see if there is a way around it.

Deputy Damien English: We have to be very clear. There has to be a policy and a decision-making mechanism that is fair throughout the country, so that everybody is treated equally. The Deputy wants to blame us. I was trying to point out to him that the policy change was brought in by the previous Government in budget 2011.

Deputy Charlie McConalogue: No. It was under the Minister of State's Government.

Deputy Damien English: The policy change is the right one and is based on the nearest school. The old system meant people had a choice and we had buses traversing all over the countryside. There is a logic to this. The cost of providing school transport goes up every year. It is very expensive and we are trying to manage this as fairly and equitably as we can on behalf of the taxpayers. A previous Government suggested the changes and brought them in. We have implemented them and will stand over them because they are correct but the Deputy should not try to make out that it is all somebody else's fault. The right decision was made to get best value for money. We have to judge this scheme equitably across the country for everybody. We cannot make up rules as we go along for each family, it does not work that way and it would not be fair. I have reviewed many files and Bus Éireann always tries to do the right thing locally when it can, while implementing the rules fairly for everybody across the board.

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School Enrolments

7. **Deputy Mick Wallace** asked the Minister for Education and Skills her plans to totally remove the ability of schools to reserve places for children of past pupils; and if she will make a statement on the matter. [15480/15]

Deputy Mick Wallace: The UN Committee on the Rights of the Child has stated that discrimination, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from equal opportunities. While the Education (Admission to Schools) Bill 2015, which is on the Dáil's legislative agenda this year, could introduce a 10% cap on the reservation of school places for the children of past pupils, what we really need is a completely level playing field and to offer equal access to all. I ask the Minister if she will completely remove this discriminatory policy.

Deputy Jan O'Sullivan: I thank Deputy Wallace. I recently published the Education (Admission to Schools) Bill. The Bill will clarify the power of the Minister to make regulations. A key objective of the Bill and its associated regulations is to see improved access to school for all pupils. The draft regulations which were published with the general scheme in September 2013 provided for an over-subscribed school to allocate a maximum of 25% of available school places to children of past pupils.

The Oireachtas joint committee's report on the draft general scheme considered that a school should not be permitted to give any priority to children of past pupils. I am of the view that a much lower percentage than 25% - I am saying perhaps 10% - is as high as such a threshold should be set. However, I intend to listen to all the views on this while the legislation passes through the Houses. Revised draft regulations will then be published for further consultation with the relevant education stakeholders before any final decision is made on this matter.

Deputy Mick Wallace: The Minister is well aware of the fact that if any level stays in place, even 10%, it is an element of discrimination and people will suffer. According to the Irish Traveller Movement, only 10% of adult Travellers have been to school. What chance have they got of getting a fair opportunity if a 10% quota is introduced? Likewise, there is no doubt that new migrant communities, minority faiths and children with disabilities are finding it a bit more difficult to get into schools.

I have an example of a girl called Martina from Slovakia who works in one of our wine bars and who has been in Ireland for ten years. She applied to a girls' national school in Glasnevin, which is her nearest school, and was told that the child would not be suitable because the school was mostly made up of Irish children. Her friends have had the same experience. How in God's name are we going to get to a place where people are being treated equally and fairly if we are going to allow schools to discriminate? Does the Minister not admit that this 10% will continue a certain form of discrimination?

Deputy Jan O'Sullivan: I wish to reiterate that there is no final decision on this. I have just put forward my own view and have said from the very start that I do not believe I have heard a good argument for reserving 25% of places for the children of past pupils. That is why I expressed my own view on it. If a school has room - if it is not over-subscribed - it cannot refuse a student, no matter who he or she is. Schools have to take the children if they have room. About 20% of schools in the country are over-subscribed and they are the ones that have admissions processes and criteria. All schools have admissions processes but they are the ones who have

to apply them and make a decision as to who is admitted to the school. That is the context of this discussion. I will make the regulations when we have had the full discussion. The Bill will be fully discussed in the House and in the other House and I will go back to the Government in order to make the regulations once these have been discussed. There is no doubt that views are mixed among Members on this issue but I will make a decision at the end.

Deputy Mick Wallace: There is no doubt that the schools that are over-subscribed are being given the opportunity to discriminate and the State needs to stop this practice, given that the State is funding these schools. The same problem arises with regard to religious schools. While section 7(3)(c) of the Equal Status Act 2000 allows religious-run schools to refuse to admit a student of another denomination, provided the school can prove that such a refusal is essential to the ethos of the school, this provision is effectively an exemption from equality legislation. Unfortunately, the proposed schools admission legislation will do nothing to combat this discrimination. Given that 95% of national schools are denominational and mainly Catholic-run, it leaves many parents with no choice in this area. I have heard of parents who have no religious beliefs getting their kids baptised in order to try to gain access to certain schools. One could be forgiven for suspecting that the religious position on the admission of children to certain religious schools is driving people into this situation where they are having their children baptised in order to qualify for admission. Surely this should be severely dealt with by the State.

Deputy Jan O'Sullivan: I reiterate that if the school has room, irrespective of who runs the school, it must take all the children who apply. The legislation I have published is operating under the current equality legislation which, as the Deputy says, allows a school run under a religious denomination to maintain the ethos of the school. If that involves admitting certain children and not others when the school is over-subscribed, that is the current equality legislation under which the system works.

The decision whether to baptise a child is a decision for the parents and it is up to them to decide the denomination of their child. That is the parents' right. Every child has a right to go to school. It is only the parent who wishes the child to attend an over-subscribed school who is faced with this dilemma. My personal view is that I do not believe anybody should baptise a child simply to get the child into a school. I reiterate that the equality legislation allows a school which is over-subscribed to make the decision on the basis of protecting the ethos of the school.

Deputy Jonathan O'Brien: I completely agree with Deputy Wallace on everything he has said. The school admissions Bill is a missed opportunity. The Minister stated in her response that she sees no good reason that the level should be kept at 25% and she has expressed a personal opinion of a level of 10%. However, I have heard no good reason from the Minister as to why she has set the figure at 10%. The only good reason I have heard is from the report done by the education committee which said it should be zero, and that there should be no places set aside for children of past pupils. Such a policy discriminates against people. The sibling rule is in place which means that a child whose sibling is attending a school has an automatic right to attend that school. We have a changing dynamic in Irish society. I refer to people who are moving to find work and migrants who are coming into the country; I refer to the Traveller community and people in foster care who are being moved to new communities. Whether we like it or not, these people are being discriminated against.

On the question of the ethos of a school, in no modern society should any school have any capacity to discriminate against a child based on his or her sexual orientation. I do not think a gay child will damage the ethos of a Catholic school.

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Deputy Charlie McConalogue: I ask the Minister to explain why she does not believe there are good reasons for an allocation of 25%. I ask her to explain why she believes there is a case for an allocation of 10%.

Deputy Jan O’Sullivan: In reply to Deputy O’Brien on the question of the sexual orientation of students, the equality legislation provides that a person cannot be discriminated against on the basis of sexual orientation.

Deputy Jonathan O’Brien: The ethos of a school.

Deputy Jan O’Sullivan: The ethos of a school is one thing but on the question of sexual orientation specifically, the equality legislation provides that one cannot be discriminated against on that basis. If there is any doubt in this regard I will be very clear that schools cannot discriminate on the basis of sexual orientation.

In reply to Deputy McConalogue, I have expressed a personal view but there is a discussion to be had and there are different views.

Deputy Charlie McConalogue: Can we hear the Minister’s views?

Deputy Jan O’Sullivan: I have expressed my view. I said I thought that 25% was too much and I felt that I needed to go a bit further and give a personal view.

Deputy Charlie McConalogue: Why is 25% too much?

Deputy Jan O’Sullivan: As Deputy O’Brien said, there is a right for siblings to go to the same school and in my view that is fair and it should be retained. In some cases there are rights to attend a local school and there are other kinds of rights of entry depending on the specific school. I want to be fair and I want to ensure that children are not kept out of schools for any particular reason. That is why I came to a view that 25% was too high. I will take account of the report of the education committee because the view of an Oireachtas all-party committee has to be taken very seriously. As I said, there are different views in this House and the matter is for discussion because it has not been decided. I will be coming back to the Government before any decision is made.

Deputy Charlie McConalogue: Why do we need 10%?

An Leas-Cheann Comhairle: I must call Deputy Terence Flanagan for the next question.

Special Educational Needs Service Provision

8. **Deputy Terence Flanagan** asked the Minister for Education and Skills if she will ensure that adequate resource support hours are provided for children with Down’s syndrome; and if she will make a statement on the matter. [15461/15]

Deputy Terence Flanagan: This question is to ask the Minister to ensure adequate support hours are provided for children with Down’s syndrome. I ask her to comment on the interim measure which she announced on 24 March and to say when will the new resource allocation model be introduced.

Deputy Jan O’Sullivan: I have recently held a number of meetings with Down Syndrome

Ireland and with parents of children with Down's syndrome. Following these discussions, I agreed to review the educational provision for children with Down's syndrome.

I have now provided for NCSE to make additional allocations of 2.5 resource teaching hours per week to schools in respect of any child with Down's syndrome currently not eligible for low incidence resource teaching hours. I will ensure that adequate teaching resources are made available to implement this decision. This will address a central concern for parents that children with Down's syndrome with a mild general learning difficulty did not have adequate support or certainty of the support they would receive under the general allocation schemes.

This measure has been introduced pending the introduction of the new special needs teacher allocation model recommended by NCSE. On the question of timing, I am not sure as yet because there is some work to be done, in particular, with regard to complex needs and the HSE is currently carrying out this work. We await the outcome of that work in order to have the full information for implementing the new model.

Deputy Terence Flanagan: I thank the Minister for her response. I welcome the allocation of 2.5 resource teaching hours per week for children with Down's syndrome. Those children face extreme difficulties with regard to learning and speech and language. Any help is very much appreciated. Education is crucial for all children and they must be given an equal opportunity to contribute and to achieve the best they can achieve. I note that the 2.5 hours per week is an interim measure. Families and Down Syndrome Ireland have campaigned on this issue for many years.

Can the Minister indicate a timeframe for the introduction of the new resource allocation model so that families can know that the needs of their children will be fully considered?

Deputy Jan O'Sullivan: I do not have a definite timeframe nor do I know if it will be in time for the next school year 2016. Apparently the work is ongoing. I probably will not be the Minister for Education and Skills at the time but I do not believe that it should be introduced until the identification process is completed by the HSE and it should be based on the needs of children in the early years. The HSE is working on that process but I believe there is quite a bit of work to be done.

Deputy Terence Flanagan: Is any other group of children with mild learning disabilities being considered, apart from those with Down's syndrome? Perhaps the Minister would give a little more information about the process, the new model and what is involved.

Deputy Jan O'Sullivan: The new model will deal with all children with disabilities. It is a model for the general allocation for children with disabilities. The draft proposals have been published by the National Council for Special Education but, because we do not have enough data, it is not ready to be introduced. Down Syndrome Ireland believed that the new model would be more positive for children with Down's syndrome, but we are not yet ready to introduce it.

School Meals Programme

9. **Deputy Charlie McConalogue** asked the Minister for Education and Skills the role her Department plays in the provision of free school meals to students at primary level; her views

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on whether her Department should assume more responsibility for the service; the number of primary schools her Department is aware of that have free school meals provided; if her Department is aware of any primary schools that have had to stop providing free school meals during this academic year due to insufficient funding; if she will provide the number and names of the schools concerned; and if she will make a statement on the matter. [15507/15]

Deputy Charlie McConalogue: Does the Minister believe her Department should take on a greater co-ordinating role in the programme for the provision of meals in schools? Also, is the Minister aware of any schools that have had to discontinue the provision of school meals during the current academic year due to lack of funding?

Deputy Jan O’Sullivan: The school meals programme comes under the policy remit of my colleague the Tánaiste and Minister for Social Protection, Deputy Burton. I understand that 870 primary schools benefit from the school meals programme. Participation in the programme, including the level of funding provided, is a contractual matter between individual schools and the Department of Social Protection, and questions specific to the operation of the programme are a matter for that Department. However, the school meals programme is an important support for schools participating in DEIS, which is my Department’s main policy initiative to tackle educational disadvantage. DEIS schools are prioritised for funding by the Department of Social Protection in accordance with the national policy framework for children and young people, Better Outcomes, Brighter Futures. This is particularly important for schools experiencing the highest levels of educational disadvantage; 97% of such schools participate in the programme.

Deputy Charlie McConalogue: It is unacceptable that the Minister, having had notice of this question for over a week, would say this morning that any questions about whether schools have had to discontinue the provision of free meals is something we should discuss with another Department. Surely, if I am in a position to ask that of another Department or Minister, a Cabinet colleague of the Minister for Social Protection should take it upon herself to ask that question. It is unacceptable for the Minister to fob it off. These schools are under the Minister’s jurisdiction and she is responsible for education. I asked the Minister if she believes her Department should take on a greater co-ordinating role in overseeing the provision of meals in schools, but I also asked her if she could update Members as to whether she knows of any schools that have had to discontinue providing school meals during this year. I am aware of schools that have had to stop providing school meals because they have run out of funding. They have requested additional funding but have not received it. The Minister does not appear to want to know that. As Minister with responsibility for education, she is absolving herself of responsibility for this by not wanting to know how many schools under her jurisdiction have stopped providing free meals. Earlier we discussed how DEIS works, and the provision of school meals is a part of that. It is important that the Minister makes it her business to find out this information and tries to address it with her ministerial colleague.

Deputy Jan O’Sullivan: The Deputy knows that I cannot answer questions about something that is the direct responsibility of another Minister. That is not the norm. In fact, I could have transferred this question, but I did not, as I have responsibility for some elements of the issues the Deputy raises. However, I cannot answer on the issues that are the responsibility of another Minister.

To reiterate, 97% of DEIS band 1 schools are in the school meals programme, but if a school decides for its own reasons that it does not wish to be in the programme we cannot force it to participate. For example, only 67% of the rural DEIS primary schools are in the programme,

which indicates that the other schools might not wish to participate for their own reasons. It is a matter for the schools.

It has been suggested that schools do not have the equipment required. My Department currently provides a standard range of serving and dining facilities in the design of new primary and post-primary schools. I can provide the Deputy with the details on that. In addition, the minor works grant, for which €28 million was allocated last November, is available to all primary schools and it is open to schools to prioritise the works it requires within the scope of that grant. This includes the purchase of equipment or making areas available in the school to host interventions such as the school meals programme. We would encourage schools to be involved in the programme but we cannot force them. If they decide not to be involved, that is their choice.

Deputy Charlie McConalogue: Earlier we discussed how DEIS works across Departments and has yielded results. It is unacceptable that the Minister with responsibility for education would not make it her business to ascertain whether schools wish to participate in the school meals programme. The meals are provided in the schools and the Minister funds it, so she should have a primary interest in it, but she is not doing that.

She indicated that not all schools participate in the programme, but 67% in rural areas and over 90% in urban areas do. In many cases they have not been given enough funding to provide school meals for the duration of the school year. A number of them had to stop providing meals during the year when the money ran out. The Minister and her Department must take more responsibility for the provision of this service in schools. I do not understand why it should be under the remit of the Department of Social Protection and why the Minister for Education and Skills would not make it her business to find out how many schools have had to discontinue providing school meals after Easter or March because the money has run out. From the schools' perspective it makes sense to do this, but they do not have the money to provide what they regard as an important service in the second half of the year.

Deputy Jan O'Sullivan: Even in very difficult financial times - Deputy McConalogue knows the reasons for that - the Minister for Social Protection, Deputy Burton, provided additional money for the school meals programme because she considers it to be very important, as do I. In 2013 and 2014 all DEIS schools not participating in the school meals programme were invited in writing by the Department of Social Protection to participate in the scheme. Some of the schools decided not to access the programme for a variety of reasons, including the lack of an identified need for it. I suspect that might be the case in some of the rural schools. They simply decided they did not need the school meals programme, and it is a matter for the schools to make that decision.

School Enrolments

10. **Deputy Mattie McGrath** asked the Minister for Education and Skills her plans for changes to the school admissions policy; and if she will make a statement on the matter. [15514/15]

Deputy Mattie McGrath: In February the Supreme Court dismissed an appeal in a case involving a boy from Clonmel who was refused admission to the Christian Brothers school in Clonmel, County Tipperary. The Equality Tribunal had found that the school's policy discriminated against Travellers, but the Circuit Court, High Court and Supreme Court decided

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in favour of the school. I and the school management organisations are concerned about this. As a former member of boards of management for primary and secondary schools, I and other volunteers throughout the country are in danger of being walked on. The schools have their policies, as is clear from the Minister's comments on the school meals issue. The joint managerial bodies are very concerned. Why are they being forced? If the child's father decided not to go to school, that is not the school's fault.

Deputy Jan O'Sullivan: The Education (Admission to Schools) Bill was recently published and it is on the Government's legislative programme for enactment in this session. The Bill, if enacted, will provide for the Minister to make regulations, following consultation with the relevant education stakeholders, regarding the admission of students to schools. It is my intention that any such regulations include regulations relating to the content of school admissions policies. I have made it clear that I intend to listen to all views before coming to any conclusions on the regulations and that the revised draft regulations will be published for further consultation with the relevant education stakeholders before any final decision is made.

Deputy Mattie McGrath: I have great time for the volunteers on the boards of management. They have a very difficult job, and I have experienced it. There is a huge time commitment involved in running a school, and volunteers save the State an enormous amount of money. The school in Clonmel is exceptional, and it has been for years. This case went to the Supreme Court. Can the Minister imagine the fear and trepidation of the board members lest they be found personally liable? There is also the cost to the taxpayer of going through all those courts. In 2012 there were a total of 120,000 school admissions and 244 appeals were submitted, only 40 of which were upheld.

We must be very careful with the legislation we pass. First, we could damage the community and the civic spirit of people who get involved in running these schools, along with the teachers and other staff. We may also be making grounds for people to appeal for various reasons. How can people who do not choose to go to school take a case on the basis that they are not being allowed in because their parents did not go?

Deputy Jonathan O'Brien: That is ridiculous.

Deputy Mattie McGrath: We have to be careful not to throw the baby out with the bathwater.

Deputy Jan O'Sullivan: The Deputy has illustrated the point that there are differing views in this House on this issue.

Deputy Mattie McGrath: I know there are.

Deputy Jan O'Sullivan: I agree with him that boards of management have a very difficult job and do a great service to schools around the country.

Deputy Mattie McGrath: Massive.

Deputy Jan O'Sullivan: The most important thing in relation to the proposed school admissions Bill, and in relation to policy in general, is that we are fair to all students.

Deputy Mattie McGrath: Of course it is.

Deputy Jan O'Sullivan: That is why we need a transparent system that is clearly under-

stood by parents, is within the terms of equality legislation, gives young people the best opportunity to go to school and gives parents the best opportunity to enrol their children in the school of their choice. That is a balancing act, because not all schools have room for all the children who apply. I reiterate that if the school has room, it has to take the child. It is only where schools do not have room for all the children who apply that we have to make these regulations and ensure they are as fair as possible. Certainly, my priority is to be fair to all of the students.

Deputy Mattie McGrath: I welcome the Minister's commitment to being fair. That is the overriding position for everybody. If a school has places, it is a non-issue. There is a problem if the school is overcrowded because of huge demand. That is the situation in Clonmel. We have to be supportive of the boards of management. There is no point in paying lip service to them. They do a huge job. For a variety of reasons, they are under enormous pressure on a daily basis as they run the schools. Now, more than ever, they need supports. I believe family cohesion is very important in terms of schooling supports. If there are vacancies, there is no issue. When there is not enough room because of excess demand, surely to God we must have some cognisance of all the courts in the land.

Deputy Jan O'Sullivan: I think I have made my position clear. We cannot give absolute power to boards of management. They have to operate within a fair system. As Minister for Education and Skills, I am responsible for making recommendations to my Government partners on the best and fairest system we can introduce.

Deputy Mattie McGrath: The Minister is micromanaging now.

State Examinations

11. **Deputy Charlie McConalogue** asked the Minister for Education and Skills the number of secondary school teachers who have participated in the new round of training for junior certificate reforms; her plans for implementing junior certificate reforms; if she will agree to fresh talks with teacher unions to address outstanding issues; and if she will make a statement on the matter. [15508/15]

Deputy Charlie McConalogue: I am asking the Minister for an update on junior certificate reform, with specific reference to the impasse that has resulted from the handling of this issue by the Department of Education and Skills. In particular, I would like the Minister to update us on the uptake by second-level teachers of the recent professional development courses that were provided by the Department.

Deputy Jan O'Sullivan: The junior cycle for teachers support service team has organised training seminars for English teachers during April. Unfortunately, the main second level teaching unions have issued directives to their members not to attend and have picketed training locations. As a result, just 16 teachers have attended the seminars held over the last few days. It is deeply regrettable that individual teachers have been put in a position in which they feel obliged to decline to avail of the rich learning experiences and dedicated time for learning on offer. It is wrong of any union to seek to deny opportunities for personal professional learning and development to its members. I have accepted Dr. Pauric Travers's revised and clarified proposal of 23 February as the basis for agreement on the implementation of junior cycle reform. I am now proceeding with implementation on the basis of the Travers proposal. I remain open to the unions coming on board and working with my Department and the other education partners

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in implementing the new programme using the Travers proposal as a basis for agreement. This requires a willingness on their part to suspend industrial action now.

Deputy Charlie McConalogue: I thank the Minister for her reply. Given that just 16 teachers have participated in the training for the new English curriculum so far this year, how exactly does she plan to go ahead with the assessment parts of that curriculum next year? Is that at all feasible? Last year, I called for the postponement of the introduction of the new English curriculum pending agreement with teachers. We need to see the Minister sitting down once again with the teaching unions to see whether an agreed way forward can be reached. I do not think it is fair on students for the Minister to drive on during this impasse without teachers having had the appropriate training. Equally, I do not think it is fair on teachers to be expected to do assessment next year. It seems the Minister is requiring that of them even though they have not participated in proper training because of this disagreement.

Deputy Jan O'Sullivan: I hope this issue will be resolved in the near future. It certainly can be resolved if the teaching unions accept the Travers proposals as the basis for discussion and agreement. We can discuss issues around resources, etc., on that basis. The actual assessments will not begin for almost a year. I urge the teaching unions to avail of that period of time. The other stakeholders - representatives of parents and students, management bodies, principals and deputy principals - want us to go ahead with this. We have informed them that the training is available. As soon as we get agreement and the ban on attending is removed by the teaching unions, we can certainly go ahead and provide the training. We have no problem being as flexible as possible in providing the training that teachers, with 16 exceptions, have not actually attended as of now.

Deputy Jonathan O'Brien: My understanding is that we are very close to a resolution. I understand that the gulf or difference between what the unions are saying to the Minister and what is currently on the table is not huge. A little push is needed. I know the Minister has gone some way to try to resolve this. I have spoken privately to her about how close we are to resolving it. The remaining issues seem to relate to second and third year, the assessment process, the issue of ongoing assessment and the question of external accreditation. I do not think it has got to a position in which it cannot be resolved. Maybe both sides have become a little entrenched. My personal opinion is that the Minister is probably more keen to do a deal than some of her officials. If the officials were left outside the door and the Minister just sat down with the union leadership by herself, maybe we could resolve this much more quickly.

Deputy Charlie McConalogue: It should be recognised that we have arrived at this place because the process of bringing in the reform was mishandled to a large extent previously. The approach that was taken, which involved dictating the terms of reform rather than doing it in partnership, led to entrenchment. I agree that there is a basis for dealing with the outstanding issues. Teachers have genuine concerns. It is particularly important that we see the Minister sitting down with the teaching unions before the summer period to try to address these issues one-to-one and head on in order to reach a resolution.

Deputy Jan O'Sullivan: I agree that the gulf is not very big. I ask the unions to look again at the way in which the Travers proposals suggest the certificate should operate. There is a lot in that to address their concerns.

I want to make it clear that there is no difference between my officials and myself. I assure Deputy O'Brien that we are working as a team. We are in constant consultation.

Deputy Jonathan O'Brien: I do not believe that for a second.

Deputy Jan O'Sullivan: Therefore, I do not propose to take up the Deputy's suggestion. Obviously, I have had discussions with union leaders in various situations, including at the TUI conference, although obviously not with the other union in that situation. I hope we will be able to sit down together in the very near future. I believe the veto is currently on the side of the teaching unions, rather than on my side.

Written Answers follow Adjournment.

Legal Services Regulation Bill 2011: Report Stage (Resumed)

Debate resumed on amendment No. 30a:

In page 19, between lines 22 and 23, to insert the following:

“(10) Notwithstanding any other provision of this Act, the Authority shall not distinguish between barristers who are members of the Law Library and barristers who are not members of the Law Library and barristers who are members of a professional body other than the Bar Council.”.

- (Deputy Catherine Murphy).

Deputy Catherine Murphy: As we are taking a number of amendments together I assume I can speak to amendments Nos. 30a and 49e. I wish to expand on some of the points I made last night. The new Bill will give the authority the power to distinguish between barristers who purchase services from the Law Library and those who do not, and that is not very fair. It will force non-Law Library barristers to be individually liable for levies under section 79 and provides that they will be disbarred if they default.

It is important to be clear that the membership of the Law Library and the Bar Council, as professional bodies, should be distinguished. We are giving both voluntary and private organisations significant additional functions under the Bill. It may well be that my amendment does not quite capture what I am trying to achieve and if it does not I am perfectly willing for the Minister to take it away and amend it in the Seanad.

In the history of the State we have been very poor at developing new institutions. We have inherited those that we have and these are opportunities that need to be seized. We know how long legislation takes to come through so it is really important that we get it right. Since the Bill deals with reform of the regulatory system it should apply irrespective of the services a legal practitioner chooses to purchase from the market or which professional body he or she chooses to join. Since the Law Library is dominant in this market this could be seen as an abuse of a dominant position. This amendment is critical if we are going to stop protectionist tendencies within the legal profession.

Amendment No. 49e is within the same family. In the Bill as currently drafted, only the Bar Council will be consulted relating to insurance. However, it is important to remember that it is not the exclusive professional body for barristers and it does not represent the full market. It also has a conflict of interest since the Law Library operates a group insurance scheme. The authority should consult all barristers on professional indemnity insurance. When one consid-

ers what it takes to become a barrister one realises it is not an easy profession. It takes a considerable amount of unpaid time while training so it is critical that we are fair to everyone who practises that profession.

Deputy Niall Collins: Amendment No. 63 proposes the insertion of the words “Nothing in this Act shall affect the right of a professional body to regulate the conduct of the members of that body and to make rules of membership for that purpose.” Everybody recognises that the Minister has set up the independent authority and what it is about, including its functions and the obligations with which it is charged. It is similar to any other organisation or club, such as a sporting organisation like the GAA or the IRFU where there are overarching authorities but also constituent organisations down the line. Providers of legal services are seeking to remove any ambiguity over whether they would be allowed to have an input into how they regulate aspects of the conduct of their own members, be they barristers or solicitors.

Minister of State at the Department of Justice and Equality (Deputy Dara Murphy): We are discussing amendments Nos. 30a, 49e, 63, 64, 80b, 81, 81a and 82.

Amendment No. 30a, tabled by Deputy Catherine Murphy, proposes that notwithstanding any other provisions of the Bill the legal services regulatory authority shall not distinguish between practising Law Library and non-Law Library barristers and barristers who are a member of a professional body other than the Bar Council. The Bill, through the new legal services regulatory authority, gives legal recognition for the first time in legislation to barristers who wish to provide legal services, including as non-Law Library barristers, under the new legal business models. The distinction as it exists is intended to be a positive one, reflecting as it does our desire to support new ways of meeting the needs of consumers in a modern free market economy.

Under the legal services regulation Bill we are introducing new options under which lawyers may choose to practise alongside the traditional Bar Council-Law library model, which has its own long-established structures under its own rights of association. Now the Bill is going to allow barristers, for the first time and under statute, the opportunity to provide their services in alternative ways to that of the independent referral Bar. If the legal services regulatory authority were not to be empowered to recognise the new categories of barrister who may practise alongside the traditional Law Library model then the Bill would be self-defeating. Therefore, I respectfully ask the Deputy to reconsider amendment No. 30a in this light. While I am not in favour of accepting this amendment I can appreciate the sentiment that appears to be behind it in that we do not want a two-tiered barrister profession.

The Deputy’s other amendment in this group, amendment No. 49e, seeks to ensure that non-Law Library barristers be consulted in the making of regulations relating to professional indemnity insurance by the new regulatory authority. The Minister, Deputy Frances Fitzgerald, does see merit in this amendment as the Law Society and Bar Council are already cited in the relevant subsection (11) of section 37 of the Bill. I have therefore noted Deputy Murphy’s raising of this omission and, on the basis that we will be returning to the provisions of professional indemnity insurance when we come to the Seanad by way of harmonising the Bill in this regard, I respectfully ask that she withdraw the amendment for the time being.

We cannot accept amendment No. 63 in the name of Deputy Niall Collins, which was previously raised on Committee Stage. The amendment leans towards a situation where the professional bodies self-regulate the conduct of their members and it runs counter to the current Government policy preference for more independent regulation of the legal profession. The

acceptance of this amendment would, in fact, diminish or reverse the priority of the proposed new legal services regulatory authority over those bodies for which it is intended to be the independent statutory regulator. I therefore request that amendment No. 63 be withdrawn. While the legal professional bodies may continue to make rules in their own right this will be subject to the objectives, principles and provisions of the regulatory regime found in the legal services regulation Bill.

Amendment No. 64 was tabled by Deputy Michael McNamara. I thank him for his amendment but it goes in a similar direction to the one the Government is seeking to follow in ensuring that a variety of legal business models can be allowed to happen notwithstanding the traditional model for the conduct of business as a barrister which has been in place.

Amendment No. 80b, tabled by Deputy Catherine Murphy, seeks to remove details of whether or not somebody is a member of the Law Library from the roll of practising barristers which will be maintained by the new legal services regulatory authority under section 100 of the Bill. I wish to go some way towards Deputy Murphy's concern while at the same time meeting the Government's policy objective of creating a modernised legal services sector. I would have preferred a wording which merely specified which legal professional body, if any, a barrister may choose to be a member of.

11 o'clock

Therefore, it is intended to revisit these matters in preparation for the Seanad. Given the fact that it will be addressed in Seanad Éireann, I would be grateful if the Deputy would afford the Minister for Justice and Equality the opportunity of doing so at that time and withdraw the amendment this morning.

Deputy Catherine Murphy: What was the number of the amendment?

Deputy Dara Murphy: Amendment No. 80b.

I have noted amendment No. 81, which was tabled by Deputy McNamara and proposes the deletion of the word "and" from the list of items to be included in the roll of practising barristers. Having considered amendment No. 81a, which was tabled by the Deputy, I see certain merits in the inclusion of details regarding whether a barrister is an employed barrister for the purpose of maintenance of the relevant roll as set out under proposed subparagraph (e) and I will keep this in mind in the finalisation of the listed items concerned. Items (g) and (h) of this amendment will be addressed from various perspectives in the course of the public consultation that will consider future direct access to barristers by members of the public on contentious matters of the Bill. This will be the appropriate setting in which to resolve them. We are not clear regarding the intent of the proposed subparagraph (f), which relates to the specification of any legal or natural persons against whom a barrister has undertaken not to provide legal services but will be happy to consider it in light of the Deputy's explanations as may be appropriate.

Amendment No. 82 seeks to expedite the implementation of the new roll of practising barristers from the date of the establishment of the new regulatory authority. While we can recognise the merits of this objective at a policy level, time will be needed to establish the roll and to gather and enter the relevant details of the different categories of practising barrister concerned and whether they are operating within the Law Library or outside it. Hence, we would prefer to retain the discretion to nominate a date of operation for the roll which would facilitate the logistics of its establishment in a way that can meet the more practical challenges that will similarly

arise and provide an adequate lead-in period.

On the basis of the respective responses to amendments Nos. 64, 81, 81*a* and 82, I will be happy to continue my consideration of the matters concerned and would be grateful if Deputy McNamara could agree to withdraw them.

Deputy Catherine Murphy: I accept the Minister's bona fides and am happy to withdraw amendments Nos. 49e and 80b. I am sure that if she will consider it further and bring it to the Seanad, she will do that.

The Minister and I may well be trying to do the same thing but what I am trying to achieve with amendment No. 30*a* is to make sure there is no distinction between barristers. We are giving professional bodies significant new functions. It is critical that people have the right to choose to join whichever body they wish. Can the Minister of State explain how the Government sees the legal services regulatory authority making sure this occurs if we embed in the legislation an enhanced role for these professional bodies?

Acting Chairman (Deputy Michael McCarthy): Does Deputy Niall Collins wish to come in?

Deputy Niall Collins: No, I will just press mine.

Deputy Dara Murphy: As I said in my response, it is clear from discussions with the Minister that both the Deputy and she have the same ambition in not arriving at a point where we would have a two-tier barrister profession. The Minister and Department are satisfied that the Bill will ensure that the outcome sought by the Deputy and the Minister will be achieved. It is in that context that unlike the Deputy's other two amendments, which can be deliberated upon further in the Seanad, we are not in a position to accept amendment No. 30*a*.

Acting Chairman (Deputy Michael McCarthy): Is the amendment being pressed?

Deputy Catherine Murphy: Yes.

Amendment put and declared lost.

Acting Chairman (Deputy Michael McCarthy): Amendments Nos. 31 to 35, inclusive, and Nos. 45 to 48, inclusive, are related and will be discussed together. Amendments Nos. 34 and 35 are physical alternatives to amendment No. 33 and amendments Nos. 47 and 48 are physical alternatives to amendment No. 46.

Deputy Niall Collins: I move amendment No. 31:

In page 22, to delete lines 23 to 35.

The first group of amendments relate to the reporting of the authority. What has been presented to us and what has been debated so far is that all the reportage shall go to the Minister. This group of amendments seeks to ensure that the reporting is to the Oireachtas and to make the authority accountable to the Oireachtas rather than just the Minister. In other words, they aim to broaden it. They aim to clear a number of things up as well relating to the committee. We have the name of the committee. The aim of the amendments is to broaden the legislation for future committees because, as we know, committees change from time to time. The amendments seek to delete "Minister" and replace it with "the Oireachtas".

Amendments Nos. 45 to 48 involve minor deletions flowing from that.

Deputy Dara Murphy: In respect of amendment No. 31, the ongoing concerns of Deputies and the professional bodies about the way in which provision is being made under the Bill relating to the disclosure of information are very much to the fore of ongoing consideration of the Bill. The challenge for us as legislators is to get an appropriate balance between the provisions of the Bill in section 17(1), which seek to prevent an unauthorised disclosure of information arising from the exercise of functions within the new regulatory authority and allowing for appropriate disclosure of information relating to “the commission of an indictable offence”. These are issues about which we are in ongoing discussion with advisory and Parliamentary Counsel and which, as reflected in today’s amendment, have given rise to concerns about infringements to client confidentiality and-or legal privilege. The concerns arise acutely in the context of section 17 of the Bill and under section 19, which it is intended to limit to periodic reporting only. I very much appreciate the need to secure an appropriate balance relating to all of these issues while also seeking to best serve the public interest relating to the possible disclosure of criminal acts with adequate protections for legal privilege or client confidentiality. The Minister will, therefore, be returning to these key issues in bringing forward possible amendments at a later Stage. I would very much appreciate, therefore, if Deputy Niall Collins, who has proposed the total deletion of section 17(3) of the Bill under amendment No. 31, could withdraw that amendment and allow time for the sensitive legal issues concerned to be resolved when we come to reconsider them in the Seanad.

