



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 28 Eanáir 2016*

*Thursday, 28 January 2016*

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

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Preschool Services

1. **Deputy Robert Troy** asked the Minister for Children and Youth Affairs under the terms of the early childhood care and education scheme, if he will ensure that preschool services will be able to extend the provision they offer, given their concerns at their unsustainability under the 38-week capitation system; the negotiations or discussions he has had with the preschool sector regarding the capacity within preschools to handle the extension to the preschool year commencing in September 2016; and the gaps in capacity by county. [3396/16]

**Deputy Robert Troy:** Will the Minister for Children and Youth Affairs give an update on the negotiations or discussions he has had with the preschool sector regarding capacity within preschools to handle the extension to the preschool year commencing in September 2016? Has he identified any gaps in capacity? If so, where are those gaps and how does he intend to alleviate them?

**Minister for Children and Youth Affairs (Deputy James Reilly):** I acknowledge the considerable support of the child care sector, along with the flexibility of child care providers and staff, in ensuring the range of child care support programmes administered by my Department are implemented.

From September 2016, I am expanding the free preschool programme to allow children enrol in free preschool from the time they are three years of age and to remain there until they start primary school.

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Following the budget announcement, I met with senior representatives from the early years sector to discuss the measures announced as part of the budget package. The meeting was positive and constructive, with all parties expressing commitment to work together on the issues of capacity and high quality preschool provision.

As a result of the budget extension, the number of children benefiting from the programme is expected to rise from 67,000 to 127,000 in a given programme year. For the 2016-2017 programme year, it is estimated 89,500 children will be eligible to enrol in the programme from September 2016, an additional 22,000 from January 2017 and a further 15,500 from April 2017.

I decided to introduce this new measure from September 2016 to provide the early years sector with the time to build capacity to meet the increased demand. As the increased demand for the programme is not expected to peak until April 2017, this timeframe should allow preschool providers to make any necessary infrastructural or service changes, as well as to put in place extra staff resources to accommodate the additional demand.

I am satisfied there is already additional capacity in the early years sector to cope with some of the increased demand. The annual survey of early years services, conducted in December 2014, estimated there are more than 24,000 vacancies in early years services across the country, with almost 13,000 of these vacancies in sessional services.

**Deputy Robert Troy:** It would have been more prudent had the Minister consulted with the sector prior to making the announcement. From my engagement with the sector, I am getting the impression there are significant concerns that there will not be sufficient capacity. In a reply to a parliamentary question I put down last year, the Minister stated he identified approximately 10,000 vacant places across the board. From his figures today, he will need an additional 22,500 by September 2016 for the free preschool year. That does not take into account the additional space required for the extension of the community child care subvention scheme.

Has a clear audit taken place of the exact number of vacant places? What measures is the Department going to take between now and September to ensure the required number of spaces will be available in September 2016?

**Deputy James Reilly:** Every year a significant number of new preschool providers apply to participate in this programme. This increased demand for and additional investment in free preschool provision should encourage greater numbers of applicants. It is clear more capacity will be required. Officials in my Department are working closely with the city and county child care committees and voluntary child care organisations to identify measures to help increase capacity. My Department will also be making data available to the committees in the coming weeks, broken down by district electoral division area, to assist their work with providers to meet service demands.

There was extensive consultation prior to the development of this programme by the inter-departmental group with stakeholders and parents through meetings and online surveys. There are challenges with which the Department will be helping the sector to deal.

**Deputy Robert Troy:** To be fair, I do not think the Minister gets it. He seems to be relying on the hope that more people will apply to provide the service in September. We are only seven months away from September. Will he tell us exactly how many spaces are available now? He has not answered that yet. What scheme has the Minister put in place to ensure there will be capacity if existing services need to expand? My understanding from dealing with the sector

is that it is at breaking point and will not be able to provide extension to the scheme. Current services are having difficulties even recruiting new staff. I cannot see where all these additional spaces will come in September. The Minister is hopeful they will arise. I do not believe that is proper planning.

**Deputy James Reilly:** There is capacity. Some of it has been taken up. Since the introduction and the announcement of the scheme, people who have been holding back sending their children to preschool, hoping to save the one year available up until now to start in September 2016, have availed of it. Over 5,000 extra children are now in the early childhood care and education programme as a consequence of the Government's decision already. Several initiatives have been taken to support the sector and build up extra capacity.

**Deputy Robert Troy:** Such as?

**Deputy James Reilly:** There is the restoration of capitation rates to pre-2012 levels from September 2016. The additional capitation for preschool providers was recently announced as part of the suite of Government-funded supports for children with a disability accessing the early childhood care and education, ECCE, programme, and I know that is something the Deputy would be supportive of. There is funding of €1.5 million for the Learner Fund, which will allow up to a thousand early years practitioners to undertake and complete the level six qualification, which is a requirement for preschool leaders. There is funding of €4 million for early years capital 2016 programme. Efforts are being made to streamline applications for planning permission for preschool providers who wish to extend capacity to meet the increased demands of the ECCE programme. Officials of my Department have already met with officials in the Department of the Environment, Community and Local Government on this. They have committed to publishing further information which will assist preschool providers and local authorities with planning permission applications and queries.

**Deputy Robert Troy:** The Minister should watch this space in September.

### **Child and Family Agency Investigations**

2. **Deputy Sandra McLellan** asked the Minister for Children and Youth Affairs the number, outcome and type of complaints made to the early years inspectorate of Tusla, the Child and Family Agency, in each of the years 2013 to 2015 in tabular form. [3279/16]

**Deputy Sandra McLellan:** I wish to ask the Minister how many complaints were made to the early years inspectorate of Tusla in 2013, 2014, and 2015. What was the outcome of those complaints? Could the Minister provide a breakdown of the complaints by category and nature?

**Deputy James Reilly:** The total number of complaints received by the early years inspectorate of Tusla has fallen from 361 in 2013 to 274 in 2014 and to 258 last year.

Information about the category of complaint is first available from 2015, and I am circulating details of these in a table following this reply. In brief, the table indicates that of all complaints received in 2015, 169 related to governance, 130 to safety, 79 to facilities and 150 to the health, welfare and development of the child. There is some overlap between these categories, with complaints sometimes being made under more than one heading. Eighty-three complaints

were upheld, 45 were partially upheld, and 111 were not upheld.

The Child and Family Agency's early years inspectorate monitors and investigates complaints received by it in relation to early years services. The agency, with the support of my Department, is establishing a centralised national early years complaints office which will filter, categorise, risk-rate and prioritise complaints received for investigation. The data gathered by this office will inform registration decisions and the effective scheduling of inspections.

The revised child care regulations, which I hope to be in a position to publish shortly, will include a requirement for each early years service to maintain a complaints policy specifying the procedure to be followed by parents or guardians of children attending the service for the purpose of making complaints. The service provider will be required to retain a written record of each complaint received, including the outcome of the complaint, and this record will be open to inspection by an early years inspector. It is anticipated that this requirement will result in a speedier resolution of complaints locally, and reduce the burden on the agency's complaints office.

### Number and breakdown of complaints received by Tusla in 2015

Area	Number	Issue of Complaint				Outcome of Complaint				Progress	
		Governance	Safety	Facilities	HWDC	Upheld	Partially Upheld	Not Upheld	Other	Complaints Open	Complaints Closed
DML	82	59	50	52	39	48	7	23	0	4	78
DNE	95	44	60	20	76	19	17	52	0	7	88
SOUTH	24	21	6	0	6	5	10	9	0	0	24
WEST	57	45	14	7	29	11	11	27	6	2	55
<b>TOTAL</b>	<b>258</b>	<b>169</b>	<b>130</b>	<b>79</b>	<b>150</b>	<b>83</b>	<b>45</b>	<b>111</b>	<b>6</b>	<b>13</b>	<b>245</b>

**Note 1:** The complaints data is divided into the Tusla regions, i.e. Dublin/Mid-Leinster, Dublin/North-East, South, and West.

**Note 2:** HWDC is an acronym for "health, welfare and development of the child."

**Note 3:** Complaints can be made under more than one heading, so the individual totals of the issues of complaint add up to more than 258.

**Deputy Sandra McLellan:** If we look at similar models across the world, we can see evidence of good practice that could be potentially followed up here. In New Zealand, for example, complaints are published, with the aim of being transparent across the board. This is beneficial to the general public and to those linked with different services. While we have some databases, my understanding is that they are regional. I believe the Minister stated in his reply that it is the intention to create a national database, which is extremely important. It would allow complaints to be identified and addressed in a way that would be of benefit to all those involved. I wish to ask the Minister why annual reports are not currently published by Tusla as a matter of good practice. Does the Minister intend to compile a disclosure of complaints on an annual basis and open a confidential database that is accessible to the public? I understand that Tusla is still in the early stages of development as a semi-State body, but these measures seem obvious and necessary.

**Deputy James Reilly:** The complaints are being compiled, and it is intended that this will be done by a centralised complaints office, so that they can be filtered, categorised, risk-rated

and prioritised for investigation. I have no issue with publishing the final lists and having transparency. It would require some internal discussions, I have no doubt, and some discussions with the sector. I believe knowledge is power, and parents need to be empowered to be sure that they are happy with whatever service their children might be getting. That is an issue I will address with my Department. I will be meeting with Tusla shortly and I will talk to them about that issue.

**Deputy Sandra McLellan:** There are many complaints on an annual basis, and I am sure these complaints are fully assessed and dealt with in a proper manner. There do, however, seem to be some discrepancies when it comes to follow-up on outcomes that may be deemed unsatisfactory by the complainant. There appears to be no suitable or accessible procedure of appeals to follow for those with unsatisfactory outcomes. There have been examples in which outcomes of complaints were only partially upheld, or no outcome was stated whatsoever. There should be sufficient processes put in place so that cases such as these do not occur. I wish to ask the Minister what process is available to those who were not satisfied with the outcome of the investigation of the complaint. Does the Minister believe that process is satisfactory? Are there any plans to develop a clearly defined process to allow those with unsatisfactory outcomes the opportunity of a fair appeal?

**Deputy James Reilly:** Part 7(a) of the Child Care Act was amended by section 92 of the Child and Family Agency Act 2013. Under that Act, all service providers notified to the HSE prior to the commencement of the Act were deemed registered for a period of three years. Under the Act, the agency may attach conditions to a registration, or remove a provider from the register. The agency may choose to do this where it is satisfied that the provider is non-compliant with the regulations. When the agency proposes to do this, it must notify the provider in writing of its proposals to do so and the reasons for it. The provider may then make representations to the agency or appeal to the District Court. The agency may also prosecute a provider for contravening the regulations and, on conviction, the provider will be subject to a class A fine. The Act refers to regulations made under this part, and the delay in the preparation of revised regulations means that a substantive registration system has not yet been commenced by the agency. However, the Department's legal advice is that the existing child care regulations of 2006 continue to apply.

The Deputy's question *vis-à-vis* an appeals process is something that has not come to my notice up to this moment in terms of a structure being requested. However, it is something that I will look at, because there needs to be a right of appeal on both sides. I will finish by emphasising that the role of governance is to help providers and services provide a safe service, and in most instances, following interventions, practices change and services improve. The goal is to continue to have a safe service for children. However, in cases in which people are recalcitrant and refuse to come on board with a more modern, proper and safe approach, we have the sanctions in place to deal with them.

**Deputy Sandra McLellan:** I take this opportunity to thank all of my constituents for giving me the opportunity to represent them here in our national Parliament over the last five years. It has been an honour and a privilege for me to represent them. I also wish to thank everybody here in Leinster House for all their support along the way. I wish the Members here continued happiness into the future.

**An Ceann Comhairle:** Thank you, Deputy. Whatever future you intend pursuing after your life here, I wish you every success. It was always a pleasure working with you.



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**Deputy James Reilly:** Hear, hear.

**Deputy Finian McGrath:** I would also like to wish Deputy McLellan all the best for the future. I hope everything works out well in the end for her. The best of luck to her.

### **Child Poverty**

3. **Deputy Finian McGrath** asked the Minister for Children and Youth Affairs the measures in place to assist children living in poverty; and if he will make a statement on the matter. [3278/16]

**Deputy Finian McGrath:** I wish to ask the Minister which measures he intends to put in place to assist children who are living in poverty. As the Minister knows very well, poverty rates have rocketed. We now have a very serious situation in which 37% of people suffer from deprivation in our society. We must target those children - there are between 138,000 and 193,000 of them - living in consistent poverty and focus on getting that rate down because we now have the resources and the improving economy to do it.

**Deputy James Reilly:** At the outset, I would like to be associated with the Ceann Comhairle's comments and wish Deputy McLellan all the very best in future. I am sure that whatever she chooses to do, it will be done with her usual attention to detail and commitment.

At my recent appearance at the review of Ireland by the United Nations Committee on the Rights of the Child in Geneva, I confirmed that the Irish Government acknowledges that dealing with child poverty in Ireland has been a major challenge. We have, however, achieved the following key actions in our response to dealing with child poverty. There is an additional €100 million in social protection measures for families with children, and we maintained the social security safety net by honouring an established commitment to maintain the value of child-related welfare payments at 33% to 35% of the minimum adult welfare rate. Our Pathways to Work strategy is helping to ensure that a high proportion of jobs are being taken up by people who were unemployed, including young people. As the Deputy knows, Ireland's unemployment rate has fallen from 15.1% to 8.8%. In recognition of the higher risks and life-long consequences of child poverty, the Government set a child-specific poverty target in Better Outcomes, Brighter Futures to reduce consistent child poverty by at least two thirds on the 2011 level. This figure currently represents 100,000 children.

Having an ambitious target and actively monitoring this will provide a roadmap from which we can develop and implement a strong multidimensional policy response. The Department of Social Protection has the lead role in co-ordinating Government strategies on child poverty and is the sponsor of outcome four of Better Outcomes, Brighter Futures, which is economic security and opportunity. It also has lead responsibility for the National Action Plan for Social Inclusion and has identified child poverty as a key cross-sectoral priority to be addressed in 2015 and 2016. There are also a number of areas of focus that support our response to child poverty within my Department. These include €345 million invested annually on early childhood care and education and after-school support programmes that provide care to 100,000 children; the area-based childhood programme of 2013 to 2017, which is co-funded by my Department and Atlantic Philanthropies, amounting to €29.7 million; and €51 million allocated to support the provision of youth services by the voluntary youth sector for 2016. In addition, Tusla delivers a range of services focusing on the welfare, protection and support for children, young people

and their families that are key to supporting outcomes that will assist in reducing the impact of child poverty.

Finally, my Department, in collaboration with the Department of Social Protection, will also hold an EU peer review in the next month to explore innovative responses in prevention and early intervention policy and provision to improve outcomes for children, particularly those experiencing child poverty and disadvantage. This event will involve ten member states and the European Commission and a number of key Irish stakeholders. It will contribute to shared learning in ensuring effective responses to address the damaging impact of child poverty.

**Deputy Finian McGrath:** I acknowledge that the Minister accepted the reality when he appeared at the United Nations meeting on child poverty. We need to focus on poorer children as a sector of society that is consistently living with severe disadvantage. Digging deeper, we can see the figures are not huge and we should be able to have a good crack at ending the problem. There are 138,000 children living in poverty, and the rate of consistent poverty has increased from 6.8% to 11.7%. Those are not my figures but those of the Ombudsman for Children. Even if the outcomes of Better Outcomes, Brighter Futures are realised, there will still be approximately 37,000 children living in poverty in 2020. There are 1,054 children who are part of homeless families, which means they live in very bad conditions. We have seen how they live with bed bugs, mice and cockroaches, which is unacceptable in Ireland in 2016.

**Deputy James Reilly:** I will underscore the actions that have been taken. Poverty is seven times more likely in households where people are jobless, and that is why the Government's focus has been on jobs and getting people back to work. There have been 135,000 new jobs created already, and another 50,000 are planned for this year. The Pathways to Work strategy is working and helping to ensure that a high proportion of jobs are taken up - we can show this - by unemployed people, including young people. Since the Government launched its plan in early 2012, we have added 135,000 jobs to the economy. There was a 33% increase in the child care budget, enabling every child in Ireland to avail of free preschool, including children with disabilities. Both I and the Deputies across the floor should be very pleased about that. There is additional funding to extend free GP care to all children aged 11 years and under; those under six already have cover. There is additional funding for speech and language therapy services for children with disabilities, and we have increased the number of resource teachers and special needs assistants in the Irish school system by 29% and 13%, respectively, since 2011, despite the terrible recession we had to endure. There is also improved funding for mental health services for children and young people, as well as a range of additional capital and revenue funding in respect of housing and an effort to specifically address homelessness among families.

**Deputy Finian McGrath:** The Minister is not listening. I would not get carried away with the connection between poverty and jobs. We know there are many low-paid workers in the State who must use social welfare payments such as family income supplement for support. There are many poor people who have jobs but still need support. The Minister has missed the point with respect to poverty.

Does the Minister find it acceptable that there are children in 2016 living in accommodation with leaking water, mould and faulty electric fittings? One child from every three is deprived of basic necessities, according to a recent Growing Up in Ireland report. As a former Minister for Health, the Minister knows that mortality rates in disadvantaged areas are three times those in more affluent areas. Males in those areas die 18 years sooner, on average, than their counterparts in more affluent areas. How about that for real poverty and hardship? When I woke



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up this morning and read about the €9 billion that we could have got back from bondholders, I wondered where it all went wrong.

**Deputy James Reilly:** We all know where it went wrong and there is no doubt about that with regard to the last Government. Family homelessness and child poverty are two issues that the Government takes very seriously. There is a regular meeting of Cabinet dealing with social policy and the issue of homelessness is discussed at every one. I go to all of them. The Deputy mentioned the link between jobs and poverty, and I reiterate my previous comments. A household is seven times more likely to experience poverty if the householders are jobless. The Deputy has rightly pointed out that there are additional supports for people on low pay. This Government restored the minimum wage, and the last budget, as adjudicated by independent authorities, was demonstrated to be particularly supportive of families with children.

I am not by any means clapping ourselves on the back at all and there is much work to do to address inequity in our society. We have much to do to address child poverty. I can say the rate has fallen from 11.7% to 11.2%, which may not be statistically significant, but it is travelling in the right direction. It is not travelling fast enough. We are committed to continuing to address this. In 2016, we want a republic that cherishes all its children equally.

*10 o'clock*

### **Homeless Accommodation Provision**

4. **Deputy Robert Troy** asked the Minister for Children and Youth Affairs how he and Tusla, the Child and Family Agency, are protecting the welfare of children sleeping in emergency homeless accommodation; and the care and in-reach plans being put in place for children who are in emergency accommodation. [3397/16]

**Deputy Robert Troy:** This question follows on from the previous one and asks the Minister how he and the Child and Family Agency, Tusla, are protecting the welfare of children who are sleeping in emergency homeless accommodation. What plans have they put in place to support these children and families, and will the Minister update the House on the matter?

**Deputy James Reilly:** I am keenly aware that homelessness is very disruptive to normal family life, and it is a major issue that the Government is tackling. Homelessness can have such a negative impact on children's education and welfare as they move from one accommodation to another while still trying to attend the same school and maintain relationships with their friends. It impacts not just on their welfare and education, but also on their sense of security. For the children and their families who find themselves in emergency accommodation, the primary need is for a family home, and responsibility for this lies with local authorities and my colleague, the Minister for the Environment, Community and Local Government, Deputy Alan Kelly.

Children in emergency homeless accommodation are in the care of their parent or parents, and a key role of the primary carer is that of protection. If there is a specific child protection concern, it should be reported immediately to Tusla for appropriate response. Tusla provides family support and works with relevant services to maximise the supports available to children

and families who are homeless. Where underlying problems are identified, for example mental health issues, it can refer the family to the appropriate services.

Homelessness as part of a family group is not of itself a basis for seeking to receive a child into care. However, where there is a specific child protection concern, Tusla can investigate and take the child into care if necessary and only if it is in the best interests of the child. The primary purpose of the Child and Family Agency is to support families, and the best place for a child is in a home with a family.

Tusla is very much aware of general welfare issues for families and has engaged in multi-agency working on this issue. A homelessness liaison officer has recently been appointed to lead Tusla's engagement with the homeless services, particularly regarding the overall welfare and protection of children.

**Deputy Robert Troy:** The Minister is right in one thing: the best place for a child is in his or her home, but it is a damning indictment on his Government that 1,600 children are not residing in their homes; they are residing in emergency accommodation, and that is because of policies that this Government has pursued. I was truly shocked by the Minister's reply to a parliamentary question I submitted where he clearly abdicated his responsibility for what his Department was doing to support people and children who are living in emergency accommodation. It is not right to say that Tusla is just about taking children into care. Tusla is a new agency that was set up to support families, and we need to support these families who are living in emergency accommodation. I am not the only one to say this: we know that the Government's response to the homelessness crisis has been questioned by two international UN committees, most recently the one on the rights of the child, which the Minister himself attended. We talked about the rights of the child and on voting to enshrine the rights of our children in our Constitution three years ago. Surely the most basic, fundamental right is that of children to have a home.

**Deputy James Reilly:** I do not know whether the Deputy heard what I said only two minutes ago. I never intimated for a moment that the function of the Child and Family Agency was anything other than to support families and children and keep children with their families, and to suggest otherwise is disingenuous. Most like-minded people would support the view that the best place for a child is with his or her family, as long as there are not serious child protection issues.

**Deputy Finian McGrath:** Correct.

**Deputy James Reilly:** Regarding the homelessness issue, I do not want to have a political row with Deputy Troy on what may be our last oral parliamentary question session-----

**Deputy Finian McGrath:** The Minister would never do that.

**Deputy James Reilly:** -----but the reality is that for him to pretend that this problem has only recently arisen and that it has nothing to do with the disastrous housing policy of the last Government clearly flies in the face of all logic and reason.

**Deputy Finian McGrath:** Here we go again.

**Deputy James Reilly:** We accept that this is a major problem and that it has got worse. Child poverty is a priority for the Government to address and, like many things, it takes time to address. We all know, ultimately, that the relief and resolution of this problem lies in increasing

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supply and not building houses where nobody wants to live.

**Deputy Robert Troy:** I remind the Minister that in 2013 a total of 20 families were becoming homeless in Dublin every month. In the last few months that has tripled to more than 60 families becoming homeless every month. Maybe I was living in a different universe, but I believe this Government was in power in 2013, and it certainly was in power in the last few months. I remind the Minister that in the four years of the last Government's term of office, over 13,000 social houses were built by the local authorities. In the four years this Government has been in power, 1,250 social houses have been built, so that is this Government's legacy regarding the social housing building programme, and as a consequence of that legacy we now have the highest ever number of people on our social housing lists: 130,000. Because of this, the bank veto and the fact that people are losing their homes because the banks are taking them now, we have 1,600 children living in emergency accommodation.

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

**Deputy Robert Troy:** I do not believe the Government is giving this issue the priority it deserves. We saw the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, last night out canvassing in his home town of Tipperary-----

**Deputy Finian McGrath:** With John Delaney, getting tickets for the match.

**Deputy Robert Troy:** -----when there was an important debate in this House on supporting families who are homeless, and in particular the 1,600 children who are homeless today.

**Deputy James Reilly:** It is interesting that the Deputy should mention 2013 because he will remember that we were still in a bailout then and were at the mercy of others, thanks to his party's actions-----

**Deputy Bernard J. Durkan:** Lack of actions.

**Deputy James Reilly:** -----and lack of action-----

**Deputy Finian McGrath:** The banking inquiry report did not say that.

**Deputy Robert Troy:** The Minister must not have read the banking inquiry report.

**Deputy Finian McGrath:** He will have to go back and read it again.

**Deputy Robert Troy:** Read the banking inquiry report, Minister.

**Deputy Finian McGrath:** If the Minister wants a row, he will get a row.

**Deputy James Reilly:** The Deputy will obviously pretend that houses can be produced without any resources because it suits his argument. He will pretend that houses can be produced overnight.

**Deputy Bernard J. Durkan:** That is right.

**Deputy James Reilly:** He will ignore the fact that the reason the country is blighted with ghost estates is because of his party's policies, which encouraged developers to build in places nobody wanted to live-----

**Deputy Finian McGrath:** This Government would have made it worse.

**Deputy James Reilly:** -----and to build on floodplains where nobody will be able to live-----

**Deputy Robert Troy:** There was no building on floodplains-----

**Deputy James Reilly:** I say to look to the positive-----

**Deputy Robert Troy:** It is the Minister's party that has been in power on the local authorities for the last ten years.

**Deputy Bernard J. Durkan:** Yes-----

**Deputy Robert Troy:** Yes, in Kildare.

**Deputy Bernard J. Durkan:** His party failed miserably in its housing policy for 15 years.

**Deputy Robert Troy:** No, we did not.

**Deputy Bernard J. Durkan:** He should be ashamed of himself. His party's policies were illiterate.

**An Ceann Comhairle:** Can we get back to Question Time?

**Deputy James Reilly:** Not alone that-----

**Deputy Robert Troy:** The facts speak for themselves, Deputy.

**Deputy Bernard J. Durkan:** After 15 years of legislating Deputy Troy boasts about the amount of housing his party had built. His party had a quarter of the required housing built.

**An Ceann Comhairle:** The Deputy had his chance to contribute.

**Deputy James Reilly:** Could I please have a chance to respond, a Cheann Comhairle?

**An Ceann Comhairle:** No, we are over time.

**Deputy Finian McGrath:** Deputy Durkan started the row.

**Deputy James Reilly:** But I did not get an opportunity because they were shouting-----

**An Ceann Comhairle:** I am not here for political statements. I am here to hear Question Time.

**Deputy James Reilly:** I am here to answer the question-----

**An Ceann Comhairle:** We are way over time. We are now almost-----

**Deputy Robert Troy:** It would be the first time the Minister ever answered the question.

**Deputy James Reilly:** I must speak to the fact that the Government has put aside €3.8 billion in capital for direct social housing building.

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

**Deputy James Reilly:** That is 35,000 units, and there are 75,000 other homes to be supported through local authority initiatives and over 300 projects underway, as we speak, in local authorities around this country to address this issue.

**Deputy Robert Troy:** No, there is not.

### **Child Care Services Provision**

5. **Deputy Finian McGrath** asked the Minister for Children and Youth Affairs to support facilities for child care in the Darndale and Belcamp area of Dublin 17; and if he will make a statement on the matter. [3213/16]

**Deputy Finian McGrath:** I ask the Minister for Children and Youth Affairs to outline for me supports for child care in the Darndale and Belcamp areas of Dublin Bay North. I ask that he support child care services that are a great example of good practice in this area. We have quality staff there and amazing local community support, and I ask and urge the Minister to ensure that the child care facilities in Darndale and Belcamp are given maximum support in 2016.

**Deputy James Reilly:** A number of child care support programmes are implemented by my Department to assist parents with the cost of child care. These include the early childhood care and education programme, ECCE, the community child care subvention programme, CCS, and the training and employment child care programmes, TEC. This funding is provided through the child care services in which children eligible under the programmes are enrolled.

There are four child care community providers in the geographical area of Darndale, Belcamp and Moatview which received funding in the school year 2014-15 under the support programmes. The child care services and the funding provided are as follows: Darndale Belcamp integrated child care, €578,214; New Life child care centre, €45,853; St. Francis community playgroup, €61,420; and Moatview early education centre, €44,384. These child care services continue to participate in the child care support programmes in the current school year and provisional funding totalling in excess of €640,000 has been approved by my Department. A final funding figure for the school year 2015-16 will be established at a later date, when the enrolment process for qualifying children has been completed. Private child care providers in this area are currently eligible to participate in all of the support programmes, with the exception of the community child care subvention scheme and will continue to be funded where eligible children are enrolled.

I am further advised by Tusla that, in 2015, it provided €328,226 in direct funding to early years services in the Darndale-Belcamp area.

**Deputy Finian McGrath:** I accept there are four excellent service providers, the Darndale-Belcamp integrated group, the New Life group, the St. Francis group and the Moatview education group. However, the constant issue is that they are under pressure with regard to financial services and retaining staff every single year. I have met some staff who loved working in the centre, many of whom would love to go back although they have been laid off. While the services have been funded to some degree, we need to fund them properly because of the fantastic work they are doing in regard to early intervention, which we discussed earlier.

Is the Minister supportive of the current campaign, Hands Up for Children, which is a broader movement that is linked to the debate on child care in Darndale? It deals with the whole issue of smart investment in children, prevention and early intervention. The bottom line is that it works. The research shows that if we get in early in particular areas, we can prevent a lot of damage and disadvantage in the future.

**Deputy James Reilly:** The Deputy will be aware that I am on the Dáil record as being very supportive, in both this and my previous Ministry, of early intervention and prevention, and of identifying children who are at risk and acting early. There are many good examples of programmes operating throughout the country through the ABC programme. I recently visited Sheriff Street, near the financial services centre, where an initiative is being funded partly by the Department and partly by private donations. The initiative has trained local people to go into homes where, because they are locals, they are accepted by the local home owners. They interact with parents in regard to teaching their children about how to interact and play in an educational way, even from the age of 18 months. It has been a major success.

We are very supportive of prevention and early intervention. We know that the people who benefit most from the preschool year and its extension are those who come from a disadvantaged background because it helps level the playing pitch for them and means they enter school with much improved reading and social skills.

**Deputy Finian McGrath:** I accept the Minister is a strong supporter of early intervention. However, my key question is whether there is a broader view within the Cabinet on that issue. Will the Minister and the Government deliver on the national policy framework for children and young people? We have debated the whole issue of child poverty, early years education and parental supports. We need the upskilling of professionals and we also need to rebalance the current resources within the system. While I accept the Minister's point, we need to up our game and, in particular, the Cabinet needs to up its game.

On the question of research, the Minister knows some of the people I am talking about, such as Noel Kelly on the north side of Dublin. They have proved from their research across certain parts of my constituency that it works. It is not NIMBY, liberal stuff; it has been proven to be factually correct, and it is important. We have seen the reality in recent weeks. Children are among the worst affected by the banking crisis and the recession. We need to focus on this but it needs Cabinet support.

**Deputy James Reilly:** The Cabinet will be very supportive of all of this. We are acutely aware that, in the course of the formulation of the interdepartmental group report and the studies that went with that, much research was done, both nationally and internationally, and I will come to that shortly.

With regard to the Darndale-Belcamp integrated child care service specifically, it was established in January 2001 and is now catering for some 260 children daily, 90% of whom are from the immediate area of Darndale, Belcamp and Moatview. The centre got into a bit of trouble in March 2014, given it incurred expenditure of €2.22 million in 2013 and received funding amounting to €1.96 million. However, the Department of Children and Youth Affairs and Tusla engaged with the service to develop a sustainable plan and it is my understanding that this plan has been implemented. The service is now on a much more solid footing, has a good business plan to go forward with and is sustainable, which is very important.

**An Ceann Comhairle:** Thank you, Minister.

**Deputy James Reilly:** I will just finish the point, if I may.

**An Ceann Comhairle:** We are 12 minutes over time for these priority questions. Other Deputies are waiting to put their questions.



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**Deputy James Reilly:** I accept that but I believe this will be of interest to everybody in the House. The fact that early intervention leads to better educational outcomes, more employability and better social skills benefits children directly. However, it also benefits society, a point on which I want to support the Deputy. It leads to less anti-social behaviour, less criminality later in life and it also affords us, as an economic entity that is growing, a much more educated and skilled workforce, which makes us much more attractive for foreign direct investment.

## Other Questions

### Social Workers Recruitment

6. **Deputy Finian McGrath** asked the Minister for Children and Youth Affairs the status of the shortage of social workers to assist children at risk; and if he will make a statement on the matter. [3214/16]

**Deputy Finian McGrath:** The question deals with the status of the shortage of social workers to assist children at risk. I raise this because there are many children in the broader society who are at risk. Many of these children are the potential criminals of the future and many will get involved with drugs and end up in Mountjoy. What plans does the Minister have to deal with these children at risk?

**Deputy James Reilly:** At the end of December 2015, there were 1,402 whole-time equivalent social workers employed by Tusla. Tusla has been working in recent months to recruit some 239 more social workers to fill existing vacancies, and a number of these have now commenced employment. As the recruitment of social workers progresses, Tusla engages agency social workers to address staff shortages. At the end of December 2015, Tusla had 185 such temporary staff engaged to assist child protection and welfare teams.

I instructed Tusla to carry out an audit of unallocated cases and, following submission of its proposals, I asked that it would put forward a business case as to how to address the problem. It did that, and I was very pleased to be able to secure it the money it needs, namely, a sum of €6.1 million for 2016 to specifically address risk associated with these cases. Tusla intends to recruit 201 staff in 2016 in this regard, 168 of whom relate to social work staffing. The remaining staff will be recruited to provide important business support functions, such as clerical and ICT supports. In other words, we want social workers dealing with clients, not having to hand-write reports on jotters, with no clerical or ICT support. It should be noted that all cases brought to the attention of child protection and welfare teams are either allocated to a social worker or reviewed regularly by a senior social worker and any issue requiring an urgent response is acted upon immediately. Furthermore, other staff within the agency, including family support workers and social care workers, are in constant contact with children known to its services while they are awaiting allocation to a professional social worker.

Tusla's data indicate that at the end of October 2015, 6,411 cases were awaiting allocation, and of these, 1,351 cases were categorised as high priority. It is important to note that a high priority designation does not equate to a child being at high risk of harm, as reported in the media, and each case referred to a duty social work team is screened, regularly reviewed and re-prioritised as necessary.

The additional funding of €6.1 million which I made available to Tusla in 2016 will make a vital contribution to the filling of social worker vacancies and helping to address serious concerns regarding unallocated cases.

**Deputy Finian McGrath:** Of course we need good quality front-line social workers. A point often missed in this debate is the calibre of social workers. It is not always a question of university degrees. Many quality people who work in the community would make excellent social workers but they do not necessarily have to have high points or university degrees. Recently I have met some mature students who have gone back to Trinity College Dublin to do social care and get involved in social work. These are the kind of people we need to deal with children at risk and those who are outside the system. Personality is a key part of the social care services.

There is a worrying trend at the moment of self-harm among boys. According to the 2013 annual report of the National Registry of Deliberate Self-Harm, hundreds of children between the ages of ten and 14 years required hospital treatment for self-inflicted injuries.

**Deputy James Reilly:** I pay tribute to the quality and commitment of our social workers. The attrition rate among social workers here is much lower than in many other jurisdictions, which is testament to their commitment to their clients and their durability. When I visited Empowering People in Care, EPIC, one of the things those children highlighted was the lack of uniformity and consistency. There is nobody better than the children to highlight the deficiencies in the service. It is really difficult for them to lose a social worker and have to develop a relationship with a new social worker. We do our best to ensure that is kept to a minimum.

**Deputy Finian McGrath:** Flow and stability are key to the relationship with a family or young person at risk. Social workers tell me they are snowed under. They cannot talk to their clients and the clients cannot get to them. There is all sorts of confusion and we end up in a worse situation. When we talk about planning social services and these issues, we need a lot of common sense. There is no point in someone having high points or a degree from Trinity College Dublin if he or she cannot talk to or deal with a family from a very dysfunctional working class or poor background in a crisis. There are many quality people in communities. The educational system should provide some way for them to get into the social care services because some are doing it voluntarily and are delivering.

**Deputy James Reilly:** I would not disagree with anything the Deputy has said. This problem has been with us for decades and only a few years ago the Health Service Executive, HSE, and the then Minister were not even able to tell us how many children were dying in care. We have moved a long way towards transparency. The audit I asked Tusla to do was particularly important because it gave us an accurate picture of the scale of the problem and the challenge. It has come up with a three-year plan to address it and we have given it the money for the first year to do that. I have no doubt that successive Governments or Ministers will continue that because we need to address this problem. It will be a challenge for Tusla, which faces a recruitment challenge. I encourage people who have an interest in this area to go back to college and study to be social workers because there is a huge demand for them and we have made resources available to employ them.

## Child Protection Services

7. **Deputy Bernard J. Durkan** asked the Minister for Children and Youth Affairs if adequate professional personnel are in place to meet the needs of children or teenagers needing counselling, emergency care accommodation or other back-up services; the most commonly sought-after service; the extent to which this is available to young persons; and if he will make a statement on the matter. [3198/16]

**Deputy Bernard J. Durkan:** To what extent is the Minister satisfied about the availability of support services for children at risk, for whatever reason, whether economic, family, insecurity and how quickly those services can be deployed?

**Minister for Children and Youth Affairs (Deputy James Reilly):** I welcome all the young people in the Visitors Gallery who have joined us. In 2015, Tusla, the Child and Family Agency, provided funding of €5.8 million to voluntary organisations offering a range of counselling and support services to children and families, including marriage and relationship counselling, child counselling and bereavement counselling. The funding provided by Tusla focuses on the development of support services within the community to assist children and families in dealing with difficult periods in their lives and to enhance family stability.

Children who are not in the care of their parents or guardians and present as out of home to emergency services have their needs assessed and, if appropriate, are received into care under the Child Care Act 1991. Tusla compiles and publishes an annual report, the Review of Adequacy, which reviews the adequacy of the child and family services provided as required under the Child Care Act 1991. According to figures from the 2014 report, there were 1,018 children aged 16 and 17 in care on 31 December 2014. On the same date, 16 children aged 16 and 17 years old were accommodated under section 5 of the Act.

Tusla provides a range of services aimed at addressing emergency situations in the area of child welfare and protection. In the main, these emergency situations arise out of hours. I am pleased to inform the Deputy that Tusla commenced the new emergency out-of-hours social work service last November. This service allows An Garda Síochána to contact a national emergency social work out-of-hours phone service for general advice or consultation.

Tusla child and family services are very much demand led and the services requested vary depending on levels of need and support required. My Department receives monthly and quarterly performance reports from Tusla which are available on its website.

**Deputy Bernard J. Durkan:** I thank the Minister for his reply. To what extent is a service available to teachers, who may be the first to spot something that requires attention? How quickly can the system respond to the concerns expressed by a teacher about a home situation, bullying or a variety of things? Is there a need for an improvement? What is the most commonly sought-after service for children and teenagers?

**Deputy James Reilly:** In respect of the various situations the Deputy has outlined there would be a range of services available. In particular schools there is access to counselling services. There is the child and adolescent mental health service, CAMHS. There are youth clubs with mental health facilities provided by Jigsaw, which is very early intervention. It is run in such a way that young people can go in as if they were going to play pool or music or hang out and there is a discrete area where they can see a counsellor for advice and help.

Deputy Durkan mentioned the teacher. In relation to more serious issues, I want to reassure the House that where there is a serious and imminent risk to a child that a teacher has identified, that child will have a consultation with a social worker before he or she goes home. No child at high risk will be left unprotected. However, the high priorities that we allude to when we talk about high priority are cases perhaps where children are already in care in a safe environment but they do not have an allocated social worker.

