



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Déardaoin, 1 Nollaig 2016

Thursday, 1 December 2016

Chuaigh an Ceann Comhairle i gceannas ar 12 p.m.

Paidir.

Prayer.

Leaders' Questions

Deputy Éamon Ó Cuív: I will be speaking in Irish and I would like to pause for a minute to give an opportunity to anybody who does not feel comfortable with the Irish language to put on their earphones.

Maidin inniu, fágadh an t-oileán is mó daonra ar fhad an chósta gan aon sheirbhís farantóireachta. Tharla sé seo de bharr pholasaí faillíoch an Rialtais deiridh a d'fhág an t-oileán seo gan aon chonradh buan ó thaobh sheirbhísí báid. Ar ndóigh, bhí an bhagairt ann anuraidh, agus tá se tarlaithe inniu nach bhfuil seirbhís ag na hoileánaigh. Níl fágtha acu ach an tseirbhís aeir agus bhí caint ag an Rialtas deiridh deireadh a chur leis sin freisin.

Tá laincísí ag baint leis an tseirbhís aeir. Ní thógann an t-eitleán ach ocht bpaisinéir ag an am. Mar gheall ar an am den bhliain atá i gceist, ní féidir leis eitilt ach ar 8.30 a.m. agus ar 4 p.m. Mar shampla, nuair a bhíonn an bád farantóireachta ann, seolann an seoladh deiridh ar 7 p.m. le ligean do mhic léinn agus do dhaoine atá ag obair dul abhaile agus dul ar ais go dtí an t-oileán. Tá ollchostas i gceist leis an eitleán a úsáid. Do bheirt tuismitheoir agus ceathrar gasúr, cosnaíonn sé €161 d'oileánaigh dul isteach go dtí an móirthír agus amach arís. An fhadhb dheireanach, agus tuigfeadh chuile duine é inniu, ná nach féidir leis an eitleán seoladh le ceo ann agus mar atá inniu i go leor áiteanna sa tír.

Céard atá i gceist ag an Rialtas a dhéanamh, mar éigeandáil, le déanamh cinnte go mbeidh seirbhís farantóireachta ag na hoileánaigh? Cén réiteach atá déanta ag an Rialtas le seirbhísí eile a chur ar fáil? Mar shampla, an bhfuil aon shocrú déanta nó an raibh teagmháil leis an gcomhlacht le déanamh cinnte go bhféadfadh sé siúd dul chun fóirithinte ar na hoileánaigh in am an ghátair? An bhfuil i gceist socrú a dhéanamh le hAer Arann, fad is atá an fhadhb seo ann, go mbeidh na táillí €10 fillte do dhaoine fásta agus €5 do dhaoine óga - móide taisteal in aisce - ar fáil ag na hoileánaigh ar sheirbhísí Aer Arann go dtí go bhfaighfear bád malartach? Tá súil agam go mbeadh sé sin ar fáil amárach, b'fhéidir, nó an lá dar gcionn.

The Tánaiste: I thank the Deputy. Island Ferries took the decision to cease services to Inis

Mór last night, as the Deputy has outlined. I have to agree with him that this is extremely disappointing. I understand there will be a full meeting of Galway County Council at 12 noon today, where this will be the subject of discussion. This is primarily a dispute between the company and Galway County Council, which centres on council by-laws. The Minister of State with responsibility for the Gaeltacht and the islands, Deputy Kyne, has been in contact with councillors and with Kevin Kelly, the chief executive officer, CEO, of the council, Joe Hamill, Secretary General of the Department of Arts, Heritage and the Gaeltacht, senior Department officials in Galway, with representatives of the Aran Island Co-Op and with Island Ferries to discuss the very points the Deputy has made.

The tenders for the air service are being evaluated by the Office of Government Procurement and the Attorney General's office and that decision is due in a few weeks. The Minister of State has appealed to Island Ferries, the owner and the solicitor dealing with the issue to continue the service. He has also discussed with them the critical issue of the continuity of service. They have said it is not a matter for the Department but primarily a matter for the county council but he will pursue it. The Minister of State is deeply concerned about the impact of the stoppage of the ferry service.

The operators informed him today that the continuation of the service will depend on today's county council budgetary meeting where the CEO will update members on the discussions with the operators of Island Ferries. The Minister of State is making himself available at all times and is involved in a detailed way to ensure the best possible outcome and is taking every action he can to find a resolution. I agree with the Deputy that it is urgent. He will assist the county council in whatever way his Department can in order to deal with this impasse.

In respect of the Naval Service, the Minister of State has had discussions with the Minister of State with responsibility for defence, Deputy Kehoe, and the Secretary General of his Department has had discussions with his counterpart in the Department of Defence. He is hopeful that a resolution can be found today at the council meeting that will allow the operator resume the essential service.

Deputy Éamon Ó Cuív: Hoping is not doing. The genesis of the problem is that the county council and the Department took a view that the islanders should pay 80 cent to land on the pier on their own island. That is equivalent to asking someone entitled to free travel to pay 80 cent to use the platform in Pearse Station. Does the Tánaiste think that is fair? That was Government policy.

Island Ferries is a private operator that has decided to pull out. When was the Naval Service first contacted about providing an alternative service? It has been known for well over a month that there was a threat to the service. Two extensions of time were given. In fact, it has been known since last year. Are there no alternative possible providers of a service to the Aran Islands? Are there no other boat owners who can be contacted? How many other operators have been contacted in the past two, three or four weeks, and when, about dealing with a contingency that has now arisen and ensuring there will be continuity of service? The Tánaiste did not answer any specific questions. Will she finally answer the question: is the Government willing to arrange, while it talks about this, that the islanders can travel in and out on the air service at €10 return for adults, €5 for young people and zero for those entitled to free travel, a right enjoyed by every other citizen in this State?

The Tánaiste: I did respond to the Deputy's points. It is not a question of hoping but of

doing. I have made very clear that the Minister of State has been heavily involved in whatever way he can be to ensure that a resolution is found. The most important people are not the operators, the council or the Department but the islanders who need a service. Our focus today should be on ensuring that we get a resolution. The particular points the Deputy makes about the various services will all come to the fore depending on the outcome today. I would urge that this issue should be uppermost in the mind of the councillors at today's meeting, and I am sure it will be. They must give due consideration to the proposals put forward or the results of the discussions that have been put forward by Mr. Kevin Kelly, the county CEO. It is urgent that they enter into further discussions today with Island Ferries, with the Minister of State and with Department officials, who will do everything to try to ensure continuity of service. Continuity of service will be to the fore in the context of the work that the Minister of State is doing. One never knows when an emergency could occur-----

Deputy Éamon Ó Cuív: They knew about this one.

The Tánaiste: -----and, of course, there should be continuity of services.

Deputy Mary Lou McDonald: The Taoiseach is in the United States this week.

Deputy Éamon Ó Cuív: So is Gerry.

Deputy Robert Troy: Doing a bit of fund-raising.

Deputy Mary Lou McDonald: I have no doubt that he will meet representatives of Irish America as part of his visit. That is most welcome. Reaching out to and engaging in dialogue with our diaspora is essential, particularly given the massive increase in emigration again in recent years and the whole new generation of young people scattered across the globe. I know, too, that the Fianna Fáil leader, Deputy Martin, visited Queen's University Belfast last week, and preached to citizens of the North on the rights and benefits of EU citizenship. Again, I welcome that. However, we need more than rhetoric. We need better from all Members than saying one thing and doing another.

Yesterday in the Seanad, we saw one of the worst examples of hypocrisy and double-crossing we have seen from either the Tánaiste's party or its partner, Fianna Fáil, in the current term, when a Bill moved by Seanadóir Niall Ó Donnghaile to extend voting rights in presidential elections to people in the North, to people forced to emigrate and to the diaspora was voted down. When the opportunity to extend those rights arose and when push came to shove, despite all of the rhetoric, both Fine Gael and Fianna Fáil walked off the pitch. Perhaps that is not all that surprising. I have with me a letter from the Tánaiste's former colleague and former Minister, Mr. Jimmy Deenihan, practically begging the Taoiseach to extend voting rights. He says in his letter that if the Government fails to respond positively, he will be forced to work with one hand tied behind his back. He is talking in terms of voting rights.

Fianna Fáil, for its part, had given an assurance that it would support the Bill, until Senator Mark Daly, who I believe is sincere on this issue, received a call from his party leader, Deputy Martin, to vote against it. This is gutter stuff on an issue that should not be divisive and that is about connecting the people of the North and the diaspora and giving them a place in our society. It is about giving those whom the Government forced out of this country during the economic crash a say in the future of Ireland.

Eighteen years ago, the Good Friday Agreement enshrined in law the rights and entitlements

of Irish citizens across all of Ireland's 32 counties, including those in the North. It did not give partial citizenship or second-class citizenship; it gave full Irish citizenship as of right. Why the stalling? Today is 1 December and Christmas is on people's minds. Loved ones, friends and family are planning journeys home from Canada, Australia and the United States. Many more thousands will not make it home. I wish to ask the Tánaiste if she will do the decent thing. Will she commit now to extending the presidential vote to Irish citizens in the North and in the diaspora?

The Tánaiste: There was obviously a very full discussion in the Seanad yesterday on this topic. The first point I want to make is that we are committed to progressing this issue and the Minister, Deputy Coveney, is committed to it, as he made very clear in his Seanad speech yesterday, in which he outlined in detail the range of issues that need to be considered before the Government moves forward on this. It is not about stalling, it is about having a detailed examination of the range of issues that arise in the context of extending this franchise. That is what was presented very clearly to Senators during the course of the debate yesterday. There are 3.5 million people outside of Ireland with an Irish passport but there are 70 million people in the Irish diaspora who have an interest in this issue. There are considerable practical implications to extending the franchise. That said, the Constitutional Convention recommended this and the Government is committed to furthering the proposal.

Yesterday the Minister of State explained that an options paper would be prepared, outlining the best approach to this in the context of all of the practical considerations that need to be examined. Even an initial glance at this shows that extending the franchise has huge implications in terms of the practicalities, how it would work, the relationship to people in different countries and so forth. An options paper is being prepared and will be presented to the Cabinet in January. That will ensure there is significant impetus to the work that the Minister of State has been engaged in on this issue. Important work is being done in terms of analysing the various issues arising from extending the franchise to a broader group around the world.

Deputy Mary Lou McDonald: The Government is running away from this issue. The letter I quoted from earlier is dated 30 September 2014. It is very clear that all the rhetoric, lip service and tea and sympathy delivered in Liverpool, Manchester, London, New York, Boston, Sydney or Brisbane amounts to a con on the part of the Government. It is an utter disgrace.

The Constitutional Convention recommended that the right to vote in the presidential election be extended to citizens of the North who are full Irish citizens and to the diaspora, to people forced out of this country. Mr. Jimmy Deenihan, to his credit, in the letter to An Taoiseach on that occasion said, "For those who feel that the State failed them and forced them to emigrate, this offers an opportunity to rebuild trust and to look to the future." How is trust to be established when it is so clear that Fine Gael and Fianna Fáil will do a lot of talking on this issue and make a lot of promises but fail to act and, even worse, block the action required to give this basic right to those citizens? Could it be that the biggest impediment is the fear that those forced out of this country because of Fine Gael's incompetence and that of its colleagues in Fianna Fáil might, from a distance, deliver an electoral verdict that the Government is not keen on?

Deputy Bernard J. Durkan: That is incorrect.

The Tánaiste: We are taking the issue seriously but unlike Deputy McDonald, we must have a detailed reply to the range of questions that arise from extending the franchise.

Deputy Mary Lou McDonald: Mr. Jimmy Deenihan raised this in September 2014. He is a party colleague, is he not?

The Tánaiste: Detailed information is required and a detailed analysis must be carried out. The Deputy is calling for this at a principled level, but the Government must examine it in detail and look at the implications. One recommendation of the Constitutional Convention, for example, was that only those who had lived in Ireland should qualify for the franchise. Obviously that must be examined because it has implications in terms of who precisely qualifies. Detailed work needs to be done on this and it is being done by the Minister of State. I have already told the Deputy that the Minister of State is examining it and taking it seriously. He is developing an options paper which will deal with the practical implementation of this.

Deputy Peadar Tóibín: It is a con job.

The Tánaiste: That needs to be done. Does Sinn Féin have the answers? Has it presented a paper with all of these answers? I do not think it has-----

Deputy Mary Lou McDonald: We presented a Bill but the Government voted against it.

The Tánaiste: -----but at a principled level, it calls for the extension of the franchise. We are doing the work that any Government would need to do and are being supported by Fianna Fáil in that.

Deputy Mary Lou McDonald: Of course.

The Tánaiste: We all have family members who are affected. Sinn Féin does not have a monopoly in that regard. We all have family members living abroad and Members right across this House care about this issue.

Deputy Martin Ferris: Then do something about it.

The Tánaiste: That is why the Constitutional Convention was asked to examine it and why an options paper is being developed. That paper will be presented to the Cabinet.

Deputy Peadar Tóibín: When?

The Tánaiste: It will be ready and presented in January.

Deputy Alan Kelly: We read in *The Irish Times* this morning that the Minister for Finance briefed the Fine Gael Parliamentary Party on the upcoming Exchequer figures. That is a great privilege for all those in Fine Gael. The rest of us will find out afterwards. It appears that the Minister, Deputy Noonan, has briefed his colleagues to the effect that the tax receipts for November will be some €280 million above profile. That would bring us to an end of year position of approximately €900 million over profile, the amount needed to meet all the commitments the Government has already given. The trend means that it is reasonable to assume that the December tax receipts will also be substantially above target. That means also that the Tánaiste and her colleagues will have room to help the living standards of working people. I hope she does help working people, but I very much doubt she will do that.

There are many ways the Tánaiste could do that, and I ask her to outline those to the House. For instance, some acceleration of public sector pay restoration could easily be done for the amount we are talking about, thereby avoiding the industrial unrest coming down the line.

Given the flawed, highly political and legally unsound water commission report published during the week-----

A Deputy: That rings a bell.

Deputy Alan Kelly: -----she could provide a one-off refund of water charges to those who have already paid their bills at a cost of €140 million. That would appease all of the backbenchers sitting behind her but I doubt she will do that. I presume she will continue to make fools of the public and the backbenchers behind her. A decent investment in public transport is also a possibility that would see fares reduced for commuters. That would cost much less than €140 million.

(Interruptions).

Deputy Alan Kelly: That is another option for the Tánaiste, especially as workers today are facing fare increases across a range of different services. She might inform the Minister, Deputy Ross, about that because he probably is not aware of it.

Deputy Kevin Boxer Moran: He is well aware of it.

Deputy Alan Kelly: The list goes on. She could guarantee the funding needed for mental health services, reduce the student contribution or increase funding for schools or the reliance on voluntary contributions from parents. Any of these measures would improve the standard of living of working people.

Will the Tánaiste give a commitment, given the Exchequer figures, that the proceeds of these better tax receipts will be used to help working people? Will she outline to the House her thinking as to how that will happen?

The Tánaiste: I thank the Deputy for his acknowledgement of the improvements in the economy, which are being sustained at this point. The Deputy's point is that if the economy continues to improve we will have more choice regarding the very difficult decisions that still have to be taken. We made clear in the budget that we wanted to sustain the economy to invest in public services. It is very important that we continue to invest in public services, make sure that taxpayers, who keep the services going, also benefit from the improved economy and, equally, ensure those in public sector will be in a position to benefit. I want to pay tribute to both Ministers, Deputies Donohoe and Noonan, for their management of the budgetary decisions and the improvements in the economy. Primarily, it takes the people of this country to ensure we have those improvements.

The Deputy spoke about the range of choices available. I would make the point that in the overall scheme of things there are constraints to which we have to adhere if we are to ensure we continue to meet the various demands both at European and national level.

I want to put on the record the news we received from the Central Statistics Office, CSO, last week. The numbers at work are now at their highest level since 2008, at 2 million. There has been a 2.9% increase in the number of people employed in Ireland in the past year. The figures also show that the industry sector is the fastest growing sector in the economy while the accommodation and food service sector and construction sectors remain strong, with employment growing in 12 out of the 14 economic sectors. Of course, Government will consider the range of options.

On the Deputy's point about water, of course it is absolutely critical that those who have paid their water charges, those who have been compliant, should not in any way be disadvantaged going forward. We now have the committee which will consider the various options in this regard.

Deputy Alan Kelly: Unfortunately, the Tánaiste did not answer my question. It is a clear and simple question.

Deputy Simon Coveney: Deputy Kelly had about 20 questions.

Deputy Regina Doherty: What was the question?

Deputy Alan Kelly: I will repeat it for the Tánaiste, who is obviously losing her hearing. There are better tax receipts. The Government is facing into options on how it spends those tax receipts. There are people who are in work today who are looking at the cost of living in this country and they need to be given a break. The Government has a series of options on how it does that across a range of different services, for those in the public sector, for workers across a range of different jobs, and for those who depend on health and education services. Clearly, the Government has options and it must be discussing those. Will the Tánaiste indicate how the Government will help those people, using the increased tax receipts that have been announced by the Minister for Finance, Deputy Noonan, and those receipts that undoubtedly will come in December? Surely the Tánaiste has the capacity to give an example of how the Government will help these people. I will be shocked if the Tánaiste is incapable of doing so. Is that question clear enough?

The Tánaiste: It is a fairly general question, and the Deputy knows well how these decisions work in the Cabinet. The decision we took earlier this year when there was extra revenue was clear. A substantial sum of money was put into the health services and a number of other areas, including justice and education. The Deputy is well aware of how these processes work.

It is important to recognise, and to repeat, that it is thanks to the decisions that were taken by the previous Government and by this Government that we are seeing the economy continuing to grow. If the economy did not grow, we would not have the money to make that kind of investment in health and other services. The key issue is to continue to ensure there is prudent management and careful policies are followed, such as those that we have followed since 2011, which will ensure we continue to reduce and eliminate the current budget deficit, balance the budget in 2018 and have budgetary surpluses after that. That gives us and the country a range of choices. I have made clear that it is a combined approach that ensures we can reduce taxes for those who fund all of this, that we invest in public services and that we continue to manage the economy in order that we can continue with the changes in public sector pay and with the process in which we are engaged with the unions which the Minister, Deputy Donohoe, outlined this week. That is the approach.

The Cabinet will continue to discuss the areas that need extra budget, as we have done during the past year.

An Ceann Comhairle: I thank the Tánaiste.

The Tánaiste: The overall point is to welcome the continued growth in the economy which gives those choices. If we did not have that growth, we would not have the choices. There were no choices for many years in this country-----

An Ceann Comhairle: The time is up.

The Tánaiste: -----when we began to deal with this crisis in 2011, as the Deputy well knows.

Deputy Finian McGrath: The Independents are in government now. We turned it around.

Deputy Joan Collins: The publication and subsequent media coverage of retired Ms Justice Harding Clark's report into the surgical symphysiotomy *ex gratia* payment scheme raises fundamental questions about how citizens who pursue justice in cases of historical abuse are treated by the organs of the State. The terms of reference called for the assessor to report to the Minister on the activities and expenditure of the scheme when she had completed the administration of the scheme. In my view, the retired judge took licence with those terms. Whatever about telling us about how she was affected by women sending her poems, it was highly inappropriate of her to comment on ongoing litigation, as there are currently 28 cases before the courts and she has said enough in this report to taint those cases. The Survivors of Symphysiotomy are calling on the former judge, Ms Justice Maureen Harding Clark, to withdraw false allegations in her report. The report has many flaws, one of which is an allegation that leading symphysiotomy campaigners who said they had symphysiotomies did not, in fact, have them. This is utterly false and untrue.

An Ceann Comhairle: It is not in order to question the decision of a judge.

Deputy Joan Collins: This is a report.

An Ceann Comhairle: There is a separation of powers and the Deputy is breaching that.

Deputy Mary Lou McDonald: It is not a judicial circumstance.

Deputy Joan Collins: This is a factual report and I am only quoting from it.

An Ceann Comhairle: Please do not make allegations in respect of the judge.

Deputy Joan Collins: The report on the scheme, which was overseen by the judge, can only be read as a defence of the uniquely Irish practice of non-emergency symphysiotomy. It serves to diminish survivors' claims that the substitution of non-emergency symphysiotomy for caesarean section without consent, as practised in Ireland, violated many women's human rights. The report deliberately over-emphasised the fact that a number of applicants could not satisfy the judge that symphysiotomy caused lifelong disability. This is not - and never was - the point. Leaving aside the fact that 35% of applicants could prove lifelong disability, the violation carried out on these women during labour is beyond a doubt an infringement of their human rights. Last year, the United Nations Human Rights Committee found that symphysiotomy, as practised in Ireland, constituted torture and cruel, inhumane and degrading treatment in circumstances where patient consent was never sought.

There is a continuing suggestion in this report that survivors were lying, mistaken or deluded about what happened to them. This disgrace is without evidence. There is clearly an attempt to create an impression that the suffering is less than what the survivors claim. Let us not forget that the scheme denied the women a chance to give their oral testimony. Instead of addressing these matters in a mature way, the report serves to diminish the suffering caused. The report undermines and demeans the experience of these women. I believe it is an attempt to undermine the women by concentrating on unsuccessful applicants and brushing over the

fact that 70% of applicants applied successfully to the scheme. The scheme's burden of proof made it difficult, if not impossible, for some women to prove their case. It demanded absolute certainty. For unsuccessful women, who have no right of appeal, this report has added insult to injury.

I call for the report to be withdrawn and I request that the Minister also call for its withdrawal. If not, at least allow a debate in the Dáil on the report to be discussed by the Business Committee. If we can discuss it we can then make a decision on whether the report should be accepted.

An Ceann Comhairle: I must clarify that it is open to any Member to criticise a report. However, during her contribution, the Deputy raised questions about the judge. She stated that the judge deliberately took licence with the terms of reference. It is not in order to make such an allegation against a judge charged with a particular responsibility.

The Tánaiste: We have all been touched by the individual stories of women who had horrendous experiences with symphysiotomy. That is the reason the previous Government made a decision in July 2014 that we should not just listen to these stories but do something about them. A very distinguished judge, Ms Justice Maureen Harding Clark, was asked to carry out this report. It was agreed by the Government to establish an *ex gratia* payment for women who underwent the procedure. We now have a comprehensive overview of the historical and medical context of symphysiotomy. The judge had a unique opportunity to compile this report. Indeed, her findings support the earlier findings of Professor Oonagh Walsh, whose report was published in 2014.

The scheme was approved by the Government in November 2014 and its total cost was just under €34 million. Payments of €50,000, €100,000 or €150,000 were made to almost 400 women. At the time the Government made the decision to commission this report and to set up the scheme many of the women were facing uphill battles in courts. In addition, most of the women were of an older age group, so they faced a very uncertain outcome in this regard.

What we have done has ensured that women who have had a symphysiotomy applied to the scheme. I understand the judge took a very broad approach in terms of whether women could produce evidence so that as many as possible of the women could be included in the scheme. I am sure the Minister for Health would be happy to meet the Deputy to discuss the detail of the report. It is a very comprehensive one, and we consider that it deals with the issues because it provided an alternative and a non-adversarial option for the women, many of whom were elderly and did not want to pursue their cases through the courts. I am sure there would be no difficulty in having a debate on the report in the House. There has been a very thorough examination of the issues in the report and I believe its approach is very fair and comprehensive. As the Deputy said, there are perhaps one or two groups who take issue with the approach in the report but we have accepted its findings and we will stand by that.

Deputy Joan Collins: Human Rights in Ireland has also challenged the report. I do not know whether the Tánaiste has read its document. I note she is nodding her head indicating that she has. There are serious questions around the report and sweeping strokes were made in part of the report in regard to the women. There is also the fact that none of these women had oral hearings and they have no right to appeal the decision made in this regard.

One woman e-mailed us and she states:

1 December 2016

I am a woman who has a symphysiotomy over 40 years ago. I have suffered walking problems and incontinence and a lot of pain for all those years. My husband was and still is the best in the world because he suffered a lot too. Our intimate lives changed from that day. Out of a sense of duty to my husband we did have sex a very odd time and I always felt guilty and a failure. On one of those occasions I became pregnant and lived nine months of fear.

That woman is very angry about this report. She is also very angry about comments in the media questioning women's voices and what they went through. There should be a debate on the report in the Dáil at a minimum. If there was a vote on it, I would certainly vote to have this withdrawn and the Minister should do so as well.

The Tánaiste: We all know women suffered some horrendous consequences as a result of having a symphysiotomy. That is why the Government wanted to take as humane and dignified an approach as we possibly could to help these women. As I said, every effort was made in the report by Ms Justice Harding Clarke to do just that.

I believe 185 women applied to the scheme who could not establish that they had a surgical symphysiotomy. It is clear that any report that is written or any inquiry that is set up, and it is a report in this instance, has to have criteria, and the judge was given criteria in the terms of reference. I cannot comment on the individual case but I am sure the records in that case were examined and the appropriate decision taken. In any report, broader issues will arise in terms of context, and the Deputy is raising some of those now. I have no doubt a Dáil debate will provide an opportunity to deal with some of those, but the judge has done a thorough job. I believe it is an excellent job and many of the women have found a resolution that was not there previously.

An Ceann Comhairle: We move on now to questions on promised legislation.

Questions on Promised Legislation

Deputy Éamon Ó Cuív: In view of the critical situation in our hospitals and the huge waiting lists for every kind of medical service, will the Tánaiste advise when the health (amendment) Bill will be introduced in the House?

The Tánaiste: It is a priority for this session.

Deputy Mary Lou McDonald: The Minister, Deputy Coveney, is due to publish his rent strategy paper shortly. As the Tánaiste knows, the Residential Tenancies Board published its latest index this morning, which reveals that the cost of renting a home is continuing to climb. The board's director has described the rental market as still volatile, which is probably gentle language. Those working with the homeless and in housing distress have called for legislation to deal with the issue of runaway rents and rent uncertainty. Later, a Sinn Féin Bill, which was cosigned by Independents 4 Change, the Labour Party, the Anti-Austerity Alliance People Before Profit, the Social Democrats and the Green Party will be voted down by the coalition Government of Fine Gael and Fianna Fáil. This will be the third occasion on which they together will vote down protections for tenants to their shame. Will the Tánaiste give us a commitment that the Minister for Housing, Planning, Community and Local Government will include rent certainty and security of tenure in his long-awaited rental strategy, which is due to be published

shortly?

The Tánaiste: I will ask the Minister to respond.

Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney): We have given a commitment to launch a new rent strategy before the end of the year. The Deputy's party has been part of the consultation process in putting that together. The party made a comprehensive submission to the process, as did other parties. I have said consistently each time Sinn Féin has brought forward the same Bill - it is the third time we will vote on it later - that I do not see it has a balanced solution to the problems we face, which are primarily about a deficit in supply of affordable, social and private rented housing. We are trying as a Government, in response to the challenges many people face in a pressurised rental market, to bring forward a balanced series of proposals. Some will be about protecting tenants in pressurised situations.

Deputy Mary Lou McDonald: Rent certainty.

Deputy Simon Coveney: As regards the RTB report and figures published earlier, they show-----

Deputy Mary Lou McDonald: No, what about rent certainty?

An Ceann Comhairle: We cannot have a debate.

Deputy Simon Coveney: I will answer that. The figures show a slowdown in the pace of rent acceleration.

Deputy Pearse Doherty: Rents are going up as a result of the Minister's inaction.

Deputy Simon Coveney: The pace is still too high and I have said we are looking to address the issues that have been raised in the debates on rent certainty to date in a balanced approach to a rental strategy and the Deputies will see that in approximately ten days.

Deputy Jan O'Sullivan: I attended the launch of the CARI Foundation annual report earlier this week. The organisation raised two Bills that come under the remit of the Tánaiste's Department - the Criminal Law (Sexual Offences) Bill 2016, which is proceeding through the Oireachtas, and the criminal law (victims of crime) Bill. First, when will the latter Bill be published?

Second, when will the Criminal Law (Sexual Offences) Bill 2016 become law? Kitty Holland also attended the CARI Foundation launch and she raised concerns in an article in today's edition of *The Irish Times* about an app called Yellow. Mr. Geoffrey Shannon, the special rapporteur on child protection, was the main speaker at the launch and he also raised serious concerns about this app, which is being used by young teenagers. Mr. Shannon made the case about it being open to sexual predators. The Bill will deal with issues such as this. When does the Tánaiste expect it be enacted?

The Tánaiste: The Criminal Law (Sexual Offences) Bill 2016 has been passed by the Seanad and is on Committee Stage in this House. It will be taken next week by the justice committee. Everything depends on how much time is needed by the committee. Potentially the Bill could be passed by the end of the year but that depends entirely on the work of the committee. I am pleased it is at this point.

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I refer to the issue of the app being used for grooming. Grooming is dealt with in the Bill in an innovative way that is necessary. Grooming and the different stages of grooming are defined and the Deputy's example of the Yellow app will fall under that. It is important legislation.

The victims of crime legislation is close to finalisation and I hope to circulate it to Cabinet in the next few weeks before the end of the year.

Deputy Paul Murphy: I am not sure whether the Tánaiste will be aware of the reports of horrific abuse of greyhounds in Macau, which does not have animal welfare laws or retirement programmes for greyhounds. As a consequence, there have been significant protests in this country and the Australian Government has banned the export of greyhounds to Macau. When does the Tánaiste expect to have the Greyhound Industry (Amendment) Bill brought forward? Will it include export prevention measures to states with a poor animal rights record?

Frances Fitzgerald: It was hoped to have pre-legislative scrutiny on this Bill in December. I am not quite sure if that will happen in December; it may be early next year.

Deputy Tony McLoughlin: Will the Tánaiste provide the Dáil with an update on the progress of the Electoral Commission Bill?

Frances Fitzgerald: I understand it is being worked on at present. I do not have a timetable for it right now.

Deputy Jonathan O'Brien: The Tánaiste may be aware that in 2014, there was a working group set up within Government to look at the issue of voting rights for the diaspora and citizens in the North. How many times has it met and when is it due to report? Will the report contain any legislation to extend voting rights?

Deputy Simon Coveney: Perhaps I can be helpful there. We had quite a long debate in the Seanad on this yesterday. I have given a commitment to bring forward a detailed options paper on extending the franchise in presidential elections to Irish citizens living outside of Ireland.

Deputy Mary Lou McDonald: And also in the North of Ireland.

Deputy Simon Coveney: Yes, exactly.

Deputy Mary Lou McDonald: That is not outside of Ireland; it is actually part of Ireland.

An Ceann Comhairle: Can we please not have conversations? These are one-minute questions on promised legislation.

Deputy Mary Lou McDonald: It is an important point.

Deputy Simon Coveney: Citizens in Northern Ireland are in a unique situation because they are entitled to have Irish or British citizenship in full-----

Deputy Mary Lou McDonald: They live in Ireland.

Deputy Simon Coveney: -----or both if they want to. We are looking at the practical implications of extending the franchise for presidential elections so that when we make an announcement on the issue we will be able to answer questions in a comprehensive way.

An Ceann Comhairle: I thank the Minister. His time is up.

Deputy Simon Coveney: What others seem to be looking for is to make a commitment without being able to answer those questions. That is not the way we should approach it because we are leading some people up the garden path.

Deputy Jonathan O'Brien: I only wanted to know how many times the working group met.

An Ceann Comhairle: The Minister's time is up. Deputy Joan Burton.

Deputy Joan Burton: Yesterday I was approached by somebody who rents a one-and-a-half bed apartment in Clonee in Meath for about €860 a month. The person has been advised by the landlord that when the two-year moratorium on rent increases, which my colleague, Deputy Alan Kelly, introduced, finishes in March, the rent will go up to €1,200. In Dublin 7, in the Manor Street area, two-beds are renting at the moment for €1,800. I raised a Topical Issue Matter with the Minister for Housing, Planning, Community and Local Government three weeks ago. All his recent statements indicate that, notwithstanding the extraordinary additional jump that has taken place in the last couple of months, he is setting his face against any kind of rent control. For the sake of people at work who are paying their rent out of their income, will he give consideration to rent control?

An Ceann Comhairle: The Deputy's time is up.

Deputy Joan Burton: He could even extend Deputy Kelly's scheme-----

An Ceann Comhairle: The Deputy's time is up.

Deputy Joan Burton: -----to five years until the houses that he is talking about being built are actually built.

An Ceann Comhairle: The Deputy's time is up, I am sorry.

Deputy Simon Coveney: The former Minister, Deputy Alan Kelly, introduced a series of measures that had some positive effects but we want to add to that now. We are committed to doing that.

Deputy Joan Burton: So extend the period.

Deputy Simon Coveney: I will not give the detail yet because I have to bring it to Cabinet first. That is not unreasonable. We are looking at getting the balance right between protecting tenants, who are vulnerable because of an unsustainable level of rental inflation in Dublin and other parts of the country, and at the same time ensuring we are promoting supply, which in the medium term is the solution. We are trying to do both. We have discussed issues around rent predictability and rent certainty. They are very much part of the considerations. We will be publishing the result of those considerations in about ten days' time.

Deputy John Brassil: Currently there are 8,000 people employed either directly or indirectly in the pig farming industry in Ireland. At the end of 2016, the derogation that currently exists in respect of the relaxation of rules around slurry spreading will come to an end. Under the programme for Government, what are the plans of the Department of Housing, Planning, Community and Local Government or the Department of Agriculture, Food and the Marine to deal with this important issue? This could have the consequence of putting many people out of business.

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An Ceann Comhairle: The focus is on the Minister today.

Deputy Simon Coveney: I seem to be on the spot this morning.

Deputy Niall Collins: It is his audition.

Deputy Simon Coveney: This is an important issue. Ireland has negotiated derogations from the nitrates directive in respect of our nitrates action plan in a series of areas linked to agriculture. These derogations are important for the expansion potential of many sectors, including the pig sector.

I will be consulting my colleague, the Minister for Agriculture, Food and the Marine, Deputy Creed, to figure out a way in which we can ensure that we can give some certainty to the pig industry in this context. We have a little time to do that. Certainly, there is a need for continuity in terms of the derogation. Of course we will have to negotiate with the European Commission to ensure that can be facilitated.

Deputy Bernard J. Durkan: My concern revolves around the consequences arising from the recently published report on the provision of domestic water supply services. I congratulate Deputy Paul Murphy, who is not in the House, and his colleague, Deputy Boyd Barrett, on the neat way in which they hijacked the Sinn Féin Party in its entirety.

An Ceann Comhairle: I think the Deputy is wandering.

Deputy Bernard J. Durkan: This is promised legislation and it is in the programme for Government. I think the Ceann Comhairle will agree that what the Deputies did was no mean task. Having succeeded in that particular context, they then proceeded to hijack the Fianna Fáil Party. Now, they would appear to be set to hijack the Government and the Labour Party, everyone included. They are purporting to speak for the majority of people in the House. I want to refer to the consequences for two groups of people.

An Ceann Comhairle: No, wait now.

Deputy Bernard J. Durkan: I am referring to the supporters of Fianna Fáil, Fine Gael, the Labour Party and Sinn Féin as well.

An Ceann Comhairle: The Deputy is very likely to be out of order.

Deputy Bernard J. Durkan: The Ceann Comhairle will be delighted to hear this.

An Ceann Comhairle: The Deputy is out of order.

Deputy Bernard J. Durkan: The Ceann Comhairle will be included in this.

An Ceann Comhairle: The Deputy is out of order. We are dealing with questions on promised legislation.

Deputy Bernard J. Durkan: This is promised legislation. It is in the programme for Government.

An Ceann Comhairle: The Deputy should ask the question. What is the question?

Deputy Bernard J. Durkan: What is going to happen to those groups of people, who are taxpayers, who provide their own water supply and sewerage services and pay their existing

taxes-----

An Ceann Comhairle: I thank the Deputy. His time is up.

Deputy Bernard J. Durkan: -----and who are now expected to pay the taxes of those people who say that general taxation will have to fund water supply services in future?

An Ceann Comhairle: The Deputy should resume his seat. His time is up.

Deputy Bernard J. Durkan: Will the Tánaiste indicate what provision is likely to be made for those unfortunate taxpayers who are now about to be visited again to pay for somebody else's services?

The Tánaiste: Neither I nor the people on this side would be able to stand over a situation whereby people who did the right thing and quietly paid their charges would be disadvantaged in any way by their decision to obey the law. Let me make that clear. We would not stand over a situation whereby people who disobeyed the law benefit over those who obeyed. That is the reason this is one of the issues to be considered carefully by the committee that the House has set up.

Deputy Jack Chambers: The programme for Government refers to the full implementation of A Vision for Change, which we welcome. A Vision for Change outlines how mental health services should have established governance, autonomy and independence to enable proper management structures to function. Yesterday, Tony O'Brien, director general of the HSE, outlined how he intends to merge the national directorships of primary care, social care and mental health services. This has the potential to dilute and undermine what the Government has allocated for mental health in future budgets, especially if there is no specific national director for mental health services. Can the Tánaiste clarify whether the Government supports the director general of the HSE and his change in position from a Vision for Change or is the Government going to clarify the situation with him?

The Tánaiste: Clearly, what the chief executive of the HSE was presenting yesterday was the best possible approach to the management structures within the HSE and how they should be taken forward.

Deputy Jack Chambers: That is not in A Vision for Change.

The Tánaiste: Let us be clear: the Government is absolutely committed to the implementation of A Vision for Change. As Members are aware, extensive recruitment has taken place but difficulties remain in terms of recruiting certain specialist staff in order that the community care teams and mental health teams can be built up. There has been a sea-change in respect of those teams. There are still gaps but considerable funding has been provided. The discussion about management structures in no way impacts on the delivery of A Vision for Change or the budgetary commitment that is in place.

Deputy Jack Chambers: My point is that they run contrary to A Vision for Change.

An Ceann Comhairle: The time is up. I apologise to the Tánaiste and Deputy Chambers and to the six remaining Members who have offered to contribute.

1 o'clock

An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Neodracht) 2016: An Dara Céim (Atógáil) [Comhaltáí Príobháideacha]

Thirty-Fifth Amendment of the Constitution (Neutrality) Bill 2016: Second Stage (Resumed) [Private Members]

An Ceann Comhairle: Rinneadh vótáil a lorg Déardaoin seo caite, an 24 Samhain 2016, ar an gceist go ndéanfaí an Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Neodracht) 2016 a léamh an Dara hUair. De réir Bhuan-Ordaithe 70(2), ní foláir an vótáil sin a thógáil anois.

A division was challenged last Thursday, 24 November 2016, on the question that the Thirty-Fifth Amendment of the Constitution (Neutrality) Bill 2016 be read a Second Time. In accordance with Standing Order 70(2), that division must be taken now.

Atairgeadh an cheist: Go léifear an Bille an Dara hUair anois.

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

Atógadh an díospóireacht ar leasú a 1:

Debate resumed on amendment No. 1:

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

“Dáil Éireann declines to give the Bill a second reading in order to protect the authority of the Executive to conduct external relations pursuant to Article 29.4 1° of the Constitution;

noting also, for example, that the Bill, as currently framed, may constrain the Government’s capacity to fulfil its obligations to support United Nations, UN, mandated actions, in particular peace enforcement missions under Chapter VII of the UN Charter;

reaffirming its commitment to Ireland’s longstanding policy of military neutrality;

acknowledging the constitutional framework within which the policy of military neutrality operates, in particular the following Articles of Bunreacht na hÉireann:

-- Article 29.1 which affirms Ireland’s “devotion to the ideal of peace and friendly cooperation amongst nations founded on international justice and morality”;

-- Article 29.2 which affirms Ireland’s “adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination”; and

-- Article 29.4.9° which states: “The State shall not adopt a decision taken by the European Council to establish a common defence pursuant to Article 42 of the Treaty

on European Union where that common defence would include the State.”;

noting that the legally binding Protocol to the Lisbon Treaty negotiated by Ireland, states that “the Treaty of Lisbon does not prejudice Ireland’s traditional policy of military neutrality.”;

reaffirming the Government’s commitment to the “Triple Lock” principle provided for under the Defence Acts which govern the deployment of Irish Defence Forces overseas. The Triple Lock mandates that:

-- deployment for overseas peace support operations may only be made if that operation is mandated by the United Nations;

-- deployment must also be approved by the Government; and

-- if it is proposed to deploy more than 12 personnel, a Dáil resolution must also be approved;

noting that the Triple Lock provides for strong parliamentary oversight of deployment of Defence Forces personnel;

reaffirming the Government’s strong commitment to the principles of the UN Charter which states that “All Members shall settle their international disputes in such a manner that international peace and security, and justice, are not endangered.”;

further reaffirming its strong commitment to UN peacekeeping and notes that 573 Irish Defence Force personnel are currently serving with UN missions; and

restating its commitment to the implementation of the 2015 statement of foreign policy, *The Global Island*, approved by a Government decision of 6th January, 2015, which states “Our policy of military neutrality remains a core element of Irish foreign policy”, page 29. Moreover, noting that the Government decision to approve *The Global Island* also stated that the Government “affirmed that, as the policy states, our policy of military neutrality remains a core element of Irish foreign policy.”;

further affirming its commitment to the implementation of the White Paper on Defence, 2015, approved by a Government decision of 13th July, 2015, and re-committed to in the Programme for Partnership Government, 2016. Noting that the White Paper, which sets out a ten year strategy for Ireland’s Defence Policy, states, *inter alia*:

— “The Government’s recent review of foreign policy 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.”, page 24; and

— “While many EU member states are also members of NATO, there is full acceptance across the EU that a sovereign state has the right to choose its own defence policy, which in Ireland’s case is one of military neutrality.” page 27.”.

-(Minister of State at the Department of Defence)

Cuireadh leasú Uimh: 1

Amendment put:

<i>The Dáil divided: Tá, 52; Staon, 38; Níl, 39.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Níl</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	<i>Brady, John.</i>
<i>Barrett, Seán.</i>	<i>Brassil, John.</i>	<i>Broughan, Thomas P.</i>
<i>Breen, Pat.</i>	<i>Breathnach, Declan.</i>	<i>Buckley, Pat.</i>
<i>Brophy, Colm.</i>	<i>Browne, James.</i>	<i>Burton, Joan.</i>
<i>Bruton, Richard.</i>	<i>Butler, Mary.</i>	<i>Collins, Joan.</i>
<i>Burke, Peter.</i>	<i>Calleary, Dara.</i>	<i>Connolly, Catherine.</i>
<i>Byrne, Catherine.</i>	<i>Casey, Pat.</i>	<i>Coppinger, Ruth.</i>
<i>Canney, Seán.</i>	<i>Cassells, Shane.</i>	<i>Crowe, Seán.</i>
<i>Carey, Joe.</i>	<i>Chambers, Jack.</i>	<i>Cullinane, David.</i>
<i>Collins, Michael.</i>	<i>Chambers, Lisa.</i>	<i>Daly, Clare.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Collins, Niall.</i>	<i>Doherty, Pearse.</i>
<i>Coveney, Simon.</i>	<i>Cowen, Barry.</i>	<i>Ellis, Dessie.</i>
<i>D'Arcy, Michael.</i>	<i>Curran, John.</i>	<i>Ferris, Martin.</i>
<i>Daly, Jim.</i>	<i>Donnelly, Stephen S.</i>	<i>Fitzmaurice, Michael.</i>
<i>Deasy, John.</i>	<i>Fleming, Sean.</i>	<i>Healy, Seamus.</i>
<i>Deering, Pat.</i>	<i>Gallagher, Pat The Cope.</i>	<i>Kelly, Alan.</i>
<i>Doherty, Regina.</i>	<i>Grealish, Noel.</i>	<i>Kenny, Martin.</i>
<i>Donohoe, Paschal.</i>	<i>Harty, Michael.</i>	<i>McDonald, Mary Lou.</i>
<i>Doyle, Andrew.</i>	<i>Haughey, Seán.</i>	<i>Martin, Catherine.</i>
<i>Durkan, Bernard J.</i>	<i>Kelleher, Billy.</i>	<i>Mitchell, Denise.</i>
<i>English, Damien.</i>	<i>Lahart, John.</i>	<i>Munster, Imelda.</i>
<i>Farrell, Alan.</i>	<i>Lawless, James.</i>	<i>Murphy, Catherine.</i>
<i>Fitzgerald, Frances.</i>	<i>MacSharry, Marc.</i>	<i>Murphy, Paul.</i>
<i>Fitzpatrick, Peter.</i>	<i>McGrath, Michael.</i>	<i>Nolan, Carol.</i>
<i>Griffin, Brendan.</i>	<i>McGuinness, John.</i>	<i>Ó Broin, Eoin.</i>
<i>Harris, Simon.</i>	<i>Moynihán, Aindrias.</i>	<i>Ó Laoghaire, Donnchadh.</i>
<i>Heydon, Martin.</i>	<i>Murphy O'Mahony, Margaret.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Humphreys, Heather.</i>	<i>Ó Cuív, Éamon.</i>	<i>O'Brien, Jonathan.</i>
<i>Kehoe, Paul.</i>	<i>O'Brien, Darragh.</i>	<i>O'Reilly, Louise.</i>
<i>Kyne, Seán.</i>	<i>O'Callaghan, Jim.</i>	<i>O'Sullivan, Jan.</i>
<i>McEntee, Helen.</i>	<i>O'Dea, Willie.</i>	<i>Penrose, Willie.</i>
<i>McGrath, Finian.</i>	<i>O'Keeffe, Kevin.</i>	<i>Pringle, Thomas.</i>
<i>McLoughlin, Tony.</i>	<i>O'Loughlin, Fiona.</i>	<i>Ryan, Brendan.</i>
<i>Madigan, Josepha.</i>	<i>O'Rourke, Frank.</i>	<i>Ryan, Eamon.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Rabbitte, Anne.</i>	<i>Sherlock, Sean.</i>
<i>Moran, Kevin Boxer.</i>	<i>Scanlon, Eamon.</i>	<i>Shortall, Róisín.</i>
<i>Murphy, Dara.</i>	<i>Smith, Brendan.</i>	<i>Stanley, Brian.</i>
<i>Murphy, Eoghan.</i>	<i>Troy, Robert.</i>	<i>Tóibín, Peadar.</i>

<i>Naughten, Denis.</i>		<i>Wallace, Mick.</i>
<i>Naughton, Hildegard.</i>		
<i>Neville, Tom.</i>		
<i>Noonan, Michael.</i>		
<i>O'Connell, Kate.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Dowd, Fergus.</i>		
<i>Phelan, John Paul.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Stanton, David.</i>		
<i>Varadkar, Leo.</i>		
<i>Zappone, Katherine.</i>		

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Amendment declared carried.

