



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Business of Dáil . . . . .	2
Leaders' Questions . . . . .	2
Order of Business . . . . .	10
Proposal on Matrimonial Matters, Parental Responsibility and Child Abduction: Referral to Joint Committee . . . . .	20
Legal Services Regulatory Authority: Motion . . . . .	20
Ceisteanna - Questions . . . . .	21
Taoiseach's Meetings and Engagements . . . . .	21
Taoiseach's Meetings and Engagements . . . . .	25
UK Referendum on EU Membership . . . . .	31
Priority Questions . . . . .	34
Defence Forces Medicinal Products . . . . .	34
Defence Forces Medicinal Products . . . . .	36
Defence Forces Recruitment . . . . .	38
Defence Forces Representative Organisations . . . . .	40
UK Referendum on EU Membership . . . . .	42
Other Questions . . . . .	44
Overseas Missions . . . . .	44
Defence Forces Medicinal Products . . . . .	47
Naval Service Operations . . . . .	48
European Defence Capabilities . . . . .	50
Defence Forces Personnel . . . . .	53
Defence Forces Training . . . . .	55
Topical Issue Matters . . . . .	56
Topical Issue Debate . . . . .	57
Local Authority Funding . . . . .	57
Flood Relief Schemes Funding . . . . .	63
Motor Insurance Regulation . . . . .	65
Medicinal Products Availability . . . . .	69
Road Traffic Bill 2016 [Seanad]: Second Stage . . . . .	71
Message from Seanad . . . . .	92
Pharmacy Fees: Motion [Private Members] . . . . .	92

# DÁIL ÉIREANN

*Dé Máirt, 27 Meán Fómhair 2016*

*Tuesday, 27 September 2016*

Chuaigh an Ceann Comhairle i gceannas ar 2 p.m.

*Paidir.*

*Prayer.*

---

## **Business of Dáil**

**An Ceann Comhairle:** Before we commence the business of the day, I take the opportunity to update Members on the new equipment in the Dáil Chamber. The work on the new system has been completed and it has been tested. All systems are now live. We will be using the new electronic voting system from today and I understand Members were given a demonstration earlier today. I thank all those who were involved in the project - the OPW staff who worked on the wiring and made necessary adjustments to the Chamber furniture; the contractors involved in installing the sound system, the broadcasting equipment, the electronic voting system and the ICT equipment; the staff in our own ICT unit, the broadcasting unit, the Debates Office, the Journal Office, the superintendent's section, including the facilities management section and the ushers, all of whom were involved in the project, and, finally, the cleaners who took over when the project was finished and restored the Chamber to us in good order for the sitting today.

## **Leaders' Questions**

**Deputy Micheál Martin:** I welcome everybody back and I am delighted to see that it is all systems go for this Dáil session. It is less than two weeks to budget day and there are many issues that need to be addressed. I put it to the Taoiseach that it is essential that there be a realistic response to the Peter Cassells report on the chronic underfunding of third level education and the perilous state of institutes of technology and universities from a funding perspective as we try to prepare the country for the future in attracting investment and producing quality graduates in the years ahead. Core expenditure for each university student is down by 22% since 2011. The student-lecturer ratio has worsened dramatically from 1:15 to close to 1:20, which compares to an average of 1:14 across the OECD. Irish universities are declining in world rankings. Some institutes of technology are very close to trading insolvently and others are in dire financial straits and will need funding to keep them afloat. There has been little or no capital investment in third level institutions for some time. In a recent letter to the Taoiseach, which was signed by all university presidents, attention was drawn to the urgency of providing €30 million to €40 million for basic health and safety equipment in universities.

Apart from that, we clearly have more medium-term capital investment projects that will

be required in both the institutes of technology and the universities. Investment in education is central to our economic future. It underpins it and is the key differentiator between this country and other countries in terms of both attracting inward investment and developing indigenous companies to produce our own world class products and solutions for the world at large.

There are three clear options in the Cassells report. All options include a significant element of State funding. The first option is almost completely State funded. Option two is also State funded, with the existing student contribution remaining, and a contribution from employers through the programme for research in third level institutions, PRTLTI, international training fund. The third option is State funding along with a student loan system and deferred payment of fees. My personal view is that option two offers an immediate opportunity to respond. I put it to the Taoiseach very simply that this cannot be kicked down the road. This is something we must face up to in this budget because more than €600 million has been sought by the universities and the institutes of technology in the next five years. It is imperative that we make a realistic response to that in this budget, of the order of €100 million plus, to cover both strata at third level. I would appreciate if the Taoiseach will indicate whether he endorses and agrees with the Cassells report and whether the Government is prepared to respond in a realistic way to it in the forthcoming budget.

**The Taoiseach:** Tá fáilte roimh gach éinne thar n-ais. It is important to distinguish between two things. One is the requirement for short-term funding in respect of the third level sector and the other is in respect of the Cassells report which deals with the medium-term future of funding for third level institutions. Everybody can agree that the impact made by Irish students over the years has been quite extraordinary in many cases. Everybody can also agree that something needs to be done. In addition, everybody can agree that one cannot leave it and do nothing. It seems as if the disagreement is on where the money should come from. That is the reason the Minister for Education and Skills, Deputy Bruton, has looked at the issue in the longer term and is anxious to have the views of every Member through the Oireachtas committee.

In respect of the budget, which is a short distance away, the Minister is in discussion with the Minister for Public Expenditure and Reform, Deputy Donohoe, about shorter-term funding for the immediate issues Deputy Martin raised concerning third level education.

I was in NUIG last night and in Trinity College and UCD recently. All of the presidents make the same case that they need big money and they need it now. We do not have an endless pot but it is important to face up to that in accepting the Cassells report, which points out a number of options, all of which are difficult. I wish to have the engagement of all those involved, from all parties, in the Oireachtas committee and for them to come up with a view. In much the same way, the Minister for Health is attempting to get cross-party consensus and a longer-term view of issues relating to health on which everybody could agree and then to make decisions in respect of the future. It is not a case of letting the situation drift because we cannot do that. Deputy Martin raised a very important point. The immediate business is to deal with the shorter-term funding. The Minister, Deputy Bruton, is talking to the Minister for Public Expenditure and Reform, Deputy Donohoe, about that. The medium to longer term is the subject of the Cassells report, which details three options, all of which require money, and the issue is where that will come from. We need a real Oireachtas discussion about that future because it is in everybody's interest.

**Deputy Micheál Martin:** Arresting the decline in our third level sector cannot await the deliberations of an Oireachtas committee over the medium term. By all means, there are detailed

issues in which the Oireachtas committee will get involved but all options involve substantial Exchequer funding of our third level sector. The bottom line is there must be a response in this budget, otherwise the Government is kicking the can down the road because it cannot realise the recommendations of Cassells on investment levels if it does not meaningfully address them in the forthcoming budget. It goes to the core of a responsible investment approach for Irish society. Peter Cassells addressed us last week. What was interesting was they were worried by the degree to which working people and people on lower incomes were finding the going extremely tough in terms of access to third level education.

**An Ceann Comhairle:** Thank you, Deputy Martin.

**Deputy Micheál Martin:** He gave a very graphic illustration whereby for some people in this city the rate of participation in third level education is as low as 7% to 14% whereas in another part of the city it is 100%. If we do not move, that gap between access to education will widen among those who have had historically low access rates to third level education, as opposed to those who have had a 100% access rate.

**An Ceann Comhairle:** Thank you, Deputy Martin.

**Deputy Micheál Martin:** Something has to change. An excellent report has been submitted to us. It behoves us to act now, in the next two to three weeks, to make a serious provision in the budget for expenditure for third level education, otherwise we are ignoring the future of this country at our peril.

**The Taoiseach:** The Deputy makes a plea especially for funding for third level on the basis of substantial financing of our third level sector. This is one of a whole range of areas that now demand and require substantial funding in the forthcoming budget. The money is not there to do that, nor can it be. We have just come through a very difficult period over the last number of years. What is required now of the Minister for Finance and the Minister for Public Expenditure and Reform is continued prudent management of that economy that can allow it to grow and, over a period, deal with the essence of the question that the Deputy raises, which is about fairness. The Deputy should go to the north inner city to see the challenge at primary level, where people do not have the opportunity that others have. I agree with the Deputy that the question of second level and third level should be looked at. However, that is about fairness in our society, and this cannot and will not be dealt with comprehensively in the forthcoming budget. The Minister, Deputy Bruton, is talking to the Minister for Public Expenditure and Reform, Deputy Donohoe, about short-term contribution in respect of the immediacy of a requirement for funding for third level. We really need to talk in the medium to longer term about the Cassells report. I think everybody can agree that students should have the best opportunity as young Irish people to make their mark internationally. Why not? However, that will require very substantial funding and we need to be imaginative about the ways we can do that. It cannot be dealt with comprehensively in the forthcoming budget but I hope that a start can be made.

**Deputy Gerry Adams:** Go raibh maith agat, a Cheann Comhairle. Tá fáilte romhat ar ais. Dia dhuit, a Thaoisigh. Tá súil agam go bhfuil do mhójo ag obair go fóill. Beidh téarma-----

**The Taoiseach:** Thar cionn atá sé ar fad.

**Deputy Gerry Adams:** Tá sé ar ais. Maith an fear. When the Taoiseach's mojo was not working so well, he quite rightly acknowledged the unique and unprecedented challenges that have been presented to the people of the island of Ireland as a result of the outcome in June of

27 September 2016

the so-called Brexit vote. He will recall the meeting we had here with the party leaders and the Independents at which we all agreed that this was one of the most important issues facing the island at present. He agreed at that time to convene an all-Ireland forum to discuss the serious issues involved. All of us in this Chamber are agreed on this very necessary process of consultation. I know from being in the North that many people there have that view also, not least because of the potential implications and the nature of the Border for citizens, families and communities in both states. As the Taoiseach will know because he has said this, as a result of the British Government's insistence on dragging the people of the North out of the EU against their wishes, the entire post-Good Friday Agreement architecture is under threat, including its human rights protocols. There are widespread concerns about this and also about the economic consequences. Border communities - I represent a Border community in Louth - would undoubtedly be the worst hit. There will be a day of action against Brexit across the Border from Derry to Dundalk on Sunday, 8 October at 3 o'clock. It is a campaign group and non-party political. It is called Border Communities against Brexit. It is made up of trade unionists, the business community, community groups, charities, disability campaigners and others from North and South. I encourage Deputies to attend if they can. It is important that we send a very clear message that the vote of the people of the North must be respected.

At the National Ploughing Championships there was considerable concern about the effect on farming, the agrifood sector and so on. There are huge issues that have yet to come into play covering social, economic, political, constitutional and cultural areas. However, the Taoiseach has not yet sent a word to the Opposition - certainly to my knowledge - about the plan he agreed to bring forward about an all-Ireland forum. Can he assure the Dáil that he has not given the DUP a veto on the establishment of an island-wide forum or island-wide consultation process? Why has he not yet briefed us on his plans? Will he take the opportunity now to outline the Government's proposals?

**The Taoiseach:** I thank the Deputy for raising the question. I can confirm for him that it is my intention to convene an all-island, all-Ireland conversation about this to which business-people, members of civic society and political parties will be invited. I will give him and all the other party leaders here and everywhere else the details of that in the next short period. Our intention is to protect this country's vital national interest in these Brexit talks. There is a great deal of confusion and a great deal of uncertainty, not only in Britain but also in Europe. These were raised at the meeting I attended recently in Bratislava.

I have asked all Ministers to engage with their counterparts in Northern Ireland in respect of the forthcoming North-South Ministerial Council. This morning, for instance, the Cabinet noted the 2015 report of InterTradeIreland, which deals with cross-Border activities for research and expansion of opportunity for exports and creation of jobs and so on. The reports for 2016, 2017 and 2018 may be very different. This is a matter of the utmost serious concern for us. That is why long before the vote in Britain, we set up a unit in the Department of the Taoiseach which has now evolved into a full-scale Cabinet committee which everybody can and will attend as appropriate.

Of course, we have to respect the votes of the people. I did not like the result overall but I have to accept it is a democratic result from the vote of the electorate of the United Kingdom. I will give the Deputy the details as soon as we have them finalised so that we can have the voice of Northern Ireland business, the Northern Ireland agrisector and the Northern Ireland people in regard to their views as to what they consider the implications for Northern Ireland might be.

For us here, I have made it clear, both to the British Prime Minister when I met her in Downing Street and to the European Council, that Ireland will argue vehemently for the continued recognition of the peace process and the support that has brought but also in respect of the critical juncture this country faces in terms of maintaining our links with the United Kingdom, but speaking as a country that will remain a central part of the European Union.

I fear that this will run for quite some time. It might not be as straightforward or as short-term as many people think. I will advise the Deputy and all others of the details of the national conversation we will have, when I have them finalised in the near future.

**Deputy Gerry Adams:** I welcome the Taoiseach's recommitment to the proposition of an island-wide process. However, as he has not given us any details, I presume he has done no homework on the issue. It would be useful if the Taoiseach has not yet done that homework if he could tell us when it will be done and when he will bring forward the details. We know that for the island of Ireland, in terms of partition, there is no good outcome from the Brexit vote. The Taoiseach has acknowledged and stated that on a number of occasions.

The Taoiseach has stood back from endorsing the vote of the people in the North. That is very important because for decades we have been lectured about the need to respect the majority vote in the North. The majority vote in Northern Ireland was to remain within the European Union. The Taoiseach, in my opinion, has a duty and responsibility to advocate that. If he does not do so, who else will? The Deputy First Minister will do it but the First Minister will not do it. The Taoiseach has a duty and obligation to advocate this. I again invite the Taoiseach to take this opportunity to state that he accepts the vote of the people in the North. It would be useful to get an indicative date by which the Taoiseach will have a plan for the process he envisages.

**The Taoiseach:** It will not be before the budget: it will be in November. As I said, I will advise Deputy Adams, Members and others who will hopefully attend of what I have in mind.

I recognise the vote of Northern Ireland, as I recognise the votes of Scotland, Wales and England. While, as I said, I did not like the result, it is a composite result from the United Kingdom. This is exactly why in respect of Northern Ireland we need the voice of Ireland. We need the conversation as to what is going to happen in terms of agribusiness North-South, meat producers, beef producers, pork producers, industry, financial services, education and health. All of these are areas that concern us. The primary objective for us as a Republic is to ensure our interests are foremost in our minds in any conversations that we have. As Deputy Adams will know, there are many people in Northern Ireland entitled to Irish passports who might find themselves in a country that has withdrawn from the European Union having voted in 1998 for their freedom of movement up and down this island at will, as they have always been able to do short of when the Border was in place.

I will advise Deputy Adams and all others of the range of what we need. There are other institutions, including the North-South Ministerial Council and so on, through which all Ministers will engage with their counterparts so that we get a really detailed analysis of the potential impact of Brexit North-South.

**Deputy Jan O'Sullivan:** I join others in welcoming the Ceann Comhairle, Taoiseach, the Government and other colleagues back to the Houses of the Oireachtas. This Government has been in office for the past five months. During the previous term we had a great deal of talk about new politics but very little action. It was a "do nothing" Dáil. I hope that the Government

is back with a lot of energy to address the problems that face the country.

The Government will be lobbied, and has been already I am sure, in relation to the forthcoming budget. There is one group of people in this country who cannot lobby for themselves - their parents who would be their natural advocates are too stressed to lobby on their behalf - namely, preschool children. As a country we spend approximately one quarter of the OECD average on early child care and education. The Labour Party in government was happy to campaign with Fine Gael to champion and support progress on issues such as area-based programmes, paternity leave and the second early childhood care and education year. However, a lot more needs to be done. We need a step change with regard to preschool.

As members of the Opposition all we know is what we read in the newspapers. In that regard, I understand that the Minister for Children and Youth Affairs, Deputy Zappone, is proposing a targeted programme to lower income families and that Fine Gael backbenchers are not happy about that and would rather that the squeezed middle be helped. Is there a focus in Government on making this step change in funding quality early years education and will the Taoiseach tell us what proposals the Government is considering? I know that the Taoiseach cannot tell me what is in the budget but can he tell the House the details of the options that are under consideration for the budget with regard to early years education and will he give a clear commitment to this House that child care will receive the step change in investment in the forthcoming budget that it so urgently needs?

**The Taoiseach:** The Deputy is welcome back. She has stated there was no action in the first period of the lifetime of the Government, but there has been a very genuine attempt which will continue to get agreement across a broad range of health issues. We have published the most comprehensive housing programme ever and backed it with money. We have put together an education programme which is the most ambitious ever presented and within ten years - as a former Minister, the Deputy will appreciate this - to make this country the best for education. We have set out the requirements for the citizens' assembly to hold its first meeting on 15 October and addressed a range of other issues that have arisen during the period. Child care and early years education have been priorities for the Government. This month we have seen the commencement of the second free preschool year and the introduction of two weeks' paternity leave. As the Deputy is aware, the programme for Government sets out a package of measures, of which the scheme to which she referred is just one element. It also includes provision for after-school care, home care, childminders and parental leave. Parents want to have more choice, greater flexibility and availability and affordable options. These are matters that need to be considered. The Minister, Deputy Katherine Zappone, proposes to bring together various schemes into one scheme and make it accessible and affordable. It is on this area her focus will be. It will be her priority.

It is not for me at this stage to indicate the details of the budget, except that we have a situation where the Ministers are speaking to their opposite numbers. This will emerge over the course of the next week to ten days when the figures will be finalised before being presented in the House. This is an issue that is raised on so many doorsteps and streets every day and is a priority for the Government. As I stated, we temper it with a sense of fairness. Over 2 million people are now working. The best pathway out of poverty and welfare is a decent job. Child care costs have been and are a very serious challenge for many, which is why the work of the Government is focused on making child care affordable and appropriate. I hope we can make further progress in the budget.

**Deputy Jan O’Sullivan:** I am glad to hear the Taoiseach state this is a priority, but I hope it will be turned into real action and funding for the sector when we hear the details of the budget announced. It is about quality and affordability. We all know that what is put into early years education results in a huge comeback and improves the life chances of children in a variety of ways. While the leader of Fianna Fáil spoke about third level education, in having an opportunity to pass through the education system access to high quality and affordable child care in the early years is absolutely crucial.

Another issue is that the pay of people working in the sector is abysmally low. We need to see to it that people who are extremely dedicated and who would not put up with low pay only for their dedication will see an improvement in their situation. For parents, this is a crucial issue. Many must make a decision on whether they can afford child care to go out to work, about the importance of which the Taoiseach spoke. We need to ensure, for the sake of parents and the life chances of children, that we will step up to the mark. I urge the Taoiseach to devise a long-term plan for the sector.

**The Taoiseach:** From her previous experience the Deputy is aware of the importance of the outcome of investment in early years education. It impacts on children to their advantage into adulthood. It is important that we get it right. That is why the focus of the scheme proposed is targeted at those on low incomes to get them out of unemployment and give them an opportunity to avail of affordable and appropriate child care. It will expand as the economy improves and more money becomes available. However, everybody knows that this is a real challenge for working people, which is why we have paternity leave and a second free preschool year and the focus of the Minister for Children and Youth Affairs is on streamlining the various schemes in place to make them affordable, appropriate and accessible for parents, while, at the same time, providing an opportunity to seek employment. Moving people out of the lower income bracket in which many find themselves is a challenge that becomes more real every day.

**Deputy Ruth Coppinger:** Last Saturday the Taoiseach was 50 m away from an historic demonstration - the 25,000 strong, predominantly youthful, March for Choice which took place in Dublin and called for the holding of a referendum to repeal the eighth amendment abortion ban, something he has continually tried to avoid, despite all the polls which show a huge demand for it. At the end of the protest the Minister for Children and Youth Affairs posited the idea that we might need something to replace the eighth amendment in the Constitution. Does the Taoiseach agree with her and, if so, why? Why, following the tragedies and the folly of putting something in the Constitution equating a woman with a foetus, would he seriously contemplate putting something else in to police women’s bodies? There is nothing normal about putting anything about abortion or women’s health in a constitution. I am aware of only one other country that has done it. It was done in Chile under the murderous military dictator General Pinochet. On behalf of women and young people in this country, I ask the Taoiseach not to go there. He has been a Member of the House for 41 years, since 1975. During that time he has taken part in important decisions affecting women. A total of 165,000 women have had to travel outside the State for an abortion while he has been a Member of the Dáil. Did he give those women a second thought when he was debating these crucial decisions?

In what could be one of his final acts as Taoiseach, I ask him to break a pattern of more than four decades of him being on the more backward, conservative side of all these vital decisions in the Dáil. He was in the House to vote in favour of the eighth amendment in 1983. Did he have any qualm at all having heard the reservations of the Attorney General at the time and many others? He was here to vote in favour of the “off you go” clauses in 1992 on travel and

information and, crucially, was leader of the country when a pivotal event happened when a woman needlessly died in a Galway hospital, having asked for and been refused an abortion. He could have ensured that would never happen again in this country, but that is not the case now. He ignored the pleas of Savita's parents, for example, to introduce a law to protect women's health, but rather than repeal the eighth amendment, he chose to criminalise women for having abortions. Will he, for the first time, listen to and trust women to make these decisions for themselves? Will he agree that it has been proved that the Constitution is not the place in which to decide on these issues and that, ultimately, the church and the State have to stay out of personal decisions? We all know that there will be a referendum. Will he make sure that it will be to repeal, not amend, the eighth amendment?

**The Taoiseach:** I thank the Deputy. She described the insertion of the amendment in the Constitution as a "tragedy". Unfortunately, the Constitution belongs to the people. I happened to be in the House to legislate for the first time in 30 years for what the Constitution meant, as interpreted by the Supreme Court. I have listened to the many tragic stories of women in recent times. That is why it is entirely appropriate that 99 citizens, men and women of different age groups, are coming together from locations around the country to tease out the questions surrounding the eighth amendment, under the chairmanship of the Supreme Court judge, Ms Justice Laffoy, who I am sure will do a first-class job. It is in everybody's interest that there be a sensitive, rational and comprehensive discussion about this and that is the purpose of the Citizens' Assembly. I am glad its first meeting will take place on 15 October and that everybody, on all sides of an argument that has divided Irish society very bitterly for 30 years or more, can make their contributions and have their say.

When the assembly provides its recommendations the issue will come back here to this House. Depending on the outcome of the recommendations, Members of the Oireachtas will vote according to their conscience on where we proceed from here. We established a Citizens' Assembly to address the many sensitive issues that have arisen from the stories people are confronted with on a regular basis. I spoke to some of the people on the march on Saturday and they made their views very clear but there are many divided opinions on this subject and I expect to hear them all over the coming months while the assembly goes about its business. In Ireland in 2016, it is very reasonable to allow people on all sides to make their contribution on an issue that is and always has been divisive.

**Deputy Ruth Coppinger:** The Taoiseach said he set up the Citizens' Assembly to hear stories but we have ample stories and he commented on none of the questions I put about his own role in this House over four decades on these issues. We heard the stories of two women who were travelling and I know they tweeted the Taoiseach, although I do not think he tweeted anything back. The Minister for Health offered them tea and sympathy while sending them out of the country and I know the Taoiseach has been tweeted on many issues related to women's reproductive rights, on which he has refused to comment.

We can win a repeal of the eighth amendment without any further restriction, which is what I fear is being cooked up in the form of restrictive legislation being put into the Constitution or an amendment to the eighth amendment. The Taoiseach keeps denying the results of opinion polls but he has set up a 99-person opinion poll in the form of the Citizens' Assembly. All the opinion polls show that 73% of people want a referendum held and 80% believe health is a key issue.

When people talk about "repeal" and wear T-shirts bearing the word, as they did on Satur-

day, they mean “revoke” or “make null and void”. They do mean “replace” or “amend”. I say this lest there be any confusion on the part of the Taoiseach or among his Ministers. That is what people marched for and that is what they will get.

**The Taoiseach:** I fully respect the view of the Deputy but it is not a black and white situation. The T-shirts may be black and have white writing on them but this is about people and people have different views. Some 20,000 or 30,000 may have marched at the weekend but we have the Citizens’ Assembly to allow people to have their say and all people are entitled to have their say. Everybody has a personal opinion about this but it was a Government decision, endorsed here by the Oireachtas, to set up the citizens’ assembly. I admire the courage of the 99 who have stepped forward to participate in the discussion. It is not an easy thing for many of them to do, given the nature of the divisive response that can come from participating in something like this. The hearings will be streamed live and I hope that everybody, at home and abroad, can listen to the conversations and have their views heard. I hope that, under the direction of Ms Justice Laffoy, the recommendations will come back here to the Oireachtas and we can move on from there. I assure the Deputy that nothing is being cooked up here. This is a straightforward democratic exercise, with the selection of 99 citizens to give their view. Their view might well be divisive. I do not know but I look forward to the engagement and the contributions that will be made.

### **Order of Business**

**An Ceann Comhairle:** I call on the rapporteur for the business committee, Deputy Fiona O’Loughlin, to announce the Order of Business for the week and to move the proposals regarding arrangements for the taking of that business.

**Deputy Fiona O’Loughlin:** Tuesday’s Government business shall be No. *a*11, motion re parental responsibility in the matter of child abduction - referral to committee without debate; No. *b*11, motion re appointment of member of the new Legal Services Regulatory Authority - referral to committee without debate; No. 11, motion re change of departmental names in three committees’ terms of reference, without debate; and No. 1, Road Traffic Bill 2016 [*Seanad*] - Second Stage. Private Members’ business shall be No. 73, motion re pharmacy fees in the name of Fianna Fáil.

Tomorrow’s Government business shall be No. 1, Road Traffic Bill 2016 [*Seanad*] - Second Stage resumed, if not previously concluded, and No. 5, Planning and Development (Amendment) Bill 2016 - Order for Second Stage and Second Stage. Private Members’ business shall be No. 74, motion re abolition of water charges in the name of Sinn Féin.

Thursday’s Government business shall be No. 1, Road Traffic Bill 2016 [*Seanad*] - Second Stage resumed, if not previously concluded, and No. 5, Planning and Development (Amendment) Bill 2016 - Order for Second Stage and Second Stage. No. 13, interim report of the Committee on the Future of Healthcare, will be taken in the afternoon slot.

The proposed arrangements for the week’s business are as follows, and I refer Members to the report of the business committee of 22 September 2016. There is one proposal relating to today’s business. It is proposed that No. *a*11, motion re parental responsibility in the matter of child abduction - referral to committee; No. *b*11, motion re appointment of member of the new Legal Services Regulatory Authority - referral to committee; and No. 11, motion re change of

27 September 2016

departmental names in three committees' terms of reference, shall be taken without debate.

There is one proposal relating to tomorrow's business. It is proposed that, following Leaders' Questions, Government business shall be taken until 3.02 p.m., Topical Issues shall be taken at 3.02 p.m. and questions to the Tánaiste and Minister for Justice and Equality shall be taken immediately following Private Members' business.

There is one proposal relating to Thursday's business. It is proposed that Question Time shall be taken at 1.30 p.m. or, in the event that No. 1, Road Traffic Bill 2016 [*Seanad*], and No. 5, the Planning and Development (Amendment) Bill 2016, have already concluded, Question Time shall be taken on the conclusion of the weekly divisions.

**An Ceann Comhairle:** On foot of the proposals of Deputy O'Loughlin on the Order of Business, there are three proposals to put to the House. Is the proposal for dealing with Tuesday's business agreed to?

**Deputy Bríd Smith:** I agreed the Order of Business at the business committee last Thursday and I do not have a problem with it. However, this afternoon we face the possible conviction of a 17 year old boy regarding a protest against water charges in 2013.

**An Ceann Comhairle:** That is not relevant to the Order of Business.

**Deputy Bríd Smith:** It might not be relevant but it has huge implications. For example, before I came to the House today, I attended a protest with nurses.

**An Ceann Comhairle:** That is not relevant to the Order of Business.

**Deputy Bríd Smith:** The evidence against this young boy is the fact that he held a megaphone. Many trade unionists and nurses held megaphones today-----

**An Ceann Comhairle:** That is not in order.

**Deputy Bríd Smith:** I am pleading with the House to discuss the implications of the outcome of this trial some time tomorrow, even for ten minutes.

**An Ceann Comhairle:** The Deputy can table a Topical Issue on the matter.

**Deputy Bríd Smith:** I am asking the House to put aside some time to take it seriously. It has huge implications for the right to protest for everybody.

**An Ceann Comhairle:** It is a matter on which the Deputy can table a Topical Issue if she wishes.

**Deputy Bríd Smith:** Can you put it to the House that we put aside a few minutes to discuss it?

**An Ceann Comhairle:** It is not relevant to the Order of Business.

**Deputy Bríd Smith:** I know it is not relevant.

**An Ceann Comhairle:** We are discussing the Order of Business for today.

**Deputy Bríd Smith:** Yes, and I agree to the Order of Business. I prefaced my comments by saying that-----

**An Ceann Comhairle:** If you agree to it for today, will you resume your seat?

**Deputy Bríd Smith:** -----but this is a significant national issue that will impact on all types of people, such as farmers, trade unionists and young people, and their right to protest. It has implications for that.

**An Ceann Comhairle:** Please resume your seat. You have made your point. Is the proposal for dealing with Tuesday's business agreed to?

**Deputy Bríd Smith:** Are you refusing to ask the House?

**An Ceann Comhairle:** There is no methodology for taking a debate today on the matter you have raised.

**Deputy Bríd Smith:** Tomorrow.

**An Ceann Comhairle:** It is up to the Deputy-----

**Deputy Bríd Smith:** I am not saying for today but for tomorrow. We do not yet know the outcome, but we will know in an hour's time.

**An Ceann Comhairle:** The Deputy may submit a Topical Issues matter for discussion tomorrow.

**Deputy Micheál Martin:** On a point of order, we have agreed a process. The Business Committee lays down the order. Every party and group is represented on it. We cannot have it each and every way, saying we agree with the Order of Business but also that we do not agree with it.

**Deputy Bríd Smith:** That is not what I said.

**An Ceann Comhairle:** I take it the business to be conducted on Tuesday is agreed to. Agreed. Is the proposal for dealing with Wednesday's business agreed to? Agreed. Is the proposal for dealing with Thursday's business agreed to? Agreed. That means that the business for the week has been agreed to. We shall now proceed to questions on promised legislation. There are 24 minutes remaining.

**Deputy Micheál Martin:** The Chief Whip indicated this morning that there were 25 Bills planned for this session. She referred to the possibility that there might not be sufficient time in which to deal with all of that legislation. My understanding is that only five hours are allocated for Bills each week. Given the 25 Bills emanating from the Government and all of the legislation that has already been referred to various committees, some of which should be coming back to be dealt with in plenary session, it is clear that this is not workable. There is no basis on which one can process this legislation adequately or effectively in the five hours allocated during the week or each day. I ask that all parties meet fairly urgently to resolve this issue to secure more time for what the House has ordained to do, that is, pass legislation that is urgently required to improve people's quality of life. We have but one member on the Business Committee and the reform committee. That critical issue needs to be addressed, as was pointed out earlier.

Can I also ask-----

**An Ceann Comhairle:** The Deputy may ask only one question.

27 September 2016

**Deputy Micheál Martin:** Is that all?

**An Ceann Comhairle:** Yes, that is all. The rule is the same today as it was before we broke.

**Deputy Timmy Dooley:** We need two members on the Business Committee.

**Deputy Micheál Martin:** The Business Committee needs to get its act together.

**The Taoiseach:** The Business Committee is a new deal. The commitment is to publish the 25 Bills this year, in this session. The Chief Whip has received a request from-----

**Deputy Micheál Martin:** Is the Taoiseach suggesting - perish the thought - that we might pass them?

**The Taoiseach:** The Chief Whip has received a request from the Business Committee to allocate an extra two hours every Thursday. She is considering that request. That is what the commitment is. The request has been received and is being considered.

**Deputy Micheál Martin:** My understanding is that it has been referred to the Dáil reform committee.

**An Ceann Comhairle:** It has.

**Deputy Micheál Martin:** It is not sustainable.

**Deputy Gerry Adams:** Tá ceist amháin agam faoi sheirbhísí sláinte. The programme for Government commits the Government to providing additional funding to rebuild the health service, including through providing additional front-line staff. The Taoiseach may be aware that there was a protest outside involving nurses who were protesting against the decision by the Government that denied incremental credit for nurses and midwives who had graduated between 2011 and 2015. This is most unfair to those involved who are mostly young. It is unacceptable and short-sighted. Many of them will be forced to take their expertise across the globe. This will have another knock-on adverse impact on the health service which is struggling to retain nurses and midwives. Will the Government fully honour the agreement made with the INMO, the PNA and SIPTU to restore incremental credit for these graduates and end the pay discrimination?

**The Taoiseach:** The question raised is important. It is about restoring incremental credit for the first 36 weeks of a clinical placement undertaken in the fourth and final year of the degree programme in nursing. The Minister for Health, Deputy Simon Harris, met the union in the past hour. His officials met those concerned last week to discuss the matter. Yesterday officials from the Department of Health and the Department of Public Expenditure and Reform met to discuss whether there was scope to accelerate the review process for the restoration of incremental credit to those who graduated between 2011 and 2015 and to do so prior to 2018. The Department of Health is to submit an updated business case in a revised submission to the Department of Public Expenditure and Reform in the coming days. I expect that will receive consideration in terms of seeing if we can move this forward.

**Deputy Bríd Smith:** Following a committee session with the Minister for Jobs, Enterprise and Innovation, Deputy Mary Mitchell O'Connor, last week, I would like to ask the Taoiseach the timescale for considering the report of the commission on low pay on the question of a lousy 10 cent increase in the minimum wage. The Minister told the committee that the proposal for

such an increase was not hers but rather came from the commission and has to come back to the House. She said she would prefer to give €10 an hour extra, for which I applaud her. We will not get that, but since all Deputies and, probably, Senators are due a pay rise next year, we are saying to low-paid workers, who in the main are women and young workers, that there will be an insulting increase of 10 cent per hour in the minimum wage while the cost of rents, mortgage, insurance, food and travel soar. We need to have that discussion on the floor of the Dáil as soon as possible.

There are many stressed and worried people who can barely afford to live on the minimum wage they receive and we are proposing to give them a lousy 10 cent increase. According to the programme for Government, it is hoped to raise the minimum wage to €10.80 per hour by 2020. If the Government proceeds at this pace, it will be 2028 before we get near that. When will we have that discussion?

**The Taoiseach:** I have made the case that the previous Government restored, and increased, the minimum wage. It had been cut by the Fianna Fáil led Government. Given the unstructured way that claims for increases came forward, the previous Government set up the Low Pay Commission to examine the relevant proposals for increases in an objective way in order to get as many people as possible to move from unemployment into jobs that pay well. The Deputy would have a different argument if this was produced by the Government. The Low Pay Commission is completely independent and objective in its views, and the Minister will consider that in the context of the budget. That is the way to proceed.

**Deputy Bríd Smith:** The Taoiseach did not answer my question.

**An Ceann Comhairle:** I cannot do anything about-----

**Deputy Bríd Smith:** I asked when we would debate the-----

**An Ceann Comhairle:** Deputy Catherine Connolly is next.

**The Taoiseach:** As a member of the business committee, Deputy Bríd Smith can raise the issue at the next Whips' meeting.

**An Ceann Comhairle:** I call on Deputy Catherine Connolly.

**Deputy Catherine Connolly:** Ba mhaith liom an Taoiseach a fháiltiú ar ais. An féidir leis soiléiriú a thabhairt dom maidir leis an bpróiseas faoi na leasuithe a bhí beartaithe i dtaobh Acht na dTeangacha Oifigiúla 2003? An bhfuil dréachtbhille i gceist? De réir mar a thuigim, bhí dréachtbhille i gceist sa Dáil dheireanach. Cá bhfuil an dréachtbhille sin anois? An bhfuil sé ar an gclár oibre?

**The Taoiseach:** An bhfuil an Teachta ag iarraidh faoi dhréachtbhille na Gaeilge?

**Deputy Catherine Connolly:** Tá mé ag iarraidh faoi Acht na dTeangacha Oifigiúla. Bhí leasuithe beartaithe sa Dáil dheireanach. Cá bhfuil na leasuithe sin? Más rud é go bhfuil dréachtbhille i gceist, cá bhfuil sé?

**The Taoiseach:** Beidh cruinniú ag comhchoiste Gaeilge an Rialtais go luath. Pléifear an cheist atá ardaite ag an Teachta ag an gcruinniú sin. Nuair a bheidh sé sin thart, cuirfidh mé scéal chuig an Teachta agus os comhair na Dála maidir le céard go díreach atá i gceist. Cuirfidh mé an méid atá ráite ag an Teachta in iúl don Aire Stáit agus seolfaidh sé teachtaireacht chuig

an Teachta freisin.

**An Ceann Comhairle:** Go raibh míle maith agat. Glaoim ar an Teachta Bernard Durkan.

**Deputy Catherine Connolly:** Tá mé féin mar Chathaoirleach ar choiste.

**The Taoiseach:** Beidh sé ann.

**Deputy Catherine Connolly:** Tá a fhios agam go mbeidh an dréachtbhille á phlé againn, ach cá bhfuil an dréachtbhille anois?

**An Ceann Comhairle:** No, you have asked-----

**Deputy Catherine Connolly:** Ní bhfuair me aon fhreagra maidir leis an dréachtbhille.

**An Ceann Comhairle:** Beidh an Taoiseach i dteagmháil leat, a Theachta.

**The Taoiseach:** Tá súil agam go bhfuil sé ag teacht, mar a deireann siad in Árainn.

**An Ceann Comhairle:** Caithfidimid dul ar aghaidh.

**Deputy Bernard J. Durkan:** I wish to ask the Taoiseach about the timescale for the processing through the House of the bail review legislation. Will it happen during the course of this session? Is it likely to be passed and become law by the end of the session?

**The Taoiseach:** The Minister hopes to publish the Bill. This issue has been ongoing for a long time and the Deputy has raised it on numerous occasions. It has now moved to a point where we hope to be able to publish a Bill.

**Deputy Declan Breathnach:** Pages 46 and 47 of the programme for a partnership Government states that one of the biggest challenges facing rural Ireland is bridging the digital divide with urban areas. Is the plan over-optimistic and can it be delivered? Is the funding ring-fenced for this project or is it aspirational and destined for the long finger? Can the Taoiseach guarantee that the Government will follow through on the plan to extend high-speed broadband to every premises in the State?

**The Taoiseach:** There are two Departments involved, namely, the Department of Communications, Climate Action and Environment and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. The tender that is being examined at the moment is quite complex and there is a risk that has to be taken into account. Obviously, the number of houses covered by the national broadband scheme has varied because of the statements made by some of the commercial bodies that they feel they can include more houses in what would be a commercial investment area. I think there has been approximately 300 hours of discussion about this and there is quite a deal more to go but it is so important that we cannot afford not to do it. If we are to adhere to the eight regional action plans for jobs and if we are to give students in our schools the opportunity to be able to compete, we need to be able to roll this out. I can give Deputy Breathnach more accurate information later but that is where it is currently. It is on track and when it is eventually rolled out, it will be the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs which will roll out the task forces to actually implement the broadband being rolled out in different areas.