**Deputy Bernard J. Durkan:** Is the Minister satisfied that the extent of the support services available right now is sufficient to meet the current and future demands?

**Deputy James Reilly:** In many instances, the supports would benefit from improvement. That is the Government plan and that is why additional resources are going into this area. As the population grows, there will be a need for more investment in this area.

I would not stand here and say that everything is perfect in the services. They are far from perfect. We have come through the worst recession the country has ever endured. We have had to tighten our belt in a way that we never had to previously. With the economy recovering, with more people coming back to work and more resources for Government, this is an area of priority for Government. It is not only about getting the economy to recover. It is about using the economy as the engine to repair and strengthen our society.

### **Children in Care**

8. **Deputy Finian McGrath** asked the Minister for Children and Youth Affairs the number of children in care in this country; and if he will make a statement on the matter. [3212/16]

**Deputy Finian McGrath:** I seek information from the Minister on the number of children in care in this country. I take this opportunity to commend the wonderful foster families we have in Ireland on the amazing and Trojan work they do to protect and save children. I also commend the excellent child care staff, many of whom are often working against the odds rescuing many hurt and damaged children. However, we need to improve and to be vigilant, and support these children.

**Deputy James Reilly:** The Child and Family Agency, Tusla, has a statutory duty under the Child Care Act 1991 to promote the welfare of children who are not receiving adequate care and protection and, if necessary, to receive a child into the care of the State. Data published in recent years indicate that the numbers of children entering care has been decreasing while the overall number has increased due to children staying longer in care.

As of 31 October 2015, there were 6,331 children in care nationally. This figure can be broken down by four different regions: Dublin mid-Leinster, with 1,511; Dublin north east, 1,519; the south of the country, 1,846; and the west, with 1,455.

Children who are received into care, depending on their identified need, may be placed in foster care either with relatives or general foster carers, residential care, special care or other placement types. The majority of these children are in stable placements, with over 92% of children in care in a foster family setting. Residential settings represent most of the remaining placements, usually between 5% and 8% of all children in care. At the end of October 2015, there were 343 children in a general residential care placement.

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As the majority of children in care are in foster care family settings in the community, indicators of stability of the placement and participation in education are useful in monitoring the performance of Tusla in overall welfare. I am happy to say that Tusla has reported that the results for these indicators are positive and show that placement stability is very high and participation in education is on a par with the national participation rates. In addition, there are standards in place for foster and residential placements and there is a regime of regular monitoring and inspections.

**Deputy Finian McGrath:** I welcome the fact that the number of children in care is decreasing, but we still have a very high number, at 6,331 children. In my part of the city, the number is 1,519.

The Minister also mentioned the important role of relatives in the context of foster families. Many of these are grandparents or aunts who have taken in other family members' children, who have addiction, drugs or other problems, and they are doing a fantastic job to save these families.

My question for the Minister relates to the 5% to 8% who are still in residential care. I accept that many of them are dysfunctional and have significant issues and maybe could not survive in a foster family but are there plans to reduce 8% in residential care by taking them out into a broader setting, perhaps a more family-friendly environment?

**Deputy James Reilly:** I pointed out that 92% of children in the care of the State are in foster families. That is way above international norms and reflects extremely well on the service.

Like the Deputy, I thank the many who volunteer to be foster parents and who give homes to children. It is a reflection on the quality of that care that many of the children leave school and go to third level, and that many stay on with their foster parents after their commitment at reaching age 18 has finished. That shows the strength of the bonds built up between the foster family and the child.

There are a small number who, as the Deputy has acknowledged, are seriously challenging. Residential care is always the last option. Of course, early intervention is a key part of addressing this, as are social supports for families who themselves are having difficulties parenting.

**Deputy Finian McGrath:** I take the point about the 92% in foster care. The Minister stated the rate is high compared to other countries. I would be interested to know how we compare with other European countries that would be examples of good practice in social care services for children in care, such as Sweden.

The other key issue I want to raise is that after they reach the age of 18, when they leave the foster family or care service, we need to be vigilant because we cannot have a situation where at that age they are on their own out there in the broader society. Some of them do very well, and good luck to them, but many do not. As a result of serious hurt and damage in their early childhood, such young adults are often very vulnerable and end up in trouble. We need to focus on this over-18 age group and not give up on them.

**Deputy James Reilly:** I absolutely agree with the Deputy. We all are aware of the terrible tragedies that occurred in more recent years where children, having left care, seemed to fall off a cliff with no supports and with tragic consequences for some. That is why we brought in the after-care Act. It is now a statutory right that any child who has been in care for longer than a



year, from the age of 13 upwards, including if he or she has been in a section 5 accommodation, will be entitled to an after-care plan. Indeed, even if they had left care and did not want one, and changed their mind at age 18 or 19, we will accede to that. One should bear in mind that while the statutory obligation and the qualifications for that are clearly set out, Tusla will always be open to putting in place an after-care plan for a child, who may not meet that criteria but about whom the agency is concerned. This is recognition of what was a real problem for some of the most vulnerable in society who, if they are supported, can be hugely important in contributing to society in the future.

### **Child Care Services Expenditure**

9. **Deputy Clare Daly** asked the Minister for Children and Youth Affairs if he will raise the issue of deficiencies in the area of child care here, as noted in the United Nations Committee on the Rights of the Child's review of the report on Ireland, with the appropriate Departments; and the steps he will take to ensure that appropriate, affordable child care is available for every child. [3056/16]

**Deputy Clare Daly:** The UN Committee on the Rights of the Child questioned the Minister about what it described as the "deficiencies" in child care in Ireland. The deficiencies are obviously fairly glaring, given that the average amount spent on child care is 12% of income per household across the OECD and 35% in Ireland. The average cost of child care for two children is €22,000 per annum nationally. What action does the Minister propose to deal with this deficiency and what discussions has he had with other Departments?

**Minister for Children and Youth Affairs (Deputy James Reilly):** Last year, I established an interdepartmental group to consider options for future investment in early years and after school child care. This group reported to the Government last July, setting out a range of options for future investment to enhance the affordability, increase the accessibility and improve the quality of early years and after school child care.

In the 2016 budget, the Government announced additional annual funding of €85 million for the child care sector to support the achievement of many of these options. This funding represents an increase of 33% in the annual investment in child care supports and provides for the significant enhancement of a number of programmes implemented by my Department. The funding is in addition to the €260 million annual funding already committed to the sector.

The €85 million package of additional investment for child care includes funding for an extension to the early childhood care and education, ECCE, programme from September 2016 so children can enrol in the programme at age three and continue in it until they make the transition to primary school. This will reduce child care costs by an additional €1,500 per child and will increase the current 38 weeks of free preschool provision by an average of 23 weeks, and up to 61 weeks depending on the child's date of birth and the age at which he or she subsequently starts primary school.

The investment will fund a suite of supports to help children with a disability to participate fully in the ECCE programme. This delivers on my commitment to address these children's particular needs in mainstream preschool settings.

The investment package will provide 8,000 extra places in 2016 under the community child



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care subvention programme to help low-income and disadvantaged families access quality child care. These 8,000 places are in addition to 5,000 places previously announced with savings achieved in 2015. We will provide a range of measures to improve the quality of early years and school aged child care, including an audit of quality, an extended learner fund to support professionalisation of the sector and an enhanced inspection regime.

**Deputy Clare Daly:** I thank the Minister. I was struck by this issue during the episode of “The People’s Debate with Vincent Browne”, which the Minister managed to miss.

**Deputy Finian McGrath:** He will bottle it.

**Deputy Clare Daly:** During the debate, the Fianna Fáil Party candidate was ochóning the cost of child care, and stated that she paid an astronomical amount of money and asked what would happen if Fianna Fáil were returned. The exact same points applied ten years ago when Fianna Fáil was in power and the Government had loads of money. The problem is that we view child care the wrong way around and the model is based on privatised child care. If we do not address this, the measures will not get to the overall root of the problem, although some of them will help some people.

After maternity leave and before children go to school, there is an enormous gap during which families are, in the main, left on their own and have to pay through the nose. Has there been any discussion about linking serious preschool as a State-run programme, like education, which every family could access? We can address it only by funding it from central taxation.

**Deputy James Reilly:** I am glad the Deputy raised the issue of where I might have been on the night she was entertaining a certain gentleman.

**Deputy Finian McGrath:** Tell us where you were. Were you knocking on doors?

**An Ceann Comhairle:** Hold on a second. Another Deputy is waiting to ask his question. The Minister has only two minutes left.

**Deputy James Reilly:** I was in Fingal County Council celebrating with the six young women from Loreto Secondary School in Balbriggan who had such an outstanding achievement in the Young Scientist and Technology Exhibition. We should be very proud of these young women. They showed the power of the diversity of our community and the future we all have, which we can face with confidence.

**Deputy Finian McGrath:** My God. Parish pump politics.

**An Ceann Comhairle:** Hold on a second. The Minister has ten seconds, and another Deputy has a question. The Minister is over time.

**Deputy James Reilly:** The additional funding also provides for a range of measures to improve the provision of after school child care, including a once-off minor capital fund to develop after school services in conjunction with community, not-for-profit and private providers. The Government is committed to child care and children.

**Deputy Clare Daly:** The Minister did not address the point. Unless those very talented school leavers had received free or affordable State-led child care in their youth, the Minister’s answer was irrelevant. The key issue is affordability for many people. Some 70% of women earn less than €30,000 per year. Child care for two children in a Dublin crèche costs €27,000,

leaving no money for anything else. Unless we address this, all the Government's platitudes about putting people back to work are utterly irrelevant. While I appreciate that there has been some State support around the edges, the model is all wrong, given that it is essentially based on private child care. The Minister has not commented on this. Does he not think it would be better if we attached early child care or preschool in an educational context, linked to our education system, rather than a privatised model?

**Deputy James Reilly:** The Government has shown its commitment by increasing the child care budget by one third. While we would love to do more, even if we had more money the sector has highlighted that there are capacity issues, and that is why we have done it in a staged and staggered fashion. We want affordable and accessible child care, and we want quality child care. I will not engage in an ideological argument as to whether it should be purely public or private. We have community facilities which are very much supported by the Government, and we have private providers.

We have made provision to expand the community child care subvention scheme to private providers in areas where there is no community facility. We understand that this is a barrier for people returning to work, particularly women. We want to remove the barrier. We cannot do it all in one fell swoop. We have an interdepartmental group that lays out a clear pathway for the future and future investment in this area, which is one of the key areas for the Government into the future.

**An Ceann Comhairle:** Deputy Boyd Barrett, please cut out the preliminaries, given that we are over time.

### **Emergency Accommodation Provision**

10. **Deputy Richard Boyd Barrett** asked the Minister for Children and Youth Affairs to report on the United Nations committee hearings on Ireland's record on children's rights and the new measures he is planning following the hearings, in particular in relation to children in direct provision and children in emergency homeless accommodation; and if he will make a statement on the matter. [3201/16]

**Minister for Children and Youth Affairs (Deputy James Reilly):** On 14 January, I led the delegation at Ireland's examination in Geneva by the United Nations Committee on the Rights of the Child, regarding Ireland's consolidated 3rd and 4th periodic reports. As is normally the case, the delegation consisted of officials from the Attorney General's Office, my Department and officials from a number of other Government Departments, namely, the Departments of Foreign Affairs and Trade; Education and Skills; Social Protection; Health; Justice and Equality; and the Environment, Community and Local Government.

I had the opportunity to make an opening statement for the purpose of outlining to the committee the achievements, challenges and priorities relating to the advancement of children's rights in our country. My statement to the committee was published on the day it was delivered and the Deputy can access this information. The Deputy can view the dialogue that took place with the committee by accessing the recorded webcast of the proceedings which is on the committee's website. I pointed out that in recent years we had a children's referendum, which enshrines the rights of children in their own right in the Constitution, that we have established a new Department of Children and Youth Affairs with a senior Cabinet Minister and a new Child

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and Family Agency. We have also put in place many other pieces of legislation on aftercare, removal of “reasonable chastisement” and other initiatives around the Child Care Act and putting the Children First guidelines on a statutory basis, to mention but some.

**Deputy Richard Boyd Barrett:** The Minister has given commitments, words and aspirations. Does he not think we are very badly failing children in emergency homeless accommodation? In my constituency there are two sisters who were made homeless because their rent increased. One of them is working. They are being accommodated in a hotel in Gardiner Street. They have three young children who go to school in Dalkey, Clonkeen and Johnstown, respectively. Does the Minister not think his Department should give local authorities some money to allow those parents to self-accommodate close to their schools? They are missing school and their ability to engage with school is being affected. They are very stressed and upset. The local authority says it is dealt with by central placement services, which is fine if one is in Dublin city but not if one is in other areas. Will the Minister give local authorities money to ensure children in emergency accommodation are accommodated close to their schools?

**Deputy James Reilly:** As the Deputy well knows, housing is an issue for the Department of the Environment, Community and Local Government, which received a separate budget. My Department has a budget to support children who are at risk. The Child and Family Agency has a specific team that engages with homelessness services to seek to ensure there are no child protection risks and action is taken if such risks arise. The Deputy spoke about “words”, but I remind him that the deeds which have been done in the Acts passed in this House - I refer, for example, to the removal of the words “reasonable chastisement” - are not platitudes; they are real actions that will have an impact on the reality of children’s lives.

*Written Answers follow Adjournment.*

### **Standing Orders: Motion**

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

That, in accordance with the recommendation of the Sub-Committee on Dáil Reform under Standing Order 99(3)(a), the Standing Orders of Dáil Éireann relative to Public Business be amended as follows:

(a) by the adoption of the following Standing Order and the Schedule thereto in substitution for Standing Order 6:

‘6. (1) The Dáil shall then proceed to the election of a Ceann Comhairle. The Clerk shall act as Chairman until the Ceann Comhairle is elected and takes the Chair.

(2) The election of the Ceann Comhairle shall be conducted by means of a secret ballot, subject to the provisions of this Standing Order. Preparatory arrangements for the ballot shall be made under the supervision and direction of the Clerk.

(3) Any nomination of a candidate for Ceann Comhairle shall be in writing and shall be received by the Clerk not later than 6 p.m. on the day before the first day the Dáil meets subsequent to a General Election, not counting a Saturday, Sunday or a public holiday.

(4) A candidate for Ceann Comhairle is validly nominated where—

(a) the candidate has already signed the Roll of Members in accordance with Standing Order 1 and has declared in writing to the Clerk his or her willingness to stand for election as Ceann Comhairle; and

(b) the nomination form bears the supporting signatures of not fewer than seven other members, each of whom has also already signed the Roll of Members in accordance with Standing Order 1.

A member may add his or her supporting signature to one nomination form only. Where a member adds his or her supporting signature to more than one such form, it shall be invalid on all such forms.

(5) Where a candidate's nomination does not comply with the provisions of paragraph (4), such candidate is not validly nominated, and the Clerk shall return the candidate's nomination form as soon as is practicable.

(6) A candidate may, in writing, withdraw his or her nomination at any time up to the close of nominations.

(7) As soon as is practicable following the close of nominations, the Clerk shall publish, in alphabetical order, a list of the validly nominated candidates on the Houses of the Oireachtas website: Provided that if no candidate is validly nominated, the Clerk shall publish a notice to that effect in lieu of the list. Where no candidate is validly nominated, immediately after the Clerk's Election Report under Standing Order 3, a motion proposing a member for Ceann Comhairle may be made by any member, and the provisions of Standing Order 6B shall apply.

(8) If only one candidate is validly nominated, there shall be no secret ballot for the election of the Ceann Comhairle. Immediately after the Clerk's Election Report under Standing Order 3, the Clerk shall announce the name of the candidate validly nominated. Following contributions, which shall not exceed five minutes each, the Clerk shall proceed to put the question under Standing Order 6A(2).

(9) If more than one candidate is validly nominated, immediately after the Clerk's Election Report under Standing Order 3, the Clerk shall announce, in alphabetical order, the names of the candidates validly nominated. Following contributions from each candidate, or another member nominated instead of a candidate, which shall not exceed five minutes each, the Clerk shall announce that the House is proceeding to a secret ballot and direct that the bells be rung for six minutes.

(10) (a) The secret ballot shall take place in the division lobbies. Members shall enter and leave the division lobbies under the direction of the Clerk.

(b) Each member intending to vote shall be provided with a ballot paper bearing the names of the validly nominated candidates listed in alphabetical order.

(c) Each member may vote for as many or as few candidates on the ballot paper as he or she wishes, marking them in order of preference.

(d) The ballot shall be declared closed when, in the opinion of the Clerk, all mem-

bers intending to vote have cast their votes, or, otherwise, after the expiration of 90 minutes, whichever is the earlier: Provided that the Clerk may, where he or she has determined that exceptional circumstances apply, extend the time for voting by up to 30 minutes. The Clerk may also determine that exceptional circumstances have arisen which require a further ballot, and such further ballot shall be held under the provisions of this Standing Order.

(e) Where a ballot has been declared closed, the sitting shall stand suspended, and counting shall take place under arrangements determined by the Clerk.

(f) The ballot shall be counted under the Proportional Representation Single Transferable Vote (PRSTV) system.

(g) The provisions of Schedule 2 to these Standing Orders shall apply in relation to the ballot, the counting of votes and matters relating thereto.

(h) The Clerk shall have the power to make a determination on any matter of doubt arising from the conduct of the ballot or the count.

(11) The procedure outlined in this Standing Order for the election of the Ceann Comhairle shall be used on any occasion when the office becomes vacant and it accordingly becomes necessary for members to elect a new Ceann Comhairle.’;

(b) by the adoption of the following additional Standing Orders:

‘6A. (1) A candidate for Ceann Comhairle shall only take the Chair where the House has agreed the question put thereon by the Clerk under this Standing Order. No amendment may be tabled in respect of such a question, and if a division is claimed thereon, and in the event of there being an equality of votes, the question shall be decided in the negative.

(2) Pursuant to Standing Order 6(8), where there is only one validly nominated candidate for Ceann Comhairle, the Clerk shall, following the contributions, then put the question, “That..... (naming the candidate), who is the sole validly nominated candidate, be elected and do now take the Chair of the Dáil as Ceann Comhairle”.

(3) Pursuant to Standing Order 6, where a secret ballot has taken place for Ceann Comhairle, as soon as is practicable after the votes have been counted and the name of the successful candidate has been announced in the count centre, the sitting shall resume, and the Clerk shall announce to the House the name of the successful candidate selected by secret ballot. The Clerk shall then put the question, “That..... (naming the successful candidate), who is the successful candidate duly selected by secret ballot by the members of Dáil Éireann, be elected and do now take the Chair of the Dáil as Ceann Comhairle”.

(4) If a division is claimed on a question put under paragraphs (2) or (3), the Clerk shall call on the members claiming the division to rise in their places, and if fewer than 30 members so rise, the Clerk shall forthwith declare the determination of the Dáil in favour of the successful candidate, and the names of the members who have risen shall be recorded as dissenting in the Journal of the Proceedings of the Dáil.

(5) If, when the question is put under paragraphs (2) or (3), a division is claimed thereon, and more than 30 members rise in their places, and, in the resulting division, the question is decided in the negative, the provisions of Standing Order 6B shall apply.

6B. (1) Where, under Standing Order 6(7), no candidate is validly nominated for Ceann Comhairle, or where, under Standing Order 6A(5), the question that a candidate be elected and take the Chair as Ceann Comhairle is decided in the negative, the provisions of this Standing Order shall apply.

(2) Where this Standing Order applies, a motion proposing a member as Ceann Comhairle may be made by any member who has taken his or her seat according to law. Following contributions, which shall not exceed five minutes each, the Clerk shall put the question that the member proposed be elected and take the Chair as Ceann Comhairle: Provided that if there is more than one member proposed as Ceann Comhairle, the Clerk shall put each question thereon in the order in which the members were proposed.’;

(c) in Standing Order 90—

(i) by the substitution for paragraph (1) of the following paragraph:

‘(1) In every Committee, the Chairman shall have only one vote. In Joint Committees, the Chairman may be a member of either House.’;

(ii) by the insertion of the following new paragraph after paragraph (1):

‘(2A) A proportion of Chairman posts shall be allocated to each group in the Dáil (as defined in Standing Order 120). Such proportion shall be calculated according to the d’Hondt system, and under such system, each group shall choose a particular Chairman post as the posts are allocated, excluding posts already allocated by Standing Orders or by Order of the Dáil: Provided that a Government group may not choose the Chairmanship of the Committee of Public Accounts. The House shall appoint all Chairmen, in accordance with the provisions of this Standing Order and of Standing Orders generally.’;

and

(iii) in paragraph (2), by the deletion of ‘As soon as may be following the election of Chairman,’;

(d) in Standing Order 100—

(i) in paragraph (1), by the insertion of the following after ‘Standing Order’:

‘The Chair of the Working Group of Committee Chairmen shall be chosen from the group (as defined in Standing Order 120) which has been allocated the most Chairman posts under the d’Hondt system, pursuant to Standing Order 90(2).’;

and

(ii) by the insertion of the following new paragraph after paragraph (3):



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‘(4) The Taoiseach shall appear before the Working Group in both the Spring and the Autumn Dáil sessions to discuss matters of public policy, and the Working Group shall agree an agenda for such meeting with the Taoiseach in advance.’;

and

(e) in the Schedule to these Standing Orders designating categories of documents for the purposes of Standing Order 114B(2) a) and (b), by the insertion of the following paragraph:

‘(r) Documents relating to the election of the Ceann Comhairle.’.

## **‘SCHEDULE 2**

### **Rules for the selection of a candidate for Ceann Comhairle for the purposes of Standing Orders 6 and 6A:**

#### **Provision of ballot papers**

(1) Ballot papers shall be provided to Members in the following manner—

(a) The ballot paper shall be marked with the official mark;

(b) Members present in the Chamber shall be provided with ballot papers by the Clerk;

(c) A mark shall be placed on the Members’ division list opposite the Member’s name to indicate that a ballot paper has been issued to such Member;

(d) A Member who has inadvertently spoiled his or her ballot paper shall, on returning it to the Clerk and satisfying the Clerk as to inadvertence, be given another ballot paper. The Clerk shall immediately mark “spoilt” on the spoilt ballot paper. The Clerk shall retain the spoilt ballot paper and deal with it in accordance with paragraph 19 of this Schedule.

#### **Rules for the counting of votes**

(2) The Clerk, his or her assistants and the candidates may be present at the opening of the ballot boxes and counting of the votes extracted therefrom and no other person shall be present without the permission of the Clerk.

(3) The Clerk shall reject any ballot paper that is invalid, endorsing “rejected” on its face and any such ballot paper shall not be included in the count.

(4) The Clerk shall then ascertain the number of first preferences recorded on the ballot papers for each candidate, and shall then arrange the candidates on a list (hereinafter called “the order of preferences”) in the order of the number of first preferences recorded for each candidate, beginning with the candidate for whom the greatest number of first preferences is recorded. If the number of first preferences recorded for any two or more candidates (hereinafter called “equal candidates”) is equal, the Clerk shall ascertain the number of second preferences recorded on all the ballot papers for each of the equal candidates, and shall arrange the equal candidates as amongst themselves on the order of preferences in the order of the second preferences recorded for each such candidate, beginning with the candidate for whom the greatest number of second preferences is recorded. If the number of first and second preferences recorded for any two or more equal candidates is equal, the Clerk shall, in like manner, ascertain the

number of third preferences recorded on all the ballot papers for each of such last-mentioned equal candidates, and arrange such candidates on the order of preferences accordingly, and so on until all the candidates are arranged in order on the order of preferences. If the number of first, second, third, and all other preferences recorded for any two or more equal candidates is equal, the Clerk shall determine by lot the order in which such candidates are to be arranged on the order of preferences.

(5) The Clerk shall then arrange the valid ballot papers in parcels according to the first preferences recorded for each candidate.

(6) The Clerk shall then count the number of papers in each parcel and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate.

(7) The Clerk shall then add together the number of votes credited to each candidate and divide that number by two; the result increased by one, any fractional remainder being disregarded, shall be the number of votes sufficient to secure the selection of a candidate and this number is referred to in these Rules as the “quota”.

(8) If at the end of any count or at the end of the transfer of any parcel or sub-parcel of an excluded candidate, the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be deemed to be the “successful candidate” and the count shall thereupon be concluded.

(9) If at the end of any count, the quota has not been reached or exceeded by any candidate, the following provisions shall apply—

(a) the Clerk shall exclude the candidate (in this Rule referred to as the “excluded candidate”) then credited with the lowest number of votes and all the papers of that candidate shall be examined;

(b) the transferable papers of the excluded candidate shall be arranged in sub-parcels according to the next available preferences recorded thereon for continuing candidates and each sub-parcel shall be transferred to the continuing candidate for whom the preference was recorded;

(c) a parcel containing original votes shall be first transferred;

(d) sub-parcels containing transferred votes shall be transferred in the order in which the excluded candidate obtained them;

(e) a separate sub-parcel shall be made of the non-transferable papers and they shall be set aside as finally dealt with;

(f) if, when a candidate has to be excluded under this Rule, the total of the votes of the two or more lowest candidates is less than the number of votes credited to the next highest candidate, the Clerk shall in one operation exclude such two or more lowest candidates;

(g) if, when a candidate has to be excluded under this Rule, and two or more candidates have each the same number of votes and are lowest (the total of which is more than the next highest candidate), regard shall be had to the number of original votes credited to each of those candidates, and the candidate with the lowest number of original votes shall be excluded. Where the

numbers of the original votes are equal, regard shall be had to the total number of votes credited to those candidates at the first count at which they had an unequal number of votes and the candidate with the lowest number of votes at that count shall be excluded and, where the numbers of votes credited to those candidates were equal at all counts, the candidate lower in the order of preferences at the first count shall be excluded.

(10) If at the end of any count, the quota has not been reached or exceeded by any candidate, and there is only one continuing candidate remaining, that candidate shall be deemed to be the successful candidate and the count shall thereupon be concluded.

(11) On every transfer under these Rules, each sub-parcel of papers transferred shall be placed on top of the parcel or sub-parcel (if any) of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the number of papers transferred to him or her.

(12) At the end of every count the Clerk shall record on a result sheet the total number of votes credited to each candidate at the end of that count and also the number of the non-transferable papers not effective on that count.

(13) Any candidate may, at the conclusion of any count, request the Clerk to re-examine and recount all or any of the ballot papers dealt with during that count, and the Clerk may re-examine and recount accordingly the ballot papers indicated.

(14) The Clerk may at his or her discretion, or at the request of a candidate, recount ballot papers either once or more often in any case in which he or she is not satisfied as to the accuracy of any count.

(15) Nothing in these Rules shall make it obligatory on the Clerk to recount the same parcel of ballot papers more than once.

(16) In the re-examination and recount, the number or order of ballot papers in any parcel shall not be disturbed.

(17) The decision of the Clerk, whether expressed or implied by his or her acts, on any question which arises in relation to the count, including the exclusion of any candidate, or to any ballot paper or transfer of votes, shall be final.

(18) On the completion of the counting of the votes, the Clerk shall determine and declare the result in the count centre, and announce the name of the successful candidate whose name shall be put before the House in accordance with Standing Order 6A(3).

### **Destruction of ballot papers**

(19) As soon as practicable subsequent to the election and taking of the Chair by the successful candidate, the Clerk shall destroy the ballot papers.

### **Definitions**

(20) In these Rules—

(a) “continuing candidate” means any candidate not deemed to be the successful candidate and not excluded;

(b) “count” means (as the context may require) either–

(i) all the operations involved in the counting of the first preferences recorded for candidates; or

(ii) all the operations involved in the transfer of the votes of an excluded candidate;

or

(iii) all the operations involved in the transfer of the votes of two or more candidates together.

(c) “determine by lot” means determine in accordance with the following directions, namely, the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidates concerned shall as amongst themselves be arranged on the order of preferences in the order in which the slips containing their names are drawn, beginning with the candidate whose name is on the slip drawn first.

(d) “invalid” by reference to a ballot paper means any ballot paper–

(i) which does not bear the official mark; or

(ii) on which the figure “1” standing alone, or the word “one” or any other mark which, in the opinion of the Clerk, clearly indicates a first preference, is not placed at all or is not so placed as to indicate a first preference for some candidate; or

(iii) on which the figure “1” standing alone, or the word “one” or any other mark which, in the opinion of the Clerk, clearly indicates a first preference, is set opposite the name of more than one candidate; or

(iv) on which the figure “1” standing alone indicates a first preference and some other number is set opposite the name of the same candidate; or

(v) on which anything is written or marked which, in the opinion of the Clerk, is calculated to identify the Member voting.

(e) “non-transferable paper” means a ballot paper–

(i) on which no second or subsequent preference is recorded for a continuing candidate; or

(ii) on which the names of two or more candidates (whether continuing or not) are marked with the same number, and are next in order of preference; or

(iii) on which the name of the candidate next in order of preference (whether continuing or not) is marked by a number not following consecutively after some other number on the voting paper or by two or more numbers; or

(iv) which is void for uncertainty.

(f) “original vote” in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate;

(g) “preference” shall be interpreted as follows–

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(i) “first preference” means the figure “1” standing alone, or the word “one” or any other mark which, in the opinion of the Clerk, clearly indicates a first preference;

(ii) “second preference” means the figure “2” standing alone, or the word “two” or any other mark which, in the opinion of the Clerk, clearly indicates a second preference standing in succession to a first preference;

(iii) “third preference” means the figure “3” standing alone, or the word “three” or any other mark which, in the opinion of the Clerk, clearly indicates a third preference standing in succession to a second preference and so on;

(iv) “next available preference” means a preference which, in the opinion of the Clerk, is a second or subsequent preference recorded in consecutive order for a continuing candidate, the preferences next in order on the ballot paper for candidates already excluded being disregarded.

(h) “transferable paper” means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in numerical order for a continuing candidate;

(i) “transferred vote” in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate.’.”

I welcome the opportunity to ask the Dáil to support this motion. The amendments to Standing Orders for which we are seeking Dáil approval today will have a major impact on the future operation of the Dáil and of Oireachtas committees. The new Standing Orders provide for the election of the Ceann Comhairle by secret ballot, the selection of Oireachtas committee Chairs using the d’Hondt system and the requirement for the Taoiseach to appear before the Working Group of Committee Chairmen twice a year to discuss matters of public policy. These reforms complement the Dáil and Oireachtas reform packages that were introduced by this Government in July 2011 and September 2013. I believe their combined impact will strengthen the Oireachtas in holding the Government to account and in its role as a Legislature.

The office of the Ceann Comhairle is vitally important to the effective working of the Dáil. Over the years, a number of exceptional Deputies have taken on this thankless task. While being a good and fair Ceann Comhairle is of immense benefit to the Dáil, it can be a lonely post. It is not easy to be the speaker of any parliament. Our Ceann Comhairle, Deputy Seán Barrett, has many thanks and much respect for the work he has done over the last five years. Under the new Standing Orders, for the first time Deputies will elect one of their colleagues to the Office of Ceann Comhairle - the Chairperson of the Dáil - by secret ballot. The office will be more independent than ever. The holder of the office will be directly linked to his or her fellow Members of the Dáil like never before. The authority of the Ceann Comhairle will come directly from Government and Opposition Deputies, who will have an opportunity to elect someone to that office by secret ballot.

When the Dáil returns after the forthcoming general election, one of the first items of business will be the election of a Ceann Comhairle. The House must have a Speaker before it can proceed to nominate a Taoiseach. Under the new system, anyone wishing to be a candidate will have to be nominated by seven other Deputies by 6 p.m. the day before the Dáil meets. The Clerk will publish a list of candidates as soon as possible following the close of nominations. If no candidate is nominated, the current system for the election of the Ceann Comhairle will remain in place. If more than one candidate is nominated then, after the Clerk has presented the election report to the Members, the names of the candidates will be announced and each

candidate will be given five minutes to address his or her fellow Deputies. The election will then proceed by secret ballot in the division lobbies. Each Deputy will be given a ballot paper with the names of the validly nominated candidates for which he or she can vote in order of preference. When the ballot has been closed, the Dáil will be suspended and the ballots will be counted using the proportional representation, single transferable vote system. When a candidate is deemed to be successful, the Dáil sitting will resume. The Clerk will announce to the Dáil the name of the successful candidate and put the question to the House.

Provision will also be made in Standing Orders for the proportionate allocation of committee Chairs using the d'Hondt system. The Government of the day will no longer hold a monopoly of Oireachtas committee Chairs. This Government has taken a number of steps to increase the power of Oireachtas committees over the lifetime of this Dáil. The selection of Oireachtas committee Chairs using the d'Hondt system will enhance this. This reform will distribute Chairs on the basis of Dáil support. Such a change will give Opposition Deputies more powerful roles in the next Dáil. Under the d'Hondt system, each party or group will choose a Chair post from the available posts. The only restriction is that no Government group may choose the Chair of the Committee of Public Accounts.

Standing Orders will also be amended to introduce a system whereby the Taoiseach will appear before the Working Group of Committee Chairmen twice a year, in the spring and autumn Dáil sessions. This will allow the members of the working group, which under the d'Hondt system will be reflective of the Dáil, to raise matters of public policy with the Taoiseach. This will further enhance the accountability of the Taoiseach's office to the Oireachtas, thereby reinforcing this Parliament's power to hold the Government to account.

This is the third package of Dáil reform to be introduced since 2011. The Government can be proud of its record in this area. For decades under previous Governments, the reform of the Dáil and of Oireachtas committees was ignored. Since taking office, this Government has supported Dáil and committee reform by implementing a range of important measures. It increased the number of Dáil sitting days from 93 days a year under the previous Government to 123 days a year under this Government. It introduced additional Leaders' Questions on Thursdays. It opened up the law-making process by introducing a pre-legislative stage for Bills, conducted by the relevant Oireachtas committee. This provides for an unprecedented and extensive engagement by the public, experts and civil society groups in the law-making process. Of key importance is the fact that this takes place before the Bill is published.

The Government reformed ministerial Question Time by extending each slot to 75 minutes, requiring the Member asking the question to be present in the Chamber and enabling a Member who is dissatisfied with an answer to a parliamentary question to submit an appeal to the Ceann Comhairle. It replaced the outdated Adjournment debates with Topical Issue debates taken by a Minister from the relevant Department. Deputies are allowed to postpone the debate if a Minister from that Department is not available. Each year, the Taoiseach and Tánaiste address the Dáil setting out the Government's annual priorities. The proposer of a Private Members' Bill now has five minutes on First Stage to outline the purpose of the Bill to the Dáil. He or she can then seek to have the Bill debated during a Friday sitting. The number of Private Members' Bills introduced by Deputies increased from 14 in 2010 to 53 in 2014.

The process of parliamentary reform is and must always be an ongoing one. The steps we are taking today, and have taken over the last five years, are positive but they are by no means the end of the process. The next Dáil and the next Government should follow the example we



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have set over the last five years by continuing to introduce reforms that improve the way our Parliament works. I want to take this opportunity to highlight the positive engagement on the issue of Dáil reform over the last five years on the part of the Ceann Comhairle, Deputy Seán Barrett, and members of the Dáil reform committee. Genuine and workable reforms will be embraced by the Members of this House. I ask them to support these proposals as genuine and workable reforms. I commend the motion to the House.

**Acting Chairman (Deputy Seán Kenny):** I call Deputy Troy, who has five minutes.

**Deputy Robert Troy:** I thought the Chairman of the Joint Committee on Justice, Defence and Equality was to be called next.

**Acting Chairman (Deputy Seán Kenny):** He will reply at the end.

**Deputy Robert Troy:** I welcome the opportunity to contribute to the debate on this motion. It was funny to hear the Chief Whip finishing his contribution by encouraging “the next Dáil and the next Government [to] follow the example we have set over the last five years by continuing to introduce reforms that improve the way our Parliament works”. I certainly hope the next Government, regardless of its composition, does not follow the example this Government has set. When the Government parties took office, they said they had been the benefactors of a “democratic revolution”. Nothing could be further from the truth. There has been no substantial political reform over the past five years. We have seen a box-ticking exercise that has resulted in some cosmetic changes. I have to say that from a political reform perspective, this Government has wasted the substantial goodwill and the trust placed by the electorate in Fine Gael and the Labour Party five years ago.

I would like to remind the Government of some of the promises it made on political reform. It has systematically broken the promise or pledge included in the programme for Government not to guillotine legislation. Up to the end of 2014, it had guillotined 63% of legislation. We know that the guillotining of key legislation, such as the Bills introducing water charges and cutting social welfare payments, deprived all Members of the House - Government backbenchers and Opposition Members - of the opportunity to tease out and debate critical legislative issues that would have a direct effect on the citizens of this country. That is a clear broken promise of this Government. The Minister of State mentioned the reform of Adjournment debates, which are now known as Topical Issue debates. While I acknowledge the time difference, it is still the case that the relevant Minister turns up just 40% of the time. The change from the Adjournment debates to the Topical Issue debates was made to allow the relevant Minister to come in.

*11 o'clock*

Last week I took part in a Topical Issue debate on the extension of the compensation scheme for flood victims in Athlone and the Minister of State at the Department of Arts, Heritage and the Gaeltacht, Deputy Joe McHugh, came in. He is an honourable man but he did not have a clue what I was talking about. I do not blame him because it was not his area of responsibility. He came in with a pre-prepared script and he was not able to answer the questions I asked.

The issue of Friday sittings is a farce. The Minister of State indicated that the Dáil was sitting more as a result of Friday sittings and there probably are more days when we are physically present but how much work is actually being done? On a Friday sitting there are no Lead-

ers' Questions, no Topical Issue debate and no Order of Business. There is a requirement for a minimum number of Oireachtas Members to be present but they are not always present. The legislation which is debated gets ventilation but ends up on a shelf gathering dust. There is an opportunity for back bench and Opposition Deputies to put forward legislation, but the Government never adopts it. Only one back bench Deputy had his legislation enacted in five years out of many hundreds that were submitted. Where is the reform in that case?

We have spoken about cronyism in appointments to State boards and we saw the true will of the Government on this issue most recently when the Tánaiste appointed Mr. Begg without going through the process which Government established. There was the debacle of the McNulty affair when someone was appointed to a State board just so that it could manipulate the Seanad election to get the right person in to a position the Government wanted to abolish a few months earlier. On 31 May 2011, the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, said the programme for Government contained the most ambitious and far-reaching agenda for political reform ever put before the House. How inaccurate is that statement today? It rings hollow.

I welcome the amendments to Standing Orders being put before the House, albeit belatedly, and our party will support them. I do not hope the next Government follows on the path of the current Government in the area of political reform, because if it does so, it will not do the citizens a service.

**Deputy Paul Kehoe:** It is an awful pity the Deputy did not speak to the motion.

**Deputy Robert Troy:** I was speaking the truth.

**Deputy Paul Kehoe:** He was speaking rubbish.

**Deputy Robert Troy:** Facts.

**Acting Chairman (Deputy Seán Kenny):** Can we have order, please? Deputy Ross is sharing time with Deputy Maureen O'Sullivan.