Faisnéiseadh go rabhthas tar éis glacadh leis an leasú.

Cuireadh an cheist: “Go rithfear an rún mar a leasaíodh.”

Question put: “That the motion, as amended, be agreed to.”

<i>The Dáil divided: Tá, 52; Staon, 37; Níl, 42.</i>		
<i>Tá</i>	<i>Stáon</i>	<i>Níl</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	<i>Barry, Mick.</i>
<i>Barrett, Seán.</i>	<i>Brassil, John.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Breathnach, Declan.</i>	<i>Brady, John.</i>
<i>Brophy, Colm.</i>	<i>Browne, James.</i>	<i>Broughan, Thomas P.</i>
<i>Bruton, Richard.</i>	<i>Calleary, Dara.</i>	<i>Buckley, Pat.</i>
<i>Burke, Peter.</i>	<i>Casey, Pat.</i>	<i>Burton, Joan.</i>
<i>Byrne, Catherine.</i>	<i>Cassells, Shane.</i>	<i>Collins, Joan.</i>
<i>Canney, Seán.</i>	<i>Chambers, Jack.</i>	<i>Connolly, Catherine.</i>
<i>Carey, Joe.</i>	<i>Chambers, Lisa.</i>	<i>Coppinger, Ruth.</i>
<i>Collins, Michael.</i>	<i>Collins, Niall.</i>	<i>Crowe, Seán.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Cowen, Barry.</i>	<i>Cullinane, David.</i>
<i>Coveney, Simon.</i>	<i>Curran, John.</i>	<i>Daly, Clare.</i>

<i>D'Arcy, Michael.</i>	<i>Donnelly, Stephen S.</i>	<i>Doherty, Pearse.</i>
<i>Daly, Jim.</i>	<i>Fleming, Sean.</i>	<i>Ellis, Dessie.</i>
<i>Deasy, John.</i>	<i>Gallagher, Pat The Cope.</i>	<i>Ferris, Martin.</i>
<i>Deering, Pat.</i>	<i>Grealish, Noel.</i>	<i>Fitzmaurice, Michael.</i>
<i>Doherty, Regina.</i>	<i>Harty, Michael.</i>	<i>Healy, Seamus.</i>
<i>Donohoe, Paschal.</i>	<i>Haughey, Seán.</i>	<i>Kelly, Alan.</i>
<i>Doyle, Andrew.</i>	<i>Kelleher, Billy.</i>	<i>Kenny, Martin.</i>
<i>Durkan, Bernard J.</i>	<i>Lahart, John.</i>	<i>McDonald, Mary Lou.</i>
<i>English, Damien.</i>	<i>Lawless, James.</i>	<i>Martin, Catherine.</i>
<i>Farrell, Alan.</i>	<i>MacSharry, Marc.</i>	<i>Mitchell, Denise.</i>
<i>Fitzgerald, Frances.</i>	<i>McGrath, Michael.</i>	<i>Munster, Imelda.</i>
<i>Fitzpatrick, Peter.</i>	<i>McGuinness, John.</i>	<i>Murphy, Catherine.</i>
<i>Griffin, Brendan.</i>	<i>Moynihan, Aindrias.</i>	<i>Murphy, Paul.</i>
<i>Harris, Simon.</i>	<i>Murphy O'Mahony, Margaret.</i>	<i>Nolan, Carol.</i>
<i>Heydon, Martin.</i>	<i>Ó Cuív, Éamon.</i>	<i>Ó Broin, Eoin.</i>
<i>Humphreys, Heather.</i>	<i>O'Brien, Darragh.</i>	<i>Ó Laoghaire, Donnchadh.</i>
<i>Kehoe, Paul.</i>	<i>O'Callaghan, Jim.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Kyne, Seán.</i>	<i>O'Dea, Willie.</i>	<i>O'Brien, Jonathan.</i>
<i>McEntee, Helen.</i>	<i>O'Keeffe, Kevin.</i>	<i>O'Reilly, Louise.</i>
<i>McGrath, Finian.</i>	<i>O'Loughlin, Fiona.</i>	<i>O'Sullivan, Jan.</i>
<i>McLoughlin, Tony.</i>	<i>O'Rourke, Frank.</i>	<i>Penrose, Willie.</i>
<i>Madigan, Josepha.</i>	<i>Rabbitte, Anne.</i>	<i>Pringle, Thomas.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Scanlon, Eamon.</i>	<i>Ryan, Brendan.</i>
<i>Moran, Kevin Boxer.</i>	<i>Smith, Brendan.</i>	<i>Ryan, Eamon.</i>
<i>Murphy, Dara.</i>	<i>Troy, Robert.</i>	<i>Sherlock, Sean.</i>
<i>Murphy, Eoghan.</i>		<i>Shortall, Róisín.</i>
<i>Naughten, Denis.</i>		<i>Smith, Bríd.</i>
<i>Naughton, Hildegarde.</i>		<i>Stanley, Brian.</i>
<i>Neville, Tom.</i>		<i>Tóibín, Peadar.</i>
<i>Noonan, Michael.</i>		<i>Wallace, Mick.</i>
<i>O'Connell, Kate.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Dowd, Fergus.</i>		
<i>Phelan, John Paul.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Stanton, David.</i>		
<i>Varadkar, Leo.</i>		
<i>Zappone, Katherine.</i>		

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Question declared carried.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

Secure Rents and Tenancies Bill 2016: Second Stage (Resumed) [Private Members]

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

Debate resumed on amendment No. 1:

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

“Dáil Éireann, while recognising the pressures that tenants are under following rent increases and the need for a comprehensive response to these pressures and while acknowledging the Bill’s merits in the context of the broader debate on the rental market, declines to give the Bill a second reading for the following reasons:

(a) it pre-empts the relevant commitments in the programme for Government and in the Rebuilding Ireland Action Plan for Housing and Homelessness, particularly in relation to the publication of a strategy for the rental sector by end 2016, in which the Government will be considering measures to provide greater rental predictability for landlords and tenants and to improve security of tenure for tenants;

(b) the measures in the Bill risk negatively impacting on existing and future supply of rental accommodation; and

(c) the Bill has potential legal and constitutional implications which require careful consideration.”.

- (Minister for Housing, Planning, Community and Local Government)

An Ceann Comhairle: On the motion that amendment No. 1 be made a division was challenged yesterday. In accordance with the order of the House, I now put the question, “That the amendment be made”.

Amendment put:

<i>The Dáil divided: Tá, 52; Staon, 36; Níl, 45.</i>		
<i>Tá</i>	<i>Stáon</i>	<i>Níl</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	<i>Barry, Mick.</i>
<i>Barrett, Seán.</i>	<i>Brassil, John.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Breathnach, Declan.</i>	<i>Brady, John.</i>
<i>Brophy, Colm.</i>	<i>Browne, James.</i>	<i>Broughan, Thomas P.</i>

<i>Bruton, Richard.</i>	<i>Butler, Mary.</i>	<i>Buckley, Pat.</i>
<i>Burke, Peter.</i>	<i>Calleary, Dara.</i>	<i>Burton, Joan.</i>
<i>Byrne, Catherine.</i>	<i>Casey, Pat.</i>	<i>Collins, Joan.</i>
<i>Canney, Seán.</i>	<i>Cassells, Shane.</i>	<i>Collins, Michael.</i>
<i>Carey, Joe.</i>	<i>Chambers, Jack.</i>	<i>Connolly, Catherine.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Chambers, Lisa.</i>	<i>Coppinger, Ruth.</i>
<i>Coveney, Simon.</i>	<i>Collins, Niall.</i>	<i>Crowe, Seán.</i>
<i>D'Arcy, Michael.</i>	<i>Cowen, Barry.</i>	<i>Cullinane, David.</i>
<i>Daly, Jim.</i>	<i>Curran, John.</i>	<i>Daly, Clare.</i>
<i>Deasy, John.</i>	<i>Fleming, Sean.</i>	<i>Doherty, Pearse.</i>
<i>Deering, Pat.</i>	<i>Gallagher, Pat The Cope.</i>	<i>Donnelly, Stephen S.</i>
<i>Doherty, Regina.</i>	<i>Harty, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Donohoe, Paschal.</i>	<i>Haughey, Seán.</i>	<i>Ferris, Martin.</i>
<i>Doyle, Andrew.</i>	<i>Kelleher, Billy.</i>	<i>Fitzmaurice, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Lahart, John.</i>	<i>Healy, Seamus.</i>
<i>English, Damien.</i>	<i>Lawless, James.</i>	<i>Kelly, Alan.</i>
<i>Farrell, Alan.</i>	<i>MacSharry, Marc.</i>	<i>Kenny, Gino.</i>
<i>Fitzgerald, Frances.</i>	<i>McGrath, Michael.</i>	<i>Kenny, Martin.</i>
<i>Fitzpatrick, Peter.</i>	<i>McGuinness, John.</i>	<i>McDonald, Mary Lou.</i>
<i>Grealish, Noel.</i>	<i>Moynihan, Aindrias.</i>	<i>Martin, Catherine.</i>
<i>Griffin, Brendan.</i>	<i>Murphy O'Mahony, Margaret.</i>	<i>Mitchell, Denise.</i>
<i>Harris, Simon.</i>	<i>Ó Cuív, Éamon.</i>	<i>Munster, Imelda.</i>
<i>Heydon, Martin.</i>	<i>O'Brien, Darragh.</i>	<i>Murphy, Catherine.</i>
<i>Humphreys, Heather.</i>	<i>O'Callaghan, Jim.</i>	<i>Murphy, Paul.</i>
<i>Kehoe, Paul.</i>	<i>O'Dea, Willie.</i>	<i>Nolan, Carol.</i>
<i>Kyne, Seán.</i>	<i>O'Keeffe, Kevin.</i>	<i>Ó Broin, Eoin.</i>
<i>McEntee, Helen.</i>	<i>O'Loughlin, Fiona.</i>	<i>Ó Laoghaire, Donnchadh.</i>
<i>McGrath, Finian.</i>	<i>O'Rourke, Frank.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>McLoughlin, Tony.</i>	<i>Rabbitte, Anne.</i>	<i>O'Brien, Jonathan.</i>
<i>Madigan, Josepha.</i>	<i>Scanlon, Eamon.</i>	<i>O'Reilly, Louise.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Smith, Brendan.</i>	<i>O'Sullivan, Jan.</i>
<i>Moran, Kevin Boxer.</i>	<i>Troy, Robert.</i>	<i>Penrose, Willie.</i>
<i>Murphy, Dara.</i>		<i>Pringle, Thomas.</i>
<i>Murphy, Eoghan.</i>		<i>Ryan, Brendan.</i>
<i>Naughten, Denis.</i>		<i>Ryan, Eamon.</i>
<i>Naughton, Hildegarde.</i>		<i>Sherlock, Sean.</i>
<i>Neville, Tom.</i>		<i>Shortall, Róisín.</i>
<i>Noonan, Michael.</i>		<i>Smith, Bríd.</i>
<i>O'Connell, Kate.</i>		<i>Stanley, Brian.</i>
<i>O'Donovan, Patrick.</i>		<i>Tóibín, Peadar.</i>
<i>O'Dowd, Fergus.</i>		<i>Wallace, Mick.</i>

<i>Phelan, John Paul.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Stanton, David.</i>		
<i>Varadkar, Leo.</i>		
<i>Zappone, Katherine.</i>		

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Amendment declared carried.

Question put: “That the motion, as amended, be agreed to.”

<i>The Dáil divided: Tá, 52; Staon, 36; Níl, 45.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Níl</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	<i>Barry, Mick.</i>
<i>Barrett, Seán.</i>	<i>Brassil, John.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Breathnach, Declan.</i>	<i>Brady, John.</i>
<i>Brophy, Colm.</i>	<i>Browne, James.</i>	<i>Broughan, Thomas P.</i>
<i>Bruton, Richard.</i>	<i>Butler, Mary.</i>	<i>Buckley, Pat.</i>
<i>Burke, Peter.</i>	<i>Calleary, Dara.</i>	<i>Burton, Joan.</i>
<i>Byrne, Catherine.</i>	<i>Casey, Pat.</i>	<i>Collins, Joan.</i>
<i>Canney, Seán.</i>	<i>Cassells, Shane.</i>	<i>Collins, Michael.</i>
<i>Carey, Joe.</i>	<i>Chambers, Jack.</i>	<i>Connolly, Catherine.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Chambers, Lisa.</i>	<i>Coppinger, Ruth.</i>
<i>Coveney, Simon.</i>	<i>Collins, Niall.</i>	<i>Crowe, Seán.</i>
<i>D’Arcy, Michael.</i>	<i>Cowen, Barry.</i>	<i>Cullinane, David.</i>
<i>Daly, Jim.</i>	<i>Curran, John.</i>	<i>Daly, Clare.</i>
<i>Deasy, John.</i>	<i>Fleming, Sean.</i>	<i>Doherty, Pearse.</i>
<i>Deering, Pat.</i>	<i>Gallagher, Pat The Cope.</i>	<i>Donnelly, Stephen S.</i>
<i>Doherty, Regina.</i>	<i>Harty, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Donohoe, Paschal.</i>	<i>Haughey, Seán.</i>	<i>Ferris, Martin.</i>
<i>Doyle, Andrew.</i>	<i>Kelleher, Billy.</i>	<i>Fitzmaurice, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Lahart, John.</i>	<i>Healy, Seamus.</i>
<i>English, Damien.</i>	<i>Lawless, James.</i>	<i>Kelly, Alan.</i>
<i>Farrell, Alan.</i>	<i>MacSharry, Marc.</i>	<i>Kenny, Gino.</i>
<i>Fitzgerald, Frances.</i>	<i>McGrath, Michael.</i>	<i>Kenny, Martin.</i>

1 December 2016

<i>Fitzpatrick, Peter.</i>	<i>McGuinness, John.</i>	<i>McDonald, Mary Lou.</i>
<i>Grealish, Noel.</i>	<i>Moynihan, Aindrias.</i>	<i>Martin, Catherine.</i>
<i>Griffin, Brendan.</i>	<i>Murphy O'Mahony, Margaret.</i>	<i>Mitchell, Denise.</i>
<i>Harris, Simon.</i>	<i>Ó Cuív, Éamon.</i>	<i>Munster, Imelda.</i>
<i>Heydon, Martin.</i>	<i>O'Brien, Darragh.</i>	<i>Murphy, Catherine.</i>
<i>Humphreys, Heather.</i>	<i>O'Callaghan, Jim.</i>	<i>Murphy, Paul.</i>
<i>Kehoe, Paul.</i>	<i>O'Dea, Willie.</i>	<i>Nolan, Carol.</i>
<i>Kyne, Seán.</i>	<i>O'Keeffe, Kevin.</i>	<i>Ó Broin, Eoin.</i>
<i>McEntee, Helen.</i>	<i>O'Loughlin, Fiona.</i>	<i>Ó Laoghaire, Donnchadh.</i>
<i>McGrath, Finian.</i>	<i>O'Rourke, Frank.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>McLoughlin, Tony.</i>	<i>Rabbitte, Anne.</i>	<i>O'Brien, Jonathan.</i>
<i>Madigan, Josepha.</i>	<i>Scanlon, Eamon.</i>	<i>O'Reilly, Louise.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Smith, Brendan.</i>	<i>O'Sullivan, Jan.</i>
<i>Moran, Kevin Boxer.</i>	<i>Troy, Robert.</i>	<i>Penrose, Willie.</i>
<i>Murphy, Dara.</i>		<i>Pringle, Thomas.</i>
<i>Murphy, Eoghan.</i>		<i>Ryan, Brendan.</i>
<i>Naughten, Denis.</i>		<i>Ryan, Eamon.</i>
<i>Naughton, Hildegarde.</i>		<i>Sherlock, Sean.</i>
<i>Neville, Tom.</i>		<i>Shortall, Róisín.</i>
<i>Noonan, Michael.</i>		<i>Smith, Bríd.</i>
<i>O'Connell, Kate.</i>		<i>Stanley, Brian.</i>
<i>O'Donovan, Patrick.</i>		<i>Tóibín, Peadar.</i>
<i>O'Dowd, Fergus.</i>		<i>Wallace, Mick.</i>
<i>Phelan, John Paul.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Stanton, David.</i>		
<i>Varadkar, Leo.</i>		
<i>Zappone, Katherine.</i>		

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Question declared carried.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Transport, Tourism and Sport has completed its consideration of the Road Traffic Bill 2016 [*Seanad*] and has made amendments thereto.

Estimates for Public Services 2016: Messages from Select Committees

An Ceann Comhairle: The Select Committee on Justice and Equality has completed its consideration of the following Supplementary Estimates for public services for the year ending 31 December 2016 - Votes 20 and 22.

The Select Committee on Education and Skills has completed its consideration of the following Supplementary Estimate for public services for the year ending 31 December 2016 - Vote 26.

Planning and Development (Housing) and Residential Tenancies Bill 2016 [*Seanad*]: Second Stage

Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney): I move: “That the Bill be now read a Second Time.”

I am pleased to have the opportunity to introduce the Second Stage of the Planning and Development (Housing) and Residential Tenancies Bill 2016 to the Dáil today and I thank Members for facilitating the debate on this very important Bill. As the provisions in the Bill are quite important, I am anxious that it would be enacted by the end of the year, if at all possible. The Bill only just completed Report and Final Stages in the Seanad earlier this week. Over the course of its passage there, Senators were very much engaged with the subject matter of the Bill, with lively and constructive debate on all its aspects.

There were a number of amendments made to the Bill during the Seanad Committee and Report Stages, particularly around the planning provisions in Part 2, which I feel enhance the Bill. I will touch on these later in my contribution. Amendments were also made to Part 3 which relates to the Residential Tenancies Acts. A small number of these were Opposition amendments which the Government opposed. I am examining these with the assistance of the Office of the Attorney General. In some cases, a small amount of redrafting may be required to align the amendments with the language of the Bill generally. However, one of the amendments does require legal advice. I hope to be in a position to resolve any issues arising during the passage of the Bill through the House. In the same way, I look forward to debating the Bill in this House and hope we can positively and constructively work through all issues that are raised.

I do not think anyone will disagree that the current housing supply shortage situation is one of the most urgent and pressing challenges currently faced by the Government and the country, with significant impacts on all forms of housing tenure - social, private and private rental. The Government’s commitment to ending the housing shortage and tackling homelessness is clearly evidenced and underpinned in the Government’s Rebuilding Ireland - Action Plan for Housing and Homelessness. The action plan includes two specific pillars which are about building more

homes and improving the rental sector. In this regard, the action plan includes a number of innovative legislative measures to increase housing supply rapidly and reinforce the rental sector. The main purpose of the Bill before us is to give early effect to and underpin these measures, which I will now outline. Following the Seanad discussions, the Bill now contains 41 sections over five Parts, which I want to turn to in some detail.

Part 1, covering sections 1 and 2, contains the normal standard provisions dealing with the Title, collective citations, definitions and commencement. Part 2, which comprises three chapters, relates to amendments to the Planning and Development Act 2000 and is a substantial element of the Bill. Chapter 1, covering sections 3 to 19, inclusive, deals with strategic housing developments and proposes the introduction, for a limited period, of new streamlined planning processes in respect of large-scale housing developments comprising 100 housing units or more or 200 or more student accommodation bed spaces. This will allow planning applications for such developments to be made directly to An Bord Pleanála. The new fast-track planning procedures will apply for an initial period of three years until the end of 2019, with the possibility to extend that period by a further two years until the end of 2021 to coincide with the timeframe of the Rebuilding Ireland plan. Under the new procedures, An Bord Pleanála will be required to complete pre-planning application consultations on proposed developments with the concerned developers and the relevant local authority within a maximum period of nine weeks. It will subsequently be required to make a final determination in respect of planning applications for concerned developments within 16 weeks of receipt of the planning application. This will potentially result in planning decisions for concerned large developments within 25 weeks of commencement of the pre-application consultation, as against the current two-stage planning process which can, in certain circumstances, take up to 18 months and even up to 24 months from initial design stage to securing ultimate approval.

We had a long debate on this element of the Bill in the Seanad. I know Sinn Féin opposed it and had its reasons for doing that. We have made some changes since then. We have listened to the concerns of councillors in particular and have produced an amendment to ensure that in the pre-planning process, which involves local authorities assessing an application in detail over a nine week period, directly elected councillors will be involved in that process in terms of getting a full briefing on the proposal, its consistency with local area plans, zoning decisions and so forth. This whole process will only apply to zoned land, that is, land that councillors have voted to earmark for housing. The issues then are those of density, design, community development, open spaces, infrastructure and all of the other elements which planners have to take into consideration. Concern was expressed that we were somehow bypassing local authorities or local councillors and we have moved to address that concern and reassure people.

It is also clear from the legislation that local authorities will be able to make a recommendation to An Bord Pleanála at the end of the nine week consideration process. The views of councillors, if they have been expressed, can be part of that submission. We have proposed amendments which go beyond what was previously contained in the original draft which allow local authorities, through their planning departments, to also be able to make recommendations around the conditions of planning. That will, of course, influence the final decision of An Bord Pleanála to grant or refuse permission.

This is about streamlining the decision making process to provide more certainty in terms of timelines but it very much involves local authorities giving detailed assessments and recommendations. It is a little bit like granting planning permission which then gets appealed to An Bord Pleanála, whereby the original planning permission is considered by An Bord Pleanála in

a defined process. This is not as radical a change as some people believed it to be. It is, rather, a streamlining of the process. On the basis of the consultations we have had, I believe this will make a big difference in terms of incentivising developers to opt for larger scale developments and to increase the housing supply at a more rapid pace than may otherwise have been the case. It will also be a significant help in the context of financing many of the big projects because there is a direct link between the ability to secure finance for a project and obtaining a planning decision.

Deputy Eoin Ó Broin, in particular, has been asking for evidence that there is a problem in this area, so I looked at the statistics. I asked An Bord Pleanála how long it is taking to make decisions on applications for developments of more than 100 units. The statistics are about six weeks out of date now but they show that there were 15 applications with An Bord Pleanála at that point in time and the average length of time for a decision was 78 weeks. We are now talking about putting a system in place that can be just as robust in terms of the assessment but which will take only 25 weeks. Given the pressure we are under to increase housing supply, particularly in high-density developments in the city centre, it makes a lot of sense to streamline the decision making process for a temporary period until we have a more normalised and balanced housing market.

As mentioned, there was extensive debate in the Seanad on a number of aspects of the proposed new streamlined planning procedures. Amendments were proposed and discussed on all sides which resulted in my acceptance of a number of key amendments to this part of the Bill during the Seanad Committee and Report Stages. These are now incorporated in the Bill before us today and the Bill has been improved as a result. I will briefly outline the detail of some of the amendments we have taken on board. First, some concerns were expressed regarding the perceived diminution of the role of local government and elected members in the new procedures for large scale housing developments as I have already said. To address those concerns, the Bill now includes provisions whereby on receipt of a planning application for a large scale housing development, the planning authority will notify the local elected members of the application at an early date. It will then outline the detail of any such proposed development to the elected members at the next meeting of the local area committee or municipal district. In addition, the Bill also enables the views of the elected members on any such development to be reflected in the chief executive's report to An Bord Pleanála on the proposal. These new provisions, which I accepted in the Seanad, are aimed at enhancing the involvement of elected members in the new procedures, giving them an opportunity to have an input into the process and to represent the views of their constituents in accordance with their democratic mandate. I also said that I would look at the issue of fees that councillors would have to pay to An Bord Pleanála if they wanted to object to an application for planning permission. I will deal with that matter in separate legislation which is currently working its way through the system.

Second, there was much debate around the mechanisms to extend the operation of the streamlined planning procedures beyond 2019 if considered appropriate. Following the Seanad discussions, the Bill now proposes that prior to the end of the first three year period and no later than 30 October 2019, the Minister of the time will review the operation and effectiveness of the strategic housing development provisions. A report on the conclusions of that review will then be laid before both Houses of the Oireachtas, with no extension of the operation of the provisions being possible before the review report is so laid.

Finally, section 42 of the Planning and Development Acts currently allows for an extension of the duration of planning permission where either substantial work has been carried out dur-

ing the original planning permission period and certain other conditions apply, or work has not commenced and certain other conditions apply. In light of the Seanad discussions, the Bill now includes a provision restricting the extension of planning permission in the case of large scale housing developments only to situations where substantial works have been carried out during the original planning permission period. The extension of planning permission in respect of large scale housing developments will no longer be allowed where the developer sits on the planning permission and where no works have been commenced or undertaken during the period of the initial planning permission. These enhancements to the provisions reflect what we are trying to achieve here, which is to bring forward the provision of housing supply for those that urgently need a quick response. If a developer obtains planning permission through this new, streamlined system, he or she will not get an automatic renewal in five year's time, as would have been the case going under the normal system. If developers get planning permission, they need to get on with building; otherwise, they should not be submitting planning applications under this new streamlined system. We are not going to allow speculation, whereby developers come through a streamlined system, get a decision in 26 to 28 weeks and use that permission to flip on the property at a profit, nor are we going to allow them to sit on the planning permission for a number of years, assuming that they will get an automatic renewal. The whole point of this streamlined system is to get sites moving across the country - sites for large scale housing developments which are badly needed in many parts of the country and particularly in the capital. Ultimately, as I have indicated, the new streamlining procedures are intended to provide greater certainty for developers in terms of the timelines for decision making, while also facilitating the earlier provision of much needed housing supply and helping to address the current housing shortage.

Chapter 2 of Part 2 of the Bill, covering sections 20 and 21, proposes to introduce new screening arrangements for the conduct of environmental impact assessments, EIAs, in respect of certain types of works, including emergency flood relief works, with the aim of further streamlining the process for the undertaking of such types of works. This came about primarily as a result of a conversation with the Minister of State, Deputy Seán Canney. We are trying to progress flood relief projects more quickly. If there is no good reason for carrying out an EIA, then long periods of time should not be spent doing one. It is as simple as that. It is a pragmatic measure which is robust from an environmental perspective because where an EIA is needed and justified, it will happen. However, there are certain types of development that could move very quickly and which should not be delayed.

Chapter 3, covering sections 22 and 23, relates to further amendments to the Planning and Development Acts. Section 22 provides that a second extension of duration of permission may be granted by a planning authority in the case of a housing development comprising 20 houses or more in circumstances where the authority considers that a further extension is necessary to enable the development to be completed. This will remove the requirement to go through the planning process again and expedite the completion of the housing development in question, but it needs to be consistent with current area plans and so on.

Section 23 relates to new streamlined procedures to be followed by local authorities under section 179 of the Planning Act and Part 8 of the planning regulations. The Part 8 process relates to the bringing forward of local authority own-development proposals, including those relating to social housing, local roads, fire stations, libraries and so on. Most local authority own-development proposals are generally approved by the elected members fairly quickly. However, some delays can be encountered on occasion regarding social housing projects as

a result of local opposition. Under the current provisions, no maximum timeframe is set for deciding on development proposals of this kind under the Part 8 process, which is the major cause of some of the delays encountered. Consequently, the Bill proposes a number of amendments to the existing section 179 provisions, including the setting of a maximum timeframe of 20 weeks for the determination of local authority own-development proposals by the elected members, thereby providing greater certainty in the progression of such development proposals, including the earlier delivery of social housing in particular. The decision-making will still be with councillors but they will have a timeline in which to operate. Obviously, this will place the onus on a chief executive and his or her planning team to make sure they work in a timely manner and convince the councillors that it is the right thing to do.

Part 3 of the Bill, covering sections 24 to 39 and the associated Schedule, relates to the rental sector and provides for amendments to the Residential Tenancies Acts. We are all very aware that there are acute pressures in the rental market and we had a very useful and informative debate in this House yesterday on the pressures on rents, in particular, but also on issues regarding security of tenure. These pressures are driven by a number of factors, including rising demand, a lack of supply and the high costs that indebted landlords face in servicing their loans. The problems in the rental sector constitute one of the most significant issues facing us today and they are an absolute priority for this Government. That said, there is no doubt that the difficulties in the rental sector are part of a bigger problem. Ireland is in the midst of a housing crisis in terms of shortage. The problems caused by high rents reflect, and are reflected in, the other issues facing the housing market, namely, not enough homes for first-time buyers, increased demand for social housing and unacceptable levels of homelessness. While many factors contribute to these problems, the one common to all is the prolonged and chronic lack of supply of new homes.

The Bill implements the commitment in pillar 4 of Rebuilding Ireland to bring forward legislation to amend the Residential Tenancies Acts for early enactment. One of the most significant proposals to be introduced in the Bill is to be found in section 30, which provides that where a landlord proposes to sell five or more units within a single multi-unit development at the same time, the sale will be subject to the existing tenants remaining *in situ*. The purpose of this amendment is to prevent a future recurrence of situations where large numbers of residents in a single development have had their tenancies terminated simultaneously. This amendment was the subject of much debate in the Seanad and the original figure of 20 dwellings was reduced to five on foot of a Report Stage amendment tabled by the Opposition. I am in the process of taking advice on this change and may need to come back to the House on it if it makes sense to do so. I do not believe we should try to bring small landlords into this category because we will disincentivise people from remaining in the landlord market if we do so. That is why we had suggested, in the changes proposed, that the figure should be ten rather than five, but we can discuss that on Committee and Report Stages.

Section 31 further improves security of tenure for tenants by providing for the abolition of a landlord's right, during the first six months of a further Part 4 tenancy, to terminate that tenancy on no stated grounds. This is an important amendment and one that has been welcomed both by those working with tenants and those working to prevent homelessness.

Sections 33 to 37, inclusive, provide for a number of other early actions which will enhance the Residential Tenancies Board's enforcement and dispute resolution powers, including accelerated dispute resolution timeframes.

As committed to in Rebuilding Ireland, the provisions in the Bill will be supplemented by a new rental strategy, which I intend to launch in the coming weeks with a view to delivering a mature and stable rental sector providing a true balance between the rights and responsibilities of landlords and tenants. The provisions in this Bill are a fundamental part of that overall process.

An Leas-Cheann Comhairle: Excuse me, but the Minister's time has expired. I note that he wants to refer to Parts 4 and 5. Is it agreed that we will give the Minister a further two minutes? Agreed.

Deputy Simon Coveney: I am trying to give Members as much detail as I can at this point because I know we will have to try to move through the Stages fairly quickly to try to get this done before the end of the year. That is the idea. I would not usually go into this level of detail on Second Stage.

An Leas-Cheann Comhairle: The minute is nearly gone.

Deputy Simon Coveney: Part 4, which covers section 40, gives effect to action 4.9 of Rebuilding Ireland to amend the Housing Finance Agency Acts to enable the Housing Finance Agency to provide low-cost finance to higher education institutes for the purpose of providing student accommodation. In addition, as a new initiative identified in Rebuilding Ireland, the Housing Agency is to be provided with capital funding of €70 million, with the specific focus of acquiring properties from financial institutions for social housing nationally thereby increasing social housing delivery. As a support mechanism towards giving effect to action 4.9 of Rebuilding Ireland, provision is being made for the Housing Finance Agency to lend to the Housing Agency for this purpose, subject to obtaining the relevant ministerial consents and compliance with prevailing fiscal rules.

Part 5, comprising section 41, is aimed at enabling me, as Minister for Housing, Planning, Community and Local Government, to make the required payment, to a maximum amount of €420 million, from the local government fund to the Exchequer, as envisaged in the Revised Estimates Volume for 2016. It is necessary to provide for the legislative underpinning of this proposed transfer of funding to the Exchequer by amending section 6 of the Local Government Act 1998.

I think Members will agree that this Bill contains a number of fundamental legislative measures emanating from the Government's Rebuilding Ireland plan, specifically the two pillars relating to building more homes and making our permitting and approval systems more efficient, and improving the private rental sector in terms of supply and security. As I have already outlined, these are priority matters for the Government and for all the parties in this House.

I look forward to the contributions and suggestions from Members. I also hope to be able to introduce an amendment on Report Stage that is consistent with the new rental strategy once I get that approved by Cabinet. That is likely to be on Tuesday week. I hope others in this House will help to facilitate the process of getting that done because it is very important that if we make a decision on the rental market we have the capacity to implement that decision quickly rather than making an announcement and then having a long period before we can enact it. That is why the timing in terms of this legislation is important.

Deputy Frank O'Rourke: I thank the Minister and I welcome the opportunity to speak on the Bill. I will discuss some provisions and sections in the Bill but also broader issues to help

with the delivery of housing, which is a massive issue nationally.

I welcome some of the proposals in the Bill, particularly section 42, which deals with the extension of recurring planning applications up to 2021 without the obligation to submit new applications. That is a major issue nationally, particularly in my constituency where people started to develop and build up to 100 houses on sites, which is not a massive number by any means. Unfortunately, due to economic circumstances outside their control, they did not have the sites finished and because they got an extension of time, they then had to engage with the local authorities.

2 o'clock

They were asking them to submit a whole new planning application and redesign the site, which was totally impractical and was causing further delays. From dealing with the officials in the Department, whom I thank for their engagement and positive feedback, I understand that is now being substantially dealt with in this Bill where a planning permission can be extended up to 2021 without making a new application. I hope my reading of it is correct. That is hugely important. If we are serious about delivering houses and serious about dealing with the housing crisis, and we look at the different ways that can be done, this is an area where we must be realistic and practical and we have got to support and help in the delivery of housing in a strategic, proper, practical way.

I note that in the other part of the Bill, the Minister is speaking about flooding and dealing with trying to assist the other Department, and I met the Minister's colleague, the Minister of State, Deputy Canney. Currently, for example, in Celbridge in my constituency, there is a local area plan going on public display in a couple of weeks' time. There is a substantial area that is not being considered which is beside both the motorway and public transport, the new Hazelhatch train station, which has got a whole new timetable with advanced and more frequent trains, and extra services. I note within the plan that they are not considering that area on the advice of consultants because of a risk of flooding, although the OPW website states that flooding does not happen on this site, and on one part of it it is a one in a 100 year risk. I wonder whether there is something within this Bill that we could look at to assist proper strategic development in an area, which is a five-minute walk from public transport, beside a lot of sporting amenities and beside the motorway. It is something that might be worth looking at.

I acknowledge that the only way housing can be delivered is through three mechanisms: local authority housing, the housing agencies and through the private sector. Kildare County Council made a positive announcement yesterday, which my party welcomes, where it has signed the contract to develop 20 units in Kilcock. That is sending out the right signal. At the same time it is preparing and going through a Part 8 process to deliver further social housing in Prosperous. That is all extremely welcome. The local authorities need to be better supported and aided to deliver social housing on their own sites to enable them make more announcements, such as we have seen yesterday for Kilcock and for Prosperous.

We need to support the housing agencies to work with the local authorities to deliver as well, but in addition the private sector has to play a major role in developing and delivering housing, of course, in a strategic, balanced manner. The reality is local authorities cannot deal with answering the current housing crisis on their own. It has to be a partnership approach from all of those different agencies working positively to get houses built and that is really what we should be focused on doing. Anyone who believes that this problem can be resolved without

the private sector playing a major positive role is not living in reality because we need their involvement and input in a number of different ways.

I also note the lack of infrastructure and I spoke about it in this House under the Finance Bill and previously with the Minister and with his officials. This is a national issue but, for example, my county, Kildare, in addition to Dublin and a couple of other counties are recognised as having an acute housing crisis. In areas of Naas, Maynooth and Clane there are sites zoned for housing and planning applications ready to go and people in funds, but they cannot build houses because of the lack of infrastructure. In those three areas, Naas, Clane and Maynooth, it is a lack of ring roads. I met someone recently in Maynooth and someone in Naas who have land zoned. They went in and had meetings regarding lodging planning applications, one of which is for 70 units. They are ready to go when they get planning permission and it is on zoned land so it is inevitable that it will happen. They were told with regret that they cannot return to the planning authority until the ring-road is built, but they cannot take the lead in that because the fact the route goes through a number of different land-holdings is causing an issue. That is a problem that we need to focus on and address because that would assist positively in developing and delivering much needed houses.

Celbridge and Leixlip are fast-developing towns. Celbridge has a population of 22,000 and Leixlip's is 15,000. They are going through local area plans at present but there are major deficits because of lack of infrastructure, such as bridges, to free-up particular areas of the towns for development, and that is another issue.

Of course, then there is the issue of wastewater infrastructure and the lack of it, where other areas are being held up in those same development locations which are ready to go in Leixlip, Kilcock and Celbridge. This is a problem. I have met senior officials in the Department at the Minister's say so and we have had positive engagement. Here funding needs to be delivered to the local authorities to deliver the infrastructure that is within their control, such as ring-roads and bridges.

In addition, Irish Water must come on board and play an important role here. I note from the previous two engagements I have had with officials in the Department that there seems to be more positive engagement coming from Irish Water, but still not what we need to see. It is not acceptable that they say to those who have been granted planning permission that they can build houses but they cannot occupy them for up to six years. It is neither acceptable nor good enough that there is a state-of-the-art wastewater treatment plant in Leixlip in the north of the county and they say they cannot deliver the waste and effluent to it. We should be looking at delivering the infrastructure in tandem with the delivery of housing units. The housing will not be delivered overnight - it will take up to two years - and there is nothing to say that the infrastructure cannot be delivered in tandem with the housing development. Kildare County Council, like many other local authorities, has made significant applications to the Local Infrastructural Housing Activation Fund. It is a €200 million fund and we would be hopeful that it would be designated for the counties in need rather than there being a little bit for everyone which would be a mistake. We need to ensure that the fund is divided up in a way that will have a meaningful effect on the delivery the infrastructure to help deliver the units that we all so badly need.

I also note there is an opportunity under the capital expenditure programme. We should look to extend that, given the cost of borrowing is less than 1% at present. I wonder why the Government is not borrowing at this low rate to invest in capital projects which would assist positively the Local Infrastructural Housing Activation Fund of €200 million in delivering

houses. It is all about delivery. We can talk in this House forever about houses, the need for houses and the housing crisis but the only way the housing crisis will be dealt with is by getting houses built. These are real, practical issues, in addition to what the Minister spoke about, has alluded to and is dealing with in the Bill, that are preventing houses from being constructed right now.

I note, too, there is currently a shortage of skills in the country for obvious reasons, with people retraining or emigrating. We need a consistent house-building programme so that over a period of time we can sustain house building jobs, finances and, indeed, the economy. That is hugely important. There has been no house construction for a number of years, it is trying to get started and now there is a shortage in all those areas. If we have a balanced consistent approach with a good strategy to develop and deliver housing over a period of time, and it does not merely come in a peak and go, it means we will be better able to sustain the economy and those jobs.

My final point, because my time is nearly out, is in relation to landlords. I agree with the Minister that we cannot disincentivise landlords because we are depending on them to take people out of homelessness or to deal with the current housing crisis. While we cannot give them a blank cheque or anything like that, we need to work with and support them with legislation and policy to ensure that they continue to allow their properties to be rented, particularly to those on the social housing list. That is a significant issue. Whether with HAP, RAS or rent supplement, private landlords are being incentivised. We need to ensure that we keep them in the loop so that they make their properties available to rent to those who are homeless who are on housing lists who need them. There are no other houses at present and there is a housing shortage. We need to work with them, until we get more houses constructed and until there is a greater supply.

Deputy Barry Cowen: I welcome the Bill. I compliment the Minister, his staff and the Seanad on the work they have done in the past number of weeks on analysing and scrutinising the Bill and making some very relevant amendments to it.

The Minister said, quite correctly, that the housing crisis is the greatest challenge facing the Government and the country. We have been debating that point and we have sought to assist by putting forward proposals and suggested initiatives in the months since the Government was formed with a view to addressing the crisis in a real and meaningful way. We all played our part, at the instruction of the House, in establishing a special committee on housing which made a raft of suggestions and proposals in its report. That fed into the document the Minister produced within 100 days, Rebuilding Ireland - Action Plan for Housing and Homelessness, as he had committed to do. I commend him on that. The consultation process was extensive and appropriate and involved all the stakeholders, including ourselves. Since then, we have produced various submissions on the budget relating to measures that would assist. We have also submitted initiatives to address the rent strategy, which we discussed during the debate on the Sinn Féin Private Members' Bill. During that debate, the Minister gave a commitment that on Committee Stage of this Bill he will make some further amendments and adjustments to the Residential Tenancies Act which will allow him to give effect to aspects of his rental strategy. We welcome that.

I have no doubt that the medium to long-term initiatives contained in the Rebuilding Ireland - Action Plan for Housing and Homelessness document have the potential to address the crisis in a more real and meaningful manner than the plan in place under the previous Government which, despite its best intentions, failed to address the crisis and only allowed it to worsen. The

crisis is also having a profound effect in many other areas, such as in the context of the public service pay debate. Undoubtedly, far too much of people's disposable income is being spent on rent and mortgages in their efforts to provide a home either in the cities or elsewhere throughout the country. It was quite obvious that interventions were required in existing systems and planning procedures to address both demand and supply. The Minister has gone part of the way in recent months with his demand initiatives, but I do not believe he has gone far enough with supply initiatives. I will continue to impress upon him the great need to do that.

He took one step in that direction recently when he agreed to have the Housing Finance Agency prepare the relevant statistics and information to provide a definitive independent assessment of building costs. I believe that will show what we have been saying for some time, that there is a need to tackle development levies and certification costs, without compromising standards or quality. When one compares our system of certification with that of the UK and the North one finds it costs up to five times less in the North for the same certification. We have outlined to the Minister the possibility of the local authority becoming the certification master in such instances. There is also the VAT issue and the costs associated with the construction industry. Another area is competitive finance and the availability of the credit unions to play a part in making competitive finance more real and effective, which would allow them to play a role in assisting us out of the unfortunate mess we are in at present. That could be allied to the measures announced last week by the Central Bank and the measures announced in the budget for first-time buyers. Indeed, those measures could be extended in certain areas to help the second-hand market, which is stagnant in many parts of the country outside Dublin and particularly in rural provincial areas.

The main aspect of the Bill relates to the fast-tracking of developments of over 100 units directly to An Bord Pleanála. I agree with that and I acknowledge that it must be done. However, I also acknowledge the fears and concerns that were expressed in the Seanad and by various councillors throughout the country. I re-affirm to them and to others who believe that somehow the local democratic process is being compromised that this could not be further from the truth. The primacy of the local development plan remains in place. It is sacrosanct in the hierarchy of plans and it is the bible in respect of planning applications. My only worry and fear is that many of the other plans, be they regional plans or spatial strategies, might not be as up to date, which can have an impact when a planner or the board is to make a final decision. They might not be consistent with the current social and economic situation in the areas where the applications are being made. I hope people will be cognisant of that.

I hope that relevant personnel and expertise will be available to An Bord Pleanála. There is a 25% drop in staffing rates now compared to 2008. There is also increased potential for legal challenges to decisions. Again, is there capacity to deal with that should it be the case? I seek reassurance that there will be no deficiencies in the board's capacity to meet the demand that may be placed on it by the provisions of this Bill. The rationale for the new planning procedure is that in the vast majority of large applications that were appealed to the board previously the board most often upheld the local authority's decision. There is the capacity, therefore, to reduce the time by up to 52 weeks, as has been indicated previously. Local authorities will continue to be the prime decision makers on planning permissions for developments below 100 units. There is some controversy about this. However, the planning system should not be made the scapegoat for failures in the housing market. The barriers to construction which I have mentioned also must be acknowledged.

Given the deficits in housing supply across the country and the persistence of historically

low levels of construction activity, especially of multi-unit developments, we must take these measures to jolt the market. I understand and support that. I hope my worries about staffing levels will be addressed to deal with the upsurge in activity and to be able to give decisions in the timeframe contained in the Bill. It is a welcome and new departure for the procedures. Up to now, we have had extensions of time for many applications of this nature and they were the expectation of those who made those applications in recent times.

Another amendment we welcome is the extension of time for permissions. Deputy O'Rourke raised that matter in the House some months ago. With regard to the reform of the Part 8 approvals, we welcome that going from eight to six weeks. The main delay with social housing delivery is not necessarily within the planning or Part 8 procedures. It is the approval of the Department for local authorities' submissions. One case that was brought to my attention this morning relates to Cork. The local authority sought approval for 120 units last March but it is still not approved by the Department, despite the opinion of Cork County Council that it could get started by early 2017. There is anecdotal evidence of that throughout the country that has been made known to us. The accuracy of that information may be questionable but there still seems to be too long a delay despite the fact the Department has moved from an eight-step to a four-step procedure but we have not seen the impact of that locally. Considering the effort to deliver what is contained in Rebuilding Ireland, the Government's fanfare around it, and the focus of the special task force in the Department, as mentioned by the Minister, which is working with local authorities in a much closer and meaningful manner, I hope we will see deliveries that we can stand over in the future.