**Deputy Ciarán Cannon:** I have a question for the Ceann Comhairle. Could he clarify for me the Standing Orders of the House? It is my understanding that the wearing of emblems or

items of clothing which espouse a particular political viewpoint or position is prohibited. Is that the case? My experience is that it is the case. Three years ago, I had 20 children visiting the precincts of Leinster House. They were wearing black T-shirts with the word “CoderDojo” in white across them. The children were immediately removed from the precincts of Leinster House and had to travel across the road to Kildare House and remove the t-shirts. Only on removing the T-shirts were they allowed to re-enter Leinster House. In light of what we have seen today, can the Ceann Comhairle clarify if the wearing of such clothing or emblems is prohibited and if so, does he intend to consistently apply those rules?

**An Ceann Comhairle:** I thank Deputy Cannon for raising that matter. The House itself, on the recommendation of the Committee on Procedure and Privileges, adopted previously a code of parliamentary standards which governs a wide range of matters concerning the conduct of Members both inside and outside the Chamber. While the wearing of emblems *per se* is not prohibited by the code, paragraph 11 of the code, as adopted by the House in July 2010, addresses this matter that emblems of a party political nature should not be worn or otherwise displayed within the parliamentary precincts. It is a matter that can and will be discussed by both the Business Committee and perhaps by the Committee on Procedure and Privileges.

**Deputy Jan O’Sullivan:** We certainly all want to be constructive on the issue of the provision of housing. I know from the media that the Government discussed legislation this morning along with plans and proposals. I see on the legislative programme that there is a housing (miscellaneous provisions) Bill, part of which will be about fast-tracking planning applications. However, from my knowledge of the statutory process, that is only likely to save approximately 12 weeks at the most. Are there any other measures with regard to speeding up the construction of housing? For example, we have many sites that already have planning permission and the delay is at the other end in the availability of sites and moving the process between the Department and local authorities. Are there other measures besides the simple one of fast-tracking and bypassing the local democratic process, which in itself has problems?

**The Taoiseach:** The Minister, Deputy Coveney, can take this question himself.

**An Ceann Comhairle:** The Minister has one minute.

**Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney):** Yes, there is a straight answer. Today, the Cabinet approved the putting together of that legislation, which will be done as a priority. There is a series of measures, one of which is a fast-track planning process for large developments. There are also facilities around renewal of planning permissions in a fast-tracked manner. There are provisions around statutory time limits on Part 8 decisions made by local authorities on social housing. There are a number of other provisions on protecting tenancies when property is sold between institutional investors. All that detail will be debated in the normal way when the legislation is brought forward for Second Stage in a few weeks’ time.

*3 o’clock*

**Deputy Martin Kenny:** On page 87 of the programme for Government document, it states there is a commitment to reduce the pupil-teacher ratio to produce smaller classes and have a greater and more beneficial impact on younger pupils. I am particularly interested in this in the context of smaller schools in rural Ireland. In my home parish of Aghavas, only two children started school this year and were stuck in a situation which saw the school reduced from three

27 September 2016

teachers to two. In Kiltyclogher in north Leitrim, where one of the signatories of the 1916 Proclamation, Seán MacDiarmada, was born, it is expected that the school will close in the next two years because there are no more children arriving in that community. One of the reasons for that is rural depopulation. One cannot receive a signal on one's mobile phone and there is no broadband there. We have all of these issues in rural Ireland. The specific issue I wish to ask about today is the pupil-teacher ratio. In the budget in the next couple of weeks, will the Government do something to ensure the pupil-teacher ratio is brought into line with other European norms to ensure that our smaller schools in rural Ireland will not be under threat?

**The Taoiseach:** The Minister for Education and Skills, Deputy Richard Bruton, will answer this question.

**Minister for Education and Skills (Deputy Richard Bruton):** First, I am glad to tell the Deputy that as and from 1 September this year, the pupil-teacher ratio has been reduced in our primary schools. That measure was included in last year's budget and will, of course, have a carry-over cost into 2017 when the bulk of the year will be funded by the 2017 budget. There is also a review of the position of small schools under way. Like others, I cannot give the Deputy an indication at this stage what will be included in the budget. However, I am aware that there is much commitment to see improvements in the pupil-teacher ratio. Indeed, it was included in the confidence and supply agreement and in the programme for Government. Therefore, there is an interest in this area but, of course, those programmes are in place for the duration of the Government. I cannot therefore give an indication in respect of any particular budget.

**Deputy Danny Healy-Rae:** According to the programme for Government and the Department of Health, the provision of funding for home help is to assist elderly people to stay in their homes for as long as possible. The Minister for Health is not here but I need an answer from him in relation to €40 million that he made available for health services in June. Kerry was to receive €900,000 of this for the provision of extra home help in the county. The opposite is happening. One old man had the two hours of home help he had cut to an hour. Another elderly man of 95 years of age is paying €240 for his own home help and to go to the day centre for extra home help. Where is the €900,000 gone? I need an answer on this because the HSE is not giving us any reasonable answer as to where the money is or what it is doing with it. It is certainly not going into home help anyway.

**The Taoiseach:** I can tell Deputy Healy-Rae that he looked well down at the National Ploughing Championships when I met him.

**Deputy Danny Healy-Rae:** The Taoiseach was not looking too bad himself.

**The Taoiseach:** The HSE service plan awarded €330 million for this area with a target of 10.4 million home help hours to support about 47,800 people, 15,450 home care packages and 190 intensive home care packages for patients and people who had very serious needs, including dementia. In respect of these matters that were arising, the Government supplied an extra €40 million in 2016. There was €20 million for once-off time-related savings, €10 million to support service provision during the summer months and €10 million of that was ring-fenced for home care as part of the new winter initiative. I suggest that the Deputy contact his local home care person in charge to see what extent of that €10 million has been allocated to the area for dealing with cases that are needy.

**Deputy Louise O'Reilly:** My question follows on from a question asked by an Teachta

Adams. Can the Taoiseach give a date to the nurses with regard to the implementation of the agreement that they have with the Department of Health? I wish to make the Taoiseach aware in case he is not - perhaps he is, which maybe makes it worse - that an agreement was reached between the three recognised nursing trade unions and the Department of Health. The unions reached this agreement in good faith. What more are workers in the health service and public service supposed to do? Having gone to the negotiating table and reached an agreement, they are being told the current inequality must continue because a memorandum must be sent by the Department of Health to the Department of Public Expenditure and Reform. What message are we sending to nurses who, in case the Taoiseach has not noticed, have been emigrating in droves because they do not feel respected? This decision sends them a message that the House does not respect them. I and my party do not want to be associated with such a message and I do not believe the Taoiseach wants to be associated with it. Will he give these bright young men and women a date by which the agreement will be implemented?

**An Ceann Comhairle:** The Deputy has made her point.

**Deputy Louise O'Reilly:** Please do not fob them off with another date for a memorandum.

**An Ceann Comhairle:** Deputy Joan Collins wishes to raise the same matter.

**Deputy Joan Collins:** Yes, to follow up on the point made by Deputy Louise O'Reilly, private hospitals are offering young professional nurses bonuses of €5,000 in addition to what they are currently earning if they sign a contract. The Government is not showing respect to 600 nurses and midwives who reached an agreement with the Health Service Executive. The Department of Public Expenditure and Reform made the same payment to nurses who graduated in 2016. The Government is showing disrespect to graduates who stayed here for five years and held the health service together during the worst of conditions and times. A memorandum should not be needed. The payment agreed with the Department of Health and HSE should be made immediately. This is scandalous.

**The Taoiseach:** Unfortunately, one cannot do things by waving a magic wand. Memorandums are an important piece of the jigsaw.

**Deputy Louise O'Reilly:** This is an agreement.

**An Ceann Comhairle:** Please allow the Taoiseach to answer.

**The Taoiseach:** In answering Deputy Adams's question, I made the point that officials from the Department of Health met nurses last week and the Minister met them just an hour ago. Yesterday, officials from the Departments of Health and Public Expenditure and Reform met to see if this matter could be expedited. I remind Deputies that incremental credit for the 36-week clinical placement undertaken by fourth year student nurses was abolished by the then Government in December 2010. Following submissions made on behalf of the nursing representative bodies, namely, the Irish Nurses and Midwives Organisation, the Psychiatric Nurses Association of Ireland and SIPTU, the Department of Health and Health Service Executive, the Minister for Public Expenditure and Reform, on 19 February 2016, sanctioned recognition of the 36-week placement as qualifying for incremental credit for students on a placement in 2016 and in future. This was an agreement to restore the payment.

The sanction stated that the question of awarding incremental credit for the placement of nurses who graduated between 2011 and 2015 may be reviewed on foot of a consideration of

whether the sanction granted in respect of 2016 graduates and future graduates results in an increase in the retention rates for the graduate nurses in question. Nurses who undertook the placement in 2016 recently completed their placements and are only now in the process of registering. It will not, therefore, be evident for some time as to its impact.

A number of initiatives are under way to improve nursing staff levels and, as Deputies know, nurses are coming back from abroad. The Health Service Executive is offering permanent posts to 2016 degree nursing programme graduates and full-time permanent contracts to those in temporary posts. These are both important incentives. The HSE also launched an international staff nurse recruitment campaign last year, which focused on attracting nurses back from the United Kingdom to take up jobs in Ireland. The campaign placed particular emphasis on targeting Irish nurses who left the country in recent years and want to return home. Nurses returning home were offered a relocation package of assistance of €1,500, assistance with the costs of nursing registration with the Nursing and Midwifery Board of Ireland and funded postgraduate education as an incentive.

**Deputy Louise O'Reilly:** The campaign did not work.

**The Taoiseach:** The number of nurses employed in the public health service increased by 1,163 between August 2014 and August 2016, having fallen by 4,000 between 2007 and 2014.

**Deputy Joan Burton:** What is the position with regard to the capital programme for education, specifically schools? I understand between 15 and 17 capital projects due for commencement in primary and secondary schools have been held up. The projects are either to build new schools or refurbish and rebuild existing schools. There are two in my constituency and I understand up to 15 others in other constituencies. The Minister for Education and Skills is, correctly, seeking a further capital allocation. However, I am very concerned the capital programme in education is going to fall apart before our eyes unless there is a rapid decision to provide additional funding so our children can be educated, given the new population and the demographics in my constituency. There is also a need for the ancient schools, some more than 100 years old and which have been more than ten years on the list, to be completely rebuilt.

**The Taoiseach:** There is a €42 billion capital programme out to 2025, with a review of progress in 2017. The Minister, Deputy Bruton, might like to comment specifically on the capital programme for schools.

**Deputy Richard Bruton:** To add to what the Taoiseach has said, we have a provision each year for the next six years. Deputy Burton is right that there is pressure on schools and that we have a growing number of pupils at both primary and secondary level. The Department has always practised a policy of having projects ready to go in order that any available money is fully utilised in any year. That is the current situation. There are projects we could release if we were in a position to obtain funding and we have always taken that approach. My predecessor as Minister, Deputy Jan O'Sullivan, earlier this year sanctioned 38 schools to proceed to tender. The process is proceeding although, as Deputy Burton said, not every project gets approval as soon as it might like. Nonetheless, we are using the funds very efficiently and effectively.

**Deputy Joan Burton:** Will the Minister confirm the number of projects?

**An Ceann Comhairle:** The Minister might communicate with the Deputy. That concludes questions on promised legislation. I am conscious we veered into areas not relating to legislation. However, we might look at that again.

**Proposal on Matrimonial Matters, Parental Responsibility and Child Abduction: Referral to Joint Committee**

**Minister of State at the Department of the Taoiseach (Deputy Regina Doherty):** I move:

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

Proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast),

a copy of which was laid before Dáil Éireann on 27 July, 2016, be referred to the Joint Committee on Justice and Equality, in accordance with Standing Order 84A(4)(k), which, not later than 6 October, 2016, shall send a message to the Dáil in the manner prescribed in Standing Order 90, and Standing Order 89(2) shall accordingly apply.

Question put and agreed to.

**Legal Services Regulatory Authority: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Regina Doherty):** I move:

That the proposal that Dáil Éireann, noting that the Government agreed on 27 September, 2016, to propose, for the approval of Dáil Éireann, the appointment of Eileen Barrington SC to be a member of the Legal Services Regulatory Authority, and pursuant to section 9 of the Legal Services Regulation Act 2015, approves the appointment, with effect from the establishment day to be appointed by the Minister for Justice and Equality in accordance with section 7 of that Act, by the Government of Eileen Barrington SC to be a member of the Legal Services Regulatory Authority, six of whom shall hold office for a period not exceeding four years from the date of his or her appointment as the Government shall determine and five of whom shall hold office for a period of three years from the date of their appointment in accordance with section 10(2) of that Act, be referred to the Joint Committee on Justice and Equality, in accordance with Standing Order 84A(4)(k), which, not later than 6 October, 2016, shall send a message to the Dáil in the manner prescribed in Standing Order 90, and Standing Order 89(2) shall accordingly apply.

Question put and agreed to.

**Committee Terms of Reference: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Regina Doherty):** I move:

That, following Orders made by Government on 5 July, 2016, and 19 July, 2016, respectively, altering the names of Departments and titles of Ministers, the names of the Select

27 September 2016

Committees in column (1) of the Schedule below, which were established by Order of the Dáil of 16 June, 2016, are hereby amended as set out in column (2) of the Schedule and each such Committee shall perform the functions set out in Standing Order 84A in respect of the Government Department or Departments listed in column (3) opposite each Committee.

<i>SCHEDULE</i>		
<i>(1) Select Committee established on 16 June 2016</i>	<i>(2) New name of Select Committee</i>	<i>(3) Government Department</i>
<i>1 Communications, Climate Change and Natural Resources</i>	<i>Communications, Climate Action and Environment</i>	<i>Communications, Climate Action and Environment</i>
<i>2 Housing, Planning and Local Government</i>	<i>Housing, Planning, Community and Local Government</i>	<i>Housing, Planning, Community and Local Government</i>
<i>3 Regional Development, Rural Affairs, Arts and the Gaeltacht</i>	<i>Arts, Heritage, Regional, Rural and Gaeltacht Affairs</i>	<i>Arts, Heritage, Regional, Rural and Gaeltacht Affairs</i>

Question put and agreed to.

## **Ceisteanna - Questions**

### **Taoiseach's Meetings and Engagements**

1. **Deputy Mick Barry** asked the Taoiseach if he will report on his recent meeting with the Chancellor of Germany, Ms Angela Merkel. [22241/16]

**The Taoiseach:** I met Chancellor Merkel in Berlin on 12 July. Our discussion focused on the outcome of the UK referendum and its implications for Ireland, Germany and the European Union more generally. Over the past year, including at meetings of the European Council and most recently at the informal summit of 27 in Bratislava earlier this month, I have had many constructive exchanges with the Chancellor and with other EU Heads of State or Government, where I have outlined Ireland's unique relationship with the UK. I took the opportunity to elaborate on this at my meeting with Chancellor Merkel in Berlin and to explain our particular concerns to her, including in regard to Northern Ireland, North-South relations, the common travel area and bilateral trade. I was pleased to find her fully aware of, and sympathetic to, those concerns and to have her assurances that we share the objective of constructive negotiations towards a close future relationship between the EU and the UK.

**Deputy Micheál Martin:** On a point of order, is Question No. 2 also being dealt with now?

**An Ceann Comhairle:** It is Question No. 1.

**Deputy Micheál Martin:** Deputy Mick Barry is not here.

**An Ceann Comhairle:** We can still answer this question and supplementary questions can be asked.

**The Taoiseach:** Chancellor Merkel and I were in full agreement that whenever Article 50 is invoked and formal negotiations on the UK's withdrawal commence, it will fall to EU Heads of State or Government, as members of the European Council, to set strategic direction and make the key decisions. Ireland will be one of the 27 remaining member states involved in these discussions and, as the State most directly affected by the UK's withdrawal, we will play a central role in them, beginning with the framing of the negotiating mandate. As I explained to the Chancellor, this is a case of ensuring that Ireland's specific concerns are addressed in the agreement that is ultimately reached between the UK and the EU. These concerns, above all the preservation of peace and stability in Northern Ireland, are not only in the interests of Ireland and the UK but of the EU as a whole, a point which Chancellor Merkel clearly recognised.

**An Ceann Comhairle:** We will take supplementary questions. I call Deputy Adams, who has indicated.

**Deputy Gerry Adams:** I welcome the fact the Taoiseach raised the outworking of the Brexit vote with the German Chancellor. I also have a question down about his meeting with the British Prime Minister, so I will leave that issue until then.

On a separate issue, a Cheann Comhairle, I had difficulty hearing the Taoiseach earlier and I think the Taoiseach is now having difficulty.

**The Taoiseach:** I can hear the Deputy now. I was having difficulty but the Clerk has given me a gadget so I can hear very clearly. It is sometimes difficult when there is noise across the Chamber.

**Deputy Gerry Adams:** Teething problems.

**An Ceann Comhairle:** I think the sound system is working very well. Maybe people should get their own personal hearing systems attended to.

**Deputy Gerry Adams:** Did the Taoiseach raise the issue of the European Commission's decision in respect of the Apple billions with the German Chancellor? If he did, does he know the German state's position? Does it support the Government's, in our opinion, wrongful appeal against this?

The Taoiseach will know better than I that the German Chancellor is under huge pressure, especially on the issue of refugees and the future of Deutsche Bank, which she is refusing to bail out. The collapse of this bank will have real implications for the EU economy and potentially, for all I know, for the global economy as well. Did the Taoiseach discuss any of this and has any of it, in so far as it is possible to do so, been factored into calculations for the budget?

I want to come back to the issue of the refugees. It is devastating to watch what is happening in the besieged city of Aleppo and journalists and commentators have almost run out of words to describe it. Some 250,000 people are under daily bombardment, many without water and with little food. I welcome the endorsement by the Minister for Foreign Affairs and Trade, Deputy Charlie Flanagan, of the UN's efforts to broker a peace deal. Will the Taoiseach outline what measures the Government is taking to assist this process and what support it is providing to aid agencies and to the UN?

**Deputy Micheál Martin:** With regard to the discussions with Chancellor Merkel on Brexit, we know there is a lack of preparation on the British side and Britain is now in the process of

trying to get its act together in regard to negotiations but it can be said the position in regard to Europe is equally unclear. I get the sense that, across Europe, there seems to be a view that Brexit is no longer the central issue, that we can get on fine without Britain and so on. That is a dangerous view because, in my view, there is a mutual interdependence between the United Kingdom and the European Union in terms of the volume of trade between both markets and the value system we embrace within the EU in terms of basic democracy, respect for human rights and the underpinning of democratic principles. I believe the dilution and reduction in the size and scale of the EU is a blow to democracy, ultimately, and to the idea of progressive values. Whereas we all have faults and every member state has faults, some more than others, Europe needs to change its attitude at all levels towards the UK and Brexit.

I suspect, and the Taoiseach might confirm, that the Chancellor may be more of that disposition and I think Germany realises the mutual interdependence between the UK and the EU. We need to see more of that attitude to the fore in the discussions that will take place once Article 50 is commenced by the British Government. On the British side, there are people who are ridiculously posturing in terms of a hard Brexit, with groups being formed within the Tory Party to say Brexit means Brexit, with calamitous results both for the British people in terms of the economy and economic growth and jobs but likewise it is of no great benefit to Europe either because Europe will equally lose out in such a scenario because unexpected consequences could flow from a difficult separation, as it were. There is much uncharted territory in terms of Brexit. Did the Taoiseach get an indication from the Chancellor as to how Germany intends to approach the issue, in particular within the European Union?

Second, in terms of what is happening in Syria, this refugee crisis is without question unprecedented and represents one of the greatest scandals and appalling misery visited on a people since the Second World War and its aftermath. It is fair to say that the international institutions, including the European Union, have not responded properly, adequately or comprehensively enough to what is a refugee crisis caused by war. It is not about normal economic migration or asylum seeking. It is a catastrophe of unprecedented proportions which will continue.

To be fair to Chancellor Merkel, she made perhaps one of the bravest moves across Europe and is suffering electorally at the polls because of that. The European Union's relationship with Russia must come into question following what has happened in recent days in Aleppo. There seems to be great reluctance in some quarters to call it as it is. Some journalists in *The Guardian* and elsewhere have described the razing of Aleppo, including the bombing of aid convoys, as equivalent to what happened in Stalingrad. It is very clear that the Russia-Syrian Government alliance is responsible for the assault that is currently under way in eastern Aleppo. People in this House need to call that for what it is as well. It is unacceptable. To be fair, at the United Nations, people took their gloves off in terms of articulating the unacceptable nature of what is going on. The situation calls into question in a very fundamental way the relationship between the European Union and Russia, which is already strained due to sanctions imposed on foot of the situation in Ukraine, but what is going on currently is at a new level.

Hungary also needs to be taken on within the European Union. I do not know whether the Taoiseach has had discussions with Chancellor Merkel on the matter but the Hungarian Prime Minister's utterances in the past week are shocking and completely contrary to any European set of values. He talked about ring-fencing a city in an island somewhere off the Libyan coast to put all the refugees. The stage must come when Europe either means something in terms of a basic value system or it does not. We cannot just accommodate everybody because we want to be nice to everybody and say it is great to have 28, or now 27, members in the European Union.

The Hungarian Government has an obligation to subscribe to the core values and principles of the European Union. It is entitled to disagree but Hungary is not entitled to be part of the European Union given the kind of inflammatory, unacceptable rhetoric emanating recently from its government.

**Deputy Joan Burton:** In terms of the meeting with Dr. Merkel, does the Taoiseach consider that she recognises in reality the very special interest Ireland has on the Brexit proposals and that it is not just a rhetorical acknowledgement of it? In that context, did the Taoiseach get any information from her on whether the Commission's negotiating team will contain a strong Irish presence because we are unique among European countries and have a particular and special interest in Brexit and its potential implications? In the context of Dr. Merkel being one of the most influential Heads of Government, has the Taoiseach discussed with her the proposals, which are really for the Commission, of a team to negotiate on behalf of the Commission?

I agree with Deputy Micheál Martin that there is a tone emanating from Europe of broad indifference to whenever Brexit will happen. The implications of that for Ireland are profound because it means we will be counted out, so it is important there should be a significant Irish presence at senior official and other level, which the Taoiseach might care to indicate, in the pursuit of Ireland's interests from both the perspective of the two islands but also from the perspective of our continuing and ongoing membership of the European Union. Second-----

**An Ceann Comhairle:** I will interrupt Deputy Burton if she does not mind, as I wish to bring in Deputy Eamon Ryan and to allow time for a response, as we are running out of time.

**Deputy Joan Burton:** Of course.

**An Ceann Comhairle:** I ask Deputy Ryan to be brief.

**Deputy Eamon Ryan:** I will be very brief. In the conversation with Chancellor Merkel, did the Taoiseach raise the concern many people have that the German Government has brought about a diminished role for the Commission in its dealings with the European Union, preferring to use the Council instead? As the Taoiseach is aware, the Commission has traditionally been seen as offering protection for smaller states. Was there any discussion on the relative roles of the Commission versus the Council in how we manage Brexit or in terms of the range of issues we face?

**An Ceann Comhairle:** We have two minutes remaining.

**The Taoiseach:** I will respond to the questions in reverse order. In response to the question from Deputy Eamon Ryan, the matter was discussed at the European Council. It was always the Commission that provided the expertise to deal with countries that were pursuing their application to join the Union. This is the first time a country is willing to leave. The Commission will still use its expertise in negotiation but it will be overseen politically by the elected leaders of the countries and the Heads of Government. That is as it should be.

In response to Deputy Burton's question, yes, we will have an arrangement and senior officials will know exactly at every point the discussions that are taking place because it is critical for us that we know what exactly is going on. Deputies can believe me that when it comes back to the European Council for the political decisions, we will be in possession of all the facts. Deputy Burton also inquired whether Chancellor Merkel recognises the unique position of this country. Yes, she does, acutely. She is very conscious of it. She knows full well the importance

27 September 2016

of the European peace process, the support Europe has given and how critical it has been to Ireland. She understands the land border within the EU from Dundalk to Derry. I must say she is very conscious of that.

In response to the points made by Deputy Micheál Martin on Syria, this is a humanitarian scandal. Could one imagine three quarters of Dublin being without water and being blown asunder? The focus from Europeans who are not affected by the conflict is to build a European Union of peace, prosperity and stability and that there is a hell beyond the border. The root cause is not being tackled. I thought that when Secretary of State Kerry and Foreign Minister Lavrov put together a peace agreement after five years that it would stand some chance, yet the situation has disintegrated into absolute mayhem. Aleppo is being bombed and is in the process of being obliterated. The politics of the situation is that Russia and Iran support President Assad and America and the EU support the unofficial opposition and rebels. Turkey has a problem with the Kurds. Deputy Micheál Martin is quite right that at the European Council meeting, there was a proposition that there should be a European Union policy particular to the eastern Balkans, which is now suffering more from the influence of Russia than of the European Union or the United Nations. Those are matters we need to talk about.

**An Ceann Comhairle:** I am afraid we are out of time. The Taoiseach must wrap up.

**The Taoiseach:** In response to Deputy Adams, I discussed the question of the refugee crisis with Chancellor Merkel but my primary purpose was to explain to her the particular relationship Ireland has with the UK and the European Union. We are at an elbow, so to speak, in that regard. She has a very clear picture of where we are.

Chancellor Merkel is acutely conscious of the economic strength of Germany but she is also acutely conscious of just how fragile this entire business is for the European Union and we need to discuss it rationally and proceed with great caution.

**An Ceann Comhairle:** I thank the Taoiseach. We are eating into the time for the second group of questions, Nos. 2 to 6.

### **Taoiseach's Meetings and Engagements**

2. **Deputy Mick Barry** asked the Taoiseach his plans to meet with the newly announced UK Prime Minister, Ms Theresa May. [22242/16]

3. **Deputy Micheál Martin** asked the Taoiseach the formal contacts by him with the UK Prime Minister and political leaders in Scotland and Northern Ireland since 31 July 2016 regarding the issue of Brexit. [27012/16]

4. **Deputy Gerry Adams** asked the Taoiseach if he will report on his meeting with Prime Minister May. [27030/16]

5. **Deputy Brendan Smith** asked the Taoiseach the outcome of any discussions he has had with the British Prime Minister in regard to possible Border controls following the British EU membership referendum decision. [27104/16]

6. **Deputy Eamon Ryan** asked the Taoiseach if he will demand free movement of persons between the UK and Ireland during negotiations surrounding the UK withdrawal from the EU.

[27142/16]

**The Taoiseach:** I propose to take Questions Nos. 2 to 6, inclusive, together.

I met Prime Minister May on 26 July in London, when we agreed to work together to build on the continuing strength and the closeness of the UK-Ireland relationship. We had a good discussion on the good progress that our two Governments have made in recent years following on from the joint statement, British-Irish Relations, the Next Decade, which was agreed in 2012. Prime Minister May affirmed the UK Government's commitment to this comprehensive programme of engagement between our two Administrations. This will allow us to continue to work together on a range of issues that are of benefit to all the people of Ireland and Britain, such as jobs, trade, tourism and energy, as part of our joint Ireland-UK work programme.

The meeting also gave us the opportunity to discuss developments in Northern Ireland. We reiterated the importance of the partnership between our two Governments in supporting the peace process and in contributing to stability and continued progress in Northern Ireland. We are both committed to the 1998 Good Friday Agreement and successor agreements - St. Andrews and Fresh Start - and will continue to work in partnership for a prosperous and secure Northern Ireland.

We discussed the many issues that arise in the context of the outcome of the recent UK referendum on EU membership. While it is not the outcome that we wanted, we fully respect the democratic vote of the people of the UK and we will work with the Prime Minister and our partners in the EU and the Northern Ireland Executive to make sure we achieve the best possible outcome in forthcoming negotiations.

We agreed that we would work together to ensure that the benefits of the peace process are preserved in any new arrangements which might emerge regarding the UK's future relationship with the EU. In particular, we both recognised that Ireland is the only EU member state that shares a land border with the UK. We are in agreement that we do not wish to see any return to the borders of the past on the island of Ireland.

The meeting gave us the opportunity to have a broader discussion on the common issues of concern in the context of the referendum, such as our close trading relationship and the benefits of the common travel area. Both the Irish and the British Governments value the common travel area and will work to keep this in place to the greatest extent that is possible as part of future arrangements. There is no desire whatsoever to limit the freedom of people on both sides of the Irish Sea to live, work and travel freely across these islands. It will be a key issue for us in the context of negotiating new terms and conditions for the EU's continued relationship with the UK.

I last met with the First Minister and Deputy First Minister of Northern Ireland and Scotland's First Minister at the extraordinary meeting of the British-Irish Council on 22 July, which was called specifically to discuss the Brexit issue, and hope to meet them again in the near future.

**Deputy Micheál Martin:** Through the Taoiseach's contacts with the British Prime Minister, has he any sense of where Britain is at in terms of Article 50? We are getting various indicators that Article 50 could be triggered early next year. The British Government is now busily recruiting about 300 people to strengthen its capacity to deal with the Brexit negotiations. As I said to the Taoiseach earlier, there are already different poles of influence developing within

the Tory Party. One group is looking for a soft exit, EEA-type agreement or Norwegian trade agreement; others want a very hard Brexit and, though very ill-thought out, are considering either a WTO-type agreement or something close to the Canadian deal. However, they are not clear themselves, and it seems that this sense of absence of clarity on the British side must be hampering our attempts to formulate a proper set of strategies and tactics in how we pursue and achieve our objectives.

For the most part we know what are our objectives but the key issue will be how we go about securing them, both across Europe and the EU member states and in ensuring that we can influence to a certain, albeit limited extent the degree to which Britain will approach these talks. It is interesting that the Chancellor of the Exchequer, for example, is beginning to witness the hard realities of what Brexit means for the British Exchequer and for the financial services sector in the UK. At recent meetings he has had with some of the big banks and so on, they have been telling him straight that they need clarity from Britain, or else. An element of that could be of benefit to Ireland, but the fundamental point is the lack of clarity.

Regarding our objectives in Northern Ireland, my worry is that not enough detailed work has been done. For example, about a billion gallons of milk a day come into the South from the North. That is just one small illustration of the enormity of the two-way trade between the North and South that will be affected by this. I thought the Taoiseach and I agreed in July that we would try to have an all-island approach to Brexit. I put forward the idea that a mechanism should be developed whereby a social and civic forum would be established on an all-island basis to facilitate inputs from civil society in the North and the Republic into an issue of common concern, that is, Brexit and its implications for business, trade, workers, education, research and agriculture and farming on the island of Ireland. The implications will be very severe.

We must move away from just fuzzy talk or generalisations to concrete realities. We all say we do not want a hard Border. How does one put flesh on that bone? It is easier said than done if Britain separates from the EU. Are we looking at a border between the UK and the island of Ireland rather than one between the North and South? Clearly we want the former but we need to be thinking legally through formulas and models that can realise those kinds of objectives. It cannot all be wishful thinking or the articulation of wishful thoughts that we might like to see happening. The implementation and the realisation of those objectives are two different things.

**The Taoiseach:** There is a great deal of confusion and uncertainty about the entirety of this situation. The Leave campaign were in a state of shock when the result was announced. I did not like the result but we must deal with it.

On the question of when the Prime Minister is likely to trigger Article 50, from speaking to Secretaries of State Brokenshire and Davis and indeed the Prime Minister herself, under the law it is a matter entirely for the Prime Minister to do so. The feeling in a European context, when the original date for the appointment of the new Prime Minister was to be in October, was that one would need some time to reflect on what it is that one wanted to do and then trigger the article. My impression is that it will be towards the end of January or February before Article 50 is moved. I cannot confirm that as it is not my business but that is the impression that I get.

However, there are, as Deputy Martin says, different views within the Tory Party, and the Prime Minister has had to comment on a number of those in recent days. What sort of agreement does Britain want? It wants a deal which, from its point of view, protects its interests, and that will be unlike the Norwegian deal or the Swiss deal or whatever. What it wants is a British

deal. We must see that our interests are protected. There is a great deal of contact going on between officials because before Article 50 is moved, it will be necessary for the British side to be able to know the areas in great detail that will become a central focus of those negotiations. I assume they are now identifying those areas and starting to work through them. From our point of view, our senior officials will continue to work very closely with them in that regard.

The Deputy is right to mention agriculture, and the Minister, Deputy Creed, has been in regular contact with his Northern Ireland counterpart, Michelle McIlveen, MLA. He will travel to London shortly. As I said, I have asked every Minister before the next North-South Ministerial Council to have in in-depth conversation with their counterparts and their officials about what the impact will be including on areas such as milk production, dairy products in general, beef, pork and all the other agri-sector issues that are of concern North-South and South-North on a regular basis. I have met representatives of companies here who are now seeing the impact of the currency fluctuation where prices are due to increase. Given that there is generally a lag of two or three months, those prices will take effect in Britain in November and December, which is a difficult time in terms of retail for Britain. The impact on some agri-plants here has already been evident. There will be an increasing challenge for the British consumer because of currency fluctuations and therefore price increases in meeting all of that. We need to be very careful about these aspects.

I hope, in the context of the all-island conversation we will have, there will be real contributions about where this will go. When will it be finalised? It took about three years to get Greenland extracted from the European Union and there are not too many people living in Greenland. This could run much longer than people might imagine. Although there seemed to be an impression at the European Council meeting that this should certainly be done before the next European Parliament elections in 2019, these things are very difficult to predict.

We will prepare as assiduously as we can and we will keep everybody here informed of that because it is important that we have the views of the Irish Parliament in protecting our particular interest, both continuing with the United Kingdom in the links we have and our specific relationship as a member of the European Union.

**An Leas-Cheann Comhairle:** I call Deputy Adams and ask him to bear in mind that three minutes remain in this slot.

**Deputy Gerry Adams:** Gabhaim mo bhuíochas leat, a Leas-Cheann Comhairle. Is deas an rud é tú a fheiceáil arís. Tá súil agam go raibh sos maith agat.

I do not have the time to get into the detail I had prepared. We can speculate all we want about what the British might do, but it is very important to spend a lot of time figuring out what we will do. I listened carefully to the Taoiseach's answer to my question where I asked him if he would accept the vote of the people in the North. He said that yes, he does accept the vote of the people in the North, the people in Scotland, the people in England and the people in Wales. While I do not want to put words in his mouth, he went on to say something to the effect that this was a collective decision or a corporate decision. That is the nub of this problem. The Taoiseach has to accept, advocate and promote actively the vote of the people in the North. There is no getting out of it. He has to do that or else say he does not accept that approach. Either way there must be clarity from the Government on the issue. It follows through that if he is not clear, then he will not be clear with the British Prime Minister. He has to say to the British Prime Minister that the vote was taken.

27 September 2016

The Taoiseach mentioned Greenland, which is a good example. It is an autonomous part of Denmark, which is a member state and yet Greenland is outside the EU while Denmark is in the EU. So there are arrangements and the EU is not an inflexible structure. The leadership falls upon the Taoiseach at this time.

The Taoiseach also said that both Governments reaffirmed their commitment to the peace process. I do not believe this Government is committed to underpinning, building and promoting the peace process, as it is required to do. For example, did the Taoiseach ask the British Prime Minister about her decision to scrap the UK Human Rights Act, which is a total undermining of the Good Friday Agreement?

The Taoiseach will know, or he should know, that the Ballymurphy families walked out of a meeting with the British Secretary of State who refused to fund legacy requests that are outstanding, some for more than 25 years. Within the Northern Executive, the DUP is also blocking this. That is despite the fact that the North's Lord Chief Justice, Declan Morgan, has proposed a five-year plan to clear the backlog in all of this. If our Government has not got its head around that and we just get these bland statements that the two Governments are supportive of the peace process, then the damage done by Brexit will be more deeply rooted and devastating than we might be able to contemplate at this time.

**An Leas-Cheann Comhairle:** The time has almost elapsed. With respect, I will call Deputies Brendan Smith and Eamon Ryan for one short question each and then the Taoiseach can reply to them all.

**Deputy Brendan Smith:** I ask the Taoiseach to give a firm indication that every effort will be made to ensure there are no restrictions in the movement of people or goods between North and South or between Ireland and Britain. In my constituency and the general Border area there is real concern over the impact of Brexit. Already uncertainty has arisen due to the weakness of sterling. Deputy Micheál Martin mentioned the dairy sector and the movement of raw milk from North to South and from South to North. Thankfully, many of our good business enterprises are sited on both sides of the Border. Real difficulties will emerge for them if there is restriction on the movement of people or goods. I would like the Taoiseach to give the House an assurance that every possible effort will be made to ensure no restrictions are imposed on the movement of people. We underestimate one thing that has been very successful since the mid-1990s, which is the growth of economic activity on a North-South basis and the movement of workers. We want to ensure obstacles are not put in the way of the further development of that positive economic feature.

**An Leas-Cheann Comhairle:** I call Deputy Ryan for one quick question.

**Deputy Eamon Ryan:** On a point of order, four questions were grouped. Why are certain people given more priority? My question is just as valid. I make the point-----

**An Leas-Cheann Comhairle:** If the Deputy were the first, I would not have interrupted him. There are 15 minutes. Those are the Standing Orders and I am ensuring that we implement them.

**Deputy Eamon Ryan:** If I could make my point then-----

**An Leas-Cheann Comhairle:** The Deputy should ask a quick question or else the Taoiseach will not have time to reply.

**Deputy Eamon Ryan:** Let me ask my question. The critical point the Taoiseach made was that we were looking to keep the benefits of the common travel area or to keep it in place to the greatest extent possible, in other words, recognising that it may not be retained as is. In the negotiations, will the Taoiseach side with the UK in terms of some sort of semi-hard Brexit option where the restrictions with the rest of Europe in terms of freedom of movement of people would be introduced, but we would have a special different relationship where we get some element of a common travel area? Or will he instead side with those within the European Union who are currently saying that irrespective of the position the British Government takes, the European Union will insist on the maintenance of free travel before giving any trade deal to the UK? If we took such a position, supporting that EU principle of free movement, would that risk the outcome of the barricades going up between Belleek and Ballyshannon, and between Belcoo and Blacklion? Ultimately, the Taoiseach must make the call as to whether we side with Europe or with the UK on the issue of the free movement of people.

**An Leas-Cheann Comhairle:** The Taoiseach will have to use all his skills and reply in one minute.

**The Taoiseach:** We enter these discussions as a member of the European Union, but we do so as a country with a unique set of relationships with the United Kingdom. The common travel area has been of great benefit to both countries before we joined the Union and since we joined the Union; it has not been tested when one country is in the Union and one is outside it. The British Prime Minister is clear that neither she nor I want to see a return to a hard Border and will do everything possible to see that the free movement of people and goods is as it is now.

We are in the negotiations as a member of the European Union, but we want to retain our specific traditional relationship with the United Kingdom. When I met the British Prime Minister, Mrs. May, she made it clear that she does not want to return to a hard Border and nor do we. She wants to retain the common travel area, as do we. We will speak as a member of the Union, but we have a particular relationship with Britain that we want to retain.