**Deputy Shane Ross:** I find these reforms laughable. It is utterly absurd, at the end of this Government's tenure, to introduce gestures towards reform of the Dáil which it could have introduced at the beginning of its term. They are obviously easy to introduce and they can be introduced and passed in a few minutes, but they were not done before now because the heart of the Government was never in Dáil reform. It never had any interest in Dáil reform but it had an interest in gestures.

I am certainly not convinced of the merits of the first amendment, which is to elect the Ceann Comhairle in secret. Why do we need a secret ballot to elect the most important post in this House? What will happen will be that another insider will be elected, secret deals will be done behind closed doors and no member of the public will know for whom their Deputy voted in this important vote. They will be protected from that and the result will be that the post of Ceann Comhairle will be traded as part of the spoils of Government in the next Dáil. Do not tell me that people will break ranks with the instructions from their party. Let us look at some of the evidence for that. There is another election in which Deputies, and councillors, vote in secrecy, namely, the Seanad election. That is the most highly disciplined election of all, carried out under secret ballot where the seepage of votes from party loyalty is virtually zero. The instruction will go down from the parties to vote for whoever is the favoured person for Ceann

Comhairle. It will be part of the usual trading that goes on for Cabinet Ministers and it will be a Government nominee, a Government favourite and member who is elected by secret ballot. There is no tradition in this House of the parties showing the sort of independence which is expected in this change.

The Government would have done far better to have opened up the very secretive Committee on Procedure and Privileges, which orders the business of the House and which is a complete and utter mystery to the public, in order that everybody could see what goes on in there.

**Deputy Maureen O’Sullivan:** I was part of the Constitutional Convention which discussed Dáil reform. It was all about making the Dáil more accountable, more democratic and more efficient, so I have to ask if this proposal will do that. Is it going to be positive and progressive in the spirit in which it was discussed? Is what is being proposed really any different from the system we have? If a party or parties have a significant majority, they will have the votes for their selected candidates and it does not matter whether that vote is secret or open. If it is a secret ballot and their choice is not elected, I can imagine the investigations that would ensue. There is an interesting part to the British system where they have 12 MEPs who have to propose but three of them cannot be from the same party as the candidate. That would allow somebody to be elected as Ceann Comhairle with wider support.

The work of the Ceann Comhairle involves presiding over proceedings as the sole judge of order in the Dáil and a major issue is a lack of respect for the role of Ceann Comhairle, which is most unfortunate. Some of the exchanges and the disregard for the role of the Chair have not enhanced the public perception of the Dáil and Dáil proceedings. It certainly does not improve public confidence in the Dáil. There is a bigger issue here to ensure status, stature and respect for office and I wonder if there is a space for a non-political person in an open competition to be Ceann Comhairle. The most important thing is to get the best person, regardless of gender, age or whether they are in a party or not, in order that the person in question will command respect and will, as Chair, challenge speakers, either the Taoiseach or Ministers, if they do not answer questions or members of the Opposition. Could there be a role as Leas-Ceann Comhairle for other people who are nominated? Could they automatically become Leas-Ceann Comhairle?

I support the principle of what is being proposed here this morning but I am not sure the practice will bring the positivity and progressiveness we would hope for. The election of Ceann Comhairle cannot just be an academic exercise.

**Deputy David Stanton:** I compliment the previous speaker on her positive, well-researched and well-presented contribution. It was constructive, as always. I have been a Member for almost 19 years and was involved for quite a while in the Dáil reform committee. For 14 years under Fianna Fáil there was no Dáil reform, except for Leaders’ Questions. When I came in, Michael Noonan was leader of Fine Gael and he brought forward a motion, which was accepted because it was happening anyway. There was nothing else in 14 years. We brought forward many packages and then decided we would do it incrementally, with no engagement, and nothing happened. Fair play to the Minister of State at the Department of the Taoiseach, Deputy Paul Kehoe. On the first day in here he brought in major changes. Once they are embedded, people do not realise what they mean and people who were not here previously have no experience of how shambolic the situation was before that.

I could spend the day talking about this but the biggest change was pre-legislative scrutiny. In the past five years, 7,386 people have come before committees of the Houses, given evidence

and engaged with their Parliament. That is a huge change. They have impacted on legislation before it was drafted and published and we have the evidence to show that. In the Joint Committee on Justice, Defence and Equality which I chair, more than 500 citizens of this State have been given the opportunity to engage with their Parliament and to impact on legislation before it is published. Once the legislation is drafted and published, one cannot make any major changes. It is a massive change, but nobody is talking about it. It is the biggest change I have seen in my 19 years in the House but because it does not involve fireworks in the Chamber, grandstanding, sitting-in and that type of nonsense it does not get headlines. Massive amounts of time, work, effort and energy go into this and that is making a major change, but nobody is writing about it in the newspapers or talking about it on television or in the media. We have spent hours, days and weeks at committee meetings listening to ordinary citizens, representatives of non-governmental organisations, NGOs, and academics who have come to the meetings to have their say. It is the biggest change I have ever seen.

The election of the Ceann Comhairle by secret ballot is important. I note the Deputy who was so critical during his two minutes and could not say anything constructive has now left the Chamber. He could not even bother to hear the contribution of anybody else. It is appalling. Deputy Maureen O'Sullivan spoke about respect for the Ceann Comhairle. That is crucial. There should be no occasion when a Member questions the Ceann Comhairle in the Chamber. If one has an issue one should meet the Ceann Comhairle outside, not have a row in the Chamber. That is unseemly and should not be done. The next time the Ceann Comhairle is elected I hope everybody will respect that and speak through the Chair, not at each other across the Chamber.

Members should also stop using scripts and reading speeches which somebody else has written for them. Get rid of the scripts. They should be outlawed. Members should come to the Chamber and make the contributions their own by speaking to headlines and notes.

Regarding the d'Hondt system, chairing a committee is a huge responsibility. This has been the Dáil of committees; the committees of the Oireachtas have come into their own. Unfortunately, the referendum to allow committees to have a proper investigative role was not passed by the people. That hampers the work of committees, and I believe people are understanding that now. Another big change is the Taoiseach appearing before the working group of chairpersons. We must continue making changes. The new Members after the election must continue pushing the limits, exploring and looking for ways to do things.

Attendance in the Chamber and in committees is a big problem. Members do not attend committee meetings because many of them are tied up doing constituency work. The time somebody spends in a committee room should be logged and noted, from the time they arrive to the time they leave, by the minute. Somebody who arrives to a meeting, makes one contribution and leaves gets the same credit as somebody who spends hours debating at the meeting. People should be members of only one committee, and there should be only 15 members of each committee. It should be a privilege to be a member of a committee, not a right. Perhaps not everybody should be a member of a committee. That would avoid situations where people are expected to attend two meetings at the same time. It would also give members a chance to give more detailed attention to the business of a committee. There should also be convenors at committees. Many committees have had problems getting a quorum. As there is no coverage of committee work, for the most part, members do not feel compelled to turn up. That is not good enough.

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We should be doing a great deal more in the House. Second Stage speeches are a disaster. One Member comes into the House and reads a speech, quite often to himself or herself. Often Members of the Opposition do not even bother to show up. When we were in opposition we had a rule there there always had to be at least one person on the benches. I agree with Deputy Troy that even today the attendance is dire. Why is that the case?

**Deputy Robert Troy:** The Dáil could not start on time twice this week because there was no quorum.

**Deputy David Stanton:** We must explore-----

**Deputy Paul Kehoe:** Was the Deputy here this morning?

**Deputy Robert Troy:** I was here for Questions.

**Acting Chairman (Deputy Seán Kenny):** Can we have some order for the speaker?

**Deputy David Stanton:** This is more of it. If the Deputy wants me to give way I will do so, but we must examine ways of getting more attendance in the Chamber. Why do Members not come to the House? I believe it requires shorter speeches and more positive interaction between Members.

Question put and declared carried.

### Technological Universities Bill 2015: Report Stage (Resumed)

**Deputy Jonathan O'Brien:** I move amendment No. 18:

In page 15, to delete lines 11 and 12 and substitute the following:

“13. (1) A college (in this Chapter referred to as “applicant colleges”) may jointly apply to the Minister for an order under *section 18*.”.

Amendment put:

<i>The Dáil divided: Tá, 21; Staon, ; Nil, 51.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Nil</i>
<i>Calleary, Dara.</i>		<i>Barry, Tom.</i>
<i>Collins, Niall.</i>		<i>Breen, Pat.</i>
<i>Cowen, Barry.</i>		<i>Buttimer, Jerry.</i>
<i>Dooley, Timmy.</i>		<i>Byrne, Catherine.</i>
<i>Fleming, Tom.</i>		<i>Byrne, Eric.</i>
<i>Higgins, Joe.</i>		<i>Carey, Joe.</i>
<i>Kelleher, Billy.</i>		<i>Conaghan, Michael.</i>
<i>Kitt, Michael P.</i>		<i>Connaughton, Paul J.</i>
<i>McConalogue, Charlie.</i>		<i>Conway, Ciara.</i>
<i>McGrath, Finian.</i>		<i>Corcoran Kennedy, Marcella.</i>
<i>McGrath, Mattie.</i>		<i>Costello, Joe.</i>

<i>McGrath, Michael.</i>		<i>Coveney, Simon.</i>
<i>Moynihan, Michael.</i>		<i>Daly, Jim.</i>
<i>Murphy, Paul.</i>		<i>Deasy, John.</i>
<i>Ó Feargháil, Seán.</i>		<i>Dowds, Robert.</i>
<i>O'Brien, Jonathan.</i>		<i>Durkan, Bernard J.</i>
<i>O'Sullivan, Maureen.</i>		<i>Ferris, Anne.</i>
<i>Pringle, Thomas.</i>		<i>Fitzgerald, Frances.</i>
<i>Ross, Shane.</i>		<i>Fitzpatrick, Peter.</i>
<i>Tóibín, Peadar.</i>		<i>Hannigan, Dominic.</i>
<i>Troy, Robert.</i>		<i>Harris, Simon.</i>
		<i>Humphreys, Heather.</i>
		<i>Humphreys, Kevin.</i>
		<i>Keating, Derek.</i>
		<i>Kehoe, Paul.</i>
		<i>Kenny, Enda.</i>
		<i>Kenny, Seán.</i>
		<i>Kyne, Seán.</i>
		<i>Lawlor, Anthony.</i>
		<i>Lynch, Ciarán.</i>
		<i>Lynch, Kathleen.</i>
		<i>Lyons, John.</i>
		<i>McFadden, Gabrielle.</i>
		<i>McGinley, Dinny.</i>
		<i>McHugh, Joe.</i>
		<i>Mitchell O'Connor, Mary.</i>
		<i>Murphy, Eoghan.</i>
		<i>Nash, Gerald.</i>
		<i>Nolan, Derek.</i>
		<i>O'Donnell, Kieran.</i>
		<i>O'Dowd, Fergus.</i>
		<i>O'Mahony, John.</i>
		<i>O'Reilly, Joe.</i>
		<i>O'Sullivan, Jan.</i>
		<i>Phelan, John Paul.</i>
		<i>Quinn, Ruairí.</i>
		<i>Ryan, Brendan.</i>
		<i>Shatter, Alan.</i>
		<i>Stagg, Emmet.</i>
		<i>Stanton, David.</i>
		<i>Tuffy, Joanna.</i>

Tellers: Tá, Deputies Jonathan O'Brien and Maureen O'Sullivan; Níl, Deputies Emmet



Stagg and Paul Kehoe.

Amendment declared lost.

**Acting Chairman (Deputy Seán Kenny):** Amendment No. 19 arises out of committee proceedings. Amendments Nos. 19 and 20 are physical alternatives, as are amendments Nos. 81 to 83, inclusive. Amendments Nos. 19, 20 and 81 to 83, inclusive, are related and may be discussed together.

**Deputy Jonathan O'Brien:** I move amendment No. 19:

In page 16, to delete lines 28 to 30 and substitute the following:

“(2) A notice under *subsection (1)* shall state that the applicant college and staff of the college and trade union representatives of these staff may make representations to the Minister in relation to the proposed decision not later than 30 days after service of the notice.”.

We covered most of this issue yesterday. It relates to the request for technological university status. Under the Bill, that would be done through the governing bodies. Our amendments propose that the request should come from that body, but with the agreement of all stakeholders, including trade unions. The Minister stated that this would be tantamount to giving trade unions a veto, but unless all of the stakeholders are in agreement, technological university status could be bestowed on a merged entity that was experiencing an industrial dispute with academic staff who were being asked to teach the courses. Before any request is made to the Minister, there should be consultation with and agreement by all stakeholders. This is the basis of the amendment.

**Deputy Jerry Buttimer:** I am in favour of the Bill, as it is important that we have a technological university. Deputy O'Brien spoke about engagement. Recently, we were part of the engagement process with CIT and IT Tralee when Dr. Brendan Murphy held a meeting for public representatives and candidates. Deputy Creed and I met the TUI on Monday night and I met it previously. I am concerned by the large number of academic staff members who voted against the Bill. They numbered in excess of 80%. In my dealings with CIT's staff, they have been professional and committed. Notwithstanding the level or quality of the engagement between CIT and the TUI, Deputy O'Brien is correct, in that there must be a continuum of engagement at various levels.

It is important that we get this right and that the foundation be put in place now so as to ensure that the edifice that will be the technological university is of benefit to students and the cohort of people in the wider catchment area that it serves. Fundamental to this is the level of staff buy-in.

The representation that I received on governance and engagement centred on disillusionment in CIT and the appointment of academic staff and student representatives to the governing body. I was told that there should be a broad diversity of views among stakeholders. A concern has been expressed in the Chamber and elsewhere in this regard. To be fair to the Minister, she has been open to discussion and we have had conversations about this issue. She met TUI members in Cork on Monday night. In the education and training board, ETB, mergers, we brought people with us. It is important that we be open about the future appointment of staff, including academic staff, to the governing body, as the concern in that regard has been rightly

expressed.

Another concern expressed to me during the dialogue centred on the six-month period at the beginning when there could potentially be no staff members or students on the governing body. That is not the right move. This relates to the question of engagement. Who better than the staff to be on a representative body? They are committed and interested and their remit does not end at the classroom or research door. Their role is much greater than that. As a director of adult education, I engaged with CIT and, in particular, Mr. Paul O'Mahony. The regional provision of outreach services for continuing education, back to education and upskilling was in its infancy and helped many people. The then Regional Technical College, Cork was good at doing this. It afforded people the opportunity to become part of higher level education in various shapes and forms. The Bill allows for this.

In this critical period of the merger, though, we must focus on ensuring access for students who might not otherwise get to college and on maintaining the core ethos along with business development, which is something that we have all accepted. What the Rubicon Centre and Dr. Murphy and others in CIT have done with the business case model, for example, the research and development of new thinking, new ideas and innovation, is to be applauded and commended. In keeping with this, there is an obligation to ensure that the ethos of upskilling and further education is preserved, but I am concerned that it will be lost during the opening six months. I say this conscious that we have high calibre people on the governing body, for example, Mr. Bob Savage of EMC, who do Trojan work and have no vested interest beyond the further advancement of the college and its students and staff.

When staff vote in such high numbers, it raises a flag and demands that an issue be examined. Undoubtedly, this Bill is about a future vision. The amendment referred to by Deputy Jonathan O'Brien is about stakeholder engagement. The governing body is best served by having a wide diversity of opinion and membership. If we had done nothing in this Oireachtas other than pre-legislative scrutiny, it would have shown that true engagement and participation, beyond the normal shuffling of paper involved the compilation of Bills, works. In this case, it is important that we see further engagement.

The Minister is aware that those of us who are interested in education and have been involved in it for a long time recognise that a Bill is about winning people on the journey towards a particular point of view. It is about arriving at a consensus, if possible. It is important that we have a Bill that reflects the views of all of us. The Minister has gone some way towards this with the many amendments she has accepted since the consideration of the Bill began. The members of the academic council should be elected by the academic staff to ensure a diversity of views, as a TUI member said to me on Monday, and also to ensure a constructive challenge to management and the maintenance of academic quality. We must always ensure this.

I am very much cognisant that there is an excellent management council in CIT. It comprises people of the highest calibre who have done considerable, transformative work in bringing the institute to where it is today. In the fullness of time, this Bill will prove to have been the correct approach for both the students and staff. However, concerns have been expressed and views have been articulated that we must listen to and take on board.

I note how we have changed. Yesterday, the Minister of State, Deputy Damien English, commended a new skills strategy, on which I congratulate him. He is correct that we need to challenge one another in this area and reach out to young people to invite them to become part

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of the new skills era of our country. With a view to making this legislation better and having a meeting of minds, I hope the Minister, Deputy Jan O'Sullivan, will listen to and reflect upon some of the views expressed to us at our meetings on Monday and during the week, and in the emails we received.

This is good legislation. It represents the right thing to do for CIT and IT Tralee. As I stated, we must now proceed in a calm, measured way. If we can do so, we will have a better Bill that will serve the needs of the staff and students, which is what we are about here today.

**Deputy Maureen O'Sullivan:** I wish to make only a couple of points because we have discussed this on Committee Stage and yesterday with the Minister. If mergers, the technological universities principle and what is being proposed here are to work, the process will require the support of all the stakeholders. The staff are vital in this regard. Staff are extremely critical of the proposal, and there is a lot of opposition from them. When the Minister of State says there was engagement with staff, I say it could not have been meaningful and real. If it had been, the issues of the staff would have been taken on board and we would not be noting the extent of the opposition to what is being proposed. Staff are not being included. Unless they are included and listened to, this merger will not work and we will see a further escalation of industrial unrest.

As it stands, the merger is being imposed. When mergers and such arrangements are imposed on people, they are just starting off on the wrong footing. It was stated we can come back to this at a later stage but, unless we get it right in the beginning, it will be disastrous at later stages. Later stages will be futile and very difficult.

We know about the opposition and criticism, and we note their extent in the content of the amendments before us. There is a disconnect in that, although we have engaged, the stakeholders are saying they have not been engaged with and that they have just received briefings at which they were given information. I ask again that this matter be examined in the best interest of what is being proposed. People are in agreement with the concept of technological universities but the way the arrangement has been imposed on staff at this stage will lead to much unrest.

**Minister of State at the Department of Education and Skills (Deputy Damien English):** I wish to deal with a couple of issues. Colleagues are correct that some of them were dealt with already by the Minister, Deputy Jan O'Sullivan, yesterday and probably on Tuesday and on Committee Stage. Deputy Buttimer might not have been present for the full debate so I will clarify the position for him. The TUI has consistently sought a full process of consultation in regard to the process and legislation. This has been followed through by the Minister and the Department with the respective institutes involved in the processes. We are disappointed that the TUI has chosen to withdraw from all the WRC engagement processes in respect of technological universities because I believe that all the TUI concerns can be addressed through discussion and negotiation via the normal industrial relations processes, including that of the WRC. The processes were employed in the recent successful ETB mergers in the education sector, to which the TUI was a party. They were not rushed. All of us wanted the reform of the full education and training system in respect of the ETBs but the process was not rushed. There was ample time for the issues to be worked through and negotiated at the desired level. That is what happened. In the case of the technological university proposal, the position is similar. There has been ongoing engagement and discussion. Everyone might not have got his way but there have been ongoing discussions and engagements for the past three or four years. There are new

procedures in place allowing everybody a chance to have his or her voice heard. There is ample opportunity for all the concerns to be dealt with. Deputy Maureen O'Sullivan is correct that most people seem to agree with the principle of what we are trying to achieve here. However, many of the problems she is raising can be sorted out. It is not necessarily a matter for this legislation. It is to be dealt with under the WRC; that is what it is for. The processes are in place. Looking back at what has occurred in all the institutions of the past three or four years, I note there were many meetings and much engagement and consultation. New procedures were put in place to allow for that and to allow a safe space or forum for conversation.

I have visited the CIT on probably seven or eight occasions in the past 18 months. It is a fabulous place and is doing unbelievable work, including through the Rubicon Centre, the innovation centre. Unbelievable work is being done with local enterprises and people are being given a start-up opportunity. The students are being turned into entrepreneurs and business people who are creating jobs. The institute is an exemplar and I cannot commend it enough. This legislation will only enhance the good work and give further opportunities. There is ample time to sort out all the concerns.

Let me refer to the specific amendments, namely, amendment No. 19 and the rest of the amendments in the group. Sections 17, 44 and 52 all relate to the making of a decision by the Minister on an application made by a higher education institute or institutes. Each of these sections provides that the Minister, having come to a proposed decision, will inform the applicants of the proposed decision and allow them to make representations on a proposed decision within 30 days, and that those representations will be taken into account before a final decision is made. This is a common step in such processes, particularly statutory processes, and it is designed to ensure fair procedures are adhered to. More important, it allows the applicants the opportunity to point out any errors that might have been made in coming to a decision before the decision is finalised.

It would not be appropriate to open this process up to a wide range of other stakeholders. For that reason, we cannot accept amendments Nos. 19, 20, 81, 82 and 83.

**Deputy Maureen O'Sullivan:** It strikes me as illogical. Surely the concerns of the staff have to be addressed now and not at a later date. If there had been all the engagement and discussion the Minister of State mentioned, surely it would have led to some kind of resolution that staff would have bought into. The staff fears still feature. Definitely, the staff do not feel confident that they will have an opportunity to talk about those fears and they do not believe their fears and issues will be addressed. While the Minister of State has argued that this can all be done afterwards, staff fear they will be sidelined once the legislation has been passed. The statements by the Minister and Minister of State have not given them any confidence in that regard.

**Deputy Jonathan O'Brien:** I do not agree with the analysis provided by the Minister of State. He indicated that the 30-day process could not be opened up to all stakeholders. We are discussing a key stakeholder, namely, academic staff. The Minister of State's position is that the House should pass the legislation and the various issues can be dealt with subsequently. Once passed, the Bill becomes law. Section 17(2) states: "A notice under subsection (1) shall state that the applicant colleges may make representations to the Minister in relation to the proposed decision not later than 30 days after service of the notice." Nowhere in the legislation is it stated that representatives of staff may make such representations. As such, passing the legislation would effectively silence the voices of the very people who have been asked to deliver

a new, high-quality educational service.

Staff in the institutes of technology must work under extreme conditions. As I indicated yesterday, the budget for the institutes of technology sector has been reduced by €190 million, while the number of lecturers has fallen by 10% and student numbers have increased by 35%. In addition, the Bill provides that technological universities will have budget overruns deducted from their budget for the following year. While an option to apply to the Higher Education Authority for a supplementary budget is provided, the legislation prescribes that each institute must not exceed its annual budget.

The Bill also provides that technological universities may set their own registration fees for students, which gives rise to a potential scenario in which different technological universities would apply different registration fees, albeit subject to the approval of the Minister.

Once the Bill has been passed, it will not be possible to address many of the issues Deputies have raised. It is disingenuous, therefore, to claim that all of the issues can be resolved and ask Deputies to pass the legislation. To do so would prevent many of the issues from being resolved.

**Deputy Charlie McConalogue:** It is crucial that the Government work with staff representatives and trade unions from the outset when it proposes reform. We have seen the impact of its failure to do so when it proposed other reform measures, specifically reform of the junior certificate examination, when it did not work with all stakeholders and failed from the outset to engage with them and ensure they had an input in the process. Stakeholders must be comfortable with the reform's objectives. It would be a mistake to pass this Bill before the general election without allowing sufficient time to ensure the outstanding concerns of trade union representatives are addressed. The Government must learn lessons and engage further with the relevant trade unions to try to ensure everyone is comfortable with the legislation.

On the amendments, it would be appropriate to make clear in the Bill that the voices of trade union and staff representatives should be heard and that they are able to make representations. I ask the Minister of State to accept the amendments.

**Deputy Damien English:** To respond to some of the comments made by the Deputies, particularly with regard to reform of the junior certificate examination, engagement and consultation do not mean solving everyone's problem or ensuring all stakeholders get everything they want. There was significant engagement and discussion with all stakeholders in recent years on junior certificate reform. The majority of them agreed with the reform, although some did not. At some stage, a decision must be made to move on. Consultation does not mean that every problem is resolved. One does one's best to hear everyone out and have a fair process.

The purpose of the Bill is to provide the legal framework for consortiums of institutes of technology to be granted technological university status. Many issues remain to be discussed, and there are appropriate forums for doing so, but not all of these issues should be addressed in legislation. We will tease them out in this debate, on which we will not impose a guillotine. Deputies are giving the impression that the Bill is being rammed through when that is not the case. Further debate is scheduled on three days next week, if it becomes necessary and the Dáil is still sitting. There will be time to tease out the amendments.

We do not deem the amendments in this group to be appropriate. They are not the way to do business in these matters. We have gone to great lengths to engage in consultation in recent



years and the consultation process continues. It is not the case that it is game over, as it were, because this is a long process. The purpose of the legislation is to advance the process to the next stage, and in some cases there is a strong demand that we do so. Most people are in favour of the idea or concept behind the Bill. If we do not enact this legislation, people will conclude that technological universities will never be established and there will not be any consultation or progress. These proposals will benefit most, if not all, of the stakeholders concerned. While I accept that issues arise, the purpose of consultation is to address outstanding issues. Ample mechanisms are in place to do so at the appropriate time and place. Not everything must be dealt with in the legislation.

**Deputy Jonathan O'Brien:** Will the Minister of State outline what opportunities for further engagement will be available once the legislation has been passed? It is unclear how the outstanding issues will be addressed once the legislation has been passed because the section states clearly that only applicant colleges can make representations to the Minister on the proposed decision and they must do so not later than 30 days after the proposed decision has been made. It does not state that members of staff can make representations, nor can I find any other reference in the Bill to allowing recognised trade unions representing staff members to make representations to the Minister. Despite this, the Minister of State argues that Deputies should pass the legislation and the outstanding issues can be dealt with subsequently.

I am seriously concerned about the manner in which the Bill is being proposed. I do not have a problem with the introduction of technological universities, as I believe they will transform the quality of education in the regions. However, this will only come about if all the stakeholders buy into the process. We are trying to deal with a process that was flawed from the outset, while pursuing the common goal of achieving technological university status for institutes of technology.

Under this proposal, institutes of technology will be forced to merge without any guarantee of securing technological university status. Furthermore, the Bill does not provide any guarantees on course provision before technological university status is granted, nor is there a guarantee in place that the process will be adequately funded. There is no guarantee that agreement will be obtained from all the stakeholders before technological university status is granted. Notwithstanding all of these flaws, the institutes of technology must agree to merge before technological university status can be secured. The Government is putting the horse before the cart. Agreement should be found among all the stakeholders, and if that is not possible, the Government should at least enable stakeholders to make representations to the Minister. The failure to do so is wrong because it disenfranchises a key stakeholder in the process, namely, the staff who will be asked to operate the terms of the legislation and, to use the words of the Minister, give technological universities the capacity to compete at an international level.

Debate adjourned.

*12 o'clock*

### **Topical Issue Matters**

**Acting Chairman (Deputy Seán Kenny):** 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 Robert Troy - the sanctioning of the drug Soliris for the treat-



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ment of Degos disease; (2) Deputies Charlie McConalogue and Pearse Doherty - the provision of capital funding for the community hospitals in Lifford, Ramelton and Stranorlar in County Donegal to meet Health Information and Quality Authority standards; (3) Deputy Joanna Tuffy - the appointment of a liquidator to Xtra-vision and the rights of employees, including the right to redundancy payments; (4) Deputy Mick Wallace - the review of the penalty points system; and (5) Deputy Bernard J. Durkan - the application for an exceptional needs payment by a person, details supplied.

The matters raised by Deputies Bernard J. Durkan; Joanna Tuffy; Charlie McConalogue and Pearse Doherty; and Robert Troy have been selected for discussion.

### Leaders' Questions

**Deputy Michael McGrath:** On Tuesday 12 January, the Tánaiste, the Taoiseach, the Minister for Defence, Deputy Coveney, the Minister for the Environment, Community and Local Government, Deputy Kelly, and the Minister of State with responsibility for the Office of Public Works, Deputy Harris, met representatives of the insurance industry to raise a number of issues, including the need for flood insurance to be provided in areas where the Office of Public Works, OPW, has completed flood relief schemes and the need to recognise the effectiveness of demountable flood defences in the relevant areas.

In a Government statement following that meeting there was a commitment that within two weeks - which was two days ago - there was to be a follow-up meeting with the industry and that by last Friday the industry was to have responded to the issues raised. We have learned through the media and through leaks in the past 48 hours that the insurance industry has come back, but it has been largely a negative response on these two key issues, in other words, on the issues of taking into account the effectiveness of demountables and the need to ensure all home owners and businesses in areas where OPW schemes have been completed can get flood insurance cover.

It gives me no pleasure to say it but, in effect, the Government has been snubbed by the insurance industry. The outcome means that thousands of home owners and businesses throughout the country continue to be denied flood insurance. There seems to be no strategy at Government level to deal with this.

The insurance industry will say that a high percentage of home owners and businesses in areas where schemes have been completed can get flood cover. However, a survey was released in recent days by a flood alleviation group from Ballinasloe. This is a community project under the auspices of the national flood forum. The group undertook a survey in Derrymullan, Galway. They found that despite the fact an OPW scheme with permanent flood defences - not demountables - was completed five years ago at a cost of €1.5 million, some 60% of those surveyed cannot get flood insurance. The message we are hearing from the insurance companies is not matched with the reality. The figures they are providing to the Government simply cannot be validated.

As the Tánaiste is aware, we brought forward a flood insurance Bill which would compel the insurance industry to provide cover where the OPW has completed schemes to the required EU standard, as set out in the 2007 directive, that is to say, to the one in 100 year standard. The bottom line is that where these schemes have been completed, they have worked, for example,

in Fermoy, Mallow and Clonmel. It is not sustainable for the insurance industry to continue to deny the effectiveness of demountables. In some towns the defences have to be of a mobile demountable nature, otherwise the towns simply cannot function. The Government needs to take account of the serious impact this is having. Businesses may not be able to get credit from their banks because the banks will, understandably, seek to ensure there is adequate flood cover. It is going to have an impact on the rates base of local authorities further down the line if this issue is not dealt with.

Did the follow-up meeting which was to have taken place by Tuesday of this week actually take place? Will the Tánaiste confirm that the insurance industry came back to the Government? Will the Government publish the response, whatever it was? Will the Tánaiste outline for Members in the House today the nature of that response? How is the Government going to react to the fact that, unfortunately, the issues raised are not being addressed or dealt with? Ultimately, the people suffering are home owners and business owners who cannot get flood cover in areas where relief schemes have been completed.

**The Tánaiste:** I agree with much of what the Deputy has said in respect of the difficulties caused to families and businesses where they are unable to get flood insurance. This discussion with the insurance industry is ongoing. A great deal of detailed work is being done, including an international comparison of what other countries faced with the same issues are doing. Many countries in Europe, including our neighbours in the United Kingdom, are faced with repeat episodes of flooding. Different models of seeking to have the matter addressed through general insurance have been tried in these countries. Some have worked more effectively than others but in all of the countries this is an issue for the insurance industry.

I agree that where significant sums of public money have been spent on either permanent flood defences or on removable or demountable flood defences, the statistics show in a significant number of cases that a proportion of people continue to be denied insurance by the insurance industry. Obviously it is a priority that this should be addressed.

The conversation with the insurance industry is ongoing. On Tuesday, for example, the Minister of State, Deputy Harris, and the Minister for Public Expenditure and Reform, my colleague, Deputy Brendan Howlin, presented to Cabinet a detailed proposal in respect of the oversight of the development of the flood risk management programme for the Shannon basin. This has been discussed in the House and it is now going ahead and progressing. I assure Deputy McGrath that as part of the process there was a discussion of the statistical evidence, which shows that notwithstanding the significant sums of public money being spent, some people are being refused insurance even where there are permanent flood defences. The rate of refusal is significantly higher where flood defences are of the demountable kind. It is an ongoing issue with the insurance industry. The reason a meeting with the insurance industry did not take place as recently as last week was because the Taoiseach had commitments in the UK and the annual conference on the economy in Switzerland. He was involved in heavily promoting Ireland at a very large international business conference. I do not think that people would have wished him to do anything other than go and defend Ireland. I anticipate that the follow-on meeting with the insurance industry will happen quite soon.

**Deputy Michael McGrath:** I ask the Tánaiste not to treat us like fools. The suggestion that the Taoiseach's commitment to attend the conference in Davos and to meet Prime Minister David Cameron in London were arranged in the past two weeks is not credible. The fact of the matter is that a commitment was given on 12 January that a follow-up meeting with the insur-

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ance industry would take place within two weeks. That did not happen and the Tánaiste has not been able to tell the House that a date has been set for a further meeting between the Government and the insurance industry.

In the meantime, the issues raised by the Tánaiste, Taoiseach and a cadre of Ministers with the insurance industry - there was great fanfare when the meeting was organised - have simply not been addressed. The reality is that they have come back and rebuffed what the Government has suggested. What is the Government going to do about it? The Government has been snubbed. The reality is that this issue cannot go unaddressed. Home owners and business owners in communities around the country are living with the daily fear of being flooded again and not having flood insurance.

As the Tánaiste well knows, the particular issue we have raised relates to areas and communities where OPW flood relief schemes have been completed to the required standard, at the expense of taxpayers and in line with the EU directive, and where they have proved to be effective. The Government has unvalidated figures from the insurance industry. A survey from the national flood forum was carried out in Ballinasloe. One example is Derrymullan, where €1.5 million was spent on permanent flood defences five years ago which have proven to be effective. Some 60% of those who responded to the survey cannot get flood insurance. It is a real issue.

**Deputy Mattie McGrath:** Get back in the boat.

**Deputy Michael McGrath:** The Government brought in the insurance companies and asked them nicely what they would do about the problem. We are hearing a lot of motherhood and apple pie, but not a lot of action.

It is not good enough because people feel that the insurance industry is not stepping up to the mark and providing cover.

**Deputy Mattie McGrath:** They are the same as the banks.

**Deputy Michael McGrath:** We are not asking it to provide cover where there is a probability of property being flooded in the future. That is a much more complex issue, as the Government knows. The reality is that €1.4 billion has been collected from insurance policyholders in respect of the 3% stamp duty over the past 15 years. People are asking what that money was for. In cases where schemes have been completed, what will the Government do about the issue?

The response of the Tánaiste is not good enough. I want to know whether there will be another meeting with the industry before the election. What is the Government committed to doing? Will the Tánaiste give a commitment that the Government is prepared to introduce legislation if necessary? Ultimately, the industry will only act if that threat is made and they are compelled to provide cover.

**The Tánaiste:** The Government devoted an extensive part of its meeting on Tuesday to the issue which received priority from all of the Deputies in the House, namely, the very serious situation regarding the Shannon. Deputy Michael McGrath and Deputies from other parties raised the issue. On Tuesday, the Government gave the go-ahead for the Shannon co-ordination group. This will mean all of the different agencies, bodies, stakeholders, citizens and businesses, including groups in Ballinasloe, that have an interest in the enormous difficulties facing home owners, businesses and farmers in the Shannon region would be brought together under

the umbrella of the Shannon co-ordination group.

While discussions about the Shannon have taken place in this country since, I understand, well before independence-----

**Deputy Michael McGrath:** We are talking about insurance.

**The Tánaiste:** -----this is the first time that a Shannon co-ordination group has been established.

**Deputy Mattie McGrath:** It is a toothless body.

**The Tánaiste:** If the Deputy wants us to do serious work-----

**Deputy Mattie McGrath:** Send the Minister, Deputy Kelly, out with a bucket. He might drain it quicker.

**The Tánaiste:** -----on what is a really serious issue, namely, the provision of insurance, we need to set about doing it properly.

**Deputy Michael McGrath:** It is being done in other areas.

**The Tánaiste:** The Shannon co-ordination group is under the chairmanship of the OPW and will bring all of the stakeholders, public and private, involved and affected by the Shannon together for the first time in the history of the State in a co-ordinated group.

**Deputy Michael McGrath:** I refer to where schemes have been completed.

**The Tánaiste:** The Deputy may not have heard what I said.

**Deputy Mattie McGrath:** Around the house and mind the dresser.

**The Tánaiste:** We have undertaken a survey of the practice in other European countries and the United Kingdom in regard to insurance and the investment of significant sums of public money in flood defences.

**Deputy Robert Troy:** Answer the questions.

**The Tánaiste:** As a Government, we are committed to spending €430 million over the next five years on flood defences.

**Deputy Robert Troy:** Answer the question.

**Deputy Michael McGrath:** The Government cut the budget for 2016.

**The Tánaiste:** It is far more than Fianna Fáil ever spent on flood defences.

**Deputy Robert Troy:** Answer the question.

**An Leas-Cheann Comhairle:** Please, this is Leaders' Questions.

**The Tánaiste:** If the outcome of that-----

*(Interruptions).*

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**The Tánaiste:** If the outcome is that we spend €430 million and, as a consequence, the people whose homes and businesses are protected still fail to get insurance, we will have to develop a system of providing cover to people who are affected. If we rush this-----

**Deputy Billy Kelleher:** Rushing is not in the Government's vocabulary.

**The Tánaiste:** On earlier occasions, the Deputy said he was not happy that ordinary policy-holders would immediately carry the cost of everybody who needed flood insurance. This issue requires very serious analysis of how we address the issue.

**Deputy Robert Troy:** In the meantime, is it a case of having to paddle one's own canoe?

**The Tánaiste:** As a country we will spend €430 million on flood defences. If the result is that there is no cover for people whose homes have been permanently protected and people whose homes and businesses have been protected by demountable defences, that is not acceptable.

I told the Deputy that on Tuesday the Government spent a considerable part of its meeting-----

**Deputy Mattie McGrath:** All talk and no action.

**The Tánaiste:** -----analysing the issues in detail, including the fact that at this point in time the Irish Red Cross has given well over €500,000 to hundreds of businesses throughout the country, including some in the Deputy's county. I want to salute the Irish Red Cross. My Department has paid out very significant sums to over 400 families affected by flooding. In addition, the Minister for Defence and the Department of Defence have dropped fodder by airlift to farms in Galway affected by flooding.

**Deputy Mattie McGrath:** Was there any fodder on the boat?

**The Tánaiste:** All of this was discussed in detail at the meeting of the Government on Tuesday.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Order, please.

**Deputy Mary Lou McDonald:** The election is fast approaching. Once again, the Labour Party is throwing around election promises like snuff at a wake. Does the Tánaiste really believe that people have such short memories-----

*(Interruptions).*

**An Leas-Cheann Comhairle:** Order, please.

**The Tánaiste:** That would be a Sinn Féin wedding.

**An Leas-Cheann Comhairle:** Deputy McDonald has the floor. Order please.

*(Interruptions).*

**Deputy Mary Lou McDonald:** Some five years ago, the Labour Party made a litany of promises in order to get into government. It promised to protect low and middle-income fami-

lies from Fine Gael. Does the Tánaiste remember the slogan “Fine Gael: Every Little Hurts”?