I do not want to elaborate on the Bill much longer. We will go through it in greater deal when we come to deal with amendments on Committee Stage. I look forward to a wholesome contribution by all Members to ensure the Bill has the desired effect in assisting in alleviating the crisis in the mid to long term and, with respect to the tenancies Act, that efforts will be made in the short term to improve the position of those who currently find themselves in a terrible situation.

An Leas-Cheann Comhairle: The next speaker is Deputy Ó Broin. I understand he has an arrangement with Deputy Jan O'Sullivan whereby he may require an extra five or six minutes. Is that agreed? Agreed. Deputy Jan O'Sullivan is being generous.

Deputy Jan O'Sullivan: I will take 15 minutes.

An Leas-Cheann Comhairle: Deputy Ó Broin will have 25 minutes and Deputy Jan O'Sullivan will have 15 minutes.

Deputy Eoin Ó Broin: I may not need the time and I thank the Deputy for that. This is significant legislation. I acknowledge the Minister's sincerity in terms of what he is trying to do with this Bill, notwithstanding areas where I have concerns or where Sinn Féin has outlined disagreement in the debate on the Bill in the Seanad. We accept what the Minister is trying to achieve in all aspects of the Bill. I also acknowledge the work of the officials at the pre-planning stage when they briefed Members and in their provision of additional information, which has been very useful in enabling us to understand fully the implications of the Bill.

The Bill provides for a very profound change, albeit a temporary change to the planning system. On that basis, and given the difficulties we have had with planning historically in this State, this legislation requires detailed scrutiny. Not unlike the Minister, many of my comments

will be much more like Committee Stage comments, as I want to raise them on this Stage to assist in progressing the Bill in the timeline the Minister has outlined.

As the Minister said, some positive amendments were agreed during the debate in the Seanad, to which we will return, but it is disappointing there has not been more media interest in this debate. There have been various newspaper headlines during the past week or so about a former politician of this House potentially rejoining a political party of this House, which is of pretty much no consequence to anybody. This is serious legislation that seeks to deal with significant issues and it deserves more attention than just from those of us whose job it is to scrutinise the detail.

I support the Minister's desire to speed up the delivery of public and private housing. Whatever other disagreements we have over the housing policy agenda, this is one where we definitely want to work together, and I want to state that clearly. As I have been working my way through the Bill to understand it, my concern is that we cannot in the process of wanting to fix one problem, which is one of supply, create other difficulties, even unintended ones, as we go through this process. We do not want in any way to compromise good quality planning. I know that is not the Minister's intention but it is still one of the concerns of which we all need to be cognisant. We do not want to undermine the role, even on a temporary basis, of local elected members or of planning officials in local government. We need to be cognisant of the fact there are significant legal issues which are relevant to this Bill in terms of domestic, constitutional law, European law and international obligations. I will go through a few of the details because I have some questions to which I am keen to hear the Minister's response, if not at the end of Second Stage, then on Committee Stage when we come back to all these.

I am not saying any of this to be awkward. These are genuine questions and concerns I have in getting my head around the legislation. We have genuine concerns about a number of aspects of the Bill, and the Minister will know this because that was expressed by my colleagues in the Seanad. At the outset of this process when we agreed in committee to dispense with pre-legislative scrutiny to facilitate the Minister, I said that I was open to be convinced on all aspects of the Bill. I am still open to being convinced and I say that in all sincerity.

In terms of the substance of the legislation, I will start with Chapter 1. That was the subject of the lengthiest debate, particularly during the ten-hour marathon Committee Stage in the Seanad the other day. I watched all of it and reread sections of it before coming into the Chamber. For people who do not have it, the information that is being provided by the officials is key to understanding the problem and finding the correct solution. The average length of time is 81 weeks for those 15 planning applications, which is far too long in any set of circumstances. We need to have effective mechanisms to address those and to reduce that time.

I get the sense when I read the Bill, irrespective of whether it was the intention of the Parliamentary Counsel, that local authorities are carrying too much of the blame for the delay whereas, obviously, local authorities are only one part of that process. There are concerns about poor quality applications, lack of adequate information supplied by applicants at various stages in the process and poorly designed aspects of the planning process. This is not any reflection on the current Administration but more to do with how historically we have legislatively framed pre-planning in particular. There is also the length of time it takes even for board decisions to be made. On the basis of the information in the Bill, the board is the quickest element of the three pillars of pre-planning, council planning and board decisions. The board's functions are very specific and it has a much easier job to do in some respects than the local authority officials at an

earlier point. Therefore, the 19 weeks on average for those 15 applications is probably too long.

I will move on to the specific concerns I have about this chapter of the Bill. I heard the Minister say repeatedly that it is not his intention and he does not believe the Bill is in any way undermining the role of councillors and local officials, but I do not agree.. Again, I am not questioning the Minister's sincerity in this. Local councillors, while having no formal role in a planning decision, bar making third party submissions, are key in the planning process in terms of the county development plan. There is a big shift when we move responsibility for taking a decision on an application from the local authority to An Bord Pleanála. The local authority planners must take into account the detail of a county or city development plan, whereas as we know, legislatively, An Bord Pleanála's relationship with the county or city development plan is different in that it must have regard to that. That creates a different relationship to that fundamental document in planning. I know there was a discussion on this with a number of councillors. The way in which the role of the local councillor is being undermined in this legislation means that the strength of the county development plan as the framework for underpinning planning decisions is weakened, irrespective of whether that is the intention of the Bill, and that is an issue.

Another issue is the lack of any non-judicial appeal. A fair and reasonable right to appeal a planning decision by a third party or by an applicant is not only right and a good feature of our planning system but something that is required under our obligations under the Aarhus Convention. In particular, there are clear obligations in Articles 5 to 8, inclusive. I would be interested to hear from the Minister, either later today or on Committee Stage, whether legal advice was sought on that particular issue and if the legal advice, or a summary of it, could be made available to us to allow us grapple with what are important issues in that regard.

I have a concern, and it is not a reflection on the quality of the staff in An Bord Pleanála. There would be at least ten local authorities to which this fast-track planning process would be expected to apply if it is introduced. We already see that not just big urban counties but also mid-sized rural counties have had applications of that size. We are probably talking about ten or more local authorities. There is a big difference between local authority planners who not only know their county development plan and associated policies but have been through the process of designing them, advising on them and so on, and the function of An Bord Pleanála staff. I acknowledge the Minister keeps talking about how the planning section of the local authority has a consultative role in making submissions to the board but, in making the decision, the board's staff do not have the same depth of knowledge in respect of the specifics of policy or local conditions as professional planners in the local authorities, and that is a problem in terms of the quality of decisions. There is a huge volume of sifting through the detail of applications in the planning process at local authority level, both in the pre-planning stage and in requests for additional information during the planning stage. That is one of the reasons that stage of the process takes more time than An Bord Pleanála dealing with specific aspects of an appeal. I am not convinced that is adequately compensated for in the alternative arrangements in this section to reduce the time, and I am concerned about that.

My main concern with this section is that there was a better way of doing this. I do not have the experience of the Minister's officials and I was not on a local authority for a long period but, according to the data the Minister supplied to us, the average time of the pre-planning stage in 15 applications was 33 weeks, the average time for the planning stage was 29 weeks and then it was 19 weeks with An Bord Pleanála. The longest stage is, therefore, is pre-planning and that is because there is not a tight enough statutory framework within which that stage of the process

should take place. For example, if I submit a section 247 application to a local authority, I do not have to submit a detailed plan. I know from speaking to many managers that sometimes it is weeks before the more detailed plan is submitted. How can the planning, roads or housing departments of a local authority agree to, and properly inform themselves for, a pre-planning meeting if they have not even seen the plans? We could have had legislation that tightened all that up. There is no reason to fail to restrict pre-planning to six weeks, but that would have to be done legislatively for it to be properly enforced.

The average time for processing the planning application is 29 weeks but when the time taken for the applicant to respond to requests for further information is sifted out as opposed to the time for the decision-making process, it is remarkable that the bulk of the delay is down to the time it takes the developer to respond. Of the seven long applications listed, in all cases almost half the time it took to process the application was in the hands of the developer. I understand that some of the requests for information are technical. They require certain types of surveys and there could be seasonal issues among other things, but either those issues should be identified in the pre-planning stage in order that they can be addressed before the application is submitted or developers and applicants are taking too long. They have up to six months, which is excessive. The Minister could have introduced legislative amendments to tighten that timeframe and shift some of the requests into the pre-planning stage, leading to much better outcomes. When the ten additional weeks that is added to that stage of the planning process is stripped out as a result of the time it takes applicants to respond with additional information, the time it takes the local authority to get through applications, according to the Minister's data, is the same as An Bord Pleanála. It works out at an average of 19 weeks.

An Bord Pleanála does not have to undertake the same work on an application as local authority planners and, therefore, there is no reason, as long as there is adequate staff, that it should take 19 weeks to decide appeals, some of which are taken on tightly defined sets of issues. I am not an expert on this and it is not an area on which I have the same knowledge as other areas of housing policy but I can identify an alternative 25-week process which would still allow the local authority to make the initial decision and allow for a fair and reasonable process of non-judicial appeal, which would achieve the same objective that the Minister is striving for. Perhaps I am naive and I do not understand the process properly, but this should have been examined more comprehensively.

Environmental impact screening is a good idea. I am convinced of the need for this both for applicants and for ensuring best quality protection of the environment. I have a number of concerns, however. There was not sufficient scrutiny of the sections in the Seanad. It took me a great deal of time to get my head around this. My first concern is that while there is a consultative element to what the Minister has designed, it distinguishes between organisations that are consulted before a decision is made from a list prescribed by the Minister of the day and other parties, whether that is members of the public or environmental non-governmental organisations, when a decision is made. The difficulty is those in the second tier of consultation will be consulted after the decision has been made, and I am not clear from reading the Bill what purpose that consultation has because there does not seem to be a procedure for altering the decision. Unless I am incorrect, the only third parties who have the right to take the issue to the board if they are unhappy with the decision are those who are involved in the first stage of the consultation process, that is, those who are invited to do so from the statutory list provided by the Minister. That creates a problem and undermines the State's obligations under the Aarhus Convention to ensure people have an opportunity to participate in the planning process. The

Minister could have met those in ways that would not have required additional time. If there is legal advice on the implications of this both in terms of the EU's EIA directive 2011-2014 and relevant articles of the Aarhus Convention, I would be interested in hearing it.

I have no difficulty with extensions to planning permissions in principle because that is sensible, but there is a small problem. There have been cases, including two in my constituency, which I will not name, where a developer who was phasing in a development did not complete a job in the first phase and then sought an extension of the permission for the second phase of the development. There are strong grounds for providing that third parties, whether they are local authority members or members of the public, should have the opportunity to engage in the process and to participate in consultation. There is a missed opportunity in this regard in the legislation and it could have been provided for without elongating the planning process. I urge the Minister to examine this. I will, however, table amendments in this regard.

I commend the Minister on the amendments to section 179, the Part VIII process, which I support. I have been through a number of controversial Part VIII applications and they were approved within six to eight weeks. There is no excuse in a housing crisis for county or city councillors to delay much-needed social housing, even when it is potentially controversial. My only disappointment with the section is these applications are not the primary problem in the process. We have had this discussion previously and I acknowledge a review is under way, as outlined in *Rebuilding Ireland*. The four-stage approval, tendering and procurement process is the big delay. I voted in favour of developments as a member of South Dublin County Council in October 2013 which still have not been built and which are still stuck in that process. The Minister is committed to making amendments in this area, but I made a relatively detailed submission to him and the Department and I had hoped he would address this in the legislation. Perhaps he has something for early next year in respect of amending that process. However, he keeps repeating to us that while there used to be an eight-stage process, it is now four stages. That is true but the four-stage process is still a problem. I urge changes in this regard either in this Bill or in new legislation early next year.

The amendments to sections 3 and 4 of the Residential Tenancies Acts in Part 3 are sensible and welcome, but there is another category of social housing tenants who do not have the same basket of rights as those of us in the private rented sector or those in the approved housing bodies, AHB, sector have, which is renters from the State. It makes no sense whatsoever that social housing tenants in local authority properties do not have access and recourse to the same mechanisms. The Minister probably did not have time to think about that in the context of this Bill. I urge him to return to this issue at some point next year so all rental tenants - local authority, social rental, approved housing body and those of us in the private sector - will have the same set of rights and protections. My suspicion as to the reason why local authority tenants are not included under the terms of the Residential Tenancies Act is because it would open up a can of worms in terms of some of the issues of quality of accommodation in various parts of the country. That is not a criticism of the current Minister. It would also give tenants in local authority properties access to the RTB in disputes with their landlord, which, essentially, is the State.

The Minister knows my view on the Tyrrelstown amendment. We have discussed it before. The problem with the threshold of 20 - I will come to the issue of the five in a moment - is that it means the vast majority of people who are currently at risk of homelessness or who are in emergency accommodation because they were made homeless as a result of a property being repossessed by a bank and the landlord giving notice to quit will get no additional protections.

The Minister is introducing an amendment to strengthen the rights of some tenants but the vast majority of people who need this protection will get no additional protection either under the initial proposal or under the reduction to five. The Minister knows that landlords who own 20 properties or more represent approximately 0.56% of landlords and 15% of tenancies. It would be great for those people but the other 85% or so will be left out. Even though it is good that the threshold of 20 is being reduced to five, it is still-----

An Leas-Cheann Comhairle: I have to interrupt the Deputy. His 20 minutes have expired.

Deputy Eoin Ó Broin: I need about four minutes extra.

An Leas-Cheann Comhairle: The Deputy can take five minutes of Deputy Jan O'Sullivan's time.

Deputy Eoin Ó Broin: I thank the Leas-Cheann Comhairle and Deputy Jan O'Sullivan. The threshold of five applies to less than 10% of landlords and less than 25% of tenancies. That means we are creating a two-tier protection for tenants who are at risk of homelessness, one for those in that 25% of tenancies and then everybody else. I just cannot support it and I will be tabling an amendment to reduce it to one. I do not accept that there are any legal impediments. Clearly, there is a debate to be had in terms of the impact on the supply and existing stock of rental properties but that is not a legal matter but a policy matter. Not only do we need to look at the consequence for landlords, we also need to look at the consequences for those people who are at risk of homelessness.

I strongly welcome the repeal of section 42. I have two queries. One of the concerns when approved housing body tenants came under the terms of the Residential Tenancies Act was whether long-term tenants of such bodies would experience any diminution of rights in the probationary period at the start of the first Part 4 tenancy. I am wondering if that is still the case, even under the terms of this amendment. If we remove that six-month probationary period for the next four years and the four after that, will it also mean that those subsequent tenancies will be the same tenancy as the first four years, for the purpose of rent reviews, etc., or will they be new tenancies? Are there loopholes in terms of rent review legislation? It is very worthwhile to examine the position.

On the amendment to section 100, I am strongly opposed to the reduction to ten days. We need to speed up the time of the tribunals and the appeals but in many cases the people who are in these situations may have literacy difficulties or vulnerabilities and they may need to obtain access to support or advocacy organisations. As a result, ten days is insufficient. If we want to speed matters up, I urge the Minister to consider additional resourcing for the relevant body rather than less time to make the appeal. I will make a similar point in terms of reducing the membership of tribunals from three to one. Sinn Féin tried to submit an amendment in the Seanad to reduce it to two as a compromise but that amendment was ruled out of order because it would impose a cost on the State. Some of these, even on individual issues, can be quite complex and having a second opinion in the tribunal, particularly given the vulnerabilities of and the difficulties for landlords and tenants, would be very prudent.

An amendment of section 124 provides that determination orders go to the District Court rather than the Circuit Court. The only difficulty I have with this is that in the absence of any policy changes promised in Rebuilding Ireland in terms of a new mortgage resolution regime, it could lead to increased levels of homelessness. It is not acceptable that when a determination

order has been decided, there can be a further period of months of legal dispute. I am worried that this provision could end up increasing the flow of certain families into homelessness. It needs to be addressed.

I fully support what is proposed in respect of student housing. We also need to include something around affordability. Universities that will be accessing low-cost, Government-guaranteed Housing Finance Agency loans need to ensure us they will provide accommodation at an affordable level. Some of the on-campus student accommodation currently provided cannot be described as affordable. That is crucial.

I repeat what I said at the outset. We have lots of rows in this Chamber. There are lots of times when we accuse each other of playing politics. All the questions I have raised on this Bill are sincere. I hope that we will be able to get into the detail of this on Committee Stage because I have serious reservations, particularly about the strategic housing developments. I have some concerns around the environmental impact assessments. The Tyrrelstown amendment, in particular, does not go far enough to provide the kind of protections that both the Minister and the rest of the Deputies in the House are trying to provide.

Deputy Jan O’Sullivan: I also intend to be constructive on this legislation. I recognise the Minister’s intentions to ensure we have construction of houses and supply as quickly as we can and that we take away obstacles to the achievement of that aim. He is right when he says that supply is the major problem, although those of us on this side of the House would argue that in the meantime we have to protect people who are not able to buy homes and are, therefore, stuck in the rental sector. We debated that matter yesterday and I will not revisit it now. I welcome elements of the Bill and I understand its intention but I also have concerns, particularly around the fast-tracking proposal to go straight to An Bord Pleanála with developments of 100 units or more.

I will first of all refer to the sections of the Bill that are positive. The proposals on Part 8 developments are in that category. Other Deputies have referred to the issue around clarification on whether environmental impact statements are necessary. That is helpful. It will give greater clarity and avoid undue delay and expense where there is sometimes a doubt as to whether they are necessary or not. That is positive.

The issue to which Deputy Ó Broin just referred in the context of the lending for the purposes of student housing from the Housing Finance Agency is a positive. In my previous role I was very familiar with the difficulty of student housing, the shortage and the fact that students very often have to compete with other renters in the private rented sector. We want to see higher education institutions providing student housing that is affordable.

Deputy Cowen referred to the assessment the Housing Finance Agency is carrying out in respect of the cost of building. That is a positive. I have heard a representative of the Housing Finance Agency speaking before about the fact that it could be lending more widely than it is at present. It has often made the argument that it should have the power to lend to local authorities. That matter should be examined.

When he commented on Part 4, the Minister referred to the initiative in Rebuilding Ireland whereby the Housing Agency would be provided with capital funding of €70 million to acquire properties from financial institutions for social housing. That is positive and could be expanded. I have made a proposal before that local authorities should also be allowed to purchase proper-

ties, do them up and rent them to their tenants. There is an element in Rebuilding Ireland that deals with that issue. We have all referred to the fact that there are nearly 200,000 empty houses in the country. The census broke down some of those figures. In 17 of our larger towns, there are significant numbers of empty houses. Let us suppose a local authority could buy a derelict house in a town - they could do so cheaply in many of our towns. It could do up the house or have it done up by a local builder and then allocate it to local authority tenants. The Minister would solve a number of problems, including taking away the problem of empty buildings in our towns as well as providing housing for people on the housing waiting lists. Perhaps this is not the place to say it, but the Minister referred to the point in his speech. I believe there is more potential to get rid of the blight of empty properties in our towns and to put more vibrancy and life into those towns as well as providing homes for people on the social housing waiting lists by going in that direction.

I will come to the element to which I wish to give most of my time presently. It relates to the amendments to the Residential Tenancies Act. Most of the amendments are welcome, but I wish to focus in particular on the proposals relating to developments of 20 dwellings and the proposal to reduce to five the number from which vacant possession would not be allowed by the owner of the properties. I am keen to see the figure reduced to one. The idea that a landlord could get rid of a tenant who still has a lease because a property is being sold is a fundamental cause of homelessness and represents a balancing against the tenant and in favour of the landlord. I believe the balance needs to be put more in favour of the tenant, especially in light of the rising cost of rents. We get figures every day of the week relating to the rising cost of rent, especially in our cities. The Minister indicated that the reduction from 20 to five came from a Report Stage amendment in the Seanad. Obviously, five is better than 20, but I am somewhat alarmed at what the Minister has said today that he is in the process of taking advice on this change and may need to come back to it at a later stage. I can only understand that to mean it may go back up from five, and I would be rather concerned if that is the intention. Perhaps the Minister cannot clarify the point today but I imagine it will come up in later stages. Certainly, I am concerned that there might be some legal issue around that.

Since we are discussing legal issues, I would be interested in the legal advice relating to the Aarhus Convention. I understand the Minister is taking advice on the matter and I would welcome any clarification.

The area I am especially keen to speak relates to the plans to fast-track planning of developments of 100 or more units, establish a strategic housing division in An Bord Pleanála, albeit for a restricted period, and to effectively take out the planning layer in local government in respect of those developments.

The Irish Planning Institute has expressed grave concern in this regard and has described the move as being damaging to democracy and misconceived. The institute has a strong point in that regard. Various people have referred to councillors who are also concerned. The Association of Local Government in Ireland, which represents councillors, has sent a detailed submission - I think everyone received it. The association made the point that all local planning authorities have statutory planning timelines of 16 weeks and that these must be adhered to in all cases. The timelines include an eight week period for a decision on an application following validation and a further four week period if a request for further information is made. Then a final four week period applies for granting of permission if no appeal is made. I concur with what has been said already. The pre-planning area is really where significant delays are experienced.

Deputy Simon Coveney: That was before we made amendments in the Seanad relating to some of those concerns.

Deputy Jan O'Sullivan: Nevertheless, it is no harm to represent the practical proposals of the association. The association has said that it accepts that delays in the planning process may arise. However, it is of the opinion that these delays can often be on the part of the applicant, who has a statutory six month timeline for replying to requests for further information. In order to help to speed up the timely delivery of planning decisions by local authorities, especially in respect of large residential developments, the association has proposed that the period would be shortened to no more than a three month period to reply to requests for further information. It has also suggested that a mandatory time-bound pre-application consultation process at local authority level should be in place. Such a pre-application consultation could mirror the proposal detailed in the Bill, including the preparation of a report by the planning authority on the application following the consultation process. The association maintains that would help to assure applicants that once their application is lodged with the local authority, it will be dealt with in a timely manner.

Other concerns have been expressed. I was somewhat unsure what the Minister meant when he explained that the views of councillors and elected members of any development will be reflected in the report of the chief executive on the proposed development, etc. That still takes away the layer whereby local people and communities can have a say at local level in planning. Others have made the point that An Bord Pleanála, understandably, would not be familiar with the local area in the same way as the local system.

The issue around the extent to which An Bord Pleanála will have to abide by the local county plan or area plan is relevant. There are genuine issues and concerns around eroding the local level or layer of the planning process. I am concerned this change will give rise to more judicial reviews, because effectively that would be the only way in which an appeal can be made. It is regrettable that centralisation is under way rather than devolution. We have talked for years about how we should have more powers devolved to local level. In fact, this represents the opposite. It involves taking it to a central level. I genuinely believe the delays are not caused by the local process. Oftentimes delays arise because developers are not really organised or ready when they put in an application, or they have not gone through an appropriate pre-planning process. Often, they are responsible for extending the process.

The Minister often refers to the fact that there is planning permission in the greater Dublin area for approximately 27,000 housing units. These planning permissions already exist, yet, people are sitting on those permissions and not building. If we could get that moving more quickly, we would be doing a greater service to the whole process.

Deputy Simon Coveney: We are doing that too. These things are not exclusive.

Deputy Jan O'Sullivan: That is where the real problem lies. I do not believe that the measures the Minister is proposing to introduce in this legislation will do a great deal to speed up the process. In fact, doing something about deterring developers from sitting on sites with permission would do far more. I intend to bring in legislation next week to address this in the context of the Kenny report and by bringing forward the vacant sites levy. That is for another day, but the fact that there are so many existing planning permissions is enough to suggest that the problem does not lie with the local tier of the planning process.

I welcome the measures in respect of the extension of planning permission. The Minister has said that this will only apply where substantial work has been carried out. I know the Minister has brought this forward in the Seanad. That is welcome because we do not want people getting extensions to planning permissions simply because they want to delay the process. They have to show that they have done some work. That measure is welcome.

3 o'clock

Overall, there is much good in this legislation, but the issue of real concern to me and others in the Chamber is the erosion of the local tier of the planning process. Genuine principles of local democracy are at stake in this regard. Councillors rightly have a limited role in planning processes, but at the same time they have the opportunity to raise issues about planning, and local communities have the opportunity to submit comments on planning applications. This process will now be centralised through An Bord Pleanála. I do not believe this will greatly speed up the process of construction. While this is what we all want to achieve, the answers lie elsewhere than in this measure in the Bill. However, overall, as I said, I acknowledge that there are good elements in the Bill as well.

Deputy Ruth Coppinger: We have heard much about the need for this Bill to be progressed very quickly. Those of us who on the housing committee heard the Minister's arguments to speed up its passage or allow it to bypass pre-legislative scrutiny. People may have the impression that this is emergency legislation to resolve the housing crisis. I only wish it were so. The Bill has fallen way off the target of what is causing the housing crisis. It will neither resolve it nor make an affordable house available any more quickly to anybody and it damages and sets aside important checks on developers in cases of large developments. Tenants' rights are very poor in Ireland compared with other countries, despite the fact that at least 20% of people now rent. The figure is much higher for cities. The Bill does not give any additional powers to tenants over a landlord to protect themselves against eviction. I will deal with that further in a moment.

Regarding planning issues, the Irish Planning Institute is quite alarmed by this Bill. It would argue that the very important local checks by communities and councillors will be damaged by the Bill, with no evidence that this is necessary. Nobody examining the situation could say that the planning system is to blame for the delay in housing coming on stream. In Dublin alone, there are 28,000 planning applications granted and thousands more in the pipeline. Why are these applications not being processed? We must nail this. It is because developers are hoarding the land and waiting for prices to increase in order that they can make even more of a killing on the market. This is absolutely the reason for the delay. The developers have their planning permissions and they are not using them. Instead of caving in to developers, we must intervene.

The other argument I think the Minister used concerned a very small sample of planning applications. I have seen many counter-examples as a councillor. It is not the case that huge delays come at local level. In fact, very few planning applications are delayed. Those that are tend to be very unusual, with large-scale objections and so on. If a big development is being considered for planning permission, it is important that communities have a right to a say on such matters as overshadowing, traffic and so on. It is quite a serious erosion of rights for the Minister to wipe that away. I have seen a sample in Dún Laoghaire-Rathdown County Council in which no planning applications whatsoever were delayed at local level. We really need to hear much more evidence from the Minister and the proponents of the Bill that this is necessary.

What is delaying housing now? NAMA, a huge landholder in key areas where there is a housing crisis, has been sitting on land for a number of years and the developers are dysfunctional after the crash. However, it now seems that we must wait for the private developers to decide when it is profitable for them to start building again rather than for the State to intervene and build affordable housing on a grand scale, as it did in the 1970s to resolve the housing crisis of the 1960s. In the 1970s, 8,000 or 9,000 local authority homes were routinely built every single year without fail. That is the only way. The focus yet again is on kick-starting the private developers and removing impediments in their way, whereas we all know that there is no guarantee they will provide affordable housing.

I also want to deal with the issue of tenants' rights. My constituency, Dublin West, has been widely acknowledged as having a very serious homelessness crisis. Several surveys have shown that 40% of those in homeless and emergency accommodation in Dublin hail from Dublin West. There are particular reasons for this. Dublin West has a young population and a large migrant population which are very reliant on private rented accommodation. It also forms part of a local authority that simply does not have the land zoned to build housing straight away. There is a key reason people are being made homeless now, however, and I mentioned it last night in the other debate we had. We went through a survey of our cases. The reason given in 31% of cases of eviction was sale of the property. In 12% of cases, there was a family member the landlord suddenly needed to move into the property. These two grounds alone constitute 43% of cases. Sale of the property has bypassed rent increases as a reason for eviction. Many people can apply for a rent increase, although rent increases are increasingly being used to vacate properties in many areas. The Minister originally proposed, supposedly to declaw the vulture funds, that they could only evict 20 families, and they are usually families, from properties in one development in a period of six months. I pointed out to the Minister in September when he broached this matter with the Committee on Housing, Planning and Local Government that such a measure would be very simply bypassed by just ordering 19 evictions. Getting rid of people in large-scale developments is a long-haul game anyway. It takes some time for these landlords.

The other point I made is that we must outlaw the sale of the property in such cases for anybody at all. Most tenants in this country - 83.5% - live in properties owned by a landlord who owns fewer than ten properties, so the Minister's original proposal would only have catered for a tiny number of people. However, 70% live in properties owned by a landlord who only owns four properties or fewer. An amendment was passed in the Seanad, which I assume was against the Minister's wishes, to change the number of evictions permissible to five per development. Even with the amendment, 70% of people will not be covered by this measure. The Minister has left in many loopholes to protect landlords in these locations.

Let us say they can only carry out five evictions at a time. One way a landlord can get around the measure is to state that he or she would lose, as the Minister has put it, 20% in the sale of a property if he or she must sell with a tenant *in situ* as opposed to on the open market as a vacant dwelling. That is very easy to do. Once again, the Minister is placing the rights of landlords and vulture funds to profiteer over the right of a family to keep a roof over its head. We all know that all a landlord has to do is show three other properties in the area with a higher sale price and - bingo - they can evict. They are doing this now. It is simply not good enough to leave in the legislation such a huge power in the landlords' hands. If the Minister is serious about hitting the vulture funds, this just looks as if he wants to be seen to be hitting them when he is not. I understand that amendments have been made to the other ground, that is, that if it

is unduly onerous on the landlord, he or she can be exempted. The Minister is giving landlords so many loopholes to get out of this. They have all the legal teams they need against the usually powerless family that does not even know the law or its rights. I ask the Minister to accept amendments on this matter on the next Stage of this process.

Another issue I seriously implore the Minister to consider is Part 4 tenancies. These also came up in the debate last night. He can put into the legislation all the changes he likes, but if a vulture fund or landlord wants to get rid of somebody, it simply has to wait until the four-year cycle is up before the tenant is back to a period of having no rights again. It is normal and usual for families to be in properties for at least four or five years before eviction comes on the cards. The Minister must rebalance the rights of tenants over the rights of landlords to evict at will.

In my remaining time I would like to clarify remarks I made last night in the housing debate, and I spoke with the Ceann Comhairle about this earlier. I made the point that there is a very high level of landlord representation in this House when compared with society as a whole. In society, 4% of Irish people are landlords but in here the level is 20% to 25%. When I spoke about the Minister and Minister of State, it certainly was not personal. It was a political point that being close to landlord activity must influence decisions made here or decisions made by parties. It was a political point about how decisions are made. I understand the Minister of State is not a landlord; he owns multiple properties but he is not a landlord.

An Leas-Cheann Comhairle: I thank the Deputy for the clarification. I take it the Minister accepts it.

Deputy Simon Coveney: Absolutely. There was no offence taken.

Deputy Richard Boyd Barrett: This legislation is directed towards trying to deal with the housing crisis and at the beginning of any discussion on that crisis, we must start by reminding ourselves of the human reality. It came home again in the past week when a man in Dundalk died on the street as a result of exposure to the cold. It is almost two years to the day since Jonathan Corrie died close to the entrance of this building. Those very stark and awful facts are set against a background of the homelessness issue not getting any better since Jonathan Corrie's death but rather very considerably worse. For all the work, talk, plans, publications and announcements, the issue has worsened and people continue to die on the streets. The number of people on the streets in homeless and emergency accommodation has increased. In particular, it is a shame beyond shame for any Government that there are now 2,400 children who are homeless, with 85% of those in the city. It is beyond shameful.

I do not doubt the Minister has put much effort into this but it is not working because, overwhelmingly, there is a reliance on the market to deliver. In everything the Minister does, there is the fear and "sensitivity", a word that almost made me scream, that the Government feels it must have for a thing called the "market". We should remove the euphemism of the "market", as it is a euphemism for developers and landlords. That is what we are talking about when we mention the market. We are talking about people who want to make money from property. The Government's entire policy is directed towards incentivising them and removing obstacles; in essence, it is not doing anything that might annoy them or suggest to those people that they might make less money from property and housing. These vested interests are clearly telling the Minister and his Government, as well as Fianna Fáil, if we take into account how it reacted to the rent certainty legislation, what cannot be done because it would mean those people would not make enough money. The Government is rolling over and saying that is acceptable. Every-

thing the Government does is circumscribed, essentially, by the fears, anxieties and greed of the developers, landowners and landlords. For that reason, it ends up doing things that at best will achieve very little and at worst may be counterproductive. That brings us to this Bill.

We should be clear about this Bill. As Deputy Coppinger has stated, the primary reason we have not got the famous supply of housing is that NAMA, landowners and developers have not seen it as profitable to deliver housing. There are problems at local authority level and I do not dispute that. They are inherent to the democratic process of planning and public consultation but to say that is the main issue is the knee-jerk view of the developer and landlord class. That is what they always think. They believe the problem is bureaucracy, red tape and inefficient public bodies rather than themselves. That is not to say there are no problems or delays in the planning process but even with the legislative streamlining being proposed by the Minister, it will make no difference. The problem at the level of the local authority and An Bord Pleanála is a lack of staffing. The Minister can legislate all he likes but it will not make any difference in terms of timescale. If it does make a difference, it will be because the quality of planning oversight will reduce in order to meet the deadlines being set by the Minister. There will be bad development, bad planning decisions and so on because the Government is not providing resources but is demanding that the stuff be rushed through. The Minister is not addressing the central problem.

If the Minister manages to speed up the process he will still be at the mercy of developers. I received an interesting piece of anecdotal evidence during the week indicating that many of the planning applications in Dublin are now for student accommodation and hotels. I believe Mr. Denis O'Brien is moving into the provision of student accommodation. It is always a bad sign when he moves in any particular direction.

Deputy Ruth Coppinger: Will it have a kitchen?

Deputy Richard Boyd Barrett: One can get many students into small spaces and there is much money to be made in that. Many people can be put into hotels and there is much money to be made in that as well. There is not as much money to be made in building decent and affordable residential property. Such people go where the money is and the Bill will still encourage them to do so rather than delivering social and affordable housing. Even if the legislation did that, it still would not work, and the Dún Laoghaire-Rathdown area illustrates this point.

If the private developers deliver in a speedy timeframe, which they will not unless the Minister helps to provide staff and the local authorities do it themselves - I will get to that point in a moment - there would be no difference in our area anyway because of affordability. The average house price in Dún Laoghaire-Rathdown is €498,000, which is €160,000 higher than the average in Dublin, €210,000 higher than the average in Fingal and €230,000 higher than the average in south Dublin. That is completely unaffordable. Nevertheless, the Minister is leaving this to private developers who will charge such prices.

The trend is similar with rents. The average rent for a one-bedroom home is €1,800 per month and for a three-bedroom home it is €2,280, which is totally unaffordable. If those prices come down and there is not enough money in it for the developers, which they and the Minister keep saying is the big problem, they will not increase supply. They will stop at the point at which prices start to come down because they are interested in price and profit. The supply will never equal demand because the only demand they are interested in will result in high prices or rents. They are not interested in absolute demand; they are interested in effective demand

backed by money that is willing to pay these extortionate prices. Given that they have a monopoly of control of the land, and in light of the Minister's decision to give them most of the control over the social and affordable housing that will be delivered, why on Earth would they develop or increase supply to the point at which prices would begin to decrease? They have never done this in the past and they are simply not going to do it in the future. It is for that reason that direct builds are needed.

I will conclude by talking about the real delays associated with direct builds, even in cases of Part 8 planning. The Minister is talking about reducing the amount of time that councillors will have to make decisions. The real delay relates to the tendering process that is necessary as a result of the outsourcing of local authorities' public and social housing. We got a breakdown of this from Dún Laoghaire-Rathdown County Council. We need to address the activity that is accounting for the bulk of the time that is being lost by directly employing people to build houses on public land. If we do not do this, the approach being pursued by the Minister in this legislation will make a negligible difference, or no difference at all, to the problem of slow delivery of houses. We need direct labour that is directly employed to build local authority housing on public land. That will force the private developers to build. If the public sector begins to build housing, the private sector will be forced to crystallise its land holdings into development.

Deputy Thomas P. Broughan: I would like to share time with Deputy Joan Collins.

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

Deputy Thomas P. Broughan: I echo the comments that have just been made by Deputy Boyd Barrett. Nothing more true has been said about housing in this House in the past seven or eight years. The regressive and retrograde decision to abandon large local authority development in the mid 1990s was made on spurious grounds of design etc. The Minister will agree that there are many examples of beautiful and incredibly sustainable local authority areas and estates in his city of Cork and my city of Dublin. If previous Governments and our local authority predecessors were able to do that in the past, it should be possible for us to do it again.

I am delighted to have an opportunity to speak briefly on the Planning and Development (Housing) and Residential Tenancies Bill 2016. I fully agree that major initiatives are urgently needed to increase housing output vastly and address our deepening housing and homelessness catastrophe. I do not believe this Bill is one of those initiatives. I asked the Minister in recent parliamentary questions to resource local authorities to enable them to build directly. I remind him that whole local authority departments of skilled planning and construction professionals were depleted, if not wiped out, over the past 20 years. The Government has done almost nothing about this. The Bill before the House is a further continuation of the old failed rip-off system that was led by private developers. I recognise that the Minister is sincerely aware of the depths of this crisis and the need for urgent and dramatic action. I have called for a FEMPI-type response to this crisis on many occasions. We saw on the financial side that this kind of response involves very direct action. This House was prepared to take ruthless action in relation to the banks and public sector pay etc. but it does not remotely seem to have the same inclination in relation to housing.

Although I agree that the planning process could be expedited at different stages, I believe it is absolutely unnecessary to eviscerate the powers of local authorities in the manner set out in this legislation. I remind the Minister that up to 100,000 housing units were built each year between 2004 and 2008. The exact housing figures were 68,819 in 2004, 76,954 in 2005,

80,954 in 2006, 93,419 in 2007, 78,027 in 2008 and in 51,724 in 2009. We were able to turn out housing in such massive numbers under the system that is currently in place. Vast new urban districts were built under the existing Planning and Development Act 2000. Large developments were built in my own constituency of Dublin Bay North even though it was not a strategic development zone. I understand there are existing permissions to built 27,000 homes in Dublin alone. This would exceed the basic annual output for which the Minister is aiming. I understand that enough land has been zoned as residential across Ireland to facilitate the construction of 414,000 homes. Why are these homes not being built? That is the fundamental point. A total of 17,434 hectares of land is zoned as residential across the country. Some 2,654 hectares of this, or over 5,000 acres, is in the Dublin area. This land could be used to provide 116,700 urgently needed homes.

This legislation will do nothing to address the problem of our total reliance on the failed speculative bank-and-developer system. We know that land hoarding is still a huge problem. When I look at some estates that are being built at the moment, I am reminded of the construction of the cathedrals of the Middle Ages or the Great Wall of China. It seems to be going on and on. I wonder why this is the case. Is it a question of a lack of finance? Are developers deliberately holding and hoarding in the knowledge that the housing crisis will be even worse next year and the following year and prices will continue to escalate? Many planning permissions have been granted in the local authority areas I represent - Dublin city and Fingal - in the past two or three years, but we are still waiting for the homes. Bankrupt developers are working their way back with the help of NAMA. The Government is now calling on developers who left us with messes like Priory Hall and Longboat Quay, with pyrite-ridden homes and with fire traps to come to the rescue in addressing the housing crisis as it spirals out of control. The dysfunctional bank-and-developer financial model that has been driving our housing market has been overseen by the Central Bank, which has been equally dysfunctional at times. Like other Deputies, I have complained month after month over the past year and a half on behalf of constituents that action needs to be taken on the macroprudential rules. The Governor of the Central Bank, Mr. Lane, did not see fit to come forward with minor positive moves to try to relax those rules until the past week.

On the positive side, I accept that the Bill includes a few small improvements for tenants. Unfortunately, it does not really make an effort to address the real power of landlords and property owners. Section 4 of the Bill provides for the streamlined planning processes that will apply to strategic housing developments, which are defined in the Bill as developments of more than 100 homes or developments of student accommodation with 200 or more bed spaces. Although this streamlining is due to expire in October 2019, the Minister has said that it could continue until December 2021 as a result of a Seanad amendment. If these changes are deemed to be necessary, why is the Minister placing time limits on them? I suggest that the Minister could have considered taking the opposite approach by leaving the key invigilation and decision process with the local authorities that know their own areas best and by greatly reducing the times permitted for the appeals process.

Surely local planners, elected representatives who make third party submissions and the various civil society groups and residents' associations etc. are best placed to assess proposed major developments and to decide what is best for local areas. I would like to refer in this context to one of the many large developments that have been proposed in my constituency recently. I believe the residents of the receiving environment and the Dublin City Council planners are best placed to decide on what constitutes a sustainable development for the site in ques-

tion, which is on the grounds of St. Paul's College near St. Anne's Park. I remind the House that there are 6,500 people on the homeless and housing list in my constituency. Urgent action is needed for that reason. The effect of this legislation will be to ban third party submissions regarding large developments at local level.

The Minister said in the Seanad and again in this House that under the process that is being created, the chief executives of local authorities will be able to have an input by making submissions. This will differ significantly from the current situation, which permits interested citizens to make submissions immediately. The Minister might recall that when many houses were being constructed in the 2000s, as I have mentioned, people had eight weeks to make submissions in the first stage of the local authority process. This was reduced to five weeks as part of a previous attempt to streamline the process. In my experience, much information is often missing from the original proposals and, when additional information is required, it is usually the developer's fault. In the past two to three years, there have been many time-wasting reapplications by developers, seeking either fairly minor amendments or to increase the number of houses compared to apartments, in order to take advantage of current market conditions. I note the Minister has moved on that problem to some extent.

After the current five-week process and the decision by the council, people will have only four weeks to make an appeal application to An Bord Pleanála. The latter's target to make a decision is usually 18 weeks. From my experience of my constituency and neighbouring ones, even the largest proposals rarely receive an oral hearing. The only instances where there have been oral hearings have been for very large developments of perhaps more than 500 homes or for shopping centres and developments of that type.

An Leas-Cheann Comhairle: I must interrupt the Deputy and ask him to conclude.

Debate adjourned.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Aindrias Moynihan - introduction of pay-by-weight refuse collection in Cork; (2) Deputy David Cullinane - concerns regarding capacity at University Hospital Waterford and outsourcing to Cork; (3) Deputy Brendan Griffin - gynaecological service delays at Cork University Maternity Hospital; (4) Deputy Frank O'Rourke - problems with the centralised tender for book supplies to public libraries; (5) Deputy Colm Brophy - the HSE vacant assessment needs officer post in Dublin south west; (6) Deputies John Lahart, Jim O'Callaghan and John Curran - funding for Our Lady's Hospice, Harold's Cross and Blackrock; (7) Deputy Carol Nolan - the impact of JobPath rules on jobseekers; (8) Deputy Peter Burke - staffing arrangements at the North Westmeath Hospice; (9) Deputies Clare Daly and Mick Wallace - the tax paid in 2015 by Cerberus on its profitable Irish activities; (10) Deputy Fiona O'Loughlin - Garda resources in the Kildare division; (11) Deputies Catherine Connolly and Éamon Ó Cuív - the withdrawal of the ferry service from Ros a Mhíl to Árainn; an gá go ndéanfar socrú práinneach chun cinntiú go mbeidh seirbhís farrantóireachta ó Árainn agus go hÁrainn; (12) Deputy Eugene Murphy - the provision of home-care packages in CHO area 2, Roscommon, Galway and Mayo; (13) Deputy Lisa Chambers - the pending industrial action at Mayo University Hospital; and (14) Deputy Paul Murphy - the ongoing detention of Ibrahim Halawa in Egypt.

The matters raised by Deputies Colm Brophy; Catherine Connolly and Eamon Ó Cuív; Carol Nolan; and Aindrias Moynihan have been selected for discussion.

Ceisteanna - Questions

Priority Questions

Hospital Beds Data

1. **Deputy Billy Kelleher** asked the Minister for Health when the review of bed capacity in the hospital sector will take place; if the review will be independent of the HSE; if those persons conducting the review will be asked to examine Ireland's public bed capacity in the context of both the position in other OECD countries and the bed-occupancy levels that obtain in those countries; and if he will make a statement on the matter. [38165/16]

Deputy Billy Kelleher: I have raised this issue previously, particularly in respect of ensuring that the review will be independent and at one remove from the HSE in order that there can be no accusations of agendas being set, of demands on the State for extra bed capacity or that the HSE would try to cover up failings in the system in terms of the planning problems it may have encountered regarding demands for bed capacity in the coming years.

Minister for Health (Deputy Simon Harris): I thank Deputy Kelleher for tabling this important question on a matter which he has raised on a number of occasions. A Programme for a Partnership Government commits to the undertaking of a national hospital bed capacity review "to establish the number, type and location of beds required into the future recognising the need for a range of beds including critical care, palliative and day case bed stock", with the intention that this would form part of the preparations for the Government's review of the capital plan 2016-2021. This is important work that will enable the determination of future capacity requirements, provide a basis for planning our health and social care services and assist in informing investment decisions over the coming period.