Turning to amendments Nos. 32 to 35, inclusive, and 45 to 46, inclusive, we have given renewed consideration to the group of amendments which relate to the reporting channels of the new regulatory authority, for example, in respect of its annual, strategic or other reporting routines. I also understand that this aspect of the Bill has been raised and discussed previously.

Amendment No. 32 proposes that not only will a strategic plan of the regulatory authority be channelled to the Houses through the Minister but will also be channelled to the Houses only. However, I point out that section 18 as it currently stands also provides that the Minister shall cause a copy of such a plan to be laid before each House of the Oireachtas. The Minister considers the public to be served well by this two-step process, whereby the Minister and both Houses of the Oireachtas can be vigilant in a way that is mutually reinforcing of the public interest. I do not, therefore, see the additional benefit that would be conferred by acceptance of the amendment. I see continued merit, however, in the new regulatory authority being able to report to the Minister by way of bringing key matters to his or her attention and, therefore, wish to retain this provision and to not accept amendment No. 34 as it would no longer facilitate this.

While the Opposition amendments highlight that there is a remaining role for the Minister in terms of some discrete reporting matters, this is solely to represent the public interest in the effective discharge by the regulatory authority and its functions. This includes any recommendations it may wish to make from time to time in regard to the effective regulation of the legal services sector and of legal costs. It also provides a means to monitor regulatory effectiveness and costs in that regard. It is intended that the Minister will solely act as the conduit of the reports concerned, without undue delay or any type of interference, including in their being laid before both Houses of the Oireachtas. I am unable to accept amendment No. 33 which seeks the deletion of existing section 19 from the Bill as this would dismantle and disrupt the annual and other reporting architecture of the proposed Bill.

Amendment No. 35 would be similarly disruptive and would not, in our view, add any ob-

vious value to the reporting framework of the Bill beyond what has already been catered for. These proposed amendments also emanate from an overall self-regulatory approach to the legal professions under the Bill, which remains unacceptable for the reasons outlined earlier. For precisely the same reasons, we cannot accept the wholesale deletion of section 31 of the Bill which deals with annual reports on admission policies for the legal professions and of section 32 which deals with reports on specified matters, as proposed in amendments Nos. 45 and 46, respectively, for which I thank Deputy Niall Collins. The proposed deletion of the two sections in their entirety are an unacceptable carry-over from earlier reactions to the Bill, which been already considered.

Key areas of reform upon which public consultations and reports are provided for would be cast aside - for example, the creation of a profession of conveyancer, the unification of the professions of barrister and solicitor and the education and training for legal practitioners in the State and how this is provided for. We consider, therefore, that the current approach to the furnishing of the relevant reports via the Minister goes no further than to represent the public interest in regard to any of the issues that may be concerned, while also providing the dual safeguard of the reports being laid before both Houses of the Oireachtas. I see no additional benefit in accepting the amendments proposed and respectfully ask that the Deputy withdraw them.

Government amendments Nos. 47 and 48 pertain to two of the public consultation processes and subsequent reports that the authority will be obliged under section 33 to conduct and furnish to the Minister. In bringing forward these two amendments, I am responding to a number of concerns expressed, including by Deputies and the professional bodies, about the heavy workload that the Bill appears to impose on the new legal services regulatory authority from its date of establishment. Under the Bill as it stands, the new regulatory authority will have numerous reports to prepare immediately upon it becoming operational. These relate to legal professional education, the possible unification of the two legal professions, legal partners and multidisciplinary practices and the establishment of a profession of conveyancer. In addition, the new regulatory authority will have to set up a new role of practising barristers, while also preparing regulations in regard to the key new areas of legal practice being introduced under this Bill.

Amendment No. 47 relates to the report on the education and training arrangements in the State for legal practitioners, including the manner in which such education and training is provided. The Bill currently provides that this report should be produced within one year of the establishment of the authority. The purpose of amendment No. 47 is to extend this timeframe to two years. This reflects the fact that the new authority can use a little more time to conduct its initial and baseline study.

Amendment No. 48 relates to the report of the consultation on the possible unification of the barrister and solicitor professions. The purpose of this amendment is to extend the timeframe in this regard from two years to four years. This will allow the new authority to report on more pressing matters earlier, while also recognising the fact that such unification is not immediately in prospect and that the new regulator will need to be firmly established if such a unification were to be recommended for implementation. These amendments are in response to concerns previously expressed in regard to the heavy workload that will be placed on the new authority. The re-sequencing of the timeframe in respect of the two reports concerned, as provided for in amendments Nos. 47 and 48, is a practical response to the concerns expressed.

Amendment, by leave, withdrawn.

Amendments Nos. 32 to 35, inclusive, not moved.

Deputy Dara Murphy: I move amendment No. 36:

In page 24, to delete lines 2 to 39, and in page 25, to delete lines 1 to 10 and substitute the following:

“Powers of Authority in relation to codes of practice

20. (1) The Authority may, having regard to the objectives specified in *section 12(1)* and (4) and in accordance with this section, issue a code of practice where it considers it necessary to do so for the purpose of setting and improving standards for the provision of a legal service in the State.

(2) A code of practice issued under *subsection (1)* may relate to the provision of legal services by—

(a) legal practitioners generally, or

(b) legal practitioners of such class or classes as may be specified in the code.

(3) Before exercising its power under *subsection (1)*, the Authority shall consult, in such manner as it considers appropriate, with—

(a) a professional body, the members of which will be subject to the proposed code of practice, and

(b) such other interested parties, including legal practitioners who are not members of a body referred to in *paragraph (a)* who will be subject to the proposed code of practice, as the Authority considers appropriate.

(4) Where the Authority consults under *subsection (3)*, it shall, before issuing the code of practice concerned, consider representations (if any) made by the bodies or parties so consulted.

(5) Where a professional code conflicts with a code of practice, the code of practice shall, for the purposes of this Act, prevail.

(6) The High Court, on application to it by a legal practitioner who is affected by a code of practice, made within 28 days of the issuing by the Authority of that code, may, where it considers that the code of conduct is oppressive, unreasonable or unnecessary, revoke or vary the code.

(7) Where the Authority, under this section, issues, amends or revokes a code of practice, it shall without delay cause a notice to that effect to be published in *Iris Oifigiúil*, which notice shall—

(a) specify the code concerned,

(b) specify the legal service to which the code relates or the class of legal practitioner to which the code relates, and

(c) specify the date from which the code, or the amendment to or the revocation of the code, as the case may be, shall have effect.

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(8) (a) The Authority shall make available for inspection free of charge to members of the public in an appropriate format a copy of every code of practice issued by it under *subsection (1)*.

(b) A copy of a code of practice made available under *paragraph (a)* shall state the date on which the code has effect and, where applicable, the date on which the revocation of the code has effect.

(c) Where a code of practice referred to in *paragraph (a)* has been amended in accordance with this section, a reference in that paragraph to a code of practice is to that code as amended.”.

Amendment put and agreed to.

Amendment No. 37 not moved.

Deputy Dara Murphy: I move amendment No. 38:

In page 25, between lines 10 and 11, to insert the following:

“Powers of Authority in relation to professional codes

21. (1) The Authority, having reviewed a professional code, may issue a notice under *subsection (2)* to the relevant professional body where it is of the opinion that—

(a) the professional code operates or is likely to operate to hinder a legal practitioner in complying with his or her obligations under this Act,

(b) the professional code is frustrating or is likely to frustrate an objective specified in *subsection (1)* or *(4)* of *section 12*, or

(c) the amendment of the professional code is otherwise necessary in order to maintain or improve standards in the provision of a legal service.

(2) A notice under this subsection may direct the relevant professional body concerned to amend, in the manner specified in the notice, the professional code concerned.

(3) Where the Authority proposes to issue a notice under *subsection (2)* it shall—

(a) notify the relevant professional body, and such other professional body it considers appropriate, of its proposal and the reasons for it,

(b) invite the professional bodies referred to in *paragraph (a)* to make representations in writing to the Authority in relation to the proposal, and

(c) before deciding whether to issue the notice, consider any representations received under *paragraph (b)*.

(4) Where a relevant professional body has not, within 28 days of the sending to it of a notice under *subsection (2)*, complied with that notice, the Authority may apply to the High Court for an order directing the professional body concerned to comply with the notice.

(5) The High Court, on application to it by the professional body concerned made within 28 days of the sending to that body of a notice under *subsection (2)*, may, where it considers

that the notice is oppressive, unreasonable or unnecessary, revoke or vary the notice.

(6) A professional body shall—

(a) within one month of the establishment day, furnish to the Authority a copy of all professional codes in relation to which it is a relevant professional body,

(b) within 28 days of it becoming a relevant professional body in relation to a professional code, furnish to the Authority a copy of that professional code, and

(c) within 28 days of the amendment or revocation concerned—

(i) notify the Authority of the amendment of a relevant professional code and furnish it with a copy of the code as amended, and

(ii) notify the Authority of the revocation of a relevant professional code.

(7) (a) The Authority shall make available for inspection free of charge to members of the public in an appropriate format a copy of every professional code furnished to

it under *subsection (6)*, other than a code which the Authority has been informed, under *subsection (6)(c)(ii)*, has been revoked.

(b) A copy of a professional code made available under *paragraph (a)* shall state the date on which the code has effect and, where applicable, the date on which the revocation of the code has effect.

(c) Where the Authority has been informed under *subsection (6)(c)(i)* of the amendment of a professional code, a reference in *paragraph (a)* to a professional code is a reference to that code as amended.

(8) This section is without prejudice to any other power of the Authority under this Act.

(9) In this section, “relevant professional body”, in relation to a professional code, means a professional body—

(a) that has adopted that code,

(b) on whose behalf the code has been adopted, or

(c) whose members are, as a condition of their membership of that body, otherwise subject to the code.”.

Amendment put and agreed to.

Acting Chairman (Deputy Michael McCarthy): Amendments Nos. 39 to 41, inclusive, are related and will be discussed together by agreement.

Deputy Pádraig Mac Lochlainn: I move amendment No. 39:

In page 26, line 21, after “may” where it firstly occurs to insert “, after consultation with the professional bodies,”.

These amendments arise out of previous discussions during earlier Stages of the Bill. As the

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Minister of State will be aware, there are staff in the Law Society of Ireland and the Bar Council who are already dealing with complaints mechanisms and are skilled in this area. As a result of the establishment of the new regulatory authority, their positions will become redundant. There is precedence in terms of ensuring that the establishment of a new body does not result in job losses. That is the objective of these three amendments. During discussions on earlier Stages of the Bill I received reassurance first from the former Minister, Deputy Shatter, and then from the Minister, Deputy Fitzgerald, the Government would be sympathetic to these issues and would try to ensure current skilled staff who are relevant, who could help to get the new authority up and running smoothly and who would have a lot to offer to the authority are retained. I accept there will be some degree of training required and new corporate management structures to be put in place and so on but the hope is that as few people as possible will be made redundant and that there will be no re-inventing of the wheel when there are people available who have worked in this field and can bring an awful lot to a new authority. I hope the Minister of State will be able to accept these amendments.

Deputy Dara Murphy: I thank the Deputy for his amendments. Amendments Nos. 39 and 41 seek to make the appointment by the authority of its staff and the determination of their duties subject to “consultation with professional bodies”. This would be contrary to the independence of the regulatory authority in its functions, which we have enhanced as desired by the professional bodies and Deputies through a series of substantial amendments. To make the authority amenable in its staffing or other operational decisions to those interests whom it is purportedly regulating on an independent basis would be self-defeating. In any event, the legal professional bodies are among the nominating bodies for membership of the authority and their successful nominees will have a subsequent voice in its decision making. Staff will be employed independently by the regulatory authority and the professional bodies will not have an employer relationship in this regard.

The staff of the new authority have to be seen to be independent of the professional bodies to maintain public confidence in the new regulatory regime. This would also make it untenable for the regulatory authority to have to consult with those very bodies it is regulating in the making of key staffing decisions and in the subsequent designation of their tasks and duties. We can see the potential conflict of interest that might arise there.

Under this Bill, members of the public will no longer go to the Law Society or to the Bar Council with their complaints in the first instance, as happens at present. Instead, they will make such complaints through the legal services regulatory authority. Deputy Mac Lochlainn will, therefore, appreciate how important it will be that the new legal services regulatory authority be independent of the legal professions and of the Government in the performance of its functions. The independence of the new regulatory authority and of its attendant complaints and disciplinary tribunal procedures is, therefore, fundamental to their success and to the avoidance of any perception among members of the public that complaints about lawyers are being dealt with by lawyers themselves, including their own representative bodies.

At the same time, it is clear that the proposed reforms to the legal professional conduct regime will have implications for a number of existing and appropriately-skilled staff who currently deal with public complaints made through the legal professional bodies. This concerns approximately 18 full-time equivalent posts in the Law Society along with a small number of posts at the Bar Council. Deputies will recall that there was a detailed discussion of this specific aspect with the former Minister, Deputy Shatter, in January 2014 in which Deputy Mac Lochlainn himself was involved. On that occasion, broad support was given by Deputies from

across the parties to finding a workable solution which can reconcile the competing human resource and policy considerations involved. This is something which the Minister, Deputy Frances Fitzgerald, has under active and ongoing consideration.

This brings me to the third amendment, which is Deputy Mac Lochlainn's amendment No. 40, which concerns the possible transfer of those complaints staff of the Law Society and the Bar Council who currently administer their respective complaints regimes. As I stated, the Minister, Deputy Fitzgerald, is continuing to consider the possible options for resolving this situation. For example, there are issues around pension and redundancy rights and liabilities that could have serious cost implications for the Exchequer. However, these human resource aspects of the establishment of the new legal services regulatory authority are not solely in the hands of the Department of Justice and Equality. They will, therefore, have to continue to be negotiated in detail with the Department of Public Expenditure and Reform which has overall responsibility in these areas.

In assuring Deputies that the Minister, Deputy Fitzgerald, is actively looking into these complex and sensitive human resource issues, she would ask that this be facilitated by the withdrawal of the proposed amendment pending the identification and negotiation of a viable solution which will be brought forward at a later stage. Any amendments in this regard will come back before the Houses for due consideration.

Deputy Pádraig Mac Lochlainn: I am happy to withdraw amendments Nos. 39 and 41 as I accept the points made about the independence of the authority.

What the Minister of State, Deputy Dara Murphy, stated about amendment No. 40 is encouraging. Of course, there will be human resources challenges, pensions issues and such changes, but undoubtedly there would be a desire on the part of the Law Society and the Bar Council that the professional staff who work for them would continue to be in employment. If the same will was on the side of the Government and the relevant Departments, I believe that this can be facilitated. It is common sense and it is also just and fair. There is no question regarding the professionalism or integrity of those who have worked in this sphere and it would be great to have that pool of skills available to a new authority.

If the Government is indicating that it will bring forward amendments in the Seanad that would facilitate this, I will withdraw the amendment in good faith. I do so only on the basis that when this comes before the Seanad, there will be a firm proposition on the table rather than a sense that it is being worked on.

With respect, they have had a long time to work on this matter. I am disappointed that there is not a firm proposal today, stating clearly that this issue is being addressed. However, the language is encouraging. I will withdraw the amendment if I am given an assurance that there will be a firm proposition on the table in the Seanad.

Deputy Dara Murphy: To affirm the point Deputy Mac Lochlainn made about the professional standards and abilities of the staff concerned, those involved are of the very highest quality. The Minister, Deputy Fitzgerald, has made it clear that she is looking into complex and sensitive issues that involve not only her own Department, but also the Department of Expenditure and Reform, and there will be a discussion on where matters have reached during the Seanad debate.

Deputy Pádraig Mac Lochlainn: I am not asking that it be discussed in the Seanad. I am

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asking that the Minister have an amendment before the Seanad that deals with this issue.

Deputy Dara Murphy: The intention is, once we get through Second Stage, that there will be an amendment in the Seanad dealing with this matter.

Amendment, by leave, withdrawn.

Amendments Nos. 40 and 41 not moved.

Acting Chairman (Deputy Michael McCarthy): Amendment No. 42 in the name of the Minister and Deputies Pádraig Mac Lochlainn and Niall Collins. Amendments Nos. 42 to 44, inclusive, are related and may be discussed together.

Deputy Dara Murphy: I move amendment No. 42:

In page 28, to delete lines 34 to 36.

The joint Government and Opposition amendments Nos. 42 and 43 relate to the ban on the chief executive officer of the legal services regulatory authority expressing an opinion to an Oireachtas committee on the merits of any policy of the Government as currently found in sections 25 and 26 of the Bill. The amendments propose that this ban be removed in both instances, respectively. As previously signalled on Committee Stage, the Government is persuaded by this view and I am now happy to agree to both amendments, namely, amendments Nos. 42 and 43. The lifting of this ban will be welcomed by those Deputies and stakeholders who raised concerns about these provisions in the past.

In relation to Deputy Mac Lochlainn's additional amendment No. 44, we would consider it a step too far for current regulatory purposes. We would not, therefore, propose to delete section 26(3), as his amendment suggests. The existing provision simply provides that the chief executive will not be forced to give an account before the relevant committee of the Oireachtas on any matters which are, or may be, before the courts or are specific to a determination by the regulatory authority in respect of a particular legal practitioner. We believe these to be reasonable safeguard provisions, which protect the integrity of any relevant court or regulatory proceedings or the new authority from external comment or controversy. We need to avoid an open-ended risk of disrupting due process in other fora through inadvertent or inappropriate public comment. Given the legally prudential and protective nature of section 26(3), I ask that Deputy Mac Lochlainn withdraw his proposal for its deletion under amendment No. 44.

Deputy Niall Collins: With regard to amendments Nos. 42 and 43, I welcome the fact that the Minister has recognised that if we are to live in an open democracy, with more work transacted at committee level, then we cannot stand over a situation in which people are limited in their input at committee. As such, if the chief executive officer of any organisation is asked to appear before a committee, there should be no limits or barriers on what he or she may want to enter into in terms of debate. I welcome the amendments.

Deputy Pádraig Mac Lochlainn: Like Deputy Collins, I welcome the fact that the Government has addressed the concerns we had through amendments Nos. 42 and 43.

I will set out a relevant example for amendment No. 44. Not long ago, the former Secretary General of the Department of Justice and Equality, Brian Purcell, came before the Oireachtas Joint Committee on Justice, Defence and Equality. He restrained himself from giving evidence because of matters now subject to investigation by the Fennelly commission. I am concerned

that the Bill as currently worded could allow a broad opportunity for someone not to appear before an Oireachtas committee to give account. It could limit the ability of a committee to work. Obviously, if someone came before an Oireachtas committee and explained that because of legal privilege and matters subject to decision by a court he cannot give evidence, the committee would have to accept that, as we did, reluctantly, in the case of Brian Purcell. However, I am concerned that the wording is a little too broad and too open to interpretation. It may limit the ability of the Oireachtas justice committee or any committee to hold a body to account. That body may be independent but it is funded by the taxpayer and plays an important role on behalf of the public. That is my concern.

Deputy Dara Murphy: As Members are aware, in the other two amendments, the concerns of Members have been taken on board by the Minister. They acknowledge the important role of committees in the functioning of these Houses. This amendment, however, is considered a step too far. It is a straightforward provision. There is a risk of open-ended disruption when there may be other forums where an issue could be discussed. Unfortunately, we are not in a position to accept the amendment.

Amendment agreed to.

Deputy Dara Murphy: I move amendment No. 43:

In page 29, to delete lines 1 to 3.

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 44:

In page 29, to delete lines 4 to 8.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendments Nos. 45 and 46 not moved.

Deputy Dara Murphy: I move amendment No. 47:

In page 33, line 10, to delete "1 year" and substitute "2 years".

Amendment agreed to.

Deputy Dara Murphy: I move amendment No. 48:

In page 34, line 7, to delete "2 years" and substitute "4 years".

Amendment agreed to.

Acting Chairman (Deputy Michael McCarthy): Amendments Nos. 49, 49a, 49b, 61a, 65a, 77a, 78a, 79a and 80a are related and may be discussed together by agreement. Amendment No. 49a is a physical alternative to amendment No. 49.

Amendment No. 49 not moved.

Deputy Catherine Murphy: I move amendment No. 49a:

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In page 35, to delete lines 25 and 26 and substitute the following:

“35. (1) Subject to *subsection (2)* a legal practitioner shall be entitled to hold client moneys of clients and no professional code shall operate to prevent a legal practitioner from holding moneys of clients.”.

Essentially, this amendment seeks to change the terminology so as not to distinguish between barristers and solicitors when it comes to client moneys. Amendment No. 49*b* seeks to change the terminology to “legal practitioners”. This would remove the prohibition on barristers’ holding client moneys. I am unsure where the distinction originally came from, but it was made before the State was founded. It puts barristers at a severe disadvantage relative to solicitors, who may receive, for example, the proceeds of a settlement or expenses in advance while barristers cannot. This is about people being able to function and have a little control over their lives.

If this prohibition continues it would make barristers dependent on solicitors to engage with clients and it would frustrate the objective of enabling direct professional access in all matters. It is a critical issue. While it might seem a rather small amendment in terms of the terminology, it is an important one.

Deputy Dara Murphy: I thank Deputies for their amendments. Amendments Nos. 49*a* and 49*b*, tabled by Deputy Murphy, would in effect enable all barristers and solicitors to immediately hold clients’ moneys and allow the Minister to regulate for this. However, key safeguards have been put in place in case such an event arises, and, therefore, we cannot support the amendments. We consider that the serious safeguards should remain a crucial part of the public consultation process on the holding of clients’ moneys to be conducted under section 99.

The transition to the new legal service models will involve a staged approach to ensure they can be delivered in a prudential manner that will protect the interests of legal practitioners and the consumers of their services.

I will take Deputies through the Minister’s initial amendment in this group, amendment No. 61*a*. This tightens up the definition of “contentious matter”. It is now proposed to provide that a “contentious matter” means a matter that arises in and that relates to the subject matter of proceedings before any court, tribunal or any other body or person, rather than a matter that has arisen in proceedings, as originally set out. These changes are being made as a matter of interpretation under Part 8 on the advices of the Office of the Parliamentary Counsel. I therefore propose them for agreement under amendment No. 61*a*.

The proposed amendments to part 8 provide for the introduction of alternative business structures, such as multidisciplinary practices and legal partnerships. The introduction of these alternative business structures remains central to the achievement of the structural reforms to which the Government is committed. The Bill, having been a reform under the EU-IMF-ECB troika programme, is now a structural reform commitment covered by the relevant country-specific recommendation agreed under the EU semester process.

The strategy proposed today in respect of the introduction of legal partnerships and multidisciplinary practices has three main elements. First, we are distinguishing the provisions relating to legal partnerships and multidisciplinary practices to more clearly delineate the modalities of their introduction and regulation. Under this revised approach, legal partnerships will precede multidisciplinary practices in their introduction and both models will be subject to

periodic review.

Second, I am introducing a series of new amendments to strengthen the regulatory powers of the new authority and to apply additional prudential conditions on participation in multidisciplinary practices and in legal partnerships. At the same time, I am being careful not to unduly restrict the type of legitimate businesses that may participate in these new legal services models. I wish to alert Deputies that we will address these particular regulatory enhancements relating to the new legal business models later within the separate group of amendments to which they have been assigned. Whether we get to that this morning or not, we will see.

Third, over three years after publication of the Bill and in recognition of the fact that multidisciplinary practices are still being rolled out in other jurisdictions, such as England and Wales, I am meeting the recognised need to conduct independent and professional research on the likely effects their introduction may have on competition and on the Irish legal services market itself. This research will be allowed for by the proposed amendment.

Under amendment No. 65*a*, Deputy Catherine Murphy proposes to change the current provision of section 85 of the Bill, which prohibits a professional code from preventing direct access to a barrister in regard to non-contentious matters by opening up such access to contentious matters as well. The policy approach being taken under section 99 of the Bill is that the authority will, within a year of its establishment, carry out a public consultation on the retention or removal of restrictions on a barrister receiving instructions in a contentious matter directly from a person who is not a solicitor. It will also examine the reforms, whether administrative, legislative or to the existing professional codes, that are required to be made in the event that the restrictions are retained, or, as the case may be, removed. This approach will enable us to carefully examine the issues involved and ensure that the necessary administrative, legislative and prudential structures are put in place, if access to barristers by members of the public is to be extended to contentious matters. It would be a risk-laden approach to proceed with such an opening up of direct access to barristers without first considering the viability of this option and then putting the necessary prudential safeguards in place to protect the moneys and interests of any clients concerned.

Government amendment No. 77*a* proposes a replacement for section 98 that will now deal exclusively with the public consultation process in regard to legal partnerships - that is, the new legal business model of barrister-barrister and barrister-solicitor partnerships. Separately, a new section 99 will provide for the consultation process in regard to multidisciplinary practices. It will now be provided under amendment No. 77*a* that the legal services regulatory authority will, immediately following its establishment, and periodically thereafter, carry out consultations in regard to the regulation, monitoring and operation of legal partnerships. The authority will carry out its initial consultation and report to the Minister within six months of its establishment and the Minister will lay the report before the Houses within 30 days of its receipt. Deputies will also wish to note that it is our intention to introduce, in the Seanad, an amendment to section 1 of the Bill, which deals with commencement issues. It is intended that the Seanad amendment will provide that legal partnerships will come into operation within six months of the completion of the initial six-month consultation process and report. Some other consequential or technical amendments may arise to dovetail with these changes at that time.

It is our considered view that the introduction of legal partnerships, augmented by today's amendment, will provide early, viable and duly regulated alternatives in the way solicitors and/or barristers can work together in responding to the needs of a modern legal services market.

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Both are regulated professions and have established status and rights of appearance before the courts and both are eligible to apply for judicial appointment. There is already an established, recognised and regulated system for switching between the professions of barrister and solicitor, and this is something which now takes place on quite a regular basis. Indeed, there is now a growing number of practitioners who have worked under the two professions. The two legal professions already work closely with each other in the conduct of legal business and litigation. They have common legal expertise and competence in areas such as arbitration and mediation. Some barristers already share premises and facilities, as solicitors do, and legal partnerships will enable both professions to avail of the economies that can be achieved to the benefit of both lawyers and the consumers of their services, be they private citizens or enterprises.

Both of the legal professions will be regulated by the new legal services regulatory authority and by the new conduct and disciplinary regime under which they will both be answerable. They will both be answerable ultimately to the legal practitioners disciplinary tribunal. Without going outside the two existing legal professions, which already have established, regulated and, in some cases, overlapping functions, there is a very substantial platform upon which, supported by the public consultation process as now set out under amendment number 77*a*, we can modernise the legal services market through the early introduction of legal partnerships.

Amendment No. 78*a* provides that a new section 99 will set out the consultation process for multidisciplinary practices or, as they may be called, MDPs. I am now proposing that the authority will, within six months of its establishment, prepare an initial report. This will provide us with an opportunity to learn from the experiences of other countries which have introduced these new business models. It should be remembered that these are complex entities, combining different professions and standards in order to offer the consumer choice and better value. It is also important to ensure we have the right structures in place to protect consumers and their moneys. The initial report, therefore, will include research on the operation of multidisciplinary practices in other jurisdictions, including the legislative and regulatory measures which underpin them. The report will also focus on their likely impact on legal costs, the provision of legal services to consumers and the access of persons to legal practitioners. Again, it will be laid before the Houses within 30 days of receipt.

I am providing that, following the initial exploratory report to the Minister, the authority will conduct, within a further six months, a public consultation on the establishment and impact of multidisciplinary practices alongside other factors such as their regulation, monitoring and operation. It will then make a final report to the Minister with recommendations based on the research and the results of the public consultation process, which will also be laid by the Minister before the Houses within 30 days of receipt. The commencement of the provisions governing the introduction of MDPs will then become a matter for the Minister.

In summary, I am front-loading the MDP process with a six-month research module, which will give depth to the public consultation process that will follow it. I want us to take stock of MDPs, their implications and their benefits for our own legal services market and the lessons we can learn from elsewhere. Rather than having an automatic commencement date for the introduction of multidisciplinary practices, we are now proposing that the Minister, following receipt and consideration of the final report under the procedure I have set out, will have the discretion to proceed with their appropriately regulated introduction.

Amendment No. 80*a*, which inserts a new section 100, provides that the authority will carry out periodic reviews of the operation of Part 8 with respect to legal partnerships and multi-

disciplinary practices. As part of the review process, it will be open to the authority to make recommendations to the Minister for the amendment of any provision of Part 8 that it considers necessary. The initial review for multidisciplinary practices will be started not later than two years after their commencement and completed within one year, which is a total period of three years. The initial review relating to legal partnerships will start within four years of their commencement and be completed within one year, which is a total period of five years. Thereafter, the reviews for the two new business models will be conducted at five-year intervals. The timely advancement of legal partnerships between the two established, regulated and highly developed legal professions and an informed research-driven approach to the introduction of multidisciplinary partnerships will provide the basis for a well managed delivery of structural reform in these key areas, while allowing legal practitioners to continue to practice under the more traditional legal practice models where they so wish. Therefore, I commend the Government amendments I have proposed to the Deputies for their agreement.

Deputy Catherine Murphy: I seek clarification with regard to amendments Nos. 49a and 49b. The Minister of State referred to section 99 and said it was a critical part of the public consultation process. Can he clarify that there will be another opportunity to deal with client moneys in that context?

I refer to amendment No. 65a, which relates to contentious matters. I accept that the Government is pursuing this Bill, which was needed well in advance of its coming into office. I would like to quote something that was said nine years ago by the Competition Authority. It stated:

The Competition Authority strongly believes that direct access to barristers for legal advice should be extended to all members of the public. As is currently the case, barristers should be free to choose whether they wish to take on direct access briefs or not. It is not clear from the Competition Authority's perspective why a barrister cannot represent direct access clients for contentious issues. There are some regulatory issues surrounding client's monies, touting and advertising which would need to be addressed but these are hardly insurmountable. The Competition Authority believes that direct access for contentious issues would be beneficial for consumers but that the issues surrounding its implementation should be examined in more detail, by the Legal Services Commission recommended in Chapter 3.

I accept that this is a significant Bill and will change things in many ways. However, we need to have some very firm timelines on issues such as this.

Deputy Dara Murphy: I refer to amendments Nos. 49a and 49b. The Bill sets out very clearly that there must be public consultation. The Minister has considered amendment No. 65a. The policy approach being taken is that under section 99 the authority will carry out public consultation in that area. If the Deputy's points come to bear at that stage, they can then be raised. It will also examine whether the required administrative or legislative reforms to the existing codes should retain their restrictions or, as the case may be, remove them.

Deputy Pádraig Mac Lochlainn: There has been a fair degree of change in the area of multidisciplinary practices since Deputy Alan Shatter was Minister. He was gung-ho about them, even though it was pointed out to him that they could create an elitist approach to accessing law. Some of the more talented barristers would be sucked up into one building, and there would be issues of oversight, with accountants, solicitors and barristers operating from one building. It could be argued that ethical issues might arise.

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The Minister of State is from Cork and I am from Donegal. My major concern is about somebody in one of those counties, which are far removed from the large legal firms in cities, who is facing a difficult case involving corporate, environmental or family law. Under the current regime, such a person would go to his or her local solicitor, who would consider the pool of barristers available and try to find a specialist to argue the case. In a sense, that created a level playing field.

Multidisciplinary practices are on the way out in many countries. One thinks of Hollywood movies in which the best and brightest graduate from university and are head-hunted by large legal firms and paid large amounts of money, and the balance is swayed in favour of big business. Those who can afford to pay the most can attract the best and brightest, whereas an ordinary citizen cannot access such services.

Free Legal Advice Centres, FLAC, is an advocate for affordable, fair and balanced access to justice. The Bar Council and the Law Society have views, but those organisations which are advocates for citizens as much as for the legal fraternity are particularly important. We have a new Minister. I am concerned that this idea was Deputy Shatter's brainchild. He was on a crusade in terms of his views on the legal fraternity, particularly barristers. The Minister has introduced a six-month period of research followed by a six-month period of consultation, and perhaps after all that she will make changes. She could instead have got rid of the thing. Why is what I hope will be the inevitable being delayed by a year? I would like an explanation of the approaches taken. International evidence, with the exception of one example given by the previous Minister, Deputy Shatter, shows clearly that this is not the way to go, and it is not something that people in Ireland are demanding. Who in Ireland is knocking on the doors of Deputies-----

Acting Chairman (Deputy Michael McCarthy): Your time is up, Deputy. You had only two minutes, but I have given you three.

Deputy Pádraig Mac Lochlainn: Can I come back when the Minister responds?

Acting Chairman (Deputy Michael McCarthy): Yes.

Deputy Dara Murphy: To be clear on the issue of Donegal and Cork, we are not disbanding the independent referral bar. The Deputy's points are well made on the fact that the ambition of the Bill is to ensure access for citizens to legal processes in a way that is reasonably priced and available wherever one is from, rather than in major centres in Dublin. We have moved to make sure that the interests of consumers are protected. The idea of the multidisciplinary practice is complex, combining and meshing different professions and standards in order to offer consumers more choice and value. It has long been an ambition of successive Governments. As I said in response to the previous answer, there will be public consultation in a year's time.

Debate adjourned.

Topical Issue Matters

Acting Chairman (Deputy Michael McCarthy): 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 Brendan Griffin - the need to prevent future wild

fires in Killarney National Park and the Slieve Mish Mountains in view of recent damage; (2) Deputy Jim Daly - the need to establish a marketing fund to promote Cork Airport as a destination for EU visitors; (3) Deputy Seamus Healy - the need to protect 160 jobs at risk at the Intellicom contact centre at Clonmel, County Tipperary; (4) Deputy Mattie McGrath - the need to protect 160 jobs at risk at the Intellicom contact centre at Clonmel, County Tipperary; (5) Deputy Jonathan O'Brien - the sale of NCAD property by college management in the absence of a board of management to oversee the transaction; (6) Deputy Thomas Pringle - the introduction of a recreational bluefin tuna fishery; (7) Deputies Finian McGrath, Seán Kenny, Thomas P. Broughan and Paul Murphy - the need to protect jobs at the Cadbury factory, Coolock, Dublin 17; (8) Deputy Peter Fitzpatrick - the need to ensure that any future launches under the Ireland's Ancient East initiative will include areas north of the River Boyne; (9) Deputy Paul J. Connaughton - the need to support EU-led efforts to address recent deaths in the Mediterranean Sea; (10) Deputy Alan Farrell - proposals to route construction traffic through Donabate town centre during the construction of the National Forensic Mental Hospital;

(11) Deputies Denis Naughten, Colm Keaveney, Richard Boyd Barrett and Joan Collins - the need to review the staffing and operation of the Galway and Roscommon mental health service in light of serious concerns expressed by the Psychiatric Nurses' Association; (12) Deputy Michael McCarthy - the need to establish a marketing fund to promote Cork Airport as a destination for tourists; (13) Deputy Dessie Ellis - concerns expressed by taxi drivers regarding the decals required on the side of their vehicles;

(14) Deputy James Bannon - the provision of 90 nursing posts at the Midland Regional Hospital, Mullingar, County Westmeath; (15) Deputy Michael Colreavy - the need to ring-fence European funding for energy efficiency;

(16) Deputy Billy Kelleher - concerns that patients on the waiting list for the national pancreas transplant programme are being disregarded; (17) Deputy Ruth Coppinger - the need to support EU-led efforts to address recent deaths in the Mediterranean Sea; (18) Deputy Patrick O'Donovan - proposals to amend the broadcasting charge; (19) Deputy Michael Moynihan - proposals to amend the broadcasting charge;

(20) Deputy Martin Ferris - heather and wild fires in County Kerry; and (21) Deputy Regina Doherty - the need to engage with local councils regarding the re-evaluation of outstanding commercial rates due on the new rateable basis.