**Deputy Bernard J. Durkan:** We should. There are plenty of examples of it.

**Deputy Mary Lou McDonald:** We remember it. The Labour Party said it would oppose water charges. It broke its word. It said it would oppose a property tax. It broke its word. It said it would protect child benefit. It broke its word. It said it would not raise taxes and yet a litany of taxes and charges increased. It said it would not cut social welfare but it cut rates and made payments harder to get. It promised that it would stand up to the European Central Bank, ECB, and burn bondholders, but then it buckled under pressure. It made working families pay the price for the economic crisis caused by Fianna Fáil and its banker and developer friends. It voted through five deeply unfair budgets that hit working families hardest. It failed to stand up to Frankfurt, and it failed to stand up to Fine Gael. It let Enda Kenny set the agenda. It broke its promises. It did not keep its word. It disappointed the nation and because of the Labour Party, people throughout the country are suffering yet.

As the Tánaiste and her colleagues once again promise to protect working families and the vulnerable-----

**Deputy Emmet Stagg:** This is the last page.

**Deputy Mary Lou McDonald:** -----how on earth does she expect anybody to believe them?

**The Tánaiste:** What the people believe is that there are 135,000 more people at work now. After the disastrous bank guarantee, a small footnote in history is that the Deputies opposite ran down the steps in this Chamber to vote for it, and they voted for it in the Seanad. That is only a footnote in history, and we know they have parted from that.

**Deputy Finian McGrath:** What was the Labour Party’s alternative?

**The Tánaiste:** I think Deputy Finian McGrath voted for it as well.

**An Leas-Cheann Comhairle:** This is Leaders’ Questions, please. The Tánaiste has the floor.

**Deputy Finian McGrath:** It is all waffle.

**The Tánaiste:** What voters are aware of now is that Ireland is in a dynamic recovery mode. What really counts, and what voters have to decide on, is whether we can seize the moment to build on the recovery so far in order that it extends out to every family, individual and community throughout the country.

**Deputy Mattie McGrath:** What about all the houses being repossessed?

**The Tánaiste:** It starts with people going back to work. Already, of the 330,000 jobs lost-----

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

**The Tánaiste:** -----after the disastrous bank guarantee that Sinn Féin voted for-----

**Deputy Barry Cowen:** The Labour Party extended it.

*(Interruptions).*



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**An Leas-Cheann Comhairle:** Deputies, please.

**The Tánaiste:** -----we have restored Ireland's reputation-----

**Deputy Michael McGrath:** The banking inquiry was chaired by the Labour Party and it-----

**The Tánaiste:** -----so that we are now the fastest growing economy in Europe.

**Deputy Dessie Ellis:** What about the health service and the housing problem?

**The Tánaiste:** That means we have 135,000 more people at work.

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

**An Leas-Cheann Comhairle:** There are too many interruptions. Order.

**The Tánaiste:** Not only that but we now have the capacity, in terms of our economic strength, to build-----

**Deputy Mattie McGrath:** Economic strength is no good to a family being evicted.

**The Tánaiste:** -----not just an economic recovery but a social recovery as well. Hence, in this year's budget, I was very happy to be able to restore the Christmas bonus that Fianna Fáil abolished in 2009.

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

**The Tánaiste:** I was very happy, for the first time in about eight or nine years, to be able to increase the pension and other payments for people over 66. It was a modest increase but, nonetheless, the first increase.

**Deputy Finian McGrath:** Three euro.

**The Tánaiste:** The Christmas bonus for a pensioner-----

**Deputy Mattie McGrath:** It is an insult.

**The Tánaiste:** -----was worth €170 and for a pensioner couple it was worth €320.

**Deputy Mattie McGrath:** The Tánaiste will meet them all at the doors very soon.

**The Tánaiste:** People have been able to spend a little bit more-----

**Deputy Dessie Ellis:** What about their water charges bill?

**The Tánaiste:** -----coming up to Christmas on things that are important to them.

**Deputy Mattie McGrath:** Property tax.

**The Tánaiste:** Also, from 1 January the fuel allowance increased by €2.50 a week.

**Deputy Barry Cowen:** The carbon tax went up.

**The Tánaiste:** I would be the first to acknowledge that these increases, which are the first increases after we increased both the Christmas bonus and the living alone allowance in last

year's budget, are modest, but it is important that we prioritise people like pensioners.

In this year's budget, in last year's budget and in every budget we have provided an extra €200 million a year in social welfare spending for the extra number of people coming up to pension age and the extra number of people who are receiving, for instance-----

**Deputy Mattie McGrath:** You abandoned them.

**The Tánaiste:** -----carer's allowance and the extra number of children in respect of whom families are being paid the domiciliary care allowance. All these increases in the number of people receiving important social welfare benefits in each budget have cost well in excess of €200 million. If Deputy McDonald knew anything about social welfare, she would know that the actual time it takes people to make an application and receive their payment, when it is awarded, has been cut by more than half because we have invested in completely new-----

**Deputy Mattie McGrath:** The Minister removed the community welfare officers.

**The Tánaiste:** -----IT platforms and systems to pay people.

**Deputy Mary Lou McDonald:** The fuel allowance scheme was cut from 32 weeks to 26 weeks. The fuel, rent and clothing and footwear allowances were cut. That was the Tánaiste's message about shopping around to families who were struggling. The age was raised for disability allowance entitlement. Carer's allowance was cut. I could go on and on. That is the Tánaiste's track record. That is what she has presided over and if that were not bad enough, she slapped a water charge into the equation as well, with no regard for ability to pay.

This advertisement I am holding up was the Labour Party's ruse in the previous general election. Does the Tánaiste recognise this advertisement?

**An Leas-Cheann Comhairle:** The Deputy is not supposed to display-----

**Deputy Mary Lou McDonald:** This was the Labour Party's Tesco-style "Every Little Hurts" advertisement, and it seems that going into this general election, it will have the brazen neck to try the same scam all over again.

**Deputy Noel Coonan:** Spare the confetti.

**Deputy Mary Lou McDonald:** The news is that people have woken up to the Labour Party. They have wised up to the fact that far from protecting working families and low and middle-income workers it is happy to allow Fine Gael set the agenda, happy to run down public services, happy to agree to tax giveaways and bonanzas for the rich, and happy to ignore any promise it might make. That is what its track record reflects.

As for the bank guarantee, the Labour Party's record is that it renewed that numerous times when in government.

**Deputy Kathleen Lynch:** The Deputy's party voted for it.

**Deputy Mary Lou McDonald:** In fact, the record shows that the Labour Party in government raced through the lobbies to extend that banking guarantee-----

*(Interruptions).*

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**Deputy Mary Lou McDonald:** -----so the Tánaiste should save us the homily on that.

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

**Deputy Mary Lou McDonald:** The Tánaiste said that in her view the recovery is dynamic. The recovery has not visited the vast majority of communities and families throughout the country, and she remains blind and indifferent to that.

In this general election will the Tánaiste come clean, put her hands up and accept her party's dismal record in government? I ask her not to insult the intelligence of the electorate and people who deserve a level of certainty and protection in the next Dáil. Please do not insult their intelligence by re-running this kind of scam.

**The Tánaiste:** First, this month we will have removed 700,000 low paid workers from the USC net. That is a move that has been widely welcomed by workers and employers throughout the country. Second, on 1 January we increased the minimum wage by 50 cent an hour.

**Deputy Mary Lou McDonald:** Wow.

**The Tánaiste:** That helps about 100,000 low paid workers.

**Deputy Finian McGrath:** They are the big spenders.

**The Tánaiste:** During the Labour Party's time in government, that is the second time the minimum wage has been increased, and somebody on a very low wage has benefited from that increase in the minimum wage over the life of Government to the tune of €3,000 an hour.

**Deputy Mary Lou McDonald:** Three thousand euro an hour?

**The Tánaiste:** Three thousand euro a year. Third, from 1 January civil servants throughout the country have seen the rolling back over a carefully designed three-year period of the financial emergency measures in the public interest, FEMPI, legislation, which saw their Civil Service pay being reduced. That means that many workers have seen increases in their wage packets this month of approximately €10 to €20 a week. I am the first to acknowledge this is not a vast sum of money, but what is also important for the same workers and their families is this year we will see the first reduction in class sizes since the crash happened. We will see class sizes reduced in all primary and secondary schools-----

**Deputy Dessie Ellis:** The Tánaiste is a class act.

**The Tánaiste:** -----by one point throughout the country. This might not matter to the Deputy but it matters an awful lot to families with children.

**Deputy Mary Lou McDonald:** I have children.

**The Tánaiste:** We have also rolled out medical cards to children aged under six-----

**Deputy Mattie McGrath:** A farcical thing, and the Government is squeezing out GPs.

**The Tánaiste:** -----and to people aged over 70. If returned to government, we will do this for all children under 18 over a five-year period, and roll it out to older people as resources permit.

On Anglo Irish Bank and the other banking matters, if we took Fianna Fáil's proposal and

its agreement with the troika, last year would have seen Ireland pay €11 billion in interest costs. We cancelled the promissory note and replaced it with longer-term loans-----

**Deputy Mattie McGrath:** Wonderwoman.

**The Tánaiste:** -----at much lower interest rates, which is, by the way, what I recommended in opposition as the Labour Party spokesperson on finance.

**Deputy Robert Troy:** It is a wonder the Tánaiste did not get the public expenditure job so.

**The Tánaiste:** The actual interest costs in 2015 were below €7 billion. In other words, what was planned by Fianna Fáil to be a charge of €11 billion-----

**Deputy Bernard J. Durkan:** Correct.

**The Tánaiste:** -----actually came in at below €7 billion.

**Deputy Michael McGrath:** The Tánaiste is forgetting about the zero interest rates.

**The Tánaiste:** In the scheme of things we now have a dynamic recovery in the economy, but Sinn Féin lives in an economic bubble of its own in which inconvenient facts do not matter. It has no jobs plan for getting the country back to work.

**Deputy Jonathan O'Brien:** We have.

**The Tánaiste:** It has no plan for investment in the country-----

**Deputy Jonathan O'Brien:** We have.

**The Tánaiste:** -----and it has no plan for families to get a better deal for taxation.

**Deputy Sandra McLellan:** Yes, we have.

**The Tánaiste:** It proposes to raise taxes on ordinary families.

**Deputy Jonathan O'Brien:** No, we do not.

**The Tánaiste:** It proposes to have an economy which stalls and which does not emphasise work and prosperity for businesses and families. Its economic platform is an empty bubble.

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

**Deputy Jonathan O'Brien:** I will miss the Tánaiste.

**Deputy Dessie Ellis:** The Tánaiste has a US-style tax system.

**Deputy Sandra McLellan:** Desperation.

**An Leas-Cheann Comhairle:** No more interruptions.

**Deputy Catherine Murphy:** Over the lifetime of the Government a number of serious concerns have been raised about probity and accountability. Today I want to discuss yet another which I believe merits scrutiny. This is the awarding of the call centre work for Irish Water to the Cork-based company Abtran. The Tánaiste will recall that Abtran got the contract for the Student Universal Support Ireland, SUSI, grant system, and came under serious criticism, and

rightly so, for its failings. It cost an additional almost €6 million. Despite this, it went on to be awarded the property tax contract and Revenue had to step in because initially it failed to cope. After both of these high-profile failings it was awarded the call centre work for Irish Water. We know that Abtran has at least ten other Government and public contracts. One of the criteria for the tendering process for the Irish Water contract was the company had to have a turnover of €20 million for the preceding three years. Given that Abtran had a number of lucrative State contracts prior to the Irish Water contract, the State certainly improved Abtran's ability to meet the criteria laid down in the process. What is interesting is how the contract was awarded and the obvious questions it raises about probity and the awarding of the contract.

Through freedom of information I have established that on 15 February 2012 the private secretary of the then Minister, Phil Hogan, received a fairly informal e-mail seeking a meeting with "Phil" to lobby on behalf of Abtran. On the same day at 5 p.m. an e-mail was sent stating the Minister had agreed to meet the company. On 27 February of the same year we know from Gavin Sheridan's publication of the Minister's diary that the Minister met the person who sent the original lobbying e-mail, Mr. O'Byrnes, and the co-owner of Abtran. In March 2013 the company was awarded the contract.

The Irish Water call centre contract is lucrative. It is worth approximately €50 million over four years. We know through freedom of information that one of the key criteria for the firm to which the contract would be awarded was to have a proven track record. I presume this means a good proven track record. Given the criteria, is the Tánaiste satisfied that despite the very public failings of Abtran on SUSI and the property tax that it was still awarded an extremely lucrative contract by the State? Is she aware that in late 2015, a State investment vehicle invested an undisclosed sum of money in Abtran? Does she know what the money was for and how much it was? Is she concerned about what appears to be the favouring of Abtran for Government funds?

**The Tánaiste:** My understanding of the SUSI development, which is the online system for students to get college grants, is the contract was actually awarded to the City of Dublin VEC, which subsequently became the City of Dublin Education and Training Board. It made the arrangements on how what was a new and very ambitious computer-based application system would be delivered. As the Deputy knows, contracts in Ireland are governed by Irish and European contract law. SUSI was a very new system established for a large number of students applying for student grants. Approximately 50% of students who go to college in Ireland get full or partial student grants, so we are talking about a lot of people. For years, until my colleague, the former Minister, Deputy Ruairí Quinn, set about mandating that a new system be established, the complaint had been that many students did not get their grants until months into their college courses. There was general agreement that this should be addressed.

There were definitely teething problems, which we read about, but the City of Dublin VEC, subsequently the ETB, was available to Oireachtas committees on a repeat basis to go through everything on SUSI. I am happy to say the SUSI system of college grant applications is now deemed to be one of the best new systems installed by any Irish Government. The Deputy probably knows from the university in her constituency that the feedback from students' unions, parents and individual students is that college grants are now paid on time. The overall SUSI project has worked extremely well despite teething problems.

The Revenue Commissioners are responsible for the administration of the property tax, and I can only go on their reports that there is a very high level of compliance with the property tax,

and that it has worked in a very efficient and very effective way.

The Deputy asked for information on sub-elements of the contract. The Government has introduced legislation on lobbying and a register of lobbyists. We have expanded very significantly on the Freedom of Information Act, which was partially dismantled by the previous Government which brought in restrictions. All I can say is that, rightly in terms of accountability, all the information on contracts relating to all elements of public service is now available in a much speedier and more timely way as a consequence of the legislation the Government has introduced, particularly the broadening of freedom of information and the introduction of legislation on lobbyists. These are both tremendous developments in terms of our democracy and the reporting and accountability that the Deputy rightly seeks.

**Deputy Catherine Murphy:** I acknowledge that both of those Bills are very important, but “speedy” is not a word I would use in respect of some entities that are covered under freedom of information. It is not all of them; some Departments are good, but others are not. For example, the Irish Water call centre contract falls just outside the timeframe for freedom of information requests by a number of weeks. I can understand that there would be a confidentiality issue when a contract is being decided before it is awarded, but afterwards there is no reason that should not be fully transparent.

Getting certain information from Irish Water is like pulling hen’s teeth. I looked for information on this very point last September and I got a reply containing information I could have picked off its website in December. I have had to seek a review on it, looking for the very information that would give me what the Tánaiste is telling me I can have. That is not a criticism of the legislation, but some entities are not using it as she described and it is very frustrating. Confidentiality and commercial sensitivity are routinely rolled out as a reason not to give information. In some cases that is reversed under review. Could the Tánaiste answer me that question in respect of the investment? Does she know what the investment into that company was? It happened in December 2015. What was it for and how much was it? If she does not know, could she come back to me with that information, if it is possible to get it?

In terms of freedom of information, even the company I raised is not served by the lack of transparency. Freedom of information is not functioning as well as it might be. If there is a Department that falls down on that, it is the Department of Finance that I find it most difficult to get information from.

**The Tánaiste:** I am not familiar with the detailed operation of the company about which the Deputy is concerned. My understanding is that it is a company based in Cork, which has a significant number of employees. I am not *au fait* with the details of its financial arrangements or its financial standing or position, but if there is information we can acquire to assist the Deputy, I would be happy to seek to do that if she would let me know what her detailed queries are.

In respect of Irish Water, it has been a start-up over the last two years.

**Deputy Mattie McGrath:** There is no ombudsperson.

**The Tánaiste:** We now know, for instance, that 61% of people are paying their water bills.

**Deputy Mattie McGrath:** There is nowhere to go to complain.

**The Tánaiste:** When the water conservation grant was-----



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**Deputy Mattie McGrath:** If people have complaints, they cannot complain to anybody.

**The Tánaiste:** -----issued by my Department, including to people in rural Ireland on group schemes and with their own private wells, we received and were able, on behalf of the Department of the Environment, Community and Local Government, over a relatively short period, based on an online application system-----

**Deputy Mattie McGrath:** Which you got consultants to devise.

**The Tánaiste:** -----to pay it to well over 800,000 people. We are all aware there have been difficulties and teething problems in the set-up stages of Irish Water-----

**Deputy Mattie McGrath:** There is no ombudsperson.

**Deputy Barry Cowen:** That is an understatement.

**The Tánaiste:** -----but the point is that Irish Water is now providing a service. Even during the recent floods, thankfully, the standard of water quality, which was a major risk in terms of the flood episodes-----

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

**The Tánaiste:** -----throughout the country, was maintained.

**Deputy Mattie McGrath:** Thanks to the county councils.

**The Tánaiste:** I spoke to Deputy Michael McGrath about the Cabinet discussions on the impact of the flooding. One of the areas-----

**Deputy Mattie McGrath:** What kind of water went into the boat?

**The Tánaiste:** -----about which people were most concerned was that water quality would be affected by the flooding.

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

**Deputy Sandra McLellan:** We had boil water notices down our way, in east Cork.

**The Tánaiste:** I am happy to say that the number of episodes of water quality being affected was, thankfully, kept very low and they were of very limited duration. This the advantage of having a national utility-----

**Deputy Sandra McLellan:** They were in place for several days.

**Deputy Mary Lou McDonald:** Several days.

**The Tánaiste:** -----which is now cleaning up our rivers and lakes through an active programme of restricting the dumping of raw sewage into lakes in Ireland at about 42 different points.

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

**Deputy Barry Cowen:** I think the councils were doing that.

**Deputy Mattie McGrath:** Who was doing that but the county councils?

**The Tánaiste:** We are also subject to the EU water framework directive.

**Deputy Mattie McGrath:** It is a wonder you got into the boat at all.

**The Tánaiste:** We were able to stand aside from that as a country for a considerable period, but not any more. If Deputy Murphy would send us the details of the queries-----

**Deputy Mattie McGrath:** Write me a letter.

**The Tánaiste:** -----in respect of the company with which she has a concern, we will be happy to assist her, if that is possible.

### **Order of Business**

**The Tánaiste:** It is proposed to take No. 15, motion re proposed approval by Dáil Éireann of the Planning and Development (Amendment) Regulations 2016, back from committee; No. 16, motion re proposed approval by Dáil Éireann of the Companies Act 2014 (Section 1313) Regulations 2016, back from committee; No. 17, motion re proposed approval by Dáil Éireann of the Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Optician) Regulations 2016, back from committee; No. 18, motion re proposed approval by Dáil Éireann of the National Cultural Institutions Act 1997 (Section 44) (Variation of Indemnity Amount) Order 2016, back from committee; No. 34*a*, statements on the report of the Joint Committee of Inquiry into the Banking Crisis; No. 2 - Criminal Law (Sexual Offences) Bill 2015 [*Seanad*] - Second Stage; No. 1, Medical Practitioners (Amendment) Bill 2014 [*Seanad*] - Second Stage (resumed); and No. 7, Health (Miscellaneous Provisions) Bill 2016 - Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that Nos. 15 to 18, inclusive, shall be decided without debate, and the following arrangements shall apply in relation to No. 34*a*: the statement of the Chairman of the Joint Committee of Inquiry into the Banking Crisis and of each member of the committee shall not exceed ten minutes, the statement of each other Member called upon shall not exceed ten minutes, and such Members may share their time and a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed ten minutes.

**An Leas-Cheann Comhairle:** There are two proposals to be put to the House. Is the proposal for dealing with Nos. 15 to 18, inclusive, - motion re proposed approval by Dáil Éireann of the Planning and Development (Amendment) Regulations 2016, motion re proposed approval by Dáil Éireann of the Companies Act 2014 (Section 1313) Regulations 2016, motion re proposed approval by Dáil Éireann of the Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Optician) Regulations 2016, back from committee, and motion re proposed approval by Dáil Éireann of the National Cultural Institutions Act 1997 (Section 44) (Variation of Indemnity Amount) Order 2016 - without debate agreed to? Agreed. Is the proposal for dealing with No. 34*a*, statements on the report of the Joint Committee of Inquiry into the Banking Crisis, agreed to? Agreed.

**Deputy Michael McGrath:** I am not sure if this is the Leas-Cheann Comhairle's last session chairing the Order of Business.

**Deputy Emmet Stagg:** We will be here next week.

**Deputy Michael McGrath:** I assume it is, and I want to pay tribute to him as the outgoing

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Leas-Cheann Comhairle. I know he is not seeking re-election to the next Dáil, but it would be remiss of us not to acknowledge his immense contribution to public service. I believe he has been a Member of the Oireachtas for in excess of 40 years. He has a very distinguished record representing the people of Galway East. He is a public servant of the utmost integrity and I want to acknowledge that. On behalf of his own party, the Fianna Fáil Party, I thank him for decades of service and wish him and his family all the very best in his retirement.

I wish to raise a couple of issues. The Criminal Law (Sexual Offences) Bill 2015 [Seanad] is due in the House later today. As I understand it, there is broad consensus, at least among the parties, to support the passage of that Bill. Is it the Government's intention in the very limited time available to pass all Stages of that Bill in the House? It is something my party would support.

Recently, Deputy O'Dea brought forward a Private Members' Bill, the Pension Fund (Prohibition of Levies) Bill 2016. The background to this is the imposition of the pension levy on private pension savings from 2011 to 2015, over which period €2.5 billion was taken out of the private pension savings of hundreds of thousands of workers and existing pensioners. The impact of that is becoming clear now for many and will become clear for others over the years ahead. Does the Tánaiste support the thrust of that Bill, which would prohibit any future Government from raiding private pension savings in a similar manner?

**The Tánaiste:** In relation to the Criminal Law (Sexual Offences) Bill 2015, I appreciate that the majority of Members in the House would like to see the passage of this Bill. The Minister for Justice and Equality, Deputy Fitzgerald, has indicated that she would be happy to see all Stages of this Bill being taken today, if the Opposition agrees. It is really dependent on the agreement of the Opposition. If the Opposition can indicate its agreement, then that can be so. That would mean the Dáil would sit later, but it has to be agreed across the board. We would then have an amendment to the Order of Business, that the Dáil shall sit not later than 5.30 p.m. today and shall adjourn at the conclusion of Topical Issues, which shall be taken on the conclusion of Second and Remaining Stages of the Criminal Law (Sexual Offences) Bill 2015 [Seanad], and it shall be taken no later than 3.30 p.m. today, and the proceedings on the Second Stage shall, if not previously concluded, be brought to a conclusion after three hours. It is really for the House, and for all of the different groups in the House, to indicate.

**Deputy Michael McGrath:** Fianna Fáil is supporting it.

**The Tánaiste:** I understand the political parties are in favour. Can I ask whether the Technical Group or the Independent groups are in favour?

**Deputy Catherine Murphy:** I find myself in an awkward position in that I, personally, would agree to it but there would be a variety of views on the Technical Group.

**Deputy Michael McCarthy:** You do not say.

**Deputy Catherine Murphy:** For that reason, I do not think the Technical Group would agree to it.

**Deputy Anne Ferris:** That is terrible.

**The Tánaiste:** I appreciate Deputy Catherine Murphy's own personal position in relation to the legislation because she has spoken on the matter at different times. I appreciate she is

obviously not able to commit the Technical Group to the Dáil agreeing and, therefore, I will not proceed. The Second Stage is, therefore, on the agenda.

**An Leas-Cheann Comhairle:** Will the Whips be meeting on this?

**Deputy Paul Kehoe:** No.

**Deputy Mary Lou McDonald:** I join in the words of commendation so deservedly spoken about the Leas-Cheann Comhairle and thank him for his courtesy and patience. He was certainly a gentleman, and a patient one at that. We all wish him the very best in the future and congratulate him on his distinguished career.

On the Criminal Law (Sexual Offences) Bill 2015, my party would be extremely keen that this legislation pass all Stages-----

**The Tánaiste:** As we are.

**Deputy Mary Lou McDonald:** -----as, I appreciate, is the Tánaiste herself and, indeed, as is Fianna Fáil. There is an understandable difficulty for Deputies who may wish to amend or have a fuller debate on the legislation. It is only fair to record that it is not by any means ideal or desirable that such important legislation is dealt with at the eleventh hour. That said, my party's concern to have the legislation passed overrides any concerns around a guillotine or the shortening of the debate. I merely want to indicate that position. When I resume my seat, the Leas-Cheann Comhairle might tell us what this means or when a vote might be taken in relation to amending the Order of Business, or if that is the intention.

**Deputy Michael McGrath:** There has to be amendments.

**The Tánaiste:** There has to be general agreement for the House to agree that all Stages will be taken today. That agreement, as Deputy Catherine Murphy stated, is not forthcoming. In fact, only Second Stage is listed for the Dáil today.

**Deputy Mary Lou McDonald:** Is it not possible for the House to take a vote?

**The Tánaiste:** It is not possible, unless it is by the complete agreement of the House.

**Deputy Mary Lou McDonald:** That is a real pity.

**Deputy Kevin Humphreys:** It is.

**The Tánaiste:** Yes.

**Deputy Mary Lou McDonald:** That is a crying shame. Perhaps we might ask our colleagues in the Technical Group to reconsider.

**Deputy Catherine Murphy:** Can I ask, to be helpful, that the Tánaiste at least give me time to consult?

**The Tánaiste:** We will be taking the Second Stage. That is what I would suggest. This is something that I have spoken out about down the years. It is certainly legislation that I and the Labour Party have supported. There are Members of differing views among the Independents. The Bill also received extensive discussion over a long period of time in the Seanad and that, probably, is one of the reasons it is so late coming here. However, without the agreement of the

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House, Second Stage is listed for today and that is how it will proceed.

**An Leas-Cheann Comhairle:** Second Stage will proceed then.

**Deputy Mary Lou McDonald:** I thank the Tánaiste for that clarification. Of course, if this were to reach all Stages today and to pass through the Oireachtas, it would give us an all-island framework on the prohibition of the purchase of sex. It is a great pity and I hope that Deputy Catherine Murphy's consultations will be successful.

What I wanted to ask the Tánaiste relates to Moore Street. Deputies Maureen O'Sullivan, Clare Daly, Mick Wallace and I sought access to the national monument not for the sake of it, but to have an expert conservation architect go in and establish and verify exactly the nature of the works under way, under what permission and under the supervision of whom. I have been in touch with the Minister, Deputy Heather Humphreys, on this matter and we have had some correspondence. I understood that such a visit would be facilitated but we have heard nothing back, and I am concerned. The Tánaiste will be aware that this is a matter of considerable public concern and contention and I wonder if she might be able to assist me in establishing when those experts might gain access, on behalf of us four Members of the Oireachtas, to establish what is going on.

**The Tánaiste:** I would be perfectly happy to contact the Minister to see whether the Deputies' access can be facilitated. I have had the privilege of visiting the different houses. As Moore Street is where I always did my shopping as a child, I remember the houses. From what I witnessed during my brief visit, they are in an extraordinarily fragile state. I hope that agreement can be reached with all the parties to undertake really important conservation work on these historic monuments. I had hoped to see that proceeding. I will contact the Minister and ask her to facilitate the Deputies' visit as soon as she can.

**Deputy Seán Ó Fearghail:** I want to be associated with the remarks to the Leas-Cheann Comhairle by my colleague, Deputy Michael McGrath, and by Deputy McDonald. I thank the Leas-Cheann Comhairle for his advice and friendship over the years and acknowledge the distinguished service that he has given the people of Galway and, indeed, the people of the country. I am struck by the fact that the Thirty-second Dáil will be unique in that it will be the first time in many years, indeed decades, that a member of the distinguished Kitt family will not be serving here.

*1 o'clock*

I also wish well those who are retiring, like Deputy Kitt, voluntarily. I see Deputies Dinny McGinley and Ruairí Quinn here. I wish them long life and happiness.

On the Protection of Employees (Temporary Agency Work) Act, earlier the Tánaiste talked about the dynamic recovery that is happening. The 580 Xtravision workers would not share the Tánaiste's view that the recovery is dynamic. What will happen to those workers, some of whom knew they would be made redundant at the end of January and all of whom expected to receive their pay and redundancy entitlements? With the appointment of a provisional liquidator, the position is very unclear. Can the Tánaiste give an assurance that payments will be made to these people so they can pay their rent or mortgages and feed their families immediately?



**The Tánaiste:** I thank the Leas-Cheann Comhairle for his courtesy, patience and the very good humour with which he has overseen proceedings in the Dáil, particularly on Thursdays, when he has been more often present than not for some interesting and exciting debates. I wish him and his family well in his retirement. I have met his family in recent times, and life outside politics seems to be going very well for them, for which I am glad.

It has been known for several years that new technology transmission systems such as Net-flix have rendered Xtravision's business model redundant and there have been many suggestions of difficulties in the company from time to time. The Department of Social Protection will make all its services available to anybody who is affected by the proposed redundancies. When the Department receives notice from liquidators, or whoever is arranging the company's wind down, we will immediately move to establish any entitlements that people working there have through their social insurance contributions and any entitlements they may have to social welfare payments. We will also make all our Intreo public employment services available to workers affected. Given the demand for employees, I hope to assist as many of the workers as possible with fresh employment within a reasonably short time. We will provide all the services, and I can give the Deputy those details later for anybody who is affected.

**Deputy Robert Troy:** I, too, would like to be associated with the good wishes to the Leas-Cheann Comhairle and all retiring Members. On assuming office almost five years ago, the Government promised the adoption (information and tracing) Bill was a priority. It is regrettable that the Dáil term will end without the Government giving every citizen the basic, fundamental right to his or her identity. The Tánaiste promised it was a priority of hers. It should have been implemented before the end of the Dáil term. Can she update us on the status of the Bill?

We are still awaiting the publication of the wind energy guidelines, which was promised before the 2014 local elections. Last week, when I raised it on the Order of Business, the Taoiseach promised me he would send a note indicating when it would be published. I await this note.

The Tánaiste's Department announced a compensation package, through the community welfare offices, for families affected by the devastating floods across the country. Families have incurred significant expense through the hire of pumps and increased ESB charges and have suffered many inconveniences protecting their homes over time, but may not have had water run through their doors, due to their work to protect their houses. Can the Tánaiste instruct the community welfare officers to ensure these people receive some State funding through compensation?

**The Tánaiste:** I have taken a very close interest in the adoption (information and tracing) Bill on a personal basis and I am sorry there has not been enough time to bring forward the legislation. The Minister, Deputy James Reilly, has been working very hard to bring the legislation before the Dáil. There are a small number of outstanding issues on which he has not yet reached a decision. Unfortunately, we will not have it in the lifetime of this Dáil. However, I hope and anticipate it will be a priority for the next Dáil immediately on its resumption.

The wind energy guidelines are still being worked on by officials in the two Departments concerned.

My Department has assisted more than 400 households and paid out approximately €500,000 to families affected by flooding. If the Deputy has particular cases, he might make them known



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to me or to the Minister of State, Deputy Kevin Humphreys. We have made payments to quite a few families who have incurred expenses related to the hire of pumps and other equipment. The Deputy could contact the regional official in charge of the midlands, whom the Deputy knows well.

In the context of the Deputy's other occupation, I am happy to say that, today, the managing director of An Post and I signed the new contract for the renewal of the cash contract to post offices which pay out cash in social welfare payments. The value of the contract last year was €54 million.

**Deputy Robert Troy:** How many years will the contract last?

**The Tánaiste:** It is on an annual basis.

**Deputy Jerry Buttimer:** May I also be associated with the remarks to the Leas-Cheann Comhairle? I wish Deputy Sandra McLellan, who is a member of the Oireachtas Joint Committee on Health and Children, well and thank her for her work on the committee. I thank and pay tribute to my good friend, Deputy Dinny McGinley, who is also leaving us.

This morning, the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, launched the Tourism Action Plan 2016-2018, which contains 23 actions. Through the Tánaiste's good offices, could she take up the issue of the Norwegian Air flight from Cork to Boston with the US authorities? It is an important issue that will increase connectivity for the smaller airlines. It is not in breach of the EU-US Open Skies policy, but will augment it and help bring more tourists into our country. Could the Tánaiste intervene with the Taoiseach and the Minister to intercede and ensure we get those flights from Cork to Boston?

**The Tánaiste:** I will ask about it. I am delighted that the tourism action plan was published. Having met various people involved in tourism in the Cork region, I know the developments at the airport are important for the region. I look forward to seeing those flights to the US.

**Deputy Mattie McGrath:** I, too, want to be associated with the good wishes and I thank the Leas-Cheann Comhairle for all his kindness and courtesy and all the Members who are retiring after long service. I want to ask the Tánaiste about an issue in Tipperary and around the country, namely, the rural practice allowance for GPs. The Tánaiste is very familiar with Bansha, County Tipperary, where there is great confusion and ineptitude on the part of HSE officials to fill the position. This is under the health information Bill.

**Deputy Simon Harris:** What Part of the Bill does it come under?

**Deputy Mattie McGrath:** It is very important we have information. Given that it is his last day, the Leas-Cheann Comhairle will be a small bit lenient with me.

**An Leas-Cheann Comhairle:** You are sailing close to the wind.

**Deputy Mattie McGrath:** The Tánaiste and I have mutual friends in Bansha. There is great confusion. We do not have a GP there. Ministers promised that the rural practice allowance would be reinstated, but it has not been reinstated. We cannot get applicants. I ask the Tánaiste to intervene personally again to see if this issue can be sorted out. That would give solace and satisfaction-----

**An Leas-Cheann Comhairle:** If we can find the legislation, I am sure the Tánaiste would

like to answer.

**Deputy Mattie McGrath:** The health information Bill is fine for me anyway. I am sure it will do the Tánaiste as well.

**The Tánaiste:** I assure Deputy McGrath that Bansha is very close to my heart. I look forward to meeting him on the election trail sometime soon, perhaps in the vicinity of Bansha. I will ask the Minister for Health about Bansha. I have already spoken to him about it. I know the GP service is an absolutely vital local provision for people in the Bansha area.

**Deputy Ruth Coppinger:** I want to return to No. 2 on the Order of Business, which is the Criminal Law (Sexual Offences) Bill 2015. I raised this with the Taoiseach last week. It is absolutely critical that this substantial legislation is not rushed through. I was somewhat surprised to hear Opposition Deputies saying that all Stages of the Bill should be taken today. There are significant issues-----

**An Leas-Cheann Comhairle:** We have dealt with this matter already.

**Deputy Kevin Humphreys:** There was no agreement.

**An Leas-Cheann Comhairle:** As the Tánaiste explained, the Second Stage debate is to be taken today.

**Deputy Ruth Coppinger:** It is important for this to be clarified. Significant issues like consent, sexual offences and prostitution arise in the context of this Bill. Many submissions have been made by groups like the National Women's Council and the Rape Crisis Centre. The whole issue of consent is not covered in the Bill. There are many gaps in the legislation. It is much better not to rush through legislation than to have bad law. Even though I am anxious to see certain aspects of this Bill go through, it is really important that it is not rushed. I raised this matter with the Taoiseach last week. I ask the Opposition to agree that it should not be rushed.

**Deputy Clare Daly:** I thought this was agreed.

**An Leas-Cheann Comhairle:** We have discussed it.

**The Tánaiste:** I will clarify the position for the Deputies who have just come in. There was a discussion earlier.

**Deputy Ruth Coppinger:** That is why I came in.

**The Tánaiste:** The spokespeople for the Fianna Fáil, Sinn Féin, Labour and Fine Gael parties all agreed that the passage of this legislation is highly desirable. Therefore, a proposal was offered that would have seen the legislation dealt with today. All Stages would have been passed, provided there was agreement. Deputy Catherine Murphy, on behalf of the Independents and the Technical Group, advised the House that although she is personally strongly in favour of this legislation, she is aware that some Deputies in the Technical Group, including some Independents, are not in favour of it. I regret to say that we were not able to get the agreement of the entire House on this important legislation, which deals with people who buy sexual services and offers some level of protection to very vulnerable women who are involved in prostitution. Clearly, that is reflected in Deputy Coppinger's comments now.

**Deputy Joe Higgins:** No, it is not.

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**The Tánaiste:** The legislation is just offered-----

**Deputy Joe Higgins:** I ask the Tánaiste not to distort the position-----

**The Tánaiste:** The legislation will be taken on Second Stage.

**Deputy Joe Higgins:** -----that was put by Deputy Coppinger.

**Deputy Kevin Humphreys:** She can speak for herself.

**Deputy Joe Higgins:** As the Tánaiste knows well, Deputy Coppinger is a champion for working-class women-----

**Deputy Bernard J. Durkan:** This is an election speech.

**Deputy Michael McCarthy:** It is out of order.

**Deputy Joe Higgins:** -----including the most oppressed who are forced into prostitution.

**Deputy Ruairí Quinn:** This is out of order.

**Deputy Joe Higgins:** There are elements of the Bill that we strongly support, but equally there are elements of it that represent a step backwards. The legislation proposes to criminalise people in the most vulnerable situations.

**An Leas-Cheann Comhairle:** I have to call the next speaker.

**Deputy Joe Higgins:** That is why it should not be rushed through today. There should be a proper discussion and debate on it.

**An Leas-Cheann Comhairle:** We dealt with that earlier.

**Deputy Clare Daly:** There was a lack of clarity on this. We were not sure whether the item was being removed.

**The Tánaiste:** We are just doing Second Stage today.

**An Leas-Cheann Comhairle:** Yes.

**Deputy Clare Daly:** Will Second Stage be completed today?

**The Tánaiste:** No.

**Deputy Clare Daly:** It will carry on as the agenda was initially.

**The Tánaiste:** Yes.

**Deputy Clare Daly:** Sex workers and important human rights organisations like Amnesty International have expressed significant concerns about this legislation, which absolutely deserves further scrutiny. That is why we opposed the proposal made earlier.

**An Leas-Cheann Comhairle:** I assume Deputy Wallace wants to make the same point.

**Deputy Mick Wallace:** Yes. I am glad this is not being rushed through.

**An Leas-Cheann Comhairle:** All right. Before we conclude the Order of Business, Dep-

uty McGinley wishes to say something.