While A Programme for a Partnership Government explicitly commits to a review of hospital bed capacity, I believe this also presents us with an opportunity to consider capacity requirements across the health service generally. We have talked in the House in the past about the shift to primary care and social care, and we have to look at all of the beds within all of the health service. While I appreciate that there are immediate strains within the acute hospital system, I am also conscious that our growing and ageing population is going to drive demand for health and social care services more broadly. The overall population increased by 6.8% over the period 2007 to 2016, while the numbers over the age of 65 increased by nearly 33%. This demographic pattern will continue in the coming years.

A comprehensive review that will assess current capacity and future capacity requirements across primary, social and acute care services will allow us to properly examine and determine how the system, as a whole, can respond to these challenges. My Department has commenced work on an overall model of care which will inform the assessment of future capacity requirements across the different parts of the health sector. This model of care will be informed by

international best practice and the work underway has included engagement with experts from the European Observatory on Health Systems and Policies in this regard.

My intention is that the capacity review will be undertaken by my Department rather than the HSE, with suitable external expert inputs as required. Initial work on scoping the project is already under way. I envisage that the review will commence very early in the new year and will be advanced sufficiently to enable it to contribute to next year's mid-term review of the current capital plan.

Deputy Billy Kelleher: We heard evidence from Mr. Tony O'Brien at yesterday's meeting of the Committee on the Future of Healthcare on the future needs of health care provision and the investment requirements. It is quite alarming, taking into account the demographics and the changing nature of how we will provide medical care in the years ahead, that our capacity system could just fall over. It is important that we get it right and that we base it on what we believe will be the challenges and demands on the health service in the years ahead. More importantly, however, we need to take into account that we will need more community care and primary care investment to help ensure the acute hospital system is functioning in the way that is intended, namely, with a focus on acute care.

Overall, for this review to be done right, it has to be at one remove from those who will be making the decisions on funding. My concern is that they would perhaps talk down the demand that will have to be met in order that it would not look like they were raising the bar too high and that the funding would not be put in place as a result. There might then be accusations from this side of the House that this had been done for other reasons. We want the review to be impartial and to have integrity. This will be the bedrock on the capital investment side of health care in the acute hospital system for the next number of years but also in the community care and primary care systems.

Deputy Simon Harris: I agree with the Deputy about the importance of ensuring that expertise is brought in and that this review will be independent and impartial. While my Department will obviously be scoping the review, we will bring on board external support. It is not in anyone's interest for this not to be absolutely factual because we all need to get serious about the bed needs for our health service right across the spectrum.

In order to ensure that the review is as effective as possible, my Department has been undertaking preliminary work to define both its scope and the broad parameters for assessing capacity. This includes a review of similar types of exercises undertaken internationally. We have already started a number of strands of work defining the scope of the review, the parameters in assessing capacity, benchmarking Ireland against international comparators, the impact of population growth and the ageing population, for which the census 2016 data will be available in March of next year, and the likely changes required in our model of care to most effectively meet future health care requirements. The Department is considering various approaches for undertaking the review. This includes governance and oversight in respect of the role of the HSE and the requirement for external expertise. I will keep the House informed.

Deputy Billy Kelleher: In view of the fact the Minister has given a commitment that it will be benchmarked against best international practice and that there will be comparisons with standards in other countries, we need to take into account where we believe health care will be going in the years ahead in terms of primary care, community care and feeding into the acute hospital system, as well as, for example, the important area of palliative care. The review needs

to be robust and to have integrity.

The point I am making is that people sometimes express a view that the policymakers setting the policy are also the ones who are obligated to fund it, which means there can at times be conflicts of interest. If one sets the policy and then fails to fund it, there might be an incentive to reduce the ambitions in the policy area.

Deputy Simon Harris: As of July of this year there were 12,733 beds in the health service, 10,579 of them being inpatient beds and 2,154 day beds. There has been a range of reviews, with the most recent bed capacity review carried out by PA Consulting in 2007. It was commissioned by the HSE at the time to carry out an independent review of the acute bed capacity requirements for Ireland until 2020. Interestingly, it said that if we continued with the current model, we would need to increase the bed stock to 19,822, an increase of 70% at the time. It also said that if we shifted care from hospitals to the community, the projected number of acute hospital beds could fall to 8,834, a fall of 25%. Those are not my views or statistics but those of an independent external company. I agree with the Deputy's point about needing to consider the full spectrum because the more we can do outside the acute setting, the better the impact on the numbers. We need to get this right.

Hospitals Funding

2. **Deputy Louise O'Reilly** asked the Minister for Health the stretch income targets that have been set for each hospital group for 2017; the stretch income targets for each hospital in 2016; the total stretch income targets for 2016 and 2017; the direction that has been given to hospital groups in respect of the generation of private income; the consultation his Department and the HSE have had with each of the hospital groups in relation to the sustainability of the stretch income targets; and if he will make a statement on the matter. [38243/16]

Deputy Louise O'Reilly: My question refers to the "stretch income targets", not a term I like but one that the Minister and the Department have perhaps chosen. The people in charge of the hospital groups described them as unrealistic in their submission to the Oireachtas Joint Committee on Health. I am interested in knowing where they came from, who directs them, how they are decided and what happens in the event that they are not met.

Deputy Simon Harris: Hospitals collect income from a number of sources, including charges for public and private patients as provided for in legislation. They also collect income in respect of facilities such as rental of shops, car park charges and other sources.

Setting targets for income collection is a normal part of effective financial planning and management for any organisation. While rates for statutory charges are specified in legislation, there is in practice variation in performance among hospitals in the billing and collecting of charges and in raising other income. This has been commented on by the Comptroller and Auditor General in his Report on the Accounts of the Public Services in 2008, 2009, 2012 and 2014, where the scope for improved billing and collection was highlighted.

In practice, much of the income from private patient charges is recouped directly from private health insurers. In 2014, under the Health (Amendment) Act 2013, the scope of private charges was expanded to include all private patients accommodated in public hospitals and not just those in private or semi-private beds as previously. This was in line with long-standing

Government policy to reduce the subsidy to private practice in public hospitals, something the Deputy would probably support. The Health Insurance Authority has identified that payment by private health insurers to public hospitals increased by €144 million between 2014-2015 and 2015-2016.

In 2016 hospitals were set income targets of €50 million or 5% over the normal year-on-year growth associated with increased activity. This recognised the scope for improved performance, particularly in respect of collection. The level set for each hospital group was: RCSI, €5.8 million; Dublin midlands, €7 million; Ireland east €7.9 million; south-south-west, €9.3 million; Saolta, €9.7 million; University of Limerick, €8.5 million; and the children's hospital group, €1.8 million.

Targets for 2017 are under consideration in the context of the approval of the national service plan and subsequent agreement of the operational plans for hospitals. The Department and the HSE engage in consultation with regard to the setting of the national budget for each service area as part of the Estimates process. The setting of budgets for individual hospitals and the hospital groups is completed within the HSE as part of a consultation process between the national directorate and the hospital group chief executive officers, CEOs, and formalised in operational plans for each group.

Deputy Louise O'Reilly: I am interested specifically in what happens when these targets are not met. When I asked the CEOs of the hospitals, their answer was that they were crossing their fingers in hopes that would not happen. In the event that it does happen, what direction has the Minister given the CEOs on where they should start to cut? Their word, not mine, to describe the stretch income targets was "unrealistic". These are not just the income targets that have been set, but additional targets. When they have to cut, what direction is the Minister giving them on what is to be cut? At the committee meeting, Liam Woods of the HSE said the cuts would not be in clinical areas. They are already instructed to make all the cuts they can in non-clinical areas. Where is the axe going to fall? What direction has the Department given them on where the cuts are to happen?

Deputy Simon Harris: It is interesting to talk about cuts when the HSE and the health service has received the largest ever health budget in the history of any budget in this House. It is simply not the case that we are cutting services. We are, however, expecting the hospitals to do a better job of collecting the income that this House legislated for them to collect. These are the views of the Comptroller and Auditor General in four reports in recent years. His office has acknowledged that there is scope to do more. The HSE sets the target for what it expects each hospital group and each individual hospital to collect in income. I have outlined the various different ways a hospital can do that through maintenance charges, long stay charges, car parking, retail, inpatient prescription charge income, canteen receipts and restaurants. These are the targets the HSE works out with the hospital group CEOs which should be met. This year, there was a target of €50 million and €44 million has been met. This shortfall was addressed in the context of the additional €0.5 billion I received for the health service.

Deputy Louise O'Reilly: Is the Minister saying that if these targets are not met, his Department will come in and meet the shortfall? I do not think he is. That is not realistic and I do not think the hospitals believe it is realistic. I specifically asked the Minister where the cuts will be made because when the unrealistic targets - to use the term these people used - are not met, as they very well might not be, for example, if too few people buy a cup of tea in the canteen, how will the services survive? Is it simply a case of saying it is fine and giving them money

when they do not meet the targets or will there be a penalty? If there is a penalty, how will that manifest itself in the event that they simply cannot reach the targets that they, not I, described as unrealistic?

Deputy Simon Harris: I am not a believer in a financial penalty for a hospital because while it sounds like one is acting like a tough guy, it ends up being a circular flow of money. I am not suggesting the Deputy is saying that, but that is my view. We have allocated additional funding to the health service. The HSE will make sure to put that additional funding to use for patients and improved services. It will take into consideration in that context what targets to set hospitals based on canteens, restaurants, shops and car parks. I am not willing, pardon the pun, to give a hospital pass to managers who cannot hit targets when the constitutional office of the Comptroller and Auditor General has said our hospitals must do better in terms of collecting the income that people in these Houses voted to empower them to collect. We should not be letting people off the hook. These are the targets and people should be trying to meet them. We have additional funding which is now being put to use in the service plan which has been submitted to the Department and which I expect to publish within the next two and a half weeks.

Acting Chairman (Deputy John Lahart): The next question is in the name of Deputy Murphy O'Mahony. She is unavoidably absent this afternoon but the Ceann Comhairle is satisfied that Deputy Kelleher can put the question in her stead.

Disability Support Services Provision

3. **Deputy Margaret Murphy O'Mahony** asked the Minister for Health the status of the implementation of the congregated settings report; the number of persons that have left congregated settings to date in 2016; the measures in place to support persons when they leave residential institutions; if his attention has been drawn to the concern among the relations of many of those persons that leave residential institutions that the support levels are insufficient; and if he will make a statement on the matter. [38166/16]

Deputy Billy Kelleher: What is the status of the implementation of the congregated settings report, the number of persons that have left congregated settings to date in 2016, and the measures in place to support persons when they leave the residential institutions? Has the Minister's attention been drawn to the concerns among the relatives of many of those persons who leave those institutions that the support levels are insufficient and will he make a statement on the matter?

Minister of State at the Department of Health (Deputy Finian McGrath): I thank the Deputy for his very important question. The programme for partnership Government commits to moving people with disabilities out of congregated settings, to facilitate them in living more independently and to be included in their community. Currently, 2,649 people live in congregated settings and the objective is to reduce this figure by one third by 2021 and ultimately, to eliminate all congregated settings. It is anticipated that 97 people will have completed their move to the community during 2016, with a further 63 ready to move early in 2017. A similar additional number of people will be supported to move throughout 2017. A sub-group under the Transforming Lives programme is developing an implementation plan for moving people from institutions in accordance with the recommendations of the Time to Move on from Congregated Settings report. The needs and wishes of people moving from congregated settings will be prioritised during this process with a model of support based on a person-centred plan.

I wish to emphasise that appropriate plans and resources are being put in place to ensure that people are properly supported as they move out of institutional care. This is very important because a lot of people do not know this. Earlier this year, I announced the provision of €100 million in capital funding between now and 2021 to provide more appropriate homes for people currently living in a number of institutions. Further supports are provided by a service reform fund involving the Department of Health, Atlantic Philanthropies, the HSE and Genio.

Separately, the Department of Housing, Planning, Community and Local Government has provided €10 million under the capital assistance scheme for people transitioning from institutions in 2016, benefiting an estimated further 100 people. A sum of €1 million in ring-fenced funding is also being made available by that Department in 2016 to support people moving from institutions into suitable social housing. This demonstrates the joined up commitment of both Departments to support the decongregation programme.

Deputy Billy Kelleher: There is not a Deputy in this House who has not met families and individuals who are being decongregated from institutions. That is a broad policy and it is supported. The difficulty is that when a policy becomes a target-setting exercise, very quickly the individuals get left behind. I would be concerned that the focus on targets the whole time and the pressure on the HSE to achieve the target of moving so many people into a community setting means that we will end up not having person-centred plans. They will become statistically-focused plans. That is something I am beginning to detect in this context.

The chairperson of St. Mary of the Angels Parents and Relatives Association told Kerry County Council recently about the conditions one former care resident is living in since moving out under the HSE's Time to Move on from Congregated Settings policy. These are the words of the chairperson of this organisation:

I saw the outside of the house where one of them is living. There is an eight to ten-foot wooden fence around the back garden. The sides and front of the house are guarded by a six-foot mesh fence and there's a big heavy metal gate. That person is living like a prisoner.

It is an indication that we need to put the supports in place in the community and go back to person-centred plans as opposed to statistically-focused plans.

Deputy Finian McGrath: I say very strongly that, as far as I am concerned in my job as Minister of State with responsibility for the disabled, individuals will never be left behind. My focus is always on the person with the disability. I have heard people's opinions on the row about decongregated settings. I have heard staff and people with a different view to my own. However, I hope the Deputy is not going to tell me that keeping people in institutions in 2016 is the way forward. My objective is to put every single person with a mental and intellectual disability who wants to go, with their permission and with their families' agreement, into smaller community housing with supports in place. The budget of €100 million over the next five years is for that.

I would be very interested to hear about that particular case the Deputy has spoken about. Every single case that I have dealt with over the last six months in which a person has moved from an institution to a community house has had the services in place first. In fact, I was down in Áras Attracta last week. There were young men with intellectual disabilities coming into the office of Ms Suzanne Keenan, the director of services, to ask when they were moving into their new house. The smile and glee on their faces is often not represented, by the way, in this debate.

Supports will be in place and if there are any issues or bad practices I will definitely track them down and sort them out.

Deputy Billy Kelleher: The Minister of State is quite right and nobody on this side of the House is suggesting that we should abandon the decongregated settings policy that has been in place for a period of time. The issue here is to ensure that there are full assessments carried out on the individuals, that there are supports in place when the individuals move out to the communities and that those supports are committed to and maintained for a long period of time. When families are consistently saying that there is not enough support for the individuals when they move into the community setting, the issue has to be addressed. In the context of the plans that are in place with the HSE in terms of the Time to Move on from Congregated Settings policy, each individual's demands and needs must be assessed and supports put in place in advance of the decongregation. When a target is set and an organisation that does not necessarily have the budget in place all the time is forced to meet it, corners start to be frayed or cut.

Deputy Finian McGrath: I give Deputy Billy Kelleher a final commitment that every single person involved in the planned movement from congregated settings into the wider community will be monitored by the people who work in that sector and by my own office. I give the commitment that we will put the services in place where these people are moving to. We will ensure that that is happening. As I said before, I visited some of those places recently. I saw examples of very good practice. I saw examples of the staff changing its own mindset in that they had worked in an institution for 20 years and were now working in a smaller community house with better facilities. They saw the change in the individuals, particularly those with intellectual disabilities. They saw the change of mindset, the change in health and the change in happiness. It is very beneficial. Of course, I agree with Deputy Kelleher that the supports have to be there. People cannot just be left in the community without the supports because that has been a failed policy of the past. That is something that I have to prioritise.

UN Convention on the Rights of Persons with Disabilities

4. **Deputy Gino Kenny** asked the Minister for Health the preparations he is making across his Department to ensure rights will be vindicated for the persons with disabilities in the care of the health service and under his area of responsibility in view of the imminence of the Government's commitment to ratifying the UN Convention on the Rights of Persons with Disabilities; and if he will make a statement on the matter. [38167/16]

Deputy Gino Kenny: I ask the Minister for Health the preparations he is making across his Department to ensure rights will be vindicated for the persons with disabilities in the care of the health service and under his area of responsibility in view of the imminence of the Government's commitment to ratifying the UN Convention on the Rights of Persons with Disabilities; and if he will make a statement on the matter.

Minister for Health (Deputy Finian McGrath): I thank Deputy Kenny for raising this very important question. As the Deputy will be aware, responsibility for the ratification of the UN Convention on the Rights of Persons with Disabilities rests with my colleague, the Minister for Justice and Equality.

The Department of Health is currently framing legislative provisions to satisfy the requirements of Article 14 of the UN Convention, which provides that State parties shall ensure that

persons with disabilities, on an equal basis with others, enjoy the right to liberty and security of person, are not deprived of their liberty unlawfully or arbitrarily and that the existence of a disability shall in no case justify a deprivation of liberty. These legislative provisions will form part of the Department of Justice and Equality's equality/disability (miscellaneous provisions) Bill. While the Department of Justice and Equality has overall responsibility for the related Assisted Decision-Making (Capacity) Act 2015, my Department continues to assist regarding the establishment of the decision support service under that Act.

Once the legislative framework is in place, my Department will work closely with the HSE to ensure its full implementation. The HSE has begun to implement the Assisted Decision-Making (Capacity) Act 2015, establishing a national assisted decision-making steering group to develop a programmatic response to the legislation to ensure effective compliance and implementation. It has also commenced impact assessments across HSE community health organisation areas, including engagement with HSE disability service providers and non-statutory service providers to gather real life case studies so that people's lived experience can be included within the guidance and the training.

Deputy Gino Kenny: I wish to point something out to the Minister of State. I am sure he is aware of it because he has a good track record on it. Ireland has been pretty poor on equality for people with disabilities. Currently, 156 countries have ratified the UN Convention on the Rights of Persons with Disabilities. Ireland signed it almost nine years ago but never came good on it. Even Ireland's UN representative wrote to the UN in April 2012 promising to ratify the convention.

4 o'clock

The people listening to this debate want to know when this will come into effect because the Disability Act is flagrantly breached all the time. People with disabilities are being left behind. The convention must be signed and ratified to ensure equality for people with disabilities.

Deputy Finian McGrath: I share the Deputy's position on the UN convention. I agree that we must ratify it and I am working towards that at the moment. In fact, I have just left a meeting with officials from my Department and the Department of Justice and Equality at which we discussed the legislative position and some of the blockages in the system. On the broader point, I fully support the ratification of the convention and I am working very hard to do that.

I strongly disagree with the Deputy's second point because since this Government came into office, we have improved the investment in disability services. I secured an additional €31 million within a matter of weeks of becoming Minister of State. We are now investing more in disability services and there was an increase in funding in the recent budget. The Minister for Health and I have worked very closely on this. We have spent the past few weeks working very hard on the HSE service plan for 2017. We are trying to develop services. It is all very well to talk about the rights of people with intellectual and physical disabilities but we must also ensure they have access to services. While work is ongoing in terms of the ratification of the UN convention, I want to invest in and improve the services. We all accept that services for people with disabilities have been devastated over the past seven or eight years and we are now trying to rebuild them. We are starting that process and I would love the Deputy's support in that regard. People will be coming along over the next few months, trying to steal money from the services. We must focus on services. We gave a commitment prior to the general election to allocate funds 2:1 in favour of services over tax cuts. We must uphold that commitment and

we need support to do so.

Deputy Gino Kenny: That is all well and good but will the Minister of State not put a time-frame on it? This has been dragging on for years. The Government signed the UN convention nine years ago. Why has it not been ratified and put into effect? We must send a strong signal to people with disabilities that this will be done within a matter of months. If this is allowed to go on and on, the convention will never be ratified. Will the Minister of State give a commitment to ratify the convention within six months or even earlier? If he commits to ratifying it within the next three to six months, people will believe that the Government is serious about this issue.

Deputy Finian McGrath: I assure Deputy Kenny that I would happily sign the convention tomorrow morning if I had the opportunity. However, the necessary legislation must be in place and certain issues must be resolved before I can do so. As the Deputy knows, I set myself the objective of ratifying the convention by the end of 2016. I knew there were blockages to that and I am now getting the feeling that I might not meet my target. That said, it might be possible to meet it only a number of weeks later. It will be done shortly. There are blockages within the legislative process and problems which must be resolved, which is why I have not signed it yet. I hope to see it done as quickly as possible - in a matter of weeks, in fact.

Deputy Gino Kenny: Will it be done after the Christmas recess?

Deputy Finian McGrath: Absolutely. Well, hopefully. I would come back tomorrow and do it if it were possible.

Deputy Gino Kenny: I will sign it too.

Hospital Investigations

5. **Deputy Catherine Connolly** asked the Minister for Health the status of the audit into spinal surgeries performed on 198 persons between January 2013 and November 2014 in University Hospital Galway; when the audit commenced; when it was completed; when the findings will be published; and if he will make a statement on the matter. [38242/16]

Deputy Catherine Connolly: As the Minister is aware, the most serious issues have arisen concerning a substantial number of patients who underwent spinal surgery. Inappropriate procedures were carried out, and in one case the death of a patient was hastened. In addition, unnecessary and dreadful pain was caused. We learned of this through patients - I learned of it from the family of one patient - and through the press. It is entirely unacceptable to learn of this in such a manner. Will the Minister tell us about the audit and specifically when it commenced, the outcome and why it was delayed?

Minister for Health Deputy Simon Harris: I thank Deputy Connolly for raising this very serious and important issue. I understand that following concerns over four spinal surgery cases detected through the quality and safety systems in University Hospital Galway in 2014, an audit of care provided by one consultant orthopaedic surgeon was undertaken. An external review of the four cases was then commissioned. On receipt of that report in November 2014, the Saolta University Healthcare Group initiated a wider audit of the operative practice of the surgeon which was carried out by two independent orthopaedic surgeons.

Deputy Catherine Connolly: Sorry to interrupt but I did not catch the date. I ask the Min-

ister to repeat it.

Deputy Simon Harris: November 2014 was when the external review was reported. The Saolta group then initiated a wider audit of the practice of the surgeon which was carried out by two independent orthopaedic surgeons. The consultant involved ceased performing spinal surgery immediately. I am further advised that the consultant orthopaedic surgeon in question resigned his post in February 2015 and is no longer working in Ireland.

A total of 198 patient charts were audited and in 151 cases, no concerns were expressed with regard to patient care. Some concerns were raised in respect of 43 cases but the auditors did not consider that serious harm had resulted. The audit raised serious concerns about resulting harm to the original four patients.

The HSE has advised me that patients were contacted in early November and a patient helpline has been established. In addition, follow-up patient care is being provided by the spinal service at University Hospital Galway.

University Hospital Galway and the Saolta University Healthcare Group have expressed their regret regarding any distress this process may have caused to patients or their families. The HSE has provided assurance regarding the safety of the spinal services currently in place for patients in Galway. I would like to stress the importance of supporting the needs of the patients and protecting patient confidentiality during this time. That said, all of those patients whose charts were audited were contacted directly by the Saolta group on foot of legal advice.

Deputy Catherine Connolly: I have asked when the audit began, when it concluded and whether it will be published. The Minister has spoken about protecting the patients but the system was and is being protected here. I ask again, when did the audit actually commence? Who carried out the external review in the first instance? Was that separate from the review carried out by the two external doctors? When was it completed and will it be published?

This is the most serious issue that has arisen in Galway city since the case of Savita Halapannavar. We are learning nothing, it seems to me. I am loath to criticise the public system because I am the greatest advocate of the public system. The Minister is nodding in agreement. I raise this as a matter of public importance. A statement should have been made by the Minister and the HSE, proactively, if they wished to reassure people, with all of the facts given. We should not be reliant on press statements and should not have to drag information out.

Deputy Simon Harris: I fully accept Deputy Connolly's bona fides on the matter but I am sure she accepts mine as well. My primary concern is and will always be - as long as I hold this office - for the individual patients, their confidentiality, safety and sensitivity with regard to their own cases. They have a right to have their confidential patient information absolutely protected.

Let me put some more information on the record. I am more than willing to make all of the information I have available. As I said, there were concerns about four spinal surgery cases identified as part of the internal quality management systems in place within the Saolta University Healthcare Group. An independent audit of the spinal surgical practice of a consultant orthopaedic surgeon at University Hospital Galway was completed between 1 January 2013 and 14 November 2014. The four cases were notified and reviewed in the period March to July 2014 - those people were notified - whereupon an external review was commissioned. When Saolta received the report of the external review in November 2014, it then decided to initiate

a wider audit and the surgeon involved was directed to cease performing spinal surgery immediately.

A communications process was commenced on 7 November this year to notify each patient whose chart was audited, even where there was no concern raised at all. Of importance is that Mr. Frank Dowling, external spinal and orthopaedic consultant, will provide a clinical review of the identified patients through specific scheduled clinics this month, December 2016. If patients require any ongoing spinal care or follow-up, this will be provided by the spinal service at University Hospital Galway.

Deputy Catherine Connolly: First, I would like a comprehensive written reply. Second, the figures the Minister has given are accurate but the timespan is not. The audit was conducted between January 2013, as the Minister said, and November 2014. We are now in December 2016. Patients and families were only contacted in November of this year. There was no contact before that. I know that, intimately and personally. The spinal surgery carried out in the case of which I am aware was inappropriate, hastened the death of the patient and caused absolutely unimaginable pain. It is unacceptable in the 21st century for a system to seek to protect itself, particularly if we are to learn anything and engender confidence in a public health system. I am asking the Minister to take a hands-on approach and to come back to me and explain how it could possibly take until November 2016 to communicate the relevant information. When will the general findings of the audit be published? What have we learned from it? What has been put in place? When we talk about quality assurance, we are talking about a small number of people who finally complained and whose actions led to concerns being expressed. In the particular case I highlight, no complaints were made and no quality assurance system picked it up. In that case, where death was hastened, unimaginable pain was caused and incorrect procedure was not picked up by any quality assurance system or on foot of any complaints.

Acting Chairman (Deputy John Lahart): I have given both the Deputy and the Minister latitude.

Deputy Simon Harris: I am very happy to share with Deputy Connolly the information I have available to me because this is a very serious matter and it is difficult, going back and forth, to put all the information on the record. However, I am endeavouring to do so. It is important to assure the public that an audit of the surgeon's non-spinal orthopaedic work was also carried out and that no concerns were raised. The Irish Medical Council has been made aware of the audit and the relevant information has been forwarded to it. A key finding from the audit was the need for structured multidisciplinary input into the decision-making about surgery and review of cases. The consultant orthopaedic surgeon resigned from his permanent post at University Hospital Galway in February 2015 and is no longer working in this country. The HSE advises that this doctor's only periods of practising in Ireland were when he undertook his internship in basic surgical training in the Saolta Group and following his appointment as a consultant orthopaedic surgeon with special interest in spinal surgery, at Galway University Hospital on 21 January 2013.

I assure the public that this review has been carried out extensively and that it was audited by independent external consultant orthopaedic surgeons. I will, however, make available to Deputy Connolly the information I have in my possession.

Other Questions

Neuro-Rehabilitation Services

6. **Deputy Billy Kelleher** asked the Minister for Health when he will be publishing a plan for advancing neuro-rehabilitation services in the community; and if he will make a statement on the matter. [38011/16]

Deputy Billy Kelleher: When will the Minister for Health publish a plan for advancing neuro-rehabilitation services in the community? By any stretch of the imagination, when we consider the level of service available to people with stroke, acquired brain injury, multiple sclerosis and Parkinson's disease, we are light years away from what is necessary. In the context of a capital development plan next year, the assessment of the number of beds that will be required is also a key area that should be taken into account in the bed capacity review.

(Deputy Finian McGrath): A Programme for a Partnership Government includes a commitment to publish "a plan for advancing neuro-rehabilitation services in the community."

It is recognised that the situation with regard to accessing specialist neuro-rehabilitation services needs to be reviewed. Significant steps towards finding a resolution were taken with the publication in 2011 of the national policy and strategy for the provision of neuro-rehabilitation services Ireland 2011-2015. The rehabilitation medicine programme has also been developed within the clinical strategy and programmes directorate of the Health Service Executive, HSE

A national steering group, chaired by the head of the HSE's disability reform team, has completed an implementation framework in respect of the recommendations from the national policy and strategy. Membership of this group includes representation from the HSE national clinical programmes for rehabilitation medicine and neurology, HSE primary care, the Department of Health, therapy professions and the Neurological Alliance of Ireland. The group is currently considering feedback on the framework, which was circulated to wider stakeholder interest groups. The HSE intends to finalise and progress implementation of the framework for the neuro-rehabilitation strategy in 2017.

In addition, capital funding is committed for the redevelopment of the National Rehabilitation Hospital in Dún Laoghaire. This funding will provide a new purpose-built 120-bed hospital with integrated therapy and support services at the Dún Laoghaire campus. It is expected that construction will commence in 2017.

Deputy Billy Kelleher: The Minister of State is aware of the shortage but I want to put on the record that 25,000 people a year require some form of rehabilitative services. Most of them struggle just to get the basic services. Ireland should have 270 beds for its population but we have less than half that number, and none outside Dublin. We have been campaigning for a long time - in the context of rehabilitative support beds - for services to be located outside Dublin. There should be four regional inpatient specialist rehabilitation services but we have none. There are huge deficiencies in that regard and it is urgent that the matter be addressed.

Will the Minister of State outline the steps he is taking to ensure that the implementation plan for the national neuro-rehabilitation strategy will be fit for purpose and address the concerns of the Neurological Alliance of Ireland and its member organisations? Will he clarify

whether new funding will be made available in 2017 to develop the neuro-rehabilitation services in the community? Will he outline the plans that are in place to invest in the development of neuro-rehabilitation services in acute hospitals in 2017, specifically in the South/South West Hospital Group? Following his commitment to publish the neuro-rehabilitation plan in the first quarter of next year, can he confirm that will still happen? Those are my questions. I do not expect the Minister of State to reply to them in full detail.

Deputy Finian McGrath: I will deal with all the questions. I totally accept that we have to develop services for people in those situations. I have met many of them. I spoke at one of the group's annual general meetings a few months ago so I am fully aware of the issues Deputy Kelleher has raised, which are very important. We need to improve and expand services but, as the Deputy knows, that work has commenced already. I mentioned the National Rehabilitation Hospital in Dún Laoghaire but there is also a new rehabilitation unit at Roscommon hospital, and other services are being rolled out throughout the country. The Minister and I have identified the provision of services throughout the country as an important issue in terms of developing the HSE service plan. We are doing our best to ensure that those type of services are developed.

The Minister recently met representatives of the Neurological Alliance of Ireland, who are members of the steering group, along with Councillor Natalie Treacy, whose mother has an acquired brain injury. We are very aware of the situation on the ground. We are aware also of the need to develop the services. We have started on that but we need to do more, which we will do in 2017.

Deputy Louise O'Reilly: Could I press the Minister of State on a date for the implementation plan? He mentioned my colleague, Councillor Natalie Treacy, and the Neurological Alliance of Ireland. Sinn Féin fully supports the We Need Our Heads Examined campaign but we need a date by which we will start seeing some movement on this issue and also confirmation that dedicated funding will be allocated, and what that funding will run to. With regard to the new unit at Roscommon hospital, how many beds is it anticipated will be provided? How many hours of rehabilitative care will be provided in the unit?

Deputy Finian McGrath: On the objectives and the funding, those are already included in the HSE service plan, which is currently being finalised. We will put a priority on that. I would see us start to move on developing, opening and investing in new services as early as possible in 2017. I will have to revert to the Deputy on the number of beds involved because it is important I give her accurate information.

Deputy Louise O'Reilly: That would be great.

Deputy Finian McGrath: Our objective is to start moving on this as early as possible in 2017.

Deputy Billy Kelleher: I have asked the questions and I thank the Minister of State for the answers but the broader issue is that there must be some regional development of services. We cannot have them located in just one area of the country, which puts huge pressure on families that have to travel long distances over a protracted period. Many families do not have much hope that their loved ones will even get access to services and that debilitates them. I ask the Minister to bring forward the implementation plan as quickly as possible. We will try to support him in getting resources to ensure they have a meaningful impact on people's quality of life.

Deputy Finian McGrath: I take Deputy Kelleher's point that we need to develop services in the regions. As I mentioned earlier, the new rehabilitation unit at Roscommon hospital is a major start. We must ensure that we support these families. They are in a difficult position and we cannot have them travelling for services in Dublin when they are from different parts of the country. We need to be radical. We need to work closely with the organisations that are putting forward these suggestions. We need to get working on this and implement as much as possible in 2017.

Maternity Services

7. **Deputy Anne Rabbitte** asked the Minister for Health if he will provide a report on maternity services in University Hospital Galway following the departure of two key members of staff in recent months. [38043/16]

Deputy Anne Rabbitte: Will the Minister provide us with a report on the maternity services at University Hospital Galway following the loss of two key members of staff in recent months? The context of the question is these two key members of staff were recruited after the death of Ms Savita Halappanavar. I look forward to the Minister's comments.

Deputy Simon Harris: I thank Deputy Rabbitte for this important question.

Regarding the two vacancies in the University Hospital Galway maternity service, the Saolta University Healthcare Group has advised that these vacancies have arisen due to the resignation of the director of midwifery in the autumn, and the untimely passing of the assistant director of midwifery earlier this year.

I am advised by the Saolta group that interviews have been scheduled for the assistant director of midwifery position, while the director of midwifery role is currently being advertised. I agree with the Deputy's sentiments that we would like to see these posts filled as quickly as possible. The point Deputy Rabbitte makes is important in terms of ensuring that we continue to learn from the past and keep in place the resources that are there. Pending the filling of these posts, the Saolta group director of nursing and midwifery has assumed responsibility for maternity services at the hospital. Furthermore, in line with the recommendations issued in respect of maternity services at the Midlands Regional Hospital, Portlaoise, a director of midwifery is being appointed for all maternity sites within the Saolta group. The group has advised that all applicable recommendations arising out of the recent review of maternity services in Galway have either been fully implemented or are being implemented on an ongoing basis.

The publication of Ireland's first national maternity strategy earlier this year demonstrates a new and enhanced focus on maternity care at both policy and service delivery level. It provides a roadmap for how we can improve maternity and neonatal care in the years ahead in order to promote and assure safe, standardised and high quality care. I am confident that this new strategy is a landmark moment for maternity services and a much-needed one, and it will provide support and impetus to the development of maternity services across the country, including in Galway University Hospital.

I have described 2016 as a landmark year for maternity services. The reason I did that is that we now have the first ever national maternity strategy. It is the year in which we will see the new HIQA standards for national maternity services, which I have just signed off and

which will be launched this month. It is also the year in which we have seen the publication of bereavement standards for when something sadly goes wrong in pregnancy, with input from women themselves and from midwives, and it is the year, thankfully, in which we will see the National Maternity Hospital finally move to a state-of-the-art site at St. Vincent's.

Deputy Anne Rabbitte: I thank the Minister for his response. It is important to acknowledge the untimely passing of the assistant director. In relation to the other lady who resigned her post, that was unfortunate because there was a schedule of works for completion.

I wonder if the Minister has received feedback. In relation to the Saolta report, he said that a certain number of the recommendations have been actioned. Are many still outstanding from the time of Ms Savita Halappanavar's passing? Are they all being actioned?

The Minister spoke of many milestones that have been hit this year. Will the report on Portiuncula Hospital in Ballinasloe be completed soon also?

Deputy Simon Harris: In relation to Portiuncula, I will revert to the Deputy. I intend to visit that hospital, as well as Galway University Hospital, this month. I hope the Deputy can join me then and we can explore these issues further.

I take the Deputy's point on the importance of these appointments. It is really important that the posts are filled as quickly as possible and I am satisfied that the Saolta group is going about doing that. As I said, the interviews are under way for one and the post of director of midwifery is now advertised.

I have been assured by the Saolta group that all of the local recommendations arising from the HSE patient safety review and all of the coroner's applicable local recommendations have either been implemented or are subject to an implementation plan where ongoing implementation is occurring. I will ask the HSE and the Saolta group to revert to the Deputy with more specific information on each of those actions.

The department of obstetrics and gynaecology at University Hospital Galway serves the population of Galway city and county, but also the surrounding areas of Roscommon, north Clare and south Mayo. It provides a range of general and specialist gynaecology and maternity services, including feto-maternal medicine for high risk pregnancies, while also catering for low-risk pregnant women. It provides a wide range of services, including fertility outpatient services. The unit has a state-of-the-art neonatal intensive care unit following a major refurbishment project in 2011. The department is also a partner with the CervicalCheck programme and runs a busy colposcopy service.

I look forward to visiting it and having a chance, at first hand, to see these services and to be updated that all of these recommendations are well under way, as I have been assured they are. I will ask the HSE to revert to the Deputy with specific information on the status of each of those recommendations.

Deputy Anne Rabbitte: I thank the Minister for his kind invitation to join him in Portiuncula and Galway hospitals, which he intends to visit in the next month. His visits will be welcome.

In addition to everything the Minister said, it is also important to acknowledge the hard work the nurses are doing. They are delivering a fantastic service and it would be remiss of me

not to acknowledge it.

Deputy Simon Harris: Deputy Rabbitte's point is really important. I have visited many of our maternity hospitals and maternity units over the past six months where so many staff are working extraordinarily hard. While, sadly, we have had tragedies in our maternity services and we must constantly strive to do better, and I have outlined what we will do better, we must also acknowledge the dedication particularly of the midwives. I was so impressed to see the amount of their free time midwives gave, perhaps after working night duties, in coming to meetings to help write the bereavement standards for when something goes wrong during a pregnancy. I fully endorse the Deputy's comments and look forward to meeting those staff directly in Galway this month.

Question No. 8 replied to with Written Answers.

Mental Health Services Staff

9. **Deputy James Browne** asked the Minister for Health the measures he is taking to address the fact that just 6% of the recommended A Vision for Change staffing levels in adult mental health intellectual disability services are in post; and if he will make a statement on the matter. [38015/16]

Deputy James Browne: Just 6% of the recommended A Vision for Change staffing levels in adult mental health intellectual disability services are in post. Can the Minister of State outline what measures she is taking to address this fact and make a statement on the matter?

Minister of State at the Department of Health (Deputy Helen McEntee): I thank the Deputy for raising this issue and for giving me the opportunity to outline what is happening and where we are at present.

A Vision for Change recommended one consultant-led mental health intellectual disability team per 150,000 population. This equates to 31 teams, each consisting of a consultant psychiatrist, a doctor in training, two psychologists, two clinical nurse specialists, an administrator and registered nurses with specialist training. Each of those teams would equate to ten staff, that is, 310 in total.

Recognising the significant need to develop, in particular, the mental health intellectual disability teams for both adults and children, and while I understand we are only talking about adults, in 2014 a mapping of the service provision by the HSE's mental health division showed that this service was largely consultant-only provided through teams, voluntary agencies or within the HSE services. The national clinical lead for the mental health division developed a proposal to reorganise and expand the service in line with the A Vision for Change model. With the additional programme for Government funding, approximately 100 posts have been allocated to this area in the past three years. These posts are in various stages of recruitment with some already in place. This number alone represents over 20% of the recommended posts in A Vision for Change.

Currently, regarding consultants, there are 17.5 consultants for adults, 12.5 of whom are currently working with small teams following the allocation referred to earlier. These are not all full teams, but that is a problem we all will agree we are trying to address. A further 5.5

consultants with small teams have been allocated and are currently being recruited. This means that 74% of consultants recommended in A Vision for Change are either in place or soon to be in place working with their teams. While some progress has been made and recruitment of posts is ongoing, the service nationally remains below recommended levels.

In light of ongoing difficulties in recruiting consultants trained in this speciality, the HSE's mental health division has worked with the HSE national doctors training programme and the College of Psychiatrists of Ireland to modernise qualifications for these posts in line with practice internationally. This is already improving recruitment, as is the funding of a higher specialist training post in child mental health intellectual disabilities.

Deputy James Browne: As the Minister of State will be aware, mental disorders are commonly experienced by persons with intellectual disabilities. Studies put the occurrence rate at 40%. A person with intellectual disabilities is, therefore, considerably more likely to have an additional mental disorder than the average person from the general population. This is not necessarily surprising. However, 300 posts for adult mental health and intellectual disability are recommended in A Vision for Change, yet only 17.5 consultants are in post, which is only 6% of the recommended staffing level. There are only 3% of the recommended 150 posts for child and adolescent mental health and intellectual disability. Can the Minister comment on that?

Deputy Helen McEntee: I agree with the Deputy. We are talking about people who require specialist attention and help. The Deputy talks particularly about consultants but obviously those consultants are working with team members as well. I fully acknowledge that we still have a massive amount of work to do and that we remain below the recommended levels. The 17.5 consultants are working with teams that include psychologists, clinical nurse specialists, registered nurses and doctors in training. The 5.5 consultants currently being recruited will be working with teams as well. In the case of the children's teams, we currently have 4.9 consultants working with small teams and a further 5.5 consultants are being allocated. There is a significant problem with recruiting nurses, particularly in this area. We have added 60 nurse training places for this year and that will increase to 70 next year. Over the next four years that will increase by 45% in total. That is taking into account maternity leave, retirements and so forth. I agree we have a huge amount of work to do and that we are below average. However, a huge amount of work has taken place in the last number of years and that will continue.

Deputy James Browne: As the Minister said, a significant amount of work must be done if the standards in A Vision for Change are going to be implemented. The Minister will have to be extremely ambitious to achieve that. Some type of special protocols or plans will have to be put in place to achieve it. Otherwise, it is difficult to see how it can be done. Can the Minister set out timeline targets or processes to ensure the requirements in A Vision for Change will be met?

Deputy Helen McEntee: I realise this area is of particular interest to the Deputy. The most important issue is that we plan. We will face difficulties in recruiting staff across the board until we build up those numbers. That is the reason certain measures have been taken. It is the reason we have brought back the community allowance and we are increasing the number of placements. We have almost €10 million in additional funding to increase wages as well. In addition, last June the Department funded a development clinical lead to work with our national clinical lead. That is to support the services in line with A Vision for Change once these consultant posts have been allocated. That means looking at data and activity data in the various areas to identify where there are immediate needs and where those in most need receive the support straight away. I cannot give the Deputy definite timeframes. This is a priority so these posts

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will be filled as soon as possible. We will deal with this.

Question No. 10 replied to with Written Answers.

Hospital Waiting Lists

11. **Deputy John Lahart** asked the Minister for Health the reason, in October 2016, that 362 persons had been on the inpatient and day case waiting lists in Tallaght Hospital for more than 18 months. [38039/16]

Deputy John Lahart: Why, a month ago, had 362 people been on the inpatient and day case waiting list in Tallaght Hospital for more than 18 months? Will the Minister make a statement on that?

Minister for Health (Deputy Simon Harris): The Government is committed to improving waiting times for patients. It is the waiting time rather than the headline figure that is the Deputy's focus, and it is an important point. While recognising that the demand for acute hospital services has increased the important issue for patients is how long they wait.

The latest National Treatment Purchase Fund, NTPF, inpatient and day case waiting list figures indicate that the total number of people on the waiting list for Tallaght Hospital is 4,415 and 92% of these, or 4,053 people, are waiting less than 18 months for their inpatient or day case appointment. The HSE has advised that most of the patients waiting over 18 months are orthopaedic and ENT patients and the hospital is working with the HSE to ensure that the majority of these patients will have their procedures scheduled or completed by year end.

In August, I asked the HSE to develop a waiting list action plan for 2016 to reduce by year end the number of patients waiting over 18 months on the inpatient and day case waiting list. Since then, approximately 6,500 patients have been removed nationally from the waiting list. Additional funding of €11.25 million has been allocated under the winter initiative to support patient treatment under this action plan. This has seen some people's procedures outsourced to other facilities when there is no capacity within a certain hospital.

Budget 2017 provides for the treatment of our longest-waiting patients. A sum of €20 million is being allocated to the NTPF in 2017, rising to €55 million in 2018. I met the chair and CEO of the NTPF last Tuesday and I have granted approval to its proposal which outlines the use of a first tranche of funding, in the region of €5 million, for an initiative focusing on day case procedures. I will shortly ask the HSE to develop a waiting list action plan for 2017 working collaboratively with the NTPF to address inpatient, day case and outpatient waiting times, including at Tallaght Hospital. We finally have ring-fenced funding for waiting list initiatives. Such funding was lacking in recent years.

Deputy John Lahart: I am grateful for the Minister's reply. We are in real danger of getting lost in statistics, but I welcome the figures and particularly the announcement concerning the National Treatment Purchase Fund. The Minister will accept that there were 4,415 on the inpatient day case list for Tallaght Hospital in October. He will also accept that it was an increase of 1,732 or a whopping almost 65% - there is another statistic - in two and a half years. It is unacceptably high. Of these, over 350 have been waiting for more than 18 months and 612 are waiting a year to 18 months. Let us stop with the statistics for a moment, because the

Minister will pile on the narrative in terms of the money and how many millions or thousands of euro he is putting into it and obviously the Opposition spokespeople will focus on the numbers. However, if we take it to an individual level, what does the Minister say to somebody who has been waiting 18 months, and is still waiting, for a treatment? In particular, will he make some type of connection between their wait and the role of the National Treatment Purchase Fund?