I spoke to the Secretary of State, Mr. Brokenshire, MP, at the British-Irish Association conference in Oxford and I reminded him that in respect of the Kingsmills massacre the Tánaiste had sent whatever information we had on our Garda files to the coroner's inquest. I only made it as a point of information for him as an example of the kind of thing the British Government could start to deal with in terms of breaking down the legacy of pressure that is there, either in Ballymurphy or Kingsmills or wherever else, as Deputy Adams will well understand. It was shortly afterwards that the meeting took place with him in respect of Ballymurphy.

**Deputy Gerry Adams:** He ignored the Taoiseach. The people walked out of the meeting.

**The Taoiseach:** People in Northern Ireland and Scotland voted to remain. People in Wales and England voted to leave, but people in greater London voted to remain. As Deputy Gerry Adams knows, people in Northern Ireland have a right to Irish citizenship in most circumstances. They do not want to see a border between Derry and Dundalk. These are some of the unforeseen questions that need to be answered and that we will have to deal with. We will have a lot more debate and discussion on these issues as we move forward.

## UK Referendum on EU Membership

7. **Deputy Micheál Martin** asked the Taoiseach the restructuring plans in his Department to deal with Brexit; the way these changes will relate to other Departments, particularly the Department of Foreign Affairs and Trade; the reporting relationships and the recruitment plans for same; and if he will make a statement on the matter. [26581/16]

8. **Deputy Joan Burton** asked the Taoiseach the progress that has been made in considering the implications of Brexit for Ireland, North and South. [27229/16]

9. **Deputy Micheál Martin** asked the Taoiseach the dates and attendance at meetings of his Department's task force on Brexit; and if he will make a statement on the matter. [27309/16]

10. **Deputy Micheál Martin** asked the Taoiseach if he plans to publish a strategy for Ireland and the way it can benefit most from the opportunities the Brexit result presents for Ireland; the way in which Ireland will increase its presence in other EU markets to increase exports and intensify trade arrangements; and if he will make a statement on the matter. [27311/16]

**The Taoiseach:** I propose to take Questions Nos. 7 to 10, inclusive, together.

Structural changes to the workings of government are required to ensure an effective whole-of-government response to the challenges ahead. I recently chaired the first meeting of a new Cabinet committee on Brexit that will oversee the overall Government response, including the economic impact and the negotiations at EU level and with the Administrations in London and Belfast. It will be supported in its work by a senior officials group on Brexit which will build on the work undertaken by the interdepartmental group on EU-UK affairs. A second Secretary General has been appointed to lead a new integrated division within my Department with responsibility for EU, Northern Ireland, British-Irish and international affairs. The appointment is part of a series of actions I announced following the referendum, including the strengthening of the EU policy role of the Department of Foreign Affairs and Trade, as well as the strengthening of other key Departments, agencies and overseas missions. This will be complemented by existing structures, including the Cabinet committee on EU affairs and the EU senior officials group which supports it and a consultative group of external stakeholders, including ICTU, IBEC and other business representative groups and relevant NGOs.

As regards the likely impact of Brexit on Ireland, North and South, the Government is being kept fully briefed on developments and reviewing key issues relating to contingency planning and preparation for negotiations on an ongoing basis. All Departments are deepening their analysis of the likely impact of the United Kingdom's decision and continue to develop risk analysis and contingency plans.

The Government believes there is a need for the widest possible conversation on the implications of the referendum result for Ireland, North and South, and North-South relations and we will put forward in the coming weeks our ideas on how we can best do this. In July the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, briefed members of the Export Trade Council on the formulation of a new successor policy to the trade, tourism and investment strategy which will be accelerated in the light of the UK referendum result. "Trading Better" will set out a coherent medium-term plan for the period 2017 to 2021 to enhance and improve how we support Irish exports and investment. In addition, Enterprise Ireland and IDA Ireland are in close contact with their clients on the challenges and opportunities presented by

the referendum result. They have extended their schedule of trade missions. IDA Ireland will continue to promote the attractiveness of Ireland as a location of choice for mobile international investment and talented people and seek to maximise opportunities that might arise. This is based on our unique competitive strengths - now being seventh in the world - and our position as an English-speaking nation in Europe and the eurozone. Enterprise Ireland is intensifying its efforts to support companies to respond to the new situation and implement medium-term market diversification plans.

**Deputy Micheál Martin:** The Taoiseach stated he had recently attended a Cabinet meeting.

**The Taoiseach:** I chaired it.

**Deputy Micheál Martin:** How many Cabinet committee meetings on Brexit have taken place? In Question No. 9 I ask the Taoiseach for the dates and attendance at meetings of his Department's task force on Brexit. Perhaps he might forward the details to me or indicate if the information is attached to the reply.

The role of the Department of Foreign Affairs and Trade, in terms of its relationship with the Department of the Taoiseach, in dealing with the Brexit issue was not articulated clearly in the Taoiseach's reply. I pointed out earlier that the British Government was recruiting approximately 300 people, including trade negotiators and so on. The detail involved is enormous and I am still not clear on whether we have in place a plan for recruitment. We did have a meeting on the issue at the time of the Brexit decision during which the Taoiseach pointed to the possible recruitment of staff to embassies and I indicated the need for a strengthening of embassies across EU capitals and in key areas, including the British embassy and the Irish Embassy in London. Is there an overall number of personnel that we will be recruiting specifically to provide expertise to assist the Government in its negotiations on Brexit? Will the budget provide for a specific "Brexit allocation" to cover staffing, the number of personnel required and the overall national effort in dealing with Brexit? It is essential that we have some clarity on that issue. To be frank, our current strengths are not sufficient to deal with the detail of what is involved. This is not just about trade which in itself is extraordinarily detailed. In the Department of Jobs, Enterprise and Innovation there are only a small number of personnel involved in the area of trade policy and enterprise. On the side of the Department of Foreign Affairs and Trade, it is usually the embassies that engage in trade promotion, but the numbers are very low given the enormity of the task involved. I am worried that we have not grasped the enormity of the task and that we are not preparing adequately for it.

In addition to the recruitment of personnel, has the Taoiseach considered appointing a Minister with exclusive responsibility for managing and co-ordinating the Government's efforts in dealing with Brexit, devoid of other responsibilities a Minister for Foreign Affairs and Trade or a Minister with responsibility for European affairs invariably would have and so on? It is important we have someone to dot the i's and cross the t's in our preparations for and ultimately the conduct of the negotiations. It is a vast task covering research and development, SMEs, trade and so on which is going to take up an enormous amount of time. During a presentation last week by Mr. John McGrane of the Irish Chamber of Commerce he told us that what we were witnessing was the calm before the storm. Once Brexit is triggered, there will be many consequences.

**Deputy Joan Burton:** Will the Taoiseach expand on the expected role he identified for key senior Irish officials on the European Commission Brexit team which, as he said, will conduct

27 September 2016

most of the negotiations? Has he considered appointing a personal envoy? That official could be a senior diplomat or a politician with senior status. I personally do not think the meetings that are happening which inevitably are not detailed but cover a lot of territory are sufficient in pursuing our interests as a country. I detected from before the summer a considerable softening in the Taoiseach's replies on his stance on the issue of a hard Border. It seems to be a matter up for discussion.

On the role of the Department of Foreign Affairs and Trade, those involved will be professional diplomats. Brexit, above all else, will be a monumental exercise in diplomatic negotiations, with politicians, by and large, coming in towards the end. A number of staff have been transferred from the Department of Foreign Affairs and Trade to the Department of the Taoiseach. Professional diplomacy, including among the ambassadors of the 27 member states resident in the Republic, including the United Kingdom, is equally important. As has been said by several Ministers, the view in Europe is that Ireland is an add-on to the British decision on Brexit. I do not believe the Taoiseach is stating clearly and strongly enough that we do not want to see a hard border: it is not acceptable and would not be workable for us.

**The Taoiseach:** I assure the Deputy that I have no intention of standing for the return of a hard Border; neither does the British Prime Minister. I am not sure from where the Deputy got the view that my position on the issue had softened. I have made my position very clear and do so again now.

On the appointment of a personal envoy, I did give consideration to appointing a Minister with responsibility for dealing with Brexit.

*4 o'clock*

Every Minister and Minister of State has a responsibility because they are all tied up in it one way or the other. While the Cabinet committee I chair generally comprises senior Ministers, they will all be called because they all have a responsibility. That is why I have asked all of them to have intensive discussions with their counterparts in the context of the forthcoming North-South Ministerial Council in order that we can get a fix on this issue. The majority of our personnel in Brussels who conducted the Presidency at the start of 2013 are still there. We will have access to the negotiations and discussions taking place and will know what is happening.

**Deputy Joan Burton:** Will they be members of the negotiating teams?

**The Taoiseach:** I will give the details to Deputy Micheál Martin of the changes that have taken place.

**Deputy Micheál Martin:** How many Cabinet committee meetings have been held?

**The Taoiseach:** We have had discussions about this issue at the Cabinet. We have had one or two meetings of the Cabinet committee which has only been established in recent weeks. I will clarify the detail for the Deputy and the numbers and discussions that have taken place.

**Deputy Micheál Martin:** Was it one or two?

**The Taoiseach:** I will have meetings on a regular basis.

**Deputy Micheál Martin:** I presume there has been one.

**The Taoiseach:** We do not have anything like the number of personnel Britain will have, but we have support from ICTU, IBEC and non-governmental organisations, NGOs. As this develops and we form an opinion for the month of November, it will be important that we have an agreed position as to what we should look for because we still do not know and will not know for some time what the British Government will look for. Our interests must be protected, including our links with the United Kingdom and the European Union. I explained in Bratislava to some of the leaders that it was difficult to get the concept if asked by Lithuania, Estonia, Slovakia or Slovenia about the relationship between Ireland and the United Kingdom, including Northern Ireland, England, Scotland and Wales. It is important that we continue to explain just how particular is our relationship with these countries.

### **Priority Questions**

**An Leas-Cheann Comhairle:** As Members know, the Deputy asking the question has 30 seconds in which to make a short introduction; the Minister or the Minister of State has two minutes in which to make a reply, after which there are four minutes for questions and answers.

### **Defence Forces Medicinal Products**

21. **Deputy Lisa Chambers** asked the Taoiseach and Minister for Defence his views on recent developments regarding the use of Lariam; and if he will make a statement on the matter. [27240/16]

**Deputy Lisa Chambers:** What is the response of the Minister of State at the Department of Defence to recent developments regarding the use of Lariam? Will he make a statement on the matter?

**Minister of State at the Department of Defence (Deputy Paul Kehoe):** I thank the Deputy for her question. I note that she is referring to the discontinuation of the sale of Lariam in the Irish market and the recent remarks reported to have been made by a former senior UK military officer. On the first matter, Roche Products (Ireland) Limited informed the director of the Defence Forces medical branch on 7 August 2015 that it was planning a discontinuation of Lariam from the Irish market with effect from 31 July 2016. My colleague and the former Minister for Defence, Deputy Simon Coveney, brought this matter to the attention of the House in an oral parliamentary questions session on 8 October 2015. I understand Roche has indicated that its decision is based on a commercial assessment. I understand it indicated at the time that it was not aware of any withdrawal plan in other countries, particularly the United Kingdom. It was indicated that in some European countries Lariam had, however, been withdrawn in the past due to low demand.

I am advised by the military authorities that drugs are purchased by the Defence Forces under the four-year framework agreement on the supply and pricing of medicines. This agreement is between the Irish Pharmaceutical Healthcare Association, IPHA, and the HSE.

On the second matter, I have been made aware of newspaper reports that a former senior UK military officer has apologised to British troops who were given the anti-malarial drug Lariam. The choice of malaria chemoprophylaxis in use by other armed forces is an internal matter for

these forces. It would not be appropriate for me to comment on the policy and practices of other states in this regard or to engage in discussion on the merits of these policies and practices. The health and welfare of the men and women of the Defence Forces are high priorities for both me and the Defence Forces. Malaria is a serious disease which killed approximately 438,000 people in 2015, with 90% of the deaths occurring in sub-Saharan Africa as reported by the World Health Organization.

The choice of medication for overseas deployment is a medical decision made by Defence Forces medical officers, having regard to the specific circumstances of the mission and the individual member involved. Significant precautions are taken by the Defence Forces medical officers in assessing the medical suitability of members of the Defence Forces to take any of the anti-malarial medications. It is the policy of the Defence Forces that personnel are individually screened for fitness for service overseas and medical suitability. I am advised by the director of the medical branch that this has been the policy since the first involvement of the Defence Forces in overseas service.

**Deputy Lisa Chambers:** Fianna Fáil has believed for some time that the use of the drug Lariam has caused serious problems for the Defence Forces. I have raised the issue with the Minister of State previously. Serious concerns have been raised for many years about the use of Lariam as an anti-malarial drug for troops serving overseas. Last year the British Ministry of Defence acknowledged that 1,000 former service men and women suffered from severe psychiatric and mental health problems as a result of having been prescribed Lariam. These are the only people about whom we know and they are experiencing severe problems. In 2013 it was suggested in an RTE “Prime Time Investigates” programme that Defence Forces personnel who had been prescribed the drug were three to five times more likely to be at risk of suicide. This investigation was conducted in Ireland and we now have a former British army chief who has apologised unreservedly for its use. Does the Minister of State believe either he or any other Minister with responsibility for defence matters will one day have to stand up in the Dáil Chamber and apologise for the prescription of Lariam for our troops?

**Deputy Paul Kehoe:** The medical advice I have been given by the medical corps of the Defence Forces is that Lariam is the most suitable drug for members of the Defence Forces who are going overseas. I hope the Deputy understands it is a fight against malaria, one of the ravaging diseases in sub-Saharan Africa. The Defence Forces have a very good history in malaria prevention. I have spoken to the medical officer and the Defence Forces about this matter and I am satisfied, based on the medical information and evidence I have been given, that this is the best malaria prevention method. All members of the Defence Forces are well screened and all precautions are taken before the drug is prescribed for any member.

**Deputy Lisa Chambers:** To clarify, the Minister of State has spoken about the advice he has been given. Is he willing to provide it for the House? It appears to me that he is ignoring the facts. Across the water, where thousands have been affected, the British Ministry of Defence has acknowledged the negative impact. Should we not be taking this information on board? The Minister of State has said this is the most suitable drug. I point out, however, that Dr. Franz Humer is on record as stating science has advanced considerably since Lariam was first introduced and that there are more effective anti-malarial drugs available with reduced side effects. I ask the Minister of State to take this on board. He has said we have a very good record. There are 50 serving or former members of the Defence Forces who have lodged claims against the State because of the prescription of this drug and legal proceedings have been served against the State in 37 cases. The Minister of State may say the drug has been withdrawn from

the market in this country for commercial reasons, but I disagree with him on this point and the buck stops with him. We could be here in ten or 20 years reflecting on 1,000 former Defence Forces members suffering from a severe psychiatric condition because of this drug. The Minister of State will have to answer for that, as will other former Ministers for Defence. The buck stops with him today. He has information on his desk on negative side effects, but he is hiding behind what he says is expert medical advice which he has not provided for the House. I ask him to provide it.

**Deputy Paul Kehoe:** I will not provide the medical advice because that would almost mean providing advice on every member of the Defence Forces.

**Deputy Lisa Chambers:** That would not be the case.

**Deputy Paul Kehoe:** It relates to their personal health and well-being and the next information the Deputy will look for is the personal details of members of the Defence Forces.

**Deputy Lisa Chambers:** I object to that comment. I will not look for the personal details of any member of the Defence Forces as that would not be appropriate. I asked for the medical advice the Minister of State has received on the drug, Lariam, not on individuals. The Minister of State should be clear about that.

**Deputy Paul Kehoe:** When Roche informed the Defence Forces that it was pulling out of the country, it stated it was a commercial decision. If the Deputy has evidence that it pulled out for any other medical reason, I would appreciate it if she gave it to me.

**An Leas-Cheann Comhairle:** We have to move on.

**Deputy Paul Kehoe:** I am satisfied that the evidence I have received from the medical corps of the Defence Forces is that Lariam is the most suitable drug for members going abroad.

**An Leas-Cheann Comhairle:** We are encroaching on the time of other Members.

### **Defence Forces Medicinal Products**

22. **Deputy Aengus Ó Snodaigh** asked the Taoiseach and Minister for Defence if his attention has been drawn to the fact that the anti-malaria drug, Lariam, was taken off the market here by its manufacturer in July 2016; that the acknowledged side effects of Lariam include anxiety, depression, paranoia and suicidal behaviour; that 50 serving or former members of the Defence Forces have lodged claims against the State having been given the drug; and if he will instruct the Defence Forces to immediately end the use of this controversial drug. [27230/16]

**Deputy Aengus Ó Snodaigh:** The reason I raise this issue, similar to the previous question, is I have tabled questions about use of the anti-malaria drug, Lariam, since 2008. Seven Ministers of Defence have taken the same position as the Minister of State, including a number of Fianna Fáil Ministers. It is high time that he instructed the Defence Forces to cease administering the drug to those who are deployed in sub-Saharan Africa.

**Deputy Paul Kehoe:** I am aware that Lariam has now been discontinued in the Irish market. Roche Products (Ireland) Limited informed the Defence Forces director of the medical branch on 7 August 2015 that it was planning a discontinuation of Lariam from the market with

27 September 2016

effect from 31 July 2016. My colleague and former Minister for Defence, Deputy Simon Coveney, brought the matter to the attention of the House during an oral parliamentary questions session on 8 October 2015.

I understand Roche has indicated that its decision is based on a commercial assessment. I also understand it indicated at the time that it was not aware of any withdrawal plans in other countries, particularly the United Kingdom. It was indicated that in some European countries Lariam had been withdrawn in the past owing to low demand. I am advised by the military authorities that drugs are purchased by the Defence Forces under the four-year framework agreement on the supply and pricing of medicines between the Irish Pharmaceutical Healthcare Association, IPHA, and the HSE. The Defence Forces are aware of the range of reported side effects of anti-malarial medications. Significant precautions are taken by Defence Forces' medical officers in assessing the medical suitability of members of the Defence Forces to take any of the anti-malarial medications. It is the policy of the Defence Forces that personnel are individually screened for fitness for service overseas and medical suitability.

The choice of medication for overseas deployment, including the use of Lariam, is a medical decision made by medical officers in the Defence Forces. They have regard to the specific circumstances of the mission and the individual member of the Defence Forces. The Deputy is correct that a total of 50 claims have been received to date in respect of current or former members of the Defence Forces who allege personal injury as a consequence of their consumption of Lariam. Proceedings have been served in 38 of these cases. The State Claims Agency advises that, for whatever reason, seven individuals did not progress their cases. They were discontinued and are now statute barred. Regarding the remaining five cases, while claims have been received, High Court proceedings have not yet been served. Given that proceedings have been served in a number of these cases, it would be inappropriate to comment further on these matters.

**Deputy Aengus Ó Snodaigh:** While I understand the Minister of State cannot comment on individual cases or even the 50 cases that have been taken, does he seriously believe Roche when it states it is withdrawing on commercial grounds? There is no way the company would admit it was withdrawing on medical grounds because that would open it up to a huge number of claims not only in Ireland but also throughout the world. It has not sold Lariam in America since 2009. The drug has huge implications which have been exposed in Ireland, Australia, America and elsewhere. Approximately 15 years ago American soldiers were operating in Somalia and Lariam was withdrawn because of the serious effects it was having on those in charge of heavy goods vehicles. There has been a question about the drug for many years, so much so that the Irish Army bulk bought other anti-malarial drugs. We do not know what happened to them because most soldiers seem to have been given Lariam. The Army bought 20,000 Malarone and Doxycycline tablets. What happened to them? Why were they not administered instead of Lariam which is open to question and which has serious side effects that have been documented throughout the world?

**Deputy Paul Kehoe:** I have to believe Roche when it informed the former Minister for Defence that it was pulling out of Ireland for a commercial reason. I have been given no information or evidence to state otherwise. The choice of medication for overseas deployment, including the use of Lariam, is a medical decision made by medical officers in the Defence Forces. The best advice given to me is that Lariam is the most suitable drug to take in sub-Saharan Africa.

**Deputy Lisa Chambers:** We would like to see the advice.

**Deputy Paul Kehoe:** I am not a medical practitioner, but I accept the advice of the Defence Forces medical corps. The choice of medication for a mission is a medical decision based on best advice. I reiterate that the most comprehensive screening is carried out on every member of Defence Forces.

**Deputy Aengus Ó Snodaigh:** Previous parliamentary questions I have tabled have exposed the fact that there is not comprehensive screening of men and women deployed abroad. I ask the Minister of State to review these replies. Mr. Tony Killeen was Minister for Defence at the time. The Minister of State does not have to believe Roche, but he should believe his own soldiers. Four years ago I sought documentation through a parliamentary question, some of which was not supplied, including a fax that had been sent to Chad to warn that Lariam should be administered for more than four months. The deployment was four months. One had to take Lariam for a month before and after deployment, which gives a total of six months. The Defence Forces have, therefore, issued contradictory advice to their own medical corps in the past. Will the Minister of State review the file to see why one of the faxes sent to Chad was not included in the material supplied to me?

**Deputy Paul Kehoe:** I am not hiding behind any evidence. I believe absolutely that the medical corps of the Defence Forces gave me the best evidence when I questioned it on this issue. It is not giving me false information. I refute one of the Deputy's comments. I have been informed by the Defence Forces that its members are individually screened prior to the administration of Lariam before they go on an overseas mission and I have to believe them. Each individual is medically screened prior to Lariam being used.

**Deputy Lisa Chambers:** It would be quite remarkable for a pharmaceutical company to say it was taking a drug off the shelf because it was bad for people.

### **Defence Forces Recruitment**

23. **Deputy Lisa Chambers** asked the Taoiseach and Minister for Defence the status of the 2016 recruitment campaign for the Defence Forces; the reason the whole-time equivalent strength of the Permanent Defence Force had fallen to 9,025 as of 31 July 2016; and if he will make a statement on the matter. [27241/16]

**Deputy Paul Kehoe:** The Government is committed to maintaining the stabilised strength of the Permanent Defence Force at 9,500 personnel, comprising 7,520 Army, 886 Air Corps and 1,094 Naval Service as stated in the 2015 White Paper on Defence. I am advised by the military authorities that the strength of the Permanent Defence Force at 31 July 2016, the latest date for which details are available, was 9,025, comprising 7,233 Army, 718 Air Corps and 1,074 Naval Service whole-time equivalent personnel. The manpower requirement of the Defence Forces is monitored on an ongoing basis in accordance with the operational requirements of each of the three services. In line with HR policy, there is significant turnover of personnel in the Permanent Defence Force due to the requirement to maintain a lower age profile. Targeted recruitment has been and is currently taking place so as to maintain the agreed strength levels.

The current general service recruitment campaign which was launched on 13 April 2016 envisages an intake of approximately 600 general service recruits in 2016. The military au-

thorities have advised that 282 general service recruits have been enlisted to date in 2016, with a further 320 recruits to be enlisted by year end. Plans have been put in place to continue this phased general service recruitment in 2017 in a manner designed to reach the established strength figure.

In relation to the officer cadre, a total of 97 cadetships were awarded following the 2016 competition, comprising of 68 Army, 2 equitation school, 12 Air Corps and 15 Naval Service cadetships. The Army cadets commenced training on 26 September in the Defence Forces cadet school. This is the highest cadet intake in the history of the State.

Direct entry competitions are also held as required, from which specialist appointments are filled. An Air Corps apprentice aircraft technician competition was launched on 9 August 2016, from which it is planned to enlist 25 apprentice aircraft technicians. A direct entry competition is also ongoing for suitably qualified applicants.

**Deputy Lisa Chambers:** The Minister says the Government is committed to maintaining a stabilised force and to achieving a number of 9,500 but this is not the first time I have asked him what he is doing to achieve that figure. We are now at 9,025, which is considerably below the figure of 9,500 at which we should be and that is the minimum. The Government launched a recruitment drive back in April but we have not yet seen the fruits of that. Does the Minister not accept that just above 9,000 is way too few for the Permanent Defence Force to maintain its capabilities and to continue to do the fantastic work it does in ensuring we care for our sovereignty and maintain our borders? I see no real movement on these figures. Instead, there seems to be a constant downward trajectory and something radical needs to happen. What the Minister is doing is not enough to get up to the figure at which we need to be.

**Deputy Paul Kehoe:** I agree that the Irish Defence Forces do an absolutely outstanding job and I have been assured by the Chief of Staff that they have the capabilities to carry out any duty or mission that may be required of them. I refute the suggestion that the Government is not committed to bringing people into the Irish Defence Forces. I attended the induction of Army cadets yesterday in the Curragh and, in total, almost 100 cadets will start in the Army, Air Corps and Naval Service this year, the highest number in the history of the State. We have a general intake of privates and enlisted personnel and I believe we will be close to 9,500 at the end of the year.

**Deputy Lisa Chambers:** I am glad the Minister mentioned the officer corps because, according to RACO, the representative body of serving members of the officer corps, there is a mass exodus of officers from our Defence Forces. If this is not addressed, it could seriously affect our operating capabilities. So far this year, 48 applications have been processed for early retirement from the officer corps and there are currently 90 officer vacancies. Last year, 76 officers quit the corps. RACO said that management had disappointingly failed to engage with or constructively respond to issues and concerns raised at its conference. These include the failure to address ongoing retention of personnel and the failure to put in place family-friendly policies. At the moment, we are constantly moving people around and we expect them to stay in our Defence Forces when they cannot possibly maintain a healthy family life. I urge the Minister to facilitate members in having a family-friendly working environment and adequate IT facilities, with hot desks so that they can work from remote locations. I urge him to restore the instructors' allowance, as this encouraged people to stay in our Defence Forces, and I also ask him to restore the Army ranger wing allowance. We need to compete with the private sector but we are not doing that and are losing people because we are not an attractive option for

qualified, experienced and excellent personnel. If we do not do something about that, we are in danger of losing very good people whom we will not get back.

**Deputy Paul Kehoe:** The Deputy mentioned family-friendly policies and we have been very active in bringing family-friendly policies to the fore. The fact that male or female participants may spend three months on missions abroad and have an exchange with somebody for the following three months is a welcome addition. I have asked the general officer commanding in each of the brigades if enlisted personnel living near Kilkenny barracks or Cork or Galway barracks can do their training in the nearest barracks to their home, rather than someone from Galway having to travel to Cork or somebody from Cork having to travel to Galway. It can be very difficult to do this at times but we try to facilitate it wherever possible.

I have been on top of this issue and will make sure we retain our numbers at 9,500, or as close to it as possible. That is why this is the biggest cadet class in the history of the State at almost 100 personnel.

### **Defence Forces Representative Organisations**

24. **Deputy Brendan Ryan** asked the Taoiseach and Minister for Defence if he will lift the ban on PDFORRA membership of the Irish Congress of Trade Unions, its access to the Workplace Relations Commission and its involvement in national pay bargaining arrangements; and if he will make a statement on the matter. [27314/16]

**Deputy Brendan Ryan:** My question asks the Minister if he will lift the ban on PDFORRA membership of the Irish Congress of Trade Unions, its access to the Workplace Relations Commission and its involvement in national pay bargaining arrangements. This has been the view of members of PDFORRA since 1995.

**Deputy Paul Kehoe:** Under the terms of the Defence (Amendment) Act 1990, the Defence Forces representative associations are prohibited from being associated with or affiliated to any trade unions or any other body without the consent of the Minister. Accordingly, the representative association PDFORRA cannot be affiliated to ICTU at present. The basis for the prohibition is that it would be inappropriate to apply the provisions of the Industrial Relations Act 1990 to members of the Defence Forces. The taking of any form of industrial action is irreconcilable with military service. This is a long-standing policy position taken by respective Governments since the foundation of the State. The Defence Forces may be called on to contribute to maintaining vital services in times of industrial action. The potential for serious difficulties and conflicts could arise in these circumstances if the Defence Forces representative associations were associated with or affiliated to ICTU, given ICTU rules in relation to such matters.

However, a number of mechanisms have been put in place through the Defence Forces conciliation and arbitration scheme, which provides the representative associations with structures and processes to enable them to make representations and negotiate on behalf of their members. In addition, a framework exists which facilitates the associations engaging with the official side in talks parallel to those taking place between ICTU and the official side at national level. This parallel process was successfully operated in respect of last year's rounds of discussions, facilitated by the Labour Relations Commission, on an extension to the public service agreement 2010–2014, leading to the Haddington Road agreement. I remain satisfied with the present arrangements in place and have no plans to make any changes.

27 September 2016

**Deputy Brendan Ryan:** PDFORRA has long held the belief that affiliation to ICTU is imperative for truly effective and equitable negotiations to be undertaken on behalf of its membership. This view has been held by the membership of PDFORRA since 1995 when a vote on the matter was passed unanimously by delegates at its conference. Speaking at that conference in 1995, Peter Cassells, the ICTU general secretary, informed the delegates that while he recognised that the Defence Forces had a special role to play, members should still have a say on pay, taxation, social welfare and health and that this should be conducted through ICTU. Subsequent attempts by PDFORRA to petition various Ministers to grant affiliation status have been rejected.

Two years ago the Association of Garda Sergeants and Inspectors, AGSI, made a successful petition to the European Committee of Social Rights, ECSR. PDFORRA reviewed that determination and considered the parallels between the circumstances of PDFORRA and the AGSI and also petitioned the ECSR. PDFORRA believes that the protections enshrined within the European Social Charter should apply to its members also. National pay agreements have been the norm in this country for many years and in the absence of the ability to highlight at central negotiations the matters affecting members of PDFORRA its effectiveness at negotiation is severely hampered. While there is a conciliation and arbitration scheme in existence for members of the Permanent Defence Forces, for many reasons this scheme is limited in scope and power. It is also identical to the scheme enjoyed by An Garda Síochána which was the subject of its complaint to the European Committee of Social Rights.

Finally, it could reasonably be stated that the appropriate benchmarks of a democratic society are that any restrictions placed upon its citizens are proportional, reasonable and necessary. I look forward optimistically to a review of the Minister's position.

**Deputy Paul Kehoe:** PDFORRA has requested on a number of occasions, in 2002, 2009, 2012 and 2014, to become either affiliated to, or to take up associate membership of, the Irish Congress of Trade Unions. These requests raise significant challenges from a governmental and societal perspective, including the risk of subverting the military chain of command requiring consideration. Appropriate systems have been put in place to ensure that the concerns of Defence Forces personnel can be dealt with in an appropriate manner through the conciliation and arbitration scheme. This includes access to independent adjudication. The system continues to operate well and I believe that Defence Forces personnel have achieved significant benefits over the years in this process. Personnel are critical resources for the Defence Forces. Consideration of a request to associate members to ICTU requires us to consider the potential conflicts and divided loyalties that may well arise where the Government decides to deploy Defence Forces in a situation of industrial unrest. In such circumstances it is impossible to escape the unique position of the Defence Forces in the State. For this reason, I regret to inform the Deputy that it is not intended to change the long-standing policy on this fundamental matter.

**Deputy Brendan Ryan:** The Minister's initial response was that this matter requires the consent of the Minister. He is the Minister and my question seeks his consent. I ask him to reconsider his position. Perhaps he would agree to meet a delegation from PDFORRA in the near future. Its requests are relatively simple and modest - to affiliate to ICTU, have access to the Workplace Relations Commission and to be involved in national pay bargaining.

**Deputy Paul Kehoe:** To compensate for the prohibition of affiliation, mechanisms have been put in place through the Defence Forces conciliation and arbitration scheme to provide the representative association with structures and processes to enable representations and negotia-

tions to take place on behalf of its members. I met PDFORRA shortly after my appointment and I will meet its representatives again next week at the association's annual conference.

### **UK Referendum on EU Membership**

25. **Deputy Lisa Chambers** asked the Taoiseach and Minister for Defence the implications Brexit will have for Irish defence policy; and if he will make a statement on the matter. [27242/16]

**Deputy Lisa Chambers:** Perhaps the Minister will make a statement on the implications of Brexit for Irish defence policy.

**Deputy Paul Kehoe:** The outcome of the vote of 23 June 2016 in the UK will have implications across all aspects of the business of the European Union. While the vote does not give rise to fundamental strategic issues for Defence Forces operations or for Ireland's continuing engagement within the EU in the Common Security and Defence Policy, CSDP, it is expected that Brexit will have an impact on future developments in the defence sphere at EU level.

Within the EU, defence issues are a national competence and any decisions require unanimity. Ireland will continue to have a strong and equal voice on defence issues within the EU institutions. The treaties require that the EU respects the specific and different policies of member states in the area of security and defence, and that will not change. The impact of Brexit may result in a changed dynamic at EU level. However, until the UK has indicated what type of relationship it will seek with the EU and negotiations have been finalised, it is impossible to predict possible outcomes.

We have many long-standing defence connections with the UK, not least in the area of personnel training and information exchanges on capability development, tactics and procedures. These are of a bilateral nature and are reflected in our memorandum of understanding with the UK on defence and security co-operation and will thus be unaffected by the recent referendum result. Meetings take place between senior officials at which issues of mutual interest are discussed.

The Deputy will appreciate that the UK has not yet left the EU and withdrawal negotiations cannot begin until Article 50 has been triggered by the UK. Negotiations will probably take at least two years to complete and all potential consequences of the vote will remain the subject of ongoing consideration in my Department. As the Deputy will be aware, the Government has adopted a contingency framework to deal with all issues arising in respect of the UK vote to leave the EU. Accordingly, any issues arising, including those within the defence area, whether bilateral or in respect of developments in CSDP or regarding our wider international multilateral defence engagements, will be addressed within that framework.

**Deputy Lisa Chambers:** The signs at this point are that Britain might be heading for a hard Brexit, exiting the Single Market and the customs union in doing so. Ending freedom of movement across borders also appears to be a key priority for the new Prime Minister. At the very least we must accept the possibility that there might have to be a hard border in place. It is something we must explore and for which we must prepare. Obviously, we hope not to see this. Nobody wishes to return to those days. However, how does the Department of Defence anticipate this impacting on the Defence Forces? What additional security matters might arise?

27 September 2016

Has the Minister examined how this would impact on our Defence Forces' resources and capabilities? If he has not done so, why not and when does he propose to do it?

**Deputy Paul Kehoe:** The Deputy will be aware that the Department of the Taoiseach has established a specific departmental committee to deal with Brexit. If the Defence Forces are to be involved in a hard border, that would be a matter of aid to the civil power and it would be a matter for An Garda Síochána to seek assistance from Army personnel or the Defence Forces in that regard. The Deputy might have heard the Taoiseach say earlier that he believes that neither Britain nor Ireland wants a hard border. They do not wish to return to the Border days. We cannot really piece together exactly what Britain will do until it invokes Article 50. However, my Department will give its input to the Department of the Taoiseach and to the group it has set up, with a specific Secretary General, to deal with Brexit. The Taoiseach has already asked each Department to give its input to this group.

**Deputy Lisa Chambers:** I asked the Minister if he has examined how this will impact the Defence Forces' resources and capabilities and I will take it from his reply that he has not yet done that. He is proposing to feed into the Department of the Taoiseach and its overall committee on Brexit. The Minister's response is quite insufficient. We cannot wait around. I appreciate that we do not know how or when Britain will exit the European Union but we must at least be ready for it. We must be realistic about the possibility of there being a hard border. Whether we like it or not, being a member of the European Union that borders a non-EU country brings with it certain responsibilities. It will not just be up to Ireland to decide how that works. I suggest to the Minister of State that his Department really examine what resources the Defence Forces will need and how the arrangement may operate. Nobody wants to go there but we have to be prepared to react if what is possible occurs. It is massively insufficient at this point that the Minister has not acted in this regard.

**Deputy Paul Kehoe:** I assure the Deputy that I have had plenty of meetings on Brexit and the outcome of the vote. However, it is way too early to determine exactly the extent, if any, of the role of the Defence Forces. If I were to tell the Deputy today that we are to take on another 3,000 soldiers, I assure her that she would go out the door straightaway to say we are preparing for a hard border. This is absolutely not the case. It is way too early to determine the outcome of any discussion on any border, be it hard or soft. I assure the Deputy that the Government and this side of the House are well prepared for Brexit. The Taoiseach has already had a bilateral discussion with the new UK Prime Minister, Prime Minister May. I have also had conversations with my counterpart in the United Kingdom, Mr. Michael Fallon, during a recent meeting abroad. The matter was raised. Mr. Fallon told me it is way too early to determine exactly the outcome on a hard or soft border, or the implications for the Irish Defence Forces or British Army. It is way too early. Let us-----

**Deputy Lisa Chambers:** It is never too early for planning.

**An Leas-Cheann Comhairle:** We are encroaching on the time of other Members.

**Deputy Paul Kehoe:** I assure the Deputy that this is a priority for me and my Department. We will be on top of this issue to ensure we do whatever is required. However, I will not jump to any conclusions regarding what will be required in regard to the Defence Forces.

*Dáil Éireann*  
**Other Questions**

**Overseas Missions**

26. **Deputy Mick Wallace** asked the Taoiseach and Minister for Defence further to Parliamentary Question No. 579 of 21 June 2016, if he will provide details on the criteria involved in periodic reviews by his Department of the deployment of Defence Forces personnel overseas and the way these reviews are carried out; if he will provide details on the recent announcement that a new contingent of Irish troops will be joining the UNDOF mission in the Golan Heights; if he is satisfied that this UN mission and the support for it are making a positive contribution to peace in the Middle East; and if he will make a statement on the matter. [27139/16]

45. **Deputy Clare Daly** asked the Taoiseach and Minister for Defence the number of members of the Defence Forces who will be deployed to the Golan Heights in the coming weeks, following the announcement on 19 September 2016 that a new contingent of troops would be joining the UNDOF mission in the near future; and his views on whether this deployment is a good use of Defence Forces capability. [27098/16]

**Deputy Mick Wallace:** My question is a basic one. What criteria are examined in the periodic reviews by the Department on the deployment of Defence Forces personnel overseas? How are the reviews carried out? Will the Minister of State provide details on the recent announcement that a new contingent of Irish troops will be joining the United Nations Disengagement Observer Force, UNDOF, mission to the Golan Heights? Is he satisfied with the mission and that it is making a positive contribution to peace in the Middle East?

**Deputy Paul Kehoe:** I propose to take Questions Nos. 26 and 45 together.

A contingent of the Permanent Defence Force has been deployed to the United Nations Disengagement Observer Force, UNDOF, on the Golan Heights since 2013. The next Irish contingent, the 54th infantry group, comprising 130 personnel, is due to be deployed in the coming weeks and will replace personnel of the 52nd infantry group. Irish personnel will be based in UNDOF headquarters in Camp Ziouani. The Irish contingent operates as a quick reaction force, which is on standby to assist with ongoing operations within the UNDOF area of responsibility. An additional seven Defence Forces personnel are deployed in UNDOF headquarters.