The matters raised by Deputies Finian McGrath, Seán Kenny, Thomas P. Broughan and Paul Murphy, Deputies Denis Naughten, Colm Keaveney, Richard Boyd Barrett and Joan Collins and Deputy Dessie Ellis have been selected for discussion.

12 o'clock

Leaders' Questions

Deputy Micheál Martin: Yesterday I raised with the Taoiseach concerns over the sale of Siteserv by IBRC to Millington following very serious revelations in Department of Finance memos released under freedom of information provisions to Deputy Catherine Murphy and *The*

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Sunday Times. The concerns revealed are very grave indeed. I refer to the speaking notes for the Minister's meeting with IBRC on 25 July 2012. In the documents, the civil servants state:

We are concerned that IBRC consider the CBI report compiled on the transaction vindicates their position.

To be clear we are concerned with a number of the decisions taken by the bank in relation to this transaction including

The decision to allow the sale process to be run by SiteServ's advisors

The decision to exclude trade buyers from the process

The timing of the exclusivity period when there were other bids outstanding

The payment of €5m to existing shareholders

1. Is IBRC satisfied that this transaction represented the best commercial outcome for the bank?

2. We want an independent commercial assessment completed for this transaction.

That is what Department of Finance officials in the shareholder unit were saying to their Minister before his meeting with IBRC. They went on to state: "The reputation of IBRC and by extension the State is vulnerable due to the approach taken by the bank in relation to these matters" and that IBRC's "processes should be beyond challenge to protect this".

Essentially, a company that was insolvent and owed €150 million was allowed to run this sale. Some of the shareholders were clients of Davy, which represents an obvious conflict of interest. Davy said to give them €5 million to vote the sale through. It is a handy €5 million, probably the handiest anybody ever earned. Shareholders in a company that was essentially bust got €5 million to vote. Did that not ring alarm bells with the Minister? He met the chairman and CEO. His officials were saying very clearly they wanted an independent review of the transaction. The Minister met Mr. Alan Dukes, chairman of the bank at the time, and Mr. Mike Aynsley, the CEO, and they persuaded him not to pursue the independent review. Clearly, he backed off and the trail ended. Therefore, the Minister did not face them down or do what he should have done, namely, ensure there was an independent review of the transaction. Why did the Minister not insist on an independent review of the transaction?

The Taoiseach said yesterday he did not read the report in *The Sunday Times* but I take it he has been well briefed at this stage. I asked the Taoiseach yesterday, and am asking him again today, whether the Government will establish a proper inquiry to investigate this deal and concerns the Department of Finance officials had over the operation and management of the IBRC.

The Taoiseach: I thank Deputy Martin for his question. The bank that was Anglo Irish Bank was the rotten carcass that brought down this country, costing the taxpayer €34 billion. I might add that not one cent was put into it by this Government. The Deputy has asked a number of important questions. The situation was that the actions that were concluded by the board of IBRC were concluded under the old framework agreement, which was set up by Deputy Martin's own Government and its Minister for Finance. The current Minister for Finance, Deputy Michael Noonan, has been very clear in his comment on this that he himself had concerns about decision-making in IBRC, particularly regarding transactions such as the Siteserv company

sale. The Minister met the chairman of IBRC and was assured by him that the board, which was appointed by the Government of which Deputy Martin was a member, had reviewed the process and that it was in the best interest of the taxpayer. There was a further series of issues so the Minister met the chairman and chief executive. He had the then Secretary General of the Department of Finance examine this issue further. He also seconded a senior civil servant into IBRC and changed the relationship framework that had been introduced by the late Minister, Mr. Brian Lenihan, and made it mandatory for IBRC to notify the Department of Finance of any significant transactions. When the Minister made all the relevant inquiries, he was satisfied the course of action he took in regard to Siteserv was sufficient.

Critical representations were made following the transaction and Department of Finance officials inquired into that transaction with IBRC management as part of their regular engagement. Following initial discussions, they agreed with IBRC's chairman and CEO, on 31 May 2012, that they would review the transaction involving Siteserv in greater detail to better understand the decisions taken and the impact these decisions had on the process and the final recovery for the bank. On 11 June 2012, following the review, the Department of Finance officials were concerned that IBRC had decided to allow Siteserv to control the sales process rather than itself acting in a primary role in that transaction. In light of those concerns, the shareholding management unit of the Department of Finance recommended that the chairman of IBRC commission an independent review of the transaction, and this was included in a briefing note which was given to the Minister prior to his meeting with the chairman and chief executive.

On 25 July 2012, the Minister met IBRC's chairman and chief executive to discuss those concerns regarding this transaction, which were raised with him-----

(Interruptions).

Deputy Micheál Martin: That was read out last night.

The Taoiseach: -----by the Department of Finance officials-----

Deputy Michael Healy-Rae: That is a rehash.

The Taoiseach: I am trying to get the timeline right for Deputy McGrath.

Deputy Finian McGrath: The Taoiseach is trying to make it up as he goes along.

The Taoiseach: Given the Minister's concerns, the chairman and chief executive gave strong assurances that the transaction had been thoroughly assessed by the IBRC board-----

Deputy Finian McGrath: That is the script of the Minister of State, Deputy Harris.

Deputy Michael Healy-Rae: Deputy Martin should read it altogether.

The Taoiseach: -----and that the management and the board were satisfied that the transaction was managed in the best possible manner to achieve the best result for the State-----

An Leas-Cheann Comhairle: Thank you, Taoiseach.

The Taoiseach: -----including the decision to allow Siteserv to control the sales process. As I said, following the meeting the Minister for Finance requested that a further meeting take place between the former Secretary General of the Department of Finance, Mr. Moran, and the then CEO of IBRC. A further meeting took place in August 2012. The matter was fur-

ther discussed. At that point with regard to all of the issues I have raised, the transaction had been concluded, notwithstanding the fact that a revised relationship framework and operational protocol had been put in place in March 2012. It was decided following that agreement that a senior official would be appointed from the Department of Finance, making it mandatory that the Minister would be notified of any significant transaction in the wind-up of IBRC. This had the additional benefit of supporting the management team while providing a greater sense of oversight. There was a long relationship between IBRC and the Department of Finance, and the late Minister introduced a relationship framework back in 2009. Essential to that was that a commitment was made that the Department of Finance would not interfere in any commercial decisions IBRC made.

Deputy Micheál Martin: What the Taoiseach is doing is despicable.

The Taoiseach: That was the framework that was set up-----

An Leas-Cheann Comhairle: We are moving onto a supplementary question.

Deputy Micheál Martin: I asked a very basic question, which was whether the Taoiseach would set up an inquiry into this deal. The Government is hiding behind very opaque language. What the Taoiseach read out was read out last night by the Minister of State, Deputy Harris. What the Taoiseach is saying to me is that Alan Dukes persuaded the Minister for Finance, Deputy Michael Noonan, that it was okay for taxpayers' money to the tune of €5 million to be paid to shareholders of a bust company.

Deputy Dara Calleary: A former Minister.

Deputy Micheál Martin: The taxpayer was already losing more than €100 million on the deal, but it was okay to pay the shareholders €5 million. The advisers to the shareholders were Davy, and it has transpired that some of the shareholders are clients of Davy.

Deputy Mattie McGrath: A golden circle.

Deputy Micheál Martin: We could not make this up. It is wrong. Will the Taoiseach call it as wrong? Does he think it was right that the €5 million payment should have been made? Will the Taoiseach give me a straight answer to this question? Why did the Minister not do what his officials wanted done and establish an independent review of the transaction? That is all the civil servants wanted. The framework document the Taoiseach spoke about was finished, and the bank and board were told by Department of Finance officials that they must operate as if it were in place. DG Competition and the troika had asked for a new framework and there is no issue with that. There were 30 drafts and it was going on and on. In fact, officials were very afraid that IBRC was delaying signing off and all of the documents show this. This is well understood. It is not politics but stuff going on between the officials and IBRC. The essential point is an independent review of the transaction. The officials were raising alarm bells of a very serious nature with the Minister-----

Deputy Peter Mathews: Hear, hear.

Deputy Micheál Martin: -----about this deal but also about more. The Taoiseach could read the freedom of information material in 15 to 20 minutes. It states that the officials at the Department of Finance were "concerned at the number of large transactions that have been poorly executed under the direction of the current CEO. The performance of management in

executing these transactions raises the question of the effectiveness of the CEO. The poor management displayed in a number of these items along with the increased level of public concern and political and media scrutiny that they commanded is damaging the credibility of the institution and by extension the State.”

An Leas-Cheann Comhairle: Will the Deputy frame a question please?

Deputy Micheál Martin: This was all prepared for the Minister to say to them. The documents also state: “Events over the past number of months have led me to question the effectiveness of the management team in IBRC.” They further state: “I expect the Board to ensure that the bank in its approach and operations is operating to the exemplary standards and in the public interest. I am concerned that the reputation of IBRC and by extension the State has been damaged as a result of these events.”

An Leas-Cheann Comhairle: A question, please.

Deputy Micheál Martin: I have in my hand the documents and one can see the redactions. We do not know the half of what was going on that gave rise to so much concern among officials in the Department of Finance. All of this is from the Department of Finance and has been revealed through freedom of information requests. To be fair to Independent Deputy Catherine Murphy, it took her the guts of a year to get to this stage.

Deputy Finian McGrath: Hear, hear.

Deputy Micheál Martin: She said it was like pulling hen’s teeth.

An Leas-Cheann Comhairle: We are way over time.

Deputy Micheál Martin: I put it to the Taoiseach sincerely that this cries out for a proper inquiry because protection of the taxpayers’ interest is at the core of the issue, and it clearly was not protected in this deal. Will the Taoiseach establish a proper inquiry? Does he think it was okay for €5 million to be given to the shareholders?

Deputy Finian McGrath: The Labour lads look worried over there.

The Taoiseach: The rotten carcass of Anglo Irish Bank brought down this country. It cost €34 billion-----

Deputy Peter Mathews: And the other banks. It was the whole sector.

The Taoiseach: I thank Deputy Mathews. The Government did not put a cent into Anglo Irish Bank.

Deputy Billy Kelleher: You put €5 million into the shareholders’ pockets.

The Taoiseach: Deputy Martin is now questioning the framework he set up.

Deputy Micheál Martin: No, I am questioning a deal.

Deputy Dara Calleary: A sweetheart deal involving a former Fine Gael leader.

Deputy Micheál Martin: I am asking for an inquiry.

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

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The Taoiseach: Believe me, that framework was set in place by Deputy Martin's Administration-----

Deputy Niall Collins: Is the Taoiseach happy with the deal? Answer the question.

The Taoiseach: -----and he is now questioning that framework.

Deputy Micheál Martin: No, I am not.

The Taoiseach: I hope Deputy Martin is not, and has no intention of, impugning the integrity of the Minister for Finance.

Deputy Micheál Martin: I asked the Taoiseach a question and I would like an answer to it.

Deputy Niall Collins: Deputy Martin did not say that and the Taoiseach knows it well.

The Taoiseach: I hope he is not impugning in any way-----

Deputy Micheál Martin: The Taoiseach will not answer the question.

The Taoiseach: -----the integrity of the Minister for Finance-----

Deputy Mattie McGrath: Where is he?

The Taoiseach: -----who has saved the taxpayers in this country billions over the past number of years-----

Deputy Micheál Martin: Has the Taoiseach listened to me for the past ten minutes?

Deputy Niall Collins: Another bogeyman.

The Taoiseach: The situation is as I have outlined, that when the Minister, Deputy Noonan, had concerns about this - it is not a case of the Minister being persuaded by anybody - he was given clear assurances by the chairman and chief executive of the board of IBRC that this was in the best interests of the taxpayer.

Deputy Micheál Martin: Could he not see for himself that €5 million for shareholders was not in the best interests of taxpayers?

An Leas-Cheann Comhairle: Order, please.

The Taoiseach: He was given those assurances when he asked the questions because of the concerns he had about this issue. I am telling Deputy Martin that the Minister met them and was given this assurance by the chairman and chief executive of the board, appointed under Deputy Martin's Administration. Deputy Martin should understand and appreciate that I do not want anything untoward or wrong about this deal so I spoke to the Minister for Finance this morning. In the interests of everybody here, there will be a further release under freedom of information tomorrow, which I think will include minutes of meetings, or so the Minister informed me, in the Department of Finance which will set out his position very clearly. This is why I know the Deputy does not want to impugn his integrity. From the point of view of a constitutional responsibility and remit for value for money, the Minister is very happy that the Comptroller and Auditor General should look at this. He is completely independent in his analysis of value for money as was the assurance given by the chief executive and the chairman to the Minister for Finance.

Deputy Micheál Martin: No, it is more than this.

The Taoiseach: This is the issue Deputy Martin raised.

Deputy Micheál Martin: I did not raise it.

The Taoiseach: If he now does not trust the Comptroller and Auditor General in respect of-----

Deputy Micheál Martin: The civil servants raised it.

The Taoiseach: Deputy Martin has raised it arising from the minutes of the civil servants. The Comptroller and Auditor General has a constitutional responsibility in respect of value for money for the taxpayer. The Minister for Finance was assured by the chairman and the chief executive that the board appointed by Fianna Fáil, having considered this had given its decision in the best interests of the taxpayer. The Minister is happy the Comptroller and Auditor General and his office in total independence should look at this question of value for money for the taxpayer.

Deputy Gerry Adams: Yesterday, in response to demands for the Taoiseach to initiate an independent inquiry into the sale of Siteserv to a company controlled by Denis O'Brien, he stated he had not been briefed on the issue. He stated he would find answers to these questions. I wish to give the Taoiseach an opportunity today to give these answers. I will outline what we know. We know Siteserv was sold off for €45 million at a cost to the taxpayer of €105 million. We also know the same legal adviser acted for both the purchaser and the seller, and that the shareholders and the director got a backhander of €5 million. We know this thanks to the dogged persistence of Deputy Catherine Murphy. We also know the bid from Denis O'Brien's company was not the highest one, and that the Department of Finance was concerned about these matters and the Minister was briefed in detail on them. Officials recommended that the Minister ask the IBRC chairman, Alan Dukes, to conduct a full and independent review of the sale. That is the first question. Why was this not done? The Taoiseach said he spoke to the Minister for Finance this morning. Did the Taoiseach ask him why he did not act on the recommendations of the officials?

Another response secured by Deputy Catherine Murphy under the freedom of information provisions is an internal memo from civil servants in the Department of Finance stating that they were concerned at the number of very large transactions, over €100 million, that were poorly executed. The second question is what these very large transactions were. GMC-Sierra, which is a subsidiary of Siteserv and also linked to Denis O'Brien, was subsequently given the largest contract to install the controversial water meters across the State, making millions of euro in profit for private individuals on the back of the water charges proposition of Fianna Fáil, endorsed by Fine Gael and the Labour Party in the great visionary project of Irish Water. There are three questions, but the key question is whether the Taoiseach will initiate a full and independent inquiry into these matters.

The Taoiseach: I thank the Deputy for his questions. As I have already said, having spoken to the Minister for Finance, whose integrity I am sure Deputy Adams does not want to impugn, the Minister changed the framework following concerns expressed to him by his officials. He met with the chairman and chief executive, had the Secretary General of the Department of Finance go further into it, appointed a senior official at assistant secretary level, and made it mandatory that the board of IBRC inform the Department of Finance of any financial transactions

of significance. This was not the case prior to that. The framework set up under a previous Administration did not require that, and a specific provision was included that the Department of Finance would not interfere in any commercial activities of the board of IBRC. The Minister changed that.

Deputy Micheál Martin: That is not true.

The Taoiseach: In respect of the independence of the Comptroller and Auditor General and the Minister in regard to value for money, the Minister was given assurances by the chairman and chief executive of IBRC. The Minister is happy that the Comptroller and Auditor General examines this completely independently in the interests of the taxpayer, taking into account the issues raised by Deputy Adams.

Deputy Gerry Adams: It is not often I feel I can advise the Taoiseach, but he is handling this in exactly the same way as he handled other issues, dragging it out and drip feeding it bit by bit. I asked three simple questions. Why was the recommendation for Alan Dukes to initiate a fully independent review not acted on? The Taoiseach did not answer the question. What were the other transactions of over €100 million that gave concern to Department of Finance officials? The Taoiseach did not answer this question. I asked whether the Taoiseach will hold a fully independent inquiry into the matter, and he did not answer. The reason this came to public attention, aside from the sterling work done by Deputy Catherine Murphy, is that one of the bidders complained. That is why it came to the attention of the Department and the Minister. The issue goes to the heart of the relationship between governance in this State and big business, whether it involves a Fine Gael and Labour Party Government or Fianna Fáil. This concerns compliance and subservience to the golden circles and the elite, the links to all of this and the despicable attitude which contrasts with the Government's dealings with ordinary citizens who are impoverished, unemployed and scattered throughout the globe because of the Government's austerity policies. IBRC was a bank made up of Anglo Irish Bank and Irish Nationwide, two corrupt, failed banks that cost the people €34 billion, which this Government has pledged to pay in full.

The former chairman of IBRC is the former leader of Fine Gael. Siteserv owed IBRC €150 million and it was sold for €45 million to a company owned by Denis O'Brien. It wrote down the debt by just over €100 million and shareholders received a €5 million backhander from the sale. That is incredible, given that the company was effectively bust.

An Leas-Cheann Comhairle: Will the Deputy put a question?

Deputy Gerry Adams: Siteserv, via GMC-Sierra, emerged as one of the contractors for water meters for the flagship enterprise Irish Water. Arthur Cox acted as solicitors for both Siteserv and the company owned by Denis O'Brien. I will put the question again. Why was the recommendation by the Department of Finance to the Minister that Alan Dukes initiate a fully independent review of the sale of Siteserv not acted upon? What are the other transactions of over €100 million? Did the Taoiseach ask that of the Minister for Finance this morning? If not, why did he not? Will he initiate a fully independent inquiry into these matters?

The Taoiseach: Deputy Adams is the ultimate hypocrite. He comes in here week after week with his bleeding heart, talking about links between everyone else and, as he says, a despicable attitude towards ordinary people. Deputy Adams has consistently refused to answer questions about his own goings on or his party's goings on or links with many dubious charac-

ters over the years.

Deputy Gerry Adams: No, I have not.

The Taoiseach: Of all people, Deputy Adams should not come in here and accuse the Minister-----

Deputy Gerry Adams: I have a mandate to be here.

Deputy Caoimhghín Ó Caoláin: And it is just as good as the Taoiseach's.

The Taoiseach: The Deputy has a mandate, but he is not fulfilling it and not telling the truth about a range of issues on his own side. It is a different argument. The Deputy should not come in with his mandate and accuse the Minister for Finance, Deputy Michael Noonan, of deliberately hiding something the public should know.

Deputy Gerry Adams: I did not accuse him of anything.

The Taoiseach: This Government got rid of the rotten carcass that was Anglo Irish Bank. That cost the taxpayers of the country €34 billion, and the framework set up in respect of IBRC was set up by the previous Administration. The Deputy asked a number of questions and, in response to Deputy Martin, I said that the Minister met with the chairman and the chief executive-----

Deputy Gerry Adams: We know this. The Taoiseach should answer the question.

An Leas-Cheann Comhairle: Can we have one voice?

The Taoiseach: He was given clear assurances as Minister for Finance that this matter was properly assessed by the board of IBRC. He changed the framework that applied at the time and appointed a senior civil servant from his Department to make it mandatory that the Department of Finance and the Minister for Finance be informed of decisions made by the board of IBRC in the winding up of the bank.

Deputy Gerry Adams: Can the Leas-Cheann Comhairle hold the Taoiseach to account?

An Leas-Cheann Comhairle: He has the floor.

The Taoiseach: In order to clarify it for everyone, the Minister for Finance has no objection, under the responsibility of the totally independent office of the Comptroller and Auditor General, to have this examined in the context of value for money for the taxpayer, which the Minister was given assurances about by the chief executive and the board of IBRC.

Deputy Micheál Martin: That is too limited. Was it okay to pay the €5 million? There were a number of large transactions.

The Taoiseach: In all his hypocrisy, I assume Deputy Adams accepts the complete independence of the Comptroller and Auditor General and the integrity of the Minister for Finance.

Deputy Maureen O'Sullivan: I am moving on to a serious and urgent issue that dominates the work of many of us in the House, especially in the Dublin and greater Dublin areas. I am talking about the issue of housing. We see individuals, couples and families facing rent increases of anything from €100 to €400 per month from landlords. It is not because major reno-

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vations or adjustments have been made to the accommodation, it is because it is a landlord's market. There was a great urgency and energy about the meetings called by the Minister for the Environment, Community and Local Government, Deputy Kelly, before Christmas, but last month saw the largest ever monthly increase in the number of families living in emergency accommodation in Dublin. In March, on 60 occasions, there was no accommodation for families assessed as being homeless.

Inability to pay market rent is identified by many organisations as the reason for this. That includes the low maximum rent levels under rent supplement. Last week in a reply to Deputy Ó Cuív, the Tánaiste outlined the new protocol under which people are dealt with on a case-by-case basis by community welfare officers. Some 4,000 cases were renegotiated. They were the lucky ones, but I am not sure that is the most efficient or dignified way to deal with this issue. What about those who did not get their cases renegotiated? Many of them had to resort to topping up the rent using some of their social welfare payment. We know that is against the rules for rent supplement, but it also eats into the household income. It brings the household income below the minimum level and will eventually lead to further homelessness and further pressures on the accommodation supply. There are at least 90,000 people on social housing lists and rent supplement is the only option for them until the new housing comes on stream. In January 2009, the rent supplement rate for a family with two children in Dublin was €225 a month higher than it is today. I am asking for a reality check on rent supplement and on the *carte blanche* that landlords have to increase rent, which is partly caused by the mortgage repayments of the buy-to-let landlords, and also that we take account of prevailing market conditions.

The Taoiseach: The Government is acutely aware of the problems Deputy O'Sullivan raises, not just in Dublin but in other locations around the country, particularly the larger towns and cities. That is why the Minister for the Environment, Community and Local Government has set out a whole strategy to deal with social and affordable housing, with a €4 billion programme between now and 2020 to deal with the provision of 35,000 new dwellings over the next few years. No matter what happens, the situation cannot be dealt with until adequate numbers of houses, apartments and accommodation blocks are provided. That is why the pressure arises here.

The Deputy is aware of the pilot schemes with the housing assistance programme, which mean that people will not lose their entire social welfare benefit when they get a job, and the opportunity for community welfare officers to make individual arrangements where this applies, as she mentioned. Dublin City Council rejected one of the decisions the Minister for the Environment, Community and Local Government had made in respect of further temporary accommodation in O'Devaney Gardens. These are ongoing problems. The argument about increasing the rent supplement plays even further into the hands of landlords. That is why it has been necessary to allow community welfare officers to increase the rent supplement being made available in individual cases when people are in trouble. Everybody understands this and nobody wants to see what has happened over the last five or six years continue. We cannot, and will not be able to, deal with it until more houses and accommodation are built. In that respect, I am glad to see that the construction sector is moving. It is up by 11%.

The programme has been set out by the Minister on behalf of the Government, with money on the table. The construction industry, the contractors and the builders must now get moving. It also requires the planning authorities to give the go-ahead for many of these schemes. There is no argument about the sincerity of the cases Deputy O'Sullivan raises or the difficulties people have. Nobody wants to see families in hotels or bed-and-breakfasts when they should

have the opportunity to have their own home. That is where the focus of Government has been and decisions have been made to allow this to happen but like everything else, it cannot happen overnight. The change in the code of conduct in circumstances where people are in trouble and are being moved out by a landlord where community welfare officers may increase rent supplement in individual cases is a measure to tide us over for a period of time. It is not where we want to be. This cannot be sorted out until sufficient accommodation is provided in Dublin or other cities and large towns around the country.

Deputy Maureen O’Sullivan: If the strategy were working, we would not see increasing numbers of people ending up homeless. That is the reality. Rent supplement should not be used as a mechanism for market manipulation. The current arrangements are not keeping rents down. If rent supplement is not being re-examined, one must consider intervention at the other end, namely, some kind of rent management or rent control. I am struck by two ironies. One is that €5 million is going to these shareholders mentioned earlier, when that €5 million could do so much for the housing and homeless situations. I am also struck by the irony that the Minister for Children and Youth Affairs, Deputy Reilly, issued a fine policy statement on parenting and family support last Monday week. It outlined the Government’s commitment to better outcomes for all children. It stated: “supporting parents and families is the best way to improve outcomes for children”. How can we equate that fine, idealistic statement with what is happening? There are 911 children in emergency accommodation in Dublin, and over 1,000 if we take in the greater Dublin area. Those children are being moved from their homes, their friends and, in many cases, from their schools, so they must change schools or must travel long distances back to their school. They are away from their after-school activities and supports. It is having a negative effect on the mental and physical well-being of those children. The current system cannot continue. It is heart-breaking to listen to people facing homelessness and particularly to listen to their children. There is a need for front-line services to be able to act before these families and individuals become homeless. There is a need for another emergency meeting. I was with the Minister yesterday when he opened state-of-the-art accommodation in the north inner city. That took 15 years from conception to inception. Families cannot wait 15 years. There is a need for more emergency measures now to prevent more people becoming homelessness.

Deputy Mattie McGrath: Hear, hear.

The Taoiseach: I agree completely with the Deputy. It is not justified in any circumstance that people should have to wait that long. I cannot stand over that. The property market in general has not returned to any kind of normality following the total collapse of this system some years ago. In the greater Dublin area, we will have to provide serious numbers of new houses, apartments and accommodation for people. At one end of that, the Minister has already notified local authorities of their allocation for social housing and the opportunity to get building those accommodation units while at the other end, there are opportunities for the private sector to build serious numbers of houses to cater for the demand.

However, the Minister has made it clear that he will not legislate for rent controls. These have very adverse consequences and if such legislation were even contemplated, landlords would inevitably tend to raise rents now in anticipation of it. Arrangements have been made for advance notification and for discussion with the community welfare officer if that is necessary where a person becomes aware a landlord wants to move him or her on. In those cases, individual arrangements can be made for particular increases in the supplement to deal with the circumstances. However, if the Government decided to legislate for rent control, the situation

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would be worsened and rents would be higher.

Deputy Róisín Shortall: That is not true.

The Taoiseach: The answer is to deal with the accommodation problem, namely, the lack of houses. On the social end of that, the Government has put its money on the table and given instructions to the local authorities while at the other end, the opportunity is there for the private building sector to get down to work. We need to see an increase from the 8,000 houses completed last year to 25,000 a year.

Order of Business

The Taoiseach: It is proposed to take No. 36, Health (General Practitioner Service) Bill 2015 - Second Stage (resumed); and No. 35, Legal Services Regulation Bill 2011 - Report and Final Stages (resumed). It is proposed, notwithstanding anything in Standing Orders, that in the event that a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. tonight and shall adjourn on the conclusion of Private Members' business, which shall be No. 185, motion re self-employed and SME sectors, and which shall, if not previously concluded, be brought to a conclusion after 90 minutes. Tomorrow's business after Oral Questions, shall be No. 35, Legal Services Regulation Bill 2011 - Report and Final Stages (resumed); and No. 7, Statute Law Revision Bill 2015 - Order for Second Stage and Second Stage.

An Leas-Cheann Comhairle: Is the proposal for dealing with the late sitting agreed to? Agreed.

Deputy Micheál Martin: The programme for Government was initially very strong on the need for transparency in terms of how the Government conducts its business and protects the taxpayer. The phrase the Taoiseach used was, "Paddy likes to know".

Deputy Finian McGrath: Paddy is very confused at the moment.

Deputy Micheál Martin: Unfortunately, that is not how it worked out. During Leaders' Questions, we raised the issue of the sale of Siteserv. It is interesting that it has taken so long for very basic details to come out. The Comptroller and Auditor General will not be able to deal with all aspects of the concerns the civil servants in the Department of Finance had, particularly the decision to allow the same process to be run by Siteserv's advisers, the timing of the exclusivity period when there were other bids outstanding, the decision to exclude trade buyers from the process and the payment of €5 million to existing shareholders. The Taoiseach proposes to have a very narrow framework for an inquiry into one aspect of the deal, whereas the material from the Department of Finance cries out for far more transparency regarding how this was conducted. There was concern at the large number of transactions that have been poorly executed by IBRC. I did not say this; the civil servants at the Department of Finance said it. It is a very grave and serious issue and, with the greatest respect, the Taoiseach has been trying to play politics with it this morning to far too great a degree. All I asked for was a proper independent inquiry at one remove from everybody so the public can have confidence in what did or did not happen. The Minister did not pursue such an independent review, and we do not know why, other than that the chairman, Alan Dukes, persuaded him not to go ahead with an independent review. We are in an appalling situation. In the name of the programme

for Government, does the Taoiseach intend to have complete transparency on the issue and the concerns of the Department of Finance?

When will the Government publish the international evidence review on independent hospital trusts undertaken by the health research board at the request of the Department of Health? The new children's hospital establishment Bill is meant to establish a statutory body to provide paediatric acute services in Dublin at the new children's hospital, taking over the services currently provided by Our Lady's Hospital in Crumlin, Temple Street and the paediatric services in Tallaght Hospital. When will the Bill be published?

The Taoiseach: A great deal of work has been done on the new children's hospital establishment Bill and it is moving ahead very well. I will come back to the Deputy with an approximate date for publication. The Minister will respond to the question on the international evidence review on independent hospital trusts. I will have him give the Deputy the information. Regarding the first issue the Deputy raised, we have dealt with it. The Government got rid of Anglo Irish Bank, changed the framework whereby there was no mandatory requirement to-----

Deputy Micheál Martin: No, it did not. That is not what happened.

An Leas-Cheann Comhairle: We cannot have a rehash of Leaders' Questions.

The Taoiseach: The Government also changed the Freedom of Information Acts so that these questions could be asked and information given.

Deputy Micheál Martin: That would have happened anyway, for God's sake.

The Taoiseach: The chairman and chief executive assured the Minister for Finance, Deputy Noonan, that it represented value for money for the taxpayer. Deputy Martin respects the independence of the Office of the Comptroller and Auditor General and the assurance given to the Minister. The Minister has nothing to hide.

Deputy Micheál Martin: Does the Comptroller and Auditor General have the legislative basis to do it?

The Taoiseach: Yes, he has a constitutional responsibility to determine and adjudicate on value for money for the taxpayer, and that he will be asked to do.

Deputy Gerry Adams: While I do not want to repeat the questions I asked during Leaders' Questions, what the Taoiseach proposes is inadequate. However, I will ask three questions on the Order of Business.

The criminal justice (spent convictions) Bill is a step in the right direction, because it allows for sentences of 12 months or less for certain types of offences to be considered spent. It has passed Committee Stage in the Dáil and all Stages in the Seanad. When is it expected to go to Report Stage and will it be enacted by summer?

Two years ago, the Government published proposals to replace the current television licence fee with a public service broadcasting charge. We were told it would be a blanket levy on every household, even those with no television, and would come into effect at the beginning of this year. Now, we have been advised that, because of the impending election and the uproar over water charges and property taxes, it is to be postponed. Given that we get much of our information from the media, much of which could be inaccurate, can the Taoiseach confirm when

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the broadcast charge will be introduced and when the broadcasting (amendment) Bill will be published?

Deputy Michael Healy-Rae: If the Government is re-elected.

Deputy Gerry Adams: Yesterday, Alcohol Action Ireland held a conference in Dublin entitled “Girls, Women and Alcohol: The changing nature of female alcohol consumption in Ireland”. The speakers outlined the serious impact of too much alcohol on women, especially on those who are pregnant and their babies, and warned of the link between alcohol and cancer. At the weekend, we learned that cancer survival rates in the State are among the lowest in Europe. These all require the speedy introduction of legislation. The public health (alcohol) Bill has been dithering for a very long time. Can we be told when it will be published?

The Taoiseach: The Criminal Justice (Spent Convictions) Bill is on Report Stage and a number of amendments have been tabled for discussion. Hopefully, it can be concluded reasonably quickly. The public health (alcohol) Bill is at pre-legislative scrutiny stage with the Oireachtas committee, which has already considered some elements of it. It will meet again tomorrow to consider the matter further and it is moving through the system.

Yesterday, the Government considered the report from NewERA in respect of RTE and matters relevant to it. The Minister for Communications, Energy and Natural Resources was very clear that a replacement for the television licence will not be introduced in this Government’s time because great consideration must be given to the fact that our country has become multimedia in so many respects and we are not dealing just with television. Anything to be done there would be a replacement for a television licence scheme. The Bill will not happen until proper consideration has been given to the reports on public broadcasting and how taxpayers’ money is used for it and the implications for the Broadcasting Authority of Ireland. The Minister will bring a memo to the Government in due course when RTE reports to him following the publication and debate of the two reports that were published.

Deputy Robert Troy: A number of weeks ago the Taoiseach promised that he would introduce legislative changes to help the hundreds of family who are hauled before the courts on a weekly basis and face the real danger of losing their family home. He said the measures and proposals would be brought before the House before the end of April. When will the Government finally wake up and realise that hundreds, if not thousands, of families risk losing their homes? When will it bring forward legislative changes to ensure that these families are supported? I hope infighting between the two political parties in the Government regarding legislative changes and proposals is not stalling this. Every day and night of delay means another family could lose their home, which is one too many. People are suffering and they need the Government’s help, but the help the Government has provided to this section of society has been negligible thus far.

The Taoiseach: I did not see the Deputy’s sign in Ballymahon welcoming the €300 million investment there.

Deputy Robert Troy: That is private enterprise. It has absolutely nothing to do with the Government.

The Taoiseach: The Government is very much aware of the catastrophic situation-----

Deputy Robert Troy: The Taoiseach did not know it was coming.

The Taoiseach: -----in which the Deputy's party left the country.

Deputy Mattie McGrath: The Taoiseach would get lost in the woods down there.

The Taoiseach: It is very much aware of the hundreds of thousands of families that were put into negative equity and are in despair and disillusionment because of the mess and incompetence created during its years in government.

Deputy Robert Troy: The Government has done nothing about the variable interest rate and it cut mortgage interest support.

An Leas-Cheann Comhairle: Deputy Troy, you asked the question.

The Taoiseach: The spring economic statement will issue next week and in the following week the Government will bring forward a number of options for dealing with distressed mortgages where it is necessary that something extra be done. I made the point previously that the Government's priority is to ensure that people do not lose their homes. There is a requirement for sustainable solutions to be brought forward in all of these cases, and this requires decisions to be made in a practical way. The Government will bring forward a number of measures in the week after next in that regard. I hope the Deputy will contribute constructively to the debate when it takes place.

Deputy Paul Kehoe: Mary O'Rourke went to the park last week, but Donie did not.

Deputy Robert Troy: The Deputy is obsessed with those two people. Does he know they are retired from politics?

Deputy Michael Healy-Rae: The most cost effective, best and nicest way to take care of our elderly population is to take care of them in their own homes. The Taoiseach's response yesterday on letters that have been sent about cutting home help hours has caused more confusion instead of answering the question. With regard to home help hours and our elderly, will the Taoiseach give an assurance to our honourable elderly people, whom we adore and respect, that every person who wishes to stay in their own home and to receive home help and home care will be able to do so, and that they will not be forced into a more costly means of care by sending them to private or State nursing homes?

An Leas-Cheann Comhairle: The Deputy could raise that in another way.

Deputy Michael Healy-Rae: I am asking the question with regard to the Health (Miscellaneous Provisions) Bill. I recall what the Government stated in the programme for Government about taking care of elderly people, so this is the place for the Taoiseach to answer the question and to allay their fears. They are ringing Members on all sides of the House about it. The Taoiseach does not need the Chief Whip to tell him how he should reply.

An Leas-Cheann Comhairle: The Taoiseach is well able to answer.