**Deputy Dinny McGinley:** Go raibh maith agat, a Leas-Cheann Comhairle. There seems to be general agreement now that the remaining days of this Dáil are numbered. The Leas-Cheann Comhairle and I are among those who definitely will not be members of the next Dáil. It has been a privilege to represent the people of Donegal South-West for so many years in this House. I notice that my constituency colleagues, Deputies Pearse Doherty and Thomas Pringle, are present in the Chamber. I can assure them without fear of contradiction that I will not be making a comeback this time, unlike what happened ten years ago.

**Deputy Thomas Pringle:** It is not too late yet.

**Deputy Dinny McGinley:** It has been a great privilege to be here. I consulted the Official Report today to recall my first speech in the Dáil. I was allowed to speak on the Sea Fisheries (Amendment) Bill 1981 for an hour entirely as Gaeilge. I do not think the Leas-Cheann Comhairle would be as liberal with speaking time as his predecessor was on that occasion. I suppose there was length in the speech anyway, whatever about its content. It has been a privilege to serve here under six taoisigh and five leaders of my own party. Since that time, there have been five leaders of the Leas-Cheann Comhairle's party and the Labour Party as well. There has been just one leader of Deputy McDonald's party and I suppose he will be here for a while yet. It has been a great privilege to be here.

Given that my first speech was in Irish, ba mhaith liom deireadh a chur le mo chuid cainte sa Dáil trí mheán na Gaeilge freisin. Is mian liom buíochas a thabhairt do na daoine i dTír Chonaill a thug tacaíocht dom in olltoghchán i ndiaidh olltoghcháin le breis agus 30 bliain. Ba mhaith liom buíochas a thabhairt do na daoine uilig eile a thug tacaíocht dom, ina measc baill de mo theaghlach féin a thug tacaíocht dom i gcónaí. Ba mhaith liom chomh maith buíochas a thabhairt d'oifigigh an Oireachtais - the staff of these Houses - fá choinne chomh cuirtéiseach agus chomh cuidiúil a bhí siad i rith an tréimhse atá caite agam anseo. Ní bheidh mé ar ais. Ba mhaith liom buíochas a thabhairt duit féin, a Leas-Cheann Comhairle. Feicim go bhfuil an Teachta Ó Coinn anseo. Tá súil agam go mbeidh gach duine eile anseo ar ais. I hope everyone here who is going forward in the election will be back again. Thank you very much. Go raibh míle maith agaibh.

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

**An Leas-Cheann Comhairle:** I missed out on Deputy Eric Byrne. I apologise to the Deputy.

**Deputy Eric Byrne:** It is no problem, a Leas-Cheann Comhairle. I want to wish everyone who is retiring this year the best of luck. In particular, I want to congratulate you, a Leas-Cheann Comhairle, and your family. The Kitt family is very much ingrained in Dublin South-Central. We know your extended family on a personal basis. It is a great honour to the Kitt name that Fr. Kitt Court in Crumlin was officially named after a member of that family who was the parish priest of St. Agnes's parish in Crumlin when it gave Dublin City Council the land on which this most magnificent senior citizens' accommodation was built. I wish the Leas-Cheann Comhairle a great retirement.

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

**Deputy Eric Byrne:** As I have said, I know some of the Kitt family personally.

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**Deputy Michael McCarthy:** Well said.

**An Leas-Cheann Comhairle:** That definitely concludes the Order of Business. We have extended the time a little this morning. As Gay Byrne says, “it may all be true”. If it is true, that brings the extended Order of Business to a finish.

**Planning and Development (Amendment) Regulations 2016: Motion**

**Tánaiste and Minister for Social Protection(Deputy Joan Burton):** I move:

That Dáil Éireann approves the following Regulations in draft:

Planning and Development (Amendment) Regulations 2016,

copies of which have been laid in draft form before Dáil Eireann on 20 January 2016.

Question put and agreed to.

**Companies Act 2014 (Section 1313) Regulations 2016: Motion**

**Tánaiste and Minister for Social Protection(Deputy Joan Burton):** I move:

That Dáil Éireann approves the following Regulations in draft:

Companies Act 2014 (Section 1313) Regulations 2016,

copies of which have been laid in draft form before Dáil Eireann on 19 January 2016.

Question put and agreed to.

**Health and Social Care Professionals Act 2005 (Section 95(3)) Regulations 2016: Motion**

**Tánaiste and Minister for Social Protection(Deputy Joan Burton):** I move:

That Dáil Éireann approves the following Regulations in draft:

Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of title: Optician) Regulations 2016,

copies of which have been laid in draft form before Dáil Eireann on 18 January 2016.

Question put and agreed to.

**National Cultural Institutions Act 1997 (Section 44) (Variation of Indemnity Amount) Order 2016: Motion**

**Tánaiste and Minister for Social Protection (Deputy Joan Burton):** I move:

That Dáil Éireann approves the following Order in draft:

National Cultural Institutions Act 1997(section 44) (Variation of Indemnity Amount) Order 2016,

copies of which have been laid in draft form before Dáil Eireann on 22 January 2016.

Question put and agreed to.

### **Joint Committee of Inquiry into the Banking Crisis: Statements**

**Deputy Ciarán Lynch:** In its final report published today the Oireachtas banking inquiry concluded that there were two crises - a banking crisis and a fiscal crisis. These were directly caused by four key failures - in banking, regulatory, Government and Europe. The theory of a soft landing or gradual slowdown for the Irish economy was never substantially tested or challenged, and the idea of a guarantee was not conceived on a single Monday night in September 2008. Among the report's key findings are the following points. The almost universal adoption of the soft landing theory, without any substantial test or challenge, must be regarded as a key failing for the Government, Central Bank and the Department of Finance. The night of the guarantee has become something of a myth. In reality the idea of a guarantee was considered as part of a range of options as early as January 2008. No independent in-depth deep-dive investigation of the banks had been commissioned by the authorities before September 2008, and the guarantee was decided upon in the absence of accurate information about the underlying health of financial institutions.

By October of 2010 Ireland's entry into a bailout programme was inevitable. However, the timing of the entry into the programme was determined by factors outside the Government's control. The ECB put the Government under undue pressure to enter a programme but also insisted that there would be no burden sharing with bondholders.

The crisis in the banks was directly caused by decisions of bank boards, managers and advisers to pursue risky business practices, either to protect their market share or to grow their business and profits. Banks moved far away from prudent lending principles in their dealings with the property development sector in favour of a riskier asset value-based lending model. The introduction of new mortgage products masked the accumulating difficulty of the year-on-year increases in house prices, while facilitating a situation whereby affordability could be met in purchasing the mortgage product. No single event or decision led to the failure of the banks in the lead-in period to the crisis, but rather it was a cumulative result of a series of events and decisions over a number of years.

Ultimately, the end result was that exposures resulting from poor lending to the property sector not only threatened the viability of individual financial institutions but also the financial system itself. The Financial Regulator adopted a light touch and non-intrusive approach to regulation. The Central Bank underestimated the risks to the Irish financial system. The committee found that both institutions had the powers to intervene, but neither did so decisively. The Central Bank and Financial Regulator were aware as early as 2003 that the Irish banking sector was placing increasing reliance on lending to the property sector and that different lending practices were being adopted. Neither the Central Bank, at a macroprudential level, nor the Financial Regulator, at a microprudential level, intervened decisively at the time or in the years



prior to the crisis.

Government taxation policy reduced direct taxes and transferred reliance on pro-cyclical taxes leading to a structural deficit. Government fiscal policy resulted in significant, long-term expenditure commitments funded by unsustainable transaction-based revenue streams. Fiscal policy after 2001 was not focused on mitigating and managing property price increases. If steps had been taken, for example, through reducing or abolishing property tax incentives, as originally planned from 2002 to 2004, the severe overheating from 2003 to 2007 could have been mitigated, at least to some degree. In this regard tax incentives were introduced and extended without sufficient analysis of the costs, benefits and impacts. They fuelled an already strong construction industry during most years from the mid-1990s up to and including 2006. Government, including individual Ministers, made policy decisions based on a range of considerations, including having regard to, but not always accepting, the advice of the Department of Finance, the Central Bank and international organisations, and during the public hearings ultimately accepted overall responsibility for decisions made.

The committee has recommended changes for banks, external auditors, State institutions and Government policy and the Oireachtas to minimise risk in the future. Among the recommendations are the following points. All members of bank boards should have requisite financial skill sets and experience to include banking, risk and governance. The risk of a mismatch between liabilities and assets in terms of composition, stability, currency and tenure should be reviewed regularly at board level. The capacity for direct reporting of critical business risk to the regulatory authority by an external auditor should be strengthened. A detailed and comprehensive commercial property price register should be introduced. Membership of the board of the Central Bank, appointed by Government, must include sufficient expertise and relevant direct experience in financial stability and prudential regulation. In situations where there are conflicts between the advice provided by the Department of Finance on matters in which exceptional risks are involved and the decision proposed by the Minister, a formal process with clear procedures should be established through legislation. Bands should be set with regard to the proportion of the total State tax revenue accounted for by defined cyclical transaction taxes, which should also include triggers for action when breached. Oireachtas committees should be reviewed and resources provided to increase their effectiveness. An independent budget office should be established to provide independent costings of budgetary and pre-election proposals made by political parties and Members of the Oireachtas.

Each crisis has at its origin a belief that this could never happen again or that this time it is different. One description of this recent crisis was that it was a systemic misjudgment of risk, that those in significant roles in Ireland, whether public or private, in their own way got it wrong, and that it was a misjudgment of risk on such a scale that it led to the greatest financial failure and ultimate crash in the history of the State. This is one part of the story. The failure to identify the potential risk posed to the overall financial stability of the State by the banking system is another key lesson which must be learned. Recognition must also be given to the lack of an overall framework, at a European level, for dealing with the financial crisis.

This report's findings and recommendations show that lessons must be learned and applied. There is no certain formula to avoid another crisis, but constant vigilance and early preventative action are critical. The final report laid before the House contains three volumes. Volume one is the main report, volume two explains how the inquiry operated and deals with recommendations for the running of future inquiries, and volume three involves the publication of all the documentary evidence considered in preparing the main report. The inquiry was asked to

examine the reasons Ireland experienced a systemic banking crisis. In reality, however, there were two crises - a banking crisis and a fiscal crisis which combined to bring about the crash.

I thank the members of the joint committee for their hard work and commitment throughout the inquiry, which commenced 18 months ago. The determination of all the members of the inquiry to complete the task put before the committee is, I believe, unique in Irish political life. Despite varying party political affiliations, all members participated fully and worked together to deliver the best report possible within the framework of the Act and on time. However, it must be acknowledged that Deputies Pearse Doherty and Joe Higgins, while they continued to remain as members of the joint committee, were in the end unable to support the final report. Committee members are the visible side of the inquiry, but there is another. Enormous credit is due to the staff of the inquiry and to members' staff, to the investigation team, the legal team, the secretariat and all those who worked behind the scenes, working long days and long hours in the evenings and through weekends. The dedication, determination and commitment they gave to supporting the committee make them exemplars of good public service in this country.

I also acknowledge and welcome the co-operation we received from institutional participants and individual witnesses through their attendance at public hearings, preparation of written statements and provision of documents to the inquiry. However, co-operation was not evident across the board and the joint committee is critical of the failure of the ECB in particular to co-operate with the inquiry. While acknowledging that there was no legal obligation on it to do so, the stance of the ECB stands in stark contrast to the full co-operation and engagement offered by both the European Commission and the IMF.

It was a privilege to serve on this committee. It was an opportunity to shine a light on a dark and difficult time in our recent past, an opportunity to piece together the events of that time, an opportunity to learn from the mistakes that were made and an opportunity to ensure those mistakes are never repeated.

**Deputy Kieran O'Donnell:** It was a privilege to have been involved in this cross-party banking inquiry along with my ten colleagues. It must be recognised that this inquiry had two strands - public hearings and the publication of the report. Each was equally important. The inquiry was held in public. For the first time the public could see, in real time, all the stakeholders appearing before the committee to be questioned. That should not be lost in the review of the banking inquiry.

I will discuss a number of areas in the time I have to speak. First, I acknowledge the work of the chair, the secretariat and everybody involved with the inquiry. What was new about this report, given that there has been a myriad of reports on this area? We made some key findings. The first finding is that this was a commercial real estate crisis for the banks, not a residential crisis. It was a residential crisis for ordinary people whose homes fell in value through no fault of theirs and who effectively, as a result of the crash, could not afford to pay their mortgages. However, for the banks it was a commercial real estate crisis. We know that because when NAMA took over the loans from the banks it paid €32 billion for loans of €74 billion, which is a write-down of over €42 billion. Over 80% of those loans were commercial loans. The write-down on the remainder of the commercial loans in the banks was of the order of 58%. It was about a third of that figure for residential properties. If the commercial real estate crisis had not happened, in all likelihood the Irish citizen would have ended up putting significantly less money into the banks, if any at all. We must lay to rest the myth that everybody partied. They did not. The ordinary citizen struggled. A few partied - the big boys - and they caused a situ-

ation whereby there is €30 billion of taxpayers' money in a black hole deep in IBRC, formerly Anglo Irish Bank.

A second key finding relates to the issue surrounding the guarantee. There were many options on the night of the guarantee, and they had been examined over the previous year. The only written document we got sight of was where the Central Bank had provided a press statement with the outline of a guarantee on that night, which just guaranteed deposits and inter-bank lending. There was no guarantee of any bondholders. A couple of hours later, however, everything was guaranteed, including bondholders across the board. Clearly, it is not the case that the blanket guarantee was the only decision that could be made.

The other issue was the many warning signs that arose beforehand. The National Treasury Management Agency, NTMA, is charged with managing taxpayers' money and borrowing on behalf of the State. As far back as August 2007 it refused to put money into Anglo Irish Bank and, successively, the other banks because it believed it was putting taxpayers' money at risk. The Minister at the time used legislation to force the NTMA to put money into the banks, to the point that €790 million of taxpayers' money from the NTMA was in the banks at the time of the guarantee. We have recommended in this report that the powers of the Minister over the National Treasury Management Agency be reviewed. There must be more independence, and those warning signs must be available.

There are key findings in the overall summary. There was a lack of judgment of risk by the banks, particularly regarding commercial lending, and excessive remuneration was paid to top executives in the banks. The remuneration was completely out of line with what the ordinary citizen was earning or, in many cases, what people were earning in top jobs elsewhere. The Financial Regulator and the Central Bank did not use the powers available to them. They did not need new powers as the powers were available already. One of them was that they could have insisted on the banks providing for extra capital to deal with possible losses, particularly in the commercial area. Policies were pursued at Government and fiscal level, in terms of tax incentives, which continued to fuel the cycle. There was talk that they would cease in 2002 but they did not cease until 2008. They all contributed to a whirlwind where the property sector went out of control. A total of 25% of our GDP was coming from the property sector. It was madness.

I will refer to the primary recommendations which seek to ensure this never happens again. First, in the commercial area, we recommend that there should be a comprehensive commercial property price register. If that had existed at the time it would have highlighted the fact that the price of commercial property was going out of control and also the risk the banks took on commercial property. The banks basically deemed that diversifying their portfolios was including property in Ireland, England, France, Europe and the US. That was diversification. However, all commercial property fell in value at the same time, so that was a complete misjudgment of risk.

Second, the European Central Bank, ECB, must appear before Oireachtas inquiries and must be held more accountable. The ECB blocked burden sharing for the Irish State on two occasions - in the bailout in November 2010, when there was €20 billion of unguaranteed bonds available, and in 2011 when there was approximately €9.2 billion available, based on the studies we received from the NTMA. Remuneration in the banks must be linked to medium-term results for the institutions. Boards of banks must be held accountable for the risk appetite and the judgment of risks within the banks. Boards abdicated their responsibility in that area and they must be held to account.

We also refer to the auditing area. The European Commission produced a Green Paper in which it stated that auditors must be replaced after six years. It was agreed to be ten years. In the nine years prior to the crash, three auditors dominated all institutions. There must be proper rotation. The second issue that emerged from the Green Paper is that as part of their auditing duties auditors should be required to audit the banks' concentration of commercial loans and residential loan books and report to the Financial Regulator, as a distinct requirement.

In terms of NAMA's work and the appraisal of its work, we were curtailed by the timescale as we could not look beyond 31 December 2013. We recommend that once NAMA has concluded its work a comprehensive review should be carried out of its work, value for money for the taxpayer and so forth.

Was the banking inquiry worthwhile? I believe it was. One reason is the public hearings. We went through matters forensically with 131 witnesses. I would have liked it to happen earlier but we held a referendum and the people gave their view on the new type of banking inquiry. They turned it down. However, we now have a body of work. It is a cross-party work, which is very important, where the citizen can get clarification of why and how it happened, the people involved and the recommendations to ensure it does not happen again.

I will conclude with one point. As a country, we do people very well. If one has a good person in a position, one will find that the role is carried out to perfection. If a person is weak, however, our system does not compensate for that personal weakness. It is something we need to look at because situations will arise where a person is not particularly great in a role and a system will need to be in place to protect the interests of the taxpayer and the citizen.

**Deputy Michael McGrath:** I am glad to have an opportunity to say a few words on the banking inquiry report. As a group, we embarked on a journey in June 2014 when our first meeting took place. In November 2014, the Oireachtas concluded the terms of reference which were given to the inquiry team. The initial deadline for the conclusion of the report was November 2015, one year later, but we ended up getting an extension of time. As such, it has been an 18-month process and journey for us. At the outset, I acknowledge the work of the Chairman, Deputy Ciarán Lynch, to whom I pay tribute for the manner in which he chaired the private and public meetings. He had to invest a great deal of additional time as Chairman to deal with various issues and to ensure that the inquiry ran as smoothly as possible. It is a personal achievement for Deputy Lynch to have chaired the inquiry so well. I also acknowledge the work of all of my colleagues on the committee, many of whom took on significant additional duties in the last couple of months, including drafting and redrafting sections and working to bring the report to a conclusion. I thank and acknowledge my parliamentary assistant, Morgan Shelley, without whom I could not have given as much time as I did to the inquiry along with everybody else. I acknowledge the work of the investigators and, of course, the legal advisers and all of those who supported the work of the inquiry in the background.

It is an achievement to have completed a report. There were certainly times in recent months when I was not sure we would get this over the line. Having concluded the work and looking at the finished product, it was an achievement to conclude our work and have a finished report. The constraints in the 2013 legislation have been articulated and are dealt with comprehensively in Volume 2. Whoever forms part of the next Government and has the privilege of being in the next Oireachtas will, I hope, examine the recommendations in the report with a view to implementing them to improve the legislation which is in place. I remain true to the view I expressed at the very beginning of the process over a year and a half ago that a non-political



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inquiry would have been preferable. I am not going to change my mind on that at this stage. That is why my colleagues and I in Fianna Fáil advocated a Leveson style inquiry. Whether we like it or not, politicians were being inquired into in effect and the inquiry was, by its very nature, inherently political. As such, it would have been better if it had been conducted by a truly impartial person with adequate resources. We need to revisit the Tribunals of Inquiry Bill 2005 which is still sitting on the Order Paper and has not been concluded. It needs to be enacted as quickly as possible.

As Deputy Kieran O'Donnell said, all of our work in terms of receiving testimony took place in public. Getting people before the inquiry who had not said a single word in public as regards their roles in the different organisations was in itself a public service. Certainly, it has added to the body of knowledge we all have about the banking crisis. People will make up their own minds having read the report. The truth is that many people had already made up their own minds as to what led to Ireland's banking crisis and how it was responded to. The important point is that we have enhanced the overall understanding of the banking crisis and brought many pertinent new pieces of information into the public domain, which is very important. It must be acknowledged that we have not told the complete story because we have been unable to. The reality is that we were only able to scratch at the surface of the story of Anglo Irish Bank, a bank which will ultimately cost the State in the region of €30 billion. Any inquiry into Ireland's banking collapse which did not hear testimony from people like David Drumm and Sean FitzPatrick is clearly not a complete body of work. We all acknowledge that as members of the inquiry. However, significant new information came into the public domain and is now on the public record. There is a great deal of information and documentation which has now been made available on the Internet in Volume 3 and which will provide fertile ground for journalists, academics, researchers and future policy makers who can go through it all to tease out further points we were not able to cover in the detail we would have liked. The time we had was limited. I acknowledge that having a series of crisis meetings towards the end was not ideal and undoubtedly sapped some public confidence in the inquiry. All of that will be forgotten in the fullness of time, however, and the inquiry report will stand the test of time. It is there as a permanent record of the work we have done.

It is a great pity that somebody who could have contributed so much to the work of the banking inquiry, the late Brian Lenihan, was not able to do so. He would have had much to say and the inquiry would have been far richer had we been able to hear from Brian Lenihan in the course of our work. We got some sense of the immense pressure he must have been under. It is something I thought about personally in the course of the inquiry when the full extent of what was going on the background in the lead up to September 2008, the nationalisation of Anglo and, ultimately, the bailout programme in November 2010. He must have been under the most extraordinary pressure as a human being. None of us will ever know whether the pressure and stress he was under contributed to the illness to which he eventually succumbed, but it would not surprise me if that was the case. From the point of view of the inquiry, it was all the poorer that Brian Lenihan was not there to tell his story and to answer many of the questions. One of the key questions was whether Anglo should have been nationalised. I question at times whether it would have made any great difference if that was done at the end of September 2008. Ultimately, money would only have been saved if someone was not repaid. Who would that have been? No one is suggesting it should have been depositors. People suggest senior bondholders, but would that have been permitted? What would the consequences have been? No one, had they known then that rescuing Anglo was going to cost in the region of €30 billion, would have embarked on that course of action. I do not believe that anyone would have

ultimately made that decision.

On the banks themselves, a great deal has been covered. The fact that they simply did not know the full exposure of individual borrowers to whom they were giving loans is remarkable. There was clearly a major failure at board level across a number of the institutions. There was a failure at so many levels across different organisations. The role of the Financial Regulator and the Central Bank is comprehensively dealt with. There was a serious shortcoming in terms of the preparation for the crisis that struck us in September 2008 despite serious warning signs and alarm bells ringing. As the Chairman has said, there was no deep dive into the financial institutions in the course of 2008 which was a very clear failing. There is no evidence that such a deep dive would have provided information that would have led to a different course of action, but having the information would certainly have been very helpful. There was also, of course, the failure at the level of the Department of Finance, at Government level, which has been well documented in terms of pro-cyclical fiscal policy and the underlying deficit which was subsequently exposed when the property and construction industries collapsed entirely. The ECB and its role is also covered. I have no doubt, having sat through all of the hearings, that the actions of the ECB added billions of euro to the ultimate cost of rescuing the Irish banking system. I have no doubt whatsoever that was the case. All of the evidence is on the record to back that up.

It was clear from our work that there was an intolerance of dissenting voices. If we are to learn anything as a country and an Oireachtas, it is to be more tolerant of those who hold contrary views. We could all improve in this regard. There were some dissenting voices during the so-called boom years. While they were certainly in a small minority, they were strong and much of what they said has been proven true. We should learn from that.

If the work of our inquiry is taken seriously and carried forward into the next Oireachtas, it should be taken to the next step. Implementing our recommendations would reduce, but not eliminate, the risk of a future crisis afflicting this country.

**Deputy Eoghan Murphy:** I do not know whether I can sum up 18 months of participation in a banking inquiry in ten minutes, but I will try to add to what its other members have stated. I thank Deputy Ciarán Lynch for the major effort that he put into the inquiry. When the public hearings began, we as members had to take a step back from the process on the investigative team's side to focus on the public sessions, but the Chairman had to focus on those sessions while running the back room. It was a significant task, one that involved extra background work on those days when the inquiry did not sit, of which people who tuned in on television or read about the inquiry in newspapers may not have been aware. Deputy Ciarán Lynch carried that burden on his shoulders admirably.

I thank the secretariat's staff and the legal investigators. I got to know some of the latter well in the course of the report's final preparation when I was based in the inquiry's offices for a brief time. They were a great team with which to work. I thank my parliamentary assistant for the banking inquiry, Mr. Darragh McGreal, and my office, which also helped. Much work was done by everyone. I thank my colleagues on the inquiry for everything that they did, including putting up with me. I might have been a bit schizophrenic at some of the private meetings depending on my mood and where I believed we were going. It was great to work with everyone all the way to the end. I have some nice memories of those moments when we were not in public session and worked together as colleagues on a big project. I am glad to have them.



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I also thank my constituents for their patience for the past 18 months in allowing me to do this work and be a parliamentarian. I appreciate it. I wanted to be on the inquiry. What happened was part of the reason that I came home and got involved in politics. I sought to be on the inquiry while I was a member of the Committee of Public Accounts. Deputy O'Donnell and I prepared the report on how one might conduct an inquiry. I was privileged to be appointed to it by the Taoiseach, for which I thank him. I was appointed to the inquiry at a time when I was having questions about the effectiveness of the Oireachtas. People have such questions, but the inquiry restored my faith in the Chamber, the people elected to it and the work that we do. I underwent a great deal of professional development.

My view on a Leveson-style inquiry was similar to Deputy Michael McGrath's until we started our work. The elected representatives of the Oireachtas had to do this. If we did not, it would have been an abdication of our responsibilities and a loss. It was political at times, but that was minimised. We were not there to land a blow for the media. As members of the media would always tell us privately after a meeting, we did not lay a hand on a witness, but that was not why we were there. As some members of the public might say, no one is going to jail. We were not there to replace the courts either. We were there as a group of parliamentarians to do a serious piece of work and get on the record the testimony and evidence of the key people involved during the crisis period. Let others judge. We did this away from the *faux* theatrics that we sometimes see in the Chamber. I had no doubt about the ability of each inquiry member to leave the party jersey at the door during the public sessions and do the work professionally. Good work was done, good questions were asked and good evidence is there for those who want to take the time to read the transcripts.

I will make a recommendation on the future of inquiries. We should focus our efforts on the public sessions, compelling the right witnesses, collecting documentation, examining and cross-examining. Of course there must be reports, but they should be approached as additions to the work, not as attempts at summations. If we are being honest with ourselves, this is where we started encountering difficulties. We finished the public sessions and went off to try to summarise everything, but it was too much. We had taken in more witnesses than we had intended, we had hundreds of hours of evidence and there were 500,000 pages of documentation. Never could one do all of that justice in 400 pages. A future inquiry should view a report as an addition rather than a summation, in particular given the constitutional constraints that we face. There is no lack of will on the Parliament's part to give more powers to an inquiry or make it more effective. Rather, the Constitution determines what we do. We must be cognisant of that.

I acknowledge Senator O'Keeffe's work in getting the report published. It would not have happened otherwise. Everyone played a role in the final weeks and a heroic effort was made, but the Senator got this over the line. I congratulate and thank her. A fine report, it has been published across three volumes. As Senator Barrett stated at a press conference yesterday, future PhDs will come from our work. I hope so. It will not be academic for its own sake. Rather, this will be an opportunity for people to drill down outside the constraints of a Dáil term or anything else and draw up further lessons and recommendations as well as more truths that we must face openly and honestly.

The failing of the banks was massive. After all our work, I wonder whether they have learned their lesson, in particular when I see some of the current advertisements. This is a worrying development. As the Chairman mentioned, there is a belief that things are different this time. One of the greatest failings of human nature is that we always think that this time it will be different and special, only to make the same mistakes. It is a failure of imagination, as a

playwright put it. The problem during the crisis was the failure to comprehend what might be happening. When dissenting voices were raised, they were ushered away because people did not want to hear them. We could not imagine the kind of catastrophe that was coming. This trend continued during the crisis and the attempts to assess the real damage to banks' portfolios, whether they needed bailouts, the requisite fiscal adjustment, the necessary interest rates, whether there should be burden sharing, etc. When we view banking behaviour today, perhaps we can see this continuing. That is a concern.

As Deputy Michael McGrath mentioned, there are not as many recommendations as we would have liked because of the constraints on the report, but it cannot sit on a shelf. Too much time, money and resources have been invested and good recommendations made. They may not be all of the recommendations that we need, but they should be implemented. That will fall to the next Government, whoever that may be. If I am re-elected to the House and have the opportunity to serve again, finding out what has been done with the recommendations and findings of the banking inquiry will be a bugbear of mine and a regular question to all officials and authorities. There are key recommendations. For example, the Central Bank's enforcement division has to appear before the Oireachtas committee. Let us make the Irish Fiscal Advisory Council directly responsible to the Oireachtas. Let us get independent oversight of the banking function in the Department of Finance. Let us have a review of NAMA when its work is done. Let us examine how the National Treasury Management Agency, NTMA, operates and what powers the Minister should or should not have over it. All of these recommendations should be examined. The inquiry gives us the impetus to do so, which I hope will carry through to the next Administration and every future Deputy. As we start to plan for the future following the economy's recovery, the duty will fall to the 158 people elected to the House to scrutinise and pay attention to detail to a degree that was not the case previously.

A large part of what I wanted to do on the inquiry was examine the role of the Oireachtas and how the structure of its system might have failed to act as an adequate brake or check on Government behaviour. This has formed a great deal of the work that I have done in the House to date. We need to give space and motivation to parliamentarians to examine legislation, ask difficult questions, stay at committee meetings for long hours, chase up leads and go into detail. Currently, the system does not give us this opportunity. Many recommendations have been made across the parties as to how we can improve the Parliament and ensure that future finance committees, independent budget oversight offices, budget scrutiny committees and so forth can hold future Governments to the fire on key details. The previous Government had a disregard for the Parliament, which was part of the reason I joined the Dáil, but I do not want to move into the political space in this debate. These lessons must be taken on board for the next Dáil.

*2 o'clock*

We were not able to tie together parts of the inquiry in the report as we might have liked. Others may be able to do that. As a committee, we were bound by very specific rules. It was always curious to note the distance placed between officialdom and the NTMA at key moments in the crisis. The NTMA was not placing deposits in Anglo Irish Bank but was made do so. The NTMA was not represented on the domestic standing group in the initial stages. It seems the NTMA was fully aware of the intended approach of the Government when it emerged there was a systemic crisis. The NTMA was not involved in the negotiations on burden sharing at the 11th hour. The NTMA was making calculations as to what might be achieved on burden shar-

ing that seemed to be at odds with what the Department of Finance was pursuing at the end of 2010 and the beginning of 2011. That stood out for me as a point of interest. The NTMA, as an institution, is important; it is the nation's banker. It acquitted itself excellently during the crisis through getting us back into the bond markets and back on our feet. We cannot let any kind of institutional bias that may exist or have existed continue.

**Deputy Pearse Doherty:** I thank my colleagues on the inquiry for their work and support over nearly two years. I am aware of their incredible dedication and the work they all put into the process, at a significant cost to themselves in terms of time and commitment. I thank the Chairman, Deputy Ciarán Lynch, in particular not only for his work chairing the sessions, but also for the work he had to put in behind the scenes. It was very interesting observing him for the past 18 months. At times during the inquiry when tensions grew the odd time, he sometimes allowed them to explode and then picked just the right moment to intervene and point to the right direction. There may be a lesson there for the Ceann Comhairle in the dying days of this Dáil. I commend the Chairman on his work. Without his stewardship, we would not be in the position we are in today.

I wish to show my appreciation for the inquiry support team, the investigators, the administrative staff in Agriculture House and the legal team for the work they did. Their work was tremendous and very much went unrecognised. Some of them went through a very difficult time during the inquiry. I thank, in particular, my own assistant, Mr. Conor McCabe, without whose support I would not have been able to be as inquisitive, put the right questions to those who appeared before the inquiry or strengthen a report I ultimately felt I could not support.

Seven years on from the night of the guarantee, it is important that we recognise when talking about the report that people are still paying for the decision. The last of the treasury bonds set up to replace the Anglo Irish Bank promissory notes are not due to expire until 2053. People continue to suffer as a direct result of the causes of the crisis and the policy responses. People wanted those at the helm to be held accountable for their actions. That is what we attempted in the public hearings of the inquiry, which I believe were successful.

The report itself finally lays to rest the myth that “we all partied”, as was mentioned already. The critical fault line in the loan books of the banking sector was in commercial property. From 2000 to 2008, banks increased their lending from over €100 billion to €400 billion, with a heavy concentration on commercial real estate. This was a very select business that was concentrated in the hands of a small number of individuals. By September 2008, the top 25 customers in Irish Nationwide represented 51% of its entire commercial loan book. In Anglo Irish Bank, 20 customers accounted for 50% of the Irish loan book. Just 190 people had debts of €62 billion in the covered institutions. This was not by accident. It was core to the growth strategies of the banks, funded through credit sourced from the international wholesale markets.

Anglo Irish Bank was a monoline bank focusing almost exclusively on commercial property lending. Irish Nationwide followed this strategy, with almost 85% of its loan portfolio centred on commercial property activity. Soon both AIB and Bank of Ireland jumped in. By 2008 in the Irish banking system, there were just 29 property developers with borrowings equivalent to 18% of Irish GDP. That was a direct result of bank lending policy, Government tax and planning policy, and Government regulation policy, which was light touch in the extreme.

The American academic Professor Ed Kane, who gave evidence to the inquiry, once said that the resolution of a crisis is often informed by a political and economic struggle over who

pays for the losses, and that a crisis is defined by the battle over loss allocation. The struggle over who should pay for the crisis is the defining event of our time. It is felt in every town and village across the State. It is also felt abroad in places where hundreds of thousands of our young people now reside, having been forced to emigrate as a result of the policies of the establishment parties.

The Irish people were told by the Fianna Fáil-led Government that they had to carry the can for the banks and developers because, somehow, it was their fault for wanting to provide homes for their families. The reality, however, is that the crisis was caused not by the masses but by the few. It was caused by the lending and speculative activities of a tiny group of bankers and developers, spurred on by a Fianna Fáil-led Government. When the crisis revealed itself, that Government gave the banks and developers a blanket guarantee that led directly to Ireland's seeking of a bailout programme. Will we hear an apology for the lie that we all partied? I will not hold my breath.

While the report touches upon this cosy relationship between bankers, developers and politicians, it fails to examine those relationships in any critical way. These relationships were raised by Professor Morgan Kelly in an article in *The Irish Times* in January 2009. He criticised the Government's assertion that Anglo Irish Bank was worthy of a bailout. He said the reality is that Anglo existed "as a vehicle for a few politically connected individuals to place reckless bets on the commercial property market". He stated:

The proposed Anglo nationalisation marks a decisive watershed in Irish democracy. With it, an Irish government has coolly looked its citizens in the eye and said: "Sorry, but your priorities are not ours."

This goes to the heart of how Ireland really works and whose interests the State serves when push comes to shove. Addressing this was the whole purpose of the nexus phase of our inquiry. Our terms of reference, set by this House, required that we critically analyse the links between banks, property and politics. Unfortunately, it is a key aspect of this whole crisis that is all but missing in the report, which lists events and policy responses but does not analyse them in any meaningful way. It has been explained why some of that analysis is missing, making reference to time constraints we were under. The report merely presents a rationale for the key players' position and presents their viewpoint as the defining narrative of the crisis. This is unacceptable and a fundamental failing in the report.

The report also fails to consider in any real way the operation of NAMA and whether its policies were appropriate. NAMA was forced by the current Minister for Finance to reclaim a certain proportion of its bonds by a certain date and this led it to hold a fire sale of its commercial properties, yet we have seen an increase each year in the value of commercial property. Last year alone, there was an increase in the value of commercial property of 21.7%. However, that uplift is now in the hands of private speculators, not NAMA. The real question we need to be asking ourselves is how many billions the State has lost by this fire-sale policy. We do not know. NAMA has now become a debt collection agency. It has ceased to be an asset management agency. This policy, initiated by the Minister for Finance, Deputy Michael Noonan, was not analysed in the report. There is absolutely no reflection in the report on the business strategy of NAMA and whether any lessons can or should be learned from it. Instead, we get the impression that NAMA is working away in the best interest of the State and that we can reflect on its policies only after it has finished its operations, or after the horses have bolted. What is the point in that? I refer again to our terms of reference.

The report does not deal in any substantive way with the liquidation of IBRC. We all remember the famous “prom night” in this House. Are we seriously to believe that there is no room for reflection on the actions presented at that time by the Minister for Finance? The liquidation of IBRC fell within the terms of reference of the inquiry, but on that event the report is mostly silent. With regard to burden sharing, the failure to pursue effectively this option imposed an immense cost on the Irish people in terms of crisis resolution.

In the run-up to the 2011 election, the current Minister for Finance told the Irish people that “once Anglo ceases to have a bank licence, burden-sharing by its senior bondholders would become a reality as it would no longer be considered capable of having a contagion effect”. On 9 February 2011, weeks before the people went to the polls, the current Taoiseach, Deputy Enda Kenny, said the “the junior, and senior, and non-guaranteed bondholders are going to have to pay the price”. However, within three weeks of its formation, the new Government ditched those election promises and adopted a policy that no senior bondholder would be left behind. This was despite the fact that the banking inquiry uncovered that the National Treasury Management Agency had informed the Fine Gael-Labour Party Government at the time that the markets not only expected burden sharing but had priced it in. We also know from the banking inquiry that the Minister for Finance made two telephone calls to Jean-Claude Trichet as part of the negotiations on the issue, on which he spent half of one day. Despite the finding in the report, the Government ultimately had the power to impose or not to impose burden sharing on bondholders and it took the decision not to do so. That the Minister spent one paltry afternoon on this issue and made only two telephone calls in connection with it shows the level of seriousness that he accorded the matter.

The question we must ask ourselves is whether lessons have been learned. One of the clear lessons for anyone reading the report is that the Fianna Fáil-led Government reduced sustainable tax levels and placed its hopes in unsustainable tax levels. While affordable at the time, this approach was not affordable for the country in the long term. The Government is promising exactly the same approach, with Fine Gael planning to cut taxes by €22 billion and the Labour Party promising a version of the same thing.

The Government has applauded the banking inquiry report, and why not given that the boom and bust approach of cutting taxes to win votes pursued by the Fianna Fáil Party is now Government policy. On this issue, unfortunately, it has learned nothing from the past.

**Deputy John Paul Phelan:** I thank my fellow members of the banking inquiry, the inquiry Chairman and its staff, including the external staff who were brought in to participate in the investigation. The past 19 or 20 months have been interesting to say the least. At times, it appeared a report would not be produced and the inquiry would not complete its work. Thankfully, the report was published yesterday and I salute everyone involved in that endeavour. The experience was among the most interesting periods in my 14 years in the Oireachtas.

One of the questions members of the banking inquiry were asked yesterday was whether a follow-up report would be necessary. I do not know if that is the case but if I am in a position to do so, I will not immediately volunteer to take part.