Since its temporary relocation from a number of positions in September 2014 and pending the time when it will return fully to the area of separation, UNDOF has continued to maintain a credible presence in the Golan Heights and use its best efforts to implement its mandate. In this context, UNDOF continues to engage with the parties on practical arrangements to allow the force to continue to maintain the ceasefire, monitor, verify and report on violations of the agreement on the disengagement of forces and exercise its crucial liaison functions with the parties in order to implement its mandate.

The Department of Defence constantly reviews the deployment of Defence Forces personnel overseas and these missions are reviewed on a case-by-case basis. The continued participation in overseas operations, such as the UNDOF mission, is subject to Government decision on an annual basis. The presence of the UNDOF mission remains an important element in ensuring stability in the Golan Heights and Middle East. On 21 June 2016, the Government approved continued participation by the Defence Forces in UNDOF for a further 12 months.

27 September 2016

I am satisfied that the work carried out by the Irish personnel serving with UNDOF represents an important contribution to this UN mission.

**Deputy Mick Wallace:** The former Minister responsible for defence, Deputy Simon Coveney, always contended that the purpose of the mission is to keep Syria and Israel apart. It has been successful in achieving that objective but the truth is that the original objective was to oversee the eventual return of the Golan Heights to Syria. Some 40 years later, the objective has not been achieved. If one wanted a more striking demonstration of that failure, one would need look no further than at the fact that the objective has been forgotten and there is no sign that the illegal occupation of the Golan Heights by Israel will ever end. The Israeli Prime Minister, Mr. Netanyahu, recently said the Golan Heights will remain in the hands of Israel forever. Israel is not afraid to flout international law in hammering home the point.

Genie Energy, an American oil company whose main investors include Dick Cheney, Rupert Murdoch, James Woolsey, a former CIA director, Larry Summers, former head of the US Treasury, and a cabal of current and former US politicians, has recently been granted permission to drill in the Golan Heights, posing a massive danger to water resources in the region. This is hardly a worthwhile exercise warranting the involvement of Irish troops when we could be doing something really fruitful in Africa, in places such as Darfur, Congo and South Sudan, as argued by Mr. Ed Horgan.

**Deputy Paul Kehoe:** I assure the Deputy that the continued presence of UNDOF in the area remains essential. The UN Secretary General has reported to the Security Council that both Israel and the Syrian Arab Republic have stated their continued commitment to the disengagement of forces agreement and to support the presence of UNDOF in calling for a return to vacated positions in the area of separation. The UN Security Council has generally agreed that UNDOF contributes to stability in the region in the absence of a peace agreement between Israel and Syria.

In June 2016, the UN Security Council extended the mandate of UNDOF for a further six months, until 31 December 2016, since its temporary relocation in September 2014 from a number of positions in the area of separation. UNDOF has continued to use its best efforts to implement its mandate. The mission continues to be supported by the United Nations through a military supervision organisation, Observer Group Golan, in which five Irish officers are serving.

The deputy chief of staff, Major Kieran Brennan, was in the Golan Heights last week. I will receive a full brief from him later this week on his visit. I am happy with and have witnessed the work of the Irish Defence Forces in the Golan Heights. We should all be very proud of the Defence Forces in this regard.

**Deputy Clare Daly:** I am not sure what way the Leas-Cheann Comhairle is doing this.

**An Leas-Cheann Comhairle:** The Deputy has a question.

**Deputy Clare Daly:** I thought we had done away with groupings.

Can I add to the topic? We are very clear as to the excellent peacekeeping role played by Irish Defence Forces personnel in many parts around the globe. The point, however, is that this reputation is being used to legitimise the illegal occupation of the Syrian Golan Heights and the illegal activities of Israel. That land is now being used for oil drilling and profiteering.

Rather than focusing on a region blighted by problems, we could be doing a lot better in other areas. It is just not on. It is disrespectful to the Defence Forces personnel, who really do not engage in any serious peacekeeping in the region. They are really just there as a cover for the illegal activity. There are many parts around the globe where their expertise could really be used, such as the Congo, as referred to by Deputy Wallace. There are other areas where they could make a serious difference. I am really concerned that we are continuing with our policy in this regard.

**Deputy Paul Kehoe:** When Ireland or the Government sends any members of the Irish Defence Forces on any mission, the decision is not taken lightly. I do not accept the Deputy's views on this, although I agree with her absolutely that we should be very proud of the work of the Defence Forces. The Irish peacekeepers currently in the region will be replaced next week. They are doing a great job holding the peace in a very difficult and volatile part of the world. Following the agreed disengagement of Israeli and Syrian forces on the Golan Heights in May 1974, under supervised implementation of the engagement agreement, they have been maintaining the area of separation between Israel and the Syrian forces which, as the Deputy knows, is small but very volatile. The resources of the Defence Forces on the Golan Heights are being utilised to the very best extent possible.

**Deputy Mick Wallace:** The Minister of State referred to the need for stability and observation, but how can stability be brought to a situation where one country illegally occupies another? That is called picking sides. There are enough problems in the region caused by picking sides, between the United States and its allies and Russia and its allies. Some 250,000 people have died in Syria as a result of their taking sides. If they all fell out with each other, the place would be better off.

Likewise, we do not have a real role to play on the Golan Heights. The Minister of State referred to the need for observation. What we are observing is an ongoing illegal occupation and we will now observe the theft of natural resources and, effectively, multiple breaches of international law.

I again refer the Minister of State to the UN peacekeeper Ed Horgan who is a very proud member of the Defence Forces. He has pointed out that it would be much more sensible and worthwhile for our very excellent forces to engage in Darfur, the Congo and South Sudan.

**Deputy Paul Kehoe:** The mandate and role of UNDOF are pursued under the supervised implementation of the disengagement agreement in maintaining an area of separation of over 75 km between Israeli and Syrian forces. I have spoken on numerous occasions to quite a number of Irish personnel serving on the Golan Heights. They have told me at first hand about the important work they are carrying out on a daily basis on each and every mission. I understand the work they are carrying out and I am very proud of the work they are doing. They go there as peacekeepers. That is exactly the work our troops are doing on a daily basis in carrying out their duties.

**Deputy Clare Daly:** The Minister of State has said their mission is to keep the sides apart. There is no doubt that the area has been relatively quiet. However, does the Minister of State agree that that is beginning to change? There have been tensions along the border. Words on alleged mortar attacks from Syria are being spoken and published in the Israeli press. There has been retaliation by the Israeli air force. The situation is likely to change, given the instability in the region. On that basis, what would the Minister of State say about the recent mission?

27 September 2016

**Deputy Paul Kehoe:** A decision by the Government to send troops overseas is not taken lightly. As I stated, the deputy chief of staff, Mr. Kieran Brennan, has just returned from the Golan Heights and I will receive a full briefing from him later this week. No absolute guarantees can be given about the safety of troops travelling abroad on any mission. I refer to the work of the Defence Forces in their role as peacekeepers on the Golan Heights where I accept that there is now a little more activity. I believe our troops who are working as peacekeepers are doing a fine job.

### **Defence Forces Medicinal Products**

27. **Deputy Aengus Ó Snodaigh** asked the Taoiseach and Minister for Defence if his attention has been drawn to the fact that the former head of the British army (details supplied) has apologised to British troops who were given the controversial anti-malarial drug Lariam; his views on Irish troops continuing to be prescribed Lariam; and if he will apologise to serving and former members of the Defence Forces who were prescribed Lariam. [27135/16]

**Deputy Aengus Ó Snodaigh:** It is only very rarely that one hears me comment - it is usually in the negative - on British army officers, especially those who served in the North. However, given the comments last month of a former commander-in-chief of the British Army, Mr. Richard Dannatt, who apologised to British soldiers for being in charge when Lariam was prescribed for those operating in sub-Saharan Africa, will the Minister of State consider taking a similar stance, given that former Ministers for Defence, including Tony Killeen, Deputy Éamon Ó Cuív, Mr. Brian Cowen, Mr. Alan Shatter and Deputy Simon Coveney, as well as the Taoiseach, did not do so when I raised the matter with them?

**Deputy Paul Kehoe:** I am aware of newspaper reports that a former senior UK military officer has apologised to British troops who were given the anti-malarial drug Lariam. The choice of malaria drugs in use by other armed forces is an internal matter for those forces. It would not be appropriate for me to comment on the policy and practices of other states in this regard or to engage in discussion on the merit of those policies and practices. The health and welfare of the men and women of the Defence Forces are high priorities for me and the Defence Forces. Malaria is a serious disease which killed approximately 438,000 people in 2015, with 90% of the deaths occurring in sub-Saharan Africa, as reported by the World Health Organization.

The choice of medication for overseas deployment is a medical decision made by medical officers in the Defence Forces having regard to the specific circumstances of the mission and individual member involved. Lariam remains in the formulary of medications prescribed by the medical corps for Defence Forces personnel on appropriate overseas missions to ensure our military personnel can have effective protection against the very serious risks posed by malaria. It is notable that in the period of deployment to malarious areas not a single member of the Defence Forces has died from malaria. Significant precautions are taken by Defence Forces medical officers in assessing the medical suitability of members of the Defence Forces to take any anti-malarial medication. It is the policy of the Defence Forces that personnel are individually screened for fitness for service overseas and medical suitability. There are no plans at this time to withdraw Lariam from the range of anti-malarial medications available to the Defence Forces. The use of and information on medications is kept under ongoing review.

In 2013 a working group investigated all of the various issues surrounding the use of Lariam and obtained advice from leading medical experts. These experts concurred with the prac-

tices followed by the Defence Forces in prescribing Lariam. This was outlined in the working group's report which remains legally privileged.

**Deputy Aengus Ó Snodaigh:** Nobody has died from malaria on operations, but how many have died by suicide because of the effects of Lariam? A study has been conducted of suicides in the Defence Forces.

I have a note taken from the medical records of one of the soldiers who operated overseas. It states the evidence presented in the report establishes a reasonable degree of medical certainty that the person's earlier symptoms of depression were the result of the person's initial intoxication by Lariam and that the person is now suffering from a range of chronic neurological and psychiatric symptoms, including seizure disorder, as well as persistent symptoms of disordered balance, dizziness, anxiety, paranoia, trouble in sleeping and cognitive dysfunction that, to a reasonable degree of medical certainty, were caused as a direct result of the neurotoxic effects of Lariam. The Minister of State cannot have soldiers operating while being prescribed Lariam in the way that has happened in the Defence Forces. Will he instruct the military authorities to re-examine this matter and concentrate on using more expensive drugs such as Malarone or dioxolane which are available in abundance but which seem to be issued to officers rather than non-commissioned officers?

**Deputy Paul Kehoe:** While it is hoped the risk of developing an adverse reaction to a medication will diminish with time, there is no guarantee that this will happen.

*5 o'clock*

One could certainly develop an adverse reaction to penicillin for no obvious reasons, having taken it for years. Where the medical officer forms the opinion that an individual has developed a sensitivity to Lariam while overseas, the individual will be advised to cease taking the medication and substitute it with another agent. The individual would be monitored to ensure that symptoms subside. Appropriate anti-systemic medication may be required in the interim and appropriate restrictions would be placed on duties. Ultimately, if serious enough, repatriation may be necessary if the medical officer felt that the individual was either not responding satisfactorily or that the symptoms are so severe as to require treatment not readily available in the mission area. An individual's file will indicate that the individual has developed sensitivity to Lariam so that it should not be prescribed again. If the individual's circumstances permit completion of the tour of duty, monitoring can be arranged on return to Ireland if required.

Choice of medication for overseas deployment, including the use of Lariam, is a medical decision made by the medical officer in the Defence Forces. I am satisfied, as Minister of State with responsibility for defence, that Lariam is the most suitable drug for overseas missions.

### **Naval Service Operations**

28. **Deputy Aengus Ó Snodaigh** asked the Taoiseach and Minister for Defence if he will report on the ongoing operations of the Naval Service in the Mediterranean Sea; when the LE James Joyce will finish its current tour of duty; and if it will be replaced by a new ship and crew. [27134/16]

48. **Deputy Brendan Ryan** asked the Taoiseach and Minister for Defence the number of

27 September 2016

refugees who have been rescued by the Defence Forces in the Mediterranean Sea since the beginning of the humanitarian mission in the region; the length of time he envisages this humanitarian mission will go on; and if he will make a statement on the matter. [27102/16]

**Deputy Aengus Ó Snodaigh:** The operations of the Naval Service obviously have quite an effect in the Mediterranean Sea. Its deployment in the Mediterranean Sea is due to come to an end quite soon and perhaps the Minister of State will indicate if he is considering extending the current deployment or swapping the current ship with another one.

**Deputy Paul Kehoe:** I propose to take Questions Nos. 28 and 48 together.

*LE James Joyce* was deployed on 8 July 2016 to assist the Italian authorities in the continuing search and rescue humanitarian operation in the Mediterranean Sea. Since deployment, *LE James Joyce* has conducted a number of search and rescue operations which, to date, has led to the rescue of 2,678 migrants from unseaworthy craft. *LE James Joyce* has recovered 21 deceased migrants which again highlights the bleak circumstances in which many migrants find themselves. *LE James Joyce* is scheduled to return to Ireland on the 30 September 2016.

On 23 September 2016, *LE Samuel Beckett* departed Haulbowline, with a crew of approximately 60, to replace *LE James Joyce* on the mission in the Mediterranean Sea. It is anticipated that *LE Samuel Beckett* will be deployed until the end of November 2016.

To date, Irish participation in the humanitarian mission has resulted in the recovery of more than 12,500 migrants, which clearly demonstrates the value of Ireland's involvement in this important humanitarian response.

The question of further deployment to the operation in the Mediterranean Sea in 2017 will be considered in the context of the ongoing situation in the Mediterranean Sea and the overall EU response thereto, the demands on the Defence Forces, our overseas commitments and available resources.

**Deputy Aengus Ó Snodaigh:** The House needs to congratulate the Naval Service not only for the deployment of *LE James Joyce* but for all the work it has done in the Mediterranean Sea since it was first deployed and for the many lives it has saved. It must be tremendously difficult for many of those on board to see what they see virtually on a daily basis in the Mediterranean Sea. I welcome the news that the *LE Samuel Beckett* is to replace the *LE James Joyce* on the humanitarian mission. It is hugely valuable work, the results of which are seen on our television screens.

We also need to consider whether there is an increase in the number of boats trying to cross the Mediterranean Sea given the recent deal between the EU and Turkey. Perhaps the Minister of State could indicate if there has been a noticeable increase in rescues in recent weeks in the Mediterranean Sea.

**Deputy Paul Kehoe:** I, too, would like to congratulate all members of the Naval Service for their work since the first deployment. I had the privilege of visiting the crew members of the *LE James Joyce* last month to witness at first hand the work they carry out on an ongoing basis. The Deputy spoke about the very difficult situations faced by the Naval Service. The week before my visit to the *LE James Joyce*, the crew had brought on board 16 bodies recovered from under a wooden vessel. There had been women and children on board the vessel and some had lost their lives. It is very difficult for some members of our Naval Service when they

come across situations like that. I applaud them for their work.

The reason for the drop in the number of boats crossing the Mediterranean Sea was due to severe weather conditions but over the last month or six weeks, there has been quite a steady flow of migrants crossing in rubber or wooden vessels.

### **European Defence Capabilities**

29. **Deputy Aengus Ó Snodaigh** asked the Taoiseach and Minister for Defence if his attention has been drawn to the comments of the President of the European Commission, Jean-Claude Juncker, who recently stated that the EU needs a military headquarters to work towards a common military force; if he shares Mr. Juncker's views; and his views on whether the further militarisation of the EU and the attempts to create a standing EU army undermines and erodes Irish neutrality. [27136/16]

**Deputy Aengus Ó Snodaigh:** This question relates to the statements of the President of the European Commission, Jean-Claude Juncker, seeking to further militarise the EU, something that was anticipated by many of us who argued against this position in various referendums in the State. Is the Minister of State concerned about it and will he oppose it at every juncture?

**Deputy Paul Kehoe:** The statement by the Commission President is not something new. He has made similar statements in the past. However, these are matters for the EU member states to decide together and do not fall within the competence of the European Commission. Proposals have been around for some time that the EU should establish a joint operational headquarters to support the planning and conduct of its civil and military operations. A permanent joint civil-military operational headquarters, appropriately configured, could potentially deliver more effective and responsive CSDP operations in support of the UN and international peace and security, a position which Ireland supports. However, this is a matter which EU member states, including Ireland, will consider in the context of the implementation plan for the recently published EU global strategy of foreign and security policy. Ireland will participate fully in that process and in the ongoing development of the EU Common Security and Defence Policy in support of the UN and international peacekeeping and crisis management.

The Treaty of Lisbon does not provide for the creation of a European army or for conscription of any military formation. The Government's 2015 review of foreign policy and the Defence White Paper confirmed that Ireland will continue to maintain a policy of military neutrality which is characterised by non-membership of military alliances and non-participation in common or mutual defence arrangements.

**Deputy Aengus Ó Snodaigh:** I have been down the road of debating this issue with a number of Ministers for Foreign Affairs and Trade, Ministers for Defence and taoisigh. Over the last few years, there has been a growing shift within the EU towards further militarisation by countries which are already quite militarised and which are in NATO and other military alliances. Why should Ireland have anything to do with this? We should be quite categorical in stating that we will have nothing to do with further militarisation and the further co-ordination or concentration of military resources or military policy within the EU. We have already taken a step too far and are involved in the EU battle groups under the British, despite the fact they are withdrawing from the EU. Will Ireland take a very hard public stance against the position taken by Jean-Claude Juncker and other EU Ministers, in particular Defence Ministers?

**Deputy Paul Kehoe:** Let me repeat to the Deputy what I said in my original reply: the Treaty of Lisbon does not provide for the creation of a European army or conscription of any military formation. Any change to this position would require a treaty change. Let me state absolutely that no change is proposed in any manner or means. As I said in my original statement on the President of the European Commission, it is not something new as we have heard him say this previously in other fora. However, there is no such proposed change.

**Deputy Aengus Ó Snodaigh:** While I accept that there is nothing in the Lisbon treaty on the creation of a European army, we have argued during the years that each single treaty that has been voted on in this country has gradually increased the militarisation of the European Union. As is usual for those in positions held by persons such as Jean-Claude Juncker, they are preparing the ground using a soft approach. It is only when a country stands up and forcefully rejects the move or pushes towards that position that they back off. It is very interesting that the recent statements have arrived in the context of the Brexit vote. In the past Britain would have been opposed to the centralisation or concentration of military policy in Europe, other than in NATO. This is an opportunity for those who have previously said such things to try to further the debate. It is only if countries such as Ireland reject it that they will back off. I welcome what the Minister of State has said, but it needs to be said forcefully, not just in this Chamber but also outside it, that Ireland will not countenance this approach and will oppose it in every way. We should be seeking out allies throughout Europe and beyond to ensure a new military alliance will not be founded.

**Deputy Paul Kehoe:** All member states of the European Union understand Ireland's position on neutrality. As is stated in the White Paper, "Ireland will continue to maintain a policy of military neutrality which is characterised by non-membership of military alliances and non-participation in common or mutual defence arrangements". I know that the Deputy might have concerns about the comments made by Mr. Juncker, but I can assure him that what I have said stands. The Government has no plans or proposals to change our neutrality policy in any manner or means.

### **Military Neutrality**

30. **Deputy Aengus Ó Snodaigh** asked the Taoiseach and Minister for Defence if he attended the informal meeting of EU Defence Ministers in Bratislava on 26 September 2016; the issues discussed; if he spoke out against any attempt to create a standing EU army; and if he informed his colleagues that Irish neutrality was non-negotiable. [27137/16]

**Deputy Aengus Ó Snodaigh:** This is similar to the last question and has to do with EU Defence Ministers. I wish to find out whether the Minister of State was in attendance, he took the position to which he has just alluded, or it was the Minister for Defence, the Taoiseach, who attended the meeting in Bratislava of EU Defence Ministers.

**Deputy Paul Kehoe:** Dáil and Government business has precluded my attendance at the informal meeting of EU Defence Ministers in Bratislava which started yesterday, 26 September, and continued into this afternoon. Accordingly, the Minister for Defence is being represented by the Secretary General of the Department of Defence. This is an informal meeting and, as such, no decisions are being taken on any matter. Issues for discussion at the meeting include an exchange of views on the implementation of the EU global strategy and the Commission-led European defence action plan; an exchange of views on the implementation of the joint EU-NATO declaration made recently at the Warsaw summit, including taking stock of the prog-

ress achieved; and discussions on Common Security and Defence Policy, CSDP, missions and operations, with a focus on Libya, the Mediterranean naval mission Operation Sophia and the CSDP missions in the Sahel.

As I stated in reply to a previous question, there are no proposals to create a standing EU army. This issue did not feature in any discussion and it is not on any agenda. I also reiterate that the Treaty of Lisbon does not provide for the creation of a European army.

**Deputy Aengus Ó Snodaigh:** While I accept that it is an informal meeting and welcome the clarification that it is the Secretary General of the Department of Defence who has travelled to represent the Minister of State, has he been specifically instructed to state categorically that Ireland is a neutral country, that we have no interest in the creation of a common army, that we will not countenance any change to the current position and that we would rather look towards reversing some of the common defence strategies the European Union seems to be undertaking? While I accept that there are no decisions to be made, it is at these informal meetings that different views from different countries are sought and they end up forming the basis on which future policy is made. It is very important that Irish representatives are very clear from day one, otherwise there will be situations in which proposals will emerge later that will be contrary to the position taken by the State.

**Deputy Paul Kehoe:** I tried to change the date of parliamentary questions to the Minister for Defence from today in order to be able to attend the meeting in Bratislava. Unfortunately, I was told a motion would have to be tabled in the House to change the date of parliamentary questions. The Dáil was not sitting during the summer months when I realised I would have to answer parliamentary questions on the same date as the meeting in Bratislava.

I do not believe I have to instruct the Secretary General on our policy. He fully understands our policy of neutrality and I can assure the Deputy that he will defend it. Ireland remains constitutionally debarred from participation in a common EU defence policy. The legally binding Irish protocol to the Lisbon treaty ratified in the Twenty-eighth Amendment of the Constitution provides that any decision to move to a common defence will require a unanimous decision of the European Council. It would be a matter for member states, including Ireland, to decide in accordance with the provisions of the Treaty of Lisbon and the respective constitutional requirements whether to adopt a common defence policy. I repeat that Ireland has no plans or proposals to change its policy of neutrality.

**Deputy Aengus Ó Snodaigh:** The two main EU Defence Ministers who are publicly seeking to move closer towards EU defence co-operation, having a new military headquarters and swifter deployment on overseas missions are the French and the German Defence Ministers, Ursula von der Leyen and Jean-Yves le Drian. They put forward specific proposals in recent times which, by the looks of it, were to be discussed informally at the conference yesterday and today. The Minister of State may be able to clarify this, but as far as I know, we did not submit our own paper or circulate a brief to journalists on our position which would be in total opposition to the paper produced by them.

**Deputy Paul Kehoe:** The Deputy will be well aware that there has been a proposal for some time now that the European Union should establish a joint operational headquarters to support the planning and conduct of its civil and military operations. A permanent joint civil and military operational headquarters appropriately configured could potentially deliver more effective and responsive Common Security and Defence Policy operations in support of the United Na-

tions, international peace and security, a position Ireland has supported and does support. This issue will be considered in the context of the implementation plan for the recently published EU global strategy for foreign and security policy until such time as detailed discussions have taken place between member states. It is too early to predict what the actual structure might or might not look like. I reiterate that everyone in Europe understands Ireland's position on neutrality and no one would welcome me or anyone else questioning it.

### **Defence Forces Personnel**

31. **Deputy Lisa Chambers** asked the Taoiseach and Minister for Defence if he will provide a report on the Defence Forces climate survey; and if he will make a statement on the matter. [27129/16]

**Deputy Lisa Chambers:** I ask the Minister of State to provide a report on the Defence Forces climate survey and to make a statement on the matter.

**Deputy Paul Kehoe:** The independent monitoring group, IMG, was established in May 2002 to oversee the implementation of recommendations arising from a report on the inter-personal relationships within the Defence Forces. The Representative Association of Commissioned Officers, RACO, and the Permanent Defence Forces Representative Association, PDFORRA, are both represented on the IMG.

The third and most recent IMG report was published in September 2014. Among its recommendations was that a climate survey be conducted within 12 months and subsequently at reasonable intervals. A similar survey was conducted in 2008. The aim of the survey, which was conducted by the University of Limerick, was to identify trends to inform best practice in human resources management and training and education within the Defence Forces. As with the 2008 survey, approximately 11% of the workforce - 1,055 personnel in this instance - was sampled.

The report was received in the Department in June. I am sure the Deputy will appreciate that, given its importance and wide ranging subject matter, it was important to have the report reviewed in detail by the Department and Defence Forces management to consider the findings and reach a deeper understanding of the report and its implications. I also wished to have an opportunity to discuss and consider the findings of the report in consultation with the Chief of Staff and Secretary General in the first instance.

It is now proper that the Defence Forces representative associations be given an opportunity to engage on the findings of the survey. With this in mind, I have arranged that the representative associations will meet personnel from the University of Limerick who conducted the survey on Thursday next, 29 September. The report will be published within a week of the meeting and I plan to meet representatives of the associations shortly thereafter. My officials are making arrangements in this regard.

My priority in the first instance is to engage with the representative associations who represent the key stakeholders in this process, namely, Defence Forces personnel. As they have yet to see the report, it would not be appropriate for me to comment on the specific detail of the survey pending the briefing scheduled for 29 September. However, I can inform the Deputy that the findings are grouped under topics such as work life balance, peer support, organisational

justice within the organisation, procedural justice, organisational fairness, Defence Forces integrity and supervisory justice.

**Deputy Lisa Chambers:** The Minister of State indicated it would not be appropriate to comment on the findings of the report because the representative associations have not had access to it. The reason they have not had access is that the Minister of State has not given them access to it. He and I had this conversation at a meeting of the Select Committee on Foreign Affairs, Trade and Defence before the summer recess at which he informed me the report was on his desk and he needed time to review, analyse and digest it. I asked him to make the report available to the associations representing the soldiers who were the subject of the survey but he declined to do so at that juncture. It is September and the representative associations have not received a copy of the report. It is grossly inadequate to provide them with copies just before the meeting in Limerick as they will not have sufficient time to digest its contents and give the Minister of State their view on it. Soldiers are supposed to look to the Minister for guidance and leadership. They should be allowed an opportunity to analyse and digest the report in advance of the briefing in Limerick. The Minister of State should be willing to take on board their suggestions. Why has he failed to publish the report and give the representative associations a copy of it given that it has been on his desk since June?

**Deputy Paul Kehoe:** The report has not been on my desk since June. I did not receive a copy until mid to late July. On my appointment, I met representatives of PDFORRA and RACO who asked me to provide them with a copy prior to publication. I indicated I would do so and I will give them a copy of the report tomorrow prior to the presentation on Thursday in the University of Limerick. I will publish the report in the days after Thursday's meeting and meet representatives of PDFORRA and RACO shortly thereafter. I also assured both organisations that I will take their views on board.

Deputy Chambers is correct that the most important people in the Defence Forces are the soldiers on the ground. I fully respect them and every time I attend a public forum with members of the Defence Forces, they are the first people I recognise. The members on the ground, both enlisted personnel and officers, are the glue that holds the Defence Forces together. We must appreciate their commitment to the organisation and I will do all in my power to ensure they are happy in the Defence Forces. However, I do not have at my disposal a bottomless pit of money to throw at this issue, which is about more than money.

**Deputy Lisa Chambers:** Nobody mentioned money in this conversation. The Minister described members of the Defence Forces as the most important part of the conversation. He has had since mid-July to analyse and digest the report, yet he is giving RACO one day to do likewise. Is this fair? Is RACO, the representative body of the soldiers who are the subject of the climate survey, being afforded an adequate period to do so considering the time the Minister has had to consider the report?

The general secretary of RACO stated that management had yet to engage with his organisation on the findings of the survey. In his words, it "does little to give confidence to members that senior management are actually interested in addressing genuine service concerns of personnel". I agree with him. The Minister's actions to date have not given any confidence to the representative organisations that he is interested in taking their views on board considering that he will give them a mere 24 hours to analyse the report before the meeting in Limerick. This is highly inadequate given the time the Minister has taken to consider it.

27 September 2016

**Deputy Paul Kehoe:** I tried to publish the report at the end of July but unfortunately the staff of the University of Limerick who carried out the review were not available at the time. I wanted those who were at the coalface and carried out the review to be present. I did not want other staff from the university to join me in giving the presentation to RACO and PDFORRA. I wanted those who produced the document to be present at the launch. Unfortunately, I was not available for most of August and I indicated the report would be published some time in September. My diary precluded publication in early September. For this reason, I will meet representatives of PDFORRA and RACO who will be provided with a copy of the climate survey prior to the presentation on Thursday at the University of Limerick. One or two days in the-----

**Deputy Lisa Chambers:** It matters.

**Deputy Paul Kehoe:** It does not matter.

**Deputy Lisa Chambers:** The representative organisations say it matters.

**Deputy Paul Kehoe:** The most important issue will be to address the detail of the document and make the changes it recommends. It will not make much of a difference if the document is provided 24 or 48 hours in advance. I will meet representatives of PDFORRA and RACO after the document is published and we will go through it in detail. I met both representative organisations in late June or early July and they were surprised to have a Minister seeking a meeting with them rather than vice versa.

### **Defence Forces Training**

32. **Deputy Fiona O'Loughlin** asked the Taoiseach and Minister for Defence his plans to provide public adequate notice for closure of roads in the vicinity of the Defence Forces firing ranges on the Curragh; and if he will make a statement on the matter. [27091/16]

**Deputy Fiona O'Loughlin:** People in County Kildare are very proud that the Curragh is home to the Defence Forces and the military school. It is appropriate that ranges on the Curragh are used rather than wasting time and money transporting troops elsewhere for this purpose. However, a public road known as the Hollow Road, which runs close to the Defence Forces training centre in the Curragh, is frequently closed when firing is under way. As this is a public road, local residents are sometimes required to make a detour. I ask the Minister to outline his plans to give members of the public adequate notice of the closure of roads in the vicinity of the firing ranges on the Curragh and to make a statement on the matter.

**Deputy Paul Kehoe:** Range No. 3 is a rifle range within the Curragh Camp and since March 2016 the Defence Forces have resumed training on this range. This has resulted in the occasional temporary closure by the Defence Forces of the Hollow Road. The temporary road closures are required as part of strict control and safety measures put in place by the Defence Forces to ensure public safety during the firing of live ammunition on Range No. 3. These occasional temporary road closures by the Defence Forces are in accordance with the provisions of section 274 of the Defence Act 1954, as amended. This provides the Defence Forces with the powers to temporarily stop all traffic in the vicinity of any place used for rifle practices.

I have been advised by the military authorities that signage is temporarily erected at either end of the Hollow Road and Brownstown on the day prior to the required closure. This gives

advance notice of the date and duration of the proposed road closure and alerts local residents and road users of the need to take alternative detour routes. Military officials are on duty at either end of the Hollow Road during the road closures to control the traffic and to advise users of the alternative routes. In addition, the military authorities have advised that red warning flags are flown while firing is being conducted, and warning lights are activated in the centre of the Curragh Camp outside of the water tower, in full view of the public, as further safety and information notification measures.

It is acknowledged that the occasional temporary closure of the Hollow Road may be an inconvenience for some local residents. My officials are engaging with the Defence Forces to identify other additional methods of ensuring that users of the Hollow Road are made aware of the road closures in advance, for example, publication of closure dates on the Defence Forces website and possible announcements on local radio to ensure that any future inconvenience is kept to a minimum.

**Deputy Fiona O'Loughlin:** I acknowledge this is a safety matter and safety is of primary importance. Surely, however, local people should be paid the courtesy of notice in a suitable manner and it should be one of the aims of the Curragh forum to address that matter. The current signage in use is inappropriate, inadequate, open to vandalism and does not give sufficient notice to users of the road.

The Minister of State referred to the Defence Act 1954. Section 269 of the Act requires that notice be given in at least two local newspapers and, as the Minister of State mentioned, on a local radio station. I understand that section 271 of the Act states that compensation must be paid if rights and privileges are withdrawn as a result of military manoeuvres, all of which is very important. It is good to see there is continuing recruitment and other aspects of training. However, relations between local residents and the Defence Forces should be nurtured and should be mutually beneficial. Adequate notice is incredibly important.

**Deputy Paul Kehoe:** The occasional temporary road closures at the Hollow Road by the Defence Forces are in accordance with the provisions of section 274 of the Defence Act 1954, as amended. This provides the Defence Forces with the powers to temporarily stop all traffic in the vicinity of any place used for artillery or rifle practice. I take on board the point made by the Deputy and I will bring it to the attention of the General Officer Commanding at the Curragh Camp, Brigadier General Joe Mulligan. I understand it is important that local residents are aware of when the road is to be closed. At the same time, local residents have to take on board that this is an active Army camp and there is military activity in the area. We have to close the roads on occasion due to live firing and I hope the Deputy accepts there is a safety aspect to this.

*Written Answers are published on the Oireachtas website.*

### **Topical Issue Matters**

**Acting Chairman (Deputy Bernard J. Durkan):** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputies David Cullinane and Mary Butler - to ask the Minister for Health his views on the independent clinical review of cardiac services at University Hospital Waterford; (2) Deputies Louise O'Reilly, Thomas P. Broughan, Róisín Shortall, Thomas Pringle, Ruth Coppinger and Joan Collins - the need for the Minister for Public Expenditure

27 September 2016

and Reform to restore the 36 week incremental credit to the 2011-15 group of nursing and midwifery graduates; (3) Deputy Éamon Ó Cuív - an phráinn atá ann go gcuirfeadh síneadh leis an gconradh den aersheirbhís go dtí na hOileáin Árann, Contae na Gaillimhe, go dtí go mbeidh conraitheoir nua in áit faoin gcóras tairiscintí poiblí ata ar bun faoi láthair ó tharla go dtiocfaidh deireadh leis an gconradh reatha ar 1 Deireadh Fómhair 2016; (4) Deputies Marc MacSharry and Martin Kenny - that the Minister for Housing, Planning, Community and Local Government examine the financial plan being imposed by his Department on Sligo County Council which is affecting services in the county; (5) Deputy Alan Farrell - the need for the Minister for Children and Youth Affairs to examine child care costs to support families; (6) Deputy John Paul Phelan - to raise with the Minister of State with responsibility for the Office of Public Works and flood relief, Deputy Seán Canney, the serious issue of flooding in south Kilkenny in the River Suir basin; (7) Deputies Anne Rabbitte and Michael Fitzmaurice - the crisis affecting cereal farmers specifically pertaining to east Galway, in particular the financial and mental and hardship issues currently being caused to farmers who are failing to reap their crop and the inclement weather conditions in the west that have destroyed grain crops and the loss to farmers; (8) Deputy Sean Fleming - the need for the Minister for Housing, Planning and Local Government to outline his position on the use of staffless libraries as part of the Open Library initiative; (9) Deputy Tony McLoughlin - the Minister's views on health and safety concerns with regard to the Sligo-Leitrim Garda divisional headquarters; (10) Deputy Seán Haughey - the provision of a new emergency department in Beaumont Hospital in Dublin 9 in line with A Programme for a Partnership Government; (11) Deputy Dara Calleary - the need for the Government to underwrite an insurance scheme for communities affected by flooding where defences have yet to be constructed; (12) Deputy Martin Heydon - the need for a GP training programme in County Kildare; (13) Deputy Brendan Griffin - the Minister's views on the reported war crimes and the continuing humanitarian catastrophe in Aleppo; (14) Deputy Clare Daly - the impact for the new Dublin Airport runway planning permission of the decision to appoint the IAA as the competent authority in relation to airport noise; (15) Deputy Mattie McGrath - the need for measures to address the escalating costs associated with motor vehicle insurance; (16) Deputy Mick Barry - the recent developments in the industrial relations situation in Bus Éireann; (17) Deputy Richard Boyd Barrett - the availability of the drug Sativex in Ireland for those who need it; and (18) Deputy Mick Wallace - the progress regarding the refugee resettlement programme in Ireland.

The matters raised by Deputies Marc MacSharry and Martin Kenny; John Paul Phelan; Mattie McGrath and Richard Boyd Barrett have been selected for discussion.

## **Topical Issue Debate**

### **Local Authority Funding**

**Deputy Marc MacSharry:** Time is short, given I am sharing time with Deputy Martin Kenny, who I am glad is also raising this issue. The Minister is well aware of the situation. On 14 September I sought a meeting with him and the key official involved in this issue. As of today, nobody has met with me. A private meeting took place last week with Deputy Tony McLoughlin, after which he managed to successfully return to the people of Sligo and tell them they have to increase their property tax by 15%. The people do not have to increase their prop-

erty tax by 15%. Fingal County Council has €100 million on deposit but there is no shortage of library services there, which is the latest debacle in terms of the difficulty with a financial plan that is totally unworkable.

In reply to a recent parliamentary question, the Minister stated that borrowing for a local authority is a reserved function. That is a typical Sir Humphrey, “Yes, Minister”, get-out-of-jail-type clause. Section 106 of the Local Government Act states that is not the case and that the Department has to sanction said borrowing and satisfy itself that this borrowing can be met. The reality is that, many years later, Sligo has a debt of approximately €100 million to €120 million, based on figures supplied by the Minister’s Department. His county owes €600 million yet there are no library cuts there, no cuts in Dún Laoghaire and no cuts in Fingal.

What kind of idiots does the Minister take the people of Sligo to be? We are equal citizens of this country and we are entitled to services. The same mandate and votes that Deputy Tony McLoughlin got are the ones Deputy Martin Kenny and I got. The people are equal citizens. The Minister should not throw us under the bus like the ECB or the European Commission did to Ireland, because that is precisely what the Minister and his officials are doing to the people of Sligo. Sligo will not stand for it. I am here today, and will be here again next week and the week after, to demand that the Minister make appropriate support available to Sligo local authority-----

**Acting Chairman (Deputy Bernard J. Durkan):** Thank you, Deputy.

**Deputy Marc MacSharry:** -----which has already, at the behest of the Department, cut staff by 42%, taking €8.5 million out of the local authority. For what?

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy should conclude.

**Deputy Marc MacSharry:** It is to satisfy officials in the Department who, when I was a Senator, refused to meet me, and who, since 14 September, have refused to meet me.

**Acting Chairman (Deputy Bernard J. Durkan):** Thank you, Deputy.

**Deputy Marc MacSharry:** That kind of democracy looks a lot more like that practised in the Reichstag or the Duma, but not what we should be standing over here as “new politics”.

**Deputy Simon Coveney:** I would have expected more from the Deputy, to be honest.

**Deputy Marc MacSharry:** I thank the Minister very much but he is not here to assess my performance. We are the people; we assess his performance.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy should resume his seat. He is eroding his colleague’s time.

**Deputy Marc MacSharry:** They are as entitled to the Minister’s support as the people in his constituency, when his constituency owes €600 million-----

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy MacSharry should resume his seat. I call Deputy Martin Kenny.