Deputy Michael Healy-Rae: He can answer it without the Chief Whip telling him how to.

The Taoiseach: On this matter, if it was a journey from Killarney to Killorglin, the Deputy is only at Fossa and Deputy Fleming is crossing the bridge into Killorglin. Deputy Fleming raised this yesterday and I gave him a full and comprehensive reply.

Deputy Michael Healy-Rae: I said that, but the Taoiseach gave a poor answer.

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The Taoiseach: Of course I agree with the sentiment that elderly people have the right to be able to stay in their own homes as long as possible, for both their dignity and their comfort. However, in many cases there comes a time when that is no longer possible because of the extent of care required and the complexity of their situation. I said yesterday that 100,000 people receive home care packages and that the Government made a further €75 million available early this year for the fair deal scheme and home care packages. We stand by that principle. Everything cannot be done at once but as the economy improves and as our population ages, it is important that our elderly are given that sense of comfort and dignity in their own homes where that is possible.

Deputy Michael Healy-Rae: Why are the letters going out now?

Deputy Mattie McGrath: They are being threatened.

The Taoiseach: I do not know why the Deputy was not present yesterday. Deputy Fleming was on the ball quickly and raised the matter.

Deputy Michael Healy-Rae: That is not answering the question.

Deputy Finian McGrath: Is the Taoiseach aware that the Wildlife Act is being breached on the North Bull Island in Clontarf? No hares have been seen on the North Bull Island, which is a beautiful nature reserve, since June 2014.

An Leas-Cheann Comhairle: What is the legislation?

Deputy Finian McGrath: The Wildlife Acts. The fact that no hares have been seen and that they are now extinct means that this natural resource in Clontarf is being severely damaged. Will the Taoiseach ask the Minister to consider the idea of restocking the island? I realise people such as Deputy Mattie McGrath have no interest in hares and rabbits, but I have.

Deputy Mattie McGrath: I have lots of interest.

Deputy Finian McGrath: I ask the Taoiseach to ensure that the Wildlife Act is not breached. Second, will he restock the island? It is a beautiful island and nature reserve, and we want our hares back.

Deputy Michael Healy-Rae: I want to mind the old people, not the hares.

The Taoiseach: I had the privilege of walking the strand on the island on many occasions. It is a fabulous resort for the people of north Dublin and of the country generally. The Wildlife (Amendment) Act was enacted in 2012. I am not sure of the extent of the ganntanas, as we say in Irish, of the hares and rabbits at present. I will ask the Minister for Arts, Heritage and the Gaeltacht to seek a report on this-----

Deputy Mattie McGrath: She might visit the island.

The Taoiseach: -----to ascertain whether an essential part of Bull Island can continue for the future. The Minister will discuss this with the wildlife officials.

Deputy Bernard J. Durkan: The compensation for malicious injuries Bill is promised legislation. Has it been discussed in the Cabinet and is its arrival to the House imminent? Can we expect it to be passed in the current year?

I realise there were difficulties with the Central Bank Consolidation Bill due to awaiting other legislation to be passed, but is it intended to bring that Bill to the House before the end of this year and preferably before the summer recess?

The Taoiseach: The heads of the Garda Síochána Bill to which the Deputy referred were cleared, so that is being progressed. I expect the legislation to be ready later this year. I do not have a date for the Central Bank Consolidation Bill. As we discussed previously, there are some complications in that regard.

Deputy Tony McLoughlin: Given the alarming rate of consumption of e-cigarettes and the expansion of e-cigarette shops at present, and bearing in mind the potentially serious harm being done by these items, when can we expect the Public Health (Retail Licensing of Tobacco Products) Bill to be brought before the House for debate? It will seek to introduce a much needed licensing system for e-cigarettes in Ireland.

The Taoiseach: It will be later this year. If the Deputy tables a Topical Issue, the Minister will respond in greater detail.

Deputy Mattie McGrath: Tá dhá cheist agam. The first is about the Referendum Act. The Taoiseach is probably aware that the Supreme Court is to give its decision in the Joanna Jordan case on Friday. I ask that the Government abide by that result, unlike in the case of the children's referendum when the Government did not abide by the Supreme Court's decision on the misappropriation of funding. I seek a commitment that it will abide by the decision.

Second, with regard to the Central Bank Consolidation Bill, when will the Government rein in the banks? The Taoiseach saw how they gave the two fingers to the Minister for Finance, Deputy Noonan, and everybody else regarding variable rate mortgages. There is no code of conduct for receivers and security companies - thugs, in other words - going onto people's property at 2 a.m. or 3 a.m. dressed in balaclavas and with Alsatian dogs. They are mobs. As I said yesterday, it would not happen in Libya. The Government is standing idly by and allowing this to happen in a democratic state.

1 o'clock

It is an indictment of the Government that it allowed this to happen, mar dhea under court order. When the woman of the house asked for the court order, the superintendent was unable or unwilling to provide it. It is shameful that this should happen.

An Leas-Cheann Comhairle: I ask the Taoiseach to reply on the Central Bank consolidation Bill.

The Taoiseach: The Supreme Court is due to make a decision on Friday in respect of the Referendum Act referred to by the Deputy. Of course the Government will abide by the decisions of the court, as it always does.

Deputy Mattie McGrath: That did not happen the last time.

The Taoiseach: In respect of the code of conduct, Deputy Ó Feargháil raised the question of house repossessions yesterday. I am looking into this. I have spoken to Deputies Heydon and Wall about it. Where a system has gone through the court and a repossession order has been given, I do not agree at all that it should be carried out in this fashion. Perhaps we should consider an amendment which would regulate these orders and ensure they are carried out in

much more appropriate circumstances.

Deputy Mattie McGrath: I thank the Taoiseach for saying that.

The Taoiseach: In some cases, we have evidence of extraordinary activity by personnel. It is not right that people arrive at 3 a.m. to do this.

Deputy Mattie McGrath: No.

The Taoiseach: Repossessions that are ordered by the court should be orderly.

Deputy Mattie McGrath: Yes.

An Leas-Cheann Comhairle: I am looking for brevity from Members. I call Deputy Neville.

Deputy Dan Neville: I would like to ask the Taoiseach about the Assisted Decision-Making (Capacity) Bill 2013, which deals with decision-making by very vulnerable people and evaluation of the assistance they might need in making decisions. Much of this relates to the personal freedom of many people who could have some input into the process of making decisions on their positions.

The Taoiseach: I know Deputy Neville has had a specific interest in this matter over many years. This Bill is awaiting Committee Stage. A number of amendments are being drafted before it goes back to Committee Stage. I do not know the extent of that, or the numbers involved. I will come back to the Deputy with renewed information.

Deputy Peter Fitzpatrick: One can initiate action when noise reaches a level at which it causes annoyance. We need to extend and improve the power available to the enforcement authorities to prevent, reduce or abate noise emissions by allowing for fixed payment notices and providing for mediation between neighbours. In that context, when can we expect the noise nuisance Bill to be published?

The Taoiseach: I do not have a date for that. I will update the Deputy on the progress being made with it.

Deputy Peter Mathews: It is apparent from the focus of today's Leaders' Questions and now the debate on the Order of Business that, notwithstanding the look back into the past with IBRC and Irish Nationwide, etc., we have a far greater duty to concentrate on the present and what we can do for the 300,000 mortgages that are managed by what I would refer to as a duopoly rather than as the pillar banks. It is wrong that they are earning 2% super-profits on variable interest rate mortgages. The number of people on Bank of Ireland's board or court of directors has decreased from 14 to 12.

An Leas-Cheann Comhairle: That is not a matter for the Order of Business, as the Deputy knows. It is on legislation.

Deputy Peter Mathews: Its annual general court will take place next Wednesday, 29 April. It is important because the person who had the most influence on that court for two years and ten months was Wilbur J. Ross, who made a profit of €500 million on an investment of €350 million. He is gone.

An Leas-Cheann Comhairle: The Deputy should find some other way of raising this.

Deputy Peter Mathews: The Taoiseach has said that the Government will introduce measures to deal with the mortgage interest rate problem.

An Leas-Cheann Comhairle: What is the Deputy's question?

Deputy Peter Mathews: Who is the public interest director in the bank in which the people of Ireland have a 14% stake? There is no such director at the moment, because Joe Walsh unfortunately died several months ago.

An Leas-Cheann Comhairle: Okay. The Deputy has asked the Taoiseach about that.

Deputy Peter Mathews: The current policy is ignoring the plight of large numbers of households in this type of mortgage interest situation.

An Leas-Cheann Comhairle: We cannot have a debate now, in fairness.

Deputy Peter Mathews: It is not a debate.

An Leas-Cheann Comhairle: Does the Taoiseach want to say anything on the public interest director?

Deputy Peter Mathews: It overlaps with the three-year bankruptcy issue that we discussed yesterday. When a person is bankrupt, he or she is bankrupt. It does not matter if it takes three years or one year to tidy up. In fact, it is better to have one year to tidy up. There is no point in having three years. This is something that must also be addressed. Deputy Penrose is right when he says we should be turning up the Bunsen burner flame on this.

An Leas-Cheann Comhairle: Thank you, Deputy.

Deputy Peter Mathews: It is a must-do before 21 June - midsummer's day - which is the target date. It should all be in place by then.

An Leas-Cheann Comhairle: I would like to see the Deputy raising that in some other way.

Deputy Peter Mathews: There is no other way. There is nobody here for Topical Issues. It is an empty House. The Taoiseach is here now. This is the way to get something onto his agenda.

The Taoiseach: Deputy Mathews is very good at raising these matters. He will be aware that the Minister for Finance has met the Governor of the Central Bank. Obviously, he has yet to meet the banks themselves in respect of their variable mortgage interest rates. It is not fair, it is not equitable and it is not just.

Deputy Peter Mathews: It is wrong.

The Taoiseach: It is wrong that banks are continuing to charge interest to variable-rate mortgage holders at rates that are very much above the rates at which they are borrowing the money themselves. We have made this case. The Deputy is aware from his long experience that the Government does not want to be in the position of setting interest rates. Clearly, the engagement with the banks goes on in respect of the 300,000 people in question.

Deputy Peter Mathews: We should instruct them.

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The Taoiseach: I agree with the Deputy's sentiment. We are doing everything we can in that regard.

Deputy Frank Feighan: There have been many incidences of people driving under the influence of drugs. We have heard anecdotal evidence that it is on the increase. I wonder when the road traffic Bill will come before the House to deal with this alarming phenomenon.

The Taoiseach: That is due later in the year.

Deputy Patrick O'Donovan: Can I ask the Taoiseach about the broadcasting Bill? I understand the aim of this legislation is to introduce a broadcasting charge. I gather from media reports that the Minister is now looking at the possibility of deferring it. Would it be possible to have a debate in the House on the current definition of public service broadcasting, which excludes every commercial and community-based radio station across the country? Given that these stations provide an invaluable service, would the Taoiseach consider allocating time in the House for such a debate? At the moment, some €240 million is raised through the television licence fee, of which RTE gets €180 million.

An Leas-Cheann Comhairle: We do not want a debate on it now.

Deputy Patrick O'Donovan: No. That is what I am getting to, a Leas-Cheann Comhairle. I wonder whether the Taoiseach might consider allocating time for a debate in the House on the whole construct of public service broadcasting in 2015.

The Taoiseach: I have answered this already. For Deputy O'Donovan's information, the Government considered a number of reports yesterday in respect of RTE. The Minister has been speaking this morning about a replacement situation in respect of a broadcasting licence. That will not happen this year. I would expect that RTE will be called before the Oireachtas committee arising from the reports. If the Minister wishes to have a debate here in the House arising from those reports, there will not be any objection to that. Maybe the Whips could arrange that at an appropriate time.

Deputy Joe Carey: I would like to raise two issues. First, what is the current situation in relation to the bail Bill? Has any progress been made with it? Second, when does the Taoiseach envisage that a decision will be made by the Cabinet on the potential sale of the State's shareholding in Aer Lingus? Will it be made in the coming weeks?

The Taoiseach: Regarding the bail Bill, the Minister for Justice and Equality has made a number of recommendations on two particular issues. It has been proposed that limitations be imposed on bail where consecutive burglaries, or small numbers of people doing repeat burglaries, are concerned. It is proposed that this would apply for consecutive sentences. The draft heads of this Bill are at an advanced stage. It is quite complicated. That will be separate from the measures taken by the Minister for Justice and Equality recently.

I would expect the Minister for Transport, Tourism and Sport to be able to brief the Cabinet on the conclusions in respect of the International Airlines Group inside the next two to three weeks.

Sitting suspended at 1.10 p.m. and resumed at 2.10 p.m.

Dáil Éireann
Topical Issue Debate

Job Losses

Deputy Finian McGrath: I thank the Acting Chairman for the opportunity to speak to this urgent and important debate on the need for a more proactive interagency support in respect of the Cadbury chocolate factory in Coolock. My objective today is to ensure that everything possible is done to prevent future job losses at this plant. Last Friday, I met representatives of the excellent staff at a meeting in Liberty Hall. It shocked me to hear the Minister talk a few days earlier about the Government developing an early warning system that would highlight any threat to jobs.

People need to wake up and they need to walk the walk on this issue. We need to listen to all of the staff, the electricians, the clerical and the general staff when they express their major concerns and that is what this debate is about today. The electricians are very worried at this moment about their jobs and about the issue of due pay and there is a question of industrial action coming up on the agenda next Monday. The bottom line is that staff want an independent financial expert to deal with this issue. The intergovernmental agencies have said they would like to meet the staff on 6 May but that, for many of the staff, is too short a timespan. They want to get the figures for the Coolock plant and they have suggested an independent financial person they can trust, but the company would not accept the name they put forward.

In recent years Coolock has lost a lot of tonnage and jobs. In 2010, the plant lost 90 jobs in a restructuring programme which was to bring tonnage to the site and make the remaining jobs on the site more secure. The increased tonnage never materialised and it continues to lose jobs and tonnes from the site. In October 2012, it lost the bean processing plant with the associated tonnage and another 24 jobs and, as recently as September 2014, it lost another 35 jobs from the site. I will raise the other issues as the debate develops.

Acting Chairman (Deputy Robert Troy): Before I call on the next speaker, Deputy Dessie Ellis wishes with the agreement of the House to defer his topical issue until tomorrow. Is that agreed? Agreed.

Deputy Seán Kenny: Early last month, it was announced by the multinational group Mondelez that 63 jobs would be lost at the Cadbury plant in Coolock as a consequence of the transfer of production of its Time Out bar to Poland. I and other north Dublin Deputies secured a Topical Issue Debate at that time to try to identify how those jobs could be saved or how other job opportunities could be found for the workers affected, all of whom live in north Dublin. We also discussed how the impact of this on the local economy could be mitigated. Cadbury's has been an iconic brand in supporting quality Irish jobs and job losses would badly affect the local community.

At a meeting of the trade unions representing Cadbury's workers last Friday, to which public representatives were invited, I was disappointed to be told that nothing really had happened in the meantime to address the situation. Last month, north Dublin Deputies were informed that an interagency group, including Enterprise Ireland, the IDA, the Department of Social Protection, partnership agencies and local enterprise offices, would be set up as a matter of urgency to deal with the 63 job losses. At the meeting with unions on Friday, we were informed that

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the employee representatives were not aware of such a body and up to then they had not been contacted by anybody in this regard. At this meeting the Cadbury workers appealed to their Deputies to ensure that everything possible was done to avert the job losses.

The loss of tonnes of production at the Coolock plant is damaging the plant's competitive position compared to other Mondelez sites outside of Ireland and this, they believe, further threatens the viability of the manufacturing unit in Coolock. In 2010, they lost 90 jobs in a restructuring programme. In 2012, they lost 42 jobs when the bean processing plant closed and, as recently as last September, they lost a further 35 jobs from the site in Coolock. We have been told that there is a lack of information being made available to the employees on the viability of the Mondelez operation at Cadbury's in Coolock. The employees need this information so that they can develop a counterproposal to try to save the jobs.

Can the Minister of State tell me what can be done by his Department to minimise the redundancies? Can he outline what retraining and re-skilling options will be made available to the redundant workers? Can he assure me they will receive assistance in accessing similar employment with the skills they have acquired?

Deputy Thomas P. Broughan: It is astonishing that the Minister, Deputy Richard Bruton, is not in the House, since this so deeply affects the constituency of Dublin bay north as well as the other 40 or so constituencies.

Deputies: Hear, hear.

Deputy Thomas P. Broughan: Six weeks ago there was a welcome meeting in the Department of Jobs, Enterprise and Innovation on the serious matter of the loss of 160 jobs in Cadbury-Mondelez in Coolock. We heard about an interagency group comprising IDA Ireland, Enterprise Ireland, the workforce and their representatives SIPTU, Unite, the TEEU and other trade unions and, crucially, the management. It is astonishing that, as we heard last Friday, none of this has happened. The Minister, Deputy Richard Bruton, did absolutely nothing for a key facility in his own constituency and the workers and their trade union representatives now have grave concerns over the loss of chocolate tonnage from the Coolock plant which transferred to Poland with the loss of 63 jobs and 2,500 tonnes of product. Incredibly, while Coolock will lose these jobs, Mondelez is recruiting for virtually the same number of workers in Poland and the Coolock plant will now have well below 30,000 tonnes of product in 2015, with the workforce threatened with a reduction to 350 or 360.

The workers and trade unions inform us that Mondelez operates a remote tolling system under its European operating company in Zurich. It is very difficult for the workforce or its representatives to get any information on company turnover and performance in Ireland, Europe or north America. We are informed that operations at nine US factories have been transferred to Mexico and that the worldwide workforce of Mondelez is being cut by 4,000 but we do not know these facts and the Minister seems to have no interest in finding out the facts about this particular company. This is why the failure of the senior Minister and the agencies to engage with the company and give any supports over the past six weeks has been deeply disturbing.

This valiant workforce needs assistance urgently to maintain this very important and iconic plant. The workforce has requested accounting and economic assistance from Mondelez. I understand Mazars has begun to give some support in this regard to SIPTU. I ask the other three Ministers of State who represent Dublin constituencies to listen to this. One Minister of State

represents or is trying to represent Dublin Bay North. The Minister said six weeks ago that Dublin is forbidden from getting direct capital investment. What about other supports such as energy research or taxation for the Coolock operation? It is very disappointing that the Minister is not here. Why is he not here to hear about this very important and urgent matter in his own constituency - one of the most historic factories in this country - and in Kerry? We need some action.

Deputy Paul Murphy: The request from myself and other Deputies for this Topical Issue debate was prompted by a briefing given by shop stewards from Cadbury's Coolock plant last Friday, which was attended by local representatives, including my colleague, Councillor Michael O'Brien. Contrary to the attitude expressed by the Minister at the meeting he had with Deputies and the attitude I presume will be expressed by the Government whereby it takes it as a given that these jobs will simply go and that it is simply a question of managing that situation, the workers' representatives correctly do not accept that as a given. They challenge the loss of those jobs in Coolock and I likewise would challenge the loss of jobs in Tallaght and Kerry.

No case is being made that the Coolock operation is loss making. It is simply a case of profit chasing and a race to the bottom. We have EU laws that require multinationals like Mondelez to engage in a negotiation process with the workforce when redundancies of a certain scale are under way but the negotiations that are taking place are far from genuine. The workers' representatives feel they are being deprived of both the information they need from the company about the performance of the plant and the resources needed to acquire independent expert advice to enable them to put forward a counter-proposal to safeguard the operation in Coolock. The Anti-Austerity Alliance and I support the workers' representatives' demands for that information and resources to help them in the negotiations.

Given Mondelez's past record, I feel that any proposal from the workers' side will not necessarily satisfy it if it feels it can squeeze more profit elsewhere on the basis of lower pay, more intense work regimes and fewer protections for workers. That is the record of this company. This, therefore, begs the question about the model of recovery being pursued by the Government and the establishment in this country and the consequences of total dependence on the whims, caprices and profit chasing of multinational corporations. The skills and potential built up in these plants should not be allowed to go to waste regardless of the ridicule that such a notion would excite from the Government and other parts of this Chamber. We must put the idea of State enterprise, investment and worker-managed enterprise to protect jobs and as alternative model for economic development on the agenda.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English): I thank the Deputies for raising this matter.

The Minister sends his apologies that he is unavailable to take this Topical Issue. He is currently leading a trade mission in the Gulf and India to grow the export markets of Irish companies and ultimately create jobs in Ireland so it was not possible for him to be here with the notice given of this debate.

I am very conscious of the anxiety that the announcement of job losses by the company concerned at its operations in Coolock creates for the workers there. The Minister has been engaging with the senior management of the company and has urged it to reconsider this decision. It is not a case of taking it for granted. He is urging management to reconsider the decision. He has also asked whether there is anything the State or its agencies can do to mitigate its effects.

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The company has pledged to support departing workers with placement services. The company has indicated that it will also work closely with workers in an effort to ensure that the impact of this decision is minimised to the greatest extent possible and to discuss investment it will be making in Ireland in order to build a stronger business here for the long term.

As the Deputies will be aware from their meeting with the Minister in his Department, he established an inter-agency group on 3 March to co-ordinate the Government's response to the job losses at the company. The group is chaired by Enterprise Ireland and membership includes the local enterprise offices, IDA Ireland, the education and training boards, the Department of Social Protection and the Citizens Information Bureau. I know the Deputies also requested another meeting with the Minister and I am sure that invitation is on his desk.

The group is seeking to secure alternative employment for the areas affected and also to ensure that departing workers have access to supports that they need from State agencies for retraining, access to social welfare supports, access to advice on employment rights and access to advice and support for those workers who might intend to start their own businesses. The first meeting of the group was held on 18 March.

The inter-agency group is open to meeting with the company's representatives and staff and has made an invitation to meet these parties through the company's management. In this regard, last week, the local management team met with employee representatives from the Coolock site in an effort to facilitate a meeting between staff representatives and the inter-agency group. I understand that the management has requested a meeting between the inter-agency group and staff representatives. The inter-agency group has suggested either 5 or 6 May for a meeting with staff representatives in Coolock and I understand that it is awaiting a response from the staff representatives regarding the suitability of these dates. The Deputies expressed a view here today that this date is too soon so I will make sure the Minister is aware of that as well. Enterprise Ireland has had meetings with the company's management on a weekly basis since the news of job losses broke. The agency has also visited the sites at Tallaght and Rathmore in Kerry to examine the potential for business opportunities.

I should also point out to the Deputies that Ireland has a robust suite of employment rights legislation which offers extensive protections to employees. The National Employment Rights Authority, NERA, is mandated to secure compliance with employment rights legislation. NERA information personnel are available to meet staff of the affected companies, either individually or collectively, to discuss their employment rights, including matters related to redundancy. The workplace relations customer service section can be contacted at lo-call 1890 80 80 90 or via its website at <http://www.workplacerelations.ie>, which provides extensive information on employment rights. It is important that people are always informed of their rights. I would like to inform the Deputies that, if required, the State's industrial relations machinery is also available to assist the parties concerned in any way possible.

Employment growth continues to be the primary objective of this Government and we have been working hard to create the economic conditions which will support existing jobs as well as the creation of additional new jobs. Through the series of action plans for jobs, this Government has focused on creating a supportive environment for businesses operating in Ireland. Our target was to create 100,000 new jobs by 2016 and we have already created 90,000 of those. More than 35,000 extra people are at work today in Dublin compared to three years ago. Almost half of these extra jobs are supported by the Department of Jobs, Enterprise and Innovation through Enterprise Ireland and IDA Ireland. A range of manufacturing companies

supported by the Department through its enterprise development agencies are currently hiring in the area. In terms of new initiatives for job creation, Enterprise Ireland activity is focused on the creation of new jobs through continuing to work with established companies in its portfolio, including, of course, the company in question. The agency is also supporting entrepreneurs in manufacturing and internationally traded services companies which are setting up high potential start-up companies.

The local enterprise offices, LEOs, are the first-stop-shop for support to anyone wishing to start or expand a business, focusing on the micro-enterprise sector - those with ten employees or less. They pull together all the players - other Government Departments and agencies - to support everyone with a good business idea and to strengthen the enterprise sector in the local area. The LEOs can provide information, advice and guidance on the range of State supports to enterprise and signpost customers to the appropriate contacts across the various agencies that provide them. For businesses in the manufacturing or internationally traded services sectors, the LEOs can provide direct financial support to develop or implement a business idea. For other sectors, the LEOs may be able to provide non-financial supports such as specific and tailored business training or mentoring to help a business to develop. Each LEO is also active in developing local networks and other activities and events that bring business people and entrepreneurs together as a means of supporting each other.

The four LEOs in Dublin are available to support anyone with a business idea and who wants to consider entrepreneurship as a career option. I urge anyone who was made redundant or who is in danger of losing their job to make contact with their LEO to explore available options.

Deputy Finian McGrath: I have three short questions. Is the Minister aware that the current proposal to transfer manufacture of the Time Out bar to Poland with the loss of 63 jobs and another 2,500 tonnes from the site threatens the viability of the remaining operation in Coolock? The company's proposal to transfer manufacture of the Time Out bar and the restructuring programme targets 160 jobs to be lost this year. Is the Minister aware that the loss of tonnes from the site damages its competitive position compared to other Mondelez sites outside Ireland and further threatens the viability of the manufacturing plant in Coolock? Is the Minister aware that a large part of the costs set out in the site comparison equation would remain following any transfer of production and hence further increase the cost per tonne for the remaining products? Also, a large part of the so-called investment is to be spent on reconfiguration of the existing plant, with slightly more than half that investment to be spent on chocolate production.

The staff are seeking the Minister's support to enable them develop a robust counter-proposal. They also want an assurance that everything possible is being done to prevent job losses at the Coolock plant. I urge the Minister, Deputy Bruton, to focus on this important issue. I believe the Coolock plant is a profitable and viable entity, and we need to roll up our sleeves and support it.

Deputy Seán Kenny: I thank the Minister of State, Deputy English, for coming to the House to deal with this matter and for his response. I accept that the Minister, Deputy Bruton, is on a trade mission to India and wish him every success in that regard. Hopefully, that mission will result in a greater number of jobs than are being lost at the Coolock plant.

Despite that, I have been in touch with the Minister's office by e-mail and telephone since last Friday but I have been, unfortunately, unable to get the information I required. I welcome

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that the inter-agency group meetings will commence on 5 or 6 May. It is unfortunate that it has taken such a long time to get to that stage. Perhaps the Minister of State would raise with the Minister, Deputy Bruton, on his return from the trade mission the need for him to meet with Deputies from the Dublin North East and Dublin North Central constituencies and brief them on the current situation. There appears to be a communication problem between ourselves and the Minister.

Deputy Thomas P. Broughan: The process outlined by the Minister of State, Deputy English, is incredibly roundabout, slow and cumbersome. When we walked down the steps of the Department of Jobs, Enterprise and Innovation almost seven weeks ago our expectation was that this process would be up and running soon and that the enterprise agencies, including the local enterprise offices and so on, would have made contact with the workforce and Mondelez pretty immediately. We are now being told it will be another few weeks before this happens, which is incredible. I echo the comments of Deputy Kenny that we need to meet again with the Minister, Deputy Bruton, to ensure urgent action on this matter. It beggars belief that the workers and their representatives and Mondelez were not immediately offered a meeting by the agencies.

I referred earlier to the number of other supports that workers believe would be helpful to them in making a robust counter-proposal to Mondelez management. The Minister, Deputy Bruton, appears to have done absolutely nothing to bring these forward. I mentioned previously that the Minister has a poor track record in the greater Coolock area in terms of supporting jobs. There are many empty factories in the area and estates that are run down. Despite having been a Minister for more than four years, he has done nothing for the area. He makes announcements here, there and everywhere - I understand he is in the Gulf now - but there is no delivery for Dublin Bay North. That is the problem. He does not deliver for his own constituency and he needs to do so.

The company concerned has employed thousands of people and supported thousands of families down through the decades. We need a response on this matter. The Minister, Deputy Bruton, chose not to serve on the Northside Partnership, which showed his lack of commitment to the area. Other Deputies were expected and delighted to serve on that partnership. We need a response from Deputy Bruton in his remaining months as Minister.

Deputy Finian McGrath: Hear, hear.

Deputy Paul Murphy: Will the Government apply pressure on Mondelez to ensure that workers get all of the information and resources they are looking for from the point of view of putting forward an alternative plan? It seems to me that the problem is contained within the Minister of State's response in that there appears to be an acceptance that jobs will be lost. The inter-agency group set up by the Minister, which includes no worker representation, is predicated on accepting that the jobs will be lost.

In terms of a response to this ongoing situation, which could result in an industrial dispute, the Minister of State in his reply stated that the four local enterprise offices in Dublin are available to support anybody with a business idea who wants to consider entrepreneurship as a career option. Is that for real? Are workers who are demanding that their jobs be maintained being asked to consider entrepreneurship as a career option? Are they all to consider entrepreneurship as a career option, as opposed to actual social welfare supports or fighting to maintain their jobs?

The Minister of State also said in his reply that through a series of jobs action plans the Government has focused on creating a supportive environment for businesses operating in Ireland. I agree with that. The Government doles out grants to entice them in and then they leave. What we need is a supportive environment for sustainable jobs in Ireland that are decent and well paid and are not part of a race to the bottom, rather than a short-term approach of enticing in multinationals that are later free to walk away.

Deputy Damien English: I would like to respond to a couple of the points made. As the Minister, Deputy Bruton, previously arranged a meeting of all those involved, I am sure there will be no problem in organising another such meeting. The Minister has a good track record in this regard and is willing to engage in constructive debate rather than the type of showmanship that is going on here today.

Deputy Finian McGrath: It is not showmanship. That is outrageous. This is a real issue.

Deputy Damien English: In regard to Deputy McGrath's question as to whether the Minister is aware of all the issues, the Minister is, of course, well aware of them, and for two reasons.

Deputy Colm Keaveney: He is not as interested in this issue as Deputy Finian McGrath is.

Deputy Damien English: First, he is the Minister with responsibility for jobs, and second, as a TD, he is very interested in local issues. The Minister has met with management of the company and all of the agencies involved and, as such, he is aware of all of the issues. The issue of a meeting with the workers was raised. An invitation for such a meeting has been issued. There appears to be an issue around organising a time for that meeting. I am not sure what the delay is, but there has not been a response from the workers to that invitation.

In regard to Deputy Paul Murphy's point about information, perhaps when the agencies meet with the workers it will be possible to put together a list of what is needed and we can then try to get that information for them. All efforts will be made to ensure the workers get what they need to make their counter-proposal. The Minister does not accept that the jobs are lost. However, he does not have a magic wand. Like everybody else, he is out there trying to negotiate and work with companies.

In regard to the Minister's success in terms of job creation, he has been very successful in that regard. Naturally, as Deputies, we all want jobs in our own backyard, but that is not always possible. The Minister is doing a good job in terms of the creation of sustainable jobs. Everybody knows that is the truth. While some people choose to use debates of this type to say otherwise, most people engage constructively on coming up with solutions.

As I said earlier, the Minister has set up the inter-agency group. Enterprise Ireland has met with the company on a weekly basis in an effort to come up with a solution. It is not the case that it has accepted defeat on this matter. It continues to engage on this issue and to seek to attract jobs to other sites. It is an ongoing process and all involved are doing their best. Hopefully, the outcome will be good.

Mental Health Services Provision

Deputy Denis Naughten: I thank the Ceann Comhairle's office for this opportunity to raise this important matter. I welcome the positive news that this issue, as it applies to the Galway

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acute psychiatric unit, is to be referred to the LRC. However, I stand by my request this morning for an independent review of the staffing and operation of mental health services across Counties Galway and Roscommon.

Last year, when I made the point in this House that the Galway unit was an accident waiting to happen because of inadequate staffing and resources, I was accused of scaremongering. As in the case of the Galway unit, staffing and resources at the acute psychiatric unit at Roscommon County Hospital in respect of specials are inadequate. Specials are sick patients who are a danger to themselves and other people in the unit, be they staff or patients. This continues to be the case at both of the units in Galway and Roscommon. All of these issues need to be examined.

To compound those particular problems, the acute psychiatric unit at St. Luke's in Ballinasloe has been closed, adding to the pressures already on the units in Galway and Roscommon. It is clear there is an issue in relation to resourcing. What makes it even more bizarre is that last year, the mental health services in Roscommon and Galway handed back €6 million and this year their budget has been cut by a further €3.5 million.

In the Ballinasloe catchment area, within the past three weeks, 14 patients have been referred to the acute unit in Roscommon, putting considerable pressure on the acute unit in Roscommon. On top of that, we are coming into the summer months where there is further demand on mental health services in Galway because of the dramatic increase in population in the Galway area during the summer. As an interim measure, I would urge the Minister to re-open the acute unit at St. Luke's in Ballinasloe to take pressure off both Galway and Roscommon acute psychiatric units.

It is not only the acute units that are causing problems. There is a very serious issue regarding staffing at the high support unit at Knockroe in Castlerea. Serious allegations of misconduct in relation to a male patient have been raised there and it has been claimed that matter has not been properly investigated by the mental health services or properly reported to the Garda. I want an assurance from the Minister that this issue will be independently investigated and that an independent report will be produced.

Deputy Colm Keaveney: This morning's action is as a direct result of a political decision not to proceed with the opening of a facility in Ballinasloe - a €3.2 million spend on a brand-new unit and the only ligature-free unit in the HSE. It was never opened and the Minister of State, Deputy Kathleen Lynch, transferred services and centralised them around Galway University Hospital, GUH.

The unit has been described by the health and safety official on site as a creaking, leaking and subsiding unit. It is held up with RSJs and there is water coming down on walls. Staffing levels had been unacceptable. We have highlighted this consistently in this House for the past 14 months but we were accused of scaremongering. In fact, in the *Irish Examiner* on 20 February 2014, the Minister of State, Deputy Kathleen Lynch, said the Opposition was "scaremongering". She stated the changes "would liberate the service users" with an environment of "calm". This is a unit in which 36 assaults on staff took place already this year. The Department underspent the budget by €6 million last year and it was lost in the black hole of overspends across the public health service.

I am glad the senior Minister is here. I do not know whether it is due to lack of confidence

in the Minister of State, Deputy Kathleen Lynch, but I can tell him that the front-line staff in GUH have no confidence in the Minister of State, Deputy Kathleen Lynch. According to a statement by the Department of Health on 22 May of last year, the “Minister of State with responsibility for Mental Health, Kathleen Lynch TD, today affirmed her view that acute mental health services at the University College Hospital Galway are being delivered safely and that the overall re-configuration of services in the Galway-Roscommon region is in the best interests of services users.”

The reconfiguration of services across Roscommon, Mayo and Galway is a disaster. There is a brand-new facility sitting idle in GUH but the Minister would rather herd the most vulnerable people to an accident and emergency unit so that they can be triaged, if they are lucky, to get into a psychiatric unit, where water comes down on the walls and which has been described as a creaking unit.

This was a political decision. The front-line staff have not been listened to nor has the Opposition but the crusade continues. In the past two years, we have seen a €70 million under-spend in mental health - the greatest public health crisis of our generation. Would the Minister explain that?

Deputy Richard Boyd Barrett: I put it to the Minister that the evidence is mounting up that there is a quite a dangerous situation emerging in mental health services right across the country as a result of chronic staff shortages. The situation in Galway is merely the latest example of this where, with 36 assaults on staff, workers feel forced into a situation where they do not go into work because of staff shortages, but it is not an isolated example.

Two weeks ago, a psychiatric nurse in Cork was suspended for talking to the media about services being unsafe because of staff shortages. Deputy Denis Naughten mentioned the situation two years ago. We had exactly the same situation in Roscommon where nurses refused to go to work because of an unsafe situation. In my constituency this week, I presume for the same reasons, a man who attempted to commit suicide one week ago was released against the wishes of himself and his family and is now homeless on the streets of Dún Laoghaire.