Having been involved in many Oireachtas committees, I was struck by the remarkable absence of party politics from the proceedings of the banking inquiry. While there was much in the way of politics because virtually everything in life is political at some level, party politics were largely absent from the public hearings of the inquiry. In that respect, I regret that my col-



leagues, Deputies Joe Higgins and Pearse Doherty, were not in a position to sign the inquiry's report. Nevertheless, I understand most of their reasoning for not doing so.

Deputy Pearse Doherty raised a point regarding evidence that was given by certain witnesses. One of the binding and extremely frustrating circumstances in which members of the committee found themselves was that where four or five people gave an opinion of a particular event and one of them differed from the others, the inquiry did not have the power to adjudicate on who was right or wrong. Members may have had personal views on the matter. For this reason, I do not understand the argument made by Deputy Doherty as he will have known from the outset, as all members did, that the inquiry did not have the power to adjudicate in such circumstances. I regret the more political tone in the Deputy's contribution. It was a shame because he contributed as much as, if not more than many of the other 11 members, particularly in the inquiry's private meetings. I suspect there were other political matters at play in his decision not to sign the report.

Previous speakers addressed the major causes of the economic crash. The Chairman of the banking inquiry, Deputy Ciarán Lynch, spoke about the fiscal and banking crashes and noted that the two were interlinked. The fiscal aspect of the crash is often overlooked and, as Deputy Lynch noted, the State became completely dependent on transient, temporary construction taxes for funding. This was the fundamental reason for the large increase in the national debt and the burden imposed on people for the past seven or eight years.

Many people, particularly in institutions that provided witnesses to the inquiry, promoted the theory of a soft landing for the economy. However, none of the witnesses was able to present to the inquiry an example of a soft landing occurring anywhere else in the world. Despite this, many people believed Ireland would be an exception and experience a soft landing. Sadly, the opposite was the case.

It is clear from the hearings of the banking committee that the boards and senior management of the financial institutions bore fundamental responsibility for the bank collapse. They failed miserably in their primary responsibility to their shareholders who have been largely ignored in public comment. Many people who had shares in banks were not well off but individuals who had put away a few bob for their retirement. In many cases, their investment was completely wiped out. We all meet people whose future was thrown into turmoil as a result of the collapse in bank share prices. The boards and senior management of the banks bear full responsibility for this.

On the external audit function, all of representatives of the external audit companies that appeared before the inquiry flagged the fact that their companies reported in accordance with the audit rules in place at the time. They argued that the rules needed to be changed. It remains the case, however, that all of the external audits, with the exception of one or two minor notes issued in the years immediately before the crisis, failed to flag any potential bubble, particularly in the commercial lending sector.

On the matter of regulation, we managed to create a unique Irish solution to regulation, whereby we removed responsibility for regulation from the Central Bank and vested it in the Financial Regulator. From the evidence provided by witnesses from both organisations, they appear to have been somewhat confused at times as to what their specific respective roles were with regard to regulation. It became clear - in fairness to Deputy Pearse Doherty, his questions to the former Governor of the Central Bank elucidated this issue - that responsibility for main-



taining overall financial stability came within the remit of the Central Bank, which failed to use its powers in this regard.

It also became clear from the evidence of Mr. Bertie Ahern and Mr. Brian Cowen that they placed complete and absolute trust in the Financial Regulator in terms of how the process of regulation worked. To find out that three people were responsible for the regulation of two of the biggest financial institutions in the country beggars belief. In their evidence to the inquiry, Mr. Ahern and Mr. Cowen seemed to be as surprised by developments as everyone else, yet they were in charge of the Office of the Taoiseach and Department of Finance, respectively, when the so-called regulation was in place.

Light touch regulation is the term often used to describe the system of regulation that operated in Ireland at the time. Regulation seemed to be non-existent rather than light touch at times. There was also an inherent contradiction in the legislation that established the Financial Regulator in that as well as having the responsibility to regulate, the Regulator was also given a designated responsibility to promote financial services in Ireland throughout the rest of the world. While the legislation has been amended in this regard, this was an inherent contradiction. The then Taoiseach, Bertie Ahern, referred in his evidence to an address he gave to a conference at which he was promoting Ireland as a country with light touch regulation and a location in which financial institutions should invest.

Previous speakers referred to the role of the European Central Bank, ECB. Representatives of the ECB should have appeared as witnesses before the banking inquiry and the bank did not proffer any proper reason for not doing so. The failure of witnesses from the ECB to appear definitely curtailed the inquiry's ability to carry out its task fully because the ECB was a key player in the events surrounding the banking collapse in Ireland and further afield.

I will briefly address four or five new issues that were uncovered by the banking inquiry. The first is the big bang myth of the guarantee, in other words, the view that somehow the guarantee appeared out of nowhere in September 2008 and that there was no other option. That was said many times in debates in this House and the other House. I remember getting my half-hour slot at 5.30 a.m. in the Seanad to speak on the legislation following the guarantee. I said that it made me sick to my stomach but that on the basis of the evidence given by the Minister and the officials I had to support it, although I opposed it personally.

I was struck afterwards by one thing and I was reminded of it yesterday at the press conference. I was very good friends with the late Brian Lenihan, a man who I admired very much. He came up to me after the debate finished at 8 a.m. and said that he completely agreed with everything I said. That was partly his manner, in the sense that he was a barrister and he could see every side of each argument. However, it left me wondering at the back of my head when Professor Honohan said, during one of his first visits to the inquiry, that he believed Brian Cowen had over-ruled Brian Lenihan. I wondered whether that had been Brian Lenihan trying to tell me that he was in fact on my side of the argument and that he had doubts. I wondered whether that was it or whether that was simply the way he conversed with people. He was a man who probably had not slept for days at that stage and I can remember him being very tired. Obviously, he was ill as well. It is a pity for us that he was not before the inquiry, but more is the pity for his family and friends that he is not around anymore. The guarantee was first talked about up to ten months before the guarantee night. That was news.

The fact that representatives from the National Treasury Management Agency were physi-

cally present in the building and yet not present in the room where a decision was made to put a potential liability of €400 million on the backs of Irish taxpayers beggars belief. None of the people in the room gave us any clear reason why that was the case.

Some of the representatives of the banks present on the night obviously had worries about the future sustainability of the institutions. The Bank of Ireland minutes that followed the inquiry show that they were talking about a possible taxpayer injection only weeks after the guarantee.

The fact that the International Monetary Fund went as far as to bring Lee Buchheit, the international expert on debt restructuring, to Ireland to consider the option of burning senior bondholders was not known before the inquiry began its hearings. On the whole, the inquiry, while flawed in its process and limited in what its members could do, has elucidated many new matters that Irish people did not know before the hearings took place.

**Deputy Joe Higgins:** There is one issue and only one issue on which I am in agreement with the majority of members of the banking inquiry committee. This is that an extraordinary amount of work, research, personal stress and communal stress went into the workings of the committee, including the work by the personal staff of the members of the committee. I wish to acknowledge warmly and appreciate the work of my colleague, Diana O'Dwyer, in that regard as well as the teams of public sector workers who did a vast amount of background work. There is absolutely no issue with the amount of time and effort that went in. However, there are serious issues with the conclusions of the committee majority.

Witness after witness came before the banking inquiry, including bankers, developers and others. They spoke of the cutthroat competition that developed among themselves. This, in turn, drove the reckless lending practices that inflated the property banking bubble and led to the economic crash.

One of the grandees of bubble banking who gave testimony, a former chairman of Allied Irish Banks, had evidence to the effect that his vast institution was aping Anglo Irish Bank because it was driving faster than AIB in lending to developers and increasing profits. A former director of EBS, Eithne Tinney, herself a stern critic of many of the practices that went on, spoke about how there was a feeling within EBS that the Irish Nationwide Building Society was wiping its eye as it expanded its lending and began to post profits five times the size of the profits of EBS. Those were her words.

What was the result of all of this? Encapsulated in the figures given to the inquiry is the result. The six banks that were eventually covered by the guarantee increased lending exponentially from €120 billion in 2000 to almost €400 billion by 2007. They raked in €25 billion in profits from 2002 to 2008. They paid the six chief executives of those institutions an astounding €71 million in salaries. This was mirrored shortly afterwards in the disastrous €65 billion that the bankers and banks lost in the crash.

A fundamental question remains and it is the source of my fundamental disagreement with the majority on the committee. The question is not answered - it is not even asked. How could a small cohort of bankers, bondholders and developers be allowed to wield such enormous economic power in pursuit of private corporate profit and in the process inflict incalculable economic and social destruction on society? The second question is why the political establishment not only deferred to this cohort but in fact served its interests as it chased the maximisa-

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tion of profit. The political establishment of the day positively pushed the deregulation of the financial industries to allow the banks and the developers to do what they did.

In their speeches to banking federations and others, the former Taoiseach, Bertie Ahern, and former Ministers for Finance, Mr. McCreevy and Mr. Cowen, laid it out clearly. In March 2007 the then Taoiseach, Mr. Ahern, said to the financial services industry in New York: “Our commitment to supporting foreign direct investment is absolute” and “Ireland is very lightly regulated compared with most of our European colleagues”. The then Minister for Finance, Mr. Cowen, lauded the type of derivative products that were being driven by the bankers in these terms: “Increasingly sophisticated derivative products seem to be arriving daily as a sector seeks to become ever more professional in the way it manages and hedges its risks and chases after that elusive higher yield.” He was speaking to the Institute of Banking. These were derivative products that the billionaire Warren Buffett described as time bombs and weapons of mass destruction. The Minister, Mr. Cowen, went on to say:

Of course, that’s easy for me to say because you are players on the field and I’m just an ardent supporter on the sidelines. I will continue to wear your colours.

Mr. Cowen should be advised to watch the recently released movie “The Big Short”. He would learn very quickly about the nature of the products for which he was praising the bankers.

My finding is this: extreme profiteering, driven by corporate greed, drove the property bubble and caused the crash. The bubble Governments of the then Taoiseach, Bertie Ahern, the then Tánaiste, Ms Harney, and the then Minister for Finance, Mr. McCreevy, served the interests of bankers and developers and not those of ordinary people. Deputy Enda Kenny, who at the time had been the Fine Gael leader for five years, was a silent non-opposition figure in the field.

It is true the regulators failed disastrously, but they were merely following the political leadership of the State to which they were responsible. Free reign was given to developers to speculate outrageously with the price of building land. They ensured the price of a home for ordinary people increased fourfold in the space of ten years, shackling them to the horror of unsustainable mortgages and negative equity, a situation that many of these people are still in. They were represented politically by the major parties of the day.

Seriously, the one finding of the majority of the committee in the area of property and all of this was that there should be a property register. That is embarrassing. What about controlling the price of building land and directing that its use should be subject to the needs of society rather than private profit?

Many people have asked me again and again why no one went to jail as a result of the massive destruction caused to society by the cabal of bankers, bondholders and developers. It is very simple. The vast majority of what they did was legal because it was legislated for in this Chamber by a majority of the political parties. They legislated to allow them to profiteer in the way that they did, which put the whole of our society at risk. That is why they are not in jail. The media is not asking any questions about its role and was let off the hook by the committee. Significant sections of the media glamourised developers, bankers and their profiteering. They called them the men with the Midas touch and said they turned everything they had into gold.

The 2007 property awards, sponsored by the *Irish Independent*, embarrassingly gave the

property deal of the year award to the Irish Glass Bottle Company, which cost the people hundreds of millions of euro. Some five out of the seven award-winning developers at a glittering gala dinner sponsored by the *Irish Independent* were among the top ten debtors in NAMA. The media did not just glamourise the sector; it was a player in the market and earned tens of millions of euro from developers, advertisements, etc.

If any lesson comes out of this disaster, surely it is that the provision of homes, the most basic human need of our people, and banking should not be the playthings of and subject of profiteering by a small cabal of developers and bankers, but should be public services. Therefore, let us put billions of euro into the creation of new, decent and modest homes for our people that workers on middle and lower incomes can afford to buy. Social housing should be built for those who desperately need it.

The Minister, Deputy Noonan, should come to the House and explain why in March 2011 he did not come to the House, where we sat and waited for him, to announce that he would burn bondholders, something he intended to do. He was interrupted on his way over here by a phone call from Jean-Claude Trichet, the president of the European Central Bank, who threatened him with a bomb in Dublin if the bondholders were burned. The Minister came to the House, changed his speech and said nothing to the assembled ranks of the democratically elected people. He was speaking on behalf of a supposedly sovereign Government which had been blackmailed in that way. He should apologise for the fact he did not explain to us and the Irish people there and then that he was threatened in this way by a virtual economic and financial dictatorship. They are some of my views on what we have done over the past year and a half.

**Tánaiste and Minister for Social Protection (Deputy Joan Burton):** I want to thank the Chairman of the inquiry, Deputy Ciarán Lynch, and the members of the committee for their hard work and dedication over the past year. The work they have done has given a very good service to parliamentary democracy in Ireland. I would like to single out my Labour Party colleague, Senator Susan O’Keeffe, as the only woman involved in the inquiry. People said of Lehman Brothers that it only ever had brothers; there were no Lehman sisters. It seems that in the case of the inquiry only the Labour Party, which also opposed the bank guarantee, was ready, willing and able to put forward a woman to serve alongside men on the inquiry on its behalf.

A very important element of the inquiry, unlike previous ones, was that witnesses were met in public. The people responsible for the destruction of the economy and the near-ruin of our State were brought into the glare of public scrutiny to answer questions that people wanted asked. The IMF described the Irish banking crisis as the costliest crisis in advanced economies since at least the Great Depression. It resulted in a €64 billion bill for the taxpayer to recapitalise the banks. It saw the economy collapse, with more than 300,000 people losing their jobs and unemployment soaring above 15%. It brought the public finances to the point of bankruptcy. The deficit reached an incredible level of over 30% of GDP in 2010 and public debt increased fourfold to over 120% of national income. The result was the troika arriving into town on Fianna Fáil’s watch. All of this was a far cry from the cheapest guarantee in the world so far, as described by the then Minister for Finance in 2008. In fairness to the late Brian Lenihan, he was left grappling with a situation that his colleagues in Fianna Fáil had stoked for several years. Nonetheless, the reality was catastrophic. That is what the Labour Party and Fine Gael Government was elected to tackle. The report describes in great detail the role of the many actors in this tragedy. The banks, which abandoned any semblance of prudence, lent recklessly to the property sector, feeding a property bubble of historic proportions overseen by external auditors which adopted a “See no evil, speak no evil” approach.

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The regulator and Central Bank had sufficient powers to intervene, but chose a light-touch approach to regulation which, in effect, amounted, as we heard over the months and weeks of the evidence, to no regulation at all. Overseeing all of this was the Fianna Fáil and Green Party Government, which ignored all of the advice available to it and pursued policies that made the crisis many times worse.

Property tax incentives fed and nurtured the bubble - the kind of tax breaks that I spoke out against time and again in this House. The report notes the lost opportunity to mitigate or reduce the property bubble from 2003, when the Government failed to reduce or abolish property tax incentives as originally planned, although the then Minister for Finance established a review of these schemes in 2004. By 2006, most were still in place and deadlines were still being extended. Against the clear advice of officials, successive Fianna Fáil-led Governments doubled up on pro-cyclical policies and hollowed out the tax base, masking an enormous structural deficit in the public finances. Over the ten budgets between 1999 and 2008, the contrast between the proposals in the June fiscal framework and the size of the tax and spending measures in the subsequent budget reveals the recklessness of their policies. In only one year, 2003, was the size of the subsequent budget day measures less than recommended. In that case the difference was marginal. In 2001 and 2007, on the eve of the disaster, the gap was particularly shocking, with the size of budget measures almost double what was recommended. I note that in 2011, Deputy Micheál Martin apologised for the many disastrous mistakes Fianna Fáil made in government. The publication of this report and the debate today would be a timely occasion for Deputy Martin and his colleagues to repeat that apology, rather than conveniently develop amnesia about it.

Fianna Fáil will say that it was chiefly a global crisis that caused our collapse, but what is particularly striking in the report is the dominance of domestic actors in propagating the crisis. International events and actors played a role, and the weakness of external surveillance from international organisations such as the OECD and the IMF is notable. However, in cases where clear warnings were given, such as the European Commission ruling on fiscal policy in 2001, they were ignored.

The report is a survey and story of what happened. The purpose of the report is to tell the story of what happened so that future historians, and possibly PhD students, will mine it for commentary on what brought our island down. We now need to focus on what is helping Ireland to recover. The schedule of loans and anticipated interest rates provided for when the troika came into town show that, for instance, last year we were expected to pay €11 billion in interest on our borrowings. In fact, the current Government reduced that suggested interest to less than €7 million. In opposition and during the run up to the last general election I advocated that probably the worst feature of the deal struck by Fianna Fáil was the promissory note. I was very happy in government that we were in a position to renegotiate that, put it out into very long-term loans, and provide for significantly reduced rates of interest. The consequence of that has been billions of euro in savings for Ireland and for Irish people.

The key issue is that of the 330,000 people who lost their jobs. We now have 135,000 people back at work and modest stimulus into the domestic economy. The result of that has been to see families and people on very low incomes such as the minimum wage getting small increases from 1 January this year. For public servants, particularly lower paid public servants who bore significant wage cuts and tax increases imposed by Fianna Fáil in 2009 and 2010, we have seen the beginning of a modest restoration as well as a reduction of the universal social charge, USC, the emergency additional income tax introduced by Fianna Fáil at the height of the crisis. Not only have people on low and middle incomes, up to €70,000, seen their USC



reduced in the last budget and again in this budget, we have also been able to remove 700,000 low paid workers from the USC net.

We are now experiencing a recovery. The principal aim of Government policy is to learn from the facts and figures set out in this report. When Regling and Watson did their initial report into what went wrong in our banks, they said that while there were international elements to the crisis, it was very much a home-made crisis, and that happened on Fianna Fáil's watch. We now have a much reformed and improved system of regulation and it behoves us all to ensure that this regulation continues to operate as toughly as possible so that if difficulties arise in the future, the public institutions that regulate will be in a position to respond as quickly as possible.

I compliment all the people who took part in the inquiry. I know there have been many differences among the committee members in reaching a desired outcome. I know that the work of the committee was restricted to some degree by very narrow legal guidelines but it is important to have this report, the documents and the information on the public record. Many documents we never saw previously were brought out into the public domain. In historical terms, that will be very important to future students and guardians of the regulation of banking and finance in Ireland.

**Deputy Timmy Dooley:** I begin by concurring with the Tánaiste on just one aspect of what she had to say, that is, to extend all our thanks to those members of the committee of all parties and none who spent very considerable time holding the public hearings and sifting through the mountains of documents to produce this report. I do not know if it will benefit them electorally but I believe it was a job well done and that it will benefit future generations of politicians, bankers, regulators and the public alike.

The inquiry report provides a balanced account of the complex facts of the financial collapse. It might not suit the Tánaiste's agenda or the agenda of the Government generally to suggest that there were complex facts which led to the collapse, and subsequent recovery. The report identified failures in banks, regulators, Government, politicians, and at a European level. That was across all political parties, whether in government or in opposition. I know the burden of responsibility must rest on the shoulders of those who were in power at the time, and that has been accepted by all concerned, but where the general thrust of debate and financial thinking was shared across the floor it would be of benefit to everybody if the Tánaiste had the good grace to issue an apology, on behalf of her party, for the approach her party took and the kind of policies she and her party wanted pursued rather than demanding a repeat of an apology made in a heartfelt and clear way by the leader of my party.

People have been able to watch the hearings and they will make up their own minds about what happened during the period, and who is to blame. That was not something the committee had the powers to do, but the members of the public are well able to make their own decisions on that. The boards and senior executives of banks must bear primary responsibility for the banking crisis, but the regulators should also have intervened, notwithstanding that the Tánaiste used emotive language similar to "on the watch of the Fianna Fáil-Green Party Government." Had the Government sought to interfere in the independence of the regulatory regime, she would have had something else to say about that, but she chooses to ignore the fundamental principles of the separation between independent regulators and government when it best fits a political agenda on the eve of an election.



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The inquiry found that the Government ensured that the Financial Regulator and the Central Bank both had sufficient powers to intervene in the banking sector to protect the financial stability of the State, but neither intervened decisively when required. I am taken by the comments of my colleague on the inquiry, Deputy Michael McGrath, when he said that in many cases issues had been identified and paperwork generated but, very quickly, the trail ran cold. There was no execution of appropriate penalties or implementation of sanctions.

The Financial Regulator put in place sectoral lending limits to stop any bank becoming too exposed to the property sector, but when these rules were breached, the regulator did nothing. In some cases, the response to a bank breaking its property sectoral lending limit was for the regulator to just increase the limit. That speaks volumes in terms of the light touch approach taken to regulation.

The inquiry was reminded that ten out of 11 budgets before the crisis period were in surplus, but all politicians failed to look behind those fiscal surpluses to the underlying structure of the budget. With the benefit of hindsight we can now see that permanent spending commitments were being made on the back of taxes from the property sector that proved to be unsustainable.

The Tánaiste fails to recognise that as an Opposition politician and, if my recollection serves me right, the Labour Party spokesperson on finance for a period at the time, she does not believe that her approach and that put forward by the Labour Party played any role in the crisis that developed. That is fine, but I remind her again before she seeks a repetition of an apology that was made to consider apologising on the eve of the election for the mistruths that were proffered in advance of the last election where commitments were made by the Labour Party - I would have thought on her behalf as spokesperson on finance - by the then Labour leader when he said that it would be Labour's way, not Frankfurt's way when it came to dealing with such important matters as the burning of bondholders. It is very clear that this Government, of which the Tánaiste plays an integral role, failed absolutely in burning any bondholders, particularly within the senior ranks, over and above what had already been set out prior to her coming to office. The indication was that if Labour was part of the Government, an entirely different approach would have been taken to dealing with Frankfurt or the ECB. The truth is that there was no difference in the approach, and perhaps an apology for that would be appropriate at this stage.

While she is considering an apology for that particular commitment, it might also be worthwhile apologising for the commitments that were made to the Irish people. She said no water charges would be introduced by a Government of which the Labour Party would be part, and that no cuts would be made to social welfare, child benefit or maternity benefit, but very quickly these emerged. Despite the commitments she made prior to entering Government, many of the cuts were delivered by her at the Department of Social Protection. Before demanding the repeat of an apology I stated was given in a clear, concise and heartfelt way, the Tánaiste would be very wise to consider her confession, even this late stage, before she faces the electorate. I will await, I am sure with bated breath, her position on this.

**Deputy Pat Rabbitte:** The Deputy could do himself harm.

**Deputy Timmy Dooley:** Deputy Rabbitte suffered a bit of harm when he crossed swords with her.

The recovery has been hard won, and credit should be given to Brian Lenihan for his achievements. Ultimately, the national recovery plan brought the State finances back on track and set

out the structure we needed for economic recovery. It was interesting to hear Ajai Chopra of the IMF giving evidence at the banking inquiry that the current Government made no fundamental changes to the troika programme or Brian Lenihan's national recovery plan when it came to office, notwithstanding the commitments and some rewriting of history. It had the benefit of coming into office in 2011, after the expiry of the guarantee and the negotiation of the troika programme, and with the benefit of the national recovery plan being in place. The economic recovery over the past few years has taken place against this backdrop.

As we face the electorate, it is now clear real benefits accrued to the State by the plan put in place, which was largely followed by the current Administration with some minor changes. Lest we over-congratulate ourselves on the work we do here as we face into the election, a bit of common sense needs to come to the fore. Absolute recognition must be given for the way in which the Irish people have accepted the difficult circumstances placed before them and for the way in which they have rolled up their sleeves and tried to get the economy back on track after the enormous collapse in the coffers of the State. They have worked to the greatest extent possible to try to put Ireland back on track. It would be wrong of any political colour, or any Member who is not in a political grouping, to try to take credit for it. Without the support of the Irish people for the very difficult measures which had to be taken to put the economy back on track there would be no recovery. Even at this, we have a considerable way to go.

While a recovery is taking hold largely on the east coast and in the greater Dublin area, many communities outside of these areas are struggling to see any level of an increase in economic activity. They are certainly burdened with some of the ravages thrown out as a result of the crisis. I hope that whatever the colour or creed of the next administration, it will be in a position to put in place the fundamental building blocks of an economic recovery throughout the rest of the country in a fair and equitable way rather than to the benefit of those who are best off and who could see a recovery in their own finances based on the size of their income. We must look to the people in the lower economic groupings, the people on middle to lower incomes, in an effort to support them for the support they have shown to the recovery.

**Deputy Pat Rabbitte:** Dáil Éireann gave the members of the banking inquiry an almost impossible mission, given the constitutional and legal restrictions in which they had to operate. We owe the Chairman, Deputy Ciarán Lynch, and each member of the too large inquiry team a considerable debt for the remarkable effort, patience and diligence with which they discharged a very difficult responsibility. They have done the State some service for which future economic historians will be grateful. The DIRT inquiry remains the model for inquiry by parliamentary committee. Only Deputy Durkan and myself are left standing from that experience, and we would be the first to say that the inquiry conducted by Deputy Lynch and his team was more complex, more extensive, more contentious and more problematic for several reasons. For the Chairman to have navigated a completed report to dry land is a very considerable achievement.

First out to criticise the report were those who dodged the hard work involved in the inquiry. Bankers considered ideal a few years ago for the post of Central Bank Governor are now considered pariahs whom the inquiry let off too lightly. I heard Deputy Donnelly on radio today starting a hare to run about the Minister for Finance, Deputy Michael Noonan. Sometimes when I hear Deputy Donnelly I think that perhaps all young Deputies in the House should get a few months in McKinsey and Company. It does wonders for one's self-confidence, if not for one's economics or one's attendance at committee meetings. In the 14 months during which I have been a member of the finance committee I recall seeing Deputy Donnelly twice.

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It is my impression that the legal advice available to the inquiry erred consistently on the side of caution, but if the inquiry members had spurned that advice the report would never have seen the light of day. Indeed, it is very probable that the immensely valuable public hearings would have collapsed if some of the more simplistic criticisms had prevailed. I will return to this critical issue of inquiry by parliamentary committee.

Let us take as read the failure of the Central Bank, the incompetence of the Financial Regulator and the dereliction of duty and negligence of the Fianna Fáil and Green Party Government. The rot started in the banks. The wild recklessness of Anglo Irish Bank was breathtaking, but how did two conservative banks which, in one guise or another, preceded the founding of the State itself go bust, losing money mainly in their core business of making loans in Ireland? Every bank, Irish or foreign owned, got into serious trouble and had to be rescued by the Irish State or by foreign parent banks. Anglo and Nationwide lost a mind-boggling eight to ten times their capital. There is a wide variation in the scale of the losses. In terms of loan losses, AIB seems to have been three or four times worse than the similar sized Bank of Ireland. The business model of the two banks was and is similar. One building society, Irish Nationwide, was much worse than another, EBS.

I do not yet know if the voluminous back-up papers explain these discrepancies or if there is a bank by bank scrutiny into the sources of these wide variations. Whereas all of the banks were mismanaged, some were recklessly mismanaged to a degree that defies understanding. It must be the case that individual banks did their own investigations of the sources of the disaster. Were these analyses furnished to the inquiry? If not, it is a failure of accountability on the part of the banks and I presume the modern Central Bank has the authority to demand production of these reports.

Dáil Éireann cannot signal approval for the cavalier treatment of the inquiry by the ECB. Given the flaws exposed in the ECB's own architecture, is it acceptable that an occasional appearance in the European Parliament is the only gesture to accountability?

The Government of which I was a member was resolved that there should be burden sharing and we had quantified the value of it. The NTMA estimated, as contained in the memo of 28 March 2011 in the appendices to the report, the financial benefit to the Irish Exchequer at €14.9 billion. The savings made in respect of subordinated bondholders means that the net cost of the ECB veto to the Irish Exchequer was in excess of €9 billion. This was the second occasion on which the ECB stopped a sovereign Irish Government from imposing haircuts on holders of unsecured and unguaranteed bonds issued by banks which necessitated recapitalisation at public expense.

*3 o'clock*

The inquiry is clear that the ECB threatened on both occasions to withdraw approval for emergency liquidity assistance to the Irish banks unless the bondholders were paid in full, which would have shut down our entire banking system. Ajai Chopra of the IMF rejected in his testimony the proposition advanced by the ECB president that haircuts to senior bondholders in Ireland would cause contagion to eurozone markets in senior bank bonds. Subsequent experience in Cyprus, Italy and Portugal would seem to bear out Mr. Chopra's view and, of course, in the bank resolution and recovery directive, burden-sharing is now expressly contemplated.

Mr. Trichet's diktat was punitive for Ireland, but the question of whether the ECB had the legal authority to impose arbitrary costs on the Irish Exchequer in pursuit of broader eurozone objectives remains. *The Irish Times* reported in December that the inquiry team wished to recommend that the Government sue the ECB for damages over its actions in 2010 and 2011 but were prevented from so recommending by the inquiry's own lawyers. If that is so, it seems to be an unnecessary intrusion into the domain of politics. Whether an Irish Government should use its statutory entitlement to seek judicial review at the European Court of the actions of an EU institution is a political matter and one that I hope the next Government will consider.

This may be the last working day of the 31st Dáil. It is the last time I will address Dáil Éireann. It has been a unique privilege to have been elected to this House by the people of Dublin South-West in six successive general elections, and I would like to thank those who worked with me here and outside. I did not envisage that my final remarks would concern a banking and fiscal collapse that constituted an existential crisis for the State itself. Thanks to the work of Deputy Ciarán Lynch and his colleagues, economic historians and others will be able to study the lessons to be learned.

I remain convinced that any parliament that does not have the right of inquiry by parliamentary committee into legitimate matters of public interest is a diminished parliament. Properly organised and conducted, it is a natural extension of parliamentary oversight and would improve the performance of Government. Following the failure of the referendum, repeated experience of the costly and slow public inquiry system under the 1921 Act and the difficulties latterly encountered under the Commission of Investigations Act, we have now reached an impasse. What is so unique about our jurisprudence that makes impossible here a form of hearing that is routine in so many other settled parliamentary democracies? Unless we frame another amendment and return to the people, we can never have an inquiry in which there is an adjudicatory finding upon the conduct of a person who was not a Minister, a holder of other constitutional office or a Member of the Oireachtas. The difficulty, therefore, as shown by today's report, is that there is no clear demarcation between an inquiry into policy and an inquiry into culpability. By "adjudication" I mean a simple finding of fact, without any legal effect, whose impact is solely on the reputation of an individual. I draw to the attention of the House the remarks of the retiring President of the High Court, Mr. Justice Nicholas Kearns, when he said in December that "judges and courts should not be excessively overactive or interventionist in areas where the boundaries of the judicial and executive function intersect". Mr. Justice Kearns acknowledged that many commentators now seemed to feel successive court interventions had "virtually paralysed" the investigatory process "where accountability for matters of serious public concern is required". The courts, he said, "should never put themselves in the position of realising, all too late, that a particular decision has opened a Pandora's box of unintended consequences".

In his dissenting judgement in the *Abbeylara* case, then Chief Justice Keane delivered his understanding of Irish law:

The power of the Oireachtas to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws [and] defects in our social, economic or political system for the purpose of enabling the Oireachtas to remedy them.

That was the view of the then Chief Justice and I believe, notwithstanding what happened in the referendum, that the next Government should take its courage in its hands, reframe an

amendment and go back to the people. It would strengthen the functioning of this Parliament.

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

**Deputy Pat Rabbitte:** I never got applause like that before when I was in a different position.

**Deputy Peadar Tóibín:** Guím gach rath ar an Teachta Rabbitte. I might not have agreed with him on everything in the last few years, but there is no doubt that he raised the level of oratory in this Chamber and brought much colour in his time. Gabhaim buíochas freisin le muintir an choiste baincéireachta mar gheall ar an méid oibre atá déanta acu le linn an imscrúdaithe. Obair uafásach deacair a bhí ann agus rinne siad a ndícheall mar gheall ar an obair sin.

There is no doubt that the report had certain limitations on the findings it could make, but it did not have the same limitations when it came to its recommendations. This is where I feel the report has its drawbacks. One of the key findings of the report was that “[b]ank failure, which required the intervention and support of the sovereign, was the responsibility of senior executive management and the boards of directors”. This is true; the bank boards had ultimate responsibility for their lending practices, yet they have spent the past seven years blaming everyone and everything around them, while at the same time getting the Irish people to pay for their mistakes. With this finding in mind, what does the report suggest as a possible solution? What we get is this: “All members of bank boards should have the requisite financial skills set and experience and should undergo ongoing compulsory Continuing Professional Development (CPD) appropriate to banking, to include risk and governance.” Are the authors of this report seriously suggesting that the solution to the structural problems in Irish banking at a board level are to be tackled with a training course? Is the report telling us the fundamental problems with Irish bank boards can be solved with a weekend in the country and a PowerPoint presentation? There is a serious paucity of vision here.

Let us be clear: this crisis was caused by a vicious circle of reckless property speculation by developers. This was facilitated by unsustainable lending by banks that were poorly policed by a financial regulator that was intentionally created with insufficient powers and resources by a political class that was itself beholden to those developers. The abandonment of prudential lending practices by banks’ senior executives was reinforced by board-level groupthink. This, in turn, fuelled a race-to-the-bottom mentality, which put pressure on others to match the unsustainable terms offered by competitors. The pursuit of reckless lending was justified by the requirement to maximise shareholder value, even though this was not in the long-term interest of the business. There was a change in culture of banking away from service to customers and towards meeting arbitrary sales targets. This culture change was reinforced by a shift from basic pay to performance-related pay and bonuses within salary structures. On what planet can these issues be resolved with a PowerPoint presentation and a certificate? Serious and practical measures need to be implemented. For example, boards need to act in the long-term interest of the bank rather than pursuing the short-term maximisation of shareholder interest. The regulator should consider governance structures. There is a need to expand representation on bank boards to people such as community representatives and employee representatives. This would reflect and recognise the broader and social role of financial institutions, not just the commercial role they are involved with at the moment. The regulator should lead a major review into the culture of banking which would include consideration of how the structure of remuneration within the financial services sector affects its actions, especially the services delivered to customers. This review should involve employers and unions. They should recommend appropri-



ate balance between basic pay and incentives. If the Government were serious about reforming the banking sector, it would legislate for banks to act in their own interests for the long-term objectives and also in the interests of the communities they are supposed to serve.

The report concludes that it was commercial property speculation that ultimately led to the failure of the Irish banking system. This activity, of course, was not only assigned to Ireland - Irish banks were funding British projects as well as ones here - and yet the sole recommendation in this report is that "A detailed and comprehensive commercial property price register should be introduced." Obviously, I welcome this, but how would such a register deal with the issue of Irish banks funding Irish developers for projects abroad? Approximately 40% of the value of the loans transferred to NAMA related to properties outside of the Twenty-six Counties. How would the register deal with any of that? Furthermore, a price register is not regulation. There is a fundamental need for clear and direct oversight of the property sector. It is incredible that an inquiry can find the commercial property sector directly responsible for the crisis and yet offer no recommendations whatsoever with regard to reform or regulation of that sector. Neither does it offer any ideas for reform or regulation of the oversight of lending in that sector. The authors of the report cannot blame the terms of reference for this. It is a true and sad reflection that in this world it is still seen to be necessary to tug the forelock to the bank.

Between 2008 and 2013, real political power in Irish society revealed itself in a way that had not been seen for decades. The scale and depth of the crisis made it impossible for the nature of the influence that existed in that nexus to remain below the radar. The crisis brought clarity to the focus of the State's economic and political system. What we saw in that period were the consequences of the empowerment of financial dealers and commercial property developers aided and abetted by mainstream political parties which were unable or unwilling to see an alternative to that process. The unprecedented use of credit sourced from global financial markets from the mid-1990s formed a fuel for that nexus of power and influence and that had a devastating consequence for everybody living in this State. At the same time, all the social and economic myths that were built up during that period that Ireland was a prosperous land and a classless society simply vanished before our eyes. Instead, business interests, concentrated mainly on financial administration and property speculation, used the full power of the State to protect themselves from their own decisions and strategies. Those individuals, who had sat for decades and reaped and creamed the profits of Irish society, literally looked around the room at each other and said, "Who is going to pay for this? It will not be us. It will be Irish society who will pay for it." The manifestation of that is that we pay €7.1 billion in interest on the debt of the State. The education budget amounts to €8 billion. That is a phenomenal amount of money. Considering the existing infrastructural deficits, the health deficits and the education and housing deficits in the State, the hangover of the decisions made by that nexus of power will affect this generation and the generations to come. It will mean a reduction in opportunity for these individuals as they go about their lives. In some cases, it will mean people losing their lives. In some cases, it will mean people not having proper housing in which to live. It will mean that people will not attain the academic or educational opportunities that would help them fulfil their potential in society. The nexus element of the report is a major weakness.

If one looks at the State today and sees what has happened with NAMA and the fact there are investigations in NAMA, the FBI is involved in an investigation in Britain and we have the fraud squad but, unfortunately, no investigation here - if any Member has any information, he or she can give it to the Committee of Public Accounts, PAC - and one sees IBRC, where there have been billions of euro of write-down landing in the pockets of individuals who have been



major benefactors of Fine Gael, it is clear therefore that nexus power has not yet finished. Obviously, the democratic deficit within the State did not begin in 2008, but the crisis brought it into sharp focus. It is up to our generation to learn from that.

**Deputy Shane Ross:** With the permission of the House, I wish to share time with Deputy Donnelly.

This debate marks the departure, and possibly the last speeches and contributions, of two of the most eloquent Members of this House that I can remember. Deputy Higgins's contribution to the banking inquiry was unmatched. His contributions to the workings of this House over the years - many of which, of course, many of us have disagreed with but which have been utterly honourable and well thought-out - have been elegant, and his dedication to his constituents and his own ideals has been uncompromising and utterly admirable in the history of this House and very unusual. The speech made by Deputy Rabbitte, which was also his farewell speech, was consistent with his long history of, as Deputy Tóibín stated, raising debate here onto a higher plane. Indeed, some of his successors might take that into account. He has done the State a great deal of service and his final contribution was also a great credit to him. It is right that I would say that.

Of course, I disagree with almost everything Deputy Rabbitte said in his speech but that does not in any way detract from what I said earlier. When he said that any parliament that does not have the right of proper inquiry - as this one does not - is a diminished parliament, he was correct. Dáil Éireann is a diminished House. However, the Deputy ought to ask why it is a diminished House. The people decided that the Members of this House in their wisdom were not fit to carry out an inquiry of the sort that perhaps they would have wished. That is an honourable decision. It is a decision we should respect. It is a reflection on who is sovereign and on the low esteem into which this House has sunk as a result of its failure to reform. We should take cognisance of that and not merely state that we should go back to the people and have another referendum.