**Deputy Marc MacSharry:** -----and having private meetings with his Deputies when he ignores requests from Deputy Martin Kenny and me. He is a disgrace.

27 September 2016

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy MacSharry should resume his seat. I call Deputy Kenny.

**Deputy Martin Kenny:** We have an unworkable financial plan in Sligo and that is the reality. The people of Sligo pay their property tax the same as people do everywhere else. The people in rural Sligo - in Tubbercurry or Ballymote - when they build a house have to pay their development charges, and for those charges they are told they will get services. The people of Sligo did not run up this bill of legacy debt. They deserve services the same as people deserve them in every other part of the country.

The financial plan that was put in place means that, this year, there will be a surplus of over €2 million in County Sligo. It has already reached €1.4 million. This is money that is being taken out of the local economy and taken away from the local people, who would have spent it in local shops and businesses. Next year, the surplus is to increase to €3.4 million and the next year to over €4 million. That is totally unworkable in a county like Sligo. It is not like we have huge economic development or growth west of the Shannon. A Brexit crisis is facing us and we have a county and a region which are, in effect, in economic decline compared to the rest of the country. There needs to be a recognition of this fact.

I implore the Minister to meet with Sligo County Council once again to review this entire financial plan and to come up with a new plan which is workable and which will provide services for people in the long term. The current plan simply will not work. The Minister will have a revolt on his hands if he continues down this path. I implore him to immediately meet with the elected representatives of County Sligo - the county councillors who were elected by the people - and work out a new plan which will work for the people. It is no good having a plan that works for the Department in Dublin if it does not provide library services, road services and everything else that is needed.

An example of the problem is seen in the fact that 12 temporary outdoor staff had to be taken on in Sligo last year, when funding became available due to the flooding, as there were no outdoor staff to do the work. Now that is coming to an end, those people will be let go, although we are facing another crisis in that regard. I implore the Minister to meet with the elected representatives from County Sligo to ensure a proper plan can be put in place that is workable and that will provide for the people.

**Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney):** I thank both Deputies for raising this issue because it is one of real concern in Sligo. I met last week with the chief executive of the local authority in Sligo. It was not a political meeting. It was a meeting to go through a letter he had sent to me outlining the challenges the council faces. It is important to say that every local authority has a responsibility to manage its expenditure in a way that deals with everything from debt to providing an acceptable level of local services. It is true that the current chief executive came to the position in Sligo and is trying to deal with a lot of historical debt issues. There have been numerous meetings between very senior officials in my Department and officials from Sligo County Council and we continue to work with them to try to ensure that they can implement the plan that was signed off by the local authority only nine months ago.

**Deputy Martin Kenny:** It was done under threat.

**Deputy Simon Coveney:** No, it was not under threat. As part of the plan, the Department

agreed to give an extra €1 million to Sligo each year over a five-year period. Only nine months later we are now in a situation where we are being told the plan is not workable. I have to stand over a situation where we are trying to bring back an acceptable level of financial management to the local authority in Sligo. Of all of the councils in the country I accept that Sligo County Council is under more pressure than any other. That is why we have a financial plan in place, which was agreed and signed off with the council, whereby Sligo gets special treatment. We put €1 million that otherwise would not go to Sligo into Sligo County Council each year for the next three to four years, up until 2019. It is not true to say that we are asking for a surplus of €4 million at any stage in the future. I am sorry but that is not accurate. In 2016 the figures are €2.3 million; in 2017, €3.41 million; in 2018, €3.1 million and in 2019, €2.8 million. Those are the figures that were signed off by the chief executive of Sligo County Council only last December. We are trying to work on that basis, with all the challenges faced by Sligo County Council and we continue to work in that regard.

The chief executive wrote to me with a number of asks before the meeting which were nothing to do with politics. They were about financial management. There was an issue in relation to local enterprise offices, LEOs, and we said we would accommodate that. There was also an issue about the impact of site resolution tax in Sligo, which we also said we would accommodate, and adjust the targets accordingly. Other issues included the deferral of payments from this year to next year. We are looking to see whether we can accommodate that. There is no politics at play here. What is happening is that I am trying to work with Sligo County Council to manage a very difficult historical debt situation, to ensure that over the next four or five years we get a level of management back into the financial resources that are available to Sligo that is sustainable into the future. At the same time, part of the financial plan was to ensure that services remain intact.

Reference was made to staff numbers but if one looks at staff numbers in neighbouring local authorities they are not that different to Sligo. I accept there are particular problems at the moment concerning the library service, because a number of staff are out. Of the 12 or so staff that are assigned across three libraries, a number of them are unable to work at the moment. Again, we are trying to work through that with the management as well. I will not come to the House and have people shout across the Chamber at me, saying that we are doing nothing for Sligo. We are working with a plan that Sligo signed off on and we are trying to ensure that it can be as workable as possible. We are adjusting targets to try to address some of the requests that have come from management in the local authority and we will continue to work with it to ensure that we find a viable way forward.

**Deputy Marc MacSharry:** The reality on the ground is that this plan was never workable. We can hide behind the fact that the Minister said it was not rammed down Sligo's throat as a plan that it had to adopt. Deputy Martin Kenny referred to a surplus of €4 million. The Minister then read out the amounts of €3.4 million and €3.1 million. What is the difference? If we go back a few years to when Donegal had some difficulty-----

**Deputy Simon Coveney:** Did Deputy MacSharry object to the plan at the time?

**Deputy Marc MacSharry:** Excuse me. Will the Minister go to the assistant secretary in question and ask him why he did not have the manners to acknowledge his own elected representatives and meet a Senator - he did not do so - and the Minister so far has refused to do the same? The Minister should remember what is behind the confidence and supply agreement because one cannot just take 65,000 people in Sligo and cast them aside. Nothing will take from

27 September 2016

the fact that last Wednesday the Minister sent his Deputy, Deputy Tony McLoughlin, and his councillor, Cathaoirleach Hubert Keaney, back to Sligo and said that the property tax should be increased by 50%. What will happen next? Will the people of Sligo be expected to pay more income tax specifically for their local hospital, more car tax specifically for the repair of the roads? The Minister should get with it. If this was happening in Cork there would be a revolution, but no, it is little old Sligo where the Government has just one Deputy for 65,000 people.

**Deputy Simon Coveney:** Is that why Deputy MacSharry is grandstanding?

**Deputy Marc MacSharry:** We will not stand for it. The Minister should get used to this kind of robust debate because that is what is going to happen again and again as long as he shows continuing contempt for the people of Sligo.

**Deputy Martin Kenny:** The Minister said the local authority has an obligation to manage its own budget.

**Deputy Simon Coveney:** Yes.

**Deputy Martin Kenny:** But all of us here have an obligation to ensure that all of the people in the country get an equal and adequate service for what they pay for.

**Deputy Marc MacSharry:** Hear, hear.

**Deputy Martin Kenny:** It is the people that we represent. Some people who were employed by the State as servants of the State in Sligo made mistakes in the past during the boom that happened in this country but to talk about money that was won or lost is like talking about the rain that fell last week. It is over, it is gone. We need to look at the new situation and move things forward. I fully accept that the Minister has met with people and that he is trying to sort out the situation but the truth is that the plan that was put in place simply does not work and cannot work for the people of Sligo. It is a serious problem if people in any regional town in the country do not have access to a library service or when those who are on a waiting list for a housing grant cannot even get it processed never mind get the grant money paid because of the absence of staff in the local authority. That is a problem not just for Sligo but for the country. We represent everyone in the country in this House. If this country is about anything it should be about ensuring that people get a proper and adequate service.

I again appeal to the Minister to sit down, not to talk about individual parts of the plan that was put in place that might be running into difficulty, but to look at the plan in its entirety and recognise that it is simply unworkable. Regardless of whether the plan was agreed in good faith in the past or if people have different views on how it came about, the reality is that it does not and will not work for the people of Sligo and the Minister must sit down with the elected representatives of the area, redo the plan and come up with a new scenario that will work.

**Deputy Simon Coveney:** What we are trying to do is ensure that it does work. We are showing flexibility, which we have been asked to do by the chief executive and his team. That is exactly what we have been trying to do.

**Deputy Marc MacSharry:** And tell the people to put up the tax.

**Acting Chairman (Deputy Bernard J. Durkan):** The Minister should be allowed to speak without interruption.

**Deputy Simon Coveney:** We have not told the people to do anything.

**Deputy Marc MacSharry:** That is exactly what the Minister did, himself and-----

**Deputy Simon Coveney:** We did not.

**Deputy Marc MacSharry:** Is the Minister denying it?

**Deputy Simon Coveney:** I am.

**Deputy Marc MacSharry:** The property tax in Sligo was to be increased by 50%.

**Deputy Simon Coveney:** No.

**Deputy Marc MacSharry:** The Minister offered another €100,000 a year. He is calling his own people liars.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy MacSharry is out of order.

**Deputy Simon Coveney:** I am not calling anybody a liar. Deputy MacSharry is.

**Deputy Marc MacSharry:** It was decided to put 50% on the property tax for the people of Sligo. That is what the Minister did and he is denying it now. He is calling poor Deputy McLoughlin and Councillor Keaney liars.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy MacSharry should sit down. I call the Minister.

**Deputy Simon Coveney:** Deputy MacSharry is looking for a meeting with me.

**Deputy Paul Kehoe:** Such grandstanding has not been witnessed for some time.

**Deputy Marc MacSharry:** What are you saying? You stay out of it.

**Deputy Simon Coveney:** Is that the way Deputy MacSharry negotiates?

**Deputy Marc MacSharry:** We will deal with the Minister of State, Deputy Kehoe, on defence matters. In the meantime, he should stay out of this debate.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy MacSharry should not interrupt.

**Deputy Finian McGrath:** He is back with a bang.

**Deputy Simon Coveney:** I would say Deputy MacSharry is someone who is easy to negotiate with. We are working through those issues, as we are obliged to do. Sligo County Council has an obligation to work through some very difficult financial matters at the moment. If I simply decide to grant significantly more money to Sligo to deal with difficult issues I had better take it from somebody else.

**Deputy Martin Kenny:** The Minister could at least enter negotiations.

**Deputy Simon Coveney:** Let me answer the question because the Deputy had the courtesy at least to ask some questions. What we will continue to do is work with Sligo County Council to try to ensure that a plan that was signed off by Sligo County Council nine months ago actually works. We will show flexibility and give support where needed, which is what we

27 September 2016

are looking at doing at the moment. However, we cannot simply pretend there are not difficult financial and historical issues that need to be dealt with. We cannot just-----

**Deputy Marc MacSharry:** So throw the people under the bus.

**Deputy Simon Coveney:** No, we are not throwing anybody under any bus.

**Deputy Marc MacSharry:** That is exactly what the Minister is doing.

**Deputy Simon Coveney:** We do not accept-----

**Deputy Marc MacSharry:** All people are equal, except in Sligo. We expect to pay more tax.

**Acting Chairman (Deputy Bernard J. Durkan):** The Minister to reply, without interruption.

**Deputy Simon Coveney:** That is a democratic decision for councillors to make.

**Deputy Marc MacSharry:** Oh, please. They took it yesterday and they will not increase the rate by 15%.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy is abusing the privilege of the House. He is overstating it.

**Deputy Marc MacSharry:** I learned from the Acting Chairman.

**Deputy John Paul Phelan:** It must be a west of Ireland thing. I do not think the Taoiseach is the only one who has rediscovered his mojo.

**Deputy Mattie McGrath:** Cad é an Ghaeilge ar “mojo”?

**Deputy John Paul Phelan:** I do not think there is any, Mattie.

### **Flood Relief Schemes Funding**

**Deputy John Paul Phelan:** I am delighted the Ceann Comhairle chose this issue and thank him for doing so. I also thank the Minister of State, Deputy Canney, for being here. The Topical Issue concerns flood relief, particularly on the south Kilkenny bank of the River Suir. My part of the world is blessed with many things, including many rivers, which have many beneficial effects in terms of tourism and scenery, but one of the problems with major rivers that has affected all parts of the country in the last few years is flooding. The Minister of State, Deputy Canney, is still relatively new to his position and I wish him well in it. There is an ambitious programme that is partly under way at present and that I hope will get fully under way over the next few months in terms of relieving flooding across the country. In my own part of the world, Inistioge, Thomastown and Graiguenamanagh were badly affected by the flooding earlier this year. They are part of the Department's CFRAM scheme, which will see progress.

Today, I raise the issues of two small Suir tributaries in south Kilkenny, namely, the Pill River in Pilltown, from where it gets its name, and Portnascully Pill in Mooncoin, which are very substantial local tributaries and cause a significant degree of flooding, not just to farmland but also to houses and property. In the case of both rivers in the most recent flooding events, a

number of families had to leave their homes, some for the very first time. I suppose it is symptomatic of a wider problem across the country that many of our smaller rivers and streams are overgrown and have not seen any measures to alleviate flooding for many years. I know that the situation is complicated and complex in that there may be European directives and national law which limit the amount of work in some cases that can be carried out.

The problem with these two rivers is that the local authority in Kilkenny has submitted plans and has not received, as I understand it, any word yet from the OPW. I hope that in his response, the Minister of State might have at least some timeframe. I have always found that people are not unrealistic, in particular rural people affected by flooding, and they know these things take time. However, they expect they will be given an indication as to when some flood relief measures may be put into place. I hope the Minister of State will have at least a timeframe for these two communities in south Kilkenny which have suffered great distress in the last number of serious flooding events, with people forced to leave their homes, as I said already.

**Minister of State at the Department of Public Expenditure and Reform (Deputy Seán Canney):** I am grateful to the Deputy for raising this question, which gives me an opportunity to address the House on the subject.

The Office of Public Works has been working in close co-operation with Kilkenny County Council in recent years to assist the council in developing an application for funding assistance under the OPW's minor flood mitigation works and coastal protection scheme to deal with the flooding problems in the areas mentioned by the Deputy. Earlier applications for funding under the scheme lacked sufficient information to allow a decision to be taken on them. Discussions have taken place between the OPW regional engineering staff and their counterparts in the council over the period to clarify certain important matters relating to the flooding problem and its impact on properties and lands in the affected area.

In May 2016, Kilkenny County Council submitted an application for funding under the minor works scheme to undertake studies in two locations. The first of these was for Fannings-town-Owning and the second one was for Knockhouse to Portnascully via Dungooly.

I am informed by my officials that consideration of the application is now nearing finalisation and that a letter will issue to the council in the coming days indicating funding approval of €18,000 in total for the projects in question.

A total of 11 projects have been approved for County Kilkenny since the minor works scheme was introduced in 2009 with total funding approval of almost €1.1 million. This scheme is of great benefit and assistance to local authorities in addressing small-scale flooding issues by providing the necessary funding to carry out the required studies and works to alleviate such issues within their administrative areas.

The scheme has been very successful to date, with more than 560 projects being approved to the value of approximately €37 million, which has helped provide flood protection to over 5,000 properties. I have very recently written to every local authority encouraging them to consider and review the possibilities within their areas for continued and, where possible, increased use of the scheme.

The Deputy will also be aware of the catchment flood risk assessment and management, CFRAM, programme, which lies at the core of the assessment of flood risk and long-term planning of flood risk management measures throughout the country. When each of the flood risk

27 September 2016

management plans being produced under the CFRAM programme, currently at consultation stage, are finalised, specific flood risk management measures will be identified and prioritised and will form the basis for a long-term investment programme for flood risk management in Ireland. As many of these measures will be small scale and will fall within the financial threshold of the minor works scheme, each local authority will play its part in the implementation of the measures in the context of the scheme.

The Suir CFRAM plan, which covers these areas, will be placed on public consultation next week when members of the public and elected representatives will have an opportunity to make submissions. There are no measures proposed in the plan for the Mooncoin area but there are proposals for the Pilltown area to deal with flooding problems there.

The Government has committed to increasing the budget allocation for capital flood relief activities to €430 million over the period 2016-2021 and I am confident its strategy to manage flood risk will better prepare Ireland to manage the threat of flooding into the future.

**Acting Chairman (Deputy Bernard J. Durkan):** I call Deputy John Paul Phelan, who has two minutes.

**Deputy John Paul Phelan:** I just need one minute to thank the Minister of State for being present. It is amazing the number of times in my time in both Houses that Ministers - I suppose, naturally - could not be present to answer Topical Issues, which they are now called. They used to be called Adjournment matters when the Acting Chairman was in his heyday, although his heyday still has some time to go.

**Deputy Mattie McGrath:** It is still his heyday.

**Deputy John Paul Phelan:** I say sincerely that this is very good news and I am sure there will be more contact between me, my office, the council and the OPW before these measures are carried out. The Kilkenny county song is “The Rose of Mooncoin”, and there is a line in it about the banks of the Suir that flows down by Mooncoin. If and when these works are delivered-----

**Deputy Mattie McGrath:** It comes through Tipperary too.

**Deputy Kevin Boxer Moran:** Go on, Mattie.

**Deputy John Paul Phelan:** -----we will look forward to welcoming the Minister of State to the banks of the Suir that flows down by Pilltown and Mooncoin sometime soon.

**Deputy Seán Canney:** I thank the Deputy for that. I will get somebody to sing “Galway Bay” because I do not have-----

**Deputy Mattie McGrath:** Tiobraid Árann abú.

**Deputy Seán Canney:** -----the qualities to do that but I thank him for his kind words.

### **Motor Insurance Regulation**

**Deputy Mattie McGrath:** I thank the Ceann Comhairle for accepting this Topical Issue, a vitally important one that affects every village, hamlet and home not only in Tipperary but in

the rest of Ireland today. I question why it has taken the Competition and Consumer Protection Commission so long to initiate action on what has been an outstanding, urgent and clear case of market manipulation within the car and vehicle insurance sector.

*6 o'clock*

I highlight the language that this authority - one of these quangos - has used in a statement in announcing the issuing of summonses, in particular its view that industry participants openly signalling upcoming increases may result in a degree of unspoken co-ordination. Did one ever hear such bunkum? We know that every young person, every pensioner and every family car owner is being screwed backwards by insurance companies and we get this timid language from this quango. I would like to know the cost of the quango and who is paying its insurance or if it is insurable because it is worthless, toothless and useless.

*(Interruptions).*

**Deputy Mattie McGrath:** The Ministers may laugh, but they know this because they are hearing it in their constituency clinics every week. There has been ample anecdotal evidence from every town and village in the past five years about premium increases. They have defied any logic and any reasonable expectations, and operate outside market conditions.

The political reaction by the Government to the issue has been extremely weak and inordinately slow. I hope the Minister of State and the other Ministers present will listen to that. The Government has completely failed to grasp the seriousness of this situation for thousands of motor vehicle users and only at the last moment, driven largely by public pressure has it woken up to the scale of the problem.

We have had beef cartels and bank cartels, all of which used their industry dominance and insider knowledge to maintain their massive and obscene profits. The bankers have wiped out the farmers and the whole country. Are we going to let the motor insurance industry rip us all off here as well?

Last year Allianz, Europe's biggest insurer, reported record operating profits of €10.8 billion. Aviva Ireland reported an increase of 32% in its operating profit to €92 million last year. What do they want - the blood of the people? Young people do the theory test, pay an instructor to get the right standard of driving, pass their test and then they are made criminals before they go on the road because they are penalised to the tune of €4,000 to €7,000. They can buy a car for €2,000 and the insurance is costing their parents up to four times that amount. It is a rotten, stinking cartel.

The Competition and Consumer Protection Commission recently investigated small bus companies in Tipperary suspected of operating a cartel. They might have the law down on top of them - dawn raids with all kinds of intimidation of the bus owners. I do not support any cartels, but this has to stop. I want to see the Competition and Consumer Protection Commission flex its muscle and not use this timid language that one would use when courting a girl up a boreen when we were all buachaillí óga agus cailíní óga fadó fadó.

*(Interruptions).*

**Deputy Mattie McGrath:** I cannot use here the language I want to use to describe what is going on. There is victimisation of young people, older people and also road hauliers. A

27 September 2016

number of road hauliers are now insuring abroad and registering abroad. There is a huge flow of jobs from Ireland where we have a recovering economy. This cartel of insurance companies is trying to racketeer and make even more profits on the back of ordinary families. I hope the Minister of State can give some assistance and hope to the families and businesses, especially small businesses, that cannot afford this. It is crippling businesses, families, students and everybody else.

**Deputy Kevin Boxer Moran:** We all have our mojo so.

**Deputy Mattie McGrath:** I always had my mojo; I never lost it.

**Acting Chairman (Deputy Bernard J. Durkan):** Never mind about the mojo, let us have the reply.

**Minister of State at the Department of Defence (Deputy Paul Kehoe):** I thank Deputy Mattie McGrath for raising this very important issue. I am glad he did not use that language because I would be very sensitive towards any language like that.

Introducing measures to address the rising cost of motor insurance is a high priority for Government. The working group on the cost of insurance, chaired by the Minister of State, Deputy Eoghan Murphy, is undertaking a review of the factors which are influencing the increased cost of motor insurance. The working group brings together all the relevant Departments and offices involved in the process. Its objective is to identify immediate and longer-term measures which can address increasing costs, while bearing in mind the need to maintain a stable insurance sector. The core areas to be examined by the working group in this first phase are: the motor insurance sector generally at present and in recent years; the effects of legal costs and litigation processes on insurance costs; the current claims compensation arrangements and the cost of claims; insurance data and information; the impact of accident rates; the impact of unlawful activity on the insurance sector; and other market issues.

A number of additional issues relating to motor insurance which impact upon consumers and the business sector are also being considered. These include the lack of a link between the national car test and the availability of insurance; insurance costs for young drivers and those over 65; the case for rural dwellers with no public transport to have car insurance at a reasonable cost; the issue of returning emigrants having difficulty obtaining car insurance; and the cost of insurance to taxi drivers, hackneys, hauliers and others involved in the transport business.

As the issue of the cost of insurance is complex and in order to get to the heart of these issues as soon as possible, the Minister of State, Deputy Eoghan Murphy, has established four sub-groups to review them in detail. Chairs have been appointed to these sub-groups and work has commenced. The sub-groups are meeting weekly and their outputs are feeding into the meetings of the main working group. The working group will be holding its fifth meeting this Thursday and will continue to meet every two to three weeks to the end of 2016.

A consultation process has commenced. The Minister of State has had informal meetings with representatives from a number of key stakeholders, including Insurance Ireland, AA Ireland, the Irish Brokers Association, the Injuries Board, IBEC, FBD Insurance and the Central Bank of Ireland. The working group and the four sub-groups are also meeting with the relevant stakeholders. At its third meeting, the working group met representatives from the Law Society, AA Ireland, the Irish Brokers Association and the Consumers' Association of Ireland. Further consultations will be arranged. In addition, submissions received from all interested

parties are being considered as part of the process.

By the end of October, the working group will provide the Minister for Finance with an update report which will set out the priority actions required. From November to December, the working group will then develop an action plan to enable the relevant Departments and offices to commence the implementation of these priority actions. In this regard, the Minister of State will be consulting regularly with Government colleagues.

**Deputy Mattie McGrath:** Someone over there would want to get their mojo.

**Acting Chairman (Deputy Bernard J. Durkan):** No more mojo now.

**Deputy Mattie McGrath:** The Minister of State referred to working groups and consultation groups, but this has been going on for more than 18 months. I know that during the interregnum when the Government was being formed, it went off and took everyone for a fast ride around the country and the insurance companies. I read the figures and I will read them again. Last year Allianz, Europe's biggest insurer, reported record operating profits of €10.8 billion. Aviva Ireland reported an increase of 32% in its profits. It is no time for talking, it is time for action. The Government should deal with it. The Government is just tickling the Law Society by inviting its representatives in to talk to them. They have been robbing people for years. This is legalised robbery and is forcing people to drive uninsured. If they have accidents, ordinary motorists are paying the price.

My insurance went up by 50% this year and I will put up with that but there is even less cover for young drivers and everything else. I am talking about business insurance. Many jobs are being lost on a daily basis. Last year the road hauliers got a break with the motor tax. Now the insurance companies have decided to hijack them and double their insurance in some cases. Last week the president of the Irish Road Hauliers Association, Verona Murphy, whom I admire, asked why road hauliers are not allowed to access the European Single Market for insurance as commercial entities, noting that there is no competition in the Irish market. Do we need reports, consultations, sub-groups, committees and weekly meetings going on to the end of the year to find the answer? We all know what is going on. It is a cartel and a racket. If it walks like a duck and quacks like a duck, it is a duck. It is a racket and it is daylight robbery.

Ms Murphy added that about 43% of trucks in Ireland now have foreign-registered plates. That is telling. We are losing the tax and customs revenue. Some 30% of Irish operators are now based abroad. Are we going to allow this like the flight of the earls? We need to wake up and smell the coffee. The Government needs to call in the insurance companies and deal with them. There is no point in rubbing butter on a fat sow's backside, which is what is going on. It is pure plunder and rape of our business, our industry, our young people, our families and our economy, and it has to be stopped now. There is no point in having working groups, mojos, jojos and everything else. We need action. We are elected by the people to represent them to stop this racket and cartel. We put up with it with Larry Goodman and we put up with it with the banks. This is one we cannot put up with because it will drive our country into the abyss.

**Deputy Paul Kehoe:** I understand the Deputy's frustration. Many, if not all, Deputies across the House are frustrated with the rising cost of motor insurance. Not a day goes by without someone mentioning the rising cost of motor insurance to me and particularly people involved in the haulage business. County Wexford is heavily reliant on the haulage business, as I am sure is the case in County Tipperary and in other parts of the country. As I outlined,

27 September 2016

addressing the rising cost of motor insurance is a Government priority. Work to identify the factors influencing the increasing costs is continuing apace via the cost of insurance working group. As Chairman of the working group, the Minister of State, Deputy Eoghan Murphy, is driving the process-----

**Deputy Mattie McGrath:** Will he be able to get insurance?

**Deputy Paul Kehoe:** -----and is working with all of the relevant stakeholders, Departments and offices to identify immediate and long-term measures that can address the rising cost of insurance. Consultation with the relevant stakeholders is ongoing. The working group looks forward to receiving the report of the Joint Oireachtas Committee on Finance, Public Expenditure and Reform and the Taoiseach on this matter. The working group will provide an update to the Minister for Finance at the end of the month, in which it will set out the priority actions required. The working group will then develop an action plan to enable the relevant Departments and offices to commence implementation of these priority actions by December.

Like Deputy Mattie McGrath, I have spoken to the president and other members of the Irish Road Haulage Association. I met recently with a number of hauliers who are being crippled by the rising cost of motor insurance. This is a matter of huge concern for them and young drivers. My car insurance increased this year from €350 to €950. That is unacceptable. Families are being crippled by the rising cost of motor insurance. Most young people now have cars and every household is reliant on a car.

I take on board all of the sentiments expressed by the Deputy and I will refer them directly to the Minister of State, Deputy Eoghan Murphy.

### **Medicinal Products Availability**

**Deputy Gino Kenny:** I received a telephone call last Saturday from a gentleman in Cork in regard to his wife who suffers from lupus and has been in chronic pain for the past 20 years. The man's wife has been told by her neurologist that if she could access Sativex, which is an oral spray used typically by people who suffer from multiple sclerosis, it could help her condition. I understand that in July 2014 the use of Sativex was licensed in Ireland but that agreement on price has yet to be reached between the HSE and the manufacturers. There are many people who could benefit from treatment with this drug. When will a price on Sativex be agreed between the HSE and the manufacturer so this drug is accessible to people, particularly the wife of the man who contacted me and people suffering from multiple sclerosis?

**Minister of State at the Department of Health (Deputy Finian McGrath):** I thank the Deputy for raising this important issue. Sativex is indicated for the relief of symptoms of spasticity for people with multiple sclerosis where other conservative treatments have failed to provide adequate benefits. Deputy Kenny will be aware that access to potentially beneficial drug treatments is an important issue for people with multiple sclerosis, MS, and also that MS sufferers and their families face enormous day-to-day challenges in dealing with this progressive and debilitating condition.

The HSE has statutory responsibility for decisions on pricing and reimbursement of medicinal products under the community drug schemes in accordance with the provisions of the Health (Pricing and Supply of Medical Goods) Act 2013. Decisions on which medicines are

licensed for use in Ireland and which are reimbursed by the taxpayer are made on objective, scientific and economic grounds by the HSE on the advice of the National Centre for Pharmacoeconomics, NCPE. The NCPE is a team of clinicians, pharmacists, pharmacologists and statisticians who evaluate the benefits and costs of medical technologies and provide advice to the HSE. The NCPE conducts health technology assessments of pharmaceutical products for the HSE and can make recommendations on reimbursement to assist the HSE in its decision-making process.

Since July of this year a revised and more transparent assessment process for the reimbursement of new medicines by the HSE has been in place. This process includes consideration of the budget impact of individual new medicines, the opportunity cost of the treatment and resources available to the HSE, as allocated by Dáil Éireann. The new assessment process is available on the Department of Health website.

In regard to the reimbursement of Sativex, on 11 July 2014, the Misuse of Drugs Regulations 1998 were amended to allow for certain cannabis-based medicinal products to be used in Ireland. The Health Products Regulatory Authority subsequently granted a marketing authorisation for the cannabis-based medicinal product Sativex to be marketed in this State. It was then open to the holder of that authorisation to make the product available for prescription in Ireland. In early September 2014, the HSE received an application for inclusion of Sativex under the community drugs scheme's high-tech arrangements. A health technology assessment on Sativex was completed by the NCPE, which did not recommend reimbursement of Sativex at the submitted price, which appears to be at the core of the Deputy's question. The report by the NCPE is an important input to assist the HSE in its decision-making process and informed further engagement between the HSE and the supplier in regard to potential pricing arrangements for this product. Sativex is not currently reimbursed. The HSE is awaiting further engagement from the supplier. It is appropriate that these should not be ministerial decisions and that a scientific and evidence-based approach be taken to determining the extent to which patients would benefit from treatment with expensive new drugs and whether this represents cost-effectiveness for the health service and the taxpayer.

**Deputy Gino Kenny:** I understand that the cost of making the drug available is estimated to be €4,000 to €5,000 per patient per annum. Is the Minister of State saying that the manufacturer is out-pricing the HSE or that the HSE does not believe it is getting value for money?

**Deputy Finian McGrath:** I share the sentiments expressed by the Deputy on this important issue. The manufacturers' estimate of the eligible population in Ireland that might be considered for treatment with Sativex if reimbursement was improved is approximately 830. The Deputy is correct that the cost is estimated to be €4,000 to €5,000 per patient per annum. Using the company's population data it is predicted that the gross budget impact in year one would be €396,901, rising to €797,041 in a five-year period. The actual number of people who might qualify if reimbursement was agreed by the HSE would depend on a range of factors, including any conditions that the HSE might attach in relation to approval, including, for example, approval arrangements to be complied with or clinical criteria to be met. It is important to note that Sativex is licensed throughout the UK but not reimbursed by the NHS. The National Institute for Health and Care Excellence, NICE, has recommended that health practitioners do not offer Sativex to treat spasticity in people with MS because it is not a cost-effective treatment. This is the NICE's view. The assessment of the National Centre for Pharmacoeconomics, NCPE, of Sativex informed further engagements and negotiations between the HSE and the supplier. At this stage, the HSE is awaiting further engagement with the supplier. There is

27 September 2016

an issue with regard to the price structures and overpricing and this is the message I will bring back to the Minister, Deputy Harris, because we must all make a contribution on this. I will make the views of the Deputy known.

### **Road Traffic Bill 2016 [Seanad]: Second Stage**

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I move: “That the Bill be now read a Second Time.”

As Minister, it is a pleasure to be able to bring before the House the Road Traffic Bill 2016. There has been much talk over this year about new politics and new and more co-operative ways of doing Dáil business. Road traffic legislation is an area which can point the way. This has always been a remarkably non-partisan aspect of legislation, which attracts constructive engagement from all sides. I will be happy to consider all sensible amendments proposed.

We all agree on the fundamental reason for road traffic legislation, which is the safety of road users. This is paramount to the public and to all of us. We may at times have disagreements about the best ways to promote road safety but they are reasonable and practical disagreements about what will work best and they generally give rise to very constructive discussions. This is an area of policy happily free from ideology. There are ideas which work and ideas which do not work and the history of the House when it comes to debating road traffic legislation shows that we are all interested in arriving at better laws which work better and which, ultimately, make us all safer. The fact the Bill was the subject of detailed pre-legislative scrutiny and was changed quite substantially as a result is a testament to the kind of non-partisan approach which has always attended the discussion of road safety matters. The subsequent passage of the Bill by the Seanad was facilitated by constructive engagement from all sides.

If we look back 20 or so years, we can see there has been a remarkable improvement in safety on our roads. Although the number of vehicles has increased greatly, the trend in deaths on the roads has overall been downward. In 1997, deaths on our roads peaked at the astonishingly high figure of 472. After 1997, a steady trend brought deaths down to the historic low of 162 in 2012. It is a source of concern that the numbers then went up to 188 in 2013 and 194 in 2014. Last year, 2015, which was the joint safest year on record, saw a reduction in fatalities to 162, just 35% of the peak in 1997. While this is welcome, we should not forget that behind each and every one of these fatalities is a grieving family, friends and community.

Looking to the more immediate past and the present, however, the trends we are seeing are very worrying. The fact we had two years of increased numbers of deaths after the record low of 2012 should worry us all and I know it does. Moreover, the figures to date in 2016 show a disturbing increase on 2015. As of today, the number of deaths for our roads this year is 138, as against 115 on the same day last year. This is an increase of approximately 20%. Why is this? There is no one factor which can be blamed. We have to be aware that, as the figures get lower, relatively few incidents and relatively small factors can lead to a noticeable change. The experience of 2015 illustrates this well. Up to November of last year, 2015 was on course to being the safest year on record with even lower road fatalities than 2012. Sadly, this was changed by a sequence of fatal collisions, which made December 2015 the worst December for road fatalities since 2007.

The truth is that many factors affect road safety. There are physical factors, such as the qual-

ity and maintenance of our roads and the vehicles on them. Traffic planning and management that makes sense has a role too. Then there are the human factors, including driver training and experience, drivers' health, the danger of driver impairment from intoxicants, the risk of driver distraction and the enforcement of the law. There is also the sense of responsibility which everyone should have when they get behind a steering wheel.

The great improvement in road safety, which we have seen in the past two decades may be the result of initiatives in all of these areas. The quality of our roads has improved. Testing of private cars and commercial vehicles through the NCT has led to a higher standard of vehicles on our roads. We no longer see the kinds of rusty old cars which used to be ubiquitous on Irish roads. Improvements to the legislation on driver licensing have strengthened the driver learning process. Learners now have to undergo a mandatory programme of lessons before taking the driving test and the old culture of being a learner for life and not bothering with the test has been and is being tackled. The law has also been strengthened significantly in the area of drink driving.

While it is hard to measure attitudes and culture changes, many were beginning to believe that the culture of tolerance towards drink driving which we once had was waning. However, the pre-crash report on alcohol published earlier this year by the RSA revealed that alcohol was a factor in 38% of all fatal collisions between 2008 and 2012, with the loss of 286 lives. This made for shocking reading, particularly with regard to the number of younger people drinking and driving. The report stated that almost half, 43%, of the drivers in the report who had consumed alcohol were aged between 16 and 24 years. Some Members may have seen the finding last week from the *Irish Examiner*-ICMSA opinion survey, which showed close to 23% of those polled admitting to driving after three or more pints. This is a deeply disappointing and, indeed, disturbing figure, particularly after so many years of campaigning to raise awareness of the dangers of drink driving. We must ask the hard question on whether the long-running campaign to eliminate drink-driving failed.

Many positive initiatives have been set out and driven through Ireland's successive road safety strategies, of which we are now on our fourth. The current road safety strategy, which runs from 2013 to 2020, sets out 144 actions to be carried out by my Department and other bodies. These actions cover the whole range of areas which can impact on road safety and we will not let up on implementing them so as to make people safer on our roads.

While my Department has led the way in policy and legislation, many groups and individuals have in the past played their part in improving road safety. These include the Road Safety Authority, which has made a contribution across a wide range of areas, including operating the NCT and commercial vehicle roadworthiness testing, regulating driving instructors, overseeing the driving test and running the National Driver Licensing Service. In addition, the RSA is responsible for education on road safety through schools, problematic public information campaigns, including drink-driving and engagement with other stakeholders such as cycling groups.

I particularly acknowledge the work of An Garda Síochána and its dedicated traffic corps. An Garda Síochána has taken the tools provided in law and used them to enhance road safety, enforcing the law with the aid of the fixed charge and penalty points system, mandatory breath testing for alcohol and the introduction of safety cameras. Nor should we forget the crucial role played by the Medical Bureau of Road Safety. The bureau may attract little publicity but each year it tests for intoxicants thousands of specimens taken from drivers. The bureau also supplies

and tests the equipment used by the Garda for detecting alcohol and offers invaluable scientific expertise to my Department. Indeed, the bureau has had an indispensable role in developing the proposals for intoxicated driving contained in the Bill which I present to the House today.

I do not wish to pass over the work of the many dedicated voluntary and advocacy groups which in so many ways promote road safety and public awareness of safety issues. I know that many involved in this work have suffered losses themselves due to tragedies on our roads and I am very impressed at the way they have turned personal tragedy to such good purpose.

There is one point that I would like to re-emphasise. Safe driving is also a matter of individual responsibility. Whatever laws we make, whatever work An Garda Síochána does to enforce those laws, however many good people strive to enhance road safety in so many ways, each driver is responsible for how he or she drives once he or she gets behind the wheel. All of the main causes of collisions on the roads have at least a large element of driver responsibility - speeding, driver intoxication, driver fatigue and distraction. Everyone who drives has a responsibility to obey the law, to keep within the speed limit, to remain observant and, above all, to know when he or she should not drive, especially if he or she is too tired or if there is the slightest risk he or she might be impaired owing to intoxicants. We have low permissible alcohol limits for a reason. Even a second's delay in reacting because a driver is affected by alcohol, however mildly, can have disastrous consequences.

In recent years there have been several Road Traffic Acts, each of which has focused on particular aspects of road safety. The Bill has as its principal focus a set of new measures to combat intoxicated driving. When we passed the Road Traffic Act 2010, the Oireachtas provided a sound new basis for the law on driving under the influence of alcohol. It is time to do the same for the law on driving under the influence of drugs and the Bill will do so, taking advantage of advances in technology, as well as international experience in this area. The Bill also provides for a new special speed limit of 20 km/h in built-up areas. Currently, the default speed limit in such areas is 50km/h, with local authorities being empowered to reduce the limit to 40km/h or 30km/h on roads in their areas, as they see fit. They will also have an option of bringing it down to 20km/h.

The third major part of the Bill is intended to give legislative effect to a new agreement between Ireland and the United Kingdom on the mutual recognition of driver disqualifications.