The situation in child mental health services is even worse. I want to ask the Minister directly did the Minister of State, Deputy Kathleen Lynch, mislead the House when she stated that staffing levels in child mental health services were up to 80% and that protocols for those aged 16 and 17 had been agreed with the IMO when a statement came out last week from the IMO stating no protocols had been agreed and that staffing levels were 55% and are putting patients and staff in danger. Were we misled? In this situation where we are dealing with young people, we are aware of the scandal of young people being put into adult hospitals with mental health problems, but the IMO is in dispute with and is directly contradicting what the Minister of State said about the staffing levels and the agreed protocols when it comes to vulnerable young people with mental health problems.

Deputy Joan Collins: The reason I put this forward as a Topical Issue today was because I heard on radio this morning that staff had refused to go to work as they could not provide the care needed in a safe environment due to a lack of staff. I felt it was a cry for help from these workers who wanted to raise this issue. They would not have taken this action this morning unless there was a chronic problem within the services in Galway University Hospital. It seems there are other issues in relation to other services in Galway University Hospital. Is there a need for the Minister to make a statement about what is happening across the services in this

hospital?

The PNA representative, Mr. Derek Cunningham, stated this morning that 36 staff had been assaulted since January and that this had been raised with the HSE. The HSE has condemned these workers for taking this action and for not working in unsafe conditions for the patients and workers. The Minister must respond to this and say to the Dáil, the patients in the hospital and the workers that he will do something about it because this has been going on too long.

As other Deputies have said, the matter has been raised over the past two years. *A Vision for Change* does not seem to be doing what it is supposed to do in terms of mental health services. The annual report of the Mental Health Commission is due in June. I would like to see that report to know whether there have been advances since last year when there was condemnation by the PNA and the workers in the HSE.

Minister for Health (Deputy Leo Varadkar): I thank the Deputies for raising this issue and for giving me an opportunity to update the House. I am taking this debate on behalf of my colleague, the Minister of State, Deputy Kathleen Lynch, who is on Government business elsewhere.

Galway-Roscommon mental health services are committed to full implementation of *A Vision for Change*. The guiding principles involved under this widely agreed policy include patient centeredness, equality, access to quality care that is focused on recovery and integration with other mental health and mainstream health services.

The HSE in Galway-Roscommon provides an inpatient and community mental health service for a population of 314,000 and is at an advanced stage in the implementation of *A Vision for Change*. It has already moved in to local service provision with catchment areas of 50,000, as recommended in *A Vision for Change*, and appointed team co-ordinators and developed an overarching clinical governance model.

Staff working in the health service cope with significant service pressures and this is also the case in mental health. However, the focus and priority must always be on provision of care for the patient.

Patients in this service can often display challenging behaviour and HSE staff are provided with a wide range of training and supports. Where a patient has assaulted a staff member, it is recorded and the rarer instances of serious assaults are investigated as part of health and safety management. In line with revised safety incident management policy, staff are encouraged to report all incidents. The HSE in Galway reviews recorded assaults. According to the records, up to the end of March there were 29 recorded incidents in the acute unit in Galway. All such incidents are risk-rated. Of the 29 incidents of assault, 25 were classified as physical, two as attempted and two as verbal. Of the 25 physical assaults, one was rated high, ten were rated moderate and 14 as low-level. All incidents are discussed and reviewed locally, and any suggested actions are implemented. Trends are reviewed and analysed at clinical governance meetings in Galway. I understand several of the incidents were physical in nature, with staff being struck in the jaw and in the stomach. Clearly, none of us can condone this. However, it is not necessarily the case that additional staff would have prevented any of the assaults on staff members since they were predominately one-on-one assaults.

The whole-time equivalent number of staff working in the acute unit in Galway has risen from 47 in 2013 to approximately 60 in 2015 - a total increase of 13 staff on two years ago - as

part of the ongoing reconfiguring of services in the area.

It is important to contextualise the situation in the acute unit. Some of the patient's clinical needs require that they be nursed by a male member of staff. HSE west management have indicated that the executive is finding it increasingly difficult to recruit male nurses. It has put a number of proposals to the Psychiatric Nurses' Association of Ireland to address the gender imbalance. However, I am informed that to date the PNA has rejected all options such as skills mix and a rotation of psychiatric nurses from a community setting into hospitals. The HSE is also progressing the high-dependency unit, which will help to alleviate the pressure on the acute unit. This proposal has gone to the PNA for a response and a response is still awaited.

I am most concerned at this morning's unannounced industrial action. Disruptions to the delivery of care cause unnecessary worry and anxiety. This is clearly not in the interests of patient safety and puts additional pressure on other staff, compromising their health and safety. I call on all concerned to work co-operatively to solve the current situation facing mental health services in Galway. I welcome the Labour Relations Commission intervention earlier today. This would have been possible without the events of this morning. Of course, the LRC is independent, and it is in a position to examine staffing levels and make appropriate recommendations, as it has done in other areas.

Deputy Denis Naughten: I thank the Minister for his response. At the outset the Minister referred to the issue of patient-centredness. We are all keen to see that. At the moment there is a serious question mark over the Rosalie unit in Castlerea, which provides psychiatry of later life. This has been in the media for the past six to eight weeks. Yet there has been no contact or communication with the families of the individuals in that unit or the staff who operate that unit. Despite this, we are told that the HSE is working with the individuals in the unit and their families to develop care plans for them. That is the evident lack of patient-centredness as we speak in the Galway Roscommon service.

There have been assaults in Galway and in Roscommon. Moreover, there have been assaults not only of staff but of vulnerable patients in some of these units as well. I have raised a particular issue with the Minister. I want the matter independently investigated and I want answers to the questions that I have raised in the House. I also want clarity from the HSE on what exactly is happening at the unit in Áras Naomh Caolinn and in the Rosalie unit in particular. The patients and families deserve answers on the plans for these units, but the HSE is operating under a cloak of darkness and then shutting down the service unannounced overnight.

Deputy Colm Keaveney: The Minister made reference to difficulties in recruitment in his response, and I thank him for the clarity on the matter. However, one of the biggest difficulties we have with recruitment is the political decision to time-delay it. The HSE's service plan refers to a preference to recruit in December, not in January. Therefore, in the small print somewhere else there is a reference to not recruiting staff and a commitment to recruiting them, only for the HSE to hold off recruiting them until December.

I am pleased that the Minister referred to a patient-centred approach. However, what about the 3,000 children waiting each year for an appointment at the first point of contact in our psychiatric services? In the past two years, the Department underspent to the amount of €70 million, or 10% of the entire budget, in mental health. Yet 3,000 children will wait 12 months for an appointment.

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The HSE has threatened disciplinary action. What about the Minister's role in taking action to protect staff and services? It is similar to what has happened in Cork University Hospital. The Minister or someone suspended a front-line worker for speaking out. This morning the HSE threatened to discipline someone for not being part of the cover-up of the scandalous delivery of services in Galway. That is what is happening. Those involved are not going to be complicit with the cracks and the cover-up and so on.

In the context of A Vision for Change, it is an absolute no-no and a breach of human rights to ask people in a mentally distressed state to access a unit that is creaking, falling apart and understaffed and then ask them to admit themselves to an accident and emergency unit. That is unacceptable. The Minister should take responsibility rather than shifting the burden of blame onto the staff. The staff are carrying the service despite the ineptitude and lack of commitment of a Minister who is out of touch and who has lost the confidence of front-line staff throughout the west of Ireland.

Deputy Richard Boyd Barrett: Would the Minister, in all honesty, come into work day after day if he thought he might be punched in the jaw or the stomach, and if he thought there were not enough staff to prevent that from happening? For the Minister to suggest there is no direct connection between staffing levels and the chaotic and dangerous situation in our mental health services is preposterous. It is well established that a lack of staff or an over-reliance on agency staff jeopardises patient and worker safety.

I have asked the Minister directly, in respect of child mental health services, whether the Minister of State, Deputy Lynch, misled the House when she said that staffing levels in youth mental health services were up to 80% and that there was an agreement on protocols for 16 and 17 year olds. This week the Irish Medical Organisation said that what the Minister of State said last September was not true, that staffing levels are at 55% and that no agreement is in place on protocols for 16 or 17 year olds. Indeed, a review group was set up. At one of the meetings, the HSE did not turn up at all. Then, at the second meeting, the HSE walked out when the IMO raised the issue of whether staffing levels were sufficient to deal with 16 and 17 year olds. Was the House misled? Is the Minister going to take serious action to deal with this crisis?

Deputy Joan Collins: At the end of the Minister's reply he said he was most concerned at today's unannounced industrial action. The Minister is a member of one of the health care professions. Does he believe health care workers would refuse to work if they were not confident doing so? Those workers took a decision this morning not to continue work because they believed that the staffing levels were not high enough given what they were working with at the time. They were short four staff. They were threatened by the HSE with suspension. That should be withdrawn and there should be an apology to those workers for taking that action. This is not industrial action. This is a question of workers pointing out a health and safety issue and saying that they cannot work in those circumstances. The Minister for Health should stand over the decision the workers had to make this morning. They are seriously concerned about their patients. That is why they took action this morning. I hope the LRC can resolve this as quickly as possible. However, the Minister for Health is ultimately responsible, and he has to stand over what happened this morning in University Hospital Galway.

Deputy Leo Varadkar: On a general point, I am informed that Galway-Roscommon mental health services have a *per capita* spend of €191, compared to a national average of €160. In addition, Galway-Roscommon mental health services have been successful in securing 58 additional new staff posts using development funding since 2012. Of these 58 new posts, a total of

45 are now in place and a further 13 posts are at various stages of recruitment. The make-up of these posts includes consultants in the areas of general adult psychiatry, psychiatry of later life, rehabilitation and recovery, as well as occupational therapists, community mental health nurses, social workers and psychologists. As Deputies can see, there has been a significant increase in staff, and there are more to come.

Deputy Boyd Barrett raised issues relating to child and adolescent mental health services in Dún Laoghaire. The Topical Issue matter Deputy Boyd Barrett submitted relates only to Galway and Roscommon services.

Deputy Richard Boyd Barrett: That was not the case in my question.

3 o'clock

Deputy Leo Varadkar: Needless to say, I was not able to get a briefing on the issue that he raised with about three minutes notice. I think it is rather opportunistic to raise issues in that way.

Deputy Richard Boyd Barrett: It is at the top of the Minister's own document.

Deputy Leo Varadkar: It refers specifically to Galway.

With regard to what was mentioned by other Deputies, it is important to bear in mind that the staff who refused to work this morning left the night shift *in situ*, and they would have been on for 12 hours at that stage.

Deputy Joan Collins: They said they would stay on for cover.

Deputy Leo Varadkar: That is something that needs to be borne in mind. That is not a course of action that I hope any of us here condone in that the shift already on were left *in situ*.

Deputy Joan Collins: They were replacing a shift that was not fully staffed.

Deputy Leo Varadkar: For the information of other Deputies, I have worked in an emergency department. An emergency department is a place where one is at risk of assault and it is a place where staff do get assaulted by violent people and by drunks, and I turned up for work on every occasion that I worked in an emergency department. However, procedures are put in place to minimise risk and deal with assaults where they occur.

Again, I cannot comment on the Rosalie unit as it was not specifically mentioned in the request for this debate either.

Deputy Denis Naughten: It was. It referred to Galway-Roscommon health services.

Deputy Leo Varadkar: The Deputy cannot submit something with one or two hours notice and then go into detailed questions that were not even mentioned in the question.

Deputy Denis Naughten: The Minister of State at the Department is well aware of the issue as I have raised it in the House on other occasions.

Acting Chairman (Deputy Alan Farrell): Order, please.

Deputy Leo Varadkar: It is a pity we have got to the stage in this Parliament that Members put down debates at short notice. Ministers are very happy to turn up and deal with debates at

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short notice but Members then raise issues that were not referred to specifically in their questions, and then try to shout down the Minister when the Minister tries to-----

Deputy Denis Naughten: The Minister is misleading the House. I ask him to withdraw that comment.

Acting Chairman (Deputy Alan Farrell): Deputy Naughten, please take your seat.

Deputy Denis Naughten: I specifically asked about the health services in Galway and Roscommon. The Minister has received parliamentary questions from me, one after another, on the Rosalie unit and he refused to answer the questions.

Acting Chairman (Deputy Alan Farrell): Deputy Naughten, please sit down. I will not ask again.

Deputy Denis Naughten: It is the same in regard to the unit in Knockroe. It is a scandal what is going on.

Deputy Richard Boyd Barrett: On a point of order, in the document the Minister gave out with his speech, which details our questions-----

Acting Chairman (Deputy Alan Farrell): What is the Deputy's point of order?

Deputy Richard Boyd Barrett: The document specifically mentions youth mental health services. Would he withdraw the suggestion that we were being opportunistic? It is specifically mentioned in his own speech.

Deputy Leo Varadkar: I am happy to withdraw the term "opportunistic" if it offends the Deputy but what he specifically mentions is Galway and other major problems, particularly in the area of youth mental health. If we want to have a serious Parliament and we want to hold Ministers to account, we really need to raise issues-----

Deputy Richard Boyd Barrett: I put it in 25 times and it was refused.

Deputy Leo Varadkar: -----with adequate notice so that it is possible for us to give comprehensive responses to the questions. There is little point in putting down a question about services in Galway and then raising questions about Dún Laoghaire if the Deputy expects to get an answer.

Deputy Denis Naughten: The issues I raised in Roscommon were all over the newspapers at the weekend.

Health (General Practitioner Service) Bill 2015: Second Stage (Resumed)

Question again proposed: "That the Bill be now read a Second Time."

Deputy Seamus Healy: I am thankful for the opportunity to speak on the Bill. While it is welcome, it is not what the Government committed itself to in the last general election, nor is it what it promised in the programme for Government. The programme for Government in 2011 stated: "Universal primary care will remove fees for GP care and will be introduced within the Government's term of office." That programme for Government was revised less than 12

months ago and the commitment was reiterated as follows: “We remain committed to the introduction of a universal GP service for the entire population as part of universal health insurance, in line with the programme for Government.” However, we now find that this is not going to be the case and, in fact, that policy, if it is ever introduced, will apparently take a further three years to happen, and we are not even sure of that. What we do know is that it has been delayed for three years and, at the earliest, will be introduced by 2019.

In addition, the Bill is not in compliance with what thousands upon thousands of the over-70s demonstrated for during the term of the last Government outside these buildings. They were addressed by the current Taoiseach and the then leader of the Labour Party, Deputy Gilmore, who promised the over-70s that their medical cards, which were being withdrawn by the Fianna Fáil-Green Government, would be restored. They were told they would revert to a situation where they had full medical card cover for GP services, hospital services, primary care and medication services. What happened is that this Government not alone did not do that, but it significantly reduced the income limits for over-70s from €1,400 per week when it came into office to €900 per week now, which is a huge reduction. What is now clear is that the current Taoiseach, the former leader of the Labour Party and their members were simply playing politics with elderly people at that stage.

Part of the difficulty with introducing this type of legislation for particular groups is that other groups are left out and find themselves placed in a very difficult situation. One of the groups that comes to mind is the 65-69 year old age group. Such people come to my office on a daily basis, as I am sure they come to the offices of every Oireachtas Member. The vast majority of these people have retired and are in receipt of State pensions but they are not covered by this legislation. Many of them will have only a very small occupational pension as they may have worked for the local authority, the health board or the council, or for a company which had an occupational pension scheme. Some who have pensions of as little as €10 or €20 per week find themselves over the income guidelines for medical cards and are in a situation where they are not covered because the medical card limits are completely out of date, given the last review of these limits was in 2006. To give an indication of the figures, the income limit is €298 per week for a couple aged 66 years and over. If a couple of that age group has a small occupational pension of, say, €10 per week, they will be over the limit and will not be covered for the card. That is the kind of thing that happens when selective groupings are introduced in regard to primary care and GP services.

It is important also to revisit the whole area of medical card applications and the granting of medical cards. There is no doubt that even after all of the difficulties that arose in regard to medical cards being withdrawn, or reduced from full cards to GP cards, many people with serious and chronic illnesses are not able to get cards. While the situation may have improved slightly, there has been no significant improvement. From the point of view of medical card applicants, centralisation has been a dismal failure. We should consider organising the application system and processing of cards on a local basis. It is currently taking ten days for applicants to be registered on the central system. If one sends in an application today and calls the centre within ten days, one will be told one’s application has not been received and is not on the system.

Another issue is that there is absolutely no filtering of applications on a medical basis at the initial stages. People have very serious illnesses that are flagged on the application form or by an individual or public representative, but there is no filtering. I am dealing on an ongoing basis with someone who has a very serious illness. The person sent in an application and found it was

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not on the system for ten days. In the particular case, the person had a cancer diagnosis. There is no way of fast tracking such applications which is simply unacceptable. If those applications were processed on a local basis, the situation could be dealt with very quickly. The worry for applicants like that is significant. They are already worried about their medical condition and now they are also worried about whether they will receive a medical card, if it has been lost in the post or whatever. There needs to be some filtering of applicants by way of medical illness at the earliest stage of the applications process.

It is vitally important that there is a contact person for public representatives, in particular, in the PCRS to whom we could speak. In the current system, applications can be sent on an Oireachtas line, but there is no individual to whom a public representative or advocate can speak, explain a situation or speed up the process, thereby ensuring that the medical card office does not need to send letters to applicants who do not apply, something which happens on a regular basis. I ask that the entire applications process be examined. It is not working well and it would be much better if it operated on a local basis.

From time to time, I and many other Deputies have raised the matter of GPs charging for bloods. It is happening on a daily basis. Following many representations, a system was put in place whereby medical card holders who are charged for the taking of bloods can receive a refund by applying through the PCRS. While that is all very fine, as the Minister, who is a medical practitioner, knows, there is a doctor-patient relationship and the majority of patients are not happy to use that system because it interferes with the relationship. I hope that any arrangements or agreements made with GPs under this Bill would ensure that medical card holders will not have to pay upfront for the taking of bloods and will be entitled to the service. The Minister and his predecessor have said people are fully entitled to have their bloods taken free of charge. They have told GPs that, but it needs to be clear in any contract in the future that it will not be legal to charge for the taking of bloods. While the refund system is in place, many patients feel uncomfortable about using it and do not claim refunds.

The fair deal scheme has been very difficult over the past 12 months, with long delays of 16 weeks before and 11 weeks after Christmas. It is to be hoped that with the new injection of funds this will change and it will take four or five weeks to process and award fair deal scheme funding. There is widespread unease among the elderly population and their families about a recent report on "Prime Time", where it was indicated that one option for the future would be further cost increases for those availing of the scheme. The report referred to increasing the threshold for savings and the number of years of payback on family homes and assets. It also suggested that there may be a change in the scheme whereby an elderly person who receives 20% of his or her social welfare income would have his or her income reduced. There was a suggestion that there might be a charge for other community-based services for the elderly. All of that gives rise to considerable difficulty, worry and concern for elderly people and their families.

We need to urgently address rural GP practices across the country. It is now clear that it is becoming more difficult for them to continue when a GP retires. It was an issue recently in my constituency, Tipperary South. Some initiatives will need to be put in place to ensure that it is attractive for GPs to locate in rural areas, something which is not currently the case. Difficulties in filling vacancies in rural practices are becoming more common.

I refer to the urgent necessity for community intervention teams to be put in place. As the Minister knows, such teams mean that services can be provided for people in their own homes,

thereby avoiding the necessity of costly admission to hospital services. Their purpose is to provide services to people in their own homes, thus obviating the need for costly hospital services. The teams are in place in some areas and they represent an effective and cost-effective method of ensuring people can remain in their homes for as long as possible and ensuring they do not have to take up very costly beds in general hospitals.

While the legislation is welcome, it is certainly not what we were promised or what was committed to in the programme for Government. It is certainly not what the elderly were promised by the current Government, including the Taoiseach.

Minister for Health (Deputy Leo Varadkar): Before I start, I extend a very special welcome to Mr. Mark McQuillan, who is job shadowing me today as part of a programme of the Irish Association of Supported Employment. He is in the Visitors Gallery.

I thank Deputies for their contributions on the Bill. As Minister of State, Deputy Kathleen Lynch, said in her opening statement on the Bill, the Government is committed to introducing, on a phased basis, a universal GP service without fees for all children and senior citizens within the term of its office, as set out in the programme for Government and the future health strategy. It was decided to commence this by providing all children under six with access to a GP service without fees and this will be achieved at the same time as the universal service for everyone over 70.

It is fair to say very few Deputies questioned the principle of universal primary care but some questioned its phasing. Let me explain it once again. The original intention was to start with those on the long-term illness scheme. However, that scheme is not underpinned by primary legislation, dates from a circular from the 1970s and includes all sorts of unfair provisions. It includes some illnesses but not others. Diabetes, for example, is considered to be a long-term illness while motor neuron disease and asthma are not. There are serious defects in the scheme that will have to be addressed in due course. An expert group was appointed to list illnesses or diseases in order, that is, from those which should be counted first and be provided with coverage to those that would be covered later. The group found it would be unjust, unethical and impractical to create a hierarchy of diseases and a list of illnesses in order, stating one was more severe than the next. We chose the under-sixes and over-70s simply because they are the youngest and oldest in society and the ones who need to see their GP most often. It is, of course, not an end in itself. It is just the first two steps in the phased introduction of a universal service in Ireland for all children and senior citizens. This is being achieved in parallel with an extension in coverage for chronic disease, starting with asthma among children and diabetes among adults.

People ask what happens to the six or seven year old with a chronic disease or very high medical expenses. It is important to point out that 40% of people, or 1.7 million, have a medical card based on low income. The rules are not changing and nobody will have his or her medical card taken away. In addition, there is the discretionary medical card system, which provides discretionary medical cards or discretionary doctor visit cards to people who are over the income limit but who have high medical expenses or a high burden of disease. The number of people with full discretionary medical cards is now 82,000 and the number with the discretionary doctor visit card is over 100,000. That is a very significant increase on last year. We are doing these things in parallel.

The system is not perfect, however. Some people are big fans of means tests but I am not.

We do not means test for education or for free travel for the elderly. The problem with the means test is that there is always somebody who is €5 or €10 above the threshold. If one increases the threshold by €5 or €10, there will be yet another person just above it. There is a similar problem with sickness tests. Nobody has been able to come up with a test that is perfectly fair to decide what level of sickness should qualify one for a benefit and what level should not. There are horrible circumstances where people are told to return time and again with more doctors' and consultants' letters to prove they are sick, and then they are told to come back when they are sicker. That is really not a nice system. Therefore, this Bill represents a significant policy departure in health care away from sickness tests and means tests towards universal health care and universality. I am very proud to be a member of a Government that is doing that.

With the passage of this Bill, 36,000 people above the age of 70 who currently have to pay to attend their GP will no longer have to worry about the cost. Medical evidence suggests there is a significantly greater incidence of multiple chronic conditions among people over 70. That is why they will benefit particularly from this measure. Some have pointed out that these tend to be the better-off pensioners. This is true but we should ask ourselves why these 36,000 pensioners are better off. Very simply, they are the ones who probably worked and paid income tax and PRSI all their lives and set aside a small amount of money to pay into an occupational pension. In return for that, however, we do not give them access to their GP but punish them for having worked for 40 years, paid their taxes and paid into an occupational pension fund. Now we are going to change that. That is actually a good step forward.

As announced two weeks ago, an agreement has been reached involving the Department of Health, the HSE and the IMO on the terms for the delivery of free GP care for all children under six. The service will commence during the summer and it will provide GP care without fees to just over 250,000 children. It will benefit not only the 250,000 children but also children under six who already have a medical card or a doctor visit card because they will benefit from the enhanced service. That enhanced service involves the management of asthma in the practice, with an annual asthma check to make sure the asthma is being treated well and that the patient knows how to use his or her inhaler and is on the right medicines. At the ages of two and five, there will be a wellness check, focusing particularly on conditions such as obesity to pick it up early and to try to deal with it. Also included will be issues such as parents smoking in the home. There will be an opportunity there and then to intervene to deal with that. It may help us to pick up some cases of neglect because if a child of that age is not going to the GP once a year, one wonders why. That children will be called to see their GP will be important.

The estimated full-year cost of the universal under-six service, including the wellness checks and arrangements for the management of asthma, will be approximately €67 million per year. The service is based on the choice-of-doctor principle and the next step is to issue the contract to GPs so they can decide whether they want to sign it. The contract will be issued in the next few weeks. The service should be ready to commence in early July. It will be preceded by a public information campaign. Provided GPs sign up online, it will be very simple because parents will be able to go online and register their child for the service. All they will need will be their child's name, date of birth and PPS number. It will be much easier than booking a flight.

Deputy Ó Caoláin asked about the cost of the service. It was originally estimated that it would cost €37 million in a full year but that was based on the existing type of service and existing fee rates. However, the fee rates are being increased because it is an enhanced service. This is a universal service. There will be no lesser service running in parallel for children from medical card families. There will be no means tests, no sickness tests, no paperwork, no pay-

slips and no letters from doctors or consultants.

Having considered the outcome of the discussions with the IMO, I have determined that an annual capitation rate of €125 per patient under six shall apply, with enhanced capitation rates in respect of children covered by the asthma cycle of care. The new enhanced service will cost an additional €67 million in a full year, which is €30 million over and above that previously set aside.

A question was asked about the number of over-70s who will benefit. The correct figure is 36,000. The previously used figure of 10,000 was based on an estimate of population figures available at the time but we have confirmed the correct figure is 36,000.

Deputy Naughten asked about dependants of those over 70. The reference to “dependants” in the Bill is a continuation of the existing position whereby dependants of persons over 70 can get a GP visit card also. The criteria for a dependant, as applied by the HSE when assessing couples for a medical card or GP visit card, refer to the spouse, partner or children if they are under the age of 23 and dependent on the parent, if that parent is over 70. That is just to ensure dependants of people under 70 can still qualify for a doctor visit card under certain circumstances.

I thank Deputies for their contributions on the proposed legislation and I commend the Bill to the House.

Question put and agreed to.

Health (General Practitioner Service) Bill 2015: Referral to Select Committee

Minister for Health (Deputy Leo Varadkar): I move:

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

Question put and agreed to.

Legal Services Regulation Bill 2011: Report Stage (Resumed) and Final Stage

Debate resumed on amendment No. 49a:

In page 35, to delete lines 25 and 26 and substitute the following:

“**35.** (1) Subject to *subsection (2)* a legal practitioner shall be entitled to hold client moneys of clients and no professional code shall operate to prevent a legal practitioner from holding moneys of clients.”.

- (Deputy Catherine Murphy)

Acting Chairman (Deputy Alan Farrell): I believe the Minister has-----

Minister for Justice and Equality (Deputy Frances Fitzgerald): I have no further comments. I understand the discussion on this amendment has concluded.

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Deputy Pádraig Mac Lochlainn: No. I was cut off the by Leas-Cheann Comhairle and he agreed I could make further comments. I was speaking about multidisciplinary practices.

Acting Chairman (Deputy Alan Farrell): I do not have a note on it.

Deputy Pádraig Mac Lochlainn: I do not have much more to say and I can guarantee we will not be here for much longer. Earlier when the Minister of State, Deputy Dara Murphy, was in the Chamber, I stated I was disappointed that the idea of multidisciplinary practices, which emerging international best practice tells us is not the way to go, was not being scrapped. It was the previous Minister's brainchild and there is no demand for multidisciplinary practices coming from the Irish people. I do not know of any Deputy who has been lobbied that what we need in the area of justice is multidisciplinary practices, where we have the best and brightest accountants, solicitors and barristers in the one building and where those with the most money can access them. The current system works with regard to access. Free Legal Advice Centres, FLAC, has pointed out its concerns that citizens will not be able to access through their solicitors the array of barrister expertise that they now can.

The Minister has put before us six months of research and consultation and she will have the latitude to make a call. I ask her to scrap this and give up Deputy Alan Shatter's brainchild. She is a new Minister with a fresh set of ideas and I ask her to abandon these multidisciplinary practices and maintain the system we have. People are demanding many other reforms, such as a real reduction in the cost of accessing justice and legal practitioners, and the mediation Bill, which is long overdue. This idea of multidisciplinary practices should be scrapped. There is no need or demand for them. They have proven not to be in the best interests of citizens internationally. Very few good case studies argue for them. I ask the Minister to please scrap these multidisciplinary practices and let us not have a year of wasted time.

Deputy Frances Fitzgerald: My colleague adequately went over the ground in terms of the approach we are taking. Clearly the independent referral bar remains. I outlined very clearly how I believe the interests and rights of consumers are being protected. I have also taken a view on multidisciplinary partnerships and the need for research and further understanding of the impact on the market and a referral back to the Minister of the day, which is a very reasonable approach. We have seen the roll-out in England of multidisciplinary practices over a number of years and they have taken time to be established. I will also move ahead on the other partnerships which have been discussed. What is in the Bill is a very reasonable approach. It is the right approach to the development of legal services. We will have a strong independent legal authority, which bodes well for the profession and consumers. This needs to be firmly established and bedded down and the parallel roll-out of legal partnerships will be an initial structural reform. The approach I am taking will allow this to happen while also paving the way for what I believe will be better regulation of multidisciplinary practices as they emerge, if they emerge in the long-term.

Amendment, by leave, withdrawn.

Amendment No. 49*b* not moved.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 49*c* and 49*d* are related and will be discussed together.

Deputy Catherine Murphy: I move amendment No. 49*c*:

In page 37, line 39, to delete “Bar Council” and substitute “Authority”.

I have tabled these amendments because I believe it is clear that the Bar Council is not the competent authority to supervise professional indemnity insurance. It is not the exclusive regulator of barristers, as the Law Society is for solicitors. One can make a distinction, and there is quite an amount of case law about the Law Society. It is a supplier of insurance services and has no statutory basis for regulating insurance. This is in contrast to the Law Society. This is more properly the responsibility of the authority itself. I hope the Minister will agree that the function should be reserved to the authority, and the amendments seek to achieve this.

Deputy Frances Fitzgerald: I thank Deputy Murphy for these amendments, which helpfully point to the fact that the professional indemnity insurance provisions in section 37 very much remain a work in progress. While the initial approach to professional indemnity insurance under the Bill was to replicate the relevant provisions of the Solicitors Act and apply them across the board to all legal practitioners, be they barristers or solicitors, this has been given subsequent consideration, including in terms of imposing any liabilities on the new authority or on the public purse. The outcome of this consideration is that it is now intended to leave the administration of professional indemnity insurance with the Law Society and the Bar Council in respect of their members who continue to require professional indemnity insurance cover to be practising lawyers. The new legal services regulatory authority will assume the role previously exercised by the Government with regard to solicitors, whereby it will set the minimum level of professional indemnity insurance required for a lawyer to practice. At present, under the relevant statutory instrument, this stands at €1.5 million minimum cover for solicitors. Practising barristers are also required to have professional indemnity insurance cover from the Bar Council. This leaves those barristers who are not members of the Law Library, who will be regulated by the new authority under the Bill, to be subject to minimum level of professional indemnity insurance for good governance and the protection of their clients. I can confirm that the new regulatory authority will promptly regulate for this group of barristers with regard to taking out professional indemnity insurance and the minimum level that will be required. I oppose the amendments on this basis.

Amendment, by leave, withdrawn.

Amendments Nos. 49*d*, 49*e* and 49*f* not moved.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 50 to 52, inclusive, and amendments Nos. 54 to 59, inclusive, are related and will be discussed together.

Deputy Niall Collins: I move amendment No. 50:

In page 45, between lines 7 and 8, to insert the following:

“(i) the act or omission, in the case of a legal practitioner who is a legal executive, is likely to bring the legal executives’ profession into disrepute.”.

This group of amendments relates to the legal executives who work in the provision of legal services. They have lobbied me and, I am sure, other Deputies and they have met the Minister. They are an integral part of the provision of legal services. They are significant in number and are organised, with their own representative umbrella group. As the Minister appreciates, they seek a degree of formal recognition through the legislation.

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This series of amendments seeks to effect recognition for legal services executives.

Deputy Frances Fitzgerald: The combination of amendments proposed by Deputy Collins seeks to bring legal executives directly within the conduct, disciplinary and financial levy provisions of the Bill as a formally recognised and regulated profession. Amendment No. 50 does so in regard to the new complaints regime, while amendments Nos. 51 and 52 relate to striking-off referrals made through the High Court. Amendments Nos. 54 to 58 relate to the calculation of the levy, which will fund the new regulatory regime as it might be applied to legal executives. I have recently met the Irish Institute of Legal Executives and was impressed with the work so many of its members were doing and the case they made. While I am aware of the ongoing initiative of the Irish Institute of Legal Executives to achieve legislative recognition under the Legal Services Regulation Bill, and I have met it to discuss the detail of its proposals and concerns, the body's inclusion in the new regulatory regime is not, for reasons I will set out, something that I consider can be achieved by simple additions to the Legal Services Regulation Bill at this time. However, I am conscious that there are potential benefits and efficiencies to be found for consumers and for the legal services sector in a possibly more developed role for legal executives alongside other legitimate providers of legal services in the future. The time is not yet right to do this and the addition of an array of additional legal service providers would unduly encumber the timely enactment of the Bill. Having said that, the regulation of legal executives and other potentially more competitive providers of legal services is something I would consider appropriate for consideration by the new Legal Services Regulatory Authority at the appropriate time. Once the new regulatory authority has been bedded down with the initial buy-in and involvement of solicitors and barristers, and with the growing confidence of the public in the new regulatory authority, the wider circle of legal services providers can be taken into consideration.

The approach being taken in this regard under the Bill is to look at individual areas of law-related expertise, such as conveyancing, and to consider how best they might be given formal professional recognition, as recommended by the Competition Authority in 2006. This is different from the approach of allowing one particular legal functionary assume multiple functions through the statutory conferment of such a type of role. For example, under section 32 the Bill already provides for public consultations on the establishment of a profession of conveyancer. This will meet one area of long-standing concern to the Institute of Legal Executives, whose submissions will be welcomed in that regard. It will, also under section 32 of the Bill as it stands, be open to the new authority to hold public consultations to consider other aspects of legal service provision and to make recommendations on legislative changes that may arise.

The expansion of the regulatory remit of the Bill would be a substantial departure from its current scope and, if it were to be agreed as policy, would require extensive and detailed work while also incurring additional regulatory burdens and costs. There are also several other providers of legal services who are likely to need consideration in any expanded regulatory setting, such as notaries public, legal costs accountants, licensed conveyancers, patent attorneys, trademark attorneys and probate specialists.

I appreciate that the spirit in which the Deputy tabled the amendment. I am sympathetic to the concerns of the Irish Institute of Legal Executives that its members should be able to achieve professional recognition as a contribution to greater competition and choice in the provision of legal services. This is something that could dovetail with the regulatory framework of the Bill when it has been enacted and its regulatory and legal costs regimes have been established at an operational level. While my immediate objective must be to bring the Bill to enactment in its

current form so that the core structural reforms, which the Deputy appreciates must be done, can be spearheaded by the new authority, the status of legal executives and of other legal service providers is appropriate for future consideration. However, it would be premature to do this immediately, for the reasons outlined, and I ask the Deputy to withdraw amendments Nos. 50 to 52, inclusive, and amendments Nos. 54 to 59, inclusive. I am impressed with the work being done and I see the registry authority as having a role in the future with regard to this group and the wider group of legal service providers. At this point, however, the focus must be on the establishment of the registry authority.

Deputy Niall Collins: I understand what the Minister is saying. I am happy to withdraw the amendment on the basis that it is the intention of the Minister to deal with it after enactment and to charge the new authority with that work.