As a result, the inquiry chaired by Deputy Ciarán Lynch - I share the tributes to their hard work, not to their findings - was utterly hamstrung in what it could produce. As I said yesterday, the result of this was that the happiest people in Ireland yesterday and today are those who were being or were meant to be asked the hard questions. When I look at this report, at the reaction and at the leaks, I realise that, far from putting in the dock or on the defensive those who were asked the questions, the report is a get-out-of-jail card for the bankers. The bankers are the ones rejoicing because this report could not find any fault with them. They could come in, answer the questions and, in effect, get a clean bill of health because no finding of fact could be made against them. The same is true of the developers, the auditors, the consultants and, indeed, individually, the regulators. That is the effect of the inquiry. It has half-rehabilitated those people who were meant to be on the defensive. They are walking free, obviously innocent people, but also uncriticised, because the report could not criticise them. What sort of report is it? We have a fall guy who is rightly indicted in the report, namely, Jean-Claude Trichet. While what he did was utterly unacceptable, the fact that his name is in lights because the others could not be touched makes the report a fiasco, a waste of time and very difficult for many of us to accept.

There is another reason the inquiry was flawed from the beginning. Just a few minutes ago, the debate deteriorated into a political spat between Fianna Fáil and the Labour Party. The banking inquiry was all about politics.

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

**Deputy Shane Ross:** I have six seconds left. The inquiry was established to crucify Fianna Fáil. It could not and did not do so, and it backfired on those who established it. We Members of the House have not earned the public's trust by making findings of the sort that should be required of us.

**Deputy Stephen S. Donnelly:** I acknowledge the hard work done by Deputy Ciarán Lynch and the committee during the past year. They did as good a job as could be done in an imperfect situation without the tools or the time needed to do the job they might have liked to do.

The most important line in the banking inquiry's report is: "The withdrawal of [emergency liquidity assistance] was used as an explicit threat to prevent the Government from imposing losses on senior bondholders in March 2011." This is the finding of the cross-party banking inquiry team. There was an "explicit threat" in March 2011 from Jean-Claude Trichet to the Minister for Finance, Deputy Michael Noonan. In his testimony, the Minister, Deputy Noonan, stated that Mr. Trichet said, "if you do that [burn the senior bond holders], a bomb will go off and it won't be here, it'll be in Dublin." The Minister told the inquiry that he had told Mr. Trichet that as part of the programme he intended to burn bondholders and that Mr. Trichet had not agreed. The Minister said:

He didn't agree and he asked me was I aware that this would be treated by the markets as a default, which was reasonably strong pressure ... . [ELA] was underpinning Anglo to the tune of €41 billion at that time. ELA can't be given to a bank that defaults.

Deputy Ciarán Lynch and the team, correctly, based on this and other testimony, concluded that the withdrawal of ELA was used as an explicit threat.

In November 2011, several months after this explicit threat had been made directly to the Minister, I asked the Minister in this House whether any threat had been made to withdraw emergency liquidity assistance if Ireland sought to burn the bondholders. The Minister said that "neither of these threats was ever made". This is unambiguously misleading the Dáil on a matter of national importance. The Government was elected with a clear mandate to burn the bondholders. It appears it tried to do so, was threatened and made a certain decision. If the Minister for Finance feels he can walk into the House and deny those threats were ever made, we have a serious question.

In any other country I have lived in, what the Minister, Deputy Noonan, did in misleading the House on a matter of national importance would be an immediate resigning issue. Unambiguously, a Minister would resign for being found to have misled the House on such a serious matter. I have no doubt that this will be brushed off by Fine Gael as semantics or whatever. We do not have political accountability, which is a great irony given that the banking inquiry was trying to show a lack of accountability of the Regulator, the Department of Finance and politics. The Social Democrats and I believe the Minister, Deputy Noonan, should resign.

Now that we know the threat was made, we also believe an independent legal review should be immediately established. This review would determine whether a case could be taken against the European Central Bank, ECB, either to sue for damages and see if we can recoup all of the €25 billion still outstanding in Anglo promissory notes, or, at the very least, to seek a legal position from the European Court of Justice that states that, in threatening Ireland in the outrageous way it did, the ECB clearly overstepped its legal remit. We should use that ruling to go back to

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Europe and say we want burden sharing and that the €25 billion that is outstanding should be deemed odious debt and written off by the ECB.

**Deputy Seán Ó Fearghail:** Is maith an rud é deis a fháil labhairt ar an ábhar tábhachtach seo atá os ár gcomhair. I am pleased to have the opportunity to say a few words about the important report before us. It is a very substantial piece of work, 455 pages long, and is the culmination of 49 days of public hearings and 128 interviews. I hope nobody is suggesting that a debate of two and a half hours is sufficient for such a substantial volume on such an important issue. It would be to undervalue and underestimate the work that has been undertaken. I hope that as soon as the Thirty-second Dáil convenes, the work of the banking inquiry becomes an important first part of the agenda to be considered both by the House in plenary session and by the finance committee and the Committee of Public Accounts, if they are the two most appropriate committees to examine the work.

I thank all of the committee members for the work they did. I saw this at first hand in respect of my colleagues Deputy Michael McGrath and Senator Marc MacSharry. They devoted themselves selflessly to the inquiry. Given where it came in the electoral cycle, their dedication may have electoral consequences for them. That is also true of people from all political parties and none who participated in the process.

I have particular admiration for the Government members of the inquiry team. What they did has brought some credit on the body politic, the Houses of the Oireachtas and the ability of the Dáil and Seanad to conduct an inquiry. They did not do what their political puppet masters set them to do. They did not avail of the carefully orchestrated timing of the inquiry geared and intended to cause the maximum political damage in the run up to a general election. This was very much at variance with what we heard earlier from the Tánaiste, who was incredibly partisan in her contribution. Rather, they set about the job in the national interest, setting aside party political considerations. I think they are to be commended for the maturity and statesmanship they demonstrated in the job they did.

People have questioned the value of the work that was done. We have spoken about the culpability of the banks and the poor level of regulation that existed. This report explicitly sets out that the regulatory system we had in this State was not working. We knew it was completely ineffectual, but now it is clearly set out before us. The regulator was not functioning as it needed to function and the Central Bank was not acting as a central bank is required to act. We have conclusive evidence that there were appallingly bad practices in our banks. I suppose it is implicit in that that responsibility must be accepted in some instances by the executives of those banks. Indeed, direct responsibility rests with the directors of those banks, who may not have shouldered the level of responsibility that they could have done.

Deputy Donnelly is absolutely correct when he seeks to identify the third area of culpability. He has done the process some considerable service by highlighting the role of the European Central Bank, particularly the role of Mr. Trichet. He is quite right to raise questions not only about the manner in which the involvement of the ECB and the actions of Mr. Trichet were carried out and conducted, but also about the manner in which this situation was reported to this House by the Minister for Finance in the earlier part of this Government's term in office. At any time, a Minister would be required to tell this House the truth, the whole truth and nothing but the truth, but I suggest it is a particular requirement that the unambiguous truth be put before us at a time of national crisis, such as that from which we are currently emerging.

I would like to make a point about political culpability. Undoubtedly, that is recognised and accepted within the report. My party leader, Deputy Martin, has accepted responsibility because my party was in government when the crash happened. The policies pursued by my party in government contributed to some extent to the problem and to the crisis, but so too did the policies that were being advocated by Opposition parties. In the run-up to the 2007 general election, Fine Gael and the Labour Party campaigned vigorously for less tax to be collected and more public money to be spent. The inevitable consequence and conclusion is that if they had assumed power in 2007, the crisis would still have happened but the situation would have been even worse. I am not saying that to try to make a political point - I am saying it to illustrate the extent to which there was groupthink across the political spectrum. This was supported in many instances by outside interests, including people in the media, supposed experts on economics and finance and people in the banking sector. If we are to learn anything from what has happened to us since 2008, it must be that the role of the contrarian is an important one. When a contrary view is advanced and argued for, that view must be listened to and evaluated. It must not be cast aside on the basis that the person expressing it needs to go off and take a running jump. We need to listen to the voices of reason, even in circumstances in which that voice seems to represent a small minority point of view. We did not do that in Fianna Fáil, but Fine Gael and the Labour Party did not do it either.

That brings me to where we are currently. What have we learned from the mistakes of the past? As we head into the general election campaign, the auction has started, the parties in government are promising to reduce the taxation base substantially and the Taoiseach has said he wants an American-style taxation system. Good God knows one cannot erode or narrow the taxation base without creating a situation in which the State achieves less income and is therefore less able to provide the essential services needed by the people of this country. It seems to me that even though an incredible number of people in this country have suffered enormously - we would all wish to see the return of the many thousands of people who have been driven out as a result of the recession - we have reached a juncture at which it is clear that many of the political parties have learned very little indeed. Various commitments were made at the time of the 2011 general election, which was supposed to mark a watershed in the political history of this country on the basis that we were going to do politics differently, we would have a new beginning and we would empower the people, but I suggest we are back to where we were before. It is a case of the old ways again. The cycle has started again.

I could go on. I think we all could, but there is not enough time. I will conclude by saying it is vitally important for the subject matter of this report to be prioritised by the new Government, regardless of its composition. These issues need to be discussed here in plenary session and taken into the committees. The recommendations of the banking inquiry committee need to be considered seriously and acted on.

**Deputy Richard Boyd Barrett:** I wish I could say otherwise, but I believe the outcome of the banking inquiry - the report that has been produced - is depressingly predictable. It offers us nothing that will prevent a repeat of the crisis that brought this country to its knees. I am a member of the Joint Committee on Finance, Public Expenditure and Reform. Many members of that committee put themselves forward for the banking inquiry. After thinking about it a little, I decided not to put myself forward because I feared that what has happened would happen. Sadly, that fear has been borne out. A substantial amount of time and significant resources have been spent on this inquiry, but the outcome will teach us nothing. It will do absolutely nothing to prevent a repeat of the economic crisis and the crazy mistakes that crashed the bank-

ing system and the entire economy.

I am saying this outcome was predictable because I am aware that if we were to learn anything from the crash, it would have radical if not revolutionary implications for banking and for the way we organise our society. Frankly, I do not believe the political establishment in this country has any stomach for the sort of radical or revolutionary action that would be required to take on the ideology of the vested interests who produced this crisis in the first place. Instead, sadly but predictably, the Government is blaming Fianna Fáil. In turn, Fianna Fáil is blaming the regulators and perhaps the European Central Bank to some extent. It is saying that Fine Gael was just as bad. We can all agree on the role of the bankers because that means the finger is less likely to be pointed at us. If we agree that everybody can take a little bit of the blame while arguing that everybody else is more to blame than we are, we are saying “everybody is to blame but nobody is really to blame” and “everything will be okay if we just have a little bit of regulation”. That is where it is left but that is not the truth. The truth is that the entire political establishment was captured and remains captured by the financial and corporate elites and it dances to their tune. It continues to dance to their tune even though being captured by those interests was what produced the crisis that has had such devastating consequences for the ordinary citizens of this country and for which we are still paying a terribly bitter price. The human consequence of the madness that drove the banking system, economic policy, the bailout and the austerity programme continues to be felt in the most cruel way, most obviously with the housing and homelessness crisis, which is beyond catastrophic and is a shame to any society that calls itself civilised. The consequences are also seen directly in the health service, which was butchered of 10,000 staff, €3 billion and thousands of beds so that people are sitting on trolleys and waiting years for operations. The consequences are felt in the most overcrowded classrooms in Europe by our children and future generations. However, nothing in this report points to the sort of action that needs to be taken. We need radical, fundamental and systemic change, not a little bit of regulation.

What have we learned? The report confirms what we knew before it was produced. There was reckless lending and borrowing by a small financial elite in the banks and by developers who went absolutely crazy, driven by the hunger for profit, all cheered on by the political establishment. In his minority report, Deputy Joe Higgins gives a number of quotes but this one sums it up. It is of Brian Cowen speaking to the Institute of Bankers in 2006 on the subject of the financial instruments that wrecked the economy:

Of course, not all these brave new initiatives are successful. It is a hard game but there is all to play for. Of course, that is easy for me to say because you are the players on the field and I am just an ardent supporter on the sidelines. I will continue to wear your colours.

That was the attitude of the Taoiseach, the ardent supporter of the bankers who “will continue to wear your colours”. With that attitude in government and the political establishment, is it any wonder that bankers and developers thought they could do anything they wanted? Fintan O’Toole’s book tells how Seán Dunne was being married on the yacht of Mr. Onassis in Greece with gold-plated swimming pools and he sends a message back to Bertie and Charlie. They apologised for not being there because it would not have looked good but they say they would have liked to be on the yacht with these developers whose greed was about to wreck the country. This was all driven by an absolute ideology summed up by Charlie McCreavy, who believed we should not regulate these people. He believed in light-touch regulation and allowing the market to do its thing. Translated into ordinary people’s language it meant “Let profit be king, before everything”. Has that changed? Is there anything in this report which suggests



we should change it? There is nothing, and, in fact, the opposite is the case.

The Minister, Deputy Michael Noonan, promised to burn the bondholders, undo the injustice of this and reverse the priorities to put people first. However, within weeks of being in Government, he did a U-turn and submitted to the bullying of the ECB. The Government comes out with the excuse that it was being bullied by the ECB but why did the Minister, Deputy Michael Noonan, not come into this House to say he was being bullied by Mr. Trichet? We should not put up with it. He could at least have told us the ECB was bullying us but the Minister, Deputy Michael Noonan, would not do that because he has spent his entire political career, as the Fine Gael and Fianna Fáil parties have done and continue to do, saying that, at all costs, we must stay with the European Union and do whatever they say and we must be the good boys in Europe because we believe in the project. He knew that what the ECB was demanding of him would have devastating consequences for our economy and our citizens, who have paid a cruel and brutal price for his betrayal and his submission to the bullying of Trichet.

Even after all of that, nothing changes. When we took over the banks and when NAMA took over all the development land, we should have said: “We, the democratically elected representatives of the people, are going to control the banks, dictate policy and control development. We will decide development and housing priorities and all of that.” Instead, the Government did the exact opposite. It has reprivatised the banks that we bailed out and has let them continue to do whatever they want. It has sold all the land NAMA had to vulture funds who care only about profit and who are guaranteed to do exactly the same thing. Even in the Central Bank, a person sent in to do the internal audit a few years ago on its failure to manage the financial system has become a whistleblower and says he was sacked and told to delete sections of the audit because he was exposing the continuing failures of governance and the lack of proper risk management in the bank. There is no serious investigation of this and it is still happening.

There is no willingness, energy or interest in actually challenging the golden circle driven by profit and greed who crashed the economy. Quite the opposite - in fact Fine Gael and Fianna Fáil support handing the economy and wealth to these people instead of redistributing it in a fair way and ensuring the public interest trumps that of a small minority interested only in profit.

**Deputy Charlie McConalogue:** I commend the many members of the committee on the tremendous effort, commitment and time they had to dedicate to this over the past 18 months. We all know the onerous work responsibilities that are put on us as Deputies and Senators and for the members of the committee to give the time required to hold the hearings and compile the report afterwards is to their great credit. They have done the State some service. Their commitment was not in their own interests in the run-up to a general election as it took them away from other commitments, though that is ultimately what is required for the Oireachtas committee system to operate effectively. I commend the Chairman, Deputy Ciarán Lynch, on his work and my own party’s two representatives, Deputy Michael McGrath and Senator Marc MacSharry, who worked very well with the other committee members. The hearings and proceedings were conducted in a non-partisan manner despite the fact that the Government, at the outset, insisted on having a majority. The membership of the committee operated in a way that remained focused on the task in hand and did not let party politics intervene.

The ability of the committee to make findings and apportion direct responsibility to actors in the run-up to the banking crisis was very limited because of the legislation under which they had to operate. Also, it was unfortunate that it was unable to hear from all the witnesses it had invited. I refer in particular to some of the witnesses who were invited to give evidence relating



to Anglo Irish Bank. An investigation that did not hear from them was hampered by that, particularly the lack of evidence from Seán FitzPatrick and David Drumm with regard to the very significant role Anglo Irish Bank played, which will ultimately cost the State up to €30 billion.

Overall, the committee and the report perform a vital function. Although the committee could not make many findings of responsibility, many of the key participants in the crash of the banking sector appeared before it to account for their actions and to explain as best they could how it came about. It will allow the public to make up its mind about how things happened. Unfortunately, the inquiry was established much later in this Dáil's term than was required. That this is quite possibly the last full sitting day of the current Dáil and that the report has only been published this week, with only a short window of time for the debate on it this evening, reflect the fact that the inquiry was set up too late and went down to the wire. Also, at the outset, there was a clear political motive on the part of the Government in establishing the inquiry, as was reflected by the Taoiseach's statement in advance of its commencement in which he alleged there was an axis of collusion in which Fianna Fáil and the previous Government were involved. That certainly was not the spirit with which the inquiry should have been established, and the Taoiseach did not serve it well in that regard.

The hearings and the participation of so many people in the inquiry allowed the public to put in context how the banking inquiry came about and to form their own opinions on the dynamics that led to it. The fact that the Taoiseach was willing to go to the country last November, although he changed his mind, showed that the completion of the banking inquiry was not necessarily a top priority, given that it was still ongoing. However, I welcome that the Dáil term was extended to allow the inquiry to complete its business.

The key findings demonstrate that there was poor regulation. That played a key role in the downfall of our banking sector. The banking inquiry found that the Financial Regulator and the Central Bank had the required powers to intervene in the sector to protect the financial stability of the banks but, despite having those powers, failed to intervene and carry out their roles effectively. From 2000 to 2008, no enforcement measures were taken by the Financial Regulator against any of the banks for breaches of rules that had been identified during that period. The Financial Regulator was also found to have failed to identify some of the key systemic risks that had been building up in the banking sector, despite its being part of the Financial Regulator's remit. In addition, there were no consequences for any of the banks that breached sectoral lending limits. That failure to enforce the law and ensure there were penalties for banks led to a situation in which the Financial Regulator was seen not to have the teeth it had been allocated in the first place. It allowed things to get out of hand.

With regard to the banks' practices, the inquiry has shown that the banks' lending was far from prudent and, indeed, was reckless. The practices with regard to lending to property developers, and in many cases entering joint ventures with them, played a large part in the subsequent downfall of the sector. Traditionally the banks were funded by customer deposits, but during the property boom they became over-reliant on wholesale financial markets for their funding. This meant that when borrowing on a short-term basis became exceptionally expensive their viability was totally undermined.

As regards the Government and the performance of State institutions, the inquiry found that too many subscribed to the idea of a soft landing. That consensus and the failure to listen to strong dissenting voices, albeit voices that were very much a minority, is a lesson we must learn from to ensure the same thing is not repeated. The State's finances, unfortunately, were

vulnerable because of an over-reliance on a pro-cyclical economic cycle. The report also finds that all political parties advocated pro-cyclical policies and demanded reductions in taxes and increases in expenditure, despite the fact that they were based on short-term income and what subsequently proved to be short-term revenue.

The report finds that the idea of a bank guarantee was considered well in advance of the week in which it was implemented. Indeed, it is indicated that there were documents dating back to January 2008 discussing the merits and potential for a bank guarantee, if required. The report is also particularly critical of the fact that there was no proper record keeping in the Department of the Taoiseach of the discussions that took place on the night the guarantee was implemented. The Government was advised by both the Central Bank and the Financial Regulator that as far as they were concerned, all of the banks were solvent on the night of the guarantee. That is made clear in the report. The ECB, through its then president Jean-Claude Trichet, made it clear that no bank could be allowed to fail. That was a key consideration in the Government's decision to proceed with the option of the bank guarantee. With regard to the troika programme, the same president, Jean-Claude Trichet, threatened to cut off essential emergency liquidity assistance support for Irish banks, leaving the Government with little choice but to pursue the guarantee option. The report also finds that the European Central Bank position on burden sharing in both November 2010 and March 2011 was a key element in contributing to the placement of the banks' debts on Irish people.

Overall, the report is positive, in that the inquiry has managed to complete its business. I thank the members who were so crucial to carrying out its work.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English):** I thank the Deputies for their statements on the final report of the Joint Committee of Inquiry into the Banking Crisis. The report was published yesterday after tremendous effort on the part of the committee. There was much hard work over the last year and in the period before that. The significance of this undertaking should not be underestimated. The hard-working commitment of the Deputies and Senators involved is acknowledged and appreciated on all sides of the House. The findings and recommendations of the inquiry are welcomed by the Government. It will be a matter for the next Government to consider and act on the recommendations. Deputy Ó Fearghaíl asked for more time to go through them, and that can be facilitated by whoever is next in the Government.

*4 o'clock*

It is important to note the key findings in the report. There was no single decision or event that led to the failure of the banks; rather, it was the result of a cumulative series of events and decisions over a number of years. There were two crises rather than one - a fiscal crisis and a banking crisis. I have maintained that for a long time. The equally big crisis we had was the public expenditure crisis. It was mentioned by some Members that Opposition parties had the same policies, but successive Governments over a couple of terms were obsessed with construction-based taxes and made long-term decisions based on them. That is what resulted in a fiscal crisis. There were too many eggs in the basket. That was not the case with other parties. When they were in the Opposition, Deputies Enda Kenny and Richard Bruton repeatedly said at every budget that there was flawed budgetary decision-making based on construction-based taxes.

One cannot put all one's eggs in one basket. When we left office in 1997, the rainbow coalition Government was creating 1,000 jobs a week across many sectors. Similarly, we are back there again after four or five years in government and Fine Gael and Labour are creating 1,000 jobs a week across many sectors. In its wisdom, Fianna Fáil believed for a long number of years in only having construction-based jobs which is what led us to the fiscal crisis which was just as detrimental as the banking crisis.

The lending practices of the banks made them vulnerable to a liquidity risk which was not recognised. By 2008, banks had moved away from prudent lending principles towards a riskier, asset value-based lending model in their dealings with the property development sector. The business model of key developers in the boom years led to them being overwhelmingly reliant on Irish financial institutions. The Central Bank and Financial Regulator had sufficient powers to do their jobs effectively and could have required banks to hold additional capital to absorb losses which would have arisen in the event of a financial crisis. While an independent review and assessment of the effectiveness of the Central Bank and the Irish Financial Services Regulatory Authority, an organisation created in 2003, should have been carried out by the Government, it was the execution of the Central Bank and the regulator of their mandates and the absence of interventions which directly contributed to the crisis. The systemic risk that was building up in the banking sector was not identified by the Financial Regulator. The financial stability reports of the Central Bank to monitor the key risks to the financial system and financial stability did not identify the key risks. The Department of Finance relied too heavily on the reports of the Central Bank and external agencies such as the IMF, the OECD, and the European Commission and the soft-landing theory accepted by the Department and external agencies was not substantiated by robust analysis or research. The Government at the time did not always follow the advice put forward by the Department of Finance or the Central Bank. The ECB threatened the then Minister, Brian Lenihan, that it would not continue to provide emergency liquidity assistance support to Irish banks if Ireland did not enter a bailout programme. Ireland's entry into a bailout in October 2010 was inevitable but the timing of the entry was determined by factors outside the Government's control. The ECB's position on imposing losses on senior bondholders in November 2010 and March 2011 contributed to the inappropriate placing of significant banking debts on Irish citizens.

It is important that we all learn from the mistakes of the past. Significant work has been undertaken by the Department of Finance in recent years to address the issues highlighted by the crisis. A comprehensive overhaul of the regulatory framework for the financial sector has been pursued at both domestic and EU level since the financial crisis. Through the introduction of various initiatives, the stability and resilience of the financial sector has been strengthened and restored to a point where it better serves the economies and peoples of Europe. A series of measures has been introduced at EU level to reduce the risks across the financial system and to minimise the adverse effects of future financial crises. These includes the capital requirements directive and the regulation and directive for banking recovery and resolution. The single supervisory mechanism, SSM, transfers key supervisory tasks for significant banks in the eurozone to the European Central Bank which means additional oversight beyond national central banks.

While the reform of our statutory code for the financial services sector has been and continues to be driven by the comprehensive set of reforms that have been brought forward at EU level, a number of significant domestic legislative reforms have been undertaken to build a strengthened domestic regulatory framework. The Central Bank Reform Act 2010 created a

single, fully-integrated Central Bank of Ireland with a unitary board, the Central Bank Commission, which is chaired by the Governor of the Central Bank. In 2011, the new fitness and probity regime was rolled out by the Central Bank. The Central Bank (Supervision and Enforcement) Act 2013 enhances the Central Bank's regulatory powers. Drawing on the lessons of the recent past, it strengthens the ability of the Central Bank to impose and supervise compliance with regulatory requirements and to undertake timely assertive interventions. Legislation establishing a central credit register has been passed. The Credit Reporting Act provides that the Central Bank of Ireland shall establish, maintain and operate a central credit register as a means to enhance and promote more responsible lending in Ireland and to thereby contribute to overall financial stability. The bank has now entered into a contract with a partner to build and operate the register and it is planned that the system will be in place later this year. More importantly, all of these legislative reforms have been supplemented by real change in the culture of the Central Bank and a significant increase in regulatory activity with a corresponding increase in staff numbers and skills levels. The revised Central Bank Acts have produced peer review and independent oversight arrangements for the bank's operations. In combination with the single supervisory mechanism, these changes will be important in terms of preventing future instances whereby the Central Bank might fail to fulfil its responsibilities and mandate.

There have been a number of important responses in the context of applying the lessons learned from the crisis, both nationally and at EU level. Nationally, we have put in place the Fiscal Responsibility Act. The Irish Fiscal Advisory Council has been established on a statutory basis to provide independent assessments of the Government's fiscal stance. At EU level, there is now considerably greater scrutiny of the fiscal and economic policies of member states. The measures set out in the "six-pack" and "two-pack" of regulations and directives reformed and strengthened the Stability and Growth Pact and now provide for greater scrutiny and oversight of budgetary and economic policy. Economic and fiscal governance in the euro area has been reformed considerably since the crisis in response to deficiencies in the conduct of fiscal policy which became evident in many member states. The relevant measures are contained in two groups of EU legislation referred to as the six-pack and the two-pack. Under the two-pack, which came into force on 13 May 2013, draft budgets must now be based on forecasts which are either produced or endorsed by independent bodies at national level. The aim is to ensure that fiscal policy is framed in such a way as to guarantee that it is free from either an optimistic or pessimistic bias in the underlying macroeconomic forecasts. In Ireland, we have chosen the endorsement route and the task of providing endorsement has been assigned to the Irish Fiscal Advisory Council, which was established during our first year in government in 2011. This represents a significant change compared to the previous arrangement and should address the type of self-reinforcing loop between domestic and international forecasters about which the inquiry was so critical.

At EU level fiscal rules which now apply were adopted in response to the problems which the recent crisis revealed not just in Ireland but also elsewhere in Europe. The rules now in place in particular and the structural targets and expenditure benchmarks are aimed at breaking the link between cyclically unsustainable revenues under long-term expenditure commitments. The rules now provide for growth and expenditure in line with long-term economic growth trends. Anything above that will have to be funded through discretionary tax increases. Accordingly, the possibility of using windfall revenues to fund primers expenditure increases is much reduced if not altogether eliminated.

I repeat my thanks to all involved in the inquiry for their dedication to seeing it through to

a successful conclusion. Their efforts have resulted in a significant increase in the level of information in the public discourse. It is critical that we all learn from past experiences to ensure that those mistakes are not repeated. The report will help to improve on progress already made in that regard. Since 2011, €15 billion of burden-sharing has been imposed on subordinated bondholders. However, as the Minister has stated on numerous occasions, the ECB and EU Commission were opposed to its use in respect of senior debt. The Minister for Finance, Deputy Noonan, set out to the banking inquiry that the then ECB President, Jean-Claude Trichet, was clear and spoke in graphic terms of what he saw as the consequences of Ireland burden-sharing with senior bondholders. During the banking inquiry, the Minister made it clear to Deputy Higgins that he was never threatened. He stated:

I was never threatened that they'd withdraw ELA or assistance to the Irish sovereign but, and you'd well know from your experience here, in saying that Ireland would be treated as a country in default and a bank would be treated as a bank in default, the implications of that to me were clear. ELA could be suspended. ELA was always temporary.

The Minister for Finance has set out on numerous occasions that the Government considered burden-sharing in the winding down of IBRC - comprising Anglo Irish Bank and Irish Nationwide - but was prevented due to the ECB's unwillingness to provide the necessary support to allow such an action to take place, which is to say emergency liquidity assistance. However, it must also be remembered that as a Government, we were aware of the risks of burden-sharing with senior bondholders. Indeed, the Minister stated prior to the 2011 election that no action could be taken without ECB support. To be very clear, there has been no U-turn on the Minister's part. He was very clear on the matter. I worked with him in opposition in the context of the finance portfolio before the 2011 general election and he was very clear that this would not happen without ECB support. As such, I do not like the way people try to rewrite what he said. He stressed on numerous occasions and was very clear where he stood before we came into government and he did not change his view on taking office. People try to be selective in picking bits out of manifestoes or in recounting what was said. However, I know what was said. I was there beside him at the time and it is all on the record. To be clear, the Minister did not perform a U-turn in this regard.

The Government's banking strategy was announced to the Dáil on 31 March 2011. It set out that the Government was aware of the very real risks of imposing losses on senior bondholders in the banks that would have to finance economic recovery. Unfortunately, some Deputies are confusing threats of action with the consequences of action. It is important to remember that the Government's actions and negotiations from 2011 to 2013 led to vital successes which paved the way for our successful exit from the EU-IMF programme of assistance. More importantly, however, these successes included the promissory note arrangement, which reduced the deficit by over €1 billion annually. They have also reduced the State's cash borrowing requirements by €20 billion over the next ten years.

Such an arrangement would not have been possible without ECB support.

Some people have questioned whether the Minister for Finance, Deputy Noonan, and the Taoiseach made the right decisions or were tough enough in the negotiations with Europe. The record speaks for itself. While in charge of this country over the past five years, those two gentlemen made the right call on every decision on which card to play, when to negotiate and what deals to push for or accept. Their judgment has been proven correct by the way in which the economy has turned around. Ours has been the fastest growing economy in the past two



years and will probably remain so in the year ahead. More important than the full economic recovery has been the jobs recovery. Unemployment, which was at 15% when we entered office and was predicted to reach 20%, is now below 9%. Indeed, it is probably closer to 8%. This proves that they made the right decisions. All of us accept that we have only gone part of the way towards ensuring that the recovery reaches everyone's house, given the fact that there is still some unemployment, but we want to deal with that. This is what we mean when we say that we want to use proven policies and plans to keep the recovery on its path.

Deputy Ó Feargháil stated that the Government was beginning to make the old mistakes. That was an unfair charge. The Ministers, Deputies Noonan and Howlin, who are in charge of the Departments of Finance and Public Expenditure and Reform, respectively, have been clear about their work, prudent in everything they have done and, unlike previous Governments that used to spend all of the money they could find when nearing an election, kept expenditure well under growth rates. The Ministers have been careful with resources.

There is a commitment to remove the USC as the growing economy allows. It is a Fianna Fáil-imposed emergency tax, but not a permanent one. We have started in the right way by gradually reducing the USC in the past two budgets. This will continue over the next five budgets. It is wrong to claim that this is a return to the old ways. Instead, an emergency tax is being removed gradually as the economy allows and when it can be replaced with growth. This is the key point.

The Government welcomes the committee's report and congratulates all of its members on their considerable efforts. I commend the report to the House.

**An Leas-Cheann Comhairle:** If I could have a minute, I know that many Members are saying their goodbyes today. I would like to join in wishing them all the very best and to say it has been a privilege to serve the people of east Galway for almost 41 years in the Dáil and Seanad Éireann. It was also an honour to be proposed as Leas-Cheann Comhairle five years ago. I thank the Ceann Comhairle and the Acting Chairmen. I thank all Members of the House for their co-operation. I thank the staff of the House and the private secretary and two parliamentary assistants in my office. I thank my family and, above all, my constituents, who elected me in a by-election, nine general elections and three local elections. To all of you, mo mhíle buíochas agus go raibh míle míle maith agaibh go léir.

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I thank and congratulate the Leas-Cheann Comhairle on a job well done and a terrific electoral record.

### **Message from Seanad**

**An Leas-Cheann Comhairle:** Seanad Éireann has passed the Credit Guarantee (Amendment) Bill 2015, without amendment.

### **Criminal Law (Sexual Offences) Bill 2015 [Seanad]: Second Stage**

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I move: "That the Bill be now read a Second Time."

28 January 2016

I am pleased to present this Bill. Many Members on all sides of the Houses have been following its progress since its publication in September, as have many groups and organisations, some of which are joining us in the Gallery. Not only have they an interest in the Bill, but they worked with the justice committee and made substantial submissions some years ago. Present are representatives from the Turn Off the Red Light campaign, rape crisis centres, the Men's Development Network, Women's Aid and various other organisations that are supportive of and keen to see the Bill pass through the Houses and be enacted into law. I regret that we have not been able to get all-party agreement on progressing every Stage of the Bill today, as this important legislation needs to be progressed as soon as possible. For a variety of reasons, it spent longer in the Seanad than had been anticipated.

Whenever I refer to this Bill, I am inclined to note that it is the most comprehensive and wide-ranging sexual offences legislation to be introduced in almost a decade. By "wide-ranging", I refer to provisions that will strengthen our laws combating child pornography, new measures to combat the sexual grooming of children, the updating of laws relating to incest and indecent exposure and amendments to the Criminal Evidence Act 1992 that focus on the victims of sexual offences. I pay tribute to the significant amount of work that has been done by departmental staff on this Bill over many months. Detailed work has been done by the Office of the Attorney General on the many critical, difficult and technical issues that have arisen during the Bill's development. Some aspects also required detailed work by the Office of the Parliamentary Counsel, OPC, and my Department. There is considerable interest in and motivation and desire for completing the Bill.

The Bill's measures that focus on the protection of victims of sexual offences include the introduction of harassment orders prohibiting convicted offenders from contact with their victims. The Bill also makes provision for the repeal and replacement of section 5 of the Criminal Law (Sexual Offences) Act 1993 in respect of the protection of mentally impaired persons. That section has been criticised for adopting an overly paternalistic attitude and status-based approach to the protection of persons with mental disabilities. We had interesting discussions on this matter in the Seanad. The provision in the Bill adopts a different approach and looks to the capacity of the person to consent. It does not, however, presume that the existence of a disability implies a lack of capacity to consent.

The Bill criminalises the purchase of sexual services. Deputies are aware that, of all of the provisions in the Bill, these have generated the most debate. I am, however, convinced that they are necessary to tackle the exploitation associated with prostitution.

The Bill's provisions, which I will outline in more detail, are the culmination of a long process and wide consultation. As well as implementing the recommendations of a number of Oireachtas committees, the Bill brings Irish law into line with our international obligations. Regarding the provisions amending and updating the Sex Offenders Act 2001, I assure Deputies that the legal issues that arose during the Bill's drafting, as well as the need to update the provisions to reflect operational advancements, have been the primary cause of delay. Many of these matters are now resolved and the relevant provisions can be tabled as separate legislation amending the 2001 Act.

Given the wide-ranging nature of the Bill, I do not propose to outline every aspect and detail, but I will draw the attention of the House to its main proposals. The provisions in Part 2 that address the sexual exploitation of children are among the most important criminal law provisions being introduced. We must take every step possible to combat and target those who engage in

the sexual exploitation of children or in those activities that support and promote said sexual exploitation. Unfortunately, there is far too much such activity nationally and internationally. While we already have significant legislation in place to target those who prey on children, the provisions under Part 2 are a further step. Contained in this Part are measures that strengthen existing law in the area of child pornography and create new offences relating to child sexual grooming that focus on those who use modern technologies to engage with children with the ultimate purpose of sexually exploiting them.