Deputy Simon Harris: I would tell them that it is utterly unacceptable. That is the reason I believe the House is united in its view, and it is my view, that every cent we target on waiting lists must be focused on the longest waiters. Thankfully we are now spending specific money on waiting lists, be it the €20 million for the NTPF in 2017, the further €55 million earmarked for 2018 or the €11 million on the HSE waiting list action plan. These are statistics but they represent real money. There will always be waiting lists in every health service. The issue is when somebody is waiting for an unacceptably long period. The reason I was quoting statistics was that while the question referred to people waiting over 18 months I believed there was an onus on me to point out that 92% of people on the list in Tallaght are waiting less than 18 months. The 8% is 362 patients, to make that real. That is a long wait for people. The HSE has advised me that the majority of those patients are in the orthopaedic or ear, nose and throat, ENT, areas. The hospital is working with the HSE to ensure that the majority of these patients will have their procedures scheduled or completed before the year ends, so that number should drop significantly in Tallaght. The hospital is also in the process of recruiting additional orthopaedic and ENT consultants. These are tangible benefits that should help the Deputy's constituents who are waiting a long time.

Deputy John Lahart: They will help the Minister's constituents as well.

Deputy Simon Harris: Indeed.

Deputy John Lahart: The additional recruitment is welcome news. The Minister's party was not a great champion of the NTPF but there appears to be an acceptance that it has a role, particularly in the short to medium term. Will the Minister comment on a statement made by Mr. Tony O'Brien at a meeting of the Committee on the Future of Healthcare yesterday? He spoke of a 5% to 6% increase in presentations to emergency departments year on year and the impact this is having on the acute hospital system and, in particular, on the bed capacity currently available to carry out elective work. He appeared to be implying that we will be coping with emergency intake as opposed to standard intake into the near future. What is the Minister's view?

Deputy Simon Harris: I see merit in the NTPF, regardless of past political debates. I acknowledge that the Deputy's party established it. If I was to be objective, in the past perhaps the NTPF cherry-picked patients somewhat, and the point the Deputy and I would agree on is that this time it must target those waiting the longest. That has to be the difference.

With regard to the increase in attendances and the impact it is having on bed capacity and the like, the attendances at emergency departments have increased by approximately 5% so far this year to date. It is a very significant extra capacity for our health service to develop. In other countries a number of those people would not be seen in an emergency department because services would be provided within the community. That is why I genuinely believe the answer to this lies in a new general practitioner, GP, contract. It will be hard fought and not easily won. We are operating off a contract that is 44 years old and we will begin the engagement before the end of this year between GPs, the HSE and the Department of Health on what a

new, modern fit-for-purpose GP contract would look like. The more people that we can treat in the community the fewer people will need to go the acute hospitals. That will free up the beds for the people who need to be in the acute hospitals. That is not a criticism of people attending emergency departments, as sometimes they have nowhere else to go, but we need to do more in the area of primary care.

I answered Deputy Kelleher's earlier question about the bed capacity review, which will give us an accurate view of what we need to do in regard to future bed capacity. It needs to examine bed capacity not only in the acute hospitals but across the health service and that will be done in time for the Government's mid-term capital review, which will take place in the middle of next year, so that we know what the ask of health is at that stage.

An Leas-Cheann Comhairle: We will move on to Question No. 12 in the name of Deputy Aindrias Moynihan.

Hospital Waiting Lists

10. **Deputy Michael McGrath** asked the Minister for Health the measures that will be put in place to assist the 4,038 persons waiting more than 18 months for an outpatient appointment in Cork hospitals; and if he will make a statement on the matter. [38058/16]

12. **Deputy Aindrias Moynihan** asked the Minister for Health the measures being taken to obtain outpatient appointments for the 11,468 persons waiting more than a year in Cork hospitals in October 2016. [38033/16]

Deputy Aindrias Moynihan: A total of 11,468 people have been waiting for outpatient appointments in Cork for more than a year. That is across a range of specialties. Earlier this year, I raised with the Minister the position regarding gynaecological services in Cork, which has the largest waiting list for those services and which is far ahead of anywhere else in the country. Women in need of those services are being left for well over a year and a year. They need action.

Deputy Simon Harris: I propose to take Questions Nos. 10 and 12 together.

I thank Deputy Moynihan for tabling that important question. Similar to Deputy Lahart's question, I would begin by pointing out that we have seen a significant level of underinvestment, perhaps due to the difficult challenging economic years, in addressing waiting lists. There is a direct correlation between under-investing in waiting list initiatives and the impact on the size of waiting lists. We are rectifying that now with the co-operation of people across this House by putting ring-fenced funds into the National Treatment Purchase Fund, NTPF, and into dedicated initiatives within the public health service.

I would also make the point that this time last year approximately 25,000 people a month were being referred by GPs for outpatient appointments. That number has risen to approximately 35,000 a month, so there is a massive increase in capacity in terms of the number of the outpatient appointments being sought.

We are committed to improving waiting times for patients. While recognising that demand for acute hospital services has increased, the important issue for patients is, as the Deputy said, how long they wait. According to the October waiting list data published by the NTPF, nearly

80% of patients on the outpatient waiting list for hospitals in Cork are waiting fewer than 12 months and 93% are waiting fewer than 18 months so I just need to put them into some context.

In August, I asked the HSE to develop a waiting list action plan for 2016 to reduce by year end the number of patients waiting over 18 months for an inpatient or day-case procedure. Since then, we have seen approximately 6,500 patients being removed from that national waiting list. It has clearly had an impact.

Regarding outpatient waiting lists in particular, the HSE recently launched the strategy for design of integrated outpatient services 2016-20. It seeks to improve waiting times for outpatient services by enhancing patient referral pathways and utilising technology to enable better planning.

As I told the Deputy's colleague, this year's budget provides moneys specifically for the treatment of our longest-waiting patients, and this will benefit patients in Cork hospitals as well. Deputy Aindrias Moynihan has referred specifically to the issue of gynaecological services, which extends beyond the answer I have given the Deputy. I want to make it clear that I am concerned by what I read about the waiting times and the concerns that have been expressed by a number of Cork representatives, including the Deputy. I have asked the HSE for a report on the maternity services and gynaecological services in Cork. I also intend to visit the hospital concerned in the coming weeks to meet directly with management and clinicians on these issues.

Deputy Aindrias Moynihan: While people are languishing on waiting lists they have diminished quality of life. Their distress and anxiety must be unimaginable. There is significant suffering and it is cruelly compounded by that long wait. Those outpatient waiting lists are causing delayed diagnosis of cancers and other serious conditions. While we can consider the different statistics, I am seeing the real people who are calling into my clinic, the person hobbling who has been waiting two years to have a hip operation, etc. Also, in the case of gynaecological services, I dealt with a woman who was in the bathroom in a puddle of blood and I had to phone for an ambulance for her. She was on a waiting list for well over a year and had to repeatedly go to the accident and emergency department until she finally received treatment. It is not acceptable.

When I raised the issue of the gynaecological services in Cork with the Minister earlier this year, I pointed out to him the unused theatres in Cork and that theatre in that hospital remains unused. I pointed out to him earlier this year the need for additional consultants in Cork. Of the 28 who were appointed, no consultant was appointed in Cork and there still is not a consultant on the ground, even though the Minister has figures for one to take up position sometime next year. When I raised the issue of the gynaecological services in Cork with the Minister last summer, there were 1,213 waiting for those services for more than a year. That number has risen to 1,628. There needs to be action, not reports. Services need to be delivered for those people in Cork.

Deputy Simon Harris: There does, there will be and there are. That is seen by the increased level of investment in the health service, which is being translated as we speak into a HSE service plan which will see more funding going into the health service in 2017 than in 2016, which is more funding than ever before. I am not suggesting in any way, shape or form that we can rectify all of the challenges and issues in one budget or in one short period of time. We must have context when we quote figures. When a Minister quotes statistics, people will

say do not drown us in statistics, and that is a valid point, but 80% of people in Cork are waiting fewer than 52 weeks for an appointment. The position is not acceptable for the 20% but let us not suggest that everybody is waiting over 12 months or over 18 months. People are clinically prioritised. The Deputy spoke about important issues like cancer and clinical decisions are made in regard to prioritisation of lists, which is important.

The South-South West Hospital Group, which is the group for Cork, has advised me that both it and Cork's hospital management teams continue to work together on solutions to reduce outpatients waiting lists. Clinical capacity is being increased and managed by different initiatives such as extra consultant clinics, musculoskeletal physiotherapy clinics, chronological booking to make sure people who are waiting the longest are being seen first, an ongoing validation of waiting lists, and an IT solution to improve communication with patients and help reduce the extraordinarily high rate of "do not attends" where people have an outpatient appointment and do not attend. We had 400,000 last year, which is a massive number. This is currently at pilot stage in Cork; it will commence this month to try to reduce the number of "do not attends". The South-South West Hospital Group also has a dedicated scheduled care manager who co-ordinates and manages all waiting lists across the hospital group in co-ordination with hospital managers. I take seriously the points Deputy Aindrias Moynihan has raised. I have already been in Cork University Hospital but I specifically want to visit it with a focus on its maternity and gynaecological services, and I will do that in the coming weeks.

Deputy Aindrias Moynihan: I thank the Minister for those details. For each of those people, and their families, who are on that waiting list suffering significantly, there is a fear of a delayed diagnosis of cancers and other conditions. We have already seen the different reports. We know there was plan for a one-stop-shop for gynaecological services in Cork. That needs to be acted on. When I raised this issue with the Minister in the summer, we discussed the possibility of the NTPF. Can it be advanced to aid those people who are still on those waiting lists, suffering and left in limbo?

Deputy Simon Harris: I will certainly ask that this be considered in the context of the NTPF funding. It has €20 million for expenditure in 2017. I have approved the first €5 million of that which is for day-case procedures largely because we can get through quite a volume of day-case procedures which takes pressure off the acute hospitals and allows them to do other procedures as well. I have asked the HSE for a specific report on gynaecological services in Cork and on what I have been reading in regard to them. I am happy to share that with the Deputy as soon as I receive it.

Acting Chairman (Deputy John Lahart): The Ceann Comhairle is satisfied that Deputy Kelleher can take Deputy Michael McGrath's Question No. 10 in his absence. The answer to it is same as that for Question No. 12.

Deputy Simon Harris: They were taken together.

Acting Chairman (Deputy John Lahart): They were grouped.

Deputy Billy Kelleher: Can I ask a supplementary question?

Acting Chairman (Deputy John Lahart): Yes, a supplementary question.

Deputy Billy Kelleher: This question asks the Minister what he will put in place to assist the 4,038 persons waiting more than 18 months for an outpatient appointment in Cork hospitals

and if he will make a statement on the matter. We have been highlighting this for some time. Deputy Aindrias Moynihan has been consistently raising the issue of the problems with gynaecological services in Cork. To give the Minister some figures, 4,193 women are waiting for an outpatient gynaecological appointment in Cork. This is the longest waiting list of all gynaecological units nationwide. The waiting list is twice as long as the gynaecological waiting list in the Rotunda Hospital in Dublin. One in three women will wait more than an year for an outpatient appointment with many having to wait two to three years. That is what women are facing in Cork on a consistent basis. Rather than just visiting the hospital, there needs to be a co-ordinated response to address what is an alarming continual delay in accessing vital services.

Deputy Simon Harris: I replied to both questions as a group and, therefore, the points I made in response to Deputy Moynihan regarding what I wish to do to tackle waiting lists and the longest waiters stand in the context of this question about Cork. I intend to take the steps I have outlined and that the South-South West Hospital Group will outline as well. Although the Deputy is not suggesting that I am visiting the hospital for the sake of it, I am visiting because I want to meet the clinicians who I have read have a number of views on measures that should be undertaken. I want to hear directly from them and I will make arrangements to do that as quickly as possible.

Deputy Billy Kelleher: I welcome the fact the Minister will visit the hospital and I do not suggest he is doing so just as a photo opportunity. I hope he will recognise the difficulties and challenges facing staff. However, there are a few problems we know about in advance of his visit. The CUMH has only one gynaecology theatre in operation. There is a huge opportunity because the infrastructure is in place for some services but the clinicians and support staff are not in place. A gynaecology one-stop-shop, which was envisaged and costed, should be built, as Deputy Moynihan said. A minimum of four additional consultant gynaecologists should be employed as well as nursing and support staff. If all this was put in place, it might improve services. We must avoid a scenario where women are potentially not being diagnosed with life-limiting illnesses and potential threats to their lives because they cannot access services or because of inordinate delays. I urge the Minister to do something quickly and proactively prior to his visit to Cork.

Deputy Simon Harris: I take seriously the points raised by Deputy Kelleher and, indeed, a number of Cork-based Deputies have brought these to my attention. I will act on them. I have asked the HSE to provide a report on gynaecological service waiting times and what it proposes to do to reduce them. I expect to have that in hand before I meet directly with clinicians in Cork, who also have a range of options. We need action on this and I am determined to deliver it.

Question No. 13 replied to with Written Answers.

Maternity Services

14. **Deputy Clare Daly** asked the Minister for Health his views on the implications for patient safety of the shortfall in midwifery posts in maternity hospitals, particularly in Dublin; and his further views on whether this shortfall may lead to an increase on the sums paid out annually by the State Claims Agency in maternity cases, which amounted to €379 million in damages and legal costs in the years 2007 to 2015. [37783/16]

Deputy Clare Daly: The former master of the Coombe Hospital has said unequivocally that Ireland has long been skating on dangerously thin ice when it comes to maternity services. His view seems to be supported by the phenomenal sums the State Claims Agency has paid out in maternity cases. A total of €379 million was paid in damages and legal costs between 2007 and 2015. Is the Minister concerned about the impact of the crisis in midwifery on patient safety?

Deputy Simon Harris: I thank the Deputy for raising this important matter. I visited the Coombe Hospital only yesterday, I visited Holles Street Hospital only last Friday and I visited the Rotunda Hospital the week before. In years past, our maternity services did not receive the priority they needed in respect of investment and I am determined to fix that. This is not a political point; it is one levelled at all our doorsteps. This is not just about words. Earlier this year, I launched Ireland's first ever national maternity strategy. It is shocking in some ways that it is the first ever but it has been recognised as a good document with great input from experts but also from women who are the experts in this regard. Our first set of bereavement standards were also published for women who are bereaved through pregnancy or neonatal death, again with direct input from women, their partners and midwives. That will lead to a number of changes in maternity services.

There are plans to relocate the National Maternity Hospital to St. Vincent's Hospital because while there is excellent work going on there, the building is simply not fit for purpose and women deserve a state-of-the-art, world class facility. I also recently approved the HIQA standards for maternity services, which will be launched this month.

I am aware of, and am concerned about, increasing claims to the State Claims Agency arising from maternity cases. However, I assure the Deputy that the safety and quality of maternity services is a priority for the Government and a personal priority. The publication of the national maternity strategy earlier this year, I hope, demonstrates a new and enhanced focus on maternity care at both policy and service delivery level, and provides a road map for how we can improve services in the years ahead. This month, HIQA will publish national standards for safer and better maternity services, the first standards in the area. They will provide a framework for maternity service providers to ensure that they are meeting the needs of women, their babies and their partners, and that a consistent service is delivered across the country. I am confident that the strategy, coupled with the new standards, will provide the building blocks for a safer and better service.

With regard to midwifery numbers, in 2014, the HSE commissioned a midwifery workforce planning project. The project will inform the allocation of new midwifery resources on a phased basis over the coming years. In May 2016, the HSE granted approval to the hospital groups to appoint an additional 100 staff midwives. The majority of these posts were allocated to the three Dublin maternity hospitals.

In line with the national maternity strategy, a national women and infants health programme is being established within the HSE to lead the management, organisation and delivery of maternity, gynaecological and neonatal services. The programme will drive the delivery of the strategy.

Deputy Clare Daly: It is a good strategy but it is a long way from being implemented. It was followed by a report on midwifery numbers which suggested that to implement the measures in the strategy, a midwife to birth ratio of 1:29.5. would have to be achieved, which would require the recruitment of an additional 450 midwives and not just the 100 who have been re-

cruited. While I welcome their recruitment at a cost of €3 million, there has been a twelvefold increase in litigation taken by women who have been damaged by our maternity services in precisely the same period that the budgets for maternity hospitals were cut. Maternity cases represent more than half the claims dealt with by the State Claims Agency, which is absolutely scandalous. The link between the two cannot be denied. Why are all these women and families suffering? A fraction of the amount spent by the State on legal costs and damages on maternity services would transform them.

Deputy Simon Harris: I agree with the Deputy. Maternity services were neglected compared to other parts of the health service, even in years when money was aplenty. It cannot, therefore, just be put down to a recessionary challenge. It was an issue going back through the generations and we have to work collectively to rectify it. I acknowledge the Deputy said the national maternity strategy is a good document but it has not been fully implemented in any way, shape or form. However, it was published last January and it is a living, breathing document. We have to get on to implement it. We are using the same model to implement it as was successfully used by previous Governments to implement the national cancer strategy. Rather than it just being a strategy, there will be a national women and infants health programme within the HSE to drive it and, by any objective standard, that attaches a priority to its delivery and implementation.

According to the October census, there were 1,402 whole-time equivalent midwife posts within the health service and when midwives, midwife managers and other midwifery specialists are included, there were 1,934 whole-time equivalents.

Deputy Clare Daly: The Minister said the strategy only came in in January but, 11 months on, 13 maternity hospitals do not have access to ultrasound scans and they have been unable to recruit programme directors and so on. An inherent weakness in the strategy is the lack of targets and timeframes. The need to deliver way beyond the number of midwives that has been sanctioned, which would have a valuable impact, has not been taken on board enough. The number needs to be doubled or trebled. I welcome the recruitment of 100 additional midwives but the HSE spent €6 million last year fighting claims in maternity cases. That money would have enabled the recruitment of 200 midwives. The Minister is going in the wrong direction and the strategy has not been implemented quickly enough. I have received horrific correspondence from midwives at the coalface of this crisis.

Deputy Louise O'Reilly: Midwives, who are members of the Irish Nurses and Midwives Organisation, in Mayo University Hospital are being balloted on industrial action, a decision they have not taken lightly. They are doing so because of staff shortages. An additional 100 midwives is not enough; a total of 450 is required. The Minister's recruitment plans for the health service are not achieving their targets. Even those who are coming to Ireland to take up posts are leaving to go abroad again. We are not competing with private hospitals and hospitals abroad.

5 o'clock

Women deserve better treatment than they are getting. They have been badly served by the maternity services and that is no fault of the midwives who are providing that service. The midwives in Mayo are sending the Minister a very clear message that more staff are needed.

Acting Chairman (Deputy John Lahart): This is the Minister's final response.

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Deputy Simon Harris: I will do my best. The issue in Mayo has been referred to the Workplace Relations Commission and I hope everyone involved will use all available mechanisms to resolve the dispute. People do not take these decisions lightly but it is in everybody's interests, including those of women, that this issue be resolved as quickly as possible.

I accept the thrust of what Deputy Clare Daly is saying. There is so much more we need to do in maternity services. I ask the Deputy to believe that this is a project on which I will work with everyone and anyone in this House in order to ensure that we deliver. There have been generations of neglect in the context of investment in our maternity services. It is not that we have done nothing since the maternity strategy was published in January. We have seen the extra 100 midwives, which the Deputy has welcomed. We have seen the publication of the bereavement standards and HIQA is about to publish the national standards. We should not underestimate the importance of having national standards published by HIQA, which is an independent regulatory body. We have €150 million of capital funding to build a state of the art, world class, national maternity hospital for women in this country on the campus of St. Vincent's. We also have plans to move the Rotunda to Connolly Hospital and the Coombe to St. James's. These are issues we need to try to fund in the context of the review of capital.

The point on midwifery numbers is that there is a challenge in recruitment and retention and one could apply the same argument to nursing numbers. It is a challenge that goes beyond funding. I hope the public sector pay commission will look at these as well in exploring the sectoral challenges. I expect the HSE to look at its Bring them Home campaign which has been disappointing in terms of the results it has delivered to date.

Written Answers are published on the Oireachtas website.

Topical Issue Debate

Special Educational Needs Service Provision

Deputy Colm Brophy: I thank the Leas-Cheann Comhairle for allowing this matter to be taken. I want to raise the issue of the failure to fill a needs assessment officer position in Dublin south west. This is a critical post for families, parents and schools wishing to allocate resource hours. The post has been vacant since March. It has not been filled. I accept that a process was engaged in to try to fill the post which was unsuccessful. I find it strange that it was unsuccessful. The impact this is having on parents and children in Dublin south west cannot be underestimated. I have had parents contact me who have been waiting since November 2015, which is a 12-month delay. I have had schools contact me who are in a situation where they cannot allocate the additional resource hours they know they need. They have children who have not been successful in getting additional hours under the National Educational Psychological Service, NEPS and they are still waiting year in, year out. Every year that is missed and every time we go past September, another child loses another year. It is a bureaucratic situation in lots of ways but it is unacceptable that 500 assessments are waiting for this post to be filled and for something to be done to help those children, parents and families. Can the Minister of State tell me when this post will be filled and what will be done to fill it as soon as possible?

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Dep-

uty Brophy for raising this very important issue. He has been very supportive of the investment in and development of services for children with disabilities. I am also pleased to take this opportunity to update Deputy Brophy and other Members on the progress under way in developing services for children with disabilities and the current position on recruitment of staff and waiting times for assessments of need.

The HSE has recognised that early intervention services and services for school-age children with disabilities need to be improved and organised more effectively. This process is well under way. I emphasise there has been continual additional investment in this area in order to support the HSE as it faces significant challenges in respect of meeting the statutory timeframes which apply to the assessment of needs process.

In the context of the Dublin south west assessment officer position that became vacant in March 2016, the community health care organisation, CHO7, has been working to recruit this post since that time. Following a recent internal recruitment campaign, a suitable candidate was identified and offered the position. Unfortunately, prior to a start date being agreed, the candidate declined the appointment. That is the problem with the position in question. Given the urgency of the situation, another potential candidate has now been identified. Every effort is being made to progress the recruitment of this person as a matter of urgency. In the absence of the assessment officer, systems have been put in place to process applications and provide for assessments to be conducted. The HSE social care division has requested that the local area provide an improvement plan to address the significant backlog of applications. This implementation plan will be submitted and considered over the next two weeks with a view to implementing the appropriate action plan without further delay. The HSE is endeavouring to fill the position on a temporary basis until a successful candidate is appointed. The HSE will continue to process applications within the capacity and resources available to ensure the backlog of applications is reduced at the earliest opportunity.

I previously met a representative group of parents from the Dublin south-west area and the CEO of Uplift who presented me with a petition calling for this situation on disability assessments to be addressed. I am acutely aware of the difficulties being experienced by families in this area and I want this situation to be resolved. The HSE is currently engaged in a reconfiguration of existing therapy resources to geographic-based teams for children up to 18 years. The objective of the new model of assessment and intervention is to provide one clear referral pathway for all children irrespective of their disabilities, where they live or the schools they attend. It is expected that this reconfiguration of services will have a significant impact on our ability to meet the needs of children and young people in a more efficient, effective and equitable manner and, in particular, on our ability to comply with the statutory timeframes set out in the Disability Act and the accompanying regulations.

The current programme for a partnership Government commits the Government to improving services and increasing supports for people with disabilities, particularly for early assessment and intervention for children with special needs.

Deputy Colm Brophy: I thank the Minister of State for his reply. I acknowledge and recognise the investment the Government has put into this area. It is worth making the point again that this happened last March. I appreciate the Minister of State has met the parents. We have all, as public representatives, met parents who are caught up in this. It is an incredibly bureaucratic situation that it has taken until now for the need for a temporary person to fill the position to be recognised and for the process to be advanced to the point the Minister of State

has outlined. The result of that delay is that 500 assessments are backlogged. I hope that on foot of the Minister of State's words today and what he has committed to there will be sufficient resources and effort by the HSE, when somebody comes into the position, to clear that backlog in a speedy and reasonable way. Each month is a month that is irreplaceably lost to the child and family. I thank the Minister of State for his reply. I welcome his reply and the additional information he has supplied but I make the point that it is about resources. The HSE must support the filling of this post by providing the necessary resources to allow the backlog to be cleared. It is incredibly disappointing when we know in advance what will happen if someone leaves a role like an assessment officer role. Effectively, it takes a year or perhaps nine months or so before the necessary action is taken to fill that post.

Deputy Finian McGrath: I take Deputy Brophy's point about March as well as his proper points about the bureaucracy and delays. As far as I am concerned, delays are not good enough, especially with regard to assessments for children with disabilities. Long delays are not good for the child, especially the educational, personal and emotional development of the child.

I am giving a commitment to Deputy Brophy that there will be sufficient resources to clear the backlog. There was a problem with a person withdrawing from the process and then with filling the position subsequently. We have a wider problem in certain professions. We seem to have a problem with vacant positions and finding the right people.

At the end of 2015, there were approximately 400 assessment of need applications in process. It is estimated that at the current rate there will be approximately 500 assessment of need applications in the process by the end of the year.

The HSE social care division has requested that the local area provides an improvement plan to address the significant backlog of applications. I will be pushing strongly for this. The implementation plan will be submitted and considered. I am giving a commitment over the next two weeks to implement the appropriate action plan without further delay. The HSE is endeavouring to fill the position on a temporary basis until a successful candidate is appointed. The HSE will continue to progress applications within the available capacity and ensure that the backlog of applications is reduced at the earliest opportunity.

I will bring the strong message sent from Deputy Brophy back to the HSE and the Minister for Health, Deputy Harris. We cannot have a situation where delays in providing assessments of need for children, especially in my area of responsibility for children with disabilities, are allowed to continue. We have the resources and they are included in the programme for Government. Now we need to implement strong decisive action plans to deal with these issues.

Seirbhísí Farantóireachta

An Leas-Cheann Comhairle: Ós rud é go bhfuil beirt Theachtaí ag labhairt, beidh dhá bomaite ag an Teachta Connolly agus dhá bomaite ag an Teachta Ó Cuív.

Deputy Catherine Connolly: Tá muintir Árann fágtha gan seirbhís farantóireachta. Agus muid inár suí anseo, bhí siadsan i mbun agóide chun a chur in iúl cé chomh tábhachtach is atá an tseirbhís seo agus na himpleachtaí tromchúiseacha a bhaineann leis an gcinneadh a rinne an comhlacht príomháideach deireadh a chur leis an tseirbhís seo. B'fhéidir go bhfuil beagánín dul chun cinn déanta i rith an lae - níl mé cinnte faoi sin fós - agus b'fhéidir go bhfuil freagra

ag an Aire Stáit. Tá a fhios agam go bhfuil locht ar an gcóras áitiúil agus ar an gcomhlacht príobháideach, ach tá locht ar an Rialtas freisin. Tá easpa eolais, tuisceana agus tola i gceist ó thaobh an Rialtais de. Tá a fhios agam go bhfuil a dhóthain déanta ag an Aire Stáit - gach rud gur féidir leis a dhéanamh - ach tá easpa tuisceana ann ó thaobh an Rialtais de. Tá se sin cinnte.

Tá réiteach fadtéarmach ag teastáil go géar, ach tá réiteach gearrthéarmach ag teastáil freisin. Cad é an plean B? An bhfuil an tAire Stáit chun an cabhlach a úsáid? An mbeidh seirbhís eile ann? An gcuirfidh sé in iúl dúinn go bhfuil toil an Rialtais athruithe agus go dtuigeann an Rialtas cé chomh tábhachtach is cé chomh riachtanach is atá an tseirbhís seo? Tá muintir Árann scartha ón mórthír. Tá impleachtaí tromchúiseacha ann ó thaobh sláinte agus oideachais de. Níl gá dom é sin a rá leis an Aire Stáit. Tá a fhios agam go bhfuil an t-eolas go léir aige, ach an bhfuil plean B ag an Aire Stáit? Má tá, an ndéarfadh sé go sonrath cibé is é an plean B sin?

Deputy Éamon Ó Cuív: Mar atá ráite cheana sa choiste agus mar a dúirt mé anseo i rith Cheisteanna na gCeannairí ar maidin, fágadh muintir Árann gan aon sheirbhís farantóireachta ó mhaidin inniu. Bhí a fhios againn le fada an lá go raibh an chontúirt ann go dtarlódh sé seo. Go deimhin féin, is beag ná gur tharla an rud céanna an geimhreadh seo caite. Ach oiread leis an Teachta Connolly, ba mhaith liom a fháil amach céard atá déanta le malairt seirbhíse a chur ar fáil agus ní hamháin inniu ná inné ach céard atá déanta le mí anuas le déanamh cinnte go mbeadh seirbhís eile ar fáil dá dtarraingeodh an farantóir siar an tseirbhís atá sé ag cur ar fáil? Cén dul chun cinn atá déanta inniu le malairt seirbhíse a chur ar fáil? Is bóinas mór a bheidh ann má thagann an chomhairle contae agus Island Ferries ar chomhréiteach, ach níl aon smacht gearrthéarmach ag an Aire Stáit air sin.

Cuirim go leor den locht ar an gcomhairle contae agus ní i ngeall ar an gcaidreamh leis an bhfarantóir. Cuirim an locht ar an gcomhairle contae mar rinne Comhairle Chontae na Gailimhe iarracht a dhéanamh go gcaitheadh na hoileánaigh- agus bhí Roinn an Aire Stáit páirteach anseo - 80 cent a íoc as ucht landáil ar an gcé. Agus má tá sé ráite míle uair agam, bhí sé sin cosúil le ticéad saor in aisce a thabhairt ar traen agus a rá, dála an scéil, nuair a landálann an traen ar an ardán sa stáisiún go gcaithfear 80 cent a íoc as ucht an t-ardán a úsáid.

Chomh maith leis sin, do lá inniu agus do lá amárach, mar tá a fhios ag Aer Arann cé mhéad a iompraíodh inniu agus glacaim leis nach mbeidh seirbhís ar fáil amárach mura dtiocfaidh athrú intinne ar Island Ferries, creidim féin go mba cheart don Aire Stáit cinneadh láithreach a dhéanamh go ndéanfar fóirdheonú ar Aer Arann le go mbeadh €10 ar thicéad fillte d'oileánach agus €5 do dhuine óg ón oileán agus go mbeadh na pinsinéirí agus na daoine le saorthaistéal in ann taistéal in aisce in áit na táillí ollmhóra atá á ngearradh agus iadsan €35 do thicéad fillte do dhaoine fásta, €23 do dhaoine óga agus €15 do phinsinéirí. Chomh maith leis sin, tá sé ollchostasach ar fad - €49 - ar dhuine éigin atá ag dul isteach le seirbhís. Tá go leor a bhféadfadh an tAire Stáit a dhéanamh. Tá mé ag súil le freagraí soiléire uaidh tráthnóna faoi céard atá ag dul ag tarlú amárach agus sna laethanta beaga atá romhainn. Pléimid an cheist fad-téarmach arís.

Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Seán Kyne): Ar dtús báire, ba mhaith liom buíochas a ghabháil leis na Teachtaí as ucht an t-ábhar tábhachtach seo a ardú. Mar is eol do na Teachtaí, tá rudaí bogtha ar aghaidh óna raibh díospóireacht againn ar an ábhar ag deireadh mhí Dheireadh Fómhair. Chuir an comhlacht farantóireachta siar an fógra a rinneadar go raibh siad ag cur deireadh leis an tseirbhís idir Ros an Mhí agus Inis Mór ar roinnt ócáidí, ach faraor chuireadar an fógra i bhfeidhm inné, 30 Samhain, agus tuigim nach raibh seirbhís bháid paisinéara ar fáil don oileán sin maidin in-

niu. Caithfidh mé a rá go bhfuil a fhios agam cé chomh tábhachtach is atá an tseirbhís seo don oileán. Is léir ón bplé ar fad atá déanta ar an ábhar le tamall anuas go bhfuil ceithre phríomhpháirtí sa díospóireacht seo: an comhlacht farantóireachta Island Ferries Teo, mo Roinn féin, Coinhairle Chontae na Gaillimhe agus pobal an oileáin. Ar ndóigh, is iad pobal an oileáin is mó atá buailte ag an gcinneadh atá déanta ag Island Ferries Teo agus caithfidimid cuimhneamh ar sin agus muid ag plé an ábhair seo. Níl dabht ach go raibh Island Ferries Teo ag cur seirbhís mhaith ar fáil don oileán le blianta anuas. Tá an comhlacht sin ag cur seirbhís ar fáil don oileán ó mhí Feabhra 2013 gan aon chúnamh ón Stát, rud sílim a léiríonn gur slí bhrabúsach atá i gceist. Chun cinnteacht a thabhairt don tseirbhís, tá iarrachtaí déanta ag mo Roinn trí chomórtas soláthar poiblí conradh a chur ar an tseirbhís ach níor éirigh léi é sin a dhéanamh in 2013 ná arís in 2014. Arís in 2015, chinn an comhlacht a bhí ag cur an tseirbhís ar fáil nach leanfaidís leis an tseirbhís tar éis 31 Eanáir 2016 suas go dtí mí Aibreáin 2016. Deacrachtaí leis an laghad ioncaim ó bheith ag réachtáil seirbhíse sa gheimhreadh an chúis a thug an comhlacht an uair sin. Chuaigh mo Roinn i mbun plé le geallshealbhóirí ábhartha chun feiceáil an bhféadfaí teacht ar réiteach. Tar éis an plé seo, d'aontaigh an comhlacht farantóireachta seirbhís éigeandála a chur ar fáil ar feadh tréimhse trí mhí ó 1 Feabhra go dtí 30 Aibreán 2016 ach suim €50,000 á íoc leo. Leanadh leis an tseirbhís ag an am ach níor tarraingíodh anuas an fóirdheontas a ceadaíodh. Is léir ón bplé ar fad nach bhfuil Island Ferries Teo ag glacadh leis an leibhéal táillí atá leagtha ag Comhairle Chontae na Gaillimhe ar Ché Chill Rónáin ag eascairt as fodhlithe a cuireadh i bhfeidhm ar an gcé. Is ceart a mheabhúrú don Teach gur thóg an comhlacht dúshlán cúirte ina n-aghaidh a chuaigh go dtí an Cúirt Uachtarach, agus gur chailleadar an cás. Chuir Island Ferries Teo doiciméad os comhair mo Roinn le deireanaí ina raibh moltaí faoi réiteach ar an bhfadhb mar aon le tuairimí faoi thodhchaí na seirbhíse. Thug mo Roinn éisteacht mhaith do na moltaí agus tá mé sásta a rá go bhfuil Island Ferries Teo bogtha ón seasamh a bhí acu roimhe seo maidir leis na fodhlithe. Is céim mhór í sin. Tá mé féin agus mo chuid oifigeach i dteagmháil rialta le Comhairle Chontae na Gaillimhe faoin ábhar agus i dteagmháil chomh maith le Island Ferries Teo agus le hionadaithe ón oileán, ach ag deireadh an lae, pé socrú a dhéanfar maidir leis na táillí a thagann ó na fodhlithe, is gá gur socrú idir an chomhairle contae agus Island Ferries Teo a bheidh ann. Níl mo Roinn ábalta na fodhlithe a athrú ar ndóigh. Ní mór dom a rá freisin nach costas nua é seo ar an gcomhlacht mar gur táille d'úsáideoirí na seirbhíse atá i gceist, amháin. Tá mo Roinn fós ar fáil le haghaidh réiteach a fháil ar an bhfadhb. Tá réamh-theagmháil déanta ag mo Roinn leis an Roinn Cosanta. Leanfar leis na hiarrachtaí ar fad atá ar siúl agus fáiltím roimh mholtaí ón bhfreasúra maidir leis an ábhar. Ba mhaith liom an deis seo a thapú chomh maith impí ar Island Ferries Teo an tseirbhís mar a bhí sí a chur ar siúl arís mar bheart dea-thola agus chun deis a thabhairt le teacht ar shocrú do na míonna amach romhainn.

Mar atá a fhios ag na Teachtaí, pléadh an cheist thábhachtach seo ag cruinniú an chomhairle contae inniu. Tá mé ag fanacht ar na moltaí a ghlac an chomhairle contae leis a chloisteáil, ach ghlac siad le moladh chun cead nó treoir a thabhairt don phríomhfheidhmeannach suí síos le mo Roinn agus leis an gcomhlacht farantóireachta. Tá mé sásta an cruinniú sin a eagrú do 9 r.n. ar maidin má theastaíonn. Beidh mé ag plé leis an gcomhlacht agus leis an gcomhairle contae chun an próiseas sin a thosú go luath.

Deputy Catherine Connolly: Tá an stair go léir ar eolas againn. Ní bhaineann sé seo le fodhlithe. Bhaineann sé le cúrsaí sábháilteachta. Tá gá le réiteach práinneach a aimsiú go gearrthéarmach. Níl mé sásta leis an bhfreagra atá faighte againn. Tá stair na ceiste seo leagtha amach ag an Aire Stáit. Caithfear réiteach a fháil. Cad é an réiteach a bheidh ar an bhfadhb seo? Ní féidir le muintir Árann na hoileáin a fhágáil gan an tseirbhís bhunúsach seo. Níl sé ceart ná cóir go bhfuil orthu dul i mbun agóide chun seirbhísí bunúsacha a fháil. Mar a dúirt mé,

tá easpa tuisceana i gceist ó thaobh an Rialtais de. Tá gá le réiteach anois. Tá sé de dhualgas ar an Aire Stáit agus ar an Rialtas réiteach práinneach a bhaint amach. Ba cheart go mbeadh an tAire Stáit in ann a rá linn cad a bheidh i gceist ón lá amárach amach. Ní féidir le muintir na n-oileáin taisteal anonn is anall gan an tseirbhís bhunúsach seo. Ba chóir go mbeadh cruinnithe ar bhonn práinne idir ionadaithe na Roinne, na Teachtaí Dála ón gceantar agus muintir Árann. Tá sé ráite agam go bhfuil locht ar an gcóras áitiúil, ach tá dualgais i bhfad níos tábhachtaí ar an Rialtas.

Deputy Éamon Ó Cuív: Is náireach amach is amach an rud é gur smaoinigh an chomhairle chontae agus an Rialtas ar tháille úsáide a chur ar phobal Árann. Le linn Ceisteanna na gCean-nairí sa Teach seo níos luaithe, d'iarr mé ar an Tánaiste soiléiriú a thabhairt dúinn an bhfuil an Roinn sásta fordheontas breise a dhéanamh le go mbeidh táille á ghearradh ar Aer Arann a bheadh combhionann leis an táille a bhíodh á híoc ar na hoileáin eile ar na báid. Níl mé ag caint ar na táillí a bhí i gceist go hÁrainn mar bhíodar as bealach ar fad ar aon chaoi. Cén uair a rinne an Rialtas teagmháil leis an gcomhlacht i dtosach? Bhí a fhios againn le mí anuas go raibh sé seo le tarlú. An raibh an Rialtas i dteagmháil le comhlachtaí farantóireachta sa tír seo, in Albain nó in aon tír eile le mí anuas, ó fuair siad an fógra go raibh an tseirbhís i mbaol, le féachaint an mbeidís sásta seirbhís a chur ar fáil dá dtarraingeodh Island Ferries as? Más rud é go raibh, cén uair a tharla sé sin agus cé mhéad comhlachtaí a bhí i gceist? Ar labhair an Rialtas leis na comhlachtaí sin inniu, ó tharla nach bhfuil aon fharantóir ag dul go dtí Oileáin Árann níos mó, le malairt seirbhíse a chur ar fáil?

Deputy Seán Kyne: Maidir leis an bpróiseas, chuir mé an Teachta Connolly, an Teachta Ó Cuív agus na Teachtaí eile sa Dáilcheantar ar an eolas faoi chuile rud. Pléadh an t-ábhar seo ag cruinniú le baill Chomhairle Chontae na Gaillimhe coicís ó shin. Ní raibh chuile dhuine ar an intinn céanna. Níor tháinig moladh as an gcruinniú sin. Bhí a fhios againn go raibh na comhairleoirí chun an ábhar a phlé Dé Luain seo caite agus tharla sé sin. Níor tháinig aon mholadh as an gcruinniú sin ach an oiread. D'eagraigh mé cruinniú idir phríomhfheidhmeannach Chomhairle Chontae na Gaillimhe, Paddy O'Brien agus na dlíodóirí Dé Máirt seo caite. Pléadh an t-ábhar ag cruinniú eile inniu agus tá moladh tagtha amach ón gcruinniú sin. Tá na hoifigigh i mo Roinn ag déanamh iarrachta bád eile a fháil. Tá iarracht déanta acu. Sílim go mbeidh bád ar fáil. Tá siad fós i dteagmháil le comhlachtaí sa tír seo. Tá a fhios agam cé chomh tábhachtach is atá an cheist seo. Mar atá ráite agam i gcónaí, is ceist do na comhairleoirí iad na táillí. Rinne na comhairleoirí cinneadh i dtaobh na dtáillí. Ní raibh said sásta an cinneadh sin a athrú ina dhiadh sin. Bhí cás cúirte ann, agus chaill Island Ferries an cás sin. Bhí an bua ag an gcomhairle chontae. Cé go bhfuil an dlí ar thaobh Comhairle Chontae na Gaillimhe maidir leis na táillí, tá na comhairleoirí fós sásta breathnú orthu mar gheall ar an díospóireacht a bhí acu inniu. Bhí mise lárnach sa phróiseas sin, leis na comhairleoirí, chun rudaí a athrú. Is céim mhór í sin ó Island Ferries. Tá céim mhór tógtha ag na comhairleoirí freisin maidir leis na táillí. Tá sé ráite go pearsanta ag Paddy O'Brien liomsa nach bhfuil sé ag leagan an milleán maidir leis na táillí orm ná ar an Roinn, ach ar an gcomhairle chontae. Is maith an rud é go bhfuil an cheist seo pléite i gceart ag na comhairleoirí agus gur tháinig moladh as an gcruinniú sin. Mar a dúirt mé níos luaithe, tá mé sásta suí síos le haon duine ar 9 r.n. ar maidin chun réiteach ar an ábhar seo a fháil.

JobPath Implementation

Deputy Carol Nolan: I wish this evening to raise a very serious issue regarding the JobPath scheme. The scheme is not fit for purpose. I say so because the nature and level of complaints

I am receiving in my office is of serious concern. I appeal to the Minister to take these complaints on board. Many Deputies have previously raised this very issue in the House. Constituents tell me that they feel they are being harassed and forced to take up positions under the JobPath scheme to which they are simply unsuited and which will not allow them to upskill. These are very constrained positions which do not allow them to develop their skills. I have been contacted by constituents of mine who have spent all their lives in a trade, for example, on a building site. They are forced to go to a Seetec office, sit in front of a computer and type up a CV. This is done without helpful assistance and in a manner which demeans and humiliates them. It is completely wrong that this is happening in 2016. Another constituent, who would have had much to offer in the local community under a CE scheme due to his vast local and historical knowledge, was told that he could not avail of the opportunity of a CE scheme. This is crazy. This man has much to offer, yet he is being denied that opportunity. People are being forced to turn down genuine opportunities that would provide them with skills and an appropriate career path so that the private operators behind the JobPath scheme can get their returns. That is what it is about. It is an agenda. It is about achieving results, but it does not matter how they go about achieving those results. They clearly go about it in a very heavy-handed manner.

There is a genuine concern among jobseekers that this scheme is seen as a way to reduce their social welfare payments without meaningful engagement suited to their needs. Figures released by the Minister's Department show that a penalty has been applied to 499 people in respect of the scheme. We recognise that there needs to be a system whereby jobseekers are given appropriate training and support in order to upskill and enter the jobs market. There must be compassion and understanding. As I have stated, many of these people worked for 30 years and found themselves without employment because of austerity and everything else imposed on the country. The country was wrecked and it is not the fault of many of these people that they have been forced into this system. People have complained about harassment, which is extremely worrying, and having to attend a Seetec office two mornings a week. It is my understanding that at least 140 complaints were lodged in respect of the two companies providing this service.

As I said, many people have lost their jobs through no fault of their own. It was the failed policies of propping up the banks that led many to their current position. These people are not criminals but they have fallen on hard times and need our support. This scheme strips them of their dignity, which is unacceptable. JobPath is causing untold damage to community employment, CE, schemes. I attended a meeting only last week in Tullamore hosted by CE-sponsoring bodies in Offaly. They included Offaly Centre of Independent Living and Offaly Local Development Company. Of these two bodies, one supplies workers to support people with disabilities but they are being denied that opportunity. That means people with disabilities are now being affected and communities are being denied the help of community employment schemes put in place by the Offaly Local Development Company. Such schemes bridge the gaps left by cuts in local authority funding. What is happening is absolutely crazy.

These bodies argue that many local organisations that provide vital services to vulnerable people in the community cannot fill CE vacancies because of JobPath. In Offaly, there is annual expenditure of €10 million across 22 projects for CE schemes, supporting 349 bodies across 160 local groups. They provide vital services like meals on wheels, child care, after school services, men's sheds, senior citizen activities and many more. In many cases these schemes shore up the shortfall in public services due to the cuts that have ravaged the sector. CE schemes are vital in rural Ireland and many community projects do fantastic and invaluable work. They Minister may not be aware of them.

An Leas-Cheann Comhairle: The Deputy has exceeded her time.

Deputy Carol Nolan: Helping to keep those communities together and ensuring that essential work is carried and vital programmes are implemented should be the Minister's responsibility.

Minister for Social Protection (Deputy Leo Varadkar): JobPath is a relatively new approach to employment activation whereby my Department has procured additional resources, under contract, to enable us to provide a high quality case-managed service to people who are long-term unemployed. JobPath supplements the internal case management capacity of my Department's Intreo service and the local employment service, LES. Over the past year, this additional capacity has enabled my Department to provide an intensive one-to-one employment support and advisory service to over 60,000 long-term jobseekers who would otherwise not have received such a service.