Amendment, by leave, withdrawn.

Amendments Nos. 50*a* to 52, inclusive, not moved.

Acting Chairman (Deputy Alan Farrell): Amendment No. 53 is out of order.

Deputy Pádraig Mac Lochlainn: Amendment No. 53 has been ruled out of order but amendment No. 53*a* is almost identical. The cost to the Exchequer is almost identical.

Acting Chairman (Deputy Alan Farrell): The decision has been taken.

Deputy Pádraig Mac Lochlainn: Am I not entitled to raise the case where one amendment is ruled out of order and an identical one, submitted afterwards, is accepted? The Acting Chairman can have a look for himself.

Acting Chairman (Deputy Alan Farrell): I appreciate the comments but the amendment has been ruled out of order.

Deputy Pádraig Mac Lochlainn: Whoever checks these things has made a clerical error, because Amendments Nos. 53 and 53*a* are identical. I want someone in the Bills Office to issue me with clarification on why one was ruled out of order and the other was accepted for tabling. I am pleased that the amendment proposed by Deputy Catherine Murphy has been accepted, but mine should also have been accepted.

Acting Chairman (Deputy Alan Farrell): I will ask for the Bills Office to have the information brought to the attention of the Deputy.

Amendment No. 53 not moved.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 53*a*, 56*a*, 59*a*, 59*b* and 60 are related and may be discussed together by agreement.

Deputy Catherine Murphy: I move amendment No. 53*a*:

In page 66, to delete lines 4 to 37, to delete pages 67 and 68 and in page 69, to delete lines 1 to 36 and substitute the following:

“Levy to be paid by Law Society, Bar Council

79. (1) Subject to *section 81*, the following shall, in accordance with this Part, pay to

the Authority in each financial year a levy in the amount determined in accordance with this section:

(a) the Law Society;

(b) the Bar Council.

(2) At the end of each financial year, the Authority shall, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of this section—

(a) the operating costs and administrative expenses that are properly incurred in that financial year by the Authority in the performance of its functions under this Act (in this section referred to as “approved expenses of the Authority”), and

(b) the operating costs and administrative expenses incurred in that financial year by the Disciplinary Tribunal in the performance of its functions under this Act (in this section referred to as “expenses of the Disciplinary Tribunal”).

(3) The approved expenses of the Authority include—

(a) the remuneration (including allowances for expenses) of the members of the Authority,

(b) the remuneration (including allowances for expenses and superannuation benefits) of inspectors and members of the staff of the Authority,

(c) any superannuation contributions paid in respect of the members of the staff of the Authority out of moneys provided by the Oireachtas,

(d) fees due to consultants and advisers appointed under *section 16*,

(e) the cost of office premises, and

(f) any costs or expenses, not referred to in *paragraphs (a) to (e)*, incurred by the Authority in the performance of its functions under *Part 5*.

(4) The Authority shall determine—

(a) the proportion of the approved expenses of the Authority that was incurred by the Authority in the performance of its functions—

(i) under *Part 5*, and

(ii) under this Act, other than *Part 5*,

and

(b) in relation to the approved expenses of the Authority referred to in *paragraph (a)(i)*, the proportion of those expenses that was incurred by the Authority in the consideration and investigation of—

(i) complaints in respect of solicitors, and

(ii) complaints in respect of barristers.

(5) The Authority, in consultation with the Disciplinary Tribunal, shall determine, in relation to the expenses of the Disciplinary Tribunal, the proportion of those expenses that was incurred by the Tribunal in the consideration of applications brought before it that concerned—

- (a) complaints in respect of solicitors, and
- (b) complaints in respect of barristers.

(6) The amount of the levy payable in each financial year shall be the sum of—

- (a) the approved expenses of the Authority, and
- (b) the expenses of the Disciplinary Tribunal, in respect of the preceding financial year.

(7) The liability for payment of the amount referred to in *subsection (6)* shall be apportioned as follows:

(a) in the case of the proportion of the approved expenses of the Authority referred to in *subsection (4)(a)(i)*—

- (i) 10 per cent of that amount shall be apportioned to the Bar Council,
- (ii) 10 per cent of that amount shall be apportioned to the Law Society, and
- (iii) the remaining 80 per cent of that amount shall be apportioned *pro rata* among the Law Society and the Bar Council according to the proportion, calculated under *subsection (4)(b)*, of those expenses that was incurred by the Authority in the consideration and investigation of—

- (I) complaints in respect of solicitors, and
- (II) complaints in respect of barristers;

(b) the proportion of approved expenses referred to in *subsection (4)(a)(ii)* shall be apportioned *pro rata* among the Law Society and the Bar Council respectively, according to the number of solicitors on the roll of solicitors, the number of barristers on the roll of practising barristers;

(c) in the case of the expenses of the Disciplinary Tribunal—

- (i) 10 per cent of that amount shall be apportioned to the Bar Council,
- (ii) 10 per cent of that amount shall be apportioned to the Law Society, and
- (iii) the remaining 80 per cent of that amount shall be apportioned *pro rata* among the Law Society and the Bar Council according to the proportion, calculated under *subsection (5)*, of those expenses that was incurred in the consideration of applications brought before the Tribunal that concerned—

- (I) complaints in respect of solicitors, and
- (II) complaints in respect of barristers.

(8) The Authority shall calculate, in accordance with *subsection (7)*, the proportion of the amount referred to in *subsection (6)* that is payable by—

(a) the Law Society, and

(b) the Bar Council.

(9) As soon as practicable after the beginning of each financial year, the Authority shall provide a notice (in this Act referred to as a “levy assessment notice”) to each of the bodies or persons referred to in *subsection (1)*.

(10) A levy assessment notice shall specify—

(a) the approved expenses of the Authority in respect of the preceding financial year,

(b) the proportion of the approved expenses referred to in *subparagraphs (i)* and *(ii)* of *subsection (4)(a)*,

(c) the proportion, calculated under *subsection (4)(b)*, of the expenses referred to in *subsection (4)(a)(i)* that was incurred in the consideration and investigation of—

(i) complaints in respect of solicitors, and

(ii) complaints in respect of barristers,

(d) the expenses of the Disciplinary Tribunal in respect of the preceding financial year,

(e) the proportion, calculated under *subsection (5)*, of the expenses of the Disciplinary Tribunal that was incurred in the consideration of applications brought before it concerning—

(i) complaints in respect of solicitors, and

(ii) complaints in respect of barristers,

(f) the amount of levy payable by the professional body or person concerned, calculated in accordance with *subsection (7)* and, where applicable, *subsection (8)(b)*,

(g) the date by which the levy becomes payable, and

(h) the rate of interest payable if all or part of the amount specified under *paragraph (f)* is not paid by the date referred to in *paragraph (g)*.

(11) The levy received under *subsection (1)* shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.

(12) For the purposes of this section—

(a) reference to the number of barristers whose names are on the roll of practising barristers shall be construed as a reference to the number of barristers whose names are on that roll during the financial year to which the expenses concerned relate, less

the number of such barristers to whom *section 81* applies, and

(b) a reference to the number of solicitors on the roll of solicitors is a reference to the number of solicitors on that roll in the financial year to which the expenses concerned relate, less the number of such solicitors to whom *section 81* applies.

(13) In this Part “superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.”

I have found myself in the same position as Deputy Pádraig Mac Lochlainn on a number of occasions so, when this happens, it is important that we understand why.

The section deals with the proposed levy on the profession to pay some of the authority’s expenses. I am referring to amendments Nos. 53*a* and 59*b*. The Bill as worded discriminates heavily between barristers who are members of the Law Library and those who are not. Since the Law Library merely provides commercial services to barristers, the discrimination is not reasonable, and it is unfair. Effectively, it forces barristers who wish to be represented by the Bar Council to purchase services from it. It may be an abuse of a dominant position. In effect, the Bar Council funds its representative and regulatory activities through revenues generated by selling the services offered by the Law Library. Those who are not members of the Law Library often struggle to pay membership fees and are faced with a choice between being disbarred and paying high fees to access services they may not need. There is much talk about barristers and large fees, and we know some high-profile people who can command such fees. Similarly, a large number of barristers will struggle to make ends meet. There is much criticism of big business and small business and we must make sure we do not exclude people who may come to the fore later. They may well be happy to practise at a lower level. The Oireachtas should not enact laws that consolidate monopolies and illegal behaviour or force barristers to purchase certain services in order to gain representation from a certain professional body, which may not be one they require or need to be connected to.

Deputy Frances Fitzgerald: I will first turn to amendment No. 53*a*, as proposed by Deputy Murphy. This Bill does not discriminate against any type of barrister but recognises them all, including for levy purposes. I think the amendment is based on a misunderstanding of that. This amendment totally replaces section 79 of the Bill with a new text. From what I can see, the main thrust of the proposed replacement of the section is to disapply the levy being imposed to fund the new regulatory regime from non-Law Library barristers. While this could be a workable approach to take where all barristers, regardless of the business model through which they operate, would also be members of the Law Library, the reality could turn out to be different. Consequently, the approach we must take under the Bill for current purposes is to have the regulatory capacity to encapsulate a variety of models of legal practice. I am not, therefore, in a position to agree to the total replacement of section 79 in the manner proposed under amendment No. 53*a*.

Government amendment No. 56*a* has been well flagged on Committee Stage. It is being tabled to set right an error in section 79(7), which is in Part 7 of the Bill and which provides, *inter alia*, for the imposition of a levy on solicitors and barristers. The policy intention is that those who intend to practise as solicitors and barristers in the State and will be regulated under the new legal services regulatory authority will be subject to a levy which will cover the cost of that regulatory regime. Clearly, only those solicitors or barristers who are actually practising the law should have to pay the levy. However, it has been drawn to my attention that section

79(7) currently provides that any solicitor whose name is on the “roll of solicitors”, whether practising or not, would be subject to the levy. That is corrected by this amendment.

Amendment No. 59a is a further clarification that “practising solicitors” are those solicitors who hold a “practising certificate” in the financial year to which the expenses that are to be recouped under the levy relate. These are non-controversial amendments. They clarify an error in the earlier version of the Bill.

Under amendment No. 59b, it is proposed by Deputy Collins that the provisions found in section 80 of the Bill enabling the new regulatory authority to recover outstanding levy payments from non-Law Library barristers be deleted. Again, while I can see this is intended to remove reference to this discrete category of barrister from the Bill, it would, for reasons I have just outlined in relation to the earlier amendment, defeat the working approach of the Bill were we to omit non-Law Library barristers from the enforcement of the levy. This is about making sure that everybody has to pay that levy.

Regarding amendment No. 60, as Members will recall, Part 7 of the Bill deals with the raising of a regulatory levy on the legal professions in support of the operation of the new legal services and legal costs regulatory regimes. It provides that the Law Society will be responsible for paying to the authority the levy amount on behalf of all practising solicitors; the Bar Council will be responsible for paying the levy on behalf of its members who practise in the Law Library; and those barristers who are not members of the Law Library will be individually responsible for paying the levy directly to the authority. Section 80 of the Bill provides for the recoverability of the regulatory levy from the different categories of legal practitioner concerned. Amendment No. 60 proposes the relevant recoverability provision found in subsection 5 of section 80 in relation to the Bar Council should be deleted. However, because of the possibility that in the future non-Law Library barristers will not be taken under the wing of the Bar Council, it has been necessary in the Bill to distinguish for levy purposes between that category of practising barrister and those who do not fall within the Bar Council’s preferred membership. It remains essential, therefore, to differentiate in the recovery provisions of the Bill relating to the levy between Law Library and non-Law Library barristers and I cannot, therefore, accept the deletion of that subsection. I ask that the amendment be withdrawn.

I confirm that other concerns have been raised with me regarding the modalities of application of the levy on the legal professions in the Bill. I am giving those matters ongoing consideration and, if necessary, will introduce amendments relating to that at a future date.

Deputy Catherine Murphy: I am in favour of the different models and I think we are at one on that. I will withdraw the amendments I tabled.

Deputy Pádraig Mac Lochlainn: Just to clarify, I had submitted this amendment and others at earlier Stages of the Bill regarding the allocation of fees to the Bar Council and the Law Society. This amendment emanated from the Bar Council. Its concern was that the levies applied would reflect the number of cases. If many complaints are made against solicitors, the Law Society would deal with that *pro rata* and then the Bar Council would deal with whatever percentage applied to barristers after a certain point. That is the intent of the amendment. If the Minister is not accepting these amendments, will she bring in a system at a later stage that lays out clearly and fairly what each representative body should pay? If 80% of complaints relate to solicitors and 20% relate to barristers, after a certain point, it should apply *pro rata* to those two organisations. While some barristers are making a lot of money, many are genuinely

struggling, and one would not want the fee to be disproportionate to the number of complaints made against barristers or to cause barristers, particularly young barristers, to struggle. That is the point of those amendments.

Deputy Frances Fitzgerald: I do not think Deputy Mac Lochlainn has tabled a particular amendment at this point.

Deputy Pádraig Mac Lochlainn: I am speaking about amendment No. 53*a*.

Deputy Frances Fitzgerald: On Committee Stage, the Bill was amended to provide in detail for a fair and equitable calculation and payment of a levy on legal practitioners in order to fund the operational expenses of both the legal services regulatory authority and the legal practitioners disciplinary tribunal. The new levy provisions reflect a broadening of the traditional model of the provision of legal services by the inclusion of three categories of practising legal practitioners. The Law Society will be responsible for paying to the authority the levy amount on behalf of solicitors, as I have said, and the Bar Council will be responsible for paying the levy on behalf of its members. Those barristers who are not members of the Law Library will be individually responsible for paying the levy directly to the authority. These expenses shall be divided equitably between the three categories of legal practitioners, with some stated exceptions. I need not go over the calculation ratio that has been arrived at, as I think it has been accepted. The expenses incurred by the authority in fulfilling its non-compliance related functions will be apportioned *pro rata* between the three groups. I believe the authority will have sufficient power to compel payment of the levy by the relevant persons within a reasonable three month framework. Failure to pay the levy may result in an individual legal practitioner being prevented from providing legal services or may result in the authority suing the Law Society or the Bar Council until payment is made. The initial set-up costs for the new bodies will be paid by the Exchequer on a recoupable basis, via the levy, and €500,000 has been set aside for that purpose under the justice Vote for this year.

Amendment, by leave, withdrawn.

Amendments Nos. 54 to 56, inclusive, not moved.

Deputy Frances Fitzgerald: I move amendment No. 56*a*:

In page 68, line 1, to delete “of solicitors on the roll of solicitors” and substitute “of practising solicitors”.

Amendment agreed to.

Amendments Nos. 57 to 59, inclusive, not moved.

Deputy Frances Fitzgerald: I move amendment No. 59*a*:

In page 69, to delete lines 26 to 28 and substitute the following:

“(b) a reference to the number of practising solicitors is a reference to the number of solicitors holding a practising certificate in the financial year to which the expenses concerned relate, less the number of such solicitors to whom *section 81* applies.”.

Amendment agreed to.

4 o'clock

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Amendments Nos. 59*b* to 61, inclusive, not moved. **Deputy Frances Fitzgerald:** I move amendment No. 61*a*:

In page 71, to delete lines 16 to 19 and substitute the following:

“ “contentious matter” means a matter that arises in, and that relates to the subject matter of, proceedings before any court, tribunal or other body or person before which the respective legal rights and obligations of two or more parties are determined, to which the person instructing the barrister concerned is a party;”.

Amendment agreed to.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 61*b*, 66*a*, 66*b*, 68*a* to 68*c*, inclusive, 69*a*, 74*a*, 76*a* and 76*b* will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 61*b*:

In page 71, line 24, to delete “persons” and substitute “individuals”.

This group of amendments tightens up the governance of the new legal practice models, namely, legal partnerships and multidisciplinary practices. This will be subject to public consultation under the amendment taken earlier today in this area. Amendment No. 61*b* precludes corporate participation or investment in multidisciplinary practices, and although some believe it should be included now, it might be allowed at some later stage under the new authority. Amendments Nos. 66*a*, 66*b* and 74*a* strengthen the regulation of legal partnerships, for example, regarding professional indemnity insurance notification of commencement or cessation while protecting the solicitors’ compensation fund. Amendments Nos. 68*a* and 68*b* are drafting adjustments, while amendment No. 68*c* sets out a list of those who cannot be partners in a multidisciplinary practice. Amendment No. 69*a* ensures that a managing legal partner in a multidisciplinary practice is not just an employee but a partner, and amendment No. 76*a* sets out the policies and principles for the making of regulations on multidisciplinary practices and legal partnerships. Amendment No. 76*b* allows the new regulatory authority to maintain a public register of the new multidisciplinary practices and legal partnerships, which is very important. I commend these enhanced governance amendments to the House.

Amendment agreed to.

Amendments Nos. 62 to 66, inclusive, not moved.

Deputy Frances Fitzgerald: I move amendment No. 66*a*:

In page 71, after line 35, to insert the following:

“Notification of Authority of commencement, cessation of provision of legal services by a legal partnership

87. (1) A legal partnership that intends to provide legal services—

- (a) shall notify the Authority, in accordance with *subsection (3)*, of that fact, and
- (b) shall not provide such services until it has complied with *paragraph (a)*.

(2) A legal partnership that ceases providing legal services shall—

(a) notify the Authority in accordance with *subsection (3)* of that fact, and

(b) having complied with *paragraph (a)*, shall not provide legal services without providing the Authority with a further notification under *subsection (1)*.

(3) A notification under *subsection (1)* or (2) shall be in writing and in such form as may be prescribed.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 66*b*:

In page 71, after line 35, to insert the following:

“Legal partnership to have professional indemnity insurance

88. (1) A legal partnership shall not provide legal services unless there is in force, at the time of the provision of such services, a policy of professional indemnity insurance which adequately covers the legal partnership in the provision of those legal services.

(2) This section is without prejudice to any obligation of a legal partnership under *section 37* or any regulations made under it.

(3) For the purpose of *subsection (1)*, a policy of professional indemnity insurance referred to in that subsection shall not adequately cover a legal partnership in the provision of legal services unless it complies with *section 37* and any applicable regulations made under it.

(4) In this section, “professional indemnity insurance” means a policy of indemnity insurance against losses arising from claims in respect of any description of civil liability incurred—

(a) by a legal partnership arising from the provision of legal services, or

(b) by a partner, employee or agent or former partner, employee or agent of the legal partnership arising from such provision.”.

Amendment agreed to.

Amendments Nos. 67 and 68 not moved.

Deputy Frances Fitzgerald: I move amendment No. 68*a*:

In page 72, line 24, to delete “The following” and substitute “Subject to *subsection (5)*, the following”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 68*b*:

In page 72, line 35, to delete “solicitors.” and substitute “solicitors;”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 68*c*:

In page 72, between lines 35 and 36, to insert the following:

“(d) a person who is an unqualified person;

(e) a person who, having been a qualified barrister, is disbarred (other than a person who has procured himself to be disbarred with a view to being admitted as a solicitor);

(f) a person who, being a solicitor in another jurisdiction, is not a solicitor qualified to practice in that jurisdiction by reason of a sanction equivalent to a sanction specified in *subsection (7)* having been imposed on him or her in accordance with the law of that jurisdiction;

(g) a person who, having been a barrister in another jurisdiction, has been disbarred in accordance with the law of that jurisdiction;

(h) a person who has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act;

(i) a person who is convicted on indictment of an offence;

(j) a person who is convicted of an offence involving fraud or dishonesty or breach of trust;

(k) a person who is convicted of an offence involving money laundering or terrorist financing (both within the meaning of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010);

(l) a person who is an undischarged bankrupt;

(m) a person who is insolvent and has entered into a Debt Settlement Arrangement or a Personal Insolvency Arrangement (both within the meaning of section 2 of the Personal Insolvency Act 2012) with his or her creditors;

(n) a person who is convicted outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment;

(o) a person who is disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking.

(5) The High Court may, on application to it by a person to whom *subsection (4)* (other than *paragraphs (a) to (c)* of that subsection) applies, grant the person an order permitting him or her to be a partner in a multi-disciplinary practice where it is of the opinion that it is reasonable and proportionate to do so, having regard to the circumstances of the person, including the circumstances that gave rise to *subsection (4)* applying to him or her.

(6) Nothing in this section shall be construed as permitting investment in a multidisciplinary practice by a person other than an individual.

(7) In this section, “unqualified person” means a solicitor who is not a solicitor qualified

to practise, within the meaning of the Solicitor's Act 1954, by reason of—

- (a) his or her name having been struck off the roll of solicitors,
- (b) his or her suspension from practice,
- (c) his or her having had the issue to him or her of a practising certificate refused under section 49 of that Act,
- (d) his or her having his or her practising certificate suspended under section 58 of the Solicitors (Amendment) Act 1994, or
- (e) his or her having given to the High Court an undertaking not to practise as a solicitor.”.

Amendment agreed to.

Amendment No. 69 not moved.

Deputy Frances Fitzgerald: I move amendment No. 69*a*:

In pages 72, line 38 and in page 73, line 1, to delete “or an employee of”.

Amendment agreed to.

Amendments Nos. 70 to 74, inclusive, not moved.

Deputy Frances Fitzgerald: I move amendment No. 74*a*:

In page 75, line 30, after “of” where it secondly occurs to insert “a legal partnership or, as the case may be,”

Amendment agreed to.

Amendments Nos. 75 and 76 not moved.

Deputy Frances Fitzgerald: I move amendment No. 76*a*:

In page 77, between lines 30 and 31, to insert the following:

“Regulations on operation of legal partnerships and multi-disciplinary practices

97. (1) Subject to this section, the Authority may make regulations in relation to the operation and management of—

- (a) legal partnerships, and
 - (b) multi-disciplinary practices.
- (2) The Authority shall—
- (a) upon the commencement of *section 84* or as soon as practicable thereafter, make regulations under *subsection (1)(a)*, and
 - (b) upon the commencement of *section 86* or as soon as practicable thereafter,

make regulations under *subsection (1)(b)*.

(3) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for—

(a) the standards to be observed in the provision by the practice of services to clients, including standards relating to:

(i) the professional and ethical conduct of persons providing legal services to clients;

(ii) the obligation of such persons to keep the affairs of clients confidential;

(iii) the provision of information to a client in relation to the duties owed by the practice to him or her,

(b) the rights, duties and responsibilities of a practice in respect of moneys received from clients,

(c) the management and control of the practice so as to ensure that:

(i) the standards referred to in *paragraph (a)* are at all times observed;

(ii) it has in place appropriate systems of control, including systems for risk management and financial control;

(iii) where, in the provision by it of services, a conflict of interest or potential conflict of interest arises, this is dealt with adequately and in accordance with any relevant code of conduct or professional codes;

(iv) its obligations under this Act and regulations made under it are complied with,

(d) the maintenance by the practice of records,

(e) the regulation of the names that may be used by a practice,

(f) the regulation of the advertising by the practice of its services.

(4) Without prejudice to the generality of *subsection (1)*, regulations under *subsection (1)(b)* may—

(a) specify procedures that are to be included in the written procedures referred to in *section 91(1)*, and

(b) provide for:

(i) the type or types of bank accounts that may be opened and kept by a multidisciplinary practice, and the opening and keeping of such accounts;

(ii) the accounting records to be maintained by a legal practitioner who is a partner in or an employee of a multi-disciplinary practice arising from the provision by him or her of legal services, including the minimum period or periods for which accounting records shall be retained by a legal practitioner during the period of, and

following the conclusion of, the provision of legal services;

(iii) the keeping by a legal practitioner referred to in *subparagraph (ii)* of accounting records containing particulars of and information as to moneys received, held, controlled or paid by him or her arising from the provision by him or her of legal services, for or on account of a client or any other person or himself.

(5) In making regulations under this Part, the Authority shall have regard to the objectives specified in *section 12(4)* and to the following:

(a) the need to ensure that the provision by a practice of legal services to its clients is of a standard that it is reasonable to expect of a legal practitioner in the provision of those services;

(b) the need to ensure that a practice is operated or managed in such a way as to ensure that a legal practitioner who is a partner of or an employee in that practice has, in the provision by him or her of legal services, adequate regard to—

(i) the codes of practice and professional codes that are applicable to him or her, and

(ii) the professional principles specified in *section 12(5)*;

(c) the need to ensure that the interests of clients of practices are protected and that the duties owed to them by practices are complied with and, in particular, that the activities of a practice do not expose the interests of a client to risk or pose a risk to monies received by it from a client;

(d) the need, in the case of a multi-disciplinary practice, to ensure that the provision by it of services other than legal services does not have the effect of lowering the standard referred to in *paragraph (a)* or the regard by legal practitioners referred to in *paragraph (b)* to the matters specified in that paragraph;

(e) the need to ensure that public confidence in practices is maintained.

(6) In *subsections (3) and (5)*, “practice” means a legal partnership or a multi-disciplinary practice.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 76b:

In page 77, to delete lines 31 to 40, and in page 78, to delete lines 1 to 13 and substitute the following:

“Authority to maintain register of legal partnerships and multi-disciplinary practices

98. (1) The Authority shall maintain a register of—

(a) legal partnerships that have notified it in accordance with *section 87(1)(a)*, and

(b) multi-disciplinary practices that have notified it in accordance with *section*

87(1)(a).

(2) Where a legal partnership or a multi-disciplinary practice referred to in *subsection (1)* notifies the Authority in accordance with *section 87(2)(a)* or *87(2)(a)*, as the case may be, the Authority shall remove the name of that legal partnership or multidisciplinary practice from the register referred to in that subsection.

(3) The Authority shall make the register referred to in *subsection (1)* available in an appropriate format to members of the public for inspection free of charge.”.

Amendment agreed to.

Amendment No. 77 not moved.

Deputy Frances Fitzgerald: I move amendment No. 77a:

In page 78, to delete lines 14 to 26 and substitute the following:

“Public consultation on operation etc., of legal partnerships

98. (1) The Authority—

(a) immediately following its establishment, shall, and

(b) periodically thereafter, may,

engage in a public consultation process in relation to the regulation, monitoring and operation of legal partnerships.

(2) The Authority shall conduct its initial consultation referred to in *subsection (1)(a)* and report to the Minister within a period of 6 months following its establishment.

(3) Following any consultation conducted under *subsection (1)*, and having regard to any submissions duly received, the Authority shall prepare a report to the Minister setting out any recommendations in relation to the matters specified in *subsection (1)*.

(4) The Minister shall cause copies of any such report to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.”.

Amendment agreed to.

Amendment No. 78 not moved.

Deputy Frances Fitzgerald: I move amendment No. 78a:

In page 78, between lines 26 and 27, to insert the following:

“Report on operation etc., of multi-disciplinary practices

99. (1) The Authority shall, no later than 6 months following the establishment day, make a report (“initial report”) to the Minister on the establishment, regulation, monitoring, operation and impact of multi-disciplinary practices in the State.

(2) The initial report shall include information on—

(a) the operation of similar practices in other jurisdictions, including the—

(i) length of time in which such practices have been operating,

(ii) legislative and regulatory measures relating to such practice that are in place in the jurisdictions concerned, and the effect of those measures, and

(iii) impact of the operation of the practices on the matters referred to in *paragraph (d)*,

(b) the likely consequences, including the changes to the operation of existing models of legal practice in the State, of the operation in the State of multidisciplinary practices,

(c) the likely impact of the operation of multi-disciplinary practices in the State on—

(i) legal costs,

(ii) the provision of legal services to consumers, and

(iii) the access of persons to legal practitioners,

and

(d) the likely effect of the operation of multi-disciplinary practices in the State on the achievement of the objectives specified in *section 12(4)*.

(3) The Authority shall engage in a public consultation process in relation to the matters specified in *subsection (1)* and, not later than 6 months after the making to the Minister of the initial report, make a report (“final report”) to the Minister on those matters.

(4) The final report shall—

(a) have regard to the information contained in the initial report, and to any submissions received in the course of the public consultation under *subsection (3)*, and

(b) set out the recommendations of the Authority in relation to the establishment, regulation, monitoring and operation of multi-disciplinary practices in the State.

(5) The Minister shall cause copies of the initial report and the final report to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.”

Amendment agreed to.

Acting Chairman (Deputy Derek Keating): Amendments Nos. 79 and 80 are out of order.

Amendments Nos. 79 and 80 not moved.

Deputy Frances Fitzgerald: I move amendment No. 80a:

In page 79, between lines 27 and 28, to insert the following:

“Review of operation of this Part

100. (1) The Authority shall—

(a) not later than 4 years after the commencement of *section 84*, and every 5 years thereafter, commence a review of the operation of this Part, insofar as it relates to legal partnerships, and

(b) not later than 1 year after the commencement of the review referred to in *paragraph (a)*, make a report to the Minister on its findings and conclusions resulting from that review.

(2) The Authority shall—

(a) not later than 2 years after the commencement of *section 86*, and every 5 years thereafter, commence a review of the operation of this Part, insofar as it relates to multi-disciplinary practices, and

(b) not later than 1 year after the commencement of the review referred to in *paragraph (a)*, make a report to the Minister on its findings and conclusions resulting from that review.

(3) A report under *subsection (1)(b)* or *(2)(b)* may include such recommendations (including recommendations for the amendment of any provision of this Part that is the subject of the review) as the Authority considers necessary.

(4) The Minister shall cause copies of any report under *subsection (1)(b)* or *(2)(b)* to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.”.

Amendment agreed to.

Deputy Catherine Murphy: I move amendment No. 80*b*:

In page 80, to delete line 6.

Question, “That the words proposed to be deleted stand,” put and declared carried.

Amendment declared lost.

Amendment Nos. 81, 81*a* and 82 not moved.

Acting Chairman (Deputy Derek Keating): Amendments Nos. 82*a*, 82*b*, 82*c*, 82*d* and 83 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 82*a*:

In page 87, to delete lines 11 to 19 and substitute the following:

“Review of scales of fees

110. The Superior Courts Rules Committee shall, whenever it considers it appropriate to do so and, in any case, not less than once every 2 years, review the scales of fees for contentious and non-contentious business set out in Appendix W to the Rules of the Superior Courts.”.

These amendments relate to keeping schedule fees for routine legal transactions up to date under Appendix W of the superior court rules. Amendment No. 82*c* clarifies the length of time of office of the legal costs adjudicators at five years, once renewable. Amendment No. 82*d* is an adjustment to reflect the rules of court and procedures relating to the Office of the Taxing Master.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*b*:

In page 88, between lines 37 and 38, to insert the following:

“(6) A Legal Costs Adjudicator shall provide such information on his or her activities as the Chief Legal Costs Adjudicator may, for the purpose of discharging his or her functions under *sections 111 and 112* and this section, require.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*c*:

In page 90, to delete lines 26 and 27 and substitute the following:

“(c) shall, subject to *paragraph (b)*, be eligible for re-appointment or to have the term of appointment extended, but shall not hold office for periods the aggregate of which exceeds 10 years.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*d*:

In page 99, line 7, after “direct,” to insert “including the manner in which notice is to be given,”.

Amendment agreed to.

Acting Chairman (Deputy Derek Keating): Amendments Nos. 82*e*, 82*f*, 82*g*, 82*h*, 82*i*, and 82*j* are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 82*e*:

In page 108, line 20, to delete “at the Bar”.

The purpose of amendments Nos. 82*e* and 82*f* is the straightforward matter of my concern that the phrase “at the Bar” might imply that a lawyer, in order to gain the title of senior counsel, must already be, or must at some time become, a member of the Law Library. Deputies will be aware that from the time of the inception of the Bill the Government’s intention has been to broaden the practice options available to qualified barristers alongside the traditional model of the Law Library. As a result, it is the intention of these amendments to make it clear, in the context of a solicitor or barrister gaining a patent of precedence - that is, the title of senior counsel - that the solicitor or barrister concerned will not necessarily have to be operating within the Bar Council or Law Library model.

Amendment No. 82*g* is a technical amendment to a cross-reference to facilitate amendment No. 82*j*. Amendment No. 82*h* represents the deletion of section 139(8) and is purely a tidying-

up exercise in drafting terms. As it stands, subsection (8) rather awkwardly provides that the committee charged with considering applications for the granting of the title of senior counsel shall not recommend the granting of that title to one of its own members. It makes this prohibition subject to subsection (9), which in turn allows the committee to recommend the granting of the patent as long as such a member is not involved in the deliberations. It is therefore considered more straightforward to delete subsection (8) and let subsection (9) speak for itself in avoiding any conflicts of interest that might arise.

Amendment No. 82*i* reflects the desired policy position that while a capacity for advocacy, more typically exercised by a barrister, shall be a relevant criterion in the consideration of whether a person should be granted a patent of precedence, a capacity for specialist litigation or a specialist knowledge of an area of law shall be an equally valid alternative. The purpose of the amendment is to enhance the scope of what it is to be senior counsel and to move away from a more narrow consideration of the proficiencies concerned, which could rule out eligible candidates.

It has come to my attention that there are some experienced senior counsel who are switching to the solicitors' profession in order to be allowed to practise as employees of legal firms, something that is currently prohibited for barristers but is to be opened up under the Bill. It would be regrettable if such practitioners, even temporarily, lost the title of senior counsel and then had to go through the process of reapplying for the title under the Bill's patents of precedence process in Part 12. Therefore, amendment No. 82*j* seeks to allow someone who has already gained the title of senior counsel while they were practising as a barrister to hold on to the title if they switch to practising as a solicitor. It should be noted that there is no need to insert an equivalent provision for solicitors who switch to being barristers, because the title of senior counsel is not yet available to solicitors. This is something that section 137 of this Bill will rectify.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*f*:

In page 108, line 23, to delete "at the Bar".

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*g*:

In page 108, line 33, to delete "subsection (1)(b) and section 142," and substitute "subsection (1)(b), section 142 and section 143,".

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*h*:

In page 109, to delete lines 23 and 24.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82*i*:

In page 110, to delete lines 4 to 6 and substitute the following:

“(ii) either or both of the following—

(I) a capacity for advocacy, or

(II) a capacity for specialist litigation or a specialist knowledge of an area of law.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82j:

In page 112, between lines 11 and 12, to insert the following:

“Solicitor granted Patent while barrister

143. A solicitor to whom, before the commencement of this section and while he or she was a barrister, a Patent was granted, shall be entitled to use the title of “Senior Counsel”.”.

Amendment agreed to.

Amendment No. 83 not moved.

Deputy Frances Fitzgerald: I move amendment No. 84:

In page 113, line 6, to delete “in court” and substitute “in a court, tribunal or forum for arbitration”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 85:

In page 113, line 13, to delete “in court” and substitute “in a court, tribunal or forum for arbitration”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 86:

In page 113, lines 17 and 18, to delete “part-time employment, but does not include employment by a solicitor” and substitute “part-time employment”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 87:

In page 117, lines 5 and 6, to delete “the Authority may, with the consent of the Minister, by regulation provide” and substitute “the Authority may by regulation provide”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 88:

In page 118, line 18, to delete “practice” and substitute “practise”.

Amendment agreed to.

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Deputy Frances Fitzgerald: I move amendment No. 89:

In page 118, line 22, to delete “as the case may be;” and substitute “as the case may be.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 90:

In page 118, to delete lines 23 to 25.

Amendment agreed to.

Deputy Catherine Murphy: I move amendment No. 91:

In page 118, to delete lines 26 to 39, to delete page 119 and in page 120, to delete lines 1 to 4 and substitute the following:

“**151.** (1) The Authority may, with the consent of the Minister, make regulations in relation to commercial communications by providers of legal services in a regulated profession that relate to—

- (a) the independence, dignity and integrity of the profession, and
- (b) professional secrecy,

in a matter consistent with the specific nature of the profession.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under that subsection or any professional code—

(a) may not make rules in relation to commercial communications by providers of a legal service in a regulated profession unless the rules—

- (i) are non-discriminatory, and
- (ii) are justified by an overriding reason relating to the public interest, and
- (iii) are proportionate,

(b) may not impose any total prohibitions on the use of any form of commercial communications by providers of a legal service in a regulated profession,

(c) may provide for the manner in which the Authority is to determine whether any particular commercial communication by a provider of a legal service in a regulated profession is in contravention of any provision of, or regulations under, this section.