I acknowledge that matters addressed in Part 2 were also the subject of a Private Members' Bill introduced by Deputy Corcoran Kennedy. That Bill and the provisions before the House today have the shared goal of removing any gap in the law that can be exploited by those who would prey on children for the purpose of sexually exploiting or corrupting them. We know the history of this behaviour in this country. As I stated, it is far too common both nationally and internationally. The vast majority of people can hardly believe it when they hear this activity is still happening, that it is possible, and that children are groomed in one country and exploited on the Internet for the purposes of predator rings around Europe or for trafficking. Turning to Part 2 of the Bill, section 3 contains an offence of obtaining or providing a child for the purpose of sexual exploitation. This offence builds on the existing offence of sexual exploitation under the Child Trafficking and Pornography Act 1998. With regard to paying a child or another person for the purpose of sexually exploiting a child, the provision is clear that such would include "any other form of remuneration or consideration" other than a monetary form. For example, the giving of a present to a child would fall under the provision of this section. The section also criminalises offering a child or obtaining a child without reference to a monetary or other form of remuneration. In order to target, at the earliest possible point, any intention to exploit a child, it is important that the law set out in detail those initial acts or steps that a predator may take to gain access to a child. What constitutes sexual exploitation is defined in section 2 and includes engaging a child in prostitution or child pornography, the commission of a sexual offence against the child or causing another person to commit such an offence. In line with the offence of sexual exploitation under the 1998 Act, and the requirements of an EU directive on combating the sexual abuse and sexual exploitation of children, the offences targeting these pre-emptive steps to the exploitation of children apply to children up to the age of 18 years. Section 4 closes a possible gap in existing law in regard to the sexual assault of children. Under the law as it stands, a child under the age of 15 years cannot consent to an act that would amount to sexual assault. While the touching of a child would amount to sexual assault, this section clarifies that a person who invites a child to touch him or her or another person is committing an offence in the context in which we are speaking. The penalty, of up to 14 years, is the same as for sexual assault. Sections 5, 6, 7 and 8 outline offences connected with the sexual grooming of children. Sections 5 and 6 provide for offences relating to sexual activity in the presence of a child or causing a child to watch sexual activity. Familiarising children with such activity or material can take place during the early stages of the predatory process leading to more serious forms of child sexual exploitation. Let us be clear that we are speaking about the development of a predatory process that is intended to lead to the sexual exploitation or grooming of a child. Section 7 outlines an offence that targets the point at which initial contact has been made with a child by a person intent on the sexual exploitation of that child. The offence arises where the person then meets the child or makes arrangements to meet the child. Again, this targets activity prior to actual exploitation of a child. Given the way in which technology is now used, we know this is precisely what happens in the steps leading up to the exploitation of a child. Section 8 contains two new offences addressing the use of modern communication technologies in the grooming and exploitation of children. Modern communication technologies and social

media generally are incredibly useful tools for everyone. However, children and young people, in particular, can be very vulnerable to unwanted and seemingly innocuous contact by those who may prey on them. The offence under this section is an acknowledgement of that very real risk. All the evidence of police forces here and internationally shows this is a reality. The offence criminalises the initial stages of grooming where communication, such as communication through the Internet, is the first step in facilitating the sexual exploitation of children. Section 8 offers further protection to children from unwanted advances by including an offence of sending sexually explicit material to a child by mobile or Internet communication. The seriousness of these offences is reflected in the potential penalties that may be imposed, that is, penalties of between ten and 14 years. Sections 9 to 14 amend the Child Trafficking and Pornography Act 1998. There are already significant offences under Irish law relating to child abuse material or child pornography, as defined under the 1998 Act, and the measures in this Bill strengthen those provisions. In terms of new offences, recruiting or causing a child to participate in a pornographic performance is now a specific offence as is attending a live pornographic performance, including viewing such by means of information and communications technology. I draw attention to the provisions in sections 16 and 17 of the Bill, which provide for offences of a sexual act with a child below the ages of 15 and 17, respectively. These offences replace the defilement offences under the Criminal Law (Sexual Offences) Act 2006. There are two notable amendments to the existing offences. First, there is a change in regard to the defence of “mistake as to age”. I am very pleased we have been able to include this. Under the 2006 Act, an accused could rely on a defence of honest belief as to the age of the complainant. This is a subjective test requiring the accused to prove that he or she honestly believed that the other party had not reached the specified age. Under this Bill, the defence will be one of reasonable mistake as to the age of the complainant. This is an objective test under which the court shall consider whether, in the circumstances of the case, a reasonable person would have concluded that the child had attained the required age. The second issue I would like to highlight is the recognition in the Bill of under age, consensual peer relationships through the introduction of a “proximity of age” defence. Under this provision, a person charged with an offence of engaging in a sexual act with a person between the ages of 15 and 17 years can rely on a defence where the act is consensual, non-exploitative and the age difference is no more than two years. Part 3 of the Bill contains the offence which will replace section 5 of the Criminal Law (Sexual Offences) Act 1993, which I mentioned earlier. Under that section, it is an offence to engage in an act consisting of sexual intercourse or buggery with a “person incapable of living an independent life or of guarding against serious exploitation”, regardless of whether the person consents. The offence facilitates prosecution in that there is no need to prove lack of consent. However, it does not make allowances for the fact that a person who may need assistance on a day-to-day basis may, nonetheless, be capable of giving consent to a sexual act and, in this respect, it fails to respect the autonomy of individuals based solely on their status rather than capacity. The new offence under section 21 of the Bill moves away from the status-based approach of the 1993 Act. In order to identify the persons who require protection, a functional test as to the capacity of a person with a mental or intellectual disability or a mental illness has been adopted. Under the provision, an offence will arise where a person engages in a sexual act with a person whom they know lacks the capacity to consent to the sexual act by reason of a mental or intellectual disability or mental illness. This provision seeks to strike the necessary balance to ensure that the appropriate protection is available to those who need it while respecting the full participation in society of persons with disabilities. Part 4 of the Bill deals with the criminalisation of the purchase of sexual services and, as I am sure Members are aware, this is a matter that has been the subject of considerable debate both inside and outside these Houses,

and indeed beyond this State. The two offences contained in the Bill — the first being a general offence of paying to engage in sexual activity with a prostitute and the second being the more serious offence of paying to engage in sexual activity with a trafficked person — are the result of considerable and extensive public consultation by my Department and by the Oireachtas Joint Committee on Justice, Defence and Equality, which recommended similar proposals in 2013. In deciding to put forward these provisions, I have considered all sides of the debate. I have considered the experience of those states that have introduced similar measures and those states that have addressed trafficking and prostitution in a different way. First, let me be clear on what these provisions do. It will be an offence for a person to pay, offer or promise to pay a person for the purpose of engaging in sexual activity with a prostitute. The person providing the sexual service, the prostitute, will not be subject to an offence. The purpose of introducing these provisions is primarily to target the trafficking and sexual exploitation of persons through prostitution. Both the Council of Europe and the European Parliament have recognised the effectiveness of the criminalisation of the purchase of sexual services as a tool in the fight against human trafficking. However, even to leave aside this unquestionable objective, there is undoubtedly evidence of wider exploitation of persons involved in prostitution beyond those trafficked, such as those coerced or otherwise forced, through circumstances, to engage in the activity. The most direct way of combating this form of exploitation is to send the message to those who pay for these services and ignore the exploitation of the women and men involved that their behaviour is unacceptable and supports the exploitation of others.

There are many aspects to the debate on these provisions which I expect will be raised, including issues regarding the impact of these provisions on the safety, health and well-being of those who work in prostitution. We must develop a range of support services for women who wish to move out of prostitution. There are concerns that these changes will drive prostitution further underground, and an argument is made that women and men can freely and voluntarily provide these services without experiencing the exploitation I believe is widely associated with prostitution. As I stated, I listened to all sides of the debate and I am convinced that targeting the exploitation associated with prostitution requires targeting those who demand such services.

Part 5 modernises and restates the law regarding incest. Part 6 provides for a number of amendments to the Criminal Evidence Act 1992 which are designed to support and protect victims of sexual offences during the criminal trial process. It includes measures to spare child victims of sexual offences additional trauma during the giving of evidence. Provision is also made to prevent a person accused of a sexual offence from personally cross-examining a person under the age of 14 years unless the interests of justice require such cross-examination. The relevant section includes a number of other safeguards.

Section 38 provides for the disclosure of third party records in certain trials. The appropriateness of the disclosure of such records will be the subject of a pre-trial hearing and any disclosure will, while respecting the rights of an accused to a fair trial, take account of the right to privacy of a victim of a sexual offence. Only records, or parts thereof, which are necessary for the accused to defend the charges against him or her should be disclosed.

Part 7 amends existing jurisdiction legislation in order that the provisions which allow the prosecution of offences committed outside the State by citizens of the State or persons ordinarily resident in the State will be extended to a number of the offences introduced under Parts 2 and 3. A number of other changes are made in section 44.

Section 45 introduces harassment orders, which will be an extremely helpful new mecha-



nism. A harassment order may be imposed where a court is satisfied that the offender has behaved in such a way as to give rise to a well-founded fear that the victim may be subject to harassment or unwanted contact by the offender such as would give rise to fear, distress or alarm or amount to intimidation. Such cases, which we hear about all too often, will be covered under the new harassment orders.

Deputies will agree that the provisions of the Bill constitute a significant step forward in targeting those who would abuse children and offer some further protection to victims of sexual offences. I thank all Members and the many groups which have taken an interest in the legislation, which is a reflection of advances in technology, research, experience and debate. Let us not forget that its purpose is to strengthen substantially the law to target those who target our most vulnerable, namely, our children, and to send a message to all victims of sexual offences that we recognise the unfathomable harm and trauma inflicted upon them and support them.

**Deputy Niall Collins:** I am pleased the House is discussing this Bill. I share the Minister's regret that it has not been possible to secure all-party agreement to pass all Stages today. The groups campaigning on behalf of victims of sexual offences have shown great dedication to their cause, and it is a matter of concern to all concerned that the legislation may not be enacted prior to the dissolution of the Dáil. I hope the Bill can be passed early next week, although I accept the matter is not in the Minister's hands. We can only play our part by assisting her.

I, too, pay tribute to the many organisations involved in this issue. They have done a major service by informing and briefing legislators about the issue and providing us with background information. I also pay tribute to a number of women who were forced to work as prostitutes. It was a horrific experience listening to their testimony and great credit is due to them for meeting Members, both privately and publicly. I attended a private briefing session they gave in Buswells Hotel and they also appeared before the Joint Committee on Justice, Defence and Equality. Many of them have also participated in documentaries and current affairs programmes such as RTE's "Prime Time".

It is often said that prostitution is the oldest trade in the world and people tend to laugh off the issue with a little bravado. The brouhaha associated with it does not cut any ice with me and many others. As I have consistently stated, organised criminality lies behind prostitution and people are making large, illegal profits on the back of a form of slavery and coercion. I was particularly struck by the testimony of a witness who pointed out that the younger a prostitute is purported to be, the busier he or she will be. Men, women and children are involved and it is high time we addressed the matter. My party naturally supports the Bill.

In the short time available to me, I propose to outline some of the concerns that have been brought to my attention and, I am sure, that of the Minister. I hope they will be addressed during the passage of the Bill. The Irish Society for the Prevention of Cruelty to Children welcomed the Bill as a wide-ranging reform that aims to offer greater protection to children. However, it expressed concern about the apparent omission of risk assessment guidelines and provision for post-release supervision of sexual offenders. This is one of the key components of ensuring children and members of the public are better protected from offenders who may seek to prey on them. I ask the Minister to address that issue in due course.

The National Women's Council of Ireland also welcomed the publication of the Bill. It is concerned, however, that the legislation contains significant gaps in terms of providing protection for victims of sexual violence. While the NWCi acknowledges that the Bill introduces

many important and much-needed reforms, especially for children, it believes that significant gaps remain, particularly in the provisions on the protection of women who are victims of sexual violence.

The One in Four organisation highlighted the issue of protection from disclosure of counselling notes during a criminal trial. Under the Bill, an alleged abuser will no longer be able to seek disclosure as part of a fishing expedition or in an attempt to discredit the alleged victim and will have to provide clear reasons for the production of counselling notes. The organisation believes counselling notes should be completely excluded from criminal trials. Nonetheless, it welcomes the measures as a positive step towards complete privacy in respect of counselling notes.

I met Mary Flaherty, a former colleague of the Minister and the director of the CARI Foundation, a leading voluntary organisation with a proven track record in providing child-centred specialised therapy and support for children, families and groups affected by child abuse. While welcoming the move towards establishing a clear statutory framework for the duty of disclosure in criminal cases, Ms Flaherty raised issues about the disclosure of therapy notes of children who have experienced sexual abuse. She pointed out that for therapy to be effective and child centred, a private space is required for a child to explore sensitive issues without fear of the information being used for any other purpose. She also noted that in cases where confidentiality cannot be assured, the core undertaking of therapy is undermined at a very fundamental level. The disclosure of such a record, she continued, can also lead to further psychological distress and potential re-traumatisation for the child, especially as the person who has sexually abused the child can have access to his or her more sensitive and private information.

Concerns have also been raised regarding cross-examination by accused persons. The Bill prohibits the cross-examination of a person under 18 years of age by the accused person in a criminal trial. This is welcome. However, many believe that this exclusion should be extended to all victims of sexual crime, as is the case in England and Wales. A representative of One in Four has asserted that it is horrifying to think that a victim of sexual violence should be subjected to a verbal assault in court by the person who violated him or her in the first place, and that this must change.

I alluded to the criminalisation of the purchase of sex at the start. Obviously this is contained in the Title of the Bill. The Minister is aware that we fully support it. The Children's Rights Alliance is on board, as is the Irish Medical Organisation. I wish to put on the record that the Fianna Fáil party has consistently supported efforts to eradicate prostitution in Ireland as well as efforts to put an end to human trafficking, which the sex industry fuels. I remind people that in government we passed the Criminal Law (Human Trafficking) Act 2008, which criminalised the trafficking of human persons for the purposes of sexual exploitation.

The last item I wish to raise relates to the need for a new Sexual Abuse and Violence in Ireland report. The members of Fianna Fáil are keen to raise this. It is not covered in this legislation but it is a connected issue. There is a need to commission another report on sexual abuse and violence in Ireland. My colleague, Deputy Kelleher, raised the matter in November. The original SAVI report was published in 2002. It was the foundation on which the Ferns, Ryan, Murphy and Cloyne reports were delivered. Representatives from the Dublin Rape Crisis Centre and others believe that a second SAVI report should be conducted.

I am delighted that this legislation has been introduced. I sincerely hope that it helps to

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bring closure for the many people who were forced into being prostitutes or sex workers against their will. Moreover, I hope it delivers another tool in the armoury of An Garda Síochána to focus on gangland criminality, which is behind the trafficking of people for sexual exploitation.

Debate adjourned.

## **Topical Issue Debate**

### **Exceptional Needs Payment Applications**

**Deputy Bernard J. Durkan:** I thank the Ceann Comhairle's office for allowing me this opportunity and I thank the Minister of State for coming to the House to respond. This issue relates to a question tabled on 13 January last and, prior to that, in July of last year as well. It relates to the circumstances of a case in which it was determined that a person in County Kildare did not qualify for an exceptional needs payment following the death of a spouse. The death was preceded by a long family illness, which was obviously a terminal illness. Given that both spouses were in receipt of invalidity or disability payments, they had no other income for a long time. After a protracted illness, of course the family finances were already at a stretch. It was thought that an exceptional needs payment would be appropriate. This is the payment that is now deemed to be available to people who previously would have been able to apply for a funeral or bereavement grant. The application was refused on the basis that the funeral bill had already been paid. Indeed it had, because the person concerned was keen to ensure that she paid the bill. The person made an appeal to other family members, all of whom had their own commitments, in order to discharge the bill. It is expected that the person who paid the bill will have to repay the family members. That is understandable because they gave her help at a critical time. I am asking that this be done and that this case be looked at again in a new light. I know the Department of Social Protection is an excellent Department; I have had experience of it myself. Generally speaking, in 99% of cases, those involved do a thorough investigation and come to a conclusion that is in keeping with the facts. However, I am unsure in this case because not only was the application refused but a subsequent review of the case was undertaken and it was intimated to the applicant that the Department wanted to interview people who had paid or offered a short-term loan facility to pay the bill. I am uncertain about the welfare service. In fact, it was indicated that the Department would seek to ascertain where those involved got their money in the first place and whether they were in receipt of a welfare payment. I was disappointed to learn that because that is not the way the system is supposed to work.

I have no wish to delay the debate this evening. This is an exceptional needs case. I believe that the person is absolutely genuine and has done everything right. The person could easily have not paid the bill and left it sitting there, as many people do, unfortunately. However, she is a very conscientious lady. She paid her bill and would not leave it as a blot on her husband's name by allowing the bill to remain unpaid. Will the Minister of State please examine the matter to see what can be done as a matter of some urgency? This lady is out of pocket to the extent of the amount of money in question since last July.

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):** Indeed, the Department makes exceptional needs payments in respect of funeral expenses. There is no better Deputy than Deputy Durkan to understand the constraints and the informa-

tion that it is necessary to provide in this regard.

For some time I have been concerned about the difference in funeral expenses throughout the country. I remember looking at the matter closely. Deputy Durkan's county of Kildare is on the higher band of payments, which averaged €1,853 the last time I looked at the information. There is an opportunity for the next Government to look at the cost of funerals throughout the country.

I believe people are very vulnerable when they lose a loved one. There are inclined to go to the first funeral undertaker or the undertaker who deals with a given town within a given county. The Deputy outlined to me previously how there was only one undertaker who covered a particular part of Kildare, while another undertaker dealt with a different part. There is not always an opportunity, especially when someone has lost a loved one, to go around and ensure that they are getting the right price. It is very difficult if a person has lost a husband or a child to get those costings.

The answer to the specific question was outlined to Deputy Durkan in a reply to a parliamentary question last October. The reply outlined that the person concerned undertook to provide written confirmation of the loan she received to pay the bill. This document remains outstanding to date, but, on receipt of same, a decision on the application can be made. If additional information or documentation has been obtained, I ask the Deputy to supply it as soon as possible and I will ensure the local officer reassesses the claim.

I again thank the Deputy for raising, through this case, the cost of funerals. Sometimes people, whether they are in receipt of an exceptional needs payment or are paying expenses out of insurance policies or their own resources, can be exploited during what is a very sensitive time.

**Deputy Bernard J. Durkan:** I thank the Minister of State. A lot of documentation has already been submitted, but it was not acknowledged and I do not know where it went. To be fair to the funeral services in Kildare, I understand about six different undertakers are spread between various towns. They interlink and cross over, which means there is competition. They provide services at prices considerably lower than those in adjoining counties, including Dublin. I would like that to be recognised.

The purpose of the welfare services in this situation is not necessarily to determine the costs incurred by the individual but rather his or her circumstances. If the circumstances need any clarification, what he or she received in the previous year should be taken into account. The person concerned was in receipt of a set social welfare payment, information on which is already in the hands of the Department of Social Protection, and was in receipt of the payment for the previous two years. There were long-standing nursing requirements in the case of this particular person, who was obviously seriously ill over quite a long time, and there were costs associated with that.

I have dealt with many such cases, but I have never dealt with a more deserving case where an application was point-blank refused. If the Minister of State had dealt with the case, he would have felt equally aggrieved. I would like to see an urgent review carried out to ascertain the extent to which the person's actual means were referred to. Suggesting we go elsewhere to find out where the family got the money to pay the bill they felt was a legitimate cost is sidestepping the issue.

**Deputy Kevin Humphreys:** The Deputy knows the rules and regulations around this. He

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said a substantial amount of documentation was submitted but he is not quite sure where it is. If the file is with him, he can send it directly to my office and I will ensure a review is carried out. From looking at the information I have, it seems outstanding information was to be provided. If that could be provided, it would certainly help to expedite the case.

I did not mean to reflect on undertakers in Kildare. In his contribution the Deputy said he is aware of undertakers in counties adjoining Kildare which have substantially higher costs. Figures I saw some months ago seem to suggest that is the case throughout the country. Deputy Dowds has on several occasions referred to the cost of funerals and graves in Dublin. At such a time in the life of a wife, husband or family, a person is not inclined to question costs. Rather, he or she is inclined to go to a service with which he or she has a relationship or the undertaker based in the town or locality and pay whatever is asked.

As legislators we have a certain amount of responsibility to protect people when they are at vulnerable stages in their lives and ensure they are not exploited. The next Government should review the issue. I am not suggesting that every undertaker overcharges, but some may be exploiting people during a very sensitive time. Given the difference in the figures throughout the country, there is obviously quite a different spread of funeral costs. If we can protect families in those circumstances, we have an obligation to try to do that. I ask the Deputy to supply me with the file and we will re-examine the case.

### **Redundancy Payments**

**Deputy Joanna Tuffy:** I wish to raise with the Minister of State, Deputy Humphreys, the appointment of a liquidator to Xtra-vision yesterday and the impact this has had on the staff of the company. It was announced before Christmas that a number of stores would close and that staff would be let go. Staff understood they would receive their redundancy payments immediately. The appointment of a liquidator means the situation has changed.

Staff are worried about how long they will have to wait before they receive their redundancy payments. I understand some staff learned only yesterday that stores would close and did not have advance notice. It was a major shock for them. The issue has been raised with me and there are other such cases. I am concerned about how staff in such situations are treated. The appointment of a liquidator can lead to fear and uncertainty on the part of staff at a time when they need to be informed in advance of what is happening, told about their entitlements and so on.

I would like the Minister of State to outline the entitlements of the staff in terms of redundancy payments, the timeframe involved and whether anything can be done to expedite their payments. If there is any delay in payments, it could have a major impact on families' outgoings. Will the Department of Social Protection, in particular through local offices such as those in Clondalkin which is based in my constituency where there is a store, make arrangements to give assistance and advice to the staff concerned? Will their jobseeker's allowance claims be expedited in any way or will supplementary welfare payments be made in cases where the need arises? What special arrangements are being made to assist the staff in this situation?

**Deputy Kevin Humphreys:** I thank the Deputy. This issue arose on Leaders' Questions and the Order of Business today. It is a very difficult time for the staff who have lost their jobs in this manner. My heart goes out to them. It is always very difficult for families when redun-



dancy crosses the doorsteps. I thought of it very clearly today, when I read in a newspaper what had happened to the workers.

My colleague, the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, has responsibility for all matters to do with company law, the appointment of liquidators and the execution of the liquidation process. The priority of my Department is to ensure workers receive their statutory entitlements. Employees who lose their jobs due to the liquidation of their employers are entitled to statutory redundancy payments and other wage related payments due at the time of liquidation. In the first instance, the staff of Xtra-vision who have lost their jobs as a result of the closure should contact the liquidator to ensure they receive their statutory redundancy and wage related payments.

My Department will deal promptly with applications to do with redundancy and insolvency payment schemes in respect of the former employees of Xtra-vision when they are received from the liquidator.

*5 o'clock*

The employees should also contact their local Intreo office where Department staff will advise them on jobseeker's payments and other supports. They will also provide advice and supports on returning to work to all those affected by the closure of Xtra-vision. If the Deputy is aware of individual cases that have fallen through the cracks, so to speak, she should not hesitate to contact the Department directly but I have found that in such cases, the Department reacts swiftly and deals sympathetically with the applicants who are going through a difficult time in losing their jobs. Some of them may have been working for Xtra-vision for quite some time and, therefore, it is a difficult situation for them. Many of them may not be sure of the benefits they are entitled to but the Deputy can rest assured that my Department will respond appropriately.

Unfortunately, within the Dublin region, many of the employees may be located across the city. In rural areas outside Dublin, we can deal with these cases on a one-stop-shop basis but in a major urban area like Dublin, the employees are located across the city and, therefore, it is much easier for them to access their local Intreo office. In the first instance I would encourage them to submit their applications and discuss their situation with the staff in the Intreo office. The Deputy will find that the staff in the Intreo offices will respond appropriately and do everything they can to assist. They will explain clearly all the benefits to which these employees are entitled. We will do our best to ensure that any issue is resolved in a speedy manner but if there are particular issues that are not being resolved or cases of someone falling through the cracks, the Deputy should not hesitate to come directly to my office.

**Deputy Joanna Tuffy:** As I will not have an opportunity to speak again, I want to take the opportunity to thank the Acting Chairman, the Ceann Comhairle, the staff and the broadcasting services. I wish my party colleagues and all Deputies the best of luck in the future, including in the upcoming election.

I thank the Minister for his reply, which I did not get a copy of, but is there a timeframe in terms of people submitting their application for the redundancy payment? What is the normal timeframe for processing those applications? I appreciate what the Minister said about the individual cases. That should happen in practice but it does not always happen. I know that

great assistance is generally given by staff in Intreo offices but can the Minister do anything to raise awareness among staff in the offices closest to the Xtra-vision stores that are closing that there will be a need to give assistance to the former staff of the stores? I accept there are many stores involved but it should be possible to identify particular social welfare offices whose staff could be informed that people will be in need of assistance. It is to ensure there is an awareness among the Department of Social Protection staff that this will happen and to be prepared for it.

**Deputy Kevin Humphreys:** I thank the Deputy for her question. She can rest assured that there will be an awareness of that within the Intreo offices, certainly of the 350 people who lost their jobs in the Xtra-vision stores. The priority of the Department is to ensure that the workers receive their statutory redundancy and other wage related payments due at the time of liquidation. I give the Deputy an undertaking that we will make sure that the staff in the local Intreo offices across the city are aware of Xtra-vision's situation and we will work as best we can in that regard. I cannot give the Deputy an exact timeframe for processing the applications. Every application can differ slightly in terms of the speed with which the information is provided by the client but she can rest assured we will do everything to speed up the process to ensure they get what are their statutory rights.

### **Hospitals Funding**

**Deputy Charlie McConalogue:** I thank the Ceann Comhairle's office for selecting this Topical Issue on what could be the last day of the Dáil. It is particularly important that we get the opportunity to discuss it because the news that there is no funding planned as part of the capital investment programme for Ramelton Community Hospital, St. Joseph's Community Hospital, Stranorlar and Lifford Community Hospital is exceptionally concerning.

I welcome the fact funding is to be granted to a number of community hospitals across County Donegal to ensure they are brought up to the Health Information and Quality Authority, HIQA, standards. For example, Carndonagh Community Hospital is to receive €2.5 million, Buncrana Community Hospital is to receive €2.9 million and a new community hospital is planned for Letterkenny to increase capacity. However, it is exceptionally concerning that when that announcement of capital investment was being made by the Minister of State, Deputy Kathleen Lynch, it was made clear that there is no planned expenditure to ensure that the three hospitals I mentioned, namely, Ramelton, Stranorlar and Lifford, can be brought up to the required standard also to ensure they can continue operating as long-term residential nursing care units. I ask the Minister, Deputy Varadkar, to give a guarantee to the public today that they will get the investment required to ensure they can continue to operate.

It is essential that we see capacity increase in Donegal in terms of long-term nursing residential care units. The population of the county is increasing and it is due to increase rapidly in the next few years. Instead of increasing capacity what is planned for in this capital investment plan will see three hospitals being shut down and that capacity replaced by a new community hospital in Letterkenny, which instead should be increasing capacity to cater for future needs.

I have raised this issue to give the Minister an opportunity to give that guarantee to the public in Donegal, in particular to the people who are served by the Ramelton, Lifford and Stranorlar community hospitals, that those hospitals will be protected into the future and funded to ensure that can be achieved.

**Deputy Pearse Doherty:** I echo what Deputy McConalogue has said. It is important we represent the best interests in Donegal and this cross-party approach is welcome. There is huge fear in these communities as a result of the announcement made two days ago. The announcement of that level of investment should have been positive news in terms of refurbishing the existing community hospitals to bring them up to HIQA standards so that they are able to be licensed post-2021 but it is not a positive news story in certain areas. The community will not stand for the ending of long-stay beds in Ramelton, Lifford and St. Joseph's community hospitals. I want to be clear because we have been speaking to people working within those institutions and communities on the ground and they will not allow an end to long-stay beds in the community hospitals in those areas. We are asking the Minister that instead of generating fear and panic about those three institutions he would confirm to this House that long-stay beds will remain open in those three areas and will not be closed down once the new facility in Letterkenny opens in 2018, which is the projected date.

There is also another problem in Donegal. We are already at peak capacity in the county. I have seen internal documentation within the Health Service Executive, HSE, which refers to people in long-stay beds going into hospital for routine surgery in Letterkenny General Hospital and when their surgery is complete and they have been released from the hospital, their long-stay bed is no longer available. Why is that happening? It is because we are already at peak capacity.

The HSE pointed out to me and to other Members four years ago that we needed 500 additional beds in the county within five years. We are now about a year away from meeting that target. We cannot accept closure of beds and facilities on a county-wide basis that have been operating for many years. We do not want to hear "if", "but", and-or "maybe" from the Minister. We do not want to hear about rehabilitative or step-down facilities, or respite care in these institutions. What we want to know is that the community hospitals in Lifford, St. Joseph's and Ramelton will have long-stay beds in the future, and those people who call these community hospitals their homes will be there for the foreseeable future, and that people from these areas will not have to travel for long-stay beds in the years ahead.

**Minister for Health (Deputy Leo Varadkar):** I thank the Deputies for raising this issue. I am taking the debate on behalf of the Minister of State, Deputy Kathleen Lynch, who is unavailable.

Public residential care units are a significant and crucial part of our services for older people. They provide more than 5,000 long-stay beds, amounting to approximately 20% of the total stock of nursing home beds nationally. The standard of care delivered to residents in these units is generally very good, but we recognise that many of our public units are housed in buildings which are no longer up to modern standards and some are very old indeed. For this reason, Deputy Kathleen Lynch, the Minister of State with responsibility for services for older persons at the Department, recently announced an extensive national programme of investment in public residential units, which will bring them into compliance with national standards by 2021 at the latest.

The plan provides for indicative Exchequer funding of more than €41 million for the counties in the HSE's community health care organisation area one, which include Donegal. A further €38.5 million has been identified for a possible public private partnership, or alternative funding mechanisms in the same area, with details of this to be finalised. The investment will see the provision of two new centres in Donegal, in Ballyshannon and Letterkenny. It will

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consolidate residential care bed capacity in the county and will provide an additional 25 beds in Ballyshannon. The development of a new 130 bed centre, centrally located in Letterkenny, is intended to ensure that bed capacity in the region, which includes Ramelton, Lifford and Stranorlar, is secured on a sustainable basis.

Given the requirement for additional services to provide for the needs of older people throughout the country, including in Donegal, there will also be an ongoing need for the provision of short-stay beds for rehabilitation, respite, step up and step down, all with a view to keeping older people in their own homes and communities for as long as possible. This is what our senior citizens want in the main.

Over recent years, the HSE has developed and extended community services, focusing in particular on older people who can either be cared for in the community or whose capability can be built up to allow community living. Given the highly developed community services already in place in Donegal, including home care, day care and other short-stay facilities throughout the county, the continuation and expansion of services will be a big part of future service provision in the area. It is in the context of this planning for the coming years that the use and purpose of the buildings in Ramelton, Lifford and Stranorlar will be considered, to ensure that an appropriate service is provided for older people living in their own communities in Donegal.

**Deputy Charlie McConalogue:** I thank the Minister for coming to the House to take this Topical Issue debate. However, I must say his response is in no way reassuring and leaves very much hanging in the air the scenario of these three hospitals being downgraded and closed. We need to see a guarantee that these hospitals will receive the funding required to ensure they are approved by HIQA and their beds continue to be provided in the local community.

I mentioned earlier how Ramelton Community Hospital has 30 beds, Lifford has 20 HIQA registered beds and St. Joseph's Hospital in Stranorlar has 78 beds. This amounts to 128 beds, and the new community hospital in Letterkenny is expected to have 130 beds. Despite the fact we have an unprecedented growth in our over 65 population, the capital investment plan announced by the Minister of State, Deputy Lynch, will not see additional capacity brought to the Donegal area and will fail to meet demographic demand.

It may have been an accident that these plans were announced during the week as part of the Minister of State's capital investment announcement, but it was no accident the information was there in the first place, indicating the plan is to replace these three hospitals and their beds with a new unit in Letterkenny, rather than to use the unit in Letterkenny to increase capacity in the county.

As we enter a general election, and on the back of what we have seen in recent weeks, with one reheated announcement of future funding after another, funding which was expected and had been announced in the past, what has happened here is that in the rush to put out this information the Government has let the cat out of the bag on its plans not to invest in Lifford, Ramelton and St. Joseph's in Stranorlar. I ask the Minister for a cast iron guarantee there will be investment in these hospitals and they will continue to have the number of beds they have at present so they can continue to provide the essential services they have provided for many years to their local communities.

**Deputy Pearse Doherty:** I say without fear of contradiction that I speak for the majority of people in the communities when I say they will not accept this. What the Minister has just

announced to the House is that these facilities will be considered in the context of planning for short-stay rehabilitative, respite, step up and step down facilities. What the communities want is long-stay beds kept in their area. This is what they want. People have been going to St. Joseph's for generations. It is what is colloquially called the county home. People will not accept this. We have heard spin from the Government that this is not what it means, although the Minister of State, Deputy Kathleen Lynch, made it very clear in her statement that long-stay beds in these three facilities are being replaced by the beds in Letterkenny. The Minister has just confirmed this to us.

I am asking the Minister, who is noted for his straight talking, to explain in plain English that the plan for St. Joseph's, Lifford and Ramelton is not the continuation of long-stay beds. This plan will be resisted. I will resist it, along with communities and front-line services. We need investment in beds. What is the net number of beds that will become available in the county? How will we deal with the crisis at this time where people are being turned away from long-stay beds in the county? People lose their long-stay beds when they go for a simple operation in Letterkenny General Hospital. We cannot afford to close beds in these communities. Will the Minister please listen to my call and the calls and pleas of the communities involved? Will he also spell out in very clear language the plan for long-stay beds in the three institutions in Lifford, Ramelton and St. Joseph's in Stranorlar?

**Deputy Leo Varadkar:** It is important to acknowledge that the Donegal model of having a large number of community hospitals in the county, with relatively well developed home-care and home help services, is a good model for the rest of the country. In addition to the ten beds provided in Letterkenny hospital, the model has helped us and is one of the factors which have allowed Letterkenny and Donegal to perform so well during this winter period. Letterkenny is one of the few places in the country where hospital overcrowding has reduced substantially on last year, which is evidence of the additional beds working and the strength of the community services.

The Deputies opposite may have the view this is the last ever announcement which will be made on investment in homes for elderly people. This is not the case. This is one announcement, and there will be future announcements in the coming months and years about the services. The points from the Deputies opposite on future capacity were very well made, and there will be need for additional capacity in Donegal and elsewhere. Most additional capacity in nursing homes is now provided by the private sector through the fair deal arrangements, and this is the case throughout the country. What the announcement was about in particular was replacing older facilities and bringing them up to compliance with HIQA regulations. This does not mean there will not be future announcements of future developments and future nursing homes and community hospitals being provided.

Specifically on Lifford, Ramelton and Stranorlar, I do not envisage they will be closed because of the reasons the Deputies stated, namely, rising demand. They will be needed. What will have to be worked out over the coming period is the mix of services to be provided. As the Deputies know, the standards for respite, short-stay and step up and step down facilities are different to those for long-stay facilities. It may very well be the case these units will have to be refurbished to allow them to continue to have long-stay beds and to provide for other needs, such as respite, short stay and step up.

Nobody in the House can give any cast iron guarantees because the Dáil will most likely be dissolved in the coming days and a new Government will be elected. I cannot give the Deputy



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any cast iron guarantees, nor can anyone else in this House offer such guarantees about the future with any level of honesty, because we do not know what complexion the future government will have. Suffice to say that what has been announced will be done. It is not intended to close any of these three units, but we will have to work out, in co-operation with the local HSE, how they can best be used and what mix of services will be there in the future.

### **Medicinal Products Availability**

**Deputy Robert Troy:** I thank the Ceann Comhairle for selecting this important topic today and I acknowledge the Minister's flexibility when I contacted his office earlier regarding this matter. I raise this issue because of a young lady from my constituency whom I know well. Back in 2011, she began to feel ill and to feel a numbness in her legs. Over the past number of years, she has gone through umpteen tests and examinations and many different diagnoses. Ultimately, she was diagnosed earlier this year with Degos disease. It is hard to believe that only a few short years ago this young woman ran the mini-marathon, and now she cannot walk without the aid of crutches. Her husband has had to give up work to act as a full-time carer. The family is more than complimentary of the level of care her consultant neurologist in St. James's Hospital, who has written requesting that the use of this drug be sanctioned in this woman's treatment, has provided. I will read some of the reply the consultant received from St. James's Hospital:

This is a rare life threatening disease and your patient has already suffered significant disability as a result of the disease process. Without effective treatment the likelihood is that your patient will have further central nervous system manifestation of disease such as minor, sub-massive or massive stroke, or may well develop bowel perforation, given that she appears to have endothelial manifestations on the serosal surface of her bowel. Either of these two complications would ultimately lead to her death.

It goes on to state:

[a]s you have reasonably identified, the manufacturer is not prepared to give you any information about "off-licence" use, or of any adverse effects that they may be aware of in this regard. Furthermore, the cost for this drug is prohibitive and would lead to significant adverse effect on the ability of St. James's Hospital to deliver care to very many other patients who are also the responsibility of the Hospital.

I speak quite sincerely to the Minister today. I believe he is a compassionate man. That is obvious from the career he chose in becoming a medical doctor. I have no doubt that he chose that career because he wanted to help people and save lives. Now that he is in an ideal position to help people and save lives, I ask him quite sincerely and genuinely to look at this case compassionately, with a view to sanctioning the care. When a consultant is making a recommendation for a treatment that has the potential to save the life of a lady who is only in her late 40s, we should make the necessary provisions available to try to save this young mother's life.

**Deputy Leo Varadkar:** I thank the Deputy for raising this issue. The Deputy will appreciate that I am not in a position to comment on the case of any individual patient, even where some personal details are already in the public domain. I have no access to patient records and am not permitted, by law, to make decisions about individual cases.

Soliris, or eculizumab, is an ultra-orphan medicine manufactured by Alexion Pharma and licensed for the treatment of two rare blood disorders. The drug is not licensed for the treatment of Degos disease in Ireland, nor is it licensed by either the European Medicines Agency or the US Food and Drug Administration. The licensing of pharmaceutical medicines is a matter for the Health Products Regulatory Authority, formerly the Irish Medicines Board, in Ireland and for the European Medicines Agency in the EU. It is not in my power as Minister for Health to license any pharmaceutical product. It is appropriate that such matters are dealt with by expert and impartial authorities established for this purpose.

Decisions to use unlicensed medicines are made by health care professionals and their patients through evaluating the efficacy and safety of the medicine and its potential to achieve better patient outcomes. In situations where an individual hospital is asked to approve or support the use of an unlicensed drug, the hospital will rely on professional evaluation of evidence supplied by the treating clinician before making a decision based on that evaluation. In any such evaluation, the health care professionals considering the matter may not support funding the prescription of a particular drug.

Where medicines are used for an unlicensed purpose, this is ideally done as part of a clinical trial. As Minister, I have no role in setting up clinical trials or selecting patients to go on them, and nor should I. In relation specifically to Soliris, in early 2015 the HSE decided to fund the provision of this drug for sufferers of two specific conditions for which it is licensed. At an individual cost of over €400,000 per patient per year, this drug is expected to cost the taxpayer approximately €8 million in 2016. Given these substantial costs, the director general of the HSE has put in place formal procedures to ensure that each case in which Soliris is used is the subject of advance authorisation. These arrangements would not permit the drug to be used for the treatment of a condition beyond the terms of the marketing authorisation and where evidence of clinical benefit has not been demonstrated.

It is open to a drug's manufacturer at any time to submit an application to the European Medicines Agency to have a product licensed for use for a specific indication. Once that drug is approved by the European Medicines Agency, the manufacturer can, if it wishes, submit an application for pricing and reimbursement to the HSE. I hope this clarifies the matter for the Deputy.

**Deputy Robert Troy:** The Minister knows far better than I that this is an extremely rare disease. I believe there are only 40 or 50 sufferers worldwide and this lady is the only one in Ireland. The Minister said: “[d]ecisions to use unlicensed medicines are made by health care professionals and their patients through evaluating the efficacy and safety of the medicine and its potential to achieve better patient outcomes.” The person who is treating this lady is recommending the use of this drug. The patient herself is willing to have this drug tested on her, because I understand six other people in the world have been treated by this. Three of the six are fully recovered, in two cases the disease has been left dormant, and in the final case the delay in administering the drug has resulted in death. My office contacted Alexium, the drug company, which has a base here in Dublin, and it advised of a compassionate drugs access scheme. I would love the HSE to accede to the request by consultant neurologist Dr. Siobhan Hutchinson and make the drug available. Failing that, at a minimum, can the HSE and the Minister and his Department support to the drugs company to fund this under the compassionate drugs access scheme?

**Deputy Leo Varadkar:** I am advised that eculizumab has been used to treat a small num-

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ber of Degos patients in highly experimental trials in the US. The results of these trials have been inconclusive, with some patients showing signs of improvement, some getting worse, and one patient dying while receiving treatment. There is no strong clinical evidence or research to support the use of this medicine for the treatment of Degos disease. It is not my decision as Minister to license or authorise medicines and under the HSE governance Act I am barred from making any directions in respect of an individual patient. From what I have read, the case for using this medicine seems very weak. If that changes or if new evidence emerges, it can be reconsidered by the relevant authorities.

I am not familiar with the compassionate access scheme. I will certainly undertake to examine how it works, but I imagine it would have to be based on some evidence that it would be effective in some way. I hear what the Deputy is saying about compassion. One thing we always have to consider in health care is opportunity cost and use of resources. Even in the richest country in the world, resources are limited and if one has €400,000, does one spend it on a drug for whose efficacy there is no evidence or on ambulance or maternity services? We know spending more money on things like ambulance and maternity services would definitely save lives.

The Dáil adjourned at 5.30 p.m. until 2 p.m. on Tuesday, 2 February 2016.