I would like to explain, in turn, what I am proposing in each of these areas and why. We all know the dangers of driving under the influence of intoxicants. The effect of even a small volume of alcohol or drugs may be a critical reduction in a person's ability to react in time to what is happening on the road. People must appreciate that they should not drive if there is a risk that their driving could be affected by intoxicants. Unfortunately, many do not act as responsibly as we might hope. That is why we need robust laws to deal with offenders who are risking their own safety and that of others. There was a major update of drink driving legislation in the Road Traffic Act 2010. This legislation is in itself very comprehensive and, with some amendments, continues to provide us with a sound basis for dealing with the problem of alcohol and driving. Clear and rigorous laws on their own are, unfortunately, not enough to change the way people behave. The 2010 Act makes it an offence to drive or be in control of a mechanically propelled vehicle while under the influence of an intoxicant to such an extent as to be unable to control the vehicle. "Intoxicant" in this sense includes both alcohol and drugs. In the case of alcohol, the Act goes further, making it an offence for drivers to have alcohol in their system above a minimum limit. In the case of the former offence, the prosecution needs

to prove both the presence of the intoxicant and that the driver's ability to control the vehicle was impaired. In the latter case, only the presence of alcohol needs to be proved. In 2010 the technology to deal with drug driving was still being developed and international experience was limited, especially by contrast to the vast body of evidence on and experience of drink driving. There have been great advances since. The technology is now available to enable gardaí to test for drugs at the roadside, analogous to the way in which they conduct roadside tests for alcohol.

The Bill will strengthen the law on drug driving in a manner similar to the existing law on drink driving. It will create a new offence of driving or being in charge of a mechanically propelled vehicle with the presence in the blood of any of three drugs - cannabis, cocaine and heroin - above a specified minimum level. The Bill also provides the necessary legal authority for An Garda Síochána to conduct roadside tests for the presence of drugs and the essential underpinnings for these new measures by empowering the Medical Bureau of Road Safety, MBRS, to test for concentrations of the specified drugs and also to test and provide for An Garda Síochána the devices for roadside drug testing.

If anyone doubts the need to take action in this area, I advise him or her to read the bureau's 2014 annual report, the latest such report available. It showed that 58% of the 1,158 specimens tested for drugs were positive for at least one drug. Even worse, it also revealed that 53% of the specimens that had tested positive for drugs had tested positive for two or more drugs. What effect would this have on a driver? What kind of person gets behind the wheel in that state? As we cannot trust such persons to act responsibly, we must act to give An Garda Síochána the tools to protect us from them and them from themselves. Drug driving is a much more complex matter than driving under the influence of alcohol. It involves a multitude of substances, with a variety of implications for driving and also for testing. The Bill focuses on cannabis, cocaine and heroin, the most prevalent illicit drugs found by the MBRS when analysing specimens and the levels proposed for each of these drugs have been chosen based on scientific advice and the experience in other jurisdictions.

Some may argue that these new offences are excessive; they are not. These drugs can have a serious impact on ability to drive and making their presence in drivers an offence is no more excessive than the law on the presence of alcohol. Some might also argue that cannabis should not be included because some day it might be legalised, which would mean that we would have to amend the Bill, but they are wrong. Road traffic legislation has nothing to do with the legality of intoxicants. After all, alcohol is legal. Instead, road traffic legislation is interested in the risk intoxicants pose while driving. The impact of cannabis on the ability to drive safely will not change if it is legalised. The Bill does, however, take into account the fact that there is a legally licensed form of cannabis, a medication called Sativex. It is only recently available and likely to be prescribed to very few, as it will be used only in the treatment of a small proportion of multiple sclerosis patients. Under the Bill, anyone prescribed it will receive an exemption certificate from the new offence.

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

**Deputy Shane Ross:** I stress that this exemption will apply only to the new offence of the presence of cannabis, not to the existing offence of being under the influence of an intoxicant to such an extent as to be incapable of controlling a vehicle. If people taking Sativex finds that their reactions are impaired, they should not drive until the effects have passed. That is reasonable and proportionate. On the one hand, we do not wish to discourage people from taking medication when they need to do so. On the other, we need to ensure the roads are safe.

People should take their medication as and when required, but if they are affected in a way which would make driving risky, they should wait until it is safe to do so. That is in line with what happens under the 2010 Act. If a person were to drive while impaired, for example, while drowsy, due to a medication, he or she would be liable to prosecution under the existing 2010 provisions for driving under the influence of an intoxicant to such an extent as to be unable to control a vehicle. In those circumstances we would expect the person to act responsibly and not drive until it was safe to do so.

On a more technical point, I would like to explain why, although the new offence relates to cannabis, cocaine and heroin, the Bill refers to five substances. This is because, in some cases, the drug will metabolise quickly but can be detected by the metabolite, that is, the chemical into which it breaks down. The Bill, therefore, lists metabolites, as well as the drugs.

The Bill provides the necessary basis for An Garda Síochána to conduct roadside tests for drugs. We are all familiar with the idea that gardaí can conduct breath tests for alcohol at the roadside. Roadside alcohol tests have been occurring for some time. Devices are also available that can test oral fluid for the presence of drugs. A swab is used to take a specimen and the device will process a result indicating the presence of particular drugs. The Bill will empower An Garda Síochána to use these devices and the MBRs to approve and supply them. Gardaí will be enabled to use them in the same circumstances as they carry out the current roadside breath tests, that is, where they observe suspicious driving, following a serious collision, or at an authorised checkpoint. None of this will take from the existing powers to test for alcohol. In the future gardaí will be able to test at the roadside for alcohol, drugs, or both. We should remember that the new roadside tests of oral fluid, like the roadside breath tests, will be preliminary in nature. This means that the results will not be used in evidence in court. The purpose of the new drug tests, like that of the roadside alcohol tests, will be to assist the Garda in forming an opinion that a person has taken an intoxicant. Where a person is arrested on suspicion of intoxicated driving, a further specimen will be taken at a Garda station for evidential purposes. These new measures are supported by further elements of the Bill. It will be an offence to refuse to provide an oral fluid specimen when required, just as it is an offence to refuse to provide a specimen of breath. Given that the best indicator of the concentration of drugs based on recent use is to be found in blood, gardaí who arrest a person on suspicion of the new offence of presence of one of the specified drugs will be empowered to require a specimen of blood at a Garda station. This contrasts with the current law on alcohol, where a person asked to provide blood may opt to provide urine instead.

In Part 3 I am proposing a new special speed limit of 20 km/h. As matters stand, the law prescribes a default speed limit of 50 km/h in built-up areas. Local authorities may reduce this to 40 km/h or 30 km/h on roads in their areas as they deem appropriate.

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

**Deputy Shane Ross:** The system of allowing local authorities to decide the right speed limits for roads in their areas is the correct one, because built-up areas contain a multitude of different kinds of road. It would not be appropriate to set one limit for all of them, and local authorities are best placed to decide what is appropriate to a given road.

Beginning in 2014, the Jake's Legacy campaign has been advocating a mandatory 20 km/h speed limit in housing estates. We all sympathise profoundly with the family of young Jake Brennan, who was only six when he was killed in a road traffic incident in the housing estate

where he lived. However, I believe that a mandatory 20 km/h speed limit would raise problems. First, it would not necessarily be appropriate to all roads in housing estates, or indeed in built-up areas and, second, it would be difficult to enforce, particularly on busier or straighter roads. I agree, however, that it may be an appropriate limit in some areas, particularly in densely inhabited areas where there may be children playing. As a result, I am proposing to add a 20 km/h limit to the options available for local authorities to apply. Local government is the appropriate level to decide what speed limit works for which road in these areas, and it is right that the law should continue to allow the local authorities to have the final word, while ensuring that they have all the necessary options open to them, including a 20 km/h limit.

In Part 4 I am dealing with a number of miscellaneous matters. Some of these are technical amendments to enhance the clarity of current legislation. There will also be one new penalty point offence introduced, and a measure to bring summary offences under the RSA (Commercial Vehicle Roadworthiness) Act 2012 within the fixed charge regime.

In Part 5 the Bill will give legislative effect to an agreement between Ireland and the UK on mutual recognition of driver disqualifications. Allow me to explain exactly what this means. If a driver is disqualified in an EU member state which issued their licence, they are automatically barred from driving abroad as they do not have a valid licence. However, if a driver from one EU member state is disqualified from driving in another member state, the ban applies only to the country which imposed it. The person could still drive in their home state or anywhere else. In 1998 the EU agreed a convention on driver disqualification which was intended to deal with this anomaly, and which would mean that disqualification anywhere in the EU would mean disqualification everywhere in the EU.

However, this convention was always going to be difficult to implement, due to the many different legal systems, different definitions of offences and different penalties in the different member states. Recognising this difficulty at the time the convention was drawn up, the EU allowed for any two member states to proceed with bilateral agreements within the framework of the convention, pending the implementation of the convention as a whole. In the event, only one such agreement was ever made, and that was between Ireland and the UK. The EU subsequently decided that, as of December 2014, the operation of the convention on driver disqualification would come under the jurisdiction of the European Court. Our friends in the UK were not in favour of giving additional powers to the European Court and, as a result, they withdrew from the convention on driver disqualification, using the provisions of the Lisbon treaty which allowed them to opt out of certain measures. This meant that our agreement with them, as it was under the framework of the convention, came to an end. The convention itself was revoked by Europe in 2015 as being impossible to implement. I hope that the day may come when some similar initiative may be possible.

Neither we nor the UK wanted to end bilateral recognition of driver disqualification. Many Irish people drive in the UK and many UK citizens drive here. It is in the interests of both sides that we make sure that people who are convicted of serious and dangerous driving offences in one jurisdiction are not immediately free to drive in the other. We therefore negotiated a new bilateral agreement outside the framework of the EU convention. This was signed last October, but cannot take effect until legislation to underpin it is passed. That is what Part 5 of this Bill will do. Once the agreement comes into effect, Irish drivers who are disqualified in the UK for serious road traffic offences will also be disqualified here, and UK licence holders disqualified here will be disqualified in the UK. I am happy to say that this new agreement, being outside any EU framework, will not be affected by Brexit.

27 September 2016

I would like to draw the attention of the House to a number of amendments which I shall be proposing on Committee Stage. There will be a small number of technical amendments to improve the existing provisions of the Bill. In addition, I have decided to address the vexed question of written-off vehicles in another amendment. We have in this country no formal, legally sanctioned system for classifying a mechanically propelled vehicle as written-off. This is a source of concern, as sometimes vehicles which have been written off for insurance purposes are repaired and find their way back onto our roads. This may be perfectly legitimate; an insurance write-off may not mean that a vehicle is irreparable, but merely that it would not make economic sense to do so - in other words the repair would cost more than the vehicle was worth. It does mean that there is a risk of vehicles being put back on our roads when they should not be. At present, the practice is that insurance companies notify my Department when they write off a vehicle, and this fact is entered on the national vehicle and driver file. However, the process has no statutory basis and there is no obligation for these notifications to be made. It is my intention to introduce an amendment to the Bill to put this arrangement on a statutory and mandatory footing. This will not answer all of the issues which have arisen and been debated about written-off vehicles but it will represent a significant step forward - the first proper legislative step - in a matter I intend to deal with comprehensively in future.

I have discussed with the Attorney General the best wording to address this matter, and will publish my amendment at the appropriate time in advance of Committee Stage. I have also discussed with the Attorney General the commencement of the so-called "third payment option" for fixed charge notices. This is an option included in the Road Traffic Act 2010, which will allow people who have failed to pay a fixed charge notice within 28 days, or to pay a higher charge within a further 28 days, a third chance to pay before having to appear in court. The third payment notice will accompany the summons to court and, if the person pays not more than seven days before the court hearing, court proceedings will be dropped. This provision has a number of benefits, not the least of which is that it will put an end to cases of people turning up in court and claiming that they never received a fixed charge notice. The implementation of the third payment option has been delayed for far too long. The Attorney General's office has made clear that certain amendments to the Road Traffic Act 2010 must now be made in order for the system to operate successfully. I shall bring these amendments forward for inclusion in this Bill on Committee Stage and I look forward to pressing ahead as quickly as possible with implementation of the third payment option.

Taken together, the measures in this Bill offer significant steps forward in a number of areas. The drug driving provisions will address a growing and disturbing threat to safety on our roads. My hope is that they will not only enable An Garda Síochána to tackle drug driving effectively but also help to build awareness of the dangers of drug driving and so encourage more responsible behaviour by drivers. The new option for a 20 km/h limit will be a valuable additional tool in the toolbox of the local authorities and will make the roads where it is applied a great deal safer for all. The provisions to back up the new agreement on mutual recognition of driver disqualification between ourselves and the UK will ensure that dangerous drivers who are a risk to the public are kept off the roads in both jurisdictions. Finally, the amendments which I have set out and which I will introduce in due course will enable us to begin to address the long-neglected question of written-off vehicles and, at last, to implement the third payment option.

I will conclude by returning to the point on which I began. Road safety has always been an area where this House has shown that it can be positive and constructive, and where we can all work together towards shared goals. I am happy to consider seriously any suggested amend-

ments from Members on Committee Stage in the spirit in which this Bill is introduced. I look forward to the debate on the Bill and to working with Deputies on each Stage to make the Bill as good as it can be.

**Deputy Robert Troy:** I welcome the opportunity to speak on the Bill. Without question, our party fully supports the legislation. It is welcome that it is before the House today. It was promised to be introduced in the Dáil before the end of the last session, but it did not reach the agenda at the time so it is important that we are debating this issue on the first day of the new Dáil session.

Significant progress has been made in this area in the last number of years. In 1997 the Garda national roads policing bureau was established. It was the first real indication that we had to take drastic consideration of the number of deaths on our roads. The Road Safety Authority was established in 2006 and it has done fabulous work in the area of advocacy and in creating awareness of the devastation that road crashes cause. Over the last number of years we have seen the introduction of penalty points for motoring offences, including speeding, use of a mobile telephone while driving, driving without insurance, driving without due care and driving without ensuring that children of a certain age are in appropriate seats in the car. In fact, when I looked at the Road Safety Authority website earlier today I was surprised at the list of the offences that are covered by penalty points. It is quite comprehensive.

Consider the number of deaths on our roads in the early 2000s. In 2000, there were 417 deaths on our roads. In 2006, the year the Road Safety Authority was established, the number had decreased to 365 and last year was the best year to date with 165 road deaths. Unfortunately, this year the number appears to be on an upward trajectory. If one compares the number this year up to 27 September with the number for the relevant period last year, there is an increase of 23 fatalities. It is not only deaths that take place on the roads. People are also very seriously injured. While I have never had occasion to visit the National Rehabilitation Hospital in Dún Laoghaire, I know many people who were there. They tell me that if one could organise a tour or excursion there for young males, because they account for the highest percentage of road crashes, where they could see at first hand the devastation caused by car crashes and the people who are paralysed, without limbs or confined to wheelchairs, it might be one of the best educational exercises that could take place.

We must never lose sight of the need to keep pace with the risks that materialise and to ensure that road safety remains the priority that it was in the past. Behind each of the statistics the Minister and I have mentioned are real stories of families that has been totally devastated by an accident, through the loss of a father, mother, brother, sister, son or daughter. Many Members will have visited a home or a wake, as I have in the past, where somebody's life was taken unexpectedly by a tragic accident. We have a sense of hopelessness and helplessness on such occasions. There is nothing we can do to help the family that has been bereaved by an awful tragedy. However, what we can and must do is ensure that there is appropriate legislation, road improvements and significant policing and enforcement in place.

Over recent years, unfortunately, for some unknown reason the number of deaths on our roads has increased. Why is that? Undoubtedly, some of it is due to the fact that there is less policing of our roads. The numbers in the Garda traffic corps have decreased, as has the number of checkpoints. As a result of that deterrent being removed, the number of fatalities has increased. We must address that. While I welcome this legislation, I ask the Minister, in his reply to the debate, to confirm the Government's commitment to road safety and to confirm that

27 September 2016

it is a priority for the Government and that not only will the necessary amendments be made to the legislation but also that it will ensure that the necessary resources will be put in place, so the arms of the State can implement and police the legislation.

Before turning to the Bill's provisions, I refer to the excellent advocacy work carried out by families who have been bereaved. The Minister alluded to this as well. A lady in Mullingar, Donna Price, lost her son a number of years ago in a road traffic accident. Her son was on his way back to college. He was an excellent sportsman who played with a local GAA club. Ms Price established the Irish Road Victims Association to support those bereaved or injured by road traffic collisions and to campaign for justice, rights and recognition for road crash victims. It comprises a group of people, many of whom have lost a loved one in a road traffic collision or have been injured themselves, and their colleagues, relatives and friends. At a practical level, the association has produced a guide for families of victims of road traffic collisions. It outlines the steps involved in the professional Garda investigation of serious injury and fatal collisions, subsequent post mortem, inquests and legal proceedings. As described on the association's website, a road death is not like a normal death. It is a violent death, as violent as murder, and, like murder, is totally unexpected.

What we are debating today is extremely significant and, undoubtedly, we will support the legislation. Part 2 of the Bill relates to the intoxicated driving offence and creates the new offence of driving with the presence of certain specified drugs, with a number of additional amendments to assist in tackling driving under the influence of drugs. I am concerned that the list of banned substances appears to be very limited. It includes cannabis, with the exception of cannabis that is medically prescribed. One would wonder whether those persons should be driving even though it is medically prescribed. It also includes heroin and another substance which I cannot remember at present.

**Deputy Shane Ross:** Cocaine.

*7 o'clock*

**Deputy Robert Troy:** I understand the study conducted by the Medical Bureau of Road Safety, MBRS, on which the Bill relies, is 16 years old. Without doubt, the most prevalent drugs are cannabis and the others outlined in the Bill, but the types of substance people are now taking have evolved significantly over time. The use of psychoactive drugs has become much more prevalent. Unfortunately, Ireland has the highest rate of psychoactive drug use, at 9%. Why are these drugs not included in the list of proscribed substances?

The Bill ignores the misuse of legally prescribed drugs. Unfortunately, there are many people misusing such drugs. The absence of a provision in this regard in the Bill is a weakness. Sedatives used for the treatment of anxiety disorder and insomnia have, unfortunately, become increasingly common as recreational drugs. Recent statistics show that bensedines were the main problem drug of 547 people who sought treatment for substance abuse in 2012.

While I do not doubt the *bona fides* of the Minister or the Department, if the report on which they based their findings and recommendations on the list of drugs is 16 years old, it is out of date and archaic. It needs to be revisited in the light of how drug use has evolved.

Part 3 of the Bill refers to the creation of the new special speed limit of 20 km/h. This will mean that in the future local authorities will have the option of lowering speed limits in built-up areas from the default speed limit of 50 km/h. In this regard, we should acknowledge the

work carried out by Roseann Brennan who tragically lost her six-year-old son Jake a number of metres from her home. While the creation of the new speed limit will give local authorities the option of lowering speed limits, it is important that a direction be issued to the local authorities. Westmeath County Council is in the process of reviewing speed limits, but all local authorities should commence a review of speed limits, particularly in built-up areas, now that they have the power to reduce them to 20 km/h in certain areas.

The agreement on the mutual recognition of driving disqualifications between this state and the United Kingdom of Great Britain and Northern Ireland is long overdue and very welcome. I heard the Minister state his wish was that not only would there be an arrangement between Ireland and the United Kingdom but also an arrangement covering a much wider area. We have a very multicultural society which includes people who have moved here from Poland, Lithuania and other European countries. Some are driving in Ireland using their own country's driving licence. Many of them do not pay any attention to speed cameras or penalties for motoring offences because their licence does not attract penalty points. The Minister has told the House that he is prevented from addressing this issue under some EU regulation or because of the lack of progress by the Commission. We should seek its advancement. In 2015 one in seven motorists issued with a penalty points notice in the Republic claimed to hold an out-of-State driving licence. They were not exclusively from the United Kingdom; rather, they were from a wide range of states. This issue must be explored in greater detail. We will have to take the word of the Minister that his stance is based on the advice of the Attorney General, but I certainly ask him to revisit the legislation to ensure he can include what I propose.

It is welcome that the Minister said he would introduce an amendment to address the practice associated with end-of-life vehicles. Some moments ago my colleague and I were speaking about the potential for our party to introduce an amendment to deal with this issue. It is incredible to believe a car that has been crashed and written off from an insurance perspective can - lo and behold - be driven around a couple of months later. Such a car cannot be fit for purpose. It is welcome that the Minister is to introduce an amendment in this regard.

Let me refer to a significant weakness in the legislation. The Minister has said there was cross-party support for the legislation during the pre-scrutiny stage. However, there were specific provisions included in the legislation to introduce new penalties for drivers who allowed themselves to be distracted by text messaging, the use of Twitter and Facebook and in scrolling down. While driving, one often sees people entering a destination in the Google Maps app to determine a route. While we must all take responsibility for our own actions and while I would have been guilty of the offence in the past, we must determine how we can bring forward an amendment to ensure there will be consequences for those caught engaging in the practice to which I refer. My understanding is the existing penalty points legislation governing having a mobile phone in one's hand does not cover circumstances where the phone is in a cradle by the gearstick or a device beside the steering wheel. Therefore, there are ways around the legislation. People may have the phone on their lap, googling or otherwise. This is certainly an area in which we will be bringing forward an amendment and I hope the Minister will consider it favourably.

Driver error is the main contributor to accidents, accounting for at least 80% of fatal collisions in recent years. The use of mobile phones, including texting, is possibly the main cause of driver error. We need to consider how we can bring forward an amendment that will support the introduction of penalty points in this regard.

Penalty points were introduced to ensure greater road safety and save lives. They were never meant to be introduced as a revenue generating exercise. I worry and fear greatly that they are being used for this purpose in certain instances. I worry that they are not being imposed for offences committed at black spots or in areas prone to accidents. I worry that easy pickings and low-hanging fruit are targeted and that it is a matter of shooting fish in a barrel in order that additional revenue may be generated. That is something that needs to be examined. When private vans were introduced to carry out speed checks their listings were meant to be freely available and they were also meant to be highly visible. The vans were about reducing speed and saving lives, but more recently they have not been highly visible or easily recognised as speed vans. That is something we need to consider.

Before my colleagues make their contributions, I propose that we consider a tiered system for penalty points. In the current system, somebody who may be 3 km or 4 km over a speed limit tends to receive the same number of penalty points as someone driving 50 km, 20 km, 25 km or 30 km over a speed limit. I would be happy to work with the Minister's officials in his Department to see whether we could introduce a tiered system, whereby somebody who is only marginally over a speed limit, such as those driving in a 60 km, 70 km or 80 km zone at 84 km/h and trying his or her best to obey the speed limits receives the same penalty as somebody who is driving at 110 km/h. I do not think that is fair. We are talking about fairness and increasing road safety. I look forward to working with the Minister as the Bill passes the various Stages in the House.

**An Ceann Comhairle:** Deputies O'Rourke and Lawless are sharing time.

**Deputy Frank O'Rourke:** I welcome the opportunity to contribute to the Second Stage debate on the Road Traffic Bill 2016. The Bill contains a series of progressive reforms dealing with drug driving, mutual recognition of driver disqualifications between Ireland and the UK and, as my colleague has said, a new optional 20 km/h speed limit in built-up areas. It will be an offence to drive a vehicle or to be in the charge of a vehicle with the presence of certain illicit drugs such as cannabis, cocaine and heroin. The Bill makes provision for preliminary testing of all fluid or drugs by An Garda Síochána at the roadside or in a Garda station.

The Bill, which strengthens the law on drug driving, will introduce penalties for driving after taking cocaine, cannabis or heroin. This law will rightly bring in penalties for drug driving that are similar to those already in place for drink-driving. A driver found to be impaired because of drug driving could face a €5,000 fine and six months in prison on conviction, and a one year disqualification for the first offence and two year disqualification for subsequent offences.

It is very important that a different or separate test will apply to drivers who may be impaired after taking prescription drugs. It is important that we provide reassurance to those taking prescription drugs and that we do not frighten people, in particular older people, by demonstrating that in some way were focusing on drugs. This Bill is about illicit drugs and ensuring that the taking of such drugs and driving is prohibited in the same way as drink-driving. People taking prescription drugs should have nothing to fear. We must highlight this when the Government rolls out its campaign to inform the general public of the implications of the Bill. The Medical Bureau for Road Safety found a disturbing connection between fatal road accidents and drug taking.

Our road safety record over the past 20 years has improved significantly. Last year, we saw the lowest number of road deaths since 2012, a total of 166. In 2012 there were 162 deaths.

The number of people killed on our roads in 1997 was 472. We have seen the positive impact of policies pursued by previous Governments to reduce the number of people who die on the roads, and I want to note the work of former transport Ministers, including the late Séamus Brennan, Martin Cullen, Noel Dempsey, the Minister, Deputy Paschal Donohoe, and the Minister, Deputy Varadkar. Combined, these Ministers, supported by Governments, introduced a cohort of progressive policies including the introduction of penalty points, stricter driver and driving laws and a significantly improved road network, with over 1200 km of motorway connecting Dublin with all other cities in the country. They have contributed to the reduction in the number of road deaths.

We all know the importance of the three Es when it comes to road safety. Education informs drivers of the hazards associated with driving, including drink-driving campaigns and dangerous driving. The second E is enforcement. We have seen the impact of policies like the introduction of penalty points, speed cameras, hand-held mobile phones being prohibited while driving, stricter drink-driving laws and compulsory seatbelts, all of which have improved driver behaviour. The third E is engineering. On this front, our road network has significantly improved. We have better road signage, antiskid surfacing and better maintained cars with the introduction of the NCT. We must continue to introduce policies that support the three Es approach to improving road safety.

This Bill will also have a positive impact on road safety and reduce the number of collisions and fatalities on our roads. My understanding is that the new law mirrors one introduced in England and Wales recently. The Irish Medical Bureau for Road Safety conducted a survey over a ten-year period on the presence of drugs in the systems of people who lost their lives on our roads. The results indicate that across the ten-year period just under 10% of people who tragically lost their lives had drugs in their system. We know that drugs affect one's ability to drive in a number of ways. The new Bill will assist in changing the attitude towards drug driving and I commend it to the House.

**Deputy James Lawless:** I welcome the Bill. It is appropriate on the first day after the recess that we debate a Bill that enjoys such cross-party collegiate support. As the Minister has suggested, it is not a contentious Bill.

I propose to suggest a number of amendments or policy areas that may be considered on further readings of the Bill. The Minister and my colleague, Deputy Troy, have welcomed the end-of-life provisions in the Bill. I asked a parliamentary question about this matter on 8 June. Vehicles, not just in Ireland but also in the UK, can be taken off the road and classed as end-of-life vehicles by insurers, but can reappear in circulation because of paperwork, Internet sales and other issues. It is not a particularly difficult rule for dealers to circumvent. I sat in a dealer's yard while he showed me exactly how it can be done. Unfortunately, there is no science behind this but it is something that needs to be regulated and controlled. The Bill includes provisions for inter-jurisdictional transfer between the UK and Ireland. Based on certain data, I suggest that the end-of-life vehicle history also be included in that transfer. Perhaps when the Minister is preparing amendments that matter may be included.

I will deal with some miscellaneous provisions. I came to the House from a local authority. Parking by-laws are often an issue of contention, where local authorities struggle to make minor changes to by-laws without having to go through a rigmarole of consultation which can take months. The net effect is that an overly rigorous application of the law applies. There have been attempts to deal with this issue, but it requires legislative change. I ask the Minister to

consider, under miscellaneous provisions, making it easier for local authorities to make minor changes to, for example, disability bays or changing space allocation.

In a similar vein, I welcome the availability of a lower speed limit for residential areas. It is very appropriate. We are all familiar with the tragic circumstances referred to as Jake's case and the family involved. I agree with the Minister that a 20 km/h speed limit seems extreme as a default, but I suggest that the possibility is there. Along the same lines as the parking by-laws, I suggest that the speed limit review is another area where local authorities appear to struggle and protest - they may not protest too much, but they do protest. It takes months and years for these kinds of things to go through the process. The system is far more difficult than it needs to be.

I understand that gardaí can identify a stolen vehicle quite readily. However, they cannot identify an end-of-life vehicle. It seems that could be done. If insurers were in a position to provide end-of-life facilities, that may stop unscrupulous dealers from emerging and playing a role in putting them back on the roads. A driver can find it difficult to ensure a perfectly road-worthy vehicle over 15 years old, something we heard during debates on the motor insurance industry. It seems particularly abhorrent that somebody in possession of an end-of-life vehicle that had been written off can drive it.

I refer to the penalty points database. We all welcome the fixed charge system and the improvements to road traffic and safety in recent years. We could go further. We saw how data could and should be available to insurers in a Stage-managed way. This would address the issues we have with motor insurance and the cost of motor insurance. I am conscious of the time, but the issue of clamping is another one that may sit under miscellaneous provisions. I understand there was some legislation before the House in the previous Dáil but I am not sure it was enacted. Clamping can be a blight in many town centres and commercial environments and often on some private properties where unscrupulous and opportunist clamping operators can play havoc and destroy the commercial heart of many towns. Included in the legislation were proposals to cap the maximum fees that are charged and to apply conditions on such factors as signage, prior warning and caveats. I do not believe those provisions were enacted. I will have to look at it but it may be an area for a miscellaneous provision and I may put amendments forward on that on the next Stage.

**An Ceann Comhairle:** I thank the Deputy. In the next slot Deputies Imelda Munster and David Cullinane are proposing to share 30 minutes, is that correct?

**Deputy David Cullinane:** It is.

**An Ceann Comhairle:** Or thereabouts.

**Deputy David Cullinane:** More or less.

**Deputy Imelda Munster:** I welcome this opportunity to speak on the Road Traffic Bill. It is very important legislation and I am glad to see that after a series of delays over recent months we are eventually getting to raise the matters that are included in the Bill. It is important to point out that legislation that provides for the safety of our roads is always welcome given Ireland's generally poor road safety record in the past, although in recent years the number of fatalities on our roads has fallen. The work of the Road Safety Authority, RSA, and the Garda, but especially the Garda traffic corps, has contributed to the decline in road deaths.

However, we cannot become complacent and consider that the battle has been won, far from

it. At the start of September 2016 it was reported that 138 people had died on our roads so far this year. This represents a 20% increase on the same period in 2015. That figure is shocking. The loss of 138 people on our roads is equally shocking. In the past month alone we have seen too many tragic cases of lives lost, including in my own constituency. The Automobile Association, AA has voiced concerns that road safety had dropped down the list of priorities since the financial crash and we certainly cannot afford to become complacent. It is clear that the Garda traffic corps is not sufficiently resourced, leaving the good work in danger of becoming underdone. Both the current and the previous chairpersons of the Road Safety Authority and its CEO, Ms Moyagh Murdock, have called for increased resources for the Garda traffic corps and it is important that these calls are heeded. Personnel numbers at the traffic corps have been reduced over recent years from 1,200 to just over 700. The CEO of the RSA has said that she felt this reduction had led to complacency among the public when it comes to drink driving. Last month it was reported in the media that the number of gardaí posted to the Garda traffic corps dropped by 5% in the 18 months until May 2016. That represents 711 officers assigned to the traffic corps in May 2016, which is a decline of 38 gardaí since the end of 2014.

The legislation which we debate today cannot be a success if this is the current state of play because it calls for gardaí to test for the presence of drugs and to police speed limits. If An Garda Síochána is poorly resourced this legislation will not have the desired effect, particularly as a deterrent. The head of the Garda traffic corps has indicated that a number of gardaí have been, or are due to be, transferred to the traffic corps this year. I would be interested to know if the Minister for Transport, Tourism and Sport is aware of any targets that the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald may have for the allocation of personnel to the traffic corps. If he does know then perhaps he could tell us. Any proposed increase must be substantial. The AA has cautioned that due to the huge drop in personnel it would take a very long time to bring the traffic corps back to where it should be. This needs to be prioritised by both the Ministers, Deputies Ross and Fitzgerald. While I welcome many of the measures contained in the Bill we need to prioritise the resourcing of the Garda traffic corps if these measures, and any other road safety measures, are to be successful in any shape or form.

I will now turn to the measures within the Bill which concern the speed limits in residential areas and which have come from campaigning work by the group “Jake’s Legacy”. Jake Brennan, as we know, was a six-year-old boy who was tragically killed when he was knocked down by a car as he played outside his home in 2014. Since then Jake’s parents, Roseann and Christopher, along with their family and friends, have campaigned tirelessly for reduced speed limits in residential areas and they are to be commended for their excellent work. In February 2015 my colleague, Deputy Ellis, sponsored a Private Members’ Bill calling for mandatory 20 km/h per hour limits in certain residential areas in line with the “Jake’s Legacy” campaign. Critics of the measures, which were proposed in Sinn Féin’s Private Members’ motion had complained that the 20 km/h per hour limit is too slow.

The limit of 20 km/h was chosen because it is so slow. A pedestrian who is hit by a car at 20 km/h has a much better chance of survival than if he or she was hit by a car travelling at a higher speed. At the time the previous Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, supported the Bill in principle so I am disappointed to see that the measures proposed in this legislation are much weaker than many of us had hoped for. Giving local authorities the option to introduce speed limits of 20 km/h hour is progress but it is a fact that there already exists an option to impose a 30 km/h limit in residential areas. In many areas this option has not been enforced by local authorities. Sinn Féin feels that having legislation to back up these

measures is vital because voluntary measures have not been taken up thus far or enforced by local councils in the past. We see no reason why the introduction of a lower speed limit would change that. We need to ensure that local authorities have sufficient resources to implement other measures for traffic calming in residential areas. Lowering the speed limit alone is not sufficient. We need to ensure that proper, practical and physical measures such as speed ramps, chicanes and other traffic calming measures are also installed as required to ensure the safety of all road users in residential areas, especially pedestrians.

I welcome the measures in Part 2 of the Act which create the offence of drug driving for cannabis, cocaine and heroin regardless of whether or not the driver appears to be impaired. Such a measure can only improve safety on our roads. For too long we had a ludicrous situation where drug drivers could operate vehicles relatively undisturbed despite the obvious dangers. Again, we need to ensure that the gardaí are facilitated with sufficient resources. I would be interested to know what additional resources are to be made available to allow for this. Drugs, as we all know, have been a scourge in this State for so long and the effects of drug use can be devastating for users, their families and all our communities. Ensuring the presence of drugs, regardless of proof of impairment, will send a strong message to those who think it is acceptable to use drugs and drive. I hope this measure would bring about a change in attitude similar to the one that has been achieved in recent years with the introduction of stricter drink-driving laws.

I support the measures that propose to continue the practice, which has been in place for some time now, to ensure that drivers who have been disqualified from driving in the State are also disqualified in the North and across the water in Britain. I am in favour of the expansion of such measures across Europe. I would also like to see the same approach taken to penalty points between the State, the North and across the water in Britain. I live in a Border county and am well aware of the issues that can arise when driving penalties that have been imposed in the North are not recognised in the State and *vice versa*. This lack of accountability can lead to some drivers driving irresponsibly. When this legislation was debated in the Seanad the previous Minister for Transport, Tourism and Sport rejected this proposal. He had said that the process of bringing about such a change was complicated. However, I believe it is a matter that we should pursue in the interest of road safety and cross-Border co-operation.

I welcome the Bill and I believe the legislation is good but without proper funding and resources, it will not be as effective as we need it to be. It will end up not being worth the paper on which it is written if we do not back it up with proper funding for local authorities to implement the speed limit recommendations, traffic calming measures on roads, physical resources such as ramps, chicanes, signage, etc., and Garda resources. While I welcome the legislation, it could end up being a toothless tiger if we do not put the funding and resources behind it. I look forward to contributing to the debate again at a later stage.

**Deputy David Cullinane:** I welcome the opportunity to speak on this Bill. It is important legislation. Any Bill or legislation that addresses the issue of road safety is to be welcomed. Like Teachta Munster, I also wish to commend and pay tribute to all of those who work in the area of road safety, whether it is enforcement, planning or advocacy. That includes An Garda Síochána, the RSA, all of those who advocate for road safety and change as well as members of the traffic core and An Garda Síochána who do their jobs as well. There is also a role, as we know, for the local authorities that do a lot of work in planning in these areas of traffic management, traffic safety and so on. I also praise the work of the Minister in this area. It is not something he is getting much of at the moment, for justifiable reasons in some areas. This is, as I understand, the first Bill he has brought before the House. It is the first that I have seen at

least. Fair play to the Minister for that. It is a important legislation.

I think we can all accept that the penalty points system changed people's attitudes and the culture around how we see road safety. As we know, people previously received a fine and paid the financial side of it - the €50, €60, €80 or whatever it was as it changed - and that was it. There was no other sanction. That was not good enough because it was not a strong deterrent. Once we introduced the penalty points system, it had a significant effect. It is always welcome that we keep that system under review to see if it is fair, robust and working and to see whether we are changing people's attitudes and cultural attitudes towards different issues. We have seen this happen with regard to drink-driving. It is not simply in regard to deterrents or sanctions, be they penalty points or anything else. Education, raising awareness and behavioural changes associated with it are equally as important as the deterrent measures. We should at all times keep under review the effectiveness of the penalty points system.

One of the issues that we need to do much more work on - those of us who travel by road a lot see it all the time - is the use of mobile telephones and people doing all sorts of acrobatic movements as they try to send texts or read what is on their telephones. It is a huge distraction. It is possibly even more dangerous than speeding because people are taking their eye off the road. Every millisecond that one is not looking at the road and looking at a device instead is very dangerous. The Minister, the RSA and the Department are always looking at this issue. I have seen advertisements on television in recent times in which the use of mobile telephones features more prominently. It is justifiable because it is a dangerous practice.

With regard to local authorities, I spent seven years on Waterford City Council. I remember when the allocation would come in for speed ramps. What used to happen was that the councillors would decide where the speed ramps would go. It was not based on need, on whether they were in the right or wrong place or on whether it was necessarily for a particular part of the city. There was no real or coherent policy. It differed across local authorities. My experience at the time was that it was done because a particular councillor might have been lobbied by a particular housing association chairperson, or whoever it was, and it was allocated on that basis. What we need to look at is not the volume of speed ramps that we have in estates but rather whether that is the best use of money in the first place and whether it works and acts as a deterrent. As the Minister knows, we have moved away from speed ramps to speed tables, chicanes and different types of approaches. Consistency in local authorities across the State and having an over-arching policy of best practice that guides them in how they spend money that is allocated for road safety measures would be a much better way to approach the issue.

I wish to deal with a number of other issues which may not be directly related to this Bill but are very important to road safety. We know from the Department's ministerial briefing that our roads network is suffering from chronic under-investment. The Government's own five-year investment plan that was launched to much fanfare last year will do little in the first four years to actively address capacity and safety issues.

Before I get into the need to upgrade our road system, another problem we have on our roads is fatigue. We have a number of pull-in areas where people can pull in and rest. However, there are some stretches of motorway on which we do not have service areas. One such example is the M9 from Waterford to Dublin. There was no service area at one point. One could not pull into a garage to have a cup of coffee or whatever. One had to pull off at Carlow or another exit and drive for ten minutes before one arrived at a petrol station. Of course, if that was at night time, the petrol station was closed. There is now one service area but it is not very visible and

there is no proper signage. That is important as well because if people are tired and need to rest, the services have to be there, especially on long stretches of motorway.