(3) A provider of legal services in a regulated profession shall not publish or cause to be published commercial communications which do not comply with regulations under *subsection (1)*.

(4) No professional code shall operate to prevent a group of practising barristers, who share a facility, premises or cost of practice, from advertising themselves as such a group.”

This amendment proposes to remove the ban on making unsolicited approaches to people, as provided for in section 151(2)(d) of the original Bill. It is, in effect, a ban on advertising services in certain circumstances. The European Court of Justice found in the Grand Chamber hearing of case C-119/09 that such a ban is unlawful. The relevant extract from paragraph 38 of the judgment states:

It follows from those elements that canvassing constitutes a form of communication of information intended to seek new clients. However, as the Commission maintains, canvassing involves personal contact between the provider and a potential client, in order to offer the latter services. It can, therefore, be classified as direct marketing. Consequently, canvassing comes within the concept of ‘commercial communication’, within the meaning of Articles 4(12) and 24 of Directive 2006/123.

I understand the State is in violation of the EU services directive in this matter. I hope the Minister will be minded to accept this amendment for that reason. In light of the potential for legal cases, it is important for this amendment to be accepted to ensure we are indemnified into the future. If one looks at the relevant graph, one will see how many advertising infringements are being pursued at the moment and one will appreciate that this has become a much more urgent issue.

Deputy Frances Fitzgerald: I thank the Deputy for tabling amendment No. 91, as it gives me an opportunity to set out my intentions for aligning the Bill’s provisions in relation to legal services advertising with the EU services directive. Clearly, this is something the Deputy also wishes to achieve. The European Commission has expressed concern that Ireland’s current legal services advertising regime may be in breach of Article 24 of Directive 2006/123/EC, which is known as the services directive. In general terms, while the directive permits the imposition of certain restrictions on legal services advertising that are informed by the public interest, the Commission has found that some of the current restrictions being applied in this jurisdiction may be disproportionate. A letter of formal notice to that effect issued in October 2014.

I wish to inform the Deputy that the Department of Justice and Equality is engaged in ongoing correspondence and consultation with the Commission with a view to finding an appropriate balance between the exigencies of the services directive and those of Government policy, including as part of the ongoing reform of the legal services sector. Therefore, it is anticipated that advertising provisions that meet the concerns arising with regard to the services directive will be put forward by way of amendment to this Bill when it comes before the Seanad. As I have said, we are in discussions with the Commission as part of an attempt to work out how the appropriate amendment will be drafted. Section 151 of the Bill will enable the new legal services regulatory authority to make regulations with regard to the advertising of legal services by solicitors and barristers. Detailed work on the revised advertising provisions continues on this basis in my Department. We are doing this in consultation with the Commission and with the assistance of the Office of the Attorney General and the Office of the Parliamentary Counsel.

I believe this matter can be satisfactorily resolved. I recognise the urgency of it. The aim is to ensure the legislative basis of the State’s legal services advertising regime is fully aligned with national policy imperatives and the broader EU competition imperative. On the basis that the redrafting of section 151 of the Bill is at a very advanced stage, I ask the Deputy to consider withdrawing her amendment. Although I am not supporting the amendment at this time, I note and welcome the fact that the Deputy has sought in amendment No. 91 to retain the Bill’s prohibition, as set out in section 151, of a professional code that seeks to stop a group of practising

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barristers who share a facility, premises or cost of practice from advertising themselves as such a group. I fully intend to deal with this issue. As I have said during this debate when we discussed a number of issues, I intend to introduce some amendments in the Seanad, which means there will be further discussion of this section when the amended Bill returns to the Dáil.

Deputy Catherine Murphy: I am happy to accept the Minister's bona fides on this issue. I am worried that if this is not done in the Seanad, it will not be done in primary legislation. If the Minister can give me an absolute assurance that this change will be made in the Seanad and will subsequently be considered here, I will be very happy to withdraw this amendment.

Deputy Frances Fitzgerald: I can confirm that it will be dealt with in primary legislation. Obviously, some regulations will be necessary as well. Provision will be made in the general framework and in the detailed regulations as well.

Deputy Catherine Murphy: Okay. I thank the Minister.

Amendment, by leave, withdrawn.

Bill, as amended, received for final consideration.

Question proposed: "That the Bill do now pass."

Minister for Justice and Equality (Deputy Frances Fitzgerald): I might take a moment to thank all the Deputies for the contributions they have made and amendments they have proposed, not just today but on other days as well. All the Deputies with responsibility for the justice area have done a great deal of work in this House and in committee since this Bill was published in 2011. I thank them for their constructive approach to this Stage of the Bill. Today, we have made progress with the introduction of a range of legal practice models. I think the Bill has been greatly strengthened during its passage through this House. I want to pay tribute to Deputy Shatter, who introduced this Bill in the first instance. I believe it will deliver the structural reform of legal services and legal costs that is necessary. I recognise that some fairly major additional amendments will have to be made in the Seanad. I am very pleased that we have reached this point and that we had a very constructive debate while consolidating this reforming Bill, which is probably overdue but certainly welcome. There will be further engagement with stakeholders in advance of the discussion of the Bill in the Seanad, following which the Bill will be back before this House with some further key enhancements, as I indicated during our discussion in the House. The further enhancements, which need to be made, will help to deliver more independent regulation of the legal profession and services, which will be to the benefit of consumers, enterprise and the legal profession itself.

I thank Deputies for their contribution during the long and detailed discussions on the Bill.

Question put and agreed to.

Sitting suspended at 4.30 p.m. and resumed at 7.30 p.m.

Self-Employed and the SME Sector: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Dara Calleary on Tuesday, 21 April 2015:

That Dáil Éireann:

notes:

— the importance of the self-employed and micro, small and medium sized enterprises (SME) sectors to the Irish economy with 350,000 self-employed people and 580,000 people in enterprises of 50 people or less;

— the disparity in tax treatment between the self-employed and PAYE sectors;

— that certain social welfare benefits are not available to self-employed people such as Jobseeker's Benefit and Illness Benefit;

— the continuing difficulties being experienced by the self-employed and SMEs in accessing affordable credit; and

— that Irish SMEs pay much higher interest rates than other EU countries for credit;

recognises:

— the domestic SME sector is diverse in nature and employs workers with a wide range of skills in all parts of the country; and

— the success of Ireland in attracting foreign direct investment over many decades and the importance of giving a similar level of priority to the domestic enterprises; and

calls for:

— the introduction of an earned income tax credit for the self-employed on a phased basis of equal value to the PAYE tax credit;

— the provision, on a voluntary basis, of a full range of social protection payments, including Jobseeker's Benefit and Illness Benefit to self-employed PRSI contributors as part of a commitment to fostering an entrepreneurial culture as well as enhancing social solidarity;

— an extensive information campaign by the Department of Social Protection to highlight the benefits and services available to self-employed people;

— an expansion of the role of the Strategic Banking Corporation of Ireland to allow it to lend directly to SMEs and the self-employed with expansion opportunities;

— incentivisation of entrepreneurs to set up new businesses by providing tapered relief from Capital Gains Tax; and an extension to the Credit Guarantee Scheme to assist Irish businesses whose loans are at risk of being sold to investment funds to refinance at affordable rates.

Debate resumed on amendment No. 1:

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

"acknowledges:

— the central role of the self-employed and micro, small and medium sized enterprises (SME) in the jobs recovery, which have generated the majority of the 90,000 extra jobs, with particularly strong performance by enterprises supported by

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Enterprise Ireland (EI) and the Local Enterprise Offices (LEO); and

— the central role of the Action Plan for Jobs (APJ) process in improving each year the opportunities for SMEs, which sets out actions and is designed to achieve specific impacts in terms of exports, start-ups, access to finance, market penetration, innovation, access to talent, recruitment, and the environment for doing business; and

notes in particular:

— the improvements in the tax environment for SMEs that have been made;

— the new sources of finance that are being made available to SMEs;

— the new focus on start-ups since the launch of Ireland’s first strategy for entrepreneurship: *National Policy Statement on Entrepreneurship in Ireland*;

— the success of the Pathways to Work strategy, new measures to help SMEs recruit such as JobsPlus and the roll out of a network of Intreo offices that work closely with the new LEOs to improve recruitment by SMEs off the Live Register; and

— that it resolves to continue to engage with SMEs on a systematic basis and to develop policy initiative’s that will assist their growth in the Budget and in the wider policy arena.”

- (Minister of State at the Department of Jobs, Enterprise and Innovation, Damien English)

Acting Chairman (Deputy Liam Twomey): Deputy Maureen O’Sullivan is sharing time with Deputies Seamus Healy, Finian McGrath, Shane Ross and Michael Fitzmaurice. Speakers have two minutes each.

Deputy Maureen O’Sullivan: First, I wish to repeat a point I made on another occasion. During St. Patrick’s week there is much emphasis on foreign direct investment and Ministers and Ministers of State going abroad. We need something similar for small and medium enterprises in this country. As foreign direct investment is facilitated and encouraged, we need the same for indigenous industries.

So much mitigates against small and medium businesses. I will give one example. A small café in my constituency is being brought to court by Irish Water because it cannot pay a €300 permit application to discharge effluent to the sewer. It is a small business that pays its rates but is in danger of having to lose an employee. A similar business in Northern Ireland would not have to pay by virtue of size and I think this must be looked at.

PRSI is crippling small businesses that are trying to start up. If “employ, employ, employ” is the mantra, there must be leeway on that for businesses that are just starting out. Another difficulty is the length of time it takes to prepare applications for grants. Some small businesses might have no hope of getting these grants and some help at the beginning or a few pertinent questions might have pointed them in the right direction. We know that procurement has had very negative effects on some businesses, particularly the printing industry. I know of cases where the lowest-priced tender has been accepted but it has not worked out in the long run.

We know there is disparity in tax treatment and social welfare benefits. There is no doubt that the self-employed suffer disproportionately. It is also skewing the figures on the live register because certain unemployed people are unable to register. I support the point about tax credits. PAYE workers are very aware of their rights. Most of the companies they work for have salaries sections and human resources sections but small and medium businesses are at a disadvantage here. In my teaching days, I was very aware of all the incentives for young entrepreneurship. We have seen the Young Scientist competition. We need to encourage innovation and inventiveness and as there are so many tax breaks for foreign direct investment, we need a level playing field for small and medium businesses here.

Deputy Seamus Healy: I welcome the opportunity to speak on this issue and to confirm my support for the motion. I have no doubt that sustained and focused support for small and medium-sized industry is vital for job creation and to deal with the jobs crisis. However, this alone will not solve the unemployment crisis. Private enterprise alone will not solve the unemployment crisis. A total of 350,000 people are unemployed while a further 80,000 people are on various schemes. Simply doing what the Government says - creating the environment for job creation - is not good enough and will not deal with the huge level of unemployment that exists.

We need the State to take direct action in job creation and to create employment itself in infrastructural services such as roads. Rather than cutting the budget for roads by over €1.5 million this year in south Tipperary, we should be putting money into roads and job creation. This would create more jobs down the road and in the general retail industry. The situation is similar with housing. About 90,000 families are on the housing list. There needs to be a significant job creation programme through building houses for people on the local authority list. This would create jobs, provide taxes for the Exchequer and save on social welfare payments. Jobs created by the Government in this and other infrastructural areas are necessary.

Deputy Finian McGrath: I thank the Acting Chairman for the opportunity to speak on this urgent and very important motion on small and medium-sized enterprises, which make a huge contribution to the Irish economy, particularly employment. In the region of 350,000 people are self-employed while 580,000 people work in enterprises with 50 people or less. This is often forgotten about in the broader economic debate. I strongly support these businesses, particularly small businesses in my constituency of Dublin Bay North. I strongly support all businesses on the northside of Dublin. It is essential we get behind them.

I urge the Minister and the Government to implement the six proposals in this motion. I would like to see the introduction of an earned income tax credit for the self-employed on a phased basis that is equal to the PAYE tax credit. I would also like to see the provision on a voluntary basis of a full range of social protection payments, including extending jobseeker's benefit and illness benefit to self-employed PRSI contributors as part of a commitment to foster an entrepreneurial culture and to enhance social solidarity. We also need an extensive information campaign by the Department of Social Protection to highlight the benefits and services available to self-employed people. We need to see the expansion of the role of the Strategic Banking Corporation of Ireland, SBCI, to allow it to lend directly to SMEs and self-employed people with expansion opportunities and we need to incentivise entrepreneurs to set up new businesses by providing relief from capital gains tax. Finally, we need to see the extension of the credit guarantee scheme to assist Irish businesses whose loans are at risk of being sold to investment funds to re-finance at affordable rates.

I urge the Minister and Government to focus on the Cadbury plant in Coolock which is

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under pressure. We need to protect this plant and these jobs in Coolock. The plant has an excellent workforce that needs our support. I want to see more inter-agency involvement in this excellent factory in Coolock.

Deputy Shane Ross: I have been in this House for a very short period of time. When I get up to speak, I wonder why we so often have had a debate of this kind and why small businesses are so often the subject of discontent on the part of the Opposition and provide such fertile ground for political opponents of the Government. The reason is not much has been done for them and they are still suffering despite the apparent recovery of the economy.

I think there are two reasons for this. The first is a reason touched upon by Deputy Maureen O'Sullivan. Multinationals offer some sort of prop for the Administration because they provide the employment which prevents more extreme measures by unemployed people and relieves the unemployment figures resulting in figures of around 10%. That takes the pressure off the Government to do anything or anything particularly significant about small businesses. Perhaps more than anybody else in this House, I support the multinational sector in this country. I think it is a magnificent contribution to the economy. The figures justify that. However, we should be careful because warnings are coming from very reputable, indeed forensic, sources saying quite clearly that this economy is beginning to depend too much on foreign investment and that if foreign investors, who after all have no loyalty to this country, decide to leave or because of pressure coming from the US and France about our corporate tax rate decide it is time for them to reduce, not to come to or depart from Ireland, we will not have nurtured our small businesses in the way we should and we will not have any reserves left to defend the economy.

Deputy Michael Fitzmaurice: I commend Deputy Calleary for bringing forward this motion. Most people in the private sector around the country are employed by small and medium-sized businesses - one, two, three and four-person operations. Entrepreneurs never got a hand or leg up and had to do things on their own. Many of them have employed people countrywide, fought their way through the recession and struggled on without any real help.

Many people have approached me over the past few months about setting up a business, which is great for the country and communities. However, there is little in terms of incentives or assistance to help the person who has not got much funding behind him or her. We need to address the situation whereby the red carpet is rolled out for companies locating here under the guise of foreign direct investment while nothing but obstacles and paperwork are put in the way of Paddy Irishman. We need to look at this in a new way.

As stated by Deputy Finian McGrath, there are many companies whose loans have been sold on by the banks. The banks are treating the people concerned with contempt and often refuse even to engage with them. I acknowledge and welcome that it is proposed to introduce incentives in this area. However, we need also to ensure that SMEs are protected and given tax breaks. Like many other Members of this House, I am an employer. In the case of a business that goes bust tomorrow, while all of the employees can sign on the following day and the employer may have a family to raise, the only thing he or she gets is reams of paperwork and the prospect of emigration. This must change. We need to ensure proper tax breaks are put in place for the private sector.

Deputy Finian McGrath: Hear, hear.

Acting Chairman (Deputy Liam Twomey): The next speaker is Deputy John O'Mahony

who is sharing time with Deputies Áine Collins, Michelle Mulherin, Paul Connaughton, Seán Kyne, Dan Neville, Anthony Lawlor, Marcella Corcoran Kennedy, Eamonn Maloney, Mary Mitchell O'Connor, Liam Twomey, Tom Barry and Peter Fitzpatrick.

Deputy John O'Mahony: I welcome the opportunity to contribute briefly to this debate, which is timely. As stated by previous speakers, while much of the focus in the past three or four years has been on the large multinationals and foreign direct investment that has helped to rescue the country and provide 80,000 new jobs here, there is much that needs to happen under the radar. In my own constituency of Mayo, there has been a 16% decrease in unemployment. A major contributor in this regard has been, as stated by Deputy Fitzmaurice, the one or two jobs created by small businesses.

I welcome the fact that the Action Plan for Jobs 2015 introduced by the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, focuses on small business and the need to increase supports in this area and to ensure businesses are aware of the supports available on a one-stop-shop basis through the local enterprise offices and so on. The plan also contains measures to reduce the amount of red tape in this area and to support job creation in the domestic economy, in particular in the retail, construction, agriculture and food sectors. As stated by Deputy Fitzmaurice, there is a need to end the discriminatory tax treatment of the self-employed and to allow them access entitlements when their business fails and they become unemployed. People must be encouraged to take risks. There needs to be a safety net in place for the people and entrepreneurs who create business and jobs. I understand that the Minister for Social Protection, Deputy Burton, is addressing those issues. I hope that some of them will be reflected in the upcoming budget.

It is important to highlight the plight of the SME sector and the self-employed. In my estimation, this problem first arose between 2003 and 2004 and again in 2008 when the Celtic tiger and construction was the only show in town. While SMEs did not need support during that period, it was also not available. Work around the putting in place of the necessary supports required has been ongoing during the past few years of this Government's term in office. This needs to continue and the issues raised by other speakers need to be addressed soon.

Deputy Áine Collins: I welcome the opportunity to speak on this motion. It is not very often we are all agreed on a particular issue. It is ironic that this motion was brought forward by Fianna Fáil given it oversaw many of the problems in this area during the more than 14 years it was in office and there was money available to address them. However, that is in the past and we must look to the future.

Small business is the cornerstone of this economy. This is an issue about which I have spoken many times since my entry into public life in 2011. While much has been done, more needs to be done. While measures such as VAT reductions in particular sectors, including the building and food sectors, have been introduced we need now to focus our attention on how we can ensure equality in the self-employed sector so that everybody has the same entitlements. While there may have been a view in the past that self-employed people were creaming from cash and so on, that day is long gone. As I have stated publicly before, the Revenue Commissioners is now an effective arm of the State. Everybody should be treated equally. As I have often said, we need to change our approach and attitude to failure. When a person or business fails, we need to support them. A self-employed person who has paid PRSI should be entitled, without undergoing a means test, to nine months' social welfare benefit. We would all like this to be the case.

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It is hoped that after 22 May we will have marriage equality in this country and that in the future we will have tax equality between the self-employed and PAYE employees. This is an important issue in the context of job growth over the next number of years. We also have to encourage entrepreneurship because without fresh ideas there will be no growth in this area. Reference was made by other speakers to finance. I am glad to note that Bank of Ireland has taken up the option to refinance loans taken out with banks that have left this country. There is a lot more to do in this area. I look forward to further debate on this issue.

Deputy Michelle Mulherin: I welcome the opportunity to speak briefly on this motion. I propose to focus on the problem of credit and cash flow for small and medium-sized businesses. Despite the many good initiatives, such as the microfinance scheme, introduced by this Government to assist existing business and new start-ups, there is still a problem in this area about which we are hearing all the time. Basically, this issue relates back to the banks in terms of them crucifying SMEs through overdraft and term loan rates. That is the reality. The banks need a reality check. Like everybody else, they need the economy to function.

Small and medium-sized businesses are the backbone of our economy. They are the businesses to whom we look in terms of job creation. The banks have been recapitalised and the banking system has been restored, but this does not mean it should be a case of business as usual. The banks need to assist people with their mortgages and to assist businesses trying to get up and running and create jobs. Not alone were the banks bought out by the State supported by the taxpayers of this country, but so was the whole banking system. The banks would want to remember this. It cannot be a case of business as usual. I support fully the Government doing all it can to bring pressure to bear on the banks and to keep them in line. As things stand, the banks are undermining the very good efforts of all involved, including the Ministers for Jobs, Enterprise and Innovation and Finance.

There has been much talk about mortgages and businesses operating on credit cards, in respect of which the APR is 22%. This is what is happening. It is ridiculous and unjustifiable considering where we have come from. We need a paradigm shift in terms of how our banking system works. It cannot separate itself from the social consequences of its actions and, now, the economic consequences in the case of small businesses.

Deputy Paul J. Connaughton: I thank the Chair for the opportunity to speak on this. It is certainly a worthwhile topic. In the space of two minutes, there are only two or three areas I will cover.

If we all believe in the mantra that Government does not create jobs and it simply creates the environment for jobs to be created, there is a number of areas on which we must focus. It was stated previously that we need to have more supports for businesses to set up. Many of those I have met in the past few months who set up businesses ten or 15 years ago had no support and what they say now is we should take away the bureaucracy and the red tape. If the Minister did that alone, he would give them a better opportunity, not only to keep creating jobs but expanding where they can create these jobs. It is not so much what we can give to these people but what we can do to help them streamline the way they do their business.

Another area of considerable concern is Government procurement. The Government has set out to save millions of euro on procurement and it all sounds good because it will streamline where it gets its products from. However, this is crippling a number of SMEs because it makes it impossible for small-to-medium-sized businesses to tender for this work. For example, the

Irish School Art Supply Federation operates in a small niche market. I refer to SMEs employing five, ten or 15 employees supplying products to the local primary and secondary schools. We will save money on the procurement of these products, but is there anyone in that procurement office thinking of the potential job losses on the flip-side of it? It is nice to go back and say we saved the State and the taxpayer €50 million, €90 million or €100 million, but what did we cost ourselves in social protection where businesses could not tender for these products and all of a sudden closed? I am aware of two family-run businesses, one in Dublin and one in Mayo, in the past three or four weeks that have closed which would have had the potential to employ more workers and what is really killing us in that area is a lack of joined-up thinking. The guys in procurement will save the money, but did they talk to the Department of Social Protection? Did they ask them who is going on the live register because of that? This is what is crippling SMEs. Much has been done, but if we simply got rid of the red tape, took care of the bureaucracy and listened to the guys on the ground, we would stand a lot better off.

Deputy Seán Kyne: I concur with a lot of what has been said by my colleagues. Whilst this is about SMEs, it is important to note that the restoration in international confidence in this country over the past number of years is of considerable importance in the multinational sector and there is such a significant connection in many SMEs that get business from a thriving multinational sector. Up and down the country, there are SMEs that benefit from the multinational sector.

The Joint Committee on Jobs, Enterprise and Innovation of which I am a member launched a cross-party report a number of weeks ago on sustaining and revitalising rural towns and centres, many of which have become denuded of residents and businesses. As with any such report, we had stakeholders in, including businesses, to give their views over the previous number of months and we toured various areas as well. Some of the issues businesses raised are the ones that are thrown out much of the time about rates. Parking was a big issue. For example, there were concerns that consumers coming into town were afraid of over-zealous parking attendants and not willing to stay around in town as a result. Also, they raised the need for incentives for empty and derelict units in towns and villages. As has been raised previously, we also need to look at the potential to bring residents back into town centres and villages through living over shops or businesses. That, in itself, is an incentive. It would provide greater footfall and more people around the town, and that would be better for business.

I also concur that there is an anomaly in the lack of supports for self-employed who go out of business. Deputy Fitzmaurice and Deputy Collins have touched on this. It is most important and must be dealt with. It is not fair that those who put their life and soul into a business can end up with nothing whereas their employees rightly get the benefits. The employers get nothing and that needs to be changed as soon as possible.

Deputy Dan Neville: I welcome an opportunity to contribute to the debate.

The self-employed and micro, small and medium-sized businesses play a pivotal role in the Irish economy, with 350,000 self-employed and 580,000 working in enterprises of 50 employees or less. The annual results for the local enterprise offices showed at the end of 2014 the total of direct employment of the 6,058 client companies stood at 31,326. There were 7,305 new jobs created during 2014 in gross terms. Taking into account the losses in 2014, there was an increase of 14% in those employed in the companies which are clients of the local enterprise offices. However, there are some barriers which hinder growth in the area.

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There is an urgent need to end discrimination against the self-employed and small businesses. The key issues identified include the tax discrepancy between the self-employed and PAYE earners. There is also a discrepancy in benefits from the Department of Social Protection. This manifested itself during the economic crash when I met a former self-employed person who was dependent on extended family to feed his family. The person told me that after six months his brother could not continue supporting two families. It took much persuasion for the Department to grant unemployment assistance but that improved over the period.

Other difficulties identified include training and development supports, such as mentoring. There are also difficulties with succession and there must be ease of transition of business ownership down through family generations.

There is also a need for better communications regarding existing State supports, including the SME online information. The supporting online tool brings together 80 Government business supports into one website to help small businesses obtain information and avail of the supports available to them. However, more needs to be done to communicate this information.

The economic recovery now presents opportunities for small businesses and the self-employed that did not exist this time last year and we must ensure that the State helps them to take advantage of this. Small businesses are the cornerstone of the sustainable economy in cities, towns and villages.

Deputy Anthony Lawlor: I very much welcome the opportunity to speak on this. It is great to see Fianna Fáil bringing a motion forward like this. It is typical of Fianna Fáil. It has had its head in the sand for the past four years, it has pulled its head out and the glow of a successful economic recovery is here for everyone to see. It is amazing that 300,000 workers lost their jobs in the last three years of the previous Fianna Fáil Government, most of whom were in SMEs. It only shows how much Fianna Fáil cared about SMEs that, as soon as there is the glow of economic success, it brings forward this type of motion. Some €1 billion was spent in times of full employment by the FÁS training scheme under a previous Minister, Deputy Michéal Martin.

There are a couple of things that we still need to do with regard to tax equality between the self-employed and PAYE workers. We need to allow the self-employed get the PAYE allowance that is for the PAYE workers. I would like to see other measures available so that the self-employed and small and medium-sized businesses can achieve tax equality.

This Government has brought forward a number of positive schemes. I was at an expo in Kildare today. All of those in the business sector there were positive about such a small issue as online trading vouchers which allow small companies set up online to be able to find new access to markets. It is important that we, as a Government, continue to support them in that regard. Microfinance, even though slow starting off, has proved to be successful of late because businesses which cannot access finance through the normal banks have been able to access it through microfinance.

Governments are judged not on what they say but on what they do and what they achieve, and this Government achieves a great deal of success in aiding and assisting the small and medium-sized enterprises.

Deputy Marcella Corcoran Kennedy: I very much welcome the opportunity to speak on this timely motion. I will focus on a couple of particular points.

I am really excited that there seems to be a proactive role being taken by the local enterprise offices, which have been given more of an economic development role in terms of working with Enterprise Ireland and IDA Ireland and which have been challenged to do so by the Minister, Deputy Richard Bruton, and his officials in order to come up with development plans for the region.

I and others have called for the Government to focus on what was happening in rural areas. We were delighted to see the boost in job creation from foreign direct investment coming into the cities and larger towns, but we want to see that rolling out across the country. I am really looking forward to the Minister announcing actions for the midlands region, which is the first pilot region identified.

In terms of what jobs are being created, often we focus on the foreign direct investment which gets significant coverage on RTE and in other media, but what is going on our own communities is really exciting as well. If one looks at what Enterprise Ireland and the LEOs are doing, for example, in Offaly, the welcome information we got recently was that the LEO had contributed to the creation of 300 jobs but there is nobody carrying lengthy programmes about that. I want to see Enterprise Ireland and the LEOs more regularly letting the public know what is going on and the amount of companies they support locally.

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I have in mind indigenous companies like Grant Engineering and Glenisk, innovative dynamic companies there for the long haul. They are based in their communities and they want to stay there. These are the companies on which we should also be focusing.

Fine Gael has a Standing Up for Small Business campaign which is fantastic. We will be talking to people, in the context of the surveys we want to conduct, to see what they really want. Others have touched on various points but I see that I have run out of time.

Deputy Eamonn Maloney: There have been many victims of the collapse of the economy, principally in the construction industry, when the Celtic tiger came to an end. In the immediate post-Celtic tiger period, naturally, we were all focused on those who lost their jobs, those who became unemployed, those who were emigrating and the people who got into difficulties with their mortgages, etc.

The motion focuses on those who operated small and medium-sized enterprises, including people who, as we now know, had little experience but nevertheless took on the challenge. Alongside these are a great many self-employed people, especially in the building industry, who perhaps only employed one or two people. They found themselves in entirely new territory. We all know that given the environment and the confidence at the time - I am referring to 2006 and 2007 - there was a feeling in many sectors and certainly among many self-employed people that the boom would never end. The nature of the economy tends to be cyclical and this means we can go from one extreme to the other. We all know how it ended. Some of the victims of the fallout are the people we are talking about this evening.

It was not only people involved in the construction industry but those in auxiliary industries as well, particularly in this city and the constituency that I represent who, almost by default, found themselves victims of what happened. I am referring to people who invested in the taxi industry, for example. What happened in this city probably applied in most other cities in the country. People bought into this and spent a good deal of money. Then, when consumer spend-

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ing collapsed, people, almost like a switch being turned off, stopped using taxis, whereas prior to that those in the taxi industry were able to make a living - in some cases a good living - out of it. It came as a shock to the system because, naturally, people thought this would continue, there was a good deal of money circulating and people had spending power.

Many small businesses and self-employed people survived the aftermath of the collapse. Many people who were involved in the boom, whether SME operators or otherwise, thought they did not need protection or some form of fall-back if the economy was to collapse. Although some people accumulated savings for whatever might happen, many others, not necessarily by design, found themselves in the most awful situation. These people had never been to a social welfare office in their lives. They had never applied for social welfare and had avoided going there even though their businesses collapsed. I imagine every other Deputy is has had the same experience as me. These are the cases we hear about in our clinics.

There was a reference last night to the September 2013 report published by the Tánaiste and Minister for Social Protection on the tax system and social welfare. I agree with the recommendation whereby the option is there for people who are self-employed to avail of the social welfare system. If anything is to come out of this debate, it is that people should protect themselves, particularly those who want to be self-employed, and not allow this to happen again.

Deputy Mary Mitchell O'Connor: Last night, the Minister of State, Deputy English, said that Irish businesses need to start to survive and scale up. The principal complaint I receive from self-employed traders and small business owners relates to access to credit. How can they start, never mind survive and scale up, without the finance to do so? Over 90% of small businesses are dependent on traditional methods of loans and finance. Only this month I called on the Minister for Finance to meet the banks and urge them to pass on the lower interest rates they are receiving from the European Central Bank to mortgage holders. Again tonight I call on the Minister of State to urge the banks to provide real credit opportunities to small and medium-sized enterprises.

This Government has done a good deal and will continue to do much. I know that Micro-finance Ireland, the online vouchers and local enterprise offices are aiding small and medium-sized enterprises but I am aware of an early stage start-up that has received a large grant or investment from Enterprise Ireland. The start-up employs six people and, with the right supports, it will continue to grow and employ more. The owner applied for a small business loan but was rejected by the banks because the business was pre-revenue. How can it become revenue-generating without the finance and supports to allow it to grow and prosper? It is unacceptable for the banks to play hardball when two thirds of all new Irish jobs come from start-ups and the tax that the self-employed pay is going towards the bank bailout.

The second biggest complaint I receive in this area relates to the lack of financial support for small business owners if they go out of business, despite the fact that they pay PRSI. The self-employed generate employment locally, pay PRSI and the universal social charge. If a business does not succeed the employees receive unemployment assistance but the self-employed do not. I am keen to see this addressed in the next budget. Our economy is moving in the right direction but we need to do more.

Deputy Liam Twomey: Our small and medium-sized businesses are not only surviving but are growing in our economy because recovery is on its way. I will give an indication of some of the difficulties small and medium-sized businesses have in this country. A meeting will take

place tomorrow week in the Tower Hotel in Waterford between 8.30 a.m. and 1.30 p.m. The idea is to give advice and support - the Minister of State, who is in the House, will be speaking at the event - to small and medium-sized enterprises. Some 25 State agencies will be available on the day for those who wish to start up or grow their businesses. This gives an indication of the amount, and scope, of regulation, legislation and everything else that goes with small and medium-sized businesses with which people have to deal.

People talk about the difficulties they have in business in this country today but the reason is they need to know so much to run a successful business, which is important. I am proud to be a member of the pro-business group within Fine Gael. It is important to give support to businesses because it is not only the employers and their families who matter but also the employees and their families who are so dependent on these businesses not only surviving, but growing in the future.

I know the Minister is doing his absolute best. The Minister for Finance, Deputy Noonan, and the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, should be commended on the excellent work they have done in recent years to turn around a situation in which we were losing thousands of jobs every month to a situation where we are back to creating jobs and enterprise. I know that Deputy Kelleher, who is avidly waiting to speak, as a former Minister of State with responsibility for enterprise, will no doubt be singing the praises of the Ministers to whom I have referred.

Deputy Peter Fitzpatrick: I welcome the opportunity to speak. Fine Gael is and always has been the party for small business persons and the self-employed. We are a pro-enterprise party and the facts fully support this. Over 90,000 new jobs have been created as a result of the Action Plan for Jobs in 2012. Every region has seen an increase. In my constituency of Louth and east Meath, unemployment has fallen by over 20% since March 2011. Indeed, in areas such as Ardee, Drogheda and Dundalk, we have seen decreases of up to 29%. In real terms, this means an additional 3,500 people are employed in my constituency since Fine Gael took power in 2011. Over the past two years, companies such as eBay, PayPal, SalesSense and National Pen have created more than 1,100 new jobs in Dundalk, while in Drogheda, companies such as Moorehall Lodge, Outsource Support Services and Becton Dickinson have created more than 130 new jobs.

This is in stark contrast to Fianna Fáil's time in government. Its record of supporting small business in this country is one of neglect and discrimination, which can be seen by the fact that more than 300,000 jobs were lost in the last three years of its time in government. Its attempt now to try to establish a policy on small business is, quite frankly, too little, too late, and the people will see that for themselves. It is nothing but a panicked policy scramble after its total lack of policies has been exposed. During its time in government, Fianna Fáil destroyed the economy by supporting its friends in big business and the construction industry and neglecting the small business person and the self-employed. My party, Fine Gael, is the party that can be trusted to manage our economy and to support the SME sector. SMEs are the cornerstone of the sustainable economy we are now building.

The creation of new jobs has many benefits, including more disposable income for people and increased tax revenue for the Government which can be invested in other services, including our schools, hospitals, local infrastructure and the tourism sector, to name just a few areas. Indeed, if I look at my own county of Louth, we are beginning to reap the benefits of the increased expenditure in the tourism sector. Last year we saw more than 108,000 overseas visi-

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tors in the area, generating more than €43 million in revenue for local business. Areas such as Carlingford, Dundalk, Drogheda and the Boyne valley have benefited greatly from this investment. Schools in the area have received more than €57 million in capital funding, regional and local roads have received more than €25 million in investment and sports clubs have received more than €3 million.

Acting Chairman (Deputy Liam Twomey): I call Deputy Michael Kitt, who is sharing time with Deputies Kelleher, Moynihan and Troy.

Deputy Michael P. Kitt: I commend Deputy Dara Calleary on the motion. He has rightly pointed out the importance of small and medium enterprises and the fact that 350,000 self-employed people are involved in this sector. It is important to acknowledge the work of small and medium enterprises, which account for a great majority of all active business enterprises in the Republic, employing 68% of the workforce and generating just over half of the State's annual turnover, according to the Central Statistics Office.