All jobseekers are required to engage with my Department's activation service irrespective of whether the service is provided directly by my Department through Intreo or branch office, the LES or by JobPath. The period of engagement with JobPath for individuals is typically 52 weeks. During that time they receive intensive individual support to help them overcome barriers to employment and they are also provided with a range of training and development supports, including online modules, career advice, CV preparation and interview skills. During the year, if a person gets or is placed into a job, he or she will continue to receive assistance for at least three months and up to an additional 12 months while in employment to ensure the job can be continued. If someone has completed the 12-month engagement with the JobPath service and is still unemployed, participation on community employment, CE, and other schemes remains an option that can be considered at that stage.

So far over 60,000 jobseekers have engaged with JobPath since the service commenced in July 2015 and 145 complaints have been recorded. This is 0.2% of the total. The majority of the complaints were about people's initial reluctance to engage with the service or about an adverse customer experience. All complaints are taken seriously and have been resolved or are in the process of being resolved.

Legislation provides that sanctions in the form of reduced payments may be imposed by a departmental deciding officer where a person fails without good cause to co-operate with activation measures. These measures include attendance at group or individual meetings with case officers, willingness to avail of suitable education, training or development opportunities and also specified employment programmes that may be appropriate to a person's circumstances. JobPath providers do not have the authority to impose sanctions or penalty rates on anybody. My Department does not facilitate or encourage people to switch from one activation programme to another mid-stream. That applies both ways. The reason for this is to effectively manage the allocation of jobseekers to all services. It also ensures that there is continuity in the activation service provided, which enables the person concerned to follow a progression plan to employment and move from a dependence on a jobseeker's payment.

There have been some cases where people have sought to leave JobPath to take up a CE placement. There is a protocol in place whereby an individual has the option of taking up a CE placement if it is offered before the referral date to JobPath, with a confirmed start date within four weeks. CE schemes provide temporary work in communities as a stepping stone back to employment for people in receipt of a range of social welfare payments, including those on a

long-term jobseeker's payment. However, CE placements are not full-time, sustainable jobs and do not pay as well as a minimum wage job. People should never be diverted from a regular job in favour of CE, Tús, Gateway, JobBridge or any other such scheme.

Under JobPath, client engagement is more frequent and more intensive. Some people may have difficulty in adjusting to this, especially those who have not had any meaningful activation support for a considerable period. JobPath tries to give people a sense of structure, which they will need if they are to re-engage with the workforce. The companies are subject to regular checks and inspections. In addition, my Department has commissioned a client satisfaction survey to ensure that services are being delivered satisfactorily. The results of this survey are expected before the end of the year. Overall, the response to JobPath has been quite positive and initial indications in terms of employment outcomes, such as getting people off welfare and into work, are also very encouraging.

Deputy Carol Nolan: I thank the Minister for his response but I am disappointed because there is a lack of clarity about what action will be taken by the Government on this issue. The Minister mentioned that there were 145 complaints but are people made aware of the mechanism for making complaints? Many people who came to me were not sure of that mechanism at all. I assure the Minister he would have thousands of complaints if he lets people know about that mechanism, as he should. He has the responsibility to let people know they are entitled to make the complaint.

At a local meeting in my constituency, local CE operators put forward a number of suggestions that could be considered and I appeal to the Minister to do so. They suggested reducing the criteria for CE schemes to nine months so those in receipt of jobseeker's benefit may take up positions. They have also suggested that jobseekers could have a choice, as they should do, if they received offers under both schemes. The Minister mentioned that there was some flexibility in this respect but I know of one case where a man was turned down but should have been on a CE scheme. These operators request that a referral to a CE scheme from JobPath should be an option and call for a new referral scheme, as the previous one has collapsed.

It seems these are reasonable and common-sense proposals so will the Minister commit to supporting community employment schemes? Will he commit to a full review of the JobPath programme, with a full public consultation process and detailed consultation with all the relevant stakeholders, including local employment services and CE operators taking place as soon as possible. I appeal to the Minister to ensure people are aware of the complaints mechanism as in my experience they are not.

Deputy Leo Varadkar: People are made aware of the complaints procedure, or at least they should be. I will instruct my officials to ensure that is the case. I get some complaints to my office and they vary in nature. They go from people who just did not like the case officer or had a communications or personality clash to people who are just shocked that somebody is engaging with them one-to-one for the first time and trying to procure a job for them. Some people just do not like that. There are people who have become institutionalised, going from welfare to training scheme to CE scheme and repeating that process on a carousel of dependency. For some of these people it is quite a shock when somebody tells them they will find a job.

I should point out that jobseeker's allowance is conditional on a person seeking full-time work and a job should be taken if it is on offer. If a person does not want to work, it is always possible for him or her to sign off. There are many people who get up in the morning every

day, going to a job they may not like because that is how they get the money to pay bills and look after their family. These people pay taxes and fund the CE and welfare system. It is not okay for some people to say they do not want to work or they will keep claiming welfare until they get a job they believe they want or suits them. JobPath is not the overriding reason for the real and genuine difficulty in filling places on community employment schemes. Community employment supervisors have got it all wrong if they think JobPath is the main reason. We are finding it difficult to fill community employment places because unemployment has halved in the past four years. In the same period, the number of community employment, Tús and Gateway placements has almost doubled. The number of people who are available has halved and the number of placements has doubled.

Waste Disposal Charges

Deputy Aindrias Moynihan: Earlier this summer, in response to widespread concern about the way the domestic pay-by-weight system was being introduced, Fianna Fáil called on the Minister to implement a transition period for the system to ensure householders were fully informed and were able to plan financially for the expected charges. One of the key features of the agreement that was put together in June of this year was that the prices being paid by customers would be frozen for 12 months on the basis of their current plans. It was also agreed that no later than 1 January 2017, customers would receive dual pricing bills listing the amounts of waste they are disposing of and, for comparative purposes, details of how much they are paying under their current plans and how much they will pay under the pay-by-weight system. The aim of this approach was to provide clarity for customers and to enable them to make more informed choices. However, what we are seeing on the ground is very different.

Residents of areas I represent, including Farran, Ovens and Killumney, have seen their bills increasing since September, when the local waste collection company, Wisser, introduced a charge on refuse weighing more than 30 kg. This is happening even though the new legislation in this area is not due to come in until next year. These customers have not received dual-pricing bills and therefore have been unable to make comparisons. They have merely been given advice on how to reduce the weight of the refuse they are leaving out for collection and some information on the charges they must pay. This is how they were told about the new arbitrary figure of 30 kg. These customers never expected such a situation to apply in light of the agreement that was reached earlier this year. It is not acceptable that this company, under the guise of a fair usage policy, is flouting the agreement so soon after it was announced by the Minister, Deputy Coveney.

When the Minister outlined his plans for introducing a pay-by-weight system, he said it was being done “in a way that builds acceptance and understanding of the benefits of Pay-by-Weight over time”. The customers in my constituency were given no time to make decisions on how they would like to pay their future bills. The Minister assured us that “the operation of the price freeze by the industry will be closely monitored by Government and, in the event of evidence of it not being honoured, [he] will ensure that primary legislation is brought forward to legislate to enforce the freeze”. What powers does the Minister have to enforce this agreement, given that companies like Wisser appear to be flouting it? If he does not have those powers, does he have plans to bring such powers about?

Tá costais bhreise á ngearradh ar theaghlaigh thart ar An Fearann, Cill na hOmnáí, Na hUa-

mhanna agus áiteanna eile. Is cosúil go bhfuil an comhlacht atá ag bailiú an bhruscair tar éis an córas nua íoc-de-réir-meáchain a chur i bhfeidhm go luath, in ainneoin an tsocraithe a rinne an Rialtas chun an córas seo a chur siar go dtí an bhliain seo chugainn. People who live outside the larger population centres are suffering the most because they do not have separate bins for their food and biodegradable waste. They are forced to put such waste in their general waste bins and are consequently charged at the general waste rate. This contradicts the Government's policy of attempting to meet targets for food segregation and biodegradable waste. Customers should be given the opportunity to divert waste from landfill. If waste providers are breaking the agreement that was drawn up earlier this year, they must be held accountable. I understand the Minister is meeting the various groups. What enforcement measures will be taken against waste companies that are flouting the agreement and dumping on householders?

Deputy Seán Kyne: I thank Deputy Moynihan for raising this issue, to which I am responding on behalf of the Minister, Deputy Naughten. The charges applied by waste management companies are matters for those companies and their customers, subject to compliance with all applicable environmental and other relevant legislation, including contract and consumer legislation. The mandatory pay-by-weight per kilogramme charging structure for household waste collection was due to be introduced in mid-2016. As the waste industry began releasing its proposed pay-by-weight prices in June 2016, the Government relayed to the industry its concern about the reported escalation of waste bills for customers of certain companies. As a result, on 30 June last regulations were signed to remove the requirement for a mandatory pay-by-weight charging structure. A review of the pricing structures used for the collection of household waste, with a focus on encouraging households to prevent, separate and recycle waste and reduce residual waste going to landfill, is due to be completed by July 2017.

My understanding of the case raised by Deputy Moynihan is that a collector has identified that a small percentage of customers consistently and repeatedly present extremely heavy residual waste bins, in some cases weighing over 120 kg. The presentation of this amount of waste for collection presents risks on a number of fronts, most significantly in terms of the health and safety of the staff collecting the bins. If every household presented such large volumes of waste, the capacity of collectors to deal with the material would be called into question. Our capacity to manage and treat the waste we produce has been called into sharp focus this year. A serious problem with regard to waste operators' access to outlets for the disposal of residual waste has been encountered in 2016. This issue will be further compounded if our society does not seek to change its behaviour in terms of the amount of waste it generates. I understand that heavy users will not be charged on a pay-by-weight basis if they present less than 30 kg of residual waste per fortnight - this is an allowance of over three quarters of a tonne per annum - or less than 22 kg of recyclable waste per fortnight - this is an allowance of well over half a tonne per annum.

I am informed that the collector is in the process of rolling out food waste bins. This will give householders an opportunity to further reduce the waste going into their residual bins. Measures that incentivise a change in behaviour, especially by encouraging a reduction in the generation of waste and particularly residual waste, will not only lessen our impact on the environment but will also help to ensure we have the capacity and capability to manage our waste appropriately today and into the future. If householders are not happy with the service they are receiving, it is open to them to take their custom elsewhere if they believe they can obtain better value with a rival collector. I appreciate that this is not always possible in rural areas where there may be just one provider. The more serious issue here, and the reason the changes that

were intended to come into force in July of this year were originally mooted, is the ongoing concern about capacity in landfill facilities. I am sure no politician in this House would like to have to attend a public meeting to make the case for new landfills around this country to deal with a growing waste problem as our economy and our population grows.

Deputy Aindrias Moynihan: I put it to the Minister of State that enforcement is needed. Waste companies are either charging under the pay-by-weight system or they are not. It is a black and white matter. It is clear that waste companies are charging by the kilogramme even though they are not supposed to do so until next year. I suggest the Government needs to take action in this respect. The Minister of State referred to bins “weighing over 120 kg”. We are not talking about massive loads in the order of 120 kg. We are talking about those customers who are described by providers as average customers with bins weighing 30 kg. They are being charged for weights in excess of that average. Half of the customers are going to be over the average without coming anywhere near an unreasonable weight like 120 kg. Many of those who have weights in excess of 30 kg will have weights of less than 40 kg. No credit towards the average is given for occasions when bins are not put out.

I am pleased that providers will be coming forward with an additional bin. That needs to happen sooner rather than later. There is no dual billing in place, but there is weighing. People are being charged for weights in excess of 30 kg. They are not huge bins by any stretch of the imagination. What kind of enforcement does the Government intend to put in place in respect of this form of charging? I understand that there will be a meeting. An issue arose in June and July because of the uncertainty and confusion that was being felt by customers. They felt they had breathing space until next year. It is only adding further to the confusion to think that some are allowed to charge and others are not, and that confusion needs to be cleared up. They are not supposed to be charging. The Government is supposed to be introducing legislation and dealing with it.

Deputy Seán Kyne: As I have stated, my Department is reviewing how we can best encourage households to segregate and recycle their waste by using appropriate charging structures. In terms of our impact on the environment and our potential to exploit the value of the waste that we cannot avoid producing, particular pricing mechanisms have been shown to be very effective in terms of changing our behaviour. My understanding is that per-kilogramme pay-by-weight is not being introduced in the Cork area. I have been informed that a small number of customers who produce consistently high levels of waste are being offered an opportunity to bring their waste-----

Deputy Aindrias Moynihan: I have one example where it is 30 kg.

Deputy Seán Kyne: I will be happy to bring that example to the attention of the Minister if the Deputy will provide the information. As I said, I have been informed that a small number of customers who produce consistently high levels of waste are being offered an opportunity to bring their waste presentation more in line with average figures in an effort to reduce the health and safety issues associated with collecting excessively heavy bins, to reduce the amount of waste being produced and to reduce the amount of waste placed in the residual bin through the provision of food waste bins.

I acknowledge this is something that needs to be rolled out in many different areas. The whole purpose of this process has been to reduce the amount of waste entering landfill. As our population grows, that will be more of a problem. The idea of encouraging recycling and

composting was to reduce the amount of weight in the bins and, therefore, reduce the cost. As I said, there are serious capacity problems in landfills throughout the country and serious issues that we have to tackle. That is what this measure is about. If the Deputy provides me with examples, I will ensure the Minister responds to him.

Prisons (Solitary Confinement) (Amendment) Bill 2016: Second Stage [Private Members]

Deputy Clare Daly: I move: “That the Bill be now read a Second Time.”

In moving the Bill, I thought today was going to be a showcase to display not just the worst of what is happening in prisons, but some of the best, given we had plans this morning to have a number of currently serving and former inmates make a presentation in Leinster House, along with their partners and staff in the Irish Prison Service, about the community health care programme run by the Irish Red Cross. That programme is a wonderful example of rehabilitative measures in our Prison Service but, unfortunately, that did not happen this morning. I mention this for two reasons. The first is that I know the staff and inmates were incredibly disappointed and I want to put on record publicly that we are determined and hope, in co-operation with everybody involved, to reorganise that event in January. The second reason is to register that when we speak about the shortcomings in prison policy, such as the one this Bill seeks to address, it does not mean we are unaware of the excellent work being undertaken in some sections of the Prison Service by staff, inmates, management, professional staff and so on.

I want to start by stepping back a bit and looking at where we are going with our penal policy and asking whether it is working. Every day we have thousands of men and women who are staff, inmates, professional staff and cleaning staff locked in a bubble behind the walls of our prisons at huge cost. It is an area that is rarely discussed, except in a sensationalist manner by the gutter press. We have to ask what it is all about and whether it is working.

We know from the Whitaker report, for example, that prison is not a major or universal deterrent to crime. We know from multiple reports that prison harms people emotionally and, in many cases, physically. We know it has a major impact on families and communities and deepens exclusion. We know it increases the chances of people staying involved in a life of crime. The excellent report done by the Jesuit Centre for Faith and Justice this year, *Developing Inside*, gives an analysis of who is in our prisons. Even though the data are somewhat old and varied across different periods, we can say that 52% of the prison population come from ex-homeless people, 20.3% have no education or only primary school education, 88% are unemployed, 93% come from the two lowest socio-economic groups, 90% have mental health issues, 28.8% have indicators of learning disabilities, 18.5% have an alcohol dependency, and all are victims of crime themselves. The list goes on.

What is the point in taking these people out of society for a couple of years and then dumping them back into society? Prison, if it is to mean anything, has to be an opportunity to deal with some of the many complex issues, be they drugs, behavioural problems or other problems, that put people in prison in the first place. Otherwise, it is an absolute waste of time and it undermines the efforts of the staff in the Prison Service who are doing their best against the odds. Our Prison Service falls well short in terms of the lack of support for drug treatment, mental health training, education facilities and so on, with the effect that people are being sent back out in pretty much the same way they came in, if not more damaged than they were beforehand.

That is very bad for the staff, society and, obviously, the inmates themselves.

Our penal policy and our starting point has to be that people should be sent to prison as punishment, not for punishment. Our prison policy is supposed to be that deprivation of liberty is the price that somebody pays, and once they are there, the time should be used to try to rehabilitate that person back into being a productive member of society. That approach, which has been taken in other jurisdictions, such as Finland, for example, has massively reduced the prison population there.

It is against that backdrop I am moving the Bill which sets about severely curtailing the use of solitary confinement. Let us be clear. Obviously, my personal belief is that solitary confinement should be outlawed entirely. However, to help the people who are in that situation now, whose human rights are being violated, in some cases for months, in some cases for years, as we sit here in this nice, comfortable Chamber, I am putting forward this Bill in the hope that the manner in which I do so will assist in getting it passed. I am taking the definition which comes from the international human rights standards on this issue. To be honest, they are pathetically limited but they will, if passed, make a difference for people in that situation.

The first thing the Bill does is to bring into Irish law for the first time a definition of solitary confinement. This is very important because we do not have the data and because, every time we ask, the answer the Minister will give is that we do not have any solitary confinement in Ireland. However, we know from statistics taken, for example, on one day in April, that there were 368 people, or 9% of the prison population, on restricted regimes. The Government can call it what it likes - restricted regimes, violently disruptive prisoner policy or isolation segregation - they are all versions of the same thing.

When we have raised this issue before, and the Bill itself centres on lock-up and solitary confinement for 22 to 24 hours, the Minister in previous replies has pointed out that the numbers are declining. It is true that the number being held in these conditions is declining, which is a tribute to the work being done by the Irish Prison Service, but I would point out that the reductions are not consistent and it depends on what figures are compared. For example, if one compares 2013 to 2016, they are going down, but if one compares 2014 to 2016, they are going up. The key point of this Bill is that this needs to be put into law because there is nothing to stop them going in up in the future.

The Bill amends section 35 of the 2007 Act, which allows the Minister to make rules to govern and regulate prisons. It is under current prison rules 62 and 63, which are made under this section, that the current system of solitary confinement is allowed. This Bill seeks to put restrictions on that practice. The definition is the restriction of a prisoner's opportunities for meaningful human interaction and communal association for 22 to 24 hours a day, whether by means of restricting the prisoner to a cell or by any other means. There is an important reason for that. We have used the definition that loosely followed the UN's revised standard minimum rules for the treatment of prisoners, the Nelson Mandela rules, as they are known.

6 o'clock

The only qualification or addition is that we have put in meaningful human interaction and communal association because it is not just a question of restricting somebody to a physical space. When we have made this point about prisoners in that situation, the Minister has said they get out, they can go to the gym or to the yard but the point is they are denied any human

contact and that is incredibly dangerous. This Bill restricts that to a maximum of 15 days. The evidence is very clear that any solitary confinement beyond that period is profoundly damaging. It can induce psychiatric disorder characterised by hypersensitivity to external stimuli, hallucinations, panic attacks, cognitive deficits, obsessive thinking, paranoia and a litany of other physical and psychological problems. Assessments of men in solitary confinement indicate high rates of anxiety, nervousness obsession, violent fantasies, nightmares, trouble sleeping, perspiring hands and heart palpitations. This Bill includes a number of severe restrictions on the time and manner in which people can be isolated. It puts the onus back on prison management.

The purpose of the Bill is to put an end to a human rights violation. What we are putting some people through in some instances is State-sponsored torture. The restrictions outlined in the Bill put the onus on the authorities to find alternatives. It is relevant because Ireland will appear before the UN in July when we will have to answer for our lack of effort in this regard.

When we have raised this issue it is justified by the prison authorities and the Minister under several criteria, mainly those outlined in rules 62, 63, 64 and 67 of prison regulations, according to which people can be placed in solitary confinement either at their own request or at the request of the prison authorities for their own safety or the safety of others, the good order of the prison, or medical and disciplinary reasons. Our Bill outlaws it for anybody with mental health problems and as a disciplinary mechanism. Under the present regime, depending on the circumstances, there is no limit to the length of time somebody can be kept there. That is a human rights violation.

Prison officers are entitled to a safe working environment. Last year almost 100 prison officers were injured at work. Thankfully, no prison officer in the history of the State has died but prisoners have died at the hands of other prisoners. Prison can be a violent place. There are at least two prison officers who have been permanently incapacitated because of what happened to them at work. That is not on. When we talk about the rights of prisoners, that does not mean we are blind to the rights of prison officers. All rights have to be respected. Putting people in solitary confinement does not make prison safer for those people or those who work with them every day or for those in society to which they will be returned after a short time.

There are many people in our prisons with serious mental health problems. One of the causes for that is the lack of psychiatric beds in the community. The Prison Service has had to release people and drop them at hospital accident and emergency departments telling them not to leave until they get a psychiatric bed. Under the violently disruptive prison policy and the arrangement with the Central Mental Hospital the hospital takes only one prisoner at a time. Others are left in prison with staff who are not qualified or equipped to deal with them. There are many acutely psychotic people in prison who should not be there. Solitary confinement is not the answer. We know from prison officers that some people have been put in there either at their own request or allegedly for their own protection and have come out violent, paranoid and worse than they were. These issues need to be tackled. Our Bill puts the onus back on the Prison Service to come up with an alternative. I do not blame the Prison Service. We and the Government are the ones who must come up with an alternative. The Prison Service does pretty well given its lack of resources. If we do not address this, not only are we violating the human rights of prisoners, we are affecting broader society.

We and our colleagues in the cross-party group have met many prisoners since being elected to the Dáil. We got involved in the case of one young man who had an incredibly troubled

upbringing with grave parental neglect. He was brought into State care and was seriously let down by the State from the age of four, suffered serious abuse, was homeless as a young teen, has been incarcerated for most of his adult life and has spent most of that time in solitary confinement. He has no contact with other prisoners and limited access to education. This has had a profound effect on his life. I asked him what solitary confinement means to him. He said:

I am currently being held in solitary confinement for the past three and a half years. It has such a[n] effect on me ... My whole life has changed. I can't even mix with people without being overwhelmed. I get extremely paranoid, when you spend so much time on your own you become disconnected from reality. You find when meeting people here and there too much you're [sic] anxiety is through the roof. Always looking for threats that aren't there, it's like being stranded on an island on your own no where to go and no one to say how are you today because there is no one there to answer you back it is so lonely even if you were the hardest person on the planet you would crumble in solitary confinement. I wish I wasn't in isolation it has ruined my life as far as mixing is concerned I have done nothing wrong being treated like this. If only the powers that be could walk in my shoes for a day week month year what do the powers that be want from me or any other prisoner in isolation. To take away their basic ... rights as humans it is immoral what we have to put up with will continue ... if things don't change ... Days are so long. How much more do we have to endure I am a human not a dog.

If we treat people like animals they will behave like animals. Respecting the human rights of some of the people who would be considered the most lowly in society means vindicating the human rights of all.

Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Seán Kyne): I have been asked by the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, to respond to this Private Member's Bill on her behalf as she is unavoidably engaged elsewhere.

I take this opportunity to express the Government's condolences to the family of Judge Michael Reilly, the Inspector of Prisons, who passed away last Saturday. He was robust and fair minded in the way he carried out his work as Inspector of Prisons. He was not afraid to criticise where this was merited but he retained the respect of everyone involved in penal policy throughout his tenure as inspector. His loss will be deeply felt by everyone in the prison system, prisoners and staff alike.

I am aware that Deputy Clare Daly has an ongoing and genuine interest in the running of the Irish Prison Service. The Tánaiste appreciates the seriousness of intent behind the bringing of this Private Member's Bill, the Prisons (Solitary Confinement) (Amendment) Bill 2016. However, the Government must oppose it for several reasons. I will summarise these reasons before expanding upon them later.

First, the Bill attempts to micro-manage in primary legislation the regime for dangerous, unwell, vulnerable and disruptive prisoners. The Tánaiste believes that the current process of making prison rules by way of secondary legislation should continue. Second, the Bill would restrict the rights and obligations of a prison governor to ensure good order and safe and secure custody in his or her prison. Third, the Irish Prison Service could not meet the commitment that all prisoners in such circumstances would be assured access to work, education, free association and so on, as provided for in the Bill. Indeed, the question arises as to whether the provisions

of the Bill in this regard are realistic. Fourth, the Bill jumps the gun in regard to an ongoing consideration of the implementation of the revised UN Standard Minimum Rules for the Treatment of Prisoners, known as the Mandela rules in respect of solitary confinement.

As I will outline later in my speech, the Director General of the Irish Prison Service has established and chairs a working group which meets regularly to review matters relating to protection prisoners and those subject to a restricted regime, including the issue of solitary confinement. The number of prisoners on protection and in what is commonly referred to as “23 hour lock-up” has reduced dramatically since 2013. A sub-committee is also examining policy proposals to eliminate insofar as possible solitary confinement from Irish prisons. It is also important to place these developments in the wider context of prison reform. Huge improvements have been made to prison conditions in recent years. For example, overcrowding and the practice of slopping out has been eliminated in Mountjoy Prison, a brand new replacement prison was built in Cork and progress is being made in developing Limerick Prison.

Turning again to the Private Members’ Bill before the House, as matters stand, section 35 of the Prisons Act 2007, the section which the draft Bill seeks to amend, allows the Minister for Justice and Equality to make rules for the regulation, conditions and good governance of prisons. Those rules are currently made in SI 252 of 2007 (Prison Rules 2007), as amended. Amending prison rules by way of statutory instrument allows relatively easy adaptability of regimes in changing circumstances. These changing circumstances could derive from developments in prisons in terms of numbers, new regimes, new policies, new buildings, new international practices and so on. In the future, it could be possible to make changes in prison regimes heading towards those proposed in the Bill but the existence of primary legislation may make such changes more difficult to bring about.

In the context of the restrictions in the Bill on the rights and obligations of a prison governor to ensure good order and safe and secure custody in his or her prison, it is necessary to examine what the Bill provides and what is provided under the current prison rules. The definition of solitary confinement in the Bill is “the restriction of a prisoner’s opportunities for meaningful human interaction and communal association for 22 to 24 hours a day, whether by means of restricting the prisoner to a cell or by any other means”. The Bill goes on to limit solitary confinement to 15 days in all circumstances. It also seeks to guarantee the continuation of access to services such as education and work training as well recreation and association with other prisoners to those in solitary confinement. It seeks to prevent a prisoner with a mental illness or disability being subject to solitary confinement, to remove the sanction of confinement in a cell as a punishment from disciplinary proceedings and to stipulate that no prisoner on remand be subject to solitary confinement in all circumstances.

In the existing prison rules of 2007, as amended, there is no mention or definition of the term “solitary confinement”. Rather, there is a specific set of provisions contained in rules 62, 63, 64 and 66, under the collective heading entitled “Control, Discipline and Sanctions”, on which basis prisoners may have their normal prison regime restricted for a variety of reasons. The statistics on restricted regimes are published on the Irish Prison Service website, www.irishprisons.ie. Rule 62 provides that a direction can be given by the prison governor to restrict the regime of a prisoner by removing him from structured activity, participation in communal recreation and association with other prisoners on the basis that there is a significant threat to the maintenance of good order or safe or secure custody. For example, this allows the prison system to isolate gang leaders, other dangerous and serious criminals and those suffering from serious mental illness who pose a risk to themselves and others in the general population.

Rule 63 provides for the protection of vulnerable prisoners and allows for a prisoner to be kept separately from other prisoners who are likely to cause significant harm to him or her. This rule allows governors to remove vulnerable prisoners from the general population in the interests of the prisoners themselves and the security of the prison in general. This includes vulnerable prisoners who wish or need to be kept away from the general prison population for safety reasons. There are also some prisoners who cannot mix with any other prisoners for various reasons, sometimes at their own request. It would be impossible given current resources to meet the statutory obligation, as the Bill seeks to do, to provide education, work, training, association, etc., to such prisoners.

Rule 64 provides that a prisoner may be placed in a safety observation cell on medical grounds such as severe mental illness or in a closed supervision cell on the grounds of risk or harm. The Bill would curtail the option of using special observation cells. There has been a significant rise in committals suffering serious mental illness in recent years and a number currently in custody are on a waiting list for admission to the Central Mental Hospital.

Rule 66 provides for procedures in respect of breaches of prison discipline with the option of confinement in a cell for a maximum limit of three days as a form of punishment. Under this rule, prisoners can only be confined to a cell as a form of punishment for up to a maximum of three days. This is rarely applied and only done so in the most serious cases. Strict procedures apply to making a prisoner subject to these rules. The rules contain review mechanisms which prevent them being used in an arbitrary way. All actions taken in relation to prisoners and the overall system itself are subject to scrutiny by the inspector of prisons and this will not change when a successor to the late Judge Reilly is appointed. Moreover, I should say that all prisoners, including those segregated from the general population, already have the protection of the rights established under the Irish Constitution and the European Convention on rights, which are enforceable through the courts.

The Bill, if enacted, would also have significant resource implications and it is unclear how these would be met. The Irish Prison Service also believes that it would be detrimental to the good order and security of prisons if the most dangerous, unwell and volatile of prisoners were to be guaranteed free association with other prisoners and access to structured activities. Furthermore, there are considerable safety risks in the provision of one-to-one services in such circumstances and, indeed, would involve considerable staff resources that are simply not available.

I want to turn now to how this Bill is jumping the gun in terms of the ongoing consideration of the implementation of the revised UN standard minimum rules for the treatment of prisoners, known as the Mandela rules. These UN rules were first adopted in 1957 and were revised and adopted as the Nelson Mandela rules in 2015. The vast majority of the principles described in the Mandela rules, while not mandatory, are reflected in the Irish prison rules 2007, as amended. However, there are some exceptions and these include the categorisation of prisoners, separate accommodation for prisoners and solitary confinement. It is important to stress that this Bill goes much further than the Mandela rules in providing for the right to access to work, training, education, rehabilitation and other services while on restricted regimes.

Although Ireland has not yet signed up to the Mandela rules, it is recognised internationally that they are regarded as a source of standards on treatment in detention. Although the Irish Prison Service is committed under current strategic plan to comply with international human rights obligations and makes specific reference to the Mandela rules, the nuts and bolts of this

need to be teased out. To that end, the Director General of the Irish Prison Service has established and chairs a working group that meets regularly to review matters relating to protecting prisoners and those subject to a restricted regime, which includes the issue of solitary confinement. Already, significant progress has been made. The number of prisoners on protection and what is commonly referred to as 23-hour lock-up has reduced. Since July 2013, the number of prisoners on 22 or 23-hour lock-up has decreased from 211 to 31, a decrease of 85%. The working group is continuing its work with a view to eliminating 23-hour lock-up from the prison system. However, the protection of vulnerable prisoners can be quite challenging and the elimination of 23-hour lock-up is not something which can be achieved overnight, but is one which the Irish Prison Service is committed to eliminating to bring it into line with the Mandela rules.

The director general has also established a sub-committee to draft a policy with the aim of eliminating insofar as is possible solitary confinement from Irish prisons, acknowledging that there will always be medical exceptions, particularly given the number of seriously mentally-ill prisoners currently held in Irish prisons and awaiting admission to the Central Mental Hospital and other mental health facilities. The policy will be presented to senior management for consideration by the end of January 2017. After the policy is developed and implemented, the Tánaiste could then consider whether to commit to signing up to adopting the Mandela rules in this specific area by way of amendment to the prison rules.

The Tánaiste acknowledges the intent behind Deputy Clare Daly's Bill but believes that she cannot accept it, both in terms of the content and in the context of the legislative vehicle being used. The use of prison rules, done by way of statutory instrument, remains, in her view, the most effective and efficient way of adapting to changing circumstances. The Tánaiste supports the ongoing efforts of the Irish Prison Service to develop its policy on this issue in a way that improves the conditions of prisoners whilst having equal regard to safe and secure custody of prisoners overall and to good order in the prison.

An Leas-Cheann Comhairle: I will call Deputies in the order in which they indicated to me that they wish to contribute. There is no provision in Standing Orders for a set sequence, as in normal Private Members' business. To proceed, I call on Deputy Jonathan O'Brien, who has ten minutes. Further to that, I will call Deputies Mick Wallace, Paul Murphy, Jim O'Callaghan, Bríd Smith and John Lahart in that order.

Deputy Jonathan O'Brien: I welcome the opportunity to speak on the Bill and I commend Deputy Clare Daly on introducing it. It is one that we in Sinn Féin will be supporting. Like Deputy Clare Daly, I would also like to see the outright banning of solitary confinement. As the Deputy outlined, for reasons in respect of which we cannot really legislate, we will be fully supporting the recommendations within the Bill. As republicans, prisons hold a special resonance for us as they have been associated with colonial rule and the legacy of conflict for hundreds of years on the island of Ireland. They were sites of execution, torture and ill-treatment for many thousands of political prisoners down through the decades. They were also used as inhumane warehouses for the destitute in a society that was very unjust and unequal. It is in this context that Sinn Féin has taken the decision to support this Bill.

Prisons in this State have been synonymous with solitary confinement and slopping out for many decades. In the North, solitary confinement was regularly used against republican prisoners. I particularly recall its use against female prisoners in Armagh jail who refused to be strip searched. They were placed in prolonged solitary confinement as a form of punishment. If the Government needs any further evidence, it need only to look at the conditions in prisons in the

late 1970s and early 1980s and the treatment of the blanket men who were placed in cells for 23 or 24 hours a day. Those cells had urine flowing out under their doors and prisoners had to cover the walls in their own excrement. The punishment diets that those prisoners had to endure were also a harsh reality of prison life within the Six Counties.

In terms of the current situation, international human rights law states that prisoners have the right to be treated with dignity. They have the right to safety and security, to humane treatment and to freedom from torture, inhumane or degrading treatment or punishment. On any given day in the Irish prison system, upwards of 150 prisoners are being held on 23 hour lock-up for reasons of protection, with a further unspecified number on 23 hour lock-up for other reasons, including those relating to discipline. I received an e-mail today from the Irish Penal Reform Trust, IPRT, which indicates that 24 prisoners in this State have spent more than 100 days in solitary confinement, while nine have spent more than one year on a 22 hour lock-up regime.

We recognise that within the prison system there is a need to strike a balance between prisoner safety and providing a humane regime. However, the potential harm that can be done to a person's mental health by extended periods of isolation means that holding any category of prisoner on 23 hour lock-up must only ever be done as a temporary measure. That is what this Bill proposes to do. Even at that, solitary confinement cannot be a solution in itself to prisoner safety concerns. Robust safeguards must be put in place regarding the use of solitary confinement.

International human rights law is very clear on this matter. It prohibits, in absolute terms, the use of torture or other cruel, inhumane or degrading treatment or punishment. Both the UN Human Rights Committee and the UN Committee Against Torture have stated that, in certain cases, prolonged solitary confinement of imprisoned persons can amount to a breach of their human rights. The UN Special Rapporteur on Torture has said that holding anyone in solitary confinement in excess of 15 days amounts to cruel, inhumane and degrading treatment that can rise to the level of torture, as can any time in solitary confinement for juveniles or people with psychological disabilities. The UN Committee Against Torture has proposed that, at a minimum, any isolation of prisoners be strictly and specifically regulated by law, in terms of maximum duration, conditions and so forth, and should be exercised under judicial supervision.

The European prison rules also clearly state that solitary confinement should only be used in exceptional cases and for a specified period that should be as short as possible. In addition, the European Committee for the Prevention of Torture has repeatedly called for the abolition of such regimes. It has argued for limiting of the use of solitary confinement to exceptional circumstances and for increasing the level of meaningful social contact available to isolated prisoners. The European Court of Human Rights has also recognised that prolonged solitary confinement is a violation of Article 3 of the European Convention on Human Rights and recently reaffirmed that solitary confinement cannot be imposed indefinitely and should not be applied to prisoners who are not dangerous, disorderly or who do not pose a security risk.

The UN Special Rapporteur on Torture has warned that the effects of solitary confinement may be worse for pre-trial detainees as they have an increased rate of suicide and self-harm within the first two weeks of isolation. Solitary confinement is also thought to create a situation of de facto psychological pressure which can influence pre-trial detainees to confess or plead guilty.

Regarding children and detention, the Council of Europe has set out rules permitting sepa-

ration only in very exceptional cases for security and safety reasons. Such separation must be carried out by a competent authority and be based on the procedures laid down in national law which specify the nature, maximum duration and grounds on which solitary confinement may be imposed.

Prolonged solitary confinement is very damaging to the psychological well being of individuals. In one study of California's prison system, researchers found that from 1999 to 2004, prisoners in solitary confinement accounted for nearly half of all suicides within the prison population. A 1995 study of the federal prison system in the US found that 63% of suicides occurred in inmates who were in what is known as "special housing status", such as solitary confinement or psychiatric seclusion cells.

There is currently no bar in Ireland on placing people with mental health issues in isolation. It is fair to say that a person with no mental health difficulties who is placed in solitary confinement has a significantly increased chance of exiting such a regime with issues of that nature. Given the massive psychological and emotional risks posed to a person's well-being following time spent in solitary confinement, there have been long running campaigns for complete abolition of such confinement. That is something that we should be working towards and is an objective that I support.

Solitary confinement can be looked at as a microcosm of the entire penal system. It is, in fact, a prison within a prison, considering that a term in prison is a form of isolation from society. How can we expect to achieve any kind of rehabilitation in the context of the isolation that happens within our penal institutions? This is a much-needed Bill. It provides a starting point for the wider reform of our prison service. I am disappointed that the Government will not be supporting it. Sinn Féin will certainly be supporting its passage to Committee Stage. If the Government has any concerns about the Bill, it can deal with them on Committee Stage. Not allowing this legislation to progress sends out the wrong message to those individuals who are spending months, if not years, in solitary confinement. It suggests that this Government stands over that regime and is not intending to change it any time soon.

Deputy Jim O'Callaghan: I will start by thanking Deputies Wallace and Paul Murphy for permitting me to speak ahead of them. I also want to welcome this Bill and the opportunity to speak on the Irish Prison Service, on prison officers and the prisoners who are held within our prisons. It is instructive to note that since I became justice spokesperson for Fianna Fáil, on many occasions in this House I have debated issues concerning An Garda Síochána, judges, the Criminal Assets Bureau, CAB, changes to our criminal law, the courts and, indeed, family law. However, this is only the second occasion on which I have been asked to debate or discuss in this Chamber issues concerning our prisons. The first occasion was when I introduced under Private Members' business a Parole Bill, which passed Second Stage. The second occasion is the publication by Deputy Clare Daly of her Bill on seeking to restrain solitary confinement.

As representatives of the people and individuals who are responsible for speaking on justice issues, we are doing a disservice not only to prisoners, but to our prison officers and the Irish Prison Service, if we do not discuss in this Chamber issues concerning Irish prisons. It is not as though we can present Irish prisons as being some separate lost world that occurs behind walls about which we do not have any ongoing serious debate. Prisons play a vital role in our criminal justice system and it is extremely important that we, as legislators, continue to debate how best they can be reformed and improved not simply for the prisoners within the Irish Prison Service, but also for the prison officers and the other members of staff who work in them.

It is important to note that the area that must be reformed in our criminal justice system is the question of punishment. In many respects, the question of punishment has not changed significantly since Victorian times. We still have an over-dependence upon punishment, which is seen in terms of custodial sentences. I know, as I am sure does every other Member in this House, that there are certain individuals who because of their violence and the threat they pose to society must be subjected to a custodial sentence. However, there are others where it is too much of an easy option for us to go down the route of putting them in jail. We must constantly review and appraise our penal system to see whether we can come up with different, more creative and more effective forms of punishment than simply locking people up.

It is also important, given an opportunity like this, that we consider the statistics in respect of Irish prisons. Approximately 3,700 persons are kept as prisoners in Irish prisons. That is a weight of approximately 80 per 100,000. That is not at the high end of the international system when we compare it to the United States of America, which has 716 persons per 100,000 in prison or Cuba, which, perhaps surprisingly to some, has 510 people per 100,000 in prison. The Irish figures are not that high. However, the average cost of a prisoner in our prison system is approximately €68,000 per annum in terms of the cost of a prison space.

The vast majority of prisoners in Ireland have a very poor education. There is a huge correlation between imprisonment and leaving school before the age of 15 without having completed, let alone passed, a State examination. The more we improve the education system in deprived areas of our country, the more we will continue to reduce the prison numbers in our prisons. In 2008, of the 520 prisoners who were enrolled in the school at Mountjoy, 20% of them could not read or write. We need to ensure that we improve the education system in deprived areas of this country as that will have a direct impact on the prison population.

We also need to recognise that prisons give the State an enormous amount of power. When the State puts people into prison, it has virtually complete control over them. We need to use that control as best we can for the purpose of seeking to rehabilitate people. I recognise, and I am sure everyone else recognise it also, that there are certain prisoners who may not be capable of rehabilitation, although no soul should ever be lost to the attempt to rehabilitate them. However, there are many who can be rehabilitated and we need to concentrate on inculcating in such individuals the benefits of education and the opportunities that should lie ahead for them when they leave prison. We should try to use the prison system as a means to train persons who are within the prison system.

On the specific issue of solitary confinement, we know that solitary confinement has been a part of the prison system for as long as the prison system has been in operation. It dates back to classical times. There have been numerous references in literature to people who were confined. Charles Dickens wrote about solitary confinement and the impact it had on individuals. We know that solitary confinement has a serious impact on the mental health of prisoners. We also know that it is used on occasion for the purpose of punishing and restraining prisoners. However, if it was suggested that prisoners who are ill disciplined, who cannot be restrained or who need to be punished were to have their limbs broken, we would completely reject that as barbaric. Similarly, when it is suggested that we should put prisoners into solitary confinement in the knowledge that it will have an impact on their mental health, we should also view that in similar terms.

I know the Irish Prison Service has difficulties in the prison system in terms of dealing with certain prisoners, and the figures reveal those difficulties. The figures for the Republic show

that on 1 January last, 51 inmates in Irish Prison Service jails were being held in their cells for at least 22 hours a day, with half of them held for more than 100 days and at least nine prisoners spending more than a year in such a conditions. Half of those are held in Mountjoy Prison, in north Dublin. The majority of prisoners held in solitary confinement on 1 January last were sent there under prison rule 63. That rule was designed to protect vulnerable prisoners and can be used at a prisoner's own request where the prisoner feels he may be under threat. We need to see whether we can come up with a more effective method of protecting prisoners in jail who are exposed to threats from other prisoners. It should not be beyond the realm of our ingenuity, whether by allocating separate prisons for that, to see whether we can deal with it. In all, 36 of the 51 inmates who were on 22 hour or 23 hour lock-up on 1 January were there under rule 63, and only one of those was their at the governor's direction. Rule 62 is used when the prison governor decides a prisoner is having a negative effect on the general population. A total of 11 prisoners were on 22 hour or 23 hour lock-up under this rule on 1 January.

We need to move away from the current position where solitary confinement is seen as being too readily available. I welcome Deputy Clare Daly's Bill and I believe it will benefit when it comes before the Oireachtas committee. As a committee, we need to hear from individuals concerned with Irish prisons, including prison officers and representative of the Irish Prison Service, but I welcome the fact that Deputy Clare Daly has put the issue of solitary confinement in Irish prisons on the agenda of this Chamber. Had she not done so, I do not believe anyone else would have done it in the immediate future. For that reason, Fianna Fáil will be supporting this legislation to get it beyond Second Stage and into committee. We know, as the Minister of State pointed out, that there may be failings in the legislation. That is something that can be teased out. We need to examine the legislation with an enabling eye rather than a permanently critical eye. We need to recognise that this is an issue that requires reform, and we will work constructively in committee for the purpose of trying to tease out the legislation to see how it can be informed. I am sure Deputy Clare Daly will agree that it will be an opportune time to hear from those directly involved in the prison system, namely, prison officers, prison governors and prisoners themselves.

We also need to recognise that the United Nations is issuing guidelines in respect of solitary confinement. In 2011, the UN Special Rapporteur on torture, Juan Méndez, called on all countries to ban the solitary confinement of prisoners except in very exceptional circumstances and for as short a time as possible. We also need to ensure it is something that is expressly excluded for children and people with mental disabilities. For those reasons, and recognising that this is legislation that can be improved, and I am sure it contains some failings, we will be supporting it on Second Stage and hope to be able to work with Deputy Clare Daly, the Government and the other representatives of the Irish Prison Service on Committee Stage.

Deputy Mick Wallace: In his contribution the Minister of State quoted the Minister who stated: "The use of prison rules, done by way of statutory instrument, remains, in her view, the most effective and efficient way of adapting to changing circumstances." We are not doing very well by international standards in the way we operate prisons. It is important that we are talking about prisons today, as we do not talk about them enough here. It is not a topical subject and it is not one that would win one any votes, but we need to address problems in that area more seriously.

We have been visiting prisons, in the North and South of Ireland, since 2011 and we are well aware of the fact that it is not a black and white issue. There are serious problems and serious challenges. What we can say though is that the outcomes are poor in Ireland and it is about time

we admitted that we could do better.

A big problem is that there are many people in prison in Ireland who should not be there. It should not go unmentioned that a few years ago there were over 8,000 beds between Grangegorman, St. Ita's in Portrane and St. Loman's in Palmerstown. They are closed and they have not been replaced with much because we never got around to providing community health care. There are many people with mental health issues in our prisons who should not be there.

In our visits to prisons in Ireland, we have met good people, including prisoners, prison officers and management. Of the prison officers and management, there is an unusual commitment and interest in their job. They show an amazing amount of enthusiasm towards the challenges they face. We are not saying they get everything right but we would not question their interest and enthusiasm for their work.