There is a need to invest in the capital side of road infrastructure. This is outlined in the Minister's own briefing which states:

The first 4 years of the plan offer very little additional funding for the Department's capital programme. The bulk of this funding is already committed to delivering existing projects (LUAS, PPPs, etc) and as such, there is no room for any new projects.

While those projects are all very welcome, that is an incredible statement for any Department make. The Minister's partners in Government, Fine Gael, made great play out of saying that we have turned a corner and need to "Keep the recovery going", as it was put. In fact, we are running to a standstill in terms of our crumbling regional and local road network.

In many areas across the country - I can give the Minister numerous examples in my own constituency of Waterford in county areas - roads were washed away because of floods and bad weather conditions, yet the local authorities do not have the money to upgrade and repair them. That has an impact on road safety. If one has a car that may not be familiar with an area, is travelling at 40 km/h, 50 km/h or 60 km/h and approaches a section of road that has essentially fallen away or subsided and on which there are craters - I would not even say potholes - in some areas, it is a road safety issue. The need to invest in these areas is obvious. I listened to the Minister many times when he was in Opposition calling for more capital investment. Now that he is sitting in the hot seat of the ministerial chair, he has a unique opportunity to be able to put into practice what he preached for a long time. He preached it very well, in fairness. We now need to see delivery and real investment in this area.

The impact of chronic under-investment has been increasingly evident in the degradation of the transport network. The 2015 capital ceiling for land transport represented 0.6% of GDP, which is half the level of our international peers and of the historic norms in Ireland. The ministerial briefing also goes on to say that "it provides for only 53% of necessary maintenance works on our regional and local roads". In other words, at a time when the Minister for Finance, Deputy Noonan, is saying that the crisis is over and it is time for tax cuts and so on, we are not investing in our road network, which has been starved of funding. We do not even have the funding to cover essential repairs on more than half of the road network. Those are not my words, they are the words of the ministerial briefing that was given to the Minister when he came into the job.

There is a lot more that we need to do to raise awareness of road safety. I believe that we are doing a lot of good work. There are many education programmes and good work being done by agencies, outside groups and advocates. All of that is very important. The introduction of the penalty point system has been very good and is very effective in acting as a deterrent. There is a lot of good work being done by all of those people I spoke about earlier. We have come a long way. We have turned the corner in terms of doing our best on education and sanctions, although we could always do more in that regard.

I welcome the provisions of the Bill related to people who are driving under the influence of drugs and other measures that will increase the number of offences and give An Garda Síochána greater power to do what it needs to do. While all of this is necessary, the Minister will agree that we must also invest in the road network and ensure our roads are of good quality and

the services road users require are provided. If we do not invest in the road network and wash its face, as the expression goes, decay will set in and we will pay a higher cost in the long run. As any chief executive of a local authority would tell the Minister, roads have been starved of capital investment for years. Failure to invest in maintaining and upgrading roads will generate greater costs in the long run, which would not make economic sense.

I appeal to the Minister to use his influence to try to win as much support as possible for increased capital investment in the road network in the upcoming budget and subsequent budgets. I commend him on the Bill.

**An Ceann Comhairle:** Deputy Gino Kenny has 30 minutes.

**Deputy Gino Kenny:** I will probably take less than one third of the time available. I welcome the Bill as an attempt to improve road safety and reduce the toll of death and disability as a result of road traffic accidents involving motorists, pedestrians and cyclists. The moves to introduce lower speed limits and recognise driver disqualifications in other jurisdictions are welcome. However, I question the soundness of measures that would criminalise people who are not impaired for the purpose of driving and may have taken drugs more than 24 years before being tested as well as people who have taken a drug for medical reasons.

There is compelling evidence that cannabis use impairs cognitive function and driving skills and increases crash risk. However, while the relationship between being over the legal limit and impaired is straightforward in the case of alcohol, it is not straightforward with regard to other drugs, particularly cannabis. Tetrahydrocannabinol, THC, is one of the active ingredients in cannabis for which the Bill sets out legal limits for blood tests. The product can be detected in the blood of an individual for hours or days following cannabis use, depending on the frequency of use and other factors. For instance, long-term cannabis users have plasma THC concentrations ranging from 1 microgram per litre to 11 micrograms per litre. This means regular consumers of cannabis for medicinal use who test over the 1 milligram limit for THC may not necessarily be impaired or incapable of controlling their vehicle at the time of testing.

The introduction of a medical exemption certificate for cannabis based products for medicinal use is welcome. This is safeguarded from a road safety point of view by the clarification that such a certificate is considered null and void if the holder is thought to be under the influence of drugs to such an extent that he or she is incapable of controlling the vehicle. However, the Bill does not provide any detail on how such impairment would be determined. This matter needs to be further elaborated. In addition, the Bill specifies only cannabis based products that are prescription drugs, which would criminalise those who use cannabis based products for medicinal use that have been recommended by a doctor but are not consumed in a prescription drug formulation, for example, herbal cannabis products.

During the pre-legislative scrutiny process, stakeholders queried whether roadside drug testing could potentially be used to prosecute drivers who have illicit drugs in their bodies but who are not impaired. The joint committee questioned whether this was appropriate in the context of a road traffic Bill aimed at improving road safety. The Department noted that the proposed legal limits proposed had been considered in the context of other jurisdictions and the levels provided for were chosen on the basis that they are indicative of recent use. It is, therefore, of concern that the Bill legislates for setting up Garda checkpoints where routine drug testing could criminalise many people who are not impaired and do not pose any danger to road safety.

27 September 2016

To address these issues, I propose that the Bill be amended to bring it into line with legislation adopted by several EU member states which have implemented a two tier system. This model involves a combination of an impairment based law and legal limit approaches under which drivers who are found to be above the legal limit but not to be impaired are penalised, if at all, by a small fine, while drivers who are impaired by any substance are penalised severely, including by means of a driving ban. Where a person is not over the legal limit or impaired, the results of drug testing under the Bill should not be used to prosecute him or her under any other Act. There is already too great a focus on criminalisation and insufficient focus on health and safety issues.

I welcome the elements of the Bill which focus on health and safety and are likely to reduce the levels of death and injury on the roads. However, those elements which increase criminalisation will serve only to distract from the benefits of the legislation. They are threat to civil liberties which will undermine the safety aspects of the Bill and should be removed by amendments on Committee Stage.

**An Ceann Comhairle:** Deputy Tommy Broughan has 30 minutes but I will have to interrupt him to adjourn the debate at 8 p.m.

**Deputy Thomas P. Broughan:** That is fine. I am sharing time with Deputy Thomas Pringle.

I warmly welcome this opportunity to speak on this long-awaited Bill. I acknowledge that the Minister made time, soon after being appointed, to meet a number of important civil society stakeholders who promote road safety, in particular, Ms Susan Gray and Ms Anne Fogarty and other representatives of Promoting Awareness, Responsibility and Care on Our Roads, PARC, a great civil society group. I also acknowledge the recent decision of the Garda Commissioner to scrap fees for abstracts and statements for families who have been bereaved by road traffic collisions. A number of Deputies and the PARC organisation had campaigned for this change for a decade.

Many of us have been waiting for this Bill to be brought before the House. Finally, we will have legislation in place to address drug driving and close the loophole which arose when the mutual recognition of disqualified drivers agreement between Ireland and the United Kingdom lapsed. During my time as an Opposition spokesperson on transport, I pleaded with a number of the Minister's predecessors, on perhaps 30 occasions at Question Time, to introduce a model of testing for drugs and follow the example of States such as Victoria in Australia which embarked on the invigilation of drivers in respect of drugs 15 or 20 years ago. The Minister referred to the three key drugs involved. The question is why it has taken so long to address this issue. The safety of people on roads is the key responsibility of the Minister and, as such, I welcome the fact that this Bill has finally been introduced to the House.

The Bill also provides for the reduction of speed limits to include 20 km/h zones. Deputies will remember the debate we had on Jake's law which arose from the tragedy of little Jake Brennan. We tried to introduce legislation to ensure the safety of children and vulnerable citizens, including older people, in housing estates. As a member of Dublin City Council for 12 years, I called for the introduction of home zones many times. This concept, which was piloted in the Netherlands, involves the designation of certain areas in cities where very low speed limits would apply. At that time, we sought a 25 km/h restriction in all housing estates.

The Bill includes a number of other amendments to the Road Traffic Acts dating from 1961 onwards. It is important to note the purpose of the Bill is to improve road safety and reduce fatalities and serious injuries. While there has been a significant improvement in the number of fatalities on our roads, and 2012 had a low of 162, we have recently seen the worrying trend of numbers of deaths increasing, with all of the incredible tragedy that brings to families, the removal of citizens from society and the associated costs. Of course, one life lost on our roads is one too many. Distressingly, as of 27 September, the number of fatalities was 23 higher than last year, at 138 compared to 115 at the same point in 2015.

The Minister, Deputy Ross, is the person on the deck and he has the responsibility to see how that may be addressed, in conjunction with the RSA. I believe a major focus of RSA campaigns should be on speeding. What we are doing in this Bill is important, as is what we did in the past to discourage drink driving, the use of mobile phones and so on. However, speeding seems to be the essential issue that results in horrendous deaths and casualties. The RSA has mounted some very effective campaigns recently to protect motor cyclists and pedestrians, but the emphasis should be on speeding. The statistics for the west of the country, from Kerry to Donegal, have been shocking for many years, which is something we have to address.

Despite such high numbers, it is striking a judge recently gave a bachelor farmer from Kerry time to find a woman to drive him around before his ban for driving while intoxicated came into effect. Such jokey comments about drink driving and dangerous driving are totally inappropriate, and this culture has to be changed. As I said to the Minister at a previous Question Time, I believe the Courts Service has been deficient in regard to enabling us to collate the information we in the House need to know, and the Minister needs to know, in order to make our roads safer.

I note the stand the Minister took today on the judicial appointments Bill. I applaud this as I believe it is the direction the House needs to take in order that the best possible people are appointed to the bench in a transparent and independent manner. Some of the things we hear in the District Court are very disrespectful in regard to the ongoing litany of tragedy on our roads. Earlier in the summer, a man whose blood alcohol reading was 198 mg per 100 ml, which is almost four times over the limit, and who had previously pleaded guilty to drink driving in 2014, was granted an adjournment of his driving ban until 8 December. Earlier this month, there was a case where a driver who had nine life bans for driving without insurance was jailed for just five months and given a small fine for breaking the law repeatedly in a most profound way.

The Bill will provide for the changing of the name of the mandatory alcohol testing - the MAT checkpoints - to mandatory intoxicant testing - the MIT checkpoints. Figures I have received in response to previous parliamentary questions I raised on this issue with the Minister and his predecessor, and the Minister for Justice and Equality, show there were 78,000 MATs in 2014 and 59,000 up to the end of September 2015. However, there has been a concern among citizens that the number of checkpoints has been decreasing due to the fall in the number of gardaí and, in particular, the dramatic fall in the number in the Garda traffic corps and the fact the traffic corps is not given the specific, 24-7, role of protecting our citizens on the roads. It is important to ensure accurate reporting and the Bill reflects this. The new MITs indicate how many tests are conducted for alcohol only or for drugs only, or for both. Research carried out by the Medical Bureau of Road Safety showed that of 1,158 specimens, 58% tested positive for at least one type of drug and, of this figure, 70% was for cannabis.

Since January 2015 there has been no mutual recognition of driver disqualifications between Ireland and the UK. Up to December 2014 we had an agreement under the European

27 September 2016

convention on driver disqualifications but the UK then opted out of the convention when it was moved to the jurisdiction of the European Court. While a bilateral agreement was reached on 30 October 2015, it could not be placed on a statutory footing without legislation. Again, the Minister is to be commended that, at long last, we have reached this milestone. It is unfortunate that an impasse of over a year and a half arose, and I raised this with the Minister's predecessor many times. Given the Brexit result, the closing of this loophole is of even greater importance.

What is the impact of section 18, which amends section 38(1) of the 2010 Act? While section 38 has not yet been commenced, when will this important section be commenced and when will the third payment option be introduced? I note the legislative programme which we received today from the Chief Whip states that the courts (fixed charge notice, third payment option and summons printing) Bill, which was listed for pre-legislative scrutiny before the summer recess, is to be published before Christmas. The Minister might confirm that it will be published before the end of this session. What is its status and what is the timeframe for bringing it to the House? The Bill is listed on the priority list for publication and I hope this will happen.

I presume this minority Government has made a collective decision that it will finally, in the coming 12 weeks, start to legislate seriously. We have lived through a different era since the general election but there are so many important Bills on that programme, including Bills that have not reached the pre-legislative stage, that we need to see action from the Government to produce legislation.

That amendment concerning fixed charge notices was requested by the Director of Public Prosecutions due to the number of persons in court claiming they had not received their fixed charge notices. Some people say this charade is still going on, that people can still make this claim and very little can be done, and that offences are then struck out. If this Bill is not passed and enacted before the Road Traffic Bill, how will the Minister ensure there are not further delays in enacting section 44? Statistics have shown that many drivers before the courts on penalty points offences such as speeding and holding a mobile telephone while driving are avoiding conviction and application of penalty points in court by claiming non-receipt of the fixed charge notice.

With regard to section 44, on the third payment option, we know there was a disagreement between the Garda and the Courts Service in regard to the operation of this measure due to the inadequate IT systems of both bodies. The Minister might tell us whether those two critical IT systems are now upgraded, whether there has been financial support for this and whether we will begin to get the flow of statistics that governments and road safety organisations in other jurisdictions seem to have. It is notable the British Government has apparently decided to double penalty points from three to six points for drivers using a mobile telephone while driving. This initiative will mean the loss of a driving licence for learner drivers in the UK who infringe the law in this way. What is the Minister's view on this? There was an increase in that penalty point category fairly recently. It is striking the UK authorities, in making this decision, seem to have very detailed information on the role of mobile telephone use by drivers in causing serious crashes on British roads.

**An Ceann Comhairle:** My apologies for interrupting Deputy Broughan but the debate must be adjourned at this point.

Debate adjourned.

*Dáil Éireann*  
**Message from Seanad**

**An Ceann Comhairle:** Seanad Éireann has passed the Energy Bill 2016, without amendment.

**Pharmacy Fees: Motion [Private Members]**

**Deputy Dara Calleary:** I move:

That Dáil Éireann:

notes:

- the recent €12 million payment made to the Health Service Executive (HSE) in settlement of a dispute over incorrectly claimed pharmacy fees;

- the failure of the HSE to notice irregularities in the pharmacy fees it was being charged by a leading chain;

- the fact that other pharmacies are now being pursued for similar practices; and

- that these developments only came to light following media investigations;

agrees that:

- the fact that a leading pharmacy chain could over claim to such an extent is a serious indictment of the HSE's monitoring systems;

- there are grave concerns about how many other pharmacies may have been operating similar practices;

- it is incumbent on the HSE to ensure that it is carrying out proper checks and balances when dealing with taxpayers' money;

- urgent action must be taken to recruit auditors; and

- €12 million could have a major impact in funding other areas of the health service where there is significant unmet demand; and

calls on the Minister for Health to:

- outline what action the HSE is taking to investigate this issue;

- ensure that the HSE conclude its investigations without delay;

- detail how those accountable will be held responsible;

- guarantee that more robust procedures are put in place to restore confidence in the system;

- prioritise the proper expenditure of taxpayers' money; and

- put in place proper auditing systems.

27 September 2016

I congratulate the RTE investigations unit on its work in this regard. The unit has done some outstanding work in recent times and it is a shining advertisement of what public service broadcasting can be. I also pay tribute to the whistleblower within the LloydsPharmacy group who showed significant courage in shining a light on this sorry mess.

The Minister will surely agree the HSE has serious questions to answer for failing to notice irregularities in the pharmacy fees it was being charged by a leading chain. I emphasise the word “chain” as it seems that the problem centres on pharmacy chains rather than the important, independent community pharmacies throughout the country that are struggling to keep their doors open. This sorry episode has undermined them and their work and that should not have been allowed happen. However, the fact that a leading pharmacy chain could over-claim to the tune of £12 million without anyone noticing is a damning indictment of the HSE’s monitoring systems. The HSE needs to outline what action it is taking to get to the bottom of this issue. I look forward to the Minister outlining to the Dáil this evening exactly what the response has been.

This is taxpayers’ money going into a service that is under enormous financial pressure. It is incumbent on the HSE - and the Minister - to ensure that the proper checks and balances are carried out when dealing with taxpayers’ money, not just for pharmacies but also in terms of agency fees and for any service involving a third party. When one sees what has occurred in the pharmacy sector, it does not give one much confidence about how the HSE manages its other debtors. Now that a number of investigations are under way, I would like the Minister to be specific in detailing the progress made in respect of them. I also ask him to outline the checks that are now in place to ensure there will be no recurrence of what happened in this instance.

The waste of public money cannot be tolerated. The amount is not negligible. A total of €12 million in the health service could mean 600,000 home help hours. There are currently no home help hours available for any case, including palliative care, in County Mayo. The existing waiting list will subsume all of the extra resources - if they become available - that the Minister allocated during the year. Families are under the most dreadful stress and pressure at present and €12 million would go a long way to alleviate the problem around the country. The sum of €12 million would provide 500,000 additional personal assistant hours for people with disabilities. It would enable the recruitment of some 350 nurses, speech and language therapists or occupational therapists. It would provide 12,000 medical cards. There has been a tightening in the allocation of discretionary medical cards in recent weeks and months. Such money would provide 1,500 home-care packages, which are essential to alleviate the crisis in hospitals. It would fund a network of community neuro-rehabilitation teams four times over or employ armies of hospital consultants. That is what €12 million would do yet the HSE did not seem to notice it was missing.

One should also bear in mind that the HSE was initially warned about the possibility of such a situation arising in 2012 and 2013. That is apparent from documents to which the RTE investigations unit had access. That was at the high point of the very dangerous budgets being introduced by the then Minister for Health, now Senator James Reilly - a time when 30,000 discretionary medical cards were being taken away and when there was a €113 million probity drive in respect of medical cards.

In 2012, senior HSE managers were told that pharmacy fees were open to abuse and misunderstanding but no action seems to have been taken. *The Sunday Business Post* also did some work in this area and in 2015 it showed that HSE managers were concerned about phased pay-

ments, which are at the centre of the dispute. A unit in the HSE identified phased dispensing as a payment risk in 2012. At the time, the unit proposed that rules relating to phased dispensing should be clarified. HSE managers drew up circulars to advise GPs and pharmacists how to operate and claim appropriately for medicines that were dispensed on a phased basis. However, it appears those circulars were never sent. I would like to know why.

The difficulties concerning phased dispensing have been identified and the irregularities centre in particular in this case on the LloydsPharmacy group and on the weekly medication management system known as My Med, which is the modern day equivalent of the old pill box, segregating drugs into weekly packs for those on large doses of medication. The RTE investigations unit, using documentation supplied to it by the whistleblower, shows that LloydsPharmacy staff were actively encouraged to widely promote the My Med system to its customers but additional paperwork supplied by the RTE investigations unit showed that My Med generated substantial additional profits for the LloydsPharmacy group. Branch managers in the LloydsPharmacy chain were advised in an internal memo that they could boost their fee income by almost two thirds by using a system developed within the company. It is important to note that LloydsPharmacy has rejected any suggestion of fraud in its practice of claiming up to four fees in a month in respect of a single prescription. However, its settlement with the HSE to the tune of €12 million must reflect some admission of wrongdoing on its part.

I query the figure of €12 million. Was it a settlement figure or was it the actual amount of money owed to the HSE? Was the figure arrived at following negotiations between the HSE and the LloydsPharmacy group? I would appreciate if we could have clarification on the matter this evening. The opening up of the argument provokes a number of questions which I would like the Minister to answer this evening. The first is to outline the response of the HSE to the specific issue under discussion and, second, to indicate the new checks that are in place. Is the figure of €12 million that has been agreed with LloydsPharmacy a settlement or the specific amount that is outstanding? How many more pharmacy groups or individual pharmacies are being investigated by the HSE? How much money is understood to be at issue at this time?

Does the Minister believe appropriate checks are in place for all supplier relationships with the HSE? Is the Minister confident that agency fees charged to hospitals, hospital groups and various other elements of the HSE are routinely and correctly monitored? Is he satisfied that GP fees are routinely and correctly monitored? Is he happy that the fees paid for those who hold medical cards are routinely and correctly monitored? How many auditors are currently working within the HSE to manage the system of payments which relates to so many contractors throughout the country? Is the Minister happy that the level of internal audit within the HSE is appropriate for the amount of customers it handles?

This is a public expenditure issue as well as a health issue. I have outlined what €12 million could be used to provide in the health service. The health service is facing a huge crisis for the want of money. However, when we look at the money that is invested in it, which seems to be unchecked, it is enormously frustrating for those of us who are fighting every day for resources for constituents and for people who want to use the service.

There is a crisis with regard to home-help services. We also have a crisis in emergency departments and in terms of waiting lists. Those areas could all do with an additional €12 million. The sum of €12 million would have gone a long way to reduce the stress felt by the many thousands who lost medical cards in 2013 and 2014 and had to endure the stress of applying for their cards and then reapplying for them.

The HSE response, as outlined, has been weak. It must be seen to take the issue seriously and show there is an audit chain in place for all of its payments in order that we can have confidence in its ability to manage its own internal finances and customer relationships with contractors. It is unfortunate that a chain would bring this damage down on the pharmacy profession, which does excellent work and is, in fact, under-utilised in terms of its members' skills and ability as primary care providers. Again, I say that this should not reflect on the integrity of community pharmacies around the country which are struggling to keep their doors open. Once again, big business is damaging not just small operators but also the internal conditions relating to the health budget.

Let this be a warning that we cannot depend on the RTE investigations unit to do the work of the HSE's internal audit division or the Comptroller and Auditor General. We need to know why it took the RTE investigations unit to do the courageous work of highlighting this issue and we need to know from the Minister that work is under way within his Department to stop this happening in any other section of the HSE budget. I would appreciate if he could give an assurance to the House this evening that he has checks and balances in place already regarding all the supplier relationships within the HSE and the management of those contracts.

**Deputy Billy Kelleher:** I support this motion which I come at from a couple of perspectives. In tabling this motion, we are trying to send out a very strong message to the HSE that it has an obligation and a duty to ensure that it has proper auditing systems in place and that it is fully accountable both to the Committee of Public Accounts, through the Comptroller and Auditor General, and to this House generally, to ensure that there is confidence in it and that the public sees that there is not wastage, particularly in difficult times, when there are huge challenges across the broader health budget in the provision of care and when budget after budget over the last five to six years cut back services and pared supports for the people who most need them. To read about this case of €12 million being overcharged by LloydsPharmacy and a settlement of this magnitude undermines the confidence of the public in the HSE to be on top of its brief in ensuring that there is full accountability and proper auditing in place.

One or two issues have arisen on which I would like a bit of clarity and they have all been referred to by Deputy Calleary. In regard to the €12 million, is that a settlement figure that was offered by Lloyds and arrived at through negotiation or was that after a full trawl of Lloyds pharmacies and their interaction with the HSE regarding the MyMed dispensing and pillbox system that was in place? The reason I ask that is that organisations across this country, which provide wonderful services daily in the area of physical and intellectual disability, are consistently audited, are having their block grant cut on a continual basis and are finding it increasingly difficult to fund their services to the extent that we now have fund-raising efforts across the country by large organisations just to try to provide basic health care for very vulnerable people. It sticks in the craw to a certain extent when they see these kinds of figures, such as an overcharge of €12 million, coming out. It is equally important to find out whether this was a settlement figure offered by Lloyds or whether it followed a full and detailed analysis and audit of all dispensing fees charged by Lloyds over the last number of years.

What is also important is the fact that a whistleblower came forward. That is healthy in the sense that there are now people out there who see that they can, with a certain element of confidence, come forward when they see wrongdoing taking place or when they have suspicions that it is taking place. In this case, it was important that this whistleblower came forward. The difficulty in all of this was that it was the "RTE Investigates" programme which really brought this to a head, even though the HSE had suspicions and it had been brought to the attention of

senior management in the HSE that there were potential problems with the dispensing fees and how they were being charged to the HSE.

It is important that I read a circular from Lloyds itself, a notice from its head office to its pharmacies, entitled MyMed Profitability. The notice read “Wondering why we’re obsessed with MyMedding?!” and included a graphic which stated “Should show you why it’s so important to hit your target. And why it’s even better to hit your target early so you can make a real dent on your overall profitability for the year.” It goes on to explain how to manipulate, in a way, the MyMed charging system that was in place, whereby normally there would be a €5 dispensing fee per prescription item. When they phased it and put it into the pillbox, they were able to charge multiples of that.

It is very important that we put on the record that we are not disparaging every pharmacist and community pharmacist out there. That is critically important and has already been referenced by Deputy Calleary and others. Pharmacists do wonderful work daily. We all know that many of them are struggling at present in the economic downturn. They provide a very valuable service in communities and villages across this country. I have consistently raised the need for pharmacists to play a more meaningful role in interacting with the primary care system that we are trying to develop. They should be given a much greater role than they have at present. Sometimes when I say that I draw the wrath of general practitioners and others on me but we have wonderful highly qualified personnel in almost every town and village across the country. They should be used in a very effective way in primary care and in alleviating the burden on GP services and systems that are also overburdened at present.

The broader issue is that of accountability in respect of public funds. The HSE and any other arm of the State cannot be seen as some form of cash cow that can be milked regularly by any individual or by an organisation. In that context, the HSE must do a full evaluation of its internal auditing systems because they have been found wanting on numerous occasions in dealing with some organisations, particularly section 38 and 39 agencies, as was instanced at the Committee of Public Accounts previously. They need to be robustly assessed as to whether they have the capabilities and the wherewithal at present or whether they need further assistance and support in terms of personnel and finances to ensure that the amount of money being dispensed by the HSE on contracts and services represents full value for money and that the taxpayer is getting full value for money. In the context of the taxpayer getting value for money, we have been, as I said, diverting funds from the most vulnerable in budget after budget over the last six, seven or eight years. It rests very uneasily with people when they see this type and scale of overcharge, wittingly or otherwise. It is important that all these issues be clarified in the context and the course of the debate.

However, the broader issue, as I said, is that we must ensure that this cannot happen and that there is a further assessment of the internal capability of the HSE to perform its duties in ensuring that it is not only purchasing a service but also getting value for money for the taxpayer and for the people who depend on the HSE itself. Over the next number of weeks, we will be engaging as a political party with the broader issue of budgets for the HSE and the health services across the board. Again, it would undermine our confidence if we believed that this was just a settlement, that the matter was swept under the carpet and that there was no due diligence done on the capacity of the HSE to observe and assess the number of contracts in the pharmacy area and the broader provision of services. When one looks at the overall budget of the HSE, there are huge agency staff numbers and short-term contracts coming into being. It purchases many services from the State that it would have to ensure that it has that capability. The reason I say

that is because this did not come as a surprise in view of the fact that the HSE was warned as far back as 2013 that there were issues around the dispensing fee and how it was being broken down and the pillboxing system that was being used by Lloyds in multiplying out a prescription fee fivefold and, in some cases, by more.

This motion is important in that context to bring a bit of clarity from the Minister on what actions he is taking, what actions the Department of Health and the HSE are taking and whether there is a requirement by somebody to refer this to other authorities. That is something that should also be looked at. We must send out a very strong, clear message that public funds must be used in the manner that they were voted for in the Dáil and dispensed or paid out by the HSE. If there is a requirement to do that, then it should be done. I concur with everything said by my colleague and I hope that certain issues that have been raised will be addressed by the Minister. I hope the Minister will answer the questions that have been raised.

**Minister for Health (Deputy Simon Harris):** I thank the Deputies for tabling the motion on what is a very serious issue. The issue before us highlights the challenges the HSE and all public bodies face in the procurement of services from private contractors and the importance of investing in probity and control functions to protect the taxpayer and service users. I echo the comments of Deputies Dara Calleary and Billy Kelleher on the work of community pharmacies. I know where their motion is directed. I also agree with Deputy Billy Kelleher on the expansion of the role of community pharmacists. The issues outlined by the Deputies are deplorable and unacceptable, as I am sure Deputies on all sides agree. The question is what will we do to ensure we get to the bottom of the matter and minimise the chances of it happening again.

While Deputies are right to challenge and question the systems in place within the HSE - that is their job and mine as Minister for Health - we must ensure moneys are spent appropriately. I will address these issues. We must also be cognisant of the obligation on private contractors to comply with the terms of their contracts with the State. Clearly, that did not happen in this case.

The HSE's primary care reimbursement service, PCRS, pays primary care contractors, including GPs, dentists and pharmacies, for goods and services supplied to eligible public patients under community health schemes such as the medical card, long-term illness, high-tech and drugs payments schemes. This is an enormous undertaking. There are approximately 7,700 contracts, with annual payments of more than €2.5 billion. Under the drug schemes alone, pharmacies make claims and are reimbursed for over 74 million separate items every year, or almost 1.5 million items every week. Pharmacists are reimbursed for medicines dispensed to patients in previous months, with a mix of electronic and paper claims. In 2015 the PCRS reimbursed €1.9 billion under the community drugs schemes to cover the cost of medicines and pharmacy fees. This included €1.38 billion in drug costs, including €116 million in wholesale mark-ups and €390 million in pharmacy fees. That sets the scale of the operation. This colossal level of activity is engaged in to a very high level by a single agency. I have visited the PCRS and seen at first hand the hard work, dedication and enthusiasm of the staff who undertake this volume of work on behalf of patients.

The matter raised involves a commercial contractor claiming fees for phased dispensing to medical card patients in community pharmacies. Phased dispensing was established in 1996 for patient safety reasons under the new pharmacy contract. It is a clinical process to help certain patients to manage their medicines. It may be specified by their doctor; they may be starting a new medicines regime or using medicines that are unsuitable for monthly dispensing or, in exceptional circumstances, they may be unable to safely manage their medicines. That is the

sole purpose of the scheme. A key part of the process is that medicines are dispensed at regular intervals, for example, once a week, in order that both patient and medicines are monitored. Where phased dispensing is appropriate, pharmacies are paid per dispensing for their professional services.

While the Government is not opposing the motion because of the seriousness of the issue, a number of points need to be appreciated. They concern the instigation, operation and success of the PCRS investigation in this case.

I have been briefed in detail by the HSE about this matter. I understand an HSE data review of phased dispensing in 2014 raised concerns about activity and claiming levels. In early 2015, based on this analysis, the HSE began investigating claiming by Lloyds Pharmacy group. The investigation involved complex analysis of activity for the period from 2010 to 2015 and detailed pharmacy inspections. Such a forensic approach is the only concrete way to establish mis-claiming under current systems. Of course, it was supported by information provided in confidence later in 2015 from former employees and media sources. I acknowledge the role both played.

I am further informed that the investigation was completed in August 2015 and that disciplinary proceedings were being prepared against individual pharmacies within the group under clause 15 of the pharmacy contract. This process can lead to termination of a contract. Following protracted negotiations, Lloyds agreed to a settlement that included full repayment of over-claimed fees. The PCRS continues to monitor phased claiming by the Lloyds group, with further payments suspended until compliance with phased dispensing rules is fully established. The HSE considers that this was the best possible outcome in this case, with full return of moneys owed to the taxpayer. The PCRS is also examining other claiming issues and conducting investigations into claiming by a number of other contractors.

The HSE has advised that, during the Lloyds investigation, it sought advice from the Garda Bureau of Fraud Investigation and the Pharmaceutical Society of Ireland which regulates pharmacists and pharmacies in Ireland. The HSE will make any appropriate referral required concerning investigations. That may well still happen.

The Lloyds fees investigation was a successful operation, set in motion by an HSE PCRS audit of business activity and one that reached a positive conclusion - the full return of all moneys owed to the taxpayer. I agree fully with the Deputies that it was a most serious matter. However, irregularities were detected by, and the investigation was initiated on foot of, the HSE's own reviews, although also helpfully supplemented by media reports and a whistleblower.

In all payment structures there must be a significant element of trust between contractor and payer. A well functioning probity and control function underlines this and protects the taxpayer, patients and legitimate operators who make up the majority of contractors. In a health setting it also helps to ensure resources go to the people who need them and that maximum value for money is achieved. The purpose of the PCRS audit and probity role is to ensure payments are claimed for services provided. Reviews such as these, in particular pharmacy inspections, are detailed, forensic and time and resource intensive.

Following analysis and restructuring, the PCRS audit function has been, and continues to be, strengthened with the development of dedicated resources. This is a message to the House

27 September 2016

that we need to do more in this area. That is why we are beefing up the audit function within the PCRS. This objective has been pursued as a matter of urgency and includes the appointment of a head of schemes control, supported by specialist staff, a control steering group and a probity and governance group.

I am pleased to note that the PCRS has, this year, appointed four full-time pharmacy inspectors, two data analysts and two dedicated case managers. A third data analyst and two more case managers are being recruited. This will strengthen the ability of the PCRS to carry out investigations, follow the audit trail and improve its audit function further.

The PCRS probity and control function is also developing a work programme with specific measures for community pharmacy, dental, optical and general practice to ensure claims comply with relevant schemes. The PCRS probity programme is on target to recover €20 million this year as a result of its operations. I am confident that this increased level of activity will set the tone for proper engagement by contractors in providing services for patients.

The House will note the proposed amendment to the Fianna Fáil motion tabled by Deputy Louise O'Reilly on two other issues: reclassifying medicines to over the counter; and transparency in pharmacy prices and services. While I am in a position to accept the Fianna Fáil motion, I cannot accept the proposed amendment. These issues are the responsibility of the relevant statutory authorities, the Health Products Regulatory Authority, HPRA, for medicine classification and the Pharmaceutical Society of Ireland, PSI, for professional practice and conduct.

In general, a medicine supplier applies for a change in status for its product. I understand the HPRA actively seeks applications from suppliers and gives ongoing consideration to the issues surrounding this matter, in Ireland and elsewhere.

The PSI deals with patient queries on pharmacy medicine pricing. Patients are entitled to ask for a breakdown of their medicine costs and the person in charge of the pharmacy should provide that information. The PSI has advised pharmacies that this should include an itemised receipt.

While I accept the principles involved in the amendment, I oppose the amendment on the basis that the issues are matters for the relevant statutory authorities. I do not propose to intervene in their roles at this stage.

I thank the Deputies for tabling the motion and look forward to the rest of the debate. The motion raises very serious and important issues on how we expend taxpayers' money and how we ensure resources this House votes to expend on health services get to citizens and are not in any way misused or fraudulently obtained. I am pleased with the outcome of the HSE PCRS audit, which has recovered every cent of the money owed arising from claims wrongly made by Lloyds Pharmacy Group. I look forward to seeing the beefed-up audit function within the PCRS operating with the additional staff I outlined to the House.

**Deputy Louise O'Reilly:** I move amendment No. 1:

To delete all words after "unmet demand; and" and substitute the following:

"recognises that the switching of medications from a prescription to a non-prescription basis could reduce the expenditure on dispensing fees; and

call on the Minister for Health to:

- outline what action the HSE is taking to investigate this issue;
- ensure the HSE will conclude its investigations without delay;
- detail how those accountable will be held responsible;
- guarantee that more robust procedures will be put in place to restore confidence in the system;
- prioritise the proper expenditure of taxpayers' money;
- put in place proper auditing systems;
- reclassify those prescription-only medicines identified by the Health Products Regulatory Authority to over-the-counter in pharmacy status; and
- introduce legislation to oblige pharmacies to inform patients of a pharmacist's dispensing fees, pharmacy services and mark-ups through in-store displays in order that pharmacists would be required to use a standard, clearly, visible template and provide the patient or the patient's representative with an itemised receipt following the dispensing of medicines."

I will be sharing time with Deputy Caoimhghín Ó Caoláin.

I welcome the Minister's confirmation of a full recovery and not a settlement amount. Notwithstanding the Minister's position this evening, I do not believe there is anything that precludes the Government or other Deputies supporting the Sinn Féin amendment.

It is unfortunate that we are discussing wastage in the system, abuse of procedures and, ultimately, a cost to the taxpayer. I recognise and welcome that the full amount has been recouped. I also note that investigations are ongoing. The fact that this motion has been tabled points to a culture that has been allowed to grow and needs to be addressed. We need a plan to prevent it. We need to ensure that there are not other similar incidents or other moneys lost in this way into the future. In that regard, I welcome the measures outlined by the Minister.

Unfortunately, this is not the first time that a large multiple has been caught apparently taking advantage of the rules. In Britain, the same multiple investigated by the RTE investigations unit took advantage of a loophole in the NHS rules which allows pharmacies to bill the taxpayer for whatever a product might cost at the time. Dozens of Lloyds pharmacies dispensed packs of tablets that cost £89 instead of those which would have cost only £3. Following other investigations, the British media disclosed that drug companies were apparently colluding with pharmacists to over-charge the NHS by millions of pounds for a group of drugs known as "specials". This led to the grave concern that the NHS system was not being properly policed. We are calling on the Minister to provide an assurance that the system here will be properly and robustly monitored. It is safe to say that Irish people are sick of one might call "creative compliance", the effect of which we have seen on our banking sector and public services. We need to ensure that public services act in the public interest at all times. This means ensuring that third parties cannot abuse the system. Rather than relying on people to do the decent or the right thing, we need to put in place the mechanisms to ensure they do so.

I understand and appreciate that pharmacists are health care professionals and they are trained to work and care for their patients but conversely they are running a business. In June

27 September 2016

last year, Lloyds pharmacy announced a price reduction on a range of its prescription medicines. This led to other chains following suit. At that time, Lloyds stated that this could deliver €300 savings per annum on some prescription items. This was, according to Lloyds, part of an attempt to be competitive in the Irish market. At the time, some small community pharmacies were concerned that this could put them under significant pressure, particularly those that would have had large debts, of which we know there are plenty in communities for a whole range of reasons. There was undoubtedly pressure on them.

It is interesting to note that at the same time Lloyds was publicising the delivery of savings for consumers and patients, it was engaged in the process we are discussing this evening. Indeed, its push to be competitive in the market, which may have put pressure on smaller pharmacies, came at the cost of defrauding the HSE of moneys. There was no transparency and no oversight. It was thanks to a whistleblower that this issue came to light. Tributes need to be paid not only to the people in RTE but to those who were brave enough to come forward. It would be interesting to know - hopefully the investigations under way will shed more light on this - if phased dispensing increases revenue and if it is widespread among other pharmacies. I know that it is often recommended by doctors but, unfortunately, Lloyds appears to have been using it as a mechanism to make money and increase its revenue. As I understand it, it is a practice Lloyds encouraged in its pharmacies. I do not believe that phased dispensing, for all its benefits, can and should be used for profit. I think we can all agree on that. The fact is that not only were these chains distorting the dispensing system, they were doing it with flagrant disregard for our health service, the HSE and patients. They did so with such vigour they created targets and goals. It was not an accident, an oversight or a mistake: it was deliberate manipulation of the rules and procedures to maximise revenue for a large and profitable company.