We know Ireland is acknowledged as a world leader in attracting foreign direct investment, with 160,000 people employed by multinationals. That is all the more reason to give more prominence to the role of the self-employed and business owners in the economy. There is great diversity in the SME sector, ranging from small engineering firms to local supermarkets. While we have a worldwide reputation for exports, particularly in the agriculture sector, more than half of the workforce in Ireland - around 56% - work for native companies that do not export anything. Therefore, unemployment and the jobs crisis cannot be solved by focusing on foreign direct investment alone. If we support the SME sector, and I hope we do, we will ensure there are job opportunities for those with traditional skills as well as people with high-tech qualifications.

A number of recommendations have been made on this side of the House. For example, it is important to increase PRSI benefits for the self-employed, the importance of access to credit for the SME sector cannot be stressed enough, and we must end the disparity in tax treatment between the self-employed and PAYE workers.

The CSO's Business in Ireland 2012 study provides an interesting snapshot of the importance of small business to the Irish economy. The study indicates that while SMEs employ almost seven in every ten workers, they account for less than half of the State's gross added value. In other words, we are relying more and more on foreign multinationals. Other CSO figures going back to June 2012 show that there were 185,500 active businesses in operation here, employing 1.2 million workers. Over 90% of these SME businesses were classified as microenterprises with fewer than ten employees.

I would like to give the example of Ballinasloe Area Community Development Limited, or BACD, a volunteer company run by a board of directors which was set up in 1999. The prime aim of that company was to create jobs in Ballinasloe following the loss of approximately 1,300 jobs at AT Cross, Dubarry and Square D. This company had the author of the CEDRA report, Professor Cathal O'Donoghue, as a guest speaker at its AGM last year, and the chief executive of Action for Market Towns, Mr. Chris Wade, came from the UK on a fact-finding mission to Ballinasloe. Only last week, the Minister of State, Deputy Ann Phelan, addressed a meeting of BACD in Ballinasloe on the €250 million rural development programme. There are local people in Ballinasloe who are very anxious to work together on job creation.

What has been very disappointing is the fact that no funding has been provided to the community enterprise scheme for business development management training since 2012. A replacement scheme, the regional action plan for jobs, was announced in February of this year, but community enterprise centres are still awaiting further details of the scheme. It is also disappointing that there is no information on site visits by IDA or Enterprise Ireland clients to Ballinasloe and other smaller towns. The same is true for many market towns or smaller towns in Counties Galway and Roscommon. The focus always seem to be centred around Galway city, while other towns are described as being so many miles or so many minutes from Galway city. We really have to look at that and try to help out these towns.

Such towns used to have town councils, which played a major role in trying to develop industry, but since these councils were abolished, the towns feel they are being forgotten by the IDA and Enterprise Ireland. There should at least be information in the Minister's Department on the question of site visits to these towns. This information is available for other towns, so why is it not available for Ballinasloe, Tuam or Loughrea?

There is also the issue of helping those SMEs in distress in regard to practical issues such as accountancy fees in order to support applications for new credit or restructuring with the banks. There is also the tax disparity between PAYE workers and the self-employed, which should be highlighted. To give one example, a self-employed single person on an income of €15,000 pays almost six times as much tax and PRSI as an employee on the same income, which shows the disparity that exists. This should be tackled in order to help the SME sector.

Deputy Billy Kelleher: I welcome the opportunity to speak on the motion, which is timely for many reasons. Given that we talk about small and medium-sized businesses being the engine of the economy and one of the main drivers of economic growth in all regions, it is correct to consistently put down motions to encourage and support them. We need to highlight the inadequacies of various policies from whatever agency or section of Government, or from the Government itself. That is something that should be done constantly, regardless of who is in government.

The SME sector is clearly the powerhouse of economic growth, very often without the same regard and acknowledgement that is paid to announcements of job creation by foreign direct investment. Of course, foreign direct investment is critical for many reasons, and we all know why it is so important to the economy. There have been spin-offs from foreign direct investment in small and medium-sized businesses and start-ups, which are a critical component of the evolving and developing enterprise culture in the high-tech area and many other areas. However, in terms of what one might call genuine indigenous small business - be it somebody with an idea, be it the welder in west Cork making and fixing trailers or be it the shopkeeper on the high street in any regional town throughout the country - the picture is diverse and varied. There are a few common threads, the most obvious being the innate enterprise culture, whereby some people just get up and get on with it even though they sometimes face a daunting challenge in starting up their own businesses. Of course there are risks involved, which is why we should be encouraging and rewarding people. We need a paradigm shift, not only in the thinking of State agencies but in society in general, in regard to how we view a person who fails. There have been many failures in recent times because of the downturn in the economy, but the one thing that should not be done is to vilify these people or to point the finger with some sort of view that they failed. Any person who is willing to start a business and take that risk should be encouraged. Yes, many will fail, but the real definition of failure is not to learn from it or not to try again. The State should also be of that view in its interaction with people who

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are establishing a business, and there should be supports in place for the times when they fail. The idea that a self-employed person whose business has failed has to become a pauper before he or she qualifies for jobseeker's assistance is unacceptable. We have to be more humane and understanding of the pressures a self-employed person is under in terms of the risk to his or her investment. If things do go wrong, there is nothing, not even a parachute or blanket, available to soften the fall. That has to be addressed. It is not an attack on the Government, but there seems to be a blockage in our attitude to people who take risks and are almost vilified not just conceptually, but also financially by the State, when the rewards do not come. We need a paradigm shift in that area.

There is no point in continuing with the pretence that the banks are lending to small and medium-sized businesses. They are pretending to the Government that they are lending to small and medium-sized business. When I was in government, they pretended the same to me. We received reports from the banks every month with sheets on new lending, which actually involved pretending that regurgitated lending, overdrafts which had been changed to term loans and restructuring loans was new lending. We know from the figures available that the pretence is continuing and we need to examine the impact the squeeze on credit is having on many micro, small and medium-sized businesses. We also need to consider the impact of the squeeze on seed and venture capital on start-ups. The money is not available to accommodate the significant potential of the people in terms of entrepreneurship and risk.

Seed capital, venture capital and access to credit needs to be set free. The credit guarantees and supports for small and medium start-ups are welcome, but the one major issue is the lack of credit. Enterprise Ireland put people with some competence and expertise into the banks so that they could assist in training their business lenders in the process of examining profit and loss, balance sheets and business plans, and making assessments accordingly. The banks did not have the capacity to do that themselves. There are still major deficiencies in the banks and all they are trying to do is to keep their capital tied up. They do not want to lend or take any risks. All they want to do is to keep improving their balance sheets for one purpose only, that is, profit and sell off. There are constant conflicts. We need to get our house in order in that regard.

Another glaringly obvious obstacle is broadband availability. If we are to encourage regional development, the self-employed and those who work from home, a basic essential tool of any modern economy in the developed world is access to broadband. There are doctors in some parts of the country who still have to drive up hills with their mobile phones to receive information because they do not have access to broadband or 4G. We have to accept that this is a glaring omission in the infrastructure of small and medium-sized businesses.

One of the most feared sentences in the world, and definitely in Ireland, for any small or medium-sized business owner is: "I am from the Government and I am here to help." There is no doubt there is still an element of that. We have ten regulatory bodies to oversee small and medium-sized businesses. If a person wants to start a small or medium-sized business, he or she has to have a business plan and try to access credit. Another problem is like the grand national with the chair in front of the horse. There are many hurdles in terms of meeting regulatory requirements.

I am all for standards and regulation, but they must be done in the right way. They must not burden businesses, but rather ensure there is a level playing pitch and standards. Businesses should be encouraged and allowed to flourish, but when we introduce legislation we have an innate ability to penalise small and medium-sized businesses. With wild abandon, our banks

can do what they like without regulation. We need to have some rebalancing.

Small and medium-sized businesses are under major pressure and strain and are facing the loss of business and the possibility of houses being taken away because of personal guarantees when businesses go wrong. When they see the situation regarding Siteserv, it sends out a very distasteful message. That a company can get a write-off of €100 million that the taxpayer must fund and that shareholders in the company can receive €5 million to accept the sale of the company beggars belief. It is the same as someone who owes €1 million when his or her small business goes belly up. Would he or she expect the State to take €600,000, the people who sold the company to get €400,000 and to walk away with €50,000 in his or her back pocket? What are we trying to say to people? Is there one rule for an invisible group?

Some people are under threat of their homes being taken from them by the same banks that have run roughshod over regulation. The continual view that there is a group out there which, because it is large enough, can get a significant debt write-down wears people down. We are flogging people through courts in order to take houses from them because their businesses went wrong. It is wrong and must be addressed.

This motion was tabled for the right reasons, namely, to highlight some of the difficulties and inequities in our taxation and social welfare systems. We are raising these issues because we support small business as much as the Government does.

Deputy Michael Moynihan: I welcome the opportunity to speak and compliment Deputy Calleary on tabling this timely motion. I want to deal with a number of issues. I refer to the self-employed and the difficulties they experience if they run into trouble and have to look for social welfare. An innovative idea was introduced in 1988 by the then Fianna Fáil Government, that is, PRSI for the self-employed. At that time, the idea was vilified by many people, including some of the parties opposite and some of the representative groups of industry, but it has stood the test of time and was a major achievement.

In the United Kingdom, a decision was made by the courts on PRSI for the self-employed. I understand the Attorney General and the Department of Social Protection examined a report that was written some two and a half years ago. I spoke about it during a debate on the budget in December 2012. At the time the Minister's office said it would come back to me as to what decision was made. I can say that no decision has been made. I ask the Minister of State to try to find out from his Government colleagues the status of the report and what they intend to do about the self-employed.

We need to address a significant issue, namely, the ability of people to access social welfare when they run into difficulties. If we are serious about it, we have to consider small and medium industries all over the country. I have a number of issues in my constituency. The decision to cut Leader funding was disastrous. The Leader companies in my area and throughout the country have played a major part in helping people to start businesses. They have provided them with resources, facilities and encouragement to get into business. The enterprise fund that was established through that has played a significant part in getting people into industry. At this stage the Government must re-examine this issue. It has done a great disservice to rural areas.

Let us consider the broadband issue, about which my colleague Deputy Kelleher spoke. It is one of the greatest jokes of all time. In the 1950s, when we had not two pennies to rub together, we were able to bring electricity to every community in the country. In the 1970s and early

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1980s, the then Minister, Mr. Albert Reynolds, did a significant job to ensure telecommunications services were provided and telephones were installed. We must take broadband as seriously. The only solution is a fibre cable, and it must be brought to every single community in the country. It is no longer acceptable to have broadband in the provincial town or market town when there is not even mobile telephone coverage or broadband in the village nearby. Farmers, agricultural contractors, building contractors and others who have businesses in the areas affected must have broadband of good quality. It is to our detriment and shame that we do not have a proper broadband service in their communities.

I have examined all the possibilities for broadband. Technology has moved on apace. Over recent years, everybody has been saying there is wireless capability, 3G and 4G, but the reality is that the State must bring a fibre cable to each and every community. I welcome the joint initiative between Vodafone and the ESB, but they will only come to some of the 50 towns that already have very decent broadband. What is occurring is appalling.

A number of other issues arise. Many people talk about credit for SMEs. I am aghast that the Members opposite say we have some cheek to bring this issue before the House because the problem is affecting constituents throughout the country, be it in Dublin, Cork, the most rural areas or the most urban areas.

There are a number of areas that we must examine. I have had much correspondence on this. In some villages in my area, including Churchtown in north Cork, Boherbue, Newmarket and Macroom, nursing homes have been set up. Such homes, which have been built around the country, are providing very valuable employment in their communities and a service to the State by providing excellent care to the elderly. Many of the operators have spoken to me about the cost of compliance and the costs associated with trying to keep the businesses going.

Community crèches were built in the good times. I was involved with many of the projects around the country and am delighted to have played my part in ensuring the availability of funding but I realise a major issue arises regarding rates and their application. We discussed a Bill recently on rates. Deputy Fleming tried very hard to abolish rates for community crèches because they are providing care for young people. This must be considered. The crèches are run on a shoestring, as I know from having met many of the managers and operators, but they are run as businesses. These businesses are providing part-time and full-time employment, as are the nursing homes and other organisations. They must all be examined in terms of what they are contributing to society.

The first line we hear from some of the successful food businesses is that it is as if we bring in regulation from Europe and gold-plate it in the Department before applying it in the communities and to individuals. An issue arises in regard to the overzealous way in which some officials in the HSE seek compliance with the regulations. I refer to health and safety regulations, in the first instance, but also to food regulations. Anybody preparing and selling food in the food industry understands the necessity of having proper hygiene records and so forth. They would not be in business unless they had an absolute understanding of this but the overzealous regulation incurs a cost. Some small businesses talk about spending thousands of euro to comply with regulations.

A farm is a small to medium-sized industry. Farms are employing people, directly and indirectly, and employees include agricultural contractors. Farmers' outlay on machinery and so forth and the headaches they must endure trying to keep their businesses going must be ac-

knowledgeed. Farms must be acknowledged as businesses.

At a public meeting in Wexford last week, people were talking about the need for a one-stop shop. A plethora of agencies exists for setting up and mentoring businesses and for organising. There should be a one-stop shop or single State apparatus to offer advice to businesses on what to do and what not to do. The cost of credit and unavailability of credit for SMEs comprise an issue. The SMEs are crying out for credit.

Where is the report on the self-employed that was on the Minister's desk some two and a half years ago? It was produced following on from what happened in the United Kingdom. Has anything been done about the report or has it been kicked to touch? The broadband issue is as serious within miles of the city as it is within hundreds of miles of the city. It is not acceptable. A fibre-optic cable must be brought to each and every community. The Government has dismantled the Leader funding, which was playing a massive part in rural areas. When I chaired a regulatory committee, we examined the effect of a reduction in regulations for SMEs and we saw what other countries were doing to reduce the red tape and bureaucracy. The red tape and bureaucracy are completely insane. Every single reform that occurs implies more bureaucracy, red tape, oversight and pen pushing.

We must address the issues of the self-employed, broadband, Leader funding and red tape. I could go on for hours.

Deputy Robert Troy: I welcome the opportunity to contribute to this debate. I acknowledge the huge contribution the SME sector is making to the Irish economy, from the 350,000 self-employed to the 580,000 who are employed in enterprises with 50 staff or fewer. Like everyone in recent years, these people have gone through what was possibly the worst global recession ever. They have survived, but not without a great sacrifice, and have received little or no support from the State. Those who have not survived or have been unfortunate enough to fail, and those who continue to fail, have little by way of comfort or support from the State. They are ineligible for certain welfare payments and benefits. They are allowed certain allowances but the means test is so rigorous that they often feel like beggars coming out of the social welfare office after seeking some support. There is certainly no sweetheart deal available for people who fail, such as the deals that seem to be available to companies such as Sitieserv. When one considers what the Government has done to support SMEs in recent years, one realises that it has doubled the rate of employer's PRSI, absolutely ransacked employers' pensions and slashed the redundancy payment. That is the level of support that is given by the Government to the sector.

I take this opportunity to credit Deputy Willie Penrose. The Minister of State will remember that we conversed about the Deputy's legislation on Twitter one night. He was right to bring forward the Bill to reduce the bankruptcy term to support entrepreneurs, innovators, risk takers and job creators because very often they are the people we need to start again. They have the expertise and imagination needed to start again. I call on Fine Gael to stop playing party politics and support the Deputy's Bill because it will find support throughout the membership of the House.

The motion rightly calls for reform of the social welfare sector. It is very important that we reform the sector for the self-employed because it will help foster an entrepreneurial attitude. It will tell people to try but that if they fail they will be supported.

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I want to turn my attention to Revenue. Not one of us would condone deliberate tax evasion, but the manner in which Revenue officials carry out audits is nothing short of a scandal. The number of small businesses which have been targeted and the level of interrogation and examination is nothing short of scandalous. I met someone who employs 12 people in Mullingar. He used to employ in excess of 30 people but because of the recession he downsized. The officials practically lived with the business for four weeks, and the level of anxiety and stress was absolutely harrowing. In the heel of the hunt before they left all they could ask was how the person was able to keep the business going. The State should be complimenting and congratulating, not condemning, businesses which kept the ship afloat for the past number of years. The self-employed people who inadvertently miscalculated their liabilities are charged absolutely penal interest rates and penalties and this needs to be addressed.

My colleague spoke about broadband and I want to add my voice to this. The Mr. Crumb factory in north Westmeath employs more than 100 people. Very often the owner must get into his car and travel from Castletown, Finea to the Mullingar Park Hotel to send and receive orders. Where is the Government support for a business such as this? Last Sunday night I was at a cumman meeting in Abbeyshrule, County Longford, which has an airport and a very successful business and bar restaurant. It won the all-Ireland tidy towns competition, and the new Central Park development will be a small distance from it. However, there is no broadband good, bad or indifferent. This is a scandalous legacy for the Government. It could find €500 million from the National Pension Reserve Fund to roll out water meters which will not be used or read for a minimum of four or five years but it does not have the will, money or commitment to ensure that in this day and age we have broadband, which is a crucial service for businesses and citizens. This is a very bad legacy.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): Small and medium-sized enterprises will continue to be critical to our economic recovery and the Government will continue to support them, whether through start up or scaling phases. SMEs will continue to provide vital jobs and goods and services in our communities and regions, and consequently it is in all of our interests that SMEs are born, survive and thrive. I take the point made on the failure of SMEs and the point made by Deputy Kelleher on venture capital and taking equity stakes. The metrics will show clearly the Government has a very strong record, as does the venture capital community, in taking punts on many SMEs, particularly at present.

People talk about a paradigm shift but a new dialogue has opened up about the notion of fear of failure. We all subscribe to the idea one can fail quickly and move on and start something new. This applies mainly in the tech sector. In other sectors of the economy one must be a little more reticent and careful about the rhetoric we use, because sometimes the failure of an entity involves many creditors and we must have mechanisms in place so people can find relief with regard to debts incurred by a company. We do not want to have a system which is too loose so people could turn over entities too easily whereby many people are left hanging for want of the expedition of the debt which would arise from such activities. I take the point, which is valid, but we need to be careful about how we evolve such a culture in this country.

We have to state for the record that as strong as the foreign direct investment base is in this country, more jobs are supported by Enterprise Ireland and local enterprise offices than in IDA companies. By the end of 2014 Enterprise Ireland and the local enterprise offices supported 180,072 jobs and 31,326 jobs in client companies respectively, while total employment in IDA client companies stood at approximately 174,500. The Minister of State, Deputy English, indi-

cated yesterday that our aim is to create 100,000 new jobs by 2016 and we think this is a realistic proposition. We are well on our way, with an extra 90,000 jobs having been created in net terms since the Action Plan for Jobs was launched in 2012. We are well on our way to reaching the 100,000 extra jobs during this year, a full 18 months ahead of schedule.

We facilitate formal mechanisms for structured ongoing engagement with SMEs through the advisory group on small business, the high level group on better regulation and the retail forum. These formal mechanisms can and do feed into the Action Plan for Jobs and the budget processes, ensuring facilitated structured and regular dialogue between the Government and representatives of the very sector about which we are speaking, which is the small business sector, on any issue of concern and on how to promote the economic development and job potential of the sector.

It must be said that raising awareness among SMEs and entrepreneurs of the range of State-funded supports available remains an ongoing challenge for the public policy system. One of the issues which causes small businesses the most headaches is the lack of clarity about what they are supposed to do, to whom they need to speak and from where to get the right information. This is why the Department of Jobs, Enterprise and Innovation launched *actionplanforjobs.ie* and has partnered with a number of industry ambassadors to create awareness of the supports available. This is part of a wider effort. Another example is the Government's Taking Care of Business events, which also demonstrate our commitment to ensuring SMEs have easy access to the information they require to run a business as efficiently and effectively as possible. We also have the 31 local enterprise offices, LEOs, which form a first stop shop approach for business in each community and this will continue to develop relationships. If we look at the metrics from last week we clearly see jobs growth from the activities of the LEOs.

It is four years since we took office and our economy grew by 4.8% last year. It is the fastest-growing economy in the European Union. When we started the Action Plan for Jobs the unemployment rate was at 15.1%. It has fallen to 10% and it will fall below 10% very shortly.

Deputy Sean Fleming: I thank my colleague, Deputy Dara Calleary, for tabling this motion on one of most important areas in Irish society, self-employed people and small and medium-sized enterprises, SMEs. We recognise there are approximately 350,000 self-employed people in Ireland, a figure that is generally ignored. Protestations about how badly they are being treated by the Government have been falling on deaf ears. There are approximately 600,000 people working in SMEs, namely, enterprises with up to 50 employees. Many local shops and supermarkets have higher numbers but we refer to them as relatively small businesses. We must put this into context. Up to 200,000 people are working in foreign direct investment companies but the contribution of SMEs and the self-employed is far greater.

The motion highlights the disparity in tax treatment between the self-employed and the PAYE sector. We have come through a difficult time and social welfare benefits, including jobseeker's benefit and illness benefit, are not available to self-employed people if a business goes bust. More often than not, these people employed a number of people who are able to receive benefits, whereas the self-employed person is not able to avail of them. The motion calls for the introduction of an earned income tax credit for self-employed people on a phased basis. If returned to government, we will do it over a two-year period. This will be equal to the value of the PAYE tax credit of €650. The anomaly has been there for a number of years and needs to be addressed. We have also called for the provision, on a voluntary rather than on a compulsory basis, of a range of social protection payments, including jobseeker's benefit and illness benefit

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for self-employed PRSI contributors, as part of a commitment to fostering an entrepreneurial culture as well as enhancing social solidarity. It is very important that we set out to achieve that.

It is also important to recognise that when businesses at local level are involved in local activities, they source the majority of their materials and services locally and this has a tremendous multiplier effect in terms of money circulating throughout the local economy. This is much more the case than with foreign direct investment enterprises, welcome as they are. There are more people working in small local industries, including in retail and other sectors. The key problem facing self-employed people who are now unemployed is that they are entitled to only a limited range of social welfare payments. To be eligible for jobseeker's assistance, a self-employed person must undergo a phenomenal means test. If the person had any assets built up in the business or tried to provide for the future by acquiring a property, such as a second house or a rented house, he or she will not be eligible for social welfare payments or social assistance payments because he or she will not have built up eligibility since he or she was not allowed to contribute. The motion refers to the voluntary introduction of such a code. If people apply for such payments, there is a tremendous waiting list. People in the self-employed category include farmers, professional people, certain company directors, people who run their own businesses and sub-contractors. I will address the latter before I conclude.

When we recover economically, and not just within the M50 but in the rest of Ireland, the SME sector will have a significant part to play in the recovery. It is important to have a safety net and to be able to claim some social welfare payment on the basis of having contributed to it. People are not asking for something for nothing. They want to pay and want legislation to allow them to contribute. In the interest of social justice, it is important that the facilities are provided.

In the USA, self-employed and employed people pay social security tax, which is something we should consider. The motion refers to extending, on a phased and voluntary basis, the full range of social welfare payments, including jobseeker's benefit and illness benefit to self-employed people. Self-employed people should be able to opt into the existing class A PRSI structure, paying the rate corresponding to their income level. This will contribute to making class S payments. This additional voluntary payment will equate to approximately 4% for self-employed people with income over €356 a week. They are not looking for something for nothing and they want to make a contribution and to get the benefit of the contribution if the rainy day comes along. If the rainy day does not come along, everyone is a winner, including the economy because we will not have to pay out and small businesses will probably be going from strength to strength. As part of the programme of extending the benefits, we propose a limited recognition be given to class S payments made to date by self-employed people, which gives them very little benefit. This can be done by working out the balance of what they have paid and by working it into the payments they will make in the future.

I congratulate my colleague, Senator Darragh O'Brien, who introduced legislation in the Seanad on behalf of Fianna Fáil, entitled the Public Services and Procurement (Social Value) Bill 2015. I hope it will get full support from the Government and that it will be passed. This Bill requires all public bodies to have regard to economic, social and environmental well-being in connection with public service contracts and to provide for related matters. The Minister of State will be interested in the following area. We want a community benefit requirement in all of the major construction and other contracts given out by public bodies. This relates specifically to training and recruitment and the issue of apprenticeships. The Minister of State visited the ESB training centre in Portlaoise in my constituency and spoke about the importance of ap-

prenticeships. The chief executive of the ESB is chairing a committee on this but we are light years away from where we should be in terms of the number of apprenticeships. It should be a requirement that this be taken into account when public sector contracts are being given out. The opportunity for sub-contractors to avail of this work should also be taken into account as well as the value to the local economy. It is not just a question of the lowest price, even though we want to drive down prices and get the best value for money for the taxpayer. Other factors arise that should be taken into account.

Senator Darragh O'Brien said that unlike many other EU countries, Ireland focuses solely on the lowest price in many situations. Most other EU countries have a mechanism in place, so it is not anti-EU. Every time we want to do something, we think the EU will not allow it. The EU allows many things but we have decided not to do them. Most EU countries have introduced social clauses to allow the state to choose offers.

Deputy Damien English: We have done it.

Deputy Sean Fleming: We can do it and there have been pilot schemes in a couple of areas. The worry is that the contracts will be completed in a year's time, there will be a review of how it has worked out and in four years' time, a mechanism will be put in place. That is how the public service works. I would be happier if there were a contractor on site from a company that monitors projects as they progress. We would be able to say, before contracts have been completed, that we have examined ten major contracts and that this is working, or just needs to be refined. We would not have to wait until the pilot schemes are over, or until we commission a body to carry out a survey and produce a report. We are agreed on this but we have only just dipped our toes in the water. We must take a full dip and do the full job. It is important we do that.

I am blue in the face talking about the Construction Contracts Act, which was passed over two years ago but has not yet commenced. It moved from the Department of Public Expenditure and Reform to the Department of Jobs, Enterprise and Innovation. The Minister of State, Deputy Gerald Nash, is dealing with it but people cannot agree on who will be the chairman or the arbitrator. It is a way of long-fingering it. Senator Feargal Quinn introduced the Bill in 2011 and it worked its way through the Houses. On budget day two years ago, I asked the Taoiseach when it would be commenced and I did so again last year on budget day and two weeks ago on the Order of Business. The Minister for Jobs, Enterprise and Innovation sent me a letter stating that it is still being worked on and that there is no timescale. The Government needs to get the finger out to protect sub-contractors.

The Government could act immediately in regard to commercial rates. Mechanisms can be put in place by local authorities to encourage commercial development in town centres, which need a boost. The issue of broadband and mobile phone signals needs to be addressed. We can talk about broadband all we like but the village in which I live does not even have an adequate mobile phone signal because the Commission for Communications Regulation is not doing its job and ensuring providers provide a proper service.

Not only do we need a social clause in some of these public contracts, but we need to change the tendering system so that SMEs can be included on the list. If they have not had a significant turnover in previous years, they will not even be eligible to tender for the job.

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That must be required, especially for businesses that have a track record but which may not have had cash flow or a high turnover in the past couple of years. Those would be concrete steps to help SMEs.

Deputy Dara Calleary: I thank my colleagues from all sides of the House who have spoken since yesterday evening on this topic. The intention was to place SMEs, which give 350,000 people an income in this country on a daily basis, at the centre of the political debate. We have succeeded to some degree in that regard, given the media coverage and discussion on this topic.

The intention of the motion was to lay down some very specific requirements. Rather than going for a scattergun motion and throwing everything in with it, we laid down very specific requests, such as the introduction of an earned income tax credit, the provision of PRSI and social protection payments, an information campaign from the Department of Social Protection to highlight the services and benefits available to self-employed people, an expansion of the role of the Strategic Banking Corporation of Ireland, changes in capital gains tax and an extension to the credit guarantee scheme. While all those things were mentioned approvingly by various Government speakers, what we will actually be voting on is, as I described it last night, the Labrador puppy of Government amendments. Everybody loves it. Everybody will pat it on the head and tell it, "You're a great lad", but there is nothing specific there that we can hold the Government to account on in terms of addressing all the problems that have been raised by speakers on all sides of the House about SMEs. This is why we will vote on the Government amendment. There is nothing specific in terms of addressing an insolvency system that is not working and not delivering, and which will not work and will not deliver under the current scheme.

No mention was made over the two nights of why the Fine Gael Party is selling out the Labour Party again in respect of the bankruptcy term, why the Fine Gael Party is not bringing us in the Twenty-six Counties into line with Northern Ireland and England in terms of bankruptcy laws and why the Taoiseach continues to stick his head in the sand regarding the inadequacies of our insolvency network. We need an insolvency system that will deliver for all cohorts, but particularly for SMEs.

There is nothing specific regarding the credit guarantee scheme and why, after a review published in mid-2014, which highlighted its inadequacies, we are now moving rapidly towards mid-2015 and we are no further on in terms of changing the scheme and addressing those inadequacies. Meanwhile, businesses the length and breadth of the country that need access to that facility are having their loans sold out from under them by banks. They are being sold to foreign funds with no respect, no understanding and no thought for the selfless effort that has gone into building up those businesses and for the people who are working in those businesses. They need a reformed credit guarantee scheme, but it is not a priority. It is put on the long finger.

As I said when I opened this debate last night, this system does not understand how it is for someone to arrive into work on a Monday morning and not know if they will have money to pay their employees, never mind themselves. It does not understand what it is like for someone to go for weeks on end without receiving a cent until somebody pays them, and then they must pay Revenue, the Department of Social Protection, their suppliers and only then, if there is anything left, will the business owner get paid. Life as an SME owner is not, as people like to portray it, all champagne, yachts and big cars. It is very tough. A system that does not understand and whose every response demonstrates that lack of understanding needs to come on that journey and to understand how it is to go without being paid. Then we might see urgency around the

credit guarantee scheme and the need for a new business bank. Instead of setting up and giving money to banks that have failed Irish business, and small businesses in particular, we need to set up a new business bank and take them on. The money is there to do it.

That is what these two nights have been about - injecting urgency into this system and into the Minister's Department about SMEs and not treating them like some little child to be patted on the back and told: "You're a great lad. Stay there in the corner, be quiet and don't embarrass us." SMEs are the lifeblood of this economy. They will get this country back on its feet. It is time we had a Government and a system that respected them. The amendment shows no respect and no understanding of the position SMEs are in at present and that is why we will oppose it.

Amendment put:

<i>The Dáil divided: Tá, 66; Níl, 38.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Adams, Gerry.</i>
<i>Burton, Joan.</i>	<i>Boyd Barrett, Richard.</i>
<i>Cannon, Ciarán.</i>	<i>Broughan, Thomas P.</i>
<i>Carey, Joe.</i>	<i>Calleary, Dara.</i>
<i>Coffey, Paudie.</i>	<i>Collins, Joan.</i>
<i>Collins, Áine.</i>	<i>Colreavy, Michael.</i>
<i>Conaghan, Michael.</i>	<i>Crowe, Seán.</i>
<i>Connaughton, Paul J.</i>	<i>Daly, Clare.</i>
<i>Coonan, Noel.</i>	<i>Doherty, Pearse.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ellis, Dessie.</i>
<i>Costello, Joe.</i>	<i>Ferris, Martin.</i>
<i>Creed, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Daly, Jim.</i>	<i>Fleming, Sean.</i>
<i>Deering, Pat.</i>	<i>Fleming, Tom.</i>
<i>Doherty, Regina.</i>	<i>Healy, Seamus.</i>
<i>Dowds, Robert.</i>	<i>Healy-Rae, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Kelleher, Billy.</i>
<i>English, Damien.</i>	<i>Lowry, Michael.</i>
<i>Farrell, Alan.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Feighan, Frank.</i>	<i>McDonald, Mary Lou.</i>
<i>Fitzgerald, Frances.</i>	<i>McGrath, Finian.</i>
<i>Fitzpatrick, Peter.</i>	<i>McGrath, Michael.</i>
<i>Griffin, Brendan.</i>	<i>McLellan, Sandra.</i>
<i>Hannigan, Dominic.</i>	<i>Martin, Micheál.</i>
<i>Harrington, Noel.</i>	<i>Mathews, Peter.</i>
<i>Harris, Simon.</i>	<i>Moynihan, Michael.</i>
<i>Hayes, Tom.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Howlin, Brendan.</i>	<i>Ó Cuív, Éamon.</i>
<i>Humphreys, Heather.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Humphreys, Kevin.</i>	<i>O'Brien, Jonathan.</i>

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<i>Keating, Derek.</i>	<i>O'Sullivan, Maureen.</i>
<i>Kehoe, Paul.</i>	<i>Pringle, Thomas.</i>
<i>Kelly, Alan.</i>	<i>Ross, Shane.</i>
<i>Kenny, Seán.</i>	<i>Shortall, Róisín.</i>
<i>Kyne, Seán.</i>	<i>Smith, Brendan.</i>
<i>Lawlor, Anthony.</i>	<i>Stanley, Brian.</i>
<i>Lynch, Ciarán.</i>	<i>Troy, Robert.</i>
<i>Lyons, John.</i>	<i>Wallace, Mick.</i>
<i>McCarthy, Michael.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Donnell, Kieran.</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, John Paul.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Sherlock, Sean.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Varadkar, Leo.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Dara Calleary and Michael Moynihan.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

<i>The Dáil divided: Tá, 66; Níl, 38.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Adams, Gerry.</i>
<i>Burton, Joan.</i>	<i>Boyd Barrett, Richard.</i>
<i>Cannon, Ciarán.</i>	<i>Broughan, Thomas P.</i>
<i>Carey, Joe.</i>	<i>Calleary, Dara.</i>
<i>Coffey, Paudie.</i>	<i>Collins, Joan.</i>
<i>Collins, Áine.</i>	<i>Colreavy, Michael.</i>
<i>Conaghan, Michael.</i>	<i>Crowe, Seán.</i>
<i>Connaughton, Paul J.</i>	<i>Daly, Clare.</i>
<i>Coonan, Noel.</i>	<i>Doherty, Pearse.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ellis, Dessie.</i>
<i>Costello, Joe.</i>	<i>Ferris, Martin.</i>
<i>Creed, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Daly, Jim.</i>	<i>Fleming, Sean.</i>
<i>Deering, Pat.</i>	<i>Fleming, Tom.</i>
<i>Doherty, Regina.</i>	<i>Healy, Seamus.</i>
<i>Dowds, Robert.</i>	<i>Healy-Rae, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Kelleher, Billy.</i>
<i>Farrell, Alan.</i>	<i>Lowry, Michael.</i>
<i>Feighan, Frank.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Fitzgerald, Frances.</i>	<i>McDonald, Mary Lou.</i>
<i>Fitzpatrick, Peter.</i>	<i>McGrath, Finian.</i>
<i>Griffin, Brendan.</i>	<i>McGrath, Michael.</i>
<i>Hannigan, Dominic.</i>	<i>McLellan, Sandra.</i>
<i>Harrington, Noel.</i>	<i>Martin, Micheál.</i>
<i>Harris, Simon.</i>	<i>Mathews, Peter.</i>
<i>Hayes, Tom.</i>	<i>Moynihan, Michael.</i>
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<i>Humphreys, Kevin.</i>	<i>Ó Snodaigh, Aengus.</i>
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<i>Kehoe, Paul.</i>	<i>O'Sullivan, Maureen.</i>
<i>Kelly, Alan.</i>	<i>Pringle, Thomas.</i>
<i>Kenny, Seán.</i>	<i>Ross, Shane.</i>
<i>Kyne, Seán.</i>	<i>Shortall, Róisín.</i>
<i>Lawlor, Anthony.</i>	<i>Smith, Brendan.</i>
<i>Lynch, Ciarán.</i>	<i>Stanley, Brian.</i>
<i>Lyons, John.</i>	<i>Troy, Robert.</i>
<i>McCarthy, Michael.</i>	<i>Wallace, Mick.</i>

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<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Donnell, Kieran.</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>	
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<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Sherlock, Sean.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Dara Calleary and Michael Moynihan.

Question declared carried.

The Dáil adjourned at 9.25 p.m until 9.30 a.m. on Thursday, 23 April 2015.