The Jesuits probably know more about prisons than any of us. The Jesuit Centre for Faith and Justice notes that in recent decades there has been a "severe hardening of attitude and policy in political and administrative fields in relation to penal matters". This "punitive turn" is highlighted by the 400% increase in the prison population since 1970. According to the European Prison Rules, "Imprisonment is by the deprivation of liberty a punishment in itself and... the regime... shall not aggravate the suffering inherent in imprisonment". Prison sentences are handed down as punishment, not for punishment.

The terms segregation, loss of privileges, on protection and restricted regimes are used to signify solitary confinement in Irish prisons, which entails 22 or 23-hour lock-up in which prisoners are denied contact with others, along with the opportunity to work or take part in prison programmes. The reasons given are for protection or punishment, usually for violence or drugs. The Irish Prison Reform Trust estimates that, on any given day, up to 80 prisoners are held in such conditions in Ireland. Data released under freedom of information in October 2016 showed that 24 prisoners in Ireland had been in solitary confinement for over 100 days, including nine who had spent over a year on 22-plus hours lock-up.

Terms in solitary confinement are imposed with little or no oversight. The decision rests entirely in the hands of the staff who, according to the Irish Prison Reform Trust, do not necessarily always have the qualifications to deal with the challenges facing them, no matter how hard they try. The reluctance of the Government to define solitary confinement and our failure to ratify the Optional Protocol of the Convention against Torture, which would allow for routine inspections of places of detention, create a completely non-transparent environment undermining the position of both staff and inmates.

The European Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT, of which Ireland is a member, recommends 14 days as the maximum length anyone should have to spend in solitary confinement, as after this period the damage to the prisoner can be irreversible. Ireland's practice of handing down extended terms in solitary confinement has been criticised by both the CPT and the UN Special Rapporteur on Torture.

The Jesuit Centre for Faith and Justice cites a number of studies since the 1990s which indicate that Ireland has a high incidence of mental health issues among prisoners, relative to the general population. On the whole, Ireland struggles to deal with high levels of severe mental health problems within the general population, not to talk about prisons. In Wexford, for example, there are zero 24-hour acute mental health services. It takes up to 72 hours to be

seen by a suicide crisis assessment nurse if one presents at accident and emergency. If one gets to see such a nurse, one could be referred to Waterford where one again must wait in accident and emergency and if one is lucky, one might get a place in one of the acute beds, but they are usually full. Not only do we not look after mental health issues in prisons, we do not do so in the general population.

If we look at other countries, such as Norway - we should be looking at international best practice - the focus of its prison system is on restorative justice and rehabilitation. Its recidivism rate is 20%, one of the lowest in the world. A report by the Irish Prison Service and the CSO shows that Ireland's recidivism rate within three years is 62%. Norway's prisons are small, spread all over the country to keep prisoners close to their families and communities, and are designed to resemble life on the outside as much as possible. Ireland's tendency towards institutionalisation, isolation and punishment just perpetuates the cycle of crime. In the words of the director of Norway's Halden Prison, "every inmate in Norwegian prison is going back to society. Do you want people who are angry or people who are rehabilitated?"

In 2006, Dr. Stuart Grassian, a board certified psychiatrist who was on the faculty of the Harvard Medical School for over 25 years, published a study of the effects of solitary confinement in which he evaluated the psychiatric effects of solitary confinement in well over 200 prisoners in various state and federal penitentiaries. He came to the same conclusions that other doctors had reached more than 150 years previously, that keeping a person in prolonged periods in what amounts to social isolation is disastrous for his or her well-being. The penitentiary system began in the United States, first in Philadelphia, in the early 19th century. This system involved almost an exclusive reliance on solitary confinement as a means of incarceration and also became the predominant mode of incarceration in several European prison systems at the time. The results were catastrophic to such a degree that it was ultimately abandoned, and yet we are still using the practice here 150 years later.

In his study, Grassian lists the symptoms that he commonly found among those subjected to solitary confinement. To name just two of them, he states that well over half the inmates interviewed described severe panic attacks while in solitary confinement and almost half the prisoners reported episodes of loss of impulse control with random violence. The average conditions of the prisoners Grassian was dealing with were identical to 20% of those in what the Irish Prison Service likes to call "restricted regime". Grassian's average prisoner resided in "a cell of roughly fifty to eighty square feet; approximately twenty-two and one-half hours per day locked in the cell; about one hour per day of yard exercise". This will not solve problems.

Due to the lack of a clear definition of solitary confinement here in Ireland, the Tánaiste and Minister for Justice and Equality is free to answer concerns about the practice with the following:

I am advised by the Irish Prison Service that there is no provision for solitary confinement in the Irish Prison Service. However,... on occasion, it is necessary for vulnerable prisoners and others to be separated from the general prison population.

This is an absurd deflection tactic and, by calling it something else, does not erase the fact that the prison service routinely engages in human rights abuses. We need a system that is able to accommodate those who need help building up their coping skills, not one that locks them up alone for weeks at a time in a box. Our recidivism rate is among the highest in the world, and it is no surprise. We are heaping punishment upon punishment, with sometimes permanent

damage being inflicted.

The sooner we realise and accept that what we do through our prison system is not really working, not even with the best efforts of all the staff concerned, the better. We have to change our whole approach. Let us at least start talking about it. Just because there are no votes in it does not mean we should not be addressing some serious issues in this area. It affects all society because these people come back out into the system. When they misbehave and remain violent, there is a reason for it. We have not dealt with it properly and we have to accept responsibility for that. Let us wake up and look at the realities.

Deputy Paul Murphy: I thank Deputy Daly for bringing this Bill forward. We support it and, indeed, the call to ban solitary confinement altogether. In many circumstances it is a form of torture. The Government's response is very poor. It is unfortunate that it will not agree to support the Bill, but I will comment further on its response later.

I will start with a quote from a man called Anthony Graves, who spent years in solitary confinement:

The way they treated me was dehumanising. It was like I was an animal. I had 60 square feet, with four walls that seemed to close in on me every day. I could sometimes hear guys screaming... Solitary confinement plays tricks on your mind. You're bound by four walls, you're bound by four walls, you're cut off from society, and you're left with just your own thoughts. Sometimes you start to feel like, if they treat me like this, I'm going to act like this. And then you risk becoming the kind of person that it seems like they're trying to tell society that you are. Human contact was what I missed most - something that told me that I was still loved, and that I was still able to love. We don't realise how important human contact is. When we give hugs and shake hands, it's because we need to. I don't know how to explain the emptiness it leaves when you are not allowed human contact anymore. It felt like they were starving me to death.

Anthony Graves was not imprisoned in Ireland. He was imprisoned in America, where solitary confinement is an absolute scourge and where 80,000 people are in solitary confinement at any one time, and 20,000 of those for extended periods of time in absolutely horrific conditions. They include political prisoners and those who have been framed, such as Mumia Abu-Jamal who has faced solitary confinement. It is used elsewhere around the world. The Irish citizen, Ibrahim Halawa, has faced solitary confinement. A very moving letter from him is published in today's newspapers. It should encourage all of us and the Government to act in the strongest way possible.

It happens not only in America and overseas, but also in this country. Historically, solitary confinement has played a role in this State. Countess Markievicz, a former Member of this House, was subject to solitary confinement. Sheila Humphreys, in a counter-revolution at the foundation of the State, was also subject to solitary confinement. Obviously, the British State used solitary confinement relatively extensively in Northern Ireland. Solitary confinement is also used today in the South, although it is not defined as that by the Government. I thank the Irish Penal Reform Trust for the useful information it circulated. It demonstrates that, on average, there are 80 prisoners in 22 or 23 hour lock-up on any given day in Ireland. A census of Irish prisons in October 2016 showed there are 424 prisoners on a restricted regime of some type and, quite shockingly, that 24 prisoners are in solitary confinement for over 100 days and nine are in solitary confinement for over a year. What is interesting in the figures is the al-

location of those in solitary confinement to different prisons. Nine of the 31 are currently in Cloverhill Prison and 11 are in Portlaoise, so two prisons account for two thirds of the prisoners currently in solitary confinement for reasons of order. The numbers appear to fluctuate over time. It might be useful for the Minister to pay attention to the reasons behind the increases at particular times in certain prisons and why that is the case.

Juan Méndez, the UN Special Rapporteur on Torture, has been clear on this. He deals with the issue of not having a definition of solitary confinement by saying:

Segregation, isolation, separation, cellular lockdown, Supermax, the hole, Secure Housing Unit... whatever the name, solitary confinement should be banned by states as a punishment or extortion technique... Solitary confinement is a harsh measure which is contrary to rehabilitation, the aim of the penitentiary system.

That gets to the point here. What is the aim of the penitentiary system, as he calls it? What is the aim of our penal system? This relates to solitary confinement but it reaches further. Is it about punishment? Is it about a transactional view of justice, of people getting a pound of flesh, or is it about rehabilitation? Is it about the interests of society and doing things that are in the best interests of society, to have a society with as little crime and as few anti-social acts as possible? That gets to the heart of the approach, or non-approach, of the Government.

It does not take an expert to realise that being locked up with extremely minimal human contact is devastating for people's mental and physical health. An American study in 2006 showed that one third of solitary confinement prisoners suffered from illusions or hallucinations, over half had reported progressive inability to tolerate ordinary stimuli and there were issues such as panic attacks, paranoia, a loss of concentration, insomnia, confusion and a negative effect on the physical health. Amnesty International has reported that half of all prison suicides in the US occur in solitary confinement cells. Even more worrying is the fact that after 15 days the effect on somebody's mental health can be irreversible. That is demonstrated by some of the examples one can read about online. *The Guardian* has an app, 6x9, whereby one can experience for a couple of seconds or minutes what it is like to be in solitary confinement. One can multiply that by the number of days. The State is willing to engage in this to deprive people of contact with other human beings and, therefore, of their mental health.

There is a particular concern for those who are on remand. They are presumed innocent until proven guilty, so there is an even higher impact on their mental health. The UN Special Rapporteur on Torture identified those prisoners as having a higher risk of suicide and self-harm than other prisoners. Crucially, it can impact on their ability to make decisions relating to their forthcoming trials, such as guilty pleas, confessions and so forth.

The Government's response is extremely poor. The Minister said "the Bill attempts to micro-manage in primary legislation the regime for dangerous, unwell, vulnerable and disruptive prisoners". He says it is not something in which we should be engaged and that it should be left to secondary legislation. Consider what is in the Bill. It provides that solitary confinement cannot be for longer than 15 days at a time or for more than 30 days in a year. Does the Minister and the Government believe that people should be held in solitary confinement for longer than 15 days, when we know it can have a permanent impact on people's mental health? Do they believe that people should be held in solitary confinement for more than 30 days in a year? The Bill provides that it cannot be used as a punitive exercise, which is in line with what the UN Special Rapporteur on Torture has said. Does the Minister think that it should be used

as a punitive exercise? The Bill also provides that it cannot be used for the disabled or mentally unwell and that a doctor and mental health professional must visit a prisoner in solitary confinement on the first day. It is not an unreasonable request. The Bill provides that it cannot be used for prisoners on remand. Bear in mind that people on remand have not been found guilty of anything and they maintain their innocence.

The Bill states that it can only be used in exceptional cases and each case would be reviewed every three days. What response can the Government have to that? A prisoner would still have access to work, training, education and family visits and would still have a right to make complaints in the normal way. I do not understand what the problem is with limiting the ability of a prison governor to impose solitary confinement on a prisoner. The Bill does not go as far as many of us would like in terms of banning solitary confinement altogether. That makes the Government's unwillingness to accept it all the more outrageous, uncaring and inhumane. The Bill will pass Second Stage, which is good. The Minister will have to come up with something better on Committee Stage and engage with the legislation. If the consequence is that it has resource implications so that we do not torture prisoners, that choice will have to be made. We will have to allocate some resources so prisoners are not mentally and physically tortured as a result of solitary confinement.

7 o'clock

Deputy Bríd Smith: Like other Deputies, I warmly welcome this Bill and congratulate Deputy Clare Daly on yet again having the courage to raise a very difficult subject in this Chamber. As she said, we rarely hear any discussion about prisons or prisoners except from the gutter press, which portrays prison life as these people being in some kind of a hotel regime and that, therefore, it is a wonderful place to be.

I had a short experience in prison along with Deputy Clare Daly approximately 13 years ago. We were treated very differently from other prisoners, an issue to which I will return. What has been said about the nature of the torture imposed in terms of the basic principle of the deprivation of one's liberty should be sufficient to act as a punitive measure rather than heaping more and more punishment on a person.

The way in which society deals with those in prison says a great deal about it. It is rare that prisoners' conditions and human rights are spoken of in this House, or even outside it, without a cry of law and order and clamour for various reasons to lock them up, throw away the key and oblige them to live in harsher conditions. It is no exaggeration to say that the reality of prison life in this country is a stain on how we continue to deal with the question of prisoners. I argue it reflects a wider class bias that is deeply inherent in Irish society. That was something we witnessed in the women's prison in Mountjoy. The vast majority of prisoners were incarcerated because they were poor, not because they were necessarily violent or outrageously bad people. They came from certain socioeconomic backgrounds, which meant that they ended up robbing, taking drugs or, as other speakers noted, in many cases they had found themselves homeless or suffered from psychiatric illnesses and were thrown to the four winds by this society because there was no help for them on the outside. I remember one woman who was regularly released because her prison term was up and within a day she would be banging on the door to get back in because there was nowhere for her outside those walls.

On any given day, according to the Irish Penal Reform Trust, 150 prisoners are held on a 23-hour lock-up for their own protection and an unspecified number are held for a variety of

reasons, including discipline. The trust notes - as have previous speakers - the mental health harm that is done to prisoners kept in isolation. Studies compiled by other bodies show that mental health harm when one is kept in isolation is irreversible.

The Minister of State mentioned in his retort to Deputy Clare Daly the reduction by 85% in the number of prisoners being locked up from 22 to 23 hours. If we consider the figures for that cohort of prisoners being locked up for 22 to 23 hours, that is probably true. It is interesting to note that when those most recent figures were recorded in 2013, there were 190 prisoners locked up for 23 hours. Almost a quarter of those individuals - some 23% - were imprisoned at St. Patrick's Institution, which is now closed. I seriously question those statistics. The Minister of State should look at them again. If we consider the cohort of prisoners locked up for 22 to 23 hours in solidarity confinement, we should not ignore those who are locked up for 21 hours, the number of whom, 170, is quite significant and the even greater number who are locked up for 19 hours. We need to look at those figures again because we are talking about prisoners being locked up for most of the day, certainly for all of their waking hours, where they are held away from human contact and from any sort of normal activity.

Restrictions are imposed, certainly at Castlerea Prison, on the number of visits people can receive. It has to do with the realignment of the resources and cutbacks on hours. Many families travel long distances. Again, they come from lower socioeconomic backgrounds and they cannot afford to travel from Dublin or Cork up and down to Castlerea on trains, buses, or cars. When they visit their loved ones, they try to spend the entire day there - a few hours in the morning and evening - but they are being deprived of that contact as well. There are many problems with our prisons.

There is also the issue of what it costs to keep a prisoner in prison. It might seem crude to talk about the monetary aspect. It is disgraceful that we are spending an estimated €65,500 a year to keep a prisoner in a place of detention when we could consider alternatives such as community service, which would cost €2,200 a year. With community service, the person would be educated, watched over, given some guidance and training and they would also make a contribution to the wider community. The question of resources is never an excuse to deprive people of their human rights when they are locked up because most of them should not be locked up in the first place. We know only too well the scandal of many people who have spent time in prison because they refused to, failed to or could not afford to pay fines or bills. Even if they are sent to prison for a day or two days, it is an outrageously incorrect use of resources by the State, which could be used to rehabilitate, train and help those people out of a conveyor belt-type system that sees them repeatedly offend and be sent back to prison. Experience shows that the latter is often the case with many prisoners.

In Ireland, prisoners are 25 times more likely to come from and return to socioeconomically-deprived areas. More than 70% of prisoners are unemployed on committal and they do not have a trade or an occupation. Most of them will have literacy problems. More than 300 prisoners who attend the school in Mountjoy are barely able to sign their names. We have to look at this as a class-biased system, as well as all the other cruelties relating to prison and with solitary confinement. This cohort of socioeconomically-deprived prisoners are bound also at some point to end up in long hours of lock-up. How will that do anything other than embitter them, damage their psychological and physical health and put them back on the conveyor belt to which I referred?

Our attitude to overcrowding in Irish prisons has not changed that much. If we cannot solve

it by building more prisons, which we will not do, we have to reconsider matters in the context of why and how we send so many people to prison.

I want to finish by fleshing out the argument about there being a class bias in our system. We all know of well-known characters in recent Irish history who have had to go to jail, the late Liam Lawlor and Ray Burke among them. I want to refer to an article written by *The Irish Times* correspondent, Fintan O'Toole, when Seán Quinn Jnr. was locked up for three months for taking approximately €500 million that should have been available to the Irish State and lying about its whereabouts. He was sentenced to three months in prison but he spent one night in Mountjoy and was sent directly to the training unit. The make-up of prisoners in the training unit should be those who have served long terms, who are in rehabilitation and who need training before they exit the prison system. However, we know that when Seán Quinn Jnr. was in the training unit he had his mobile telephone, his laptop and all the rest with him. Most of the 4,000 male prisoners would want to be where Seán Quinn Jnr. was on that occasion. Many of them are on a waiting list for entry to the training unit but they come from the wrong class, the wrong background and have committed the wrong sort of offences. Many of them probably committed much lesser offences than that committed by Seán Quinn Jnr.

When we look at this issue, we should do so in the context of two kinds of Ireland, namely, that which is class biased and in which there are two types of crime and that which treats two types of criminals very differently. That means that our compassion and understanding of the reason solitary confinement is immoral, outdated and criminal. The latter is why it is so important that we flesh out Deputy Clare Daly's Bill and allow it to proceed to Committee Stage. It is also the reason that we should take it very seriously. The Government is not doing any of us a service in the context of justice and ending class bias in this society by trying to block it.

Deputy John Lahart: Like previous speakers, I welcome the opportunity to speak on this Bill. Like my colleague, Deputy O'Callaghan, and my party, Fianna Fáil, I support the legislation.

One does not need to be from a particular class to understand injustice or to understand that a light must be shone on particular areas of society in order to highlight the deficiencies of a system. I applaud Deputy Daly who, as is regularly her wont, is seeking to champion this issue. If it does nothing more than throw open a door into the way our prison system and prisons operate, it will get an interesting conversation going in the House but I suspect it will do more than that. The Bill proposes to restrict the practice of solitary confinement and not just the restriction necessarily to a physical space. She also seeks to address other issues such as the denial of human contact during such confinement. The briefing materials we have received from organisations such as the Irish Penal Reform Trust and Members in their contributions to the debate, not least my colleague, Deputy O'Callaghan, have expressed a desire to have a conversation about this issue, which should include all sides in the debate.

I have given the Bill a cursory reading. It is necessary for the House to examine its provisions on behalf of our citizens. The Bill proposes that "no prisoner shall be held in solitary confinement for any reason for more than 30 days in any year". Many people would be shocked that this happens and that, in some cases, prisoners are confined for twice that duration. The Bill also provides that "no prisoner with a diagnosed mental illness or disability shall be subject to solitary confinement". I do not know whether there is evidence that this happens but this was adverted to by my colleague, Deputy O'Callaghan. I reiterate his point that if an inmate had a physical illness or had been subject to physical harm resulting in a broken arm or leg, for

example, it is unlikely he or she would remain in solitary confinement, yet there is a possibility that someone with a diagnosed mental illness would be treated differently. If that is the case, it is illustrative of the gap in the thinking in this country when it comes to mental health issues.

The legislation proposes that “prisoners shall be visited by a doctor and by a mental health professional within 24 hours of being placed in solitary confinement and shall be visited by same every day that they are so held”. This is a practical, pragmatic and reasonable provision and, at the very least, we need to debate it. It further proposes that “prisoners held in solitary confinement for any reason shall have access to work, training, education, rehabilitation, and other services, and insofar as is possible this shall be in association with other prisoners”. The Minister of State seemed to say, in his response on behalf of the Minister, that in an ideal world if we had endless resources etc. this might be possible. However, the Minister seems to lack any engagement with this issue.

We cannot forget about the rights of prison officers in this regard. Deputy Wallace alluded to this and there is no need for me to go over this ground, as he has engaged much more than I have in this area. I am only setting out in this area but it interests me. We have to be conscious of the rights of prison officers. A number of them are constituents of mine, as will be the case for every other Member. One or two of them have suffered horrendous injuries at the hands of prisoners in the course of their daily duties. Theirs is one of the toughest physical jobs and it is intimidating to undertake. The public needs to understand that support for the legislation is not based on a soft, pink, liberal stance, which does not take into account the rights of everybody involved, most particularly prison officers who are charged with the daily task of caring for prisoners. The greatest champion in my lifetime of prison reform was the former governor of Mountjoy Prison, Mr. John Lonergan. Nobody would be considered more iconic than him in respect of the need for reform. I would like to hear what the Prison Officers Association and the Irish Prison Service have to say on this and, as the Bill proceeds to Committee Stage and beyond, they will have an opportunity to do so. I want to understand the reasons beyond the obvious, to which the Minister of State referred, a person would be put into solitary confinement.

I find it most disturbing that a prisoner who is vulnerable to physical intimidation by other prisoners can be put in solitary confinement for up to 23 hours a day for his or her protection. It is a frightening concept for anybody to grasp. Regardless of our age, a number of iconic movies revolve around issues relating to solitary confinement of prisoners such as “The Shawshank Redemption” and “Cool Hand Luke”. Solitary confinement was designed to kill the rebel spirit apparently but we know from the narratives in those movies that was far from what it did. As a public representative, I have to be careful and I do not suggest prisoners in our system are similar to the characters in these movies. They are in prison for a reason. They have broken the law and they are serving a sentence, and we also need to consider their victims. I am alive to the predominance in prisons of people from particular postal addresses or areas of economic disadvantage in this county and country.

The Bill is a welcome start to an important conversation and I am glad my party is part of it. I am grateful for the Minister of State’s attendance to outline the Minister’s response but I am sorry that the Government benches are empty. It looks like he will be the only contributor from his side, although I hope he is not. The Minister’s response lacks any interest in, or engagement with, the issue and it smacks of having been farmed out to the relevant agencies to respond with facts and figures. There is no heart in the response. There is not even a semblance of a willingness to get involved in the conversation. I am disappointed by that but, as the Bill progresses, with Fianna Fáil support, perhaps she will become more politically and personally

engaged with this issue.

An Leas-Cheann Comhairle: As there are no other Members offering, I call on the Minister of State who has five minutes.

Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Seán Kyne): I thank Deputy Clare Daly for raising this important topic. I welcome the views of the various contributors to this debate and the many compelling testimonies that were put on the record of the House by many Deputies. The Bill cuts across a range of important issues which includes the treatment of prisoners and control, discipline and sanctions in a prison context. These are central issues to the maintenance of good order and safe and secure custody for all prisoners and staff in prisons. As I outlined in detail earlier, the issues are both complex and far-ranging. Balancing the rights of all prisoners with the regimes and resources available whilst maintaining good order and security is complex and requires a careful assessment of all of issues involved. Much of the discussion is focused on the Mandela rules which are an evolving entity. The rules acknowledge that not all of the rules are capable of application in all places at all times due to the great variety of legal, social and economic conditions throughout the world. With this in mind, it is imperative that any proposed solutions are flexible enough to respond to development in the areas of human rights legal case law and policy. To instil such rights in primary legislation by way of this Bill would remove this flexibility. It would also severely curtail the governor's ability to ensure good order and safe and secure custody. The Irish Prison Service could not meet the commitment to ensure that all prisoners in such circumstances are assured access to work, training, education and free association with other prisoners.

I appreciate the seriousness of intent behind the bringing of the Private Members' Bill on the issue of solitary confinement. The Government, specifically the Irish Prison Service, shares that intent. That is why there has been such a dramatic reduction in the number of prisoners subject to 22-23 hour lock-up as explained in my opening remarks. This came about because of the structured system of looking at a problem and solving it incrementally. It is important to place these developments in the wider context of prison reform, as I said earlier. Huge improvements have been made to prison conditions in recent years. Capacity issues in the Dóchas Centre are also being addressed as well as the other issues raised earlier. In conjunction with the Probation Service the Irish Prison Service has continued the national roll-out of a community return programme which is an innovative, incentivised scheme for earned temporary release under which carefully selected offenders can be granted structured temporary release in return for supervised community service. In addition to this programme, community support services are schemes that have been set up in Cork Prison, Mountjoy campus, West Dublin campus and Limerick Prison, the aim of which is to reduce recidivism rates by arranging for additional support structures and provide for a more structured form of temporary release. This aim is supported by the release of the recent recidivism study by the Central Statistics Office which showed a reduction of recidivism rates of 2.4% from the previous year's figures. This vindicates the policy on penal reform in recent years and shows that a more enlightened approach to how we treat prisoners is entirely compatible with public safety. Future developments such as the development of policy on solitary confinement will ensure further safeguards are put in place to protect the rights and treatment of prisoners, to ensure compliance with international developments such as the Mandela rules, to maintain good order and safe and secure custody and ultimately to make society safer.

The Tánaiste and Minister for Justice and Equality will certainly be taking on board the

views that were expressed this evening across the House and will be considering them in detail. She has been working with the Irish Penal Reform Trust and good progress has been made in the area of penal reform. She has recently published the latest report of the implementation and oversight group which has overseen the implementation of the penal policy review group. There has been imaginative innovation such as community return, which involves the structured temporary release of prisoners. As I said earlier, the end of slopping out in the Irish prison system is in sight and this is an enormous achievement. The Tánaiste acknowledges there are issues with people who come into contact with the criminal justice system. An inter-Department group exists to address this and the first interim report was recently published on the website of the Department of Justice and Equality. This deals with what happens from the first encounter with gardaí to the courts.

Given the willingness of all to co-operate with this Bill, I will not push it to a vote. The Tánaiste has taken a most progressive approach and I am sure she will work with the committee to meet the Mandela rules. I compliment Deputy Daly on her Bill.

Deputy Clare Daly: I will start by adding our voices to the condolences expressed by the Minister of State on the untimely death of the Inspector of Prisons and Places of Detention, Judge Michael Reilly. From our point of view, he was an outstanding inspector. Whoever comes after him will have very big shoes to fill. The best tribute we could pay to his work is to take on board many of his very useful reports on the prison service.

I thank the Deputies who participated, particularly those who have supported the Bill and I echo their comments in my disappointment in the Government's reaction to this situation. I note the Government will not vote against the Bill. It would go through anyway and the reasons the Minister of State has put forward for not supporting it do not stack up. The first reason for that is that human rights cannot wait. The idea that this proposal is somehow being put forward to micro-manage in primary legislation the running of a prison is not true. This is the only part of prison rules which would be put in primary legislation. There would be total flexibility in terms of everything else. The reason for that is that it is sufficiently important to warrant that it be so. International human rights legislation states that we should be putting it in law. The UN Committee against Torture has said that any isolation of prisoners should be strictly and specifically regulated by law in terms of maximum durations, conditions and so on. That is exactly what our Bill attempts to do.

The European Court of Human Rights has recognised prolonged solitary confinement as a violation of Article 3 of the European Convention on Human Rights. The revised Nelson Mandela rules also say that states should codify these practices in law. It is not inflexible: it is best international practice. It is worth pointing out that a prisoner in Wheatfield last January won a case in the High Court against a protected regime he was under. It was found that his constitutional right to bodily and psychological integrity was breached because he was held in solitary confinement, a breach that was neither necessary nor proportionate to the alleged and perceived risk to him. That decision was overturned by a higher court but nonetheless the High Court took that view in the case. Human rights are not optional. Human rights dictate that we address this situation.

The Minister of State said the Bill would restrict the rights and obligations of the prison governor to ensure good order and safety. It would not; it just means he or she has to do it in a different way. It does not remove the power from governors to remove a prisoner for his or her own safety or the safety of others on a short-term basis, immediately for 24 hours or so. It

absolutely allows that but what it does not allow is for those people to be left there. As other Deputies have pointed out, if we told them to put them in, break their legs so their legs can never be repaired and they will be wheelchair bound, we would have people out on the streets. It has been proven that being in solitary confinement for more than 15 days does irreversible psychological damage and we are harming people's health. It should not be allowed in any situation.

Reasons have been put forward for justifying this practice, for example that under rule 63 some of these people have requested the measure for themselves. That is true but it should be immediately ringing major alarm bells that somebody would want to be insulated from all human contact. That person is already, by being in that situation, calling out for help. To say that prisoners are a danger or open to threats from other prisoners is to say we have not adequately resourced our prisons to deal with safety. Judge Reilly did an excellent report on bullying in prisons - it exists and can be dangerous for staff and prisoners. That means we have to do the job better. It does not mean we have to violate people's human rights.

The Bill, as other Deputies have said, puts very specific provisions in place, such as the prohibition for prisoners with mental or physical disabilities. Deputy Lahart was very concerned that people with mental health problems would be in this situation but they are. They are there tonight and they should not be there at all. Let us be clear about it. These people are there because the Central Mental Hospital does not have the capacity to take them. The Irish Prison Service is left with a situation where it has quite a number of seriously psychologically damaged prisoners under its watch at the moment and it can do nothing for them because the Central Mental Hospital will only take one at a time. There are people there who are acutely psychotic and need serious medical care. Perhaps one prisoner might be taken to the hospital and he or she would be lucky to be there for three or four weeks but then he or she would be sent back.

It is pie in the sky for us to pay lip-service while this is going on. The longer we avoid legislating for this, the more we are allowing this to continue. It is intolerable. We cannot have this logjam. It is not only about the inmates; it is about the staff in the prison who interact with them as well as the other prisoners. It goes against all human rights obligations and it is abhorrent in the modern age.

It is true and well known that the Irish Prison Service has done some excellent work in this area. The working group is in place and its members have examined practices in other regimes. There is advanced talk of setting up a challenging behaviour unit in the Midlands Prison to deal with some of these cases. It would involve a unique team of prison staff working on a volunteer basis as well as psychologists and so on. That is the route we need to go but it is not going to be delivered straight away and the plan is no good for the people who have already been damaged by the regime in place. We need to move urgently on this. Human rights cannot wait when it comes to these matters. I accept that work is being done, but unless we move provisions like this, there is no way the Irish Prison Service will get the support it needs to push this situation further. That is one of the reasons we need the Bill to progress.

The Minister of State says that the Prison Service would be unable to meet its commitment to ensure that prisoners would get access to structured activity and so on if the Bill was passed. I see where the Minister of State is coming from but the provisions are in the Bill for good reason. All studies indicate that structured activity and intervening with people while they are in prison are the only ways to get to a situation where those people can be rehabilitated. The Whitaker report recommended that people should be out of cells for 12 hours each day. In other jurisdictions, the view is that out-of-cell activity time should be as long as is necessary for

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people to engage in full human interaction, structured activity and so on. Countries like Finland and Germany take that approach. Developing an alternative to incarceration whereby people would be rehabilitated and restorative justice is delivered and so on is far preferable.

I accept this will put pressures on the Irish Prison Service and I certainly do not expect the management or staff to shoulder that burden on their own. I expect the Dáil to deliver the resources to allow them to move to a more humane and better situation.

In that light, the reason we are moving the Bill is twofold. I am delighted we are discussing prisoner issues today. I do not believe this legislation jumps the gun on anything. The Minister of State intimated that the Government agrees with what we are doing but that it is doing this in a different way, in its own time and suggested that it will get there in the end. That is not good enough for the people in these situations tonight. Some people have been in these situations for months and years and have already been damaged.

One good thing is that we have given some of these people hope with the contributions today and the fact that the Bill is going forward. It allows for a belief not only among prisoners but staff who have been working in this area that there is an appetite for reform and for a new prison policy where human rights of all in that bubble or prison world can be respected. It allows for a belief that we can deliver a system whereby citizens who have spent time inside can come out and be able to contribute to society in a far better way than before rather than perpetuate the revolving door system. It is useful to be here discussing these issues. I hope the Select Committee on Justice and Equality will take this forward as a serious project of work for the year ahead. I thank all Deputies for their support.

Question put and agreed to.

Prisons (Solitary Confinement) (Amendment) Bill 2016: Referral to Select Committee [Private Members]

Deputy Clare Daly: I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 141.

Question put and agreed to.

Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs has completed its consideration of the Wildlife (Amendment) Bill 2016 and has made no amendments thereto.

Estimates for Public Services 2016: Messages from Select Committees

An Leas-Cheann Comhairle: The Select Committee on Jobs, Enterprise and Innovation has completed its consideration of Vote 32 for the year ending 31 December 2016; the Select

Committee on Foreign Affairs, Trade and Defence has completed its consideration of Votes 35 and 36 for the year ending 31 December 2016; the Select Committee on Social Protection has completed its consideration of Vote 37 for the year ending 31 December 2016; and the Select Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs has completed its consideration of Vote 33 for the year ending 31 December 2016.

Cannabis for Medicinal Use Regulation Bill 2016: Second Stage [Private Members]

Deputy Gino Kenny: I move: “That the Bill be now read a Second Time.”

An Leas-Cheann Comhairle: This is not similar to ordinary Private Members’ time on Tuesdays and Wednesdays. There is no provision in Standing Orders for a set sequence of speakers. I have before me a list of speakers who have indicated. I would need two hours and 20 minutes for everyone but I do not have that time. To give everyone an opportunity, I appeal for some self-discipline, or maybe Members would consider sharing time. I will commence with Deputy Kenny, who has 15 minutes. In the meantime, others might think of sharing time to accommodate all.

Deputy Gino Kenny: I welcome everyone in the Gallery today. Usually, this is a quiet and lonely place, but it is great to have the visitors here and it is good to see friends.

I thank the other political parties for facilitating this Private Members’ Bill. It is being fast-tracked and I commend the other political parties on allowing it to happen. I commend the efforts of a former Member, Luke Flanagan, who put forward a Bill in 2013 dealing with medical cannabis. He is in Brussels at the moment, probably a better place to be.

Deputy Mick Wallace: He is probably stoned out of his head.

Deputy Gino Kenny: Today I stand here under circumstances of my choosing, but the circumstances of many individuals and families suffering throughout the country are certainly not of their choosing.

I will put a question to those in the House and those listening or watching the debate. What would they do if their child, parent, sister, brother or friend was diagnosed with an illness that could be treated with a medicine that was unobtainable? Less than nine months ago, my knowledge of medical cannabis was limited. I had certain vague ideas, perhaps even ignorance, on the subject of medicinal cannabis. My journey so far is part of an ongoing journey of education, seeking out the medical benefits of cannabis in order that I can represent the tens of thousands who need this medicine and who would benefit greatly from improvements in its accessibility.

During the past six months I have met and corresponded with some extraordinary people in extraordinary circumstances.

Some of the life stories I have heard are truly remarkable. The story of Marie Fleming’s battle with multiple sclerosis and her husband Tom helping her to relieve the pain using cannabis is harrowing on the one hand but, on the other, a story of love that shows the medical benefits of using cannabis when other standard medicines have failed. Extraordinary too is the story of Mark Gaynor and his struggle to bring comfort and relief to his five year old son, Ronan, who suffers from a rare childhood cancer. I would like to mention one person in particular who I think the people of this country have taken to their hearts. Vera Twomey’s campaign for her

daughter, Ava, has been the catalyst that has not only won the hearts and minds of the public, but also forced the Government to review its policy on medical cannabis. Vera's courage and determination has meant that she has spoken up not only for Ava, but also the countless others who find themselves in similar distressing circumstances. We owe Ms Twomey, her family and many others who have come out publicly on this issue an enormous amount of gratitude for having told their personal stories.

In the 19th century, a man probably largely forgotten in Irish history, William Brooke O'Shaughnessy, a doctor from Limerick in the early part of that century, popularised medical cannabis. Dr. O'Shaughnessy's vision and forward thinking encouraged modern medicine to engage with the healing benefits of cannabis. His legacy lives on in his contribution to the greater good in treating people with medical cannabis. Unfortunately, however, over the past five decades, the cannabis plant has been stigmatised, criminalised and demonised by governments and corporations with their own vested interests. The war on drugs has been a miserable failure, and all over the world governments are now picking up the pieces.

The Bill provides that patients can receive a legally protected, secure supply of a quality controlled cannabis-based medicine that is safe and effective. This includes provision for a regulatory authority to issue licences for importation and supply and to ensure products are labelled accurately for contents, including THC and CBD, the two best studied cannabinoids with established medicinal value. The Bill provides for the funding of a research institute to improve knowledge about the use and effects of cannabis-based medicines. It allows for legally protected access to cannabis-based products by patients with a recommendation from a doctor to the effect that they suffer from a condition that responds to cannabis-based medicines. Under the regulations for retail licences, labelled, quality assured cannabis-based medicines would only be available from a pharmacist. Advertising or promoting cannabis-based medicines and sale directly to children would be prohibited.

Regarding the benefits of the Bill, its essence is to relieve people's unnecessary suffering from a variety of medical conditions and to promote recovery through improving safe access to an effective medicine. The recent report to the UK all-party parliamentary group for drug policy reform, the Barnes report, outlined evidence for the medicinal use of cannabis-based products in a wide range of medical conditions, such as chronic pain, spasticity, nausea and vomiting, particularly in the context of chemotherapy, cancer, fibromyalgia, epilepsy, Parkinson's disease - the list goes on and on. There is also increasing evidence that when patients use cannabis-based medicines, the use of more toxic alternatives such as opioid painkillers and sedatives is reduced, as are the more severe side effects of and deaths from these drugs. It is genuinely remarkable and an amazing medical advantage that no patient has ever died as a result of using cannabis.

There is a tide in the affairs of men,

Which, taken at the flood, leads on to fortune.

The fortune here today is not the fortune of war but the fortunes of our suffering constituents, children and adults who have within their grasp a medicine with great promise. Let us now put medicinal cannabis within their reach. I commend the Bill to the House. Make it medicine. Make it happen.

Minister for Health (Deputy Simon Harris): I understand why the people in the Gallery

applauded Deputy Kenny. He highlights a very important issue. Having engaged with him over the past week, I fully accept and understand his sincerity and desire to try to do the right thing by Irish patients and those suffering. I thank him for the Bill and the opportunity his tabling it provides us to try to debate and progress the very important issue of medicinal cannabis. I do not propose to move the reasoned amendment to the Bill on the Order Paper after the engagement I have had with Deputies Kenny and Boyd Barrett during the week because I think we have found much common ground on the issue.

I believe the Bill is very well intentioned. Deputies from across the House have met patients and their carers who believe that medicinal cannabis should be available as a treatment option for various health conditions. Some of these conditions are extremely distressing for both the sufferers and their carers, and I recognise the urgency and constant worry they feel as they watch their loved ones in pain which they believe could be alleviated.

I, too, have met personally a number of patients and carers of patients who are seeking a change in legislation to permit use of medicinal cannabis in Ireland. While I am slow to name individuals, I, too, have had a number of meetings with Vera Twomey, and her passion and determination to do right by her young daughter, Ava, is a story that has touched all our hearts and made very clear to us in a very real and tangible sense the importance of this issue to families throughout the country. I thank Vera for her leadership in this regard. There is a strength of feeling among the public that the use of cannabis-based products should be allowed for the alleviation of symptoms associated with certain conditions. That is my view too, and I acknowledge the numerous representations from members of the public and public representatives to my Department on this issue.

I share Deputy Kenny's concern for patients who believe that medicinal cannabis should be a treatment option and I expressed this to him and his colleague, Deputy Boyd Barrett, when we met earlier this week to discuss the Bill. I share the view that medicinal cannabis could play an important role in alleviating pain and suffering, subject to medical advice. It will not come as a surprise to the Deputy that I also have significant and serious issues with parts of the Bill which I do not take lightly and to which I will return in my speech for the record of the House later. Before I do so, I would like to set out some of the facts we must consider in addressing this important issue.

The issue of the use of cannabis as a medical treatment is quite complex, and there is a range of views among the public and the medical and scientific community. Medicinal cannabis is a broad term referring to the use of part of the dried cannabis plant material or products which have been manufactured from chemicals known as cannabinoids, extracted from the cannabis plant, for medical treatment. It is important to clarify that the cannabis plant contains a range of cannabinoids, some of which are psychoactive, meaning they affect the mind, and some of which are not. The element commonly known as THC, for example, is a psychoactive cannabinoid, whereas cannabidiol, commonly known as CBD, is not psychoactive.

Under Irish law, cannabis is considered to be a drug of abuse and is controlled under the Misuse of Drugs Acts. Cannabis is the most widely used illegal drug, and I think that most people in the House would acknowledge that there are significant concerns about the recreational use of cannabis, especially among young people. Apart from being illegal, there is a body of research linking cannabis to certain mental health problems.

Under current legislation, cannabis and products which contain THC or its related deriva-

tives are subject to strict controls, as Members will know. Cannabis is prohibited other than in specified circumstances where all activities relating to cultivation, manufacture and supply of cannabis, and products containing THC, are subject to licence. CBD is not controlled under the Misuse of Drugs Acts.

While cannabis is not viewed under Irish legislation as a product having medicinal use, it is currently open for an Irish-registered doctor to apply for a licence for cannabis-based preparations for an individually named patient. Such applications can be considered case by case. A number of families campaigning on the issue of medicinal cannabis would be aware of this provision, but I feel the need to highlight and reiterate that this option is available.

While many countries have the same approach as Ireland, a number of countries have introduced changes to their drugs legislation to remove some prohibitions to permit the medicinal use of cannabis in certain circumstances. In Europe, countries where such changes have been introduced include the Netherlands, Croatia, Malta and the Czech Republic. Denmark and Germany have also recently announced their intention to progress similar changes. Beyond Europe, schemes for medicinal access have been introduced in Australia, Canada, Israel and a number of US states. Internationally, the schemes in place are focused primarily on controlling the quality and supply, principally of dried cannabis for medicinal use, as prescribed by a doctor. Other than synthetic cannabinoids and Sativex, countries have not authorised medicinal cannabis as a medicine due to the limitations of currently available clinical data on safety and effectiveness.

I believe Ireland should now consider how we might make medicinal cannabis available as a treatment option for certain conditions. As Minister for Health, as Deputies and patients will appreciate, I have a duty to carefully consider the evidence and follow the view of the medical expertise available to me. For that reason, I have taken action. On 3 November, a few weeks ago, I commenced an official review of policy on medicinal cannabis and requested the Health Products Regulatory Authority, HPRA, to provide me with expert advice. The HPRA's statutory role is to protect and enhance human health by regulating medicines and other health products. It has clinical and scientific expertise, which will contribute significantly to this review.

Specifically I have asked the HPRA for an overview of products that have been authorised in other countries; the wider ongoing and emerging clinical research in new indications; the different regulatory regimes in place in countries that allow cannabis to be used for medicinal purposes; and the legislative changes that would be required to allow use of cannabis for medicinal purposes in Ireland. This review is being progressed as speedily as possible and I have asked the HPRA to conclude it by the end of January. Deputies should be aware that this review is of the highest priority for the HPRA, as it has reflected to me, and it has convened a working group to include input from clinicians actively practising in the therapeutic areas in which cannabis is believed to be of benefit. It is a priority issue for me and the HPRA. I hope and expect to receive its advice by the end of January.

It is a difficult task as this is a complex issue that needs to be appropriately dealt with so that all the needs of patients in Ireland who may benefit from medicinal use of cannabis can be considered. This review also needs to take account of any concerns that have been expressed on potential harm from exposure. I remind Deputies that in other countries where medicinal cannabis has been authorised, it is made available only on the basis of a prescription from a doctor. The appropriateness of any particular treatment is a matter between the patient and a doctor, and that is a very important relationship in this country. My understanding is that currently

many Irish doctors would be quite cautious about recommending a cannabis-based treatment for a patient in the absence of robust clinical evidence that underpins authorised medicines. It is therefore very important that we listen to the voice of medics, as I know Deputies wish to in this debate, and that is why I particularly welcome the role of clinicians in the HPRA's review.

The Oireachtas Joint Committee on Health, under the chairmanship of Deputy Harty, who is present, is also examining the issue of medicinal cannabis. The committee recently held hearings on that and heard from a wide range of views, which would have been very informative. I look forward to receiving the output of its work alongside the HPRA's report by the end of January. If we get to the end of that month with the reports from the HPRA and the Oireachtas health committee, as well as being informed by this evening's debate, we will then be in a position to consider future policy and progress any legislative changes that may be recommended.

I have already acknowledged that Deputy Gino Kenny and his colleagues have brought forward this legislation with the intention of helping patients who may benefit from medicinal cannabis. I share the concerns of patients and their carers who believe that cannabis should be a treatment option. Although I am anxious to proceed as quickly as possible - I have outlined to the House my timeline - my preference is to have the expert advice before deciding on possible changes to legislation. That makes sense and by the end of January we will have that advice. I have no wish to pre-empt the HPRA report but it is worth remembering too that the possibility exists it may not recommend new primary legislation and could inform me I can make the necessary changes through statutory instrument under the Misuse of Drugs Acts. This could well be the quickest way to make medicinal cannabis available to Irish patients. We have a common aim in trying to make medicinal cannabis products available to Irish patients on the basis of a doctor's clinical view. When we get to the end of January we will have that advice. I assure the House I will act quickly on it as I know this is an important issue for many families.