We do not yet know in how many companies or chains this practice was rampant. We do not know if this was isolated to the large multiples, or if in an effort to stay competitive with these companies, other pharmacies were forced to follow suit. We cannot know that. I am not sure we will ever find out. It is not hard to imagine the money that would be required to do a root and branch investigation into how the system may have been abused. It would be naive to think that this might happen because the scale of the task would be massive. The fact is the practice was rampant. We now need to ensure it is stamped out and cannot happen again. In that regard, we must ask what the outcome will be of the investigations. Those who have been found to have overcharged through an abuse of the system will reimburse the moneys but how will the culture and the practice change? Will there be a new code of practice and, if so, how will it be negotiated and how will we ensure that patients are protected?

We must be cognisant that if it was not for a whistleblower this practice may never have been investigated. This is steadfastly becoming the rule rather than the exception in public life. We welcome whistleblowers coming forward and we actively encourage them to do so but if this culture was so rampant in the system, then there must be robust action taken to ensure that it does not recur.

Sinn Féin has tabled some minor amendments to this motion to enhance it and to try to strengthen it, particularly in the area of transparency for patients. In the first instance, the amendment looks at how dispensing fees could be reduced for patients. In that regard, we recognise that the switching of medications from prescription to a non-prescription basis could help in some small way. It is not a big measure but it could provide some relief. As pointed out by the Minister, the Health Products Regulatory Authority, HPRA, oversees the reclassification of drugs from prescription-only medicine to over-the-counter, OTC, in-pharmacy status

and from OTC to general retail sale. In Sinn Féin's Better for Health policy launched late last year, it was noted that at that time the authority had identified 32 products that could be reclassified. These include topical anti-fungal steroid creams and proton-pump inhibitors. It would be interesting to hear from the Minister if that figure has changed or if he intends to act on the recommendations from the HPRA. It is particularly interesting to note that many products currently available over-the-counter from a pharmacist in Britain or in Northern Ireland are only available here on prescription.

The second part of the Sinn Féin amendment is patient-focused. Aside from any reform that comes about as a result of investigations, there is a need to overhaul the culture that led to this situation. We believe there is a need for legislation to oblige pharmacies to inform patients of a pharmacist's dispensing fees, pharmacy services and mark-ups through in-store displays. In this way, pharmacists would be required to use a standard clearly visible template and provide the patient or patient's representative with an itemised receipt following the dispensing of medicines, as a rule rather than on request. If there is greater transparency, patients will be able to determine what fees are being charged and for what item or service. This would, it is hoped, help avoid such situations as has occurred into the future.

As I have said repeatedly, action is needed. I am hopeful that the Minister will follow up and ensure that something happens. Behaviour of the type we have discussed this evening diverts funds from where they are intended and undermines the provision of quality patient care. The losers in this situation are patients, despite campaigns of reduced prescription costs by pharmacies. The HSE and the Minister need to ensure that the health service is better protected into the future.

**Deputy Caoimhghín Ó Caoláin:** I welcome this motion which arises out of revelations of gross misconduct by a leading pharmacy chain. Lloyds, the State's biggest pharmacy chain, significantly boosted its dispensing fee income by claiming multiple payments from the State for single prescriptions presented by medical card holders. In recent weeks, the pharmacy made a €12 million repayment to the HSE in settlement of a year-long dispute over fees. This malpractice was uncovered last year following media investigation.

I commend those who brought this situation to light but I also find it extremely worrying that the HSE was clueless to such misconduct. This is not a unique case as I understand that a string of other pharmacies are under investigation for allegedly over-claiming dispensing fees. This motion rightly raises concerns about the HSE's monitoring systems. It goes without saying that in instances where taxpayers' money is at stake, the monitoring system should be watertight. In this instance, the €12 million repaid to the HSE has the potential to make a significant difference, if spent wisely, in a health service that is severely under-resourced. If other pharmacies are found to be operating in a similar fashion, there is a considerable sum of money owed that has the potential to improve the health system, given every euro counts.

The HSE claims the practice constituted fraud. I believe, therefore, that it is reasonable to ask of the HSE how those accountable will be held responsible, if at all. What system will they put in place to ensure that such fraudulent practices do not happen again?

I also draw the Minister's attention to the amendment tabled by my party, and I note his earlier remarks. I ask all Deputies to vote in favour of it. I commend it to my colleagues in Fianna Fáil, who tabled the substantive motion this evening. The amendment calls for the reclassification of those prescription-only medicines identified by the Health Products Regula-

27 September 2016

tory Authority as suitable for over-the-counter in-pharmacy status, and I call on the Minister for Health to introduce legislation to oblige pharmacies to inform patients of a pharmacist's dispensing fees, pharmacy services and mark-ups through in-store displays so that pharmacists would be required to use a standard, clearly visible template and provide the patient or the patient's representative with an itemised receipt following the dispensing of medicines. I want to use a little of my time to appeal openly and publicly to the HSE and its primary care reimbursement service, PCRS, to approve the use and funding of nabilone for chronic pain management and relief. I use this opportunity to ask the Minister to take note of this very important area. Nabilone is a man-made form of cannabis used to treat severe nausea and vomiting brought about by cancer chemotherapy. It is also a recognised treatment for non-cancer pain. In a 2011 review of nabilone's effectiveness and safety, it was demonstrated that the drug "significantly reduces severity of pain in patients with chronic non-cancer pain", including spinal pain. In February 2016, while we were battling it out in the general election, an article published in *Pharmacotherapy: The Journal of Human Pharmacology and Drug Therapy* noted that while nabilone is now approved in many countries, including but not limited to Canada, the United States, Mexico and Britain, for the treatment of severe nausea and vomiting associated with chemotherapy, more and more clinical evidence is emerging for its use in managing pain conditions with different etiologies.

I raise this issue because I am at my wits' end as a Dáil Deputy and a spokesperson on health for 14 years. I cannot make any progress on behalf of a constituent, who is at his wits' end in a whole different place to me. In this man's situation, nabilone can be the only life saver, and I do not say this lightly. I appeal to the Minister to intervene and to help secure funding approval for the use of nabilone in the chronic pain management and relief for this man and any others in a similar situation. I have been in touch with the PCRS and we have exchanged correspondence. I have spoken directly and made every appeal imaginable, as have the local pharmacists, the Minister's colleague's counterparts in my home town. They have made repeated efforts to impress the importance of this drug's approval in this particular man's case. An exceptionally small number of people are involved, so while it is an expensive drug comparatively, nevertheless it is not a prohibitively expensive drug. I appeal to the Minister to note the situation regarding nabilone, and I ask him to please come back to me, if he would be so gracious, about this matter at his earliest opportunity.

To reiterate my earlier point, my party welcomes the motion and will vote in favour of it, preferably, if Deputy Calleary will note, with our amendment accepted. We believe it would enhance and strengthen the proposition. I have not used all of my time and I thank Deputy Louise O'Reilly for giving me a little extra.

**An Leas-Cheann Comhairle:** I call Deputy Mick Barry who will share time with Deputy Gino Kenny.

**Deputy Mick Barry:** I will start with a quotation from a man whom the House will not hear me quoting too often. A former Minister for Health, Deputy Leo Varadkar, said in December last year that dealing with drug companies brought out "whatever socialist instincts may be buried in me". The Minister, Deputy Varadkar, is entirely right in the sense that putting the activities of the pharmaceutical multinationals under the microscope makes a powerful case against the market forces of the capitalist system, which his party defends, and a powerful case for public ownership organised on a need for need not-for-profit basis, as advocated by the socialist left.

I do not have a large amount of time available, so I will look at the activities of one company, a multinational corporation called Gilead. It has the patent for one of the most advanced treatments in the world for hepatitis C, SOVALDI. Since it patented SOVALDI, its global profits have skyrocketed from \$3.6 billion in 2012 to \$21.7 billion in 2015. A US-based advocacy group, Americans for Tax Fairness, claimed the company is funnelling money through Ireland. Recently, *thejournal.ie* carried an article which claimed the company set-up appears to be similar to that used by many other multinationals as part of the double Irish structure. Gilead has half a dozen Irish subsidiaries. One of the firm's main Irish subsidiaries made a full year profit of \$1.3 billion in 2012, but paid zero to the Exchequer as the firm was tax resident in the Bahamas.

How does Gilead treat the Irish State in return for such generosity? More importantly, how does it treat hepatitis C sufferers in this country? In this Republic, hepatitis C affects approximately 30,000 people. A 12-week treatment course of SOVALDI can be produced by the company for a little more than €150. I understand it is sold on the Egyptian market for \$900, which is a significant enough markup. The price for the HSE and the Irish State is not €150 or \$900, but €45,000 for one 12-week course of treatment. This is profiteering on a massive scale, and it is profiteering on the back of human misery. It means that only those for whom the illness is very advanced receive the treatment in Ireland. In 2015, approximately 350 people benefited from SOVALDI through the health service. The other more than 29,000 people who suffer from hepatitis C must wait until such time as they get significantly sicker before they get access to the treatment.

We will support the motion but it is very narrow and limited. It does not tackle profiteering on this scale. In reality, what is needed here is not minor change, but system change. This change will be hastened the more people understand the reality of capitalism, an ugly reality revealed all too clearly by examples of profiteering such as the one I have just outlined.

**Deputy Gino Kenny:** The motion proposed by Fianna Fáil on the Government's responsibility for high drug costs and pharmacy fees is inadequate and dripping with hypocrisy. Since the late 1980s, successive Fianna Fáil Governments have devastated the health service, cutting bed numbers from more than 18,000 to just over 10,000. Our bed numbers per head of population are now 2.8 per 1,000 compared to an EU average of 4.8 beds per 1,000 population. The majority of these cuts were introduced by Fianna Fáil-led Governments. Equally, staffing levels and the incomes of health services workers were slashed by the most recent Fianna Fáil-led Government. The notion that Fianna Fáil could, in all conscience, criticise anybody for his or her record in the Department of Health is laughable but this is particularly true in respect of drug costs. Between 2002 and 2008 when Fianna Fáil was in power and Deputy Micheál Martin was Minister for Health, drug costs and pharmacy fees in particular and other income earned by pharmacies doubled from €800 million to €1.6 billion.

There is no doubt drug costs need to come down. The spend on them in Ireland is more than double that of Denmark while Ireland spends 77% more *per capita* on drugs annually than Norway, the richest country in Europe. However, the State still negotiates its prices around more countries where prices are higher instead of where they are cheaper. In contrast with the rest of the EU, generic prices in Ireland are not lower than branded drug prices. The recent €12 million payment to the HSE resulting from an overpayment of pharmacy fees highlights a wider systemic problem in our health service.

To address urgently the problems of access to drugs and the high cost of drugs, we call on

27 September 2016

the Government to desist from removing drugs from being covered by the General Medical Services, GMS, scheme, abolish prescription charges, set up a national pharmacy co-operative that can offer drugs at prices equivalent to other EU member states such as Denmark and reverse the cuts to both the earnings of health care workers and staffing levels.

**Deputy Thomas Pringle:** I wish to share time with Deputy Joan Collins. I fully support the motion. We were all surprised when the news broke in respect of repayment of more than €12 million by Lloyds Pharmacy to the HSE after it had incorrectly billed the primary care reimbursement service, PCRS, for dispensing fees. It is a serious issue which needs to be addressed fully within the PCRS to make sure public money is paid out in an appropriate fashion and to ensure companies are not in a position similar to Lloyds effectively to defraud the State in respect of such payments.

The Minister said the investigation was initiated by the HSE. As I understood it, the investigation took place following the intervention of a whistleblower and the exposure of the issue in the media. I wonder to what extent the HSE was involved in identifying this problem in the first place.

Through the scheme, Lloyds Pharmacy was able to increase its dispensing fees by 66%, which is a huge increase, especially during a period the Government was trying to cut euro and cent from payments to social welfare recipients. It would be interesting to compare the number of inspections and controls in place for people who benefit under these schemes with the number in place for big businesses that operate the schemes.

While the money has been repaid to the HSE, it is important that this issue be investigated fully by all the regulatory authorities. The executive has been slow to say whether it will refer this to the Garda fraud squad or the Pharmaceutical Society of Ireland. It says it is keeping its counsel on that for the time being. How long will it take officials to decide that this needs to be tackled? If an individual social welfare recipient had defrauded the State of a sum much lower than this, he or she would be hauled before the courts and held to account. We should expect as citizens that large companies would be treated in the same way and would not be given *carte blanche* to continue in this fashion.

It is worrying that the Minister said that following analysis and restructuring, the PCRS audit function has been and continues to be strengthened with the development of dedicated resources. What audit function was available to the service prior to this? Has this change been in response to the overpayment of €12 million? More than €2 billion is paid out annually by the PCRS and one would imagine that a robust and comprehensive audit function was in place and the service should not now be appointing inspectors to manage these contracts. That needs to be addressed quickly by the Minister. Will he explain why these appointments have been made only this year and were not made earlier to monitor and control the expenditure of this significant sum of public money?

**Deputy Joan Collins:** I support the motion. We have witnessed another exposé that sickens many people to their stomachs. Some of the staff are on huge money while many others have had their pay cut by 10%. A large multinational was able to set up a system to generate more income for a period under the HSE's radar. The HSE says that when all the medication was dispensed to a patient on the same date, Lloyds was only entitled to a €5 fee, yet it was claiming an additional €3.75 from the executive. The company increased its dispensing fees by 66%. This is significant increase not to be noticed quickly. I could understand an 8% or 10% increase

going unnoticed. Employees would notice a 66% increase in their wages and would quickly ask their employer what the hell was going on.

Questions remain to be answered about where this overpayment came from. The motion seeks detail on how those accountable will be held responsible. That is an important question. The last people who should be held responsible are the staff who were instructed to do this by the top pharmacists. I recall talking to local small pharmacists in Dublin who found it hard to get refunds from the HSE. There were delays of weeks and months.

I am glad the Minister said this issue is being seriously checked by the regulator under the Pharmacy Act 2007. What will follow on from that? I understand that a superintendent pharmacist representing Lloyds is on the regulator's committee. How is that person being dealt with? When the regulator examines the issue, should that person be on the committee? Obviously, he or she should remove themselves from the role.

This issue exposes how large multinationals use schemes such as this to undermine small pharmacies. They have gone to the wall quickly trying to compete with them. The multinationals wipe them out and then provide the only outlets where patients can get their prescriptions filled. Like previous speakers, I support the proposal for a national pharmacy co-operative to dispense drugs to people at the prices they should be sold at. Only last April, the Government diverted €12 million from mental health services to general health services. I hope this issue is brought before the courts and people challenged about it because, as Deputy Pringle said, if a social welfare recipient had inadvertently collected €200 or €1,000, one would not see his or her heels for dust getting him or her into the courts. I hope to see the same vigorous approach to this.

*9 o'clock*

**Deputy Michael Harty:** I will share time with my Rural Alliance colleague, who will be here soon. From a medical point of view, the excessive claiming of fees by a chain of pharmacies is disturbing and disappointing. Unfortunately, it gives all pharmacies an unwarranted bad name and diminishes their standing in the communities they serve. Community pharmacies supply an invaluable service to their patients, as do their GPs, and we work in harmony and synergy to supply a service to our patients. Any activity that casts a shadow over this essential service is very disappointing and I hope it will not damage the ordinary community pharmacist who supplies a very personal service to their patients.

Blister packing of medication is essential for a vulnerable cohort of patients who need their medication to be dispensed in this manner so that they can take their medication in a structured way. Patients who need this blister packing and the phased dispensing of medication may have cognitive impairment or suffer from confusion. They may have a physical impairment or dependencies in many other ways.

How do these matters come to the attention of the GP or pharmacist? We supply a personal services to our patients and a home help may come to us telling us they have a client who has not been taking his or her medication. It may be on the floor or accumulating in drawers and dressers in the client's home. Doctors may come across it while doing a house call. They may see medication which has not been taken properly or some tablets which have been taken and others which have not. Pharmacists can also pick up the fact that patients are not taking their medication properly so it is usually a decision between the doctor and pharmacist as to whether

the phased, blister-packing means of dispensing is instituted. It is a very important part of the medical and pharmacy professions that patients take their medication properly. Blister packing is a labour-intensive service and, as such, should attract a fee that is appropriate to the work done. It is extremely disappointing that this scheme has been used as a money-generating enterprise by some pharmacy chains.

The primary care reimbursement scheme, PCRS, which is computerised, should be able to pick up excessive claiming by individual pharmacies and certainly should be able to pick up excessive claiming by chains of pharmacies. It is obvious that the auditing procedure needs to be strengthened. It is very positive that the excessive claiming has been identified and that fees have been returned to spend on vital medical services. I hope the ordinary community pharmacists are not damaged by this activity and that they retain the confidence of the HSE and the public. Pharmacists who supply a very personal service are essential to the proper running of primary care and it is very important that confidence is maintained in pharmacy.

**Deputy Mattie McGrath:** I compliment those who brought forward the proposals in this motion. Former taoisigh, Bertie Ahern and Brian Cowen, both told me the HSE would be disbanded. It has not been disbanded though it is a organisation that is totally unfit for the job it has to do. I respect the fact that, as the Minister said, every cent of the money had been paid back and that is right. There also should be interest and penalties because a contract is a two-way mechanism and there should be punishment for people who break a contract. The people on the PCRS work late and not a night goes by when I do not get an e-mail on medical cards. My colleague Deputy Harty, an excellent GP from west Clare, is far more eloquent on the health system and has a greater understanding of it than I. It is clear that chains of pharmacies pull the wool over the eyes of people administrating the scheme. The Minister complimented the people on the scheme for the work they do on a daily basis and I compliment them too. I blame management and senior oversight mechanisms. I blame management in the HSE, of which we now have 40% more in the HSE than we had in 2007. Management numbers are growing very strongly, even though we have had a recession and there were cutbacks which mean we have no front-line nurses or doctors.

All is not well in the HSE - in fact it is extremely unwell. If it was a patient, I would ask Dr. Harty to prescribe some very strong medicine but it is not a patient. It is an organisation that has outlived its uses and overgrown its capabilities when it comes to understanding ordinary human problems. All Members of this House, including the Minister, will have heard very sick people crying in their clinics over medical cards. They have stage 2, 3 or 4 cancer but must be terminally ill or have a diagnosis of palliative care and they go through pain and anguish as they try to get their medical cards. Other cases involve 99 year olds, 98 year olds, 80 year olds and 70 year olds who are €6 over the limit and face trauma and distress at the regimental treatment they get. In fairness to the staff, the system is just rigid but this group was able to pull the wool over people's eyes and engage in racketeering, just like smugglers in Northern Ireland. It is a crime in the same way but is anybody investigating the crime? Are gardaí being called in? Is a file being sent to the DPP? It has been paid back and thank you very much, but if ordinary people, who could not get their medicines or afford prescription charges, pilfered something from a chemist because they needed it, they would be taken to court and gardaí would prosecute them. This is typical of the way Ireland has turned out in the year we celebrate 1916.

The big and powerful can do what they like. We have the insurance industry and we had the Goodman chain in the meat industry. We had to deal with what the banks did to the people. If people are big and powerful, they can do what they like and the Minister will thank them for

paying it back. The Minister did not thank them, of course, but thanked his officials for getting it paid back in full. However, it should be paid back with savage, punitive interest so that we could give out a few more medical cards because the volume of money is frightening.

I thank the Minister for visiting Tipperary recently and showing sensitivity and understanding to an institution there. A sister institution, the Aisling, states this evening that it will not be able to continue with the funding stream it has. This racket is going on while ordinary community pharmacists and GPs cannot continue or are being withdrawn and not renewed. They fight with GPs over the rural allowance and over whether it is to be €15,000 or €25,000. We have wonderful GPs and want to keep them but when this goes on at the level we have seen there is something rotten in the state of Denmark. There is something seriously rotten in the HSE that it can be so cavalier. I thank the whistleblower, the journalist and “RTE Investigates” for exposing this but how many more cases are there like this? I am sure there are more and I wonder if any brown envelopes are involved in the HSE. I am sure there are because this could not happen with proper oversight. I know many ordinary people who tender for different services but many of them have been discontinued, such as taxis and hackney services to bring people to their appointments in hospitals or who brought mental health patients from Clonmel to Kilkenny when they closed the institution. One Friday evening they were just discontinued. This was merciless and disgraceful treatment but I am sure these companies give many an official at the HSE a nice trip abroad and other sweeteners for what went on. There should be a criminal investigation into what went on so that the wool can be pulled off the eyes of senior managers in the HSE.

**Deputy Seamus Healy:** I welcome the Private Members’ motion and the debate on the issue of overcharging of pharmacy fees by a large pharmacy chain. It is a very disturbing development and it would appear very senior people in this large pharmacy chain set out to overcharge the taxpayer.

I want to ask the Minister a number of questions. First, has this matter been referred to An Garda Síochána for investigation? If not, why is that the case and will it be referred? This is a very disturbing development. Individuals regularly come to my office who have bills from the Department of Social Protection for small amounts of money as a result of overpayments that were made to them as far back as ten or 20 years ago. If this matter has not been referred to An Garda Síochána for investigation, it certainly should be, and as a matter of urgency.

I welcome the Minister’s indication that this is not a settlement or compromise figure of any kind, but a definitive figure established following detailed investigation of the claims that were made. It is important to thank “RTE Investigates” and the whistleblowers who came forward and ensured that this development became public. How many other lies are there? Are there further ongoing investigations by the HSE relating to other pharmacy chains? If so, when did those investigations start? Are they proceeding or have they concluded? How many other pharmacy chains are involved, if there is such involvement? Obviously, the Minister and the Members wish to be assured that the HSE has staff and procedures in place to police this issue properly and, indeed, the general issue of pharmacy fees. Is the Minister satisfied that the HSE has proper accounting and audit functions in place as a result of this? Is he satisfied that this could not happen again?

This is a very disturbing development, particularly when one considers the situation with the health budget over the last number of years and the devastation the Fianna Fáil-Green Party Government and the Fine Gael-Labour Party Government brought to the health service over

the past ten years or so. These moneys could have gone towards dealing with many serious and urgent issues in the health sector to which I intend to refer. I make no apology for mentioning South Tipperary General Hospital in my constituency. That hospital had its budget cut by 25% over those years. It lost €13 million and endured staff cuts of over 100. Despite all of that, it is a progressive hospital. The staff make huge efforts by working above and beyond the call of duty but they are struggling to provide a safe service in a underfunded and under-resourced hospital. The activity levels have gone through the roof and the hospital is bursting at its seams, working at a 120% capacity rate every hour of every day. Indeed, in the medical department the rate is even higher at 150% capacity. That is with average length of stays that are comparable to the lowest national levels.

All of this means that the emergency department - as the accident and emergency department is now known - of the hospital is flooded with people each day. There are 23 patients on trolleys in the corridors of the hospital today. On many occasions during the summer months, the hospital had 30 or 35 patients on trolleys. There were 47 patients on trolleys at one stage. The €12 million relating to the matter under discussion could have gone towards supporting the hospital. Indeed, some of it should go towards that. The hospital is absolutely underfunded. The patients on trolleys each day are located in corridors and in public areas of the hospital near the lifts, vending machines and restaurants. It is absolutely unacceptable. The hospital has a shortage of beds. Its difficulties with under-capacity are accepted by everybody. There is a proposal with the Minister for the approval of a 40-bed modular unit as an interim solution to the problem. I call on him to approve that proposal and provide funding for it immediately. He is due to visit the hospital, at my invitation, on 24 October. I appeal to him to ensure that he makes the money for that unit available. The amount is €2.4 million, a fifth of what we are discussing here in these fees. When the Minister visits the hospital, I ask him to announce the funding for that development and, indeed, capital funding for other upgrading and developments at the hospital.

Obviously, there are other areas to which the moneys we are discussing could have been directed. One area is prescription charges. In the general election campaign of 2011, the Fine Gael Party promised that it would abolish prescription charges, which were 50 cent at the time. By the time it left office, the charges were €2.50 or €25 per month. They are payable by people who have medical cards. They have very low incomes and are unable to pay them. The moneys overcharged on these fees could certainly alleviate that problem. We are all aware of the situation with home helps, who are hugely under-funded and whose hours are cut, the lack of home care packages and the withdrawal of medical cards. These are areas that could and should have received funding and certainly could have been supported by this €12 million.

Finally, I support the proposal in one of the amendments for a national State pharmacy to provide medicines and drugs at cost levels similar to those of our European partners.

**Deputy John Brassil:** I am sharing time with Deputy Niamh Smyth. I welcome the opportunity to speak on this issue. I must declare my interest in it as I am a community pharmacist, although I practise in a reduced capacity since my election in February.

The over-claiming of pharmacy fees of €12 million by a pharmacy chain is inexcusable and indefensible. Unfortunately, it has the effect of tarnishing the reputation of the 1,800 individually owned pharmacies across the State run by individual pharmacists, which provide a critical service as part of our primary care network. Phased dispensing plays a very important role in the care of our patients. Any patient who has a carer coming to them to give them their medica-

tion has been told by the HSE that they cannot handle medications. The role of the pharmacist here is critical. In addition, feeble and elderly patients, patients with Alzheimer's, diabetic patients, psychiatric patients and the methadone programme all avail of this critical service. The vast majority of pharmacists provide this service having established the need with the patient, his or her carer and the general practitioner. The net results are good drug compliance and the improved health and condition of the patient, with reduced hospital visits. However, when a pharmacy chain or group sees the opportunity to maximise profits and provide the service based on profit rather than patient need, it is wrong and must not be tolerated.

I currently sit on the committee tasked with deciding on a ten-year strategy for the future of health care. I thank the Minister for his earlier comments recognising the fact that pharmacies have and will play a crucial role in the future of primary care. While dealing with this most serious issue of incorrect claims, I hope we do not throw out the baby with the bath water and that we recognise that the vast majority of pharmacists play a critical role and will continue to do so.

At this stage, it would be appropriate to examine the entire payment system across the pharmacy network. There is a need to review the payments made on the GMS, DPS, LTI and high-tech schemes to ensure pharmacists get fair recompense for the hard work and critical service they provide, and to prevent any future recurrence of such abuse.

**Deputy Niamh Smyth:** I too support the motion. As with colleagues right across the Chamber, I am very concerned about what emerged in the "Prime Time Investigates" programme, namely, that a leading pharmacy chain could abuse its power in such a way and over-claim to the tune of €12 million. I am even more concerned that it could do this without anyone noticing. The HSE needs to outline to us exactly what action it is taking to get to the bottom of this issue. This is taxpayers' money, and it is incumbent on the HSE to ensure it is applying the proper checks and balances when dealing with it. More stringent controls need to be put in place to ensure that these incidents will not be repeated. The waste of public money must not be tolerated.

It is unacceptable to make people who are struggling pay prescription charges. It is disgraceful that those on pensions and social welfare have to pay the charges at all. It is giving with one hand and taking away with the other, and it is adding to the burden of those who are sick. A pensioner must pay bills for electricity, heating and the telephone and must also pay bin and prescription charges, and that is before buying food. A law-abiding pensioner in this country finds it hard to buy a loaf of bread. We hear so much about rural isolation. It features in my constituency, Cavan-Monaghan. The telephone is such a necessity to those living in rural areas. They may not hear from a person from one week to the next. Heat and light are vital needs of those in rural areas.

I disagree with subjecting people on long-term illness benefit to the fees. People are outraged at the latest revelation. They are pushed to the pin of their collar. When we pick up the newspaper and read about one of the leading pharmaceutical chains abusing its power, how can we have faith in the system? We are talking about capping prescription charges when we should actually be talking about abolishing them.

There are a number of independent pharmacists. Previous speakers referred to community pharmacists, who - as is the case with post offices and Garda stations - play an integral role in rural areas and in making up their social fabric. There are many pharmacists acting in the capacity of general practitioners in advising and providing a service to people in rural areas. Most

unfairly, they are also being tarred with the same brush as the others as a result of the revelations that have come to light.

I return to Lloyds and its efforts to take advantage of the Irish taxpayer. These funds, totalling €12 million, could have been used to address so many areas of need. They could have funded 600,000 home help hours or provided 500,000 additional personal assistant hours for people with disabilities. The money could have enabled the recruitment of 350 nurses and speech, language and occupational therapists. It could have provided 12,000 medical cards or 1,500 home-care packages. This was all at a time when 30,000 discretionary medical cards were being taken away. The HSE must conclude its investigations without delay and put more robust procedures in place to restore confidence in the system and ensure taxpayers' money is being properly spent.

**Deputy Kate O'Connell:** I fully support this motion. Like Deputy Brassil, I declare an interest in that I am a community pharmacist and the holder of a contract with the State, as is my husband. I commend RTE for going to the trouble of exposing this. My concerns as a community pharmacist relate to the fact that various proportions of business are taken up with blister packing or phased dispensing. In my business, it is quite a small proportion but it averages approximately 10%.

Consider the matter of fees increasing by 60%. Deputy Joan Collins has left the Chamber. We probably will not agree on anything else during our time in this House. It seems very unusual that this increase would not have set off a red light somewhere. Irregular trends in dispensing practice should be easily identifiable by the HSE and PCRS. Unless there is a particular reason for these trends, such as spikes with fertility drugs beside fertility clinics or drugs to alleviate symptoms of chemotherapy treatment in pharmacies aligned with certain hospitals, it should be very obvious and easy to identify a problem. The PCRS does just not just get a block of data but very detailed data from the community pharmacists on an electronic system. It is beyond me how this could have gone unnoticed and how there was such a definite difference between normal levels of activity and what was occurring in these chains.

From my perspective as a community pharmacist, I wish to address the blatant promotion of the service and the model. Obviously, a company must have been engaged to come up with a flowchart explaining to staff how one could go from a fee of €5 to one of €20 for medication. It was very blatant. I would consider it to be a deliberate manipulation of the ethics by which community pharmacists are bound. Blister packing or phased dispensing is a very labour-intensive process. It involves a very robust checking procedure and it is prone to errors. I have vast experience as a community pharmacist given that I was a locum for many years before opening my own business. In my experience, community pharmacists generally do not overly advertise the process. It is something one would do to help a particular patient. The service is essential for many patients, as Deputies Harty and Brassil mentioned. Generally, the patients that require the service are those with specific needs. They may be visually impaired or have intellectual disabilities. They may just be elderly people on multiple medications in respect of whom adherence to a regime is very important.

I do not wish to repeat what every other Member said. Suffice it to say that as a result of this revelation, small community pharmacists - I consider myself to be one - had issues when competing for business during the recession in this country. We were not able to compete. I do not mean to generalise for all community pharmacists. My experience was that we were not able to compete with large multinationals in tendering for business. As a community pharmacist,

I looked at the business the large chains were doing and wondered at times what I was doing wrong that I could not attract the business they were attracting. Clearly, they were working on the basis of different profit margins than the rest of us. It is also noticeable that a particular chain of pharmacies bought up many pharmacies over the past few years and essentially picked off shops that were in financial difficulties. As someone who is completely dedicated in my professional life to being a community pharmacist, I find it very difficult to stomach that in light of these revelations.

Essentially, many community pharmacists were not dealing with a level playing field. I will not go over everything that the Minister has said but there is scope to negotiate, as Deputy Brassil mentioned, a new fee structure in this sector. There is also scope to negotiate with large operators who are benefitting from economies of scale in their businesses. There is definitely scope to save money for taxpayers.

I would like to say to people and carers who are dependent on this method of delivering medicine that my party and my colleagues from similar backgrounds will work to retain this service for people in the community. I would like no older person in the community to be concerned that this vital service will be taken away from him or her.

When one is dealing with taxpayers' money, it is absolutely essential that robust checks and balances are in place. Many community pharmacists throughout the country do a lot of work for people on a daily basis. As a professional, it breaks my heart to see other members of the profession being tarred with the same brush.

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I am speaking on behalf of the Minister, who had to leave. I thank all of those who contributed to the debate and I have taken note of a lot of the issues that were raised, in particular community pharmacists. Many of them have dedicated their lives to working in communities, have gotten to know people and their families and relate to them on a one-to-one basis.

We are all fully aware of the issues raised in the motion and the seriousness of the matter. My colleague, the Minister for Health, Deputy Simon Harris, has spoken in detail and has set out the history of events and the process and measures undertaken to ensure that it was resolved to the benefit of taxpayers and those patients in need of phased dispensing. He also set out the investigation and activities that are under way in the HSE.

Marketplaces are becoming larger, faster and more complex. The increasing complexity and variations of business activities places much greater demands on resources and the capacity of State agencies that engage with commercial providers. As legislators, our duty is to ensure that the HSE is in a position to meet the challenges that all public bodies face in procuring services from private contractors. Probity and governance in the health service are key priorities for the HSE and Government. The importance of investing in probity and control functions is proved by the successful actions undertaken by the PCRS as part of its review and auditing process in this and related cases.

The PCRS is increasing its staffing and oversight capacity and I am pleased to see that this plan is already at the development stage. Of course, the scale of its activities means that staffing resources are not enough on their own. In line with outgoing developments of audits and probity, the PCRS and the Department of Health are considering proposals to improve validation for phased and other dispensing claims.

27 September 2016

In addition, the PCRS is working with stakeholders on improving electronic interaction with contractors. This will reduce workloads for pharmacists and improve verifications for the HSE as well as providing for patient care by professional pharmacists. The care and safety of the patients of community pharmacists is, at all times, a Government priority.

I welcome the fact that the HSE is not resting on its laurels and continues to improve the PCRS audit function, with a number of new inspectors and analysts recruited this year. This gives the HSE an increasing capacity in community pharmacy, dental, optical and general practice to analyse data for all contractors to carry out on-site inspections across the country and recruit this claim to payments.

The HSE has done an excellent job in identifying and addressing the issues that have emerged around phased dispensing. The PCRS investigation was very complex and time-consuming and the diligence of the staff in the PCRS in pursuing this investigation should be recognised. This and other actions mean that the PCRS probity activities in 2016 will release €20 million in savings. Not only that, where there are scarce resources they will be promptly directed towards them, as many people have stated during the debate. The patients who need resources will also benefit, as well as clinicians and those who provide services for our patients in hospital.

I am confident that an increased level of oversight will make it easier for proper and professional engagement between all parties in providing services to our patients. I encourage all Deputies to acknowledge this and the work done by the HSE and the PCRS on behalf of the taxpayer. Mistakes have been made but they have been rectified. I thank everybody who has contributed to the debate.

**Deputy Robert Troy:** I welcome the opportunity to speak in this debate. It is timely and I compliment my colleague, Deputy Calleary, for bringing forward the motion. It is quite evident from listening to the debate that there is outrage from all sides of the House about how a practice like this could be allowed to manifest itself over a number of years through the HSE. It is a damning indictment of the HSE monitoring systems and raises concerns. If this is going on, what other irregularities are happening within the HSE? If it were not for the RTE exposé, would we be any the wiser today?

We might not be any the wiser but based on reports and documents obtained by the *Sunday Business Post* in 2015, people in the HSE were concerned about phased payments as far back as 2012. They did nothing. A unit in the HSE identified phased dispensing as a risk in 2012. It proposed that the rules around phased dispensing should be clarified. HSE managers drew up circulars to advise GPs and pharmacists how to operate and claim appropriately for medicines that were being dispensed on a phased basis. However, these letters were never sent. That is alarming.

It is alarming to think that genuine concerns were highlighted to the powers that be within the HSE but nothing was done until it was exposed on the national airwaves. Unfortunately, that is not an isolated case. Time and again in this country, some civil servants who have identified ongoing irregularities under their noses turn a blind eye until such time as it comes into the public domain. What are the consequences for people who knowingly and willingly turn a blind eye and fail to do their job? Are there any consequences for somebody who knowingly and willingly fails to do the job? I am not surprised about this. There was an issue in my constituency a number of years ago where a number of local community pharmacists tendered to supply drugs to a number of community houses in Mullingar. How long did it take

that tender to be finalised? It took more than 12 months. It was not even going to be put out to tender. A person identified to me that this new contract was to be awarded without being put out to tender. It was only after I rang the HSE and enquired as to why a new contract would be awarded without going out to tender that I was advised it would be going out to tender in due course. The tender date was altered, not once, not twice but on three separate occasions. I am not casting any aspersions on whoever was awarded the tender. Good luck to them if it was the most appropriate person who put in the best cost. However, I am certainly questioning the professionalism and the manner in which that contract was awarded initially and the subsequent tendering process. While I understand the Minister has confirmed there will be an investigation into what happened in this case, will there be an investigation into contracts awarded by the HSE throughout the State to ensure we are getting value for money?

Some people think it is not their money, but it is. It is taxpayers' money that is being abused and misused. In their contributions, many Members spoke about what that €12 million could do for projects in our respective constituencies for services for the most vulnerable people in society. I recall a question I posed to the Minister of State's colleague in advance of the summer recess with regard to how home help hours have been slashed, and I mean slashed, in the constituency of Longford-Westmeath in the six months of 2016. The Minister of State's colleague informed me they were in the process of rolling out more home help hours. I can tell the Minister of State that if somebody passes away and their home help hours are to be reallocated, only 25% of the hours are being reallocated. That is what is happening. People in urgent need of additional supports are not getting them.

I will give another example. In Athlone, before the summer, a lady who has a Down's syndrome child came to me. The child needs to attend speech and language therapy every week. This lady had been informed that the speech and language therapist was going on maternity leave, to which she is duly entitled, and that nobody would be hired to replace that speech and language therapist for the period that she was on maternity leave. What is that mother to think? How can she work with her child? Her child needs the therapy every week. When I rang the HSE, I was informed that there would be an agency speech and language therapist in place in September. We are now at the beginning of October and, guess what, no agency speech and language therapist. The chairperson of the local Down's syndrome branch came to see me at my clinic last Friday and asked what they are to do with their children. The only person who can understand her child is her mother. Consider the progress those children have made over the period they have the appropriate services in place working with them. Contrast this to the setbacks they will experience as the HSE is failing in its duty and obligation to put the necessary services in place.

I am not criticising the Minister of State personally for that as that is not her fault. However, it is the fault of the management of the HSE. When I speak to the parents of those children who urgently need that service, or when I call out to visit an elderly person living in his or her home and who cannot get access to home help, or when I call out and see a severely disabled man who was recommended 75 hours of personal assistance hours per week but the HSE can only give him 21 hours, what are those people to think? I share only three examples of three cases I am working with. I am sure the whole two days' debate could be taken up by different Members in this House sharing different examples. What are those people to think when they hear that Lloyds Pharmacy can get away with overcharging to the tune of €12 million and they cannot get access to the front-line services they need to have some quality of life?

I ask the Minister of State to allow the motion to be agreed, that unlike previous motions she

27 September 2016

would not just pay it lip service or simply agree not to oppose it in the House, that the recommendations proposed within the motion would be implemented in order that a situation such as this will never arise again, and that we first of all check there is no other similar scenario going on within the HSE.

Amendment put.

**An Leas-Cheann Comhairle:** In accordance with Standing Order 70(2), the division is postponed until immediately after the Order of Business on Thursday, 29 September 2016.

The Dáil adjourned at 9.50 p.m. until 12 p.m. on Wednesday, 28 September 2016.