At the outset I indicated there are some elements of the Bill with which I have serious concerns and I have discussed them with Deputies Gino Kenny and Richard Boyd Barrett. In particular, I reference the amendments proposed in section 42, which remove cannabis and its derivatives from the Schedule and various sections of the Misuse of Drugs Acts. This would, in effect, mean that cannabis would no longer be a controlled drug and possession for recreational use would not be an offence. I accept this is an unintended consequence of the legislation, as I heard Deputy Gino Kenny mention this morning on the radio. Nevertheless, we should rectify the matter if the Bill is to progress this evening, as I hope and expect it will.

I have always made it clear that medicinal cannabis is a completely different debate to the issue of recreational cannabis and we are here tonight speaking about how we can help patients and families who are suffering. A debate about the recreational use of cannabis is entirely different and I would have a different view in that compared to my view of the use of medicinal cannabis. Most Members in this House would be concerned if we inadvertently legalised cannabis for non-medical purposes. That is not what tonight's debate is about but I need to highlight the unintended consequence within this legislation. I understand there is a willingness on behalf of the Deputy to amend the draft legislation to ensure we are just dealing with the issue of medicinal cannabis.

Another issue of concern is that the Bill as proposed would provide for two new agencies, the cannabis regulation authority and the cannabis research institute. In my view there is genuinely no need to create new quangos. If a decision is taken to change the regulatory regime for medicinal cannabis, the appropriate agency to oversee this would be the HPRA, as it has

the statutory role and experience in the protection of human health in respect of medicines and other health products. The HPRA is already the statutory regulator for controlled drugs and it regulates our medicine. If this is to become another medicinal product, it is appropriate for it to sit under the umbrella of the HPRA. There is openness from Deputies to engage in that regard, as the roles set out in the Bill for the proposed new agencies could be appropriate to the HPRA. It would negate the need for us to establish any more agencies for regulation of medicinal cannabis that would come at an additional cost to the State. We need to do this in as simple a manner as possible and by using existing authorities. I am putting those concerns about the Bill on the record of the House.

There are many people here this evening and following this debate so closely because people have a desire to access medicinal cannabis products. As I have said, I truly accept that and thank the Deputy for putting forward this Bill. I also accept his bona fides on this and share the desire to make progress on this matter. Clearly there is much common ground on all sides of the House and with people in all parties and none. That is why, despite having significant objections to some elements of the Bill, as I outlined, it would send the wrong message to so many people who have contacted us all with their personal stories to divide the Dáil. They want to see action and the Dáil moving on this issue. I do not intend to oppose the Bill on Second Stage; in passing that Stage, it would send a strong message to the people and patients of Ireland and their families and carers that we want and intend to see progress in this area. My caveat, as Minister for Health, is that I need to receive the HPRA and clinical medical advice before I would be in a position to act. I expect to receive that at the end of January. I must have due regard to my duties and obligations as Minister for Health and I want to stress the importance of receiving the recommendations of the HPRA before we could perhaps move the Bill to the legislative scrutiny stage at committee. I am hopeful these recommendations will coincide with the output of the committee's own deliberations.

I believe we are all united in wanting to do the best for patients here but we will achieve the best for patients by acting on the best advice. That is why I have, for the first time in this country, initiated an expert medical review of medicinal cannabis. I look forward to receiving it as quickly as possible and having it very early in the new year. I will act on its recommendations with a view to trying to make medicinal cannabis available to patients in this country. I also look forward to sharing the information with Oireachtas colleagues so we can all proceed to the right solutions in the best interests of patients. I am thankful for this debate and the opportunity provided by the Deputy in tabling this Bill to inform the people and patients of Ireland of my intentions in this regard. I look forward to working with people on all sides of the House in trying to make progress on the issue.

Acting Chairman (Deputy John Lahart): The three speakers from Fianna Fáil are dividing their time.

Deputy Billy Kelleher: I welcome the opportunity to speak to this and I compliment Deputy Gino Kenny on tabling the Bill. It is timely and it can be accepted before being amended and improved if there is concern about some elements of the Bill. Fianna Fáil supports the overall principle of the Bill. The Minister has indicated the HPRA will revert with an expert opinion on the issue of medicinal cannabis.

8 o'clock

There is no doubt that many families believe through experience that suffering can be alle-

viated by medicinal cannabis. While we may not yet have the required expert medical opinion from the HPRA, we must acknowledge that there are many in the State who are using medicinal cannabis to alleviate suffering. We certainly do not want them to be criminalised or potentially criminalised and the Bill addresses that issue.

I am a member of the Oireachtas Joint Committee on Health. When Ms Vera Twomey addressed it this week, she outlined her experience with her daughter, Ava. She presented very brave testimony on the subject. We also heard testimony from Dr. Colin Doherty, a neurologist. It was very impressive to hear the views of a person who had spent years trying to find medication that would alleviate the suffering of her daughter. She told the committee about all that she had to go through to try to find something that would help Ava. It is also noteworthy that the eminent consultant Dr. Colin Doherty stated that in the case of epilepsy medicinal cannabis had huge potential. That said, I accept that all of this must be done with the best scientific supporting data available in the context of bringing forward regulations to allow medicinal cannabis to be made available. I do not believe it should be treated differently from any other medicinal product. It should be assessed by a regulatory authority and go through proper due diligence like any other medication. If it is found to be safe and effective in addressing various illnesses and diseases and alleviating suffering, it should be made available on prescription from clinicians and physicians and dispensed accordingly.

We support the principle of the Bill, but there are elements of it about which I have expressed concern. The Minister has said he supports the spirit of the Bill, but I hope he will not use Standing Order 179(2) to push it down a side junction. The Government has acknowledged that there could be some cost implications for the State, but I ask the Minister not to use the aforementioned Standing Order to stall the Bill's progress. Many people are waiting in hope and expectation that we can progress the Bill in conjunction with the best advice available from the HPRA to the Oireachtas Joint Committee on Health which is discussing it and the Minister.

I compliment Ms Twomey and Deputy Gino Kenny. I also compliment the Minister and his Department on being open-minded on the issue. We can have a broad-ranging debate on Committee Stage, amend the Bill and assess the advice of the expert groups, from whom the Minister has requested information. Fianna Fáil supports the principle of the Bill and hopes it can make its way through the legislative process and, at the end of the day, alleviate the suffering of the many people for whom other medicines are ineffective.

Deputy James Browne: An estimated 1.65 million Irish people suffer from chronic pain, 21% of whom have been living with such pain for more than ten years. Pain can be caused by underlying conditions such as multiple sclerosis and arthritis. It can also result from isolated events such as road traffic accidents. Chronic pain is debilitating and impacts on peoples' ability to work, sleep and do the simple things in life. It can effectively destroy their quality of life. There is some evidence to suggest medicinal cannabis can alleviate chronic pain and decrease reliance on other powerful prescriptive drugs such as opiates and can give people back some quality of life. We already allow the prescribing of morphine, a close cousin of heroin. We would not dream of denying access to morphine for those who are in extreme pain or dying of cancer. Cannabis-based medicine, on prescription, has the potential to decrease pain and improve people's quality of life. There is evidence that it is effective for those with epilepsy, multiple sclerosis, arthritis and other conditions.

This is about showing compassion, giving people hope and ending suffering by giving them access to medicine. Everyone has suffered pain at some stage, whether it be from a broken bone

or whatever else. Imagine what it must be like to live with such pain on a daily basis, year after year. It must be horrendous. We have a moral duty to help people where we can.

As I said, research demonstrates that cannabis-based medicine can lower reliance on powerful opiates, reduce pain killer abuse and decrease the incidence of hospitalisation. There is no reason cannabis-based medicine cannot be treated like other medicine such as morphine. I do not believe in the slippery slope argument as it has not applied to other powerful prescriptive medicines. We should trust medical professionals and allow them to prescribe these pain relieving drugs if they believe it is medically appropriate to do so.

I commend Deputy Gino Kenny on bringing the Bill before the House; it is not before time and I am glad that Fianna Fáil is supporting it. I support it, although I have some concerns about technicalities at the edges of the Bill. However, they can be dealt with on Committee Stage.

Deputy Aindrias Moynihan: I support the Bill and thank Deputy Gino Kenny for bringing it to the House. It is a number of years since I first met Vera Twomey, a constituent of mine from Aghabullogue. Her daughter, Ava, suffers from Dravet syndrome, a rare form of epilepsy. It is a very severe condition characterised by repeated, violent and multiple seizures every day. The family have tried various medicines throughout Ava's life, but none of them has proved successful. With Ava's condition worsening, the family came upon Charlotte's Web and the improvement was dramatic. I understand there are no authorised medicines to treat Ava's condition. The Minister outlined the process by which a person could prescribe unauthorised medicine, under his or her own responsibility, in order to meet the specific needs of a patient. However, this is done on a case-by-case basis and, according to Ava's family, it is not done easily. Meanwhile, Ava's suffering continues. Parents will walk to the ends of the earth for the benefit of their children. I know that other Deputies have similar examples from their constituencies of people suffering from multiple sclerosis and various other conditions.

The Bill provides for the regulation of cannabis for medicinal use in order that patients can receive a legally protected and secure supply of quality controlled cannabis-based medicine from a pharmacy. It is a good move and I am happy to support any measure that will allow cannabis-based medicines to be prescribed by qualified medical professionals to alleviate suffering, but naturally, it should be strictly controlled. It is no different from any other medicine in that regard.

The Bill makes provision for a new regulatory body, but I believe the HPRA is the appropriate regulator. It would be relatively straightforward to change this provision on Committee Stage. I note that proposed changes to the Misuse of Drugs Act could effectively make it legal for anyone to possess cannabis, including for recreational purposes. That is an unintended consequence and, again, something that could also be changed on Committee Stage.

I am pleased to note that the Barnes report on medical cannabis found evidence of effective medicinal use for patients with a wide range of conditions, including those undergoing chemotherapy and suffering from multiple sclerosis. It also found evidence of effectiveness in dealing with treatment-resistant epilepsy, including Dravet syndrome. I am keen to be clear in my support for clinically sound measures that will enable cannabis based medicines to be prescribed for patients by doctors where it is appropriate to do so. The aim is to alleviate their suffering. I commend the Bill to the House.

Deputy Mick Barry: I will start by saluting all those in the Visitors Gallery who have

come to listen to this debate. I also salute those in the audio-visual room which, I understand, is absolutely packed.

On 2 November a woman left her house in Aghabullogue, County Cork to set off on a 300 km walk to Dublin. She had her coat, a phone, a bottle of water and a couple of pears. She has put her hand over her face at the mention of the couple of pears she was carrying. We can only imagine the despair Vera Twomey must have felt the previous evening when she saw her daughter, Ava, aged six years, have a particularly serious seizure. As has been mentioned, Ava has Dravet syndrome and has often experienced seizures up to 15 or 20 times a day. Vera must have felt this was the last straw and thought she had to do something for her child. She set about walking 300 km to Dublin - what determination that shows. She was nine hours down the road, I believe around the Mallow area, when the phone call came through from the Minister. She suspended the walk on the promise that action would be taken, and here we are.

Of course, it is not just Dravet syndrome. As other Deputies have mentioned, for people who have had chemotherapy and who as a side effect have serious vomiting, medicinal cannabis can be a real assist, as it can be for people with multiple sclerosis who are suffering from muscle spasms and for those with high levels of anxiety, sleep disorders and chronic pain. We are talking about tens of thousands of people in this country.

The Barnes report from the UK has been mentioned. It was undertaken on foot of the work of the all-party parliamentary commission, which commissioned Professor Mike Barnes, a consultant neurologist, to produce the document, Cannabis: The Evidence for Medical Use. That report calls for legislation to legalise medical cannabis and that this be done as a matter of urgency. I note the comment of Professor David Nutt, the former chief government drugs adviser in the UK, and now professor of neuropsychopharmacology at Imperial College London, who said:

Cannabis has been a medicine for more than 4,000 years, and in the UK was in the pharmacopoeia until 1971 when the USA forced us to remove it as part of the war on drugs. Now, over 200 million Americans have access to medicinal cannabis whereas we do not...

What he is making reference to is the fact that medicinal cannabis has now been legalised in 25 US states. That is also the case in 11 European countries, including Germany, Spain and the Netherlands.

The point has to be made in this discussion that successive Governments in this country, led by both Fianna Fáil and by Fine Gael, have kept medicinal cannabis illegal for decades. There has been a lot of talk in recent times about populism. This was cheap populism of the worst kind because, in striking an anti-drugs pose, and there were probably votes in it at a certain point, this was done at the expense of the health and well-being of tens of thousands of ordinary people. To add insult to injury, those who went out to buy cannabis in order to relieve their pain, or who grew it at home or in their back garden, were criminalised or left themselves open to criminal prosecution. It is my opinion that those people are owed an apology, and I hope the Minister will consider offering an apology to those people at some stage over the course of this debate, whether tonight or in the course of the next weeks as this debate continues.

Thankfully, change is in the air. There has been a sea change in popular attitudes and the campaigning work of many activists, patients and sufferers throughout the country, including the recent brave campaigning work of one Cork mother, has moved this issue very much up the

agenda. I also salute the work that is being done by Deputy Gino Kenny in this regard. It has dragged the Government to the point where we are now on the verge of recognising some kind of reality in regard to these issues. It is very important that, after a good debate tonight and the passing of Second Stage, we move quickly and urgently to real progress on this issue in the short weeks and months ahead.

Acting Chairman (Deputy John Lahart): I call Deputy Clare Daly, who is sharing time with Deputy Mick Wallace.

Deputy Clare Daly: The Chair has asked us to make our speeches short in order to facilitate all Members but I wish to take the time to congratulate Deputy Gino Kenny on producing the Bill and I thank the AAA-PBP for the unusually dogged determination that has succeeded in getting this Bill into the House, a success I think that was guaranteed because of people power and people being willing to expose their own personal tragedies and put their own stories on the line which has meant we are in the situation we are in tonight. The debate has moved on massively since we discussed it in the last Dáil, when I was one of only eight Deputies who supported the Bill of former Deputy, Luke ‘Ming’ Flanagan, to legalise cannabis, albeit to legalise it for all circumstances. I believe in the legalisation of cannabis in all circumstances.

It is correct to remind ourselves there has been a certain degree of hysteria and political baggage around this discourse on cannabis, which I believe has distracted and caused unnecessary delay in the research and delivery of this product, which could offer such vast relief for so many citizens. We should point out that, at the end of the 19th century, cannabis was widely used in Ireland for seizures, epilepsy, convulsions and other conditions, and there is a certain hypocrisy in that. Obviously, human health, medical care and end-of-life decisions are very personal and traumatic, and anything that can help in these situations should be facilitated. Other Deputies have pointed out very clearly the massive benefits of cannabis as pain relief for arthritis, multiple sclerosis, nausea, cancer and all the rest. That is not something that is unique. Many plants have medicinal properties and we derive medicines from plants all the time - it is the basis of most medication.

It is regrettable that prominent Irish universities and research facilities have not been developing science in this regard because science and medical care have really been subsumed by the justice system, which has denied people the benefit of this. Obviously, recent scientific evidence has helped to create a better picture, better even than the one we had two years ago. It is interesting that organisations such as Epilepsy Ireland were still very cautious about the perceived benefits of seizure prevention, even as recently as two years ago. Epilepsy is one of the reasons we are here today and is one of the ten top causes of death in young people, with 37,000 sufferers. Parents putting their tragic stories into the public domain has been a huge factor in enlightening other people. The research speaks for itself and research in the US and the UK demonstrates that this product can bring benefits.

The medication needs to be available so we do not have a situation where parents have the costly option of travelling to other countries, such as the US, and in some cases emigrating altogether. That is the situation being proposed for people with cystic fibrosis, whom we met in the Dáil today, due to not being able to access Orkambi. People are going to take these drastic steps if we do not provide medicine that they deserve for the quality of life that should be open to all citizens. There is an urgency in this situation. This debate will potentially offer a lot of much needed hope for people who have been shouldering an awful lot, in particular the families living with these debilitating conditions, in that we can point to the delivery of new treatment

options they so badly need. I also hope it is a harbinger of further research into this area. It is a disgrace it has taken so long to drag us to this point.

Deputy Mick Wallace: I too welcome the Bill and fair play to Deputy Gino Kenny and the AAA-PBP for bringing it forward. It will certainly help to ease pain for thousands of people in Ireland suffering from a wide range of medical conditions, such as multiple sclerosis, cancer, epilepsy, chronic pain syndrome and numerous other conditions. The evidence for this has been reported recently in the Barnes report, which states there is increasing evidence that when patients use cannabis-based medicines, their use of dangerous prescription medicines is reduced, which I welcome.

The Bill will provide security of supply and quality and will enable the provision of safe and effective medicinal cannabis. It will also initiate a repositioning or recategorising of cannabis as a public health issue rather than a criminal justice one. The Bill advocates handing responsibility for cannabis policy to the Department of Health and is a step in taking responsibility away from the Department of Justice and Equality, which is certainly positive. Criminalising the efforts of people to alleviate the severe pain and discomfort they are suffering is a particularly cruel policy. Criminalising those with addictions is similarly doubling down on punishment for people who are already victims of the regressive laws surrounding prohibition in Ireland.

Last summer, the British Medical Association called for a move to prioritise treatment over punishment of individual drug users at its annual meeting. Repressive drug policies create far more harm than the drugs themselves. Furthermore, the so-called war on drugs is disproportionately a war on people who are poor, disadvantaged and marginalised. Despite more than 40 years of criminalising the user, drugs have never been more in demand, as cheap or as widely available. There is no police force or government anywhere in the world that can claim or demonstrate that prohibition of drugs is a solution to the problem surrounding them or their use. Thankfully, there are many examples from all over the world of how relaxing drug laws brings positive outcomes for everyone involved. Portugal and Switzerland have shown us how progressive drug policies work. Why are we so committed to punishing those who need care and help? Why do we introduce such regressive laws when the evidence clearly shows that prohibition does not work? The legalisation of cannabis will eliminate the illegal trade and associated crime and control the quality of the product, yield valuable tax and reduce policing costs. Globally, according to an article in the *Harvard International Review* in 2015, it is estimated that the illicit drug trade constitutes the largest revenue stream for organised crime in the world. Ruth Dreifuss, former President of Switzerland and chairperson of the Global Commission on Drug Policy, recently stated that the need for more effective and humane drug policies is more urgent now than ever. She argues for a pragmatic approach to drug policy reform, starting with the recognition that the idealised notion of a society without drugs is an unattainable fantasy.

Drug use is a reality in Ireland. It is a fact of life. The Government's attitude to drug policy has been much like its attitude to abortion. An estimated nine girls and women travel every day from Ireland to the UK for abortions, according to statistics by that jurisdiction's Department of Health. A total of 3,450 women from Ireland presented for abortions in the UK in 2015. Abortion is a reality in Ireland. Even a person who opposes abortion, for whatever reason, must realise that an idealised notion of an abortion-free Ireland is a fantasy. Abortion exists here. We should legislate for it and decriminalise and support these women, offering them the care they need and deserve. Likewise, we should decriminalise and support drug users. To those who think of cannabis as harmful, I would argue that regulating a harmful substance is not a new idea. We already regulate several harmful substances. We should regulate the drug trade and

become global leaders in that area.

Deputy Michael Harty: I am in a difficult position because I fully support legalising medicinal cannabis as a medical product and I believe it is important that the Dáil gets this legislation right. Unfortunately, however, I oppose the Bill. Cannabis-based products, as outlined in the Bill, are products which contain any quantity of cannabis that can be sold in wholesale or retail outlets and be imported into or grown in Ireland. As outlined in the Bill, cannabis for medicinal use includes smoking cannabis, which is fundamentally flawed. There is a subtle but critically important difference between the terms “cannabis for medical use” and “medicinal cannabis”. Medicinal cannabis refers to oils that contain a high percentage of cannabidiol, CBD, and a low level of tetrahydrocannabinol, TCH, cannabinoids. These are extracted from the cannabis plant and produced in the form of oils or nasal sprays which have beneficial effects for patients and which have minimal or no psychoactive properties. Traditionally, cannabis for medical use over centuries was smoking cannabis. However, smoking cannabis is a gateway drug which often leads to developing more destructive misuse of drugs and which, in susceptible individuals, may precipitate lifelong psychotic illness. I have direct evidence of that in my practice.

This Bill is designed to legalise the smoking of cannabis for recreational purposes under the guise of promoting it for alleviation of medical symptoms. The Bill proposes a cannabis regulatory authority separate from the Health Products Regulatory Authority. If medical cannabis is to be approved, licensed, regulated and monitored, why would a separate body be required? The Bill establishes a cannabis research unit to study the consumption of cannabis for smoking, medical use and recreation. This Bill promotes awareness of cannabis use, including the advancement of education relating to the safe use of cannabis. This implies that cannabis will be used outside medical parameters. The Bill proposes that cannabis can be grown at certified premises and amounts grown will be determined by the demand for cannabis. The sale of cannabis will be through a licensed wholesaler, retailer or registered pharmacy. No prescription is required, just a certificate from a registered doctor stating that the patient has a condition for which a trial of cannabis is a reasonable course of treatment. The maximum quantity of cannabis sold on such a certificate at any one time is 1 oz. There is no reference in the Bill to what medical conditions are to be covered or how they will be selected.

Last week, the Oireachtas Joint Committee on Health examined the use of CBD oil for the treatment of specific neurological conditions such as profound epilepsy. Evidence was given that high percentage CBD-low percentage THC oil has the potential to greatly improve this condition and possibly other neurological conditions such as chronic pain, multiple sclerosis and spastic muscular conditions. The Health Products Regulatory Authority and expert witnesses outlined the criteria and the medical evidence which was needed to allow high percentage CBD-low percentage THC oil to be considered as a medical product. This product would be approved if found to be safe, effective, be of consistent quality, be efficacious and based on peer-reviewed clinical and scientific data. I fully endorse that position. In other words, it would be viewed as a medicine with ongoing surveillance. It would be prescribed by a suitably qualified doctor and dispensed by a qualified pharmacist. At no time during the hearing was the smoking of cannabis promoted or accepted as a treatment for any medical conditions nor is the authority contemplating the regulation of smoking cannabis as a treatment in the future. This Bill proposes to deregulate the possession of cannabis for smoking under the guise of promoting it as equal or similar to CBD-based oils. The report of Michael and Jennifer Barnes in May 2016, entitled Cannabis: the Evidence for Medical Use, states that medical recommendations

would be that cannabis should not be taken as a smoked product as there are safer ways to administer it, such as orally, by vapour or oromucosal spray or in food.

This Bill proposes to remove cannabis from the list of drugs prohibited under the Misuse of Drugs Act 1977 and other statutory instruments. Lest there be any doubt about the intention of the Bill, section 44 proposes to amend the Public Health (Tobacco) Act 2002 which bans tobacco smoking in the workplace. This amendment includes the banning of smoking cannabis in the workplace. This implies that smoking cannabis outside the workplace will be legal under the Bill. This legislation will not assist the cause of those families that desperately want approval of CBD oil because it links the availability of CBD oil to the sale of smoking cannabis. Medicinal cannabis should be viewed as a medicine, with suitable criteria applying. This Bill does not fulfil those criteria. On the points I have raised this evening, I feel this Bill is so flawed that it should not be given a Second Reading.

Deputy Michael Collins: I am supporting Deputy Gino Kenny's Bill in the hope that we can make it possible for some of our country's sickest children and adults to be free from pain and suffering. I am supporting it for children such as Ava Barry. I have received many e-mails asking me to support the Bill and explaining how necessary it is to improve the quality of life for those suffering seizures and chronic pain. I will read an excerpt from an e-mail I received from a parent yesterday. It states:

Finally when he was 17, we managed to source the medicinal marijuana in the form of cannabinoid that we had so long been looking for. His seizures decreased by about two thirds very quickly. He became more like his old self. He began to be able to study again, to understand and to interact educationally. Watching him on this cannabinoid for nearly a year now, I have seen the original boy coming back. His eyes are brighter, less tired and exhausted, he is more confident.

I do not believe that medicinal cannabis should be used as a first resort but it should be used as a last resort. I acknowledge that there are mixed reviews among health professionals on the use of cannabis for medicinal purposes and on that basis I would recommend including the provision that cannabis-based drugs should be prescribed only when other available medications have proven to be ineffective or inadequate to the therapeutic needs of the patient.

I also believe it is essential to clearly separate the medical use of cannabis as a drug delivered in a controlled dose from its recreational abuse through smoking. Smoking is shown to be one of the least reliable methods of administration for therapeutic purposes, as it has poor dosage control and a high number of pollutants. We do not want to end up with a situation, as in some states in the US, in which the use of therapeutic herbal cannabis-based preparations has created a largely unregulated market and encouraged abuse. Medicinal cannabis, like other controlled drugs, should only be available through a pharmacy. Medicinal cannabis has been legalised in over ten European countries, in Canada and Australia and in 30 US states. While I am giving my support to this Bill tonight, I want to make it clear that I in no way support the legalisation of recreational drugs. I would ask that these provisions be examined yearly and that the benefits and consequences of the provisions be evaluated. This legislation needs to be closely monitored and amended as necessary to ensure that its purpose is still valid and that it is not being abused.

I again reiterate what I said in my opening statement. I support this Bill. I grew up all of my life hearing that we lived in a caring country. Today, I listened to sufferers of cystic fibro-

sis. Tonight, we talk about legalising medicinal cannabis. Where is the caring in this society? There is none. This is essential legislation. There are people dying and suffering in this country. I have to commend people like Ms Vera Twomey and Mr. Paul Barry, who have travelled throughout the world to find a cure for their daughter, a cure that could be found and administered in this country. I congratulate these people and many more like them who have suffered far too long in their efforts to introduce medicinal cannabis in Ireland.

Deputy Jonathan O'Brien: I also commend Deputy Kenny on tabling this legislation. We in Sinn Féin support the Bill and its passage to Committee Stage. In response to the comments of Deputy Harty, I believe it is very disingenuous of any Member of this House to suggest that Deputy Kenny has put forward this Bill as a Trojan horse to try to allow for the legalisation of cannabis for recreational purposes. I believe that does no service to the debate that we are having. From the outset, this debate has been about the provision of cannabis for medicinal purposes. If there were any unintended consequences in the drafting of this legislation, Deputy Kenny has already given a commitment to the Minister for Health that they will be addressed on Committee Stage. Deputy Kenny might clarify that himself if he gets the opportunity. Anyone who suggests that this debate is about anything other than the provision of cannabis for medicinal purposes has either not listened to the discourse of the debate over the last number of months or is intentionally trying to muddy the waters in terms of what is being proposed tonight.

It is even more disappointing given that the Deputy in question is the Chairman of the Joint Committee on Health, which is overseeing the deliberations on the provision of medicinal cannabis. I completely accept the bona fides of Deputy Harty when he said that he wants to see the provision of cannabis for medicinal purposes. There is no division in the House on that. If that is the common ground that we can all focus on, then I ask Deputy Harty to consider not objecting to the legislation and to let it progress to Committee Stage. Any concerns he may have with the legislation may be addressed on Committee Stage.

We have a commitment from the Minister on a timeline. In the almost seven years I have been a Deputy, getting commitment from a Minister on a timeline is a very difficult thing to do. We have such a commitment from the Minister, Deputy Harris, on the timelines around the debate on the provision of cannabis for medicinal purposes. We will have a HPRA report. Deputy Harty was present at the committee when it was discussed with Ms Lorraine Nolan, the chief executive of the HPRA. She discussed the very strict terms of reference under which she is working. I believe the report will be published on time. She said as much in her own contribution to the committee.

I accept the bona fides of the Minister with regard to the legislation. That is probably a first as well because it is very unusual for Opposition Deputies to accept the word of a Minister. However, on this issue I know that the Minister, Deputy Harris, is very supportive of the cause, which is the provision of cannabis for medicinal purposes. I know that is his own personal view and that he has probably worked very hard behind the scenes at Cabinet level to ensure that is also the Government position, no more so than I have had to work at my own party level to make sure this was the position we took tonight.

I encourage and implore Deputy Harty not to divide the House on this issue. To do so would send out the wrong message to those patients and carers who are hanging on this debate to get some hope that this issue can finally be resolved in a very unified, cross-party way, which would again be very unique in terms of legislation that is dealt with by the House.

I have no doubt that the report will come in on time. We cannot pre-empt the report but one of the recommendations may be that we will not even need primary legislation to enable this to happen, as the Minister, Deputy Harris, has said. This may be able to happen as secondary legislation via a statutory instrument. I believe that we should await that report.

I have spoken to Deputy Kenny about the legislation. We have some concerns around the agencies which are being proposed. We believe it should come under the remit of the HPR. When Deputy Kenny was drafting the legislation, I am sure that it was not his intention to set up a quango. He is probably the last person in the Oireachtas who would want to set up a quango.

Deputy Simon Harris: Two.

Deputy Jonathan O'Brien: Two quangos, yes. I accept the bona fides of Deputy Kenny and those of the Minister.

I had a speech I was going to make but I feel so passionate about this that I do not want to see the House divided on this. I ask Deputy Harty, the Chairman of the Joint Committee on Health, to consider not dividing the House on this legislation. I understand his own personal position on the recreational use of cannabis. That is a completely separate debate. If we were having that debate, there would not be a unified voice coming from all sides of the Chamber. We would have varying opinions on that issue. I am not even going to give my own opinion on that because it is irrelevant to this debate.

The fact that Deputy Kenny has tabled this legislation can be used as a bit of leverage. If the timelines are not implemented, though I believe they will be, we will have this Bill sitting on Committee Stage. If necessary, I am sure there will be enough support across the Chamber to progress this legislation in a speedy fashion. It would also be a sign to the patients and carers who are waiting for this development to take place that if the timelines are not implemented and if the Minister, Deputy Harris, is not sincere in what he said tonight, though I believe he is, we will seek to progress this legislation, which will be sitting on Committee Stage, and amend it if necessary. I think the debate is no longer about whether we should provide cannabis for medicinal purposes. I think the debate is now about when that should happen. My opinion is that it should happen sooner rather than later.

I ask Deputy Harty not to divide the House on this issue. Despite the flaws in the drafting of this legislation, the concerns the Minister and I have about it and the Deputy's recognition that areas within this Bill would have unintended consequences, I do not think any other Bill has received such cross-party support in the seven years I have spent in this House. I would like to think we can get the support of all 158 Deputies for it. I would not like to see anyone dissenting from it.

An Leas-Cheann Comhairle: I am sure Deputies realise that I am endeavouring to ensure everyone gets a chance to speak.

Deputy Richard Boyd Barrett: I commend Deputy Gino Kenny on his fantastic work on this Bill. I would also like to mention the members of his back-office team who have put a great deal of work into it. I am very proud of the Deputy and of the fact that we are here to do something that will benefit many people and alleviate the suffering they are going through. I thank the other political parties that have facilitated the taking of this Bill and the Deputies who have indicated either that they are willing to support the Bill or that they will not oppose it so that it moves on to Committee Stage. I acknowledge that the Minister and his officials have

engaged with Deputy Kenny, and more recently with me, in a genuine way to discuss this Bill with a view to trying to get agreement across the House on how we can make progress with it. Regardless of how sceptical I might be at times about the so-called new politics, I think this is an example of how new politics can function in a progressive way. The biggest thanks have to go to the people in the Gallery, particularly people like Vera Twomey who have fought this case on behalf of others who are enduring suffering. Vera has been determined to get medicine to alleviate the suffering of her daughter, Ava. When this Bill is eventually passed, with whatever changes are necessary to get it through, I think we should call it Ava's Bill as a tribute to the love of a mother for her daughter. That is what this is about.

I take seriously the concerns of people like Deputy Harty regarding this Bill. I respect our differences of opinion in this regard. It seems to me that if we can do something to help the tens of thousands of people like Ava who are ill and whose suffering can be alleviated by medicinal cannabis, that must be our priority and it must override absolutely everything else. I assure Deputy Harty that it is not the intention of this Bill to do something by the back door. We have differing views on the wider question of the decriminalisation and recreational use of marijuana. We make no bones about saying we want to have a debate on that question on another day. We had it before when a Bill was introduced by Luke 'Ming' Flanagan. I was on his side on that occasion. I commend him on all the work he has done. However, the intention of Luke 'Ming' Flanagan's Bill is not the intention of this Bill.

We have indicated clearly that we are willing to work with the Government and the other parties to amend the Bill before the House. This is why the Government has agreed to let it go to Committee Stage. There may be debates and disputes about how best to proceed on Committee Stage. I will move on to some of the issues that have been raised. We do not fully agree with some of the Government's concerns and some of the other concerns that have been raised. If there is agreement that at the end of this process, medicinal cannabis should be made available to anybody whose suffering and illness could be alleviated by it, we have a duty and an obligation to ensure that is what happens. That is what is driving us. We are inspired by Vera Twomey and others. We are determined to have the legislative clock ticking so that this has to happen. That is not to say that there is not a great deal of work yet to be done. Deputy Gino Kenny and our Anti-Austerity Alliance—People Before Profit colleagues would be the first to admit that we are not perfect legislators. There are issues with this Bill that have to be dealt with, but we want it to happen for the sake of the people who will benefit from it. I join Deputy Jonathan O'Brien in appealing to Deputy Harty not to cause a division on this Bill. We need to work on it and make it the best legislation it can be. It seems that despite Deputy Harty's difficulties with the Bill as it stands, he shares the objective of ensuring medicinal cannabis is available to those who desperately need it. That seems to be a shared objective of all Members of the House.

Others have made the point that there is substantial evidence that cannabis-based products can be of assistance across a range of suffering and illness. I do not doubt that this significant evidence needs to be researched more. It seems to me that we should not be in any way conservative about trying to explore the considerable experiential and anecdotal evidence that the suffering and pain associated with a wide range of illnesses can be alleviated by medicinal cannabis products. I know the Minister has expressed concerns about the proposed research institute. If that is an obstacle to making progress with this legislation, we are quite willing to take it out. I suggest the idea of further research in this area is something we should all be in favour of, even if it is not part of this Bill. While there is significant evidence that cannabis could make a difference to those with Parkinson's disease, psychoneurological disorders and so on, we do

not have all the evidence in respect of those conditions. It seems to me that if there is even the slightest chance that these products could be beneficial, we have an obligation to research that stuff. If all that can be rolled into the Health Products Regulatory Authority, we are absolutely open to that. The main thing is to get it through. We can work out our differences of opinion on Committee Stage.

I believe the stigma that has been attached to cannabis has prevented us from exploring some of its benefits. That should not be the case. There are concerns about the possible adverse effects of cannabis, but the truth is that there are multiple concerns about all sorts of other drugs that are already legally available. As Deputy Gino Kenny said, there is no known instance of a fatal overdose from the use of cannabis or cannabis-based products. That cannot be said about almost any other drug. One could quite easily overdose on a range of other drugs that are legally available. The evidence suggests that the possibility of addiction arising from the use of other drugs is far greater than the possibility of addiction to cannabis-based products. I am not saying that there cannot be side effects, or that there are no side effects. We need to look at and be concerned about some of those anxieties. However, there is no evidence whatsoever that anything we might say about cannabis in that regard would lead one to say there is a range of other drugs that should not be available that are available and whose regulated provision is accommodated already. We need to get rid of the stigma because the prize of alleviating a wide range of illnesses and suffering is such a big one that we have to go to the nth degree to do that. There is considerable evidence that it would replace drugs already being dispensed by the health system which are more damaging and dangerous.

People should read a very good article in *The Irish Times* today about a Canadian study that has shown that almost 500 medicinal marijuana patient surveys reported that 80% of those surveyed successfully substituted cannabis for prescription drugs in the treatment of pain-related conditions. In other words, cannabis has become a more beneficial, less dangerous replacement for drugs that have worse side effects. For that reason, we should progress this Bill as quickly as possible and not be frightened of doing so.

An Leas-Cheann Comhairle: The next slot is shared by Deputy Catherine Martin and Deputy Joan Collins.

Deputy Catherine Martin: Ba mhaith liom a rá don Teach seo anocht go bhfuil an Comhaontas Glas fíor-shásta tacaíocht a thabhairt don Bhille seo. I commend Deputy Kenny on bringing this Bill before the House, which I will support. The Green Party has long called for appropriate legislation to decriminalise the use of cannabis for medicinal purposes, and our recent submission to the national drugs strategy supports this position.

As long as the use of cannabis for medicinal purposes remains illegal, our citizens, many in agonising pain, remain at the mercy of dealers and this secret world for people suffering pain is unsupervised and unregulated, with no safe or reliable expert advice. If charged and convicted in the criminal courts of justice, they currently face a fine of up to €2,750 and a 12-month prison sentence for a third offence.

A recent all-party parliamentary group in the United Kingdom has called for legalisation of cannabis for medicinal use. They heard many compelling stories of the dramatic improvements to their health that some cannabis users have experienced. An expert review feeding into this group's work found good evidence that cannabis oil can help with chronic pain, muscle spasms often associated with multiple sclerosis, and the management of anxiety, nausea and vomiting,

particularly when caused as a side effect of chemotherapy.

Here in Ireland we have heard from people like the brave and inspiring Vera Twomey who is doing everything she can to advocate for her little girl, Ava, who has Dravet syndrome and is subject to ever-increasing seizures. Last year, after 18 consecutive seizures in close succession, Ava suffered an especially severe seizure and after trying every medication available, doctors eventually were running out of options. That is when Vera turned to cannabis oil as her last hope. She has said that her daughter's quality of life has been transformed since then.

It is difficult to put a number on the many people who are using medicinal cannabis in Ireland, but considering the number of people who have epilepsy, cancer, multiple sclerosis or any other brain or muscle related condition, there are probably thousands in agonising pain who are hoping against hope that we, as legislators, will speak up and act for them tonight. These people need practical support, translating words, however genuine, into doing our utmost to take action. They deserve our compassion and support, not potential criminal records or a lifetime of pain.

Deputy Joan Collins: I will not take too much time because I am aware of the time constraints but I want to take the opportunity to express my support for the Bill. I was one of the eight Members who supported the Bill brought forward by the then Deputy Luke 'Ming' Flanagan on the decriminalisation of cannabis. I welcome him to the Dáil tonight. He came here specifically to support the Bill and the people in the Gallery who were the catalysts in terms of pushing this issue. He brought forward a wider Bill but the legalisation of medicinal cannabis was contained in it. I recall the Minister of State at the time, Alex White, speaking about the plans to bring in medicinal cannabis for multiple sclerosis patients, but he further stated that while people agree with possible medicinal cannabis being legalised, there is no evidence of any significant public support for that change in policy. There was a lot of public support but it was not being reflected by the Government at the time, which had a huge majority and would not take any advice or evidence from Members on this side of the House on these issues.

I have read Professor Mike Barnes's report and the evidence is very clear. It was sufficiently compelling for a large number of countries to legalise access to medicinal cannabis, including countries mentioned earlier such as the Netherlands, Germany, Spain and 24 states in the United States. They made the point that for thousands of years, going back to 4000 BC, cannabis has been used for medicinal purposes. That is the backbone of this debate.

I want to highlight the fact that doctors currently can apply for this product on behalf of patients but they rarely do so without the backing and guidance from the Health Service Executive to ensure that what they are doing is right and that they are not stepping over the line or doing anything illegal. I note the point made by the Minister, Deputy Harris, when he stated:

While cannabis is not viewed under Irish legislation as a product having medicinal use, it is currently open for an Irish registered doctor to apply for a licence for cannabis-based preparations for an individually named patient. Such applications can be considered case by case. A number of families campaigning on the issue of medicinal cannabis would be aware of this provision [which would allow a doctor apply for a licence].

I read that quote into the record of the House because I want the media to take it up and get the message out to people that they can do that because while many of the e-mails we got expressed the hope that the Bill will be passed very quickly, some were under the impression

that it would be passed this week, next week or next month. However, it will take a period of time even though there is the will on the part of Members of the House to move it along. The message must be sent out that doctors can do this case by case, and they should. People should know that and contact their doctors about it.

We have not only read the Barnes report but we have also listened to many people in recent years on this issue, particularly at the time of Luke ‘Ming’ Flanagan’s Bill. We know this product can have a huge impact on chronic pain and on a range of illnesses and potential illnesses. I received an especially poignant e-mail from a young mother whose son has Dravet syndrome, similar to Ava Barry’s illness. She made the point clearly that the reason she wants to see this Bill passed is because to date in 2016, her son has had 523 of the most severe seizures, not to mention all the smaller seizures and the ones that are missed. In 2015, he had 683, in 2014, he had 648 and in 2013, he had 305. That young boy and his family are hoping against hope that this Bill will be passed very quickly.

I listened to Mark speak on “Morning Ireland” this morning about his son Ronan, who has diffuse intrinsic pontine gliomas, DIPG. He accesses the CBD drug on Amazon through the manufacturer and pays a good deal of money for it. People should not be expected to have to go through that process. They should be able to access it here for their sister, brother, mother or father who has a need for medicinal cannabis.

Deputy Gino Kenny has been genuine in his approach to this Bill. He is bringing it forward as a way to alleviate pain when all other choices do not work.

9 o’clock

It is not in any way a Bill being brought in as a Trojan horse to open up the use of cannabis in general.

I congratulate Deputy Gino Kenny on bringing this into the Dáil. I also congratulate all the groups in the Dáil who facilitated this as with that sort of support and the genuine all-party approach that seems evident, the Bill will progress quickly although probably not quickly enough for some people. The message must go out that doctors can do as I indicated.

An Leas-Cheann Comhairle: In the next slot, there are Deputies Fitzmaurice and Shortall.

Deputy Michael Fitzmaurice: First, I commend Deputy Gino Kenny on bringing this Bill forward. There are a lot of issues we might not agree on but I agree with the Deputy on this. This has to be done. There is right on our side. As a legislator, any Deputy who has bothered to look at e-mails or has picked up a phone to talk to somebody who has gone through such suffering and torture and endured such pain - be it with multiple sclerosis, cancer treatment, epilepsy or different problems - must do what is right.

Deputy Harty spoke earlier. As Deputies, we have to be responsible in what we do. I heard Deputy Kenny this evening speaking on the news and, in fairness to Deputy Boyd Barrett, they have explained clearly. No individual is perfect or has the machines of Government behind him or her to put something together and have it 100% perfect. In fairness, the ball is being thrown into the air today and it is ready to go. If there some aspects that are not workable, as legislators, we can solve this together in committee.

We need to remain focused on the people who have suffered, are suffering and will suffer

until this is solved. Earlier it was interesting to hear Deputy Joan Collins state a way forward is available for the time being until this Bill is put through and that doctors have an opportunity to perhaps help some of those suffering people.

It is great to see people - Ms Vera Twomey is to be congratulated - with a determination, a desire and a vision of where they want to go. I refer to the heart that is in such people to get out there to make a sacrifice for their neighbour, their family or someone belonging to them in a fight to make that person's life a bit more comfortable. They are the people who started this off. There is much happening around the country that Deputies might not know of until somebody comes to us and explains.

This morning, in the AV room, we heard about young people with cystic fibrosis who are suffering. We have listened to the stories of different people who are sick and who are looking to get medicinal cannabis. Unless one has a heart like a stone, it has to affect one. There is talk of Deputies who do not seem to have a heart but in fairness, while we disagree and argue frequently, it is commendable that right around the House tonight, everyone wants to see this Bill progress although Deputies may be a bit sceptical. Deputies want to see people being able to get their hands on medicinal cannabis. I have seen one such person at home who suffered from multiple sclerosis and nobody deserves the torture and suffering that person had to go through.

Whatever way we can make their lives a bit better or can help them - maybe it can cure them - we should not be afraid to research something. We should not be afraid of that word of which everyone was once afraid. We should be prepared to look into it. It may help other people in different situations. I am not against that whatsoever.

I have made it clear I am not in favour of having it willy-nilly on every street corner but I am for the people concerned here. It needs to be sorted and to be driven on. In fairness to the Minister, he stated he is focused on it, and we take him at his word. In fairness to Fianna Fáil, it has backed this Bill. Basically in this House, unless the two big guns do not back something, one is in trouble with a Bill. It is good in the new type of politics that, for once in our life round this House tonight, there is general consensus that this should be done. It is what is right; it is what we are here for as legislators. All I can say is, I commend Deputy Gino Kenny on bringing this forward and I will support it.

Deputy Róisín Shortall: The Social Democrats supports the principal thrust of this legislation, which is to allow greater use of cannabis-based medications. Such medications are fairly widely available in many EU states, and, indeed, in many states in the US, without any apparent evidence of negative consequences. They are providing, in the main, important relief to people with difficult and severe conditions. We must learn from what is happening in other places and ensure best practice in that regard.

I commend Deputy Gino Kenny on bringing this legislation forward and on putting this issue centre-stage. While it has been an issue in the background and people who are directly affected by the lack of such medication are all too conscious of the associated problems, in the main this has not been brought centre-stage or to the top of the political agenda. It is a good day's work that Deputy Gino Kenny has done this and has created the conditions whereby we have this debate tonight. Hopefully, we can move forward within a reasonably short timeframe to ensure that effect is given to the expressions that we have heard here tonight.

I also pay tribute to the many people who are in the Gallery and those listening in the AV

room, as well as to those who have written to us over recent weeks and who have opened up their hearts to us to explain the kind of significant difficulties they are encountering in their lives, often on a daily basis, with children, with loved ones in their families, and for many themselves who are coping with severe conditions. I thank them for doing that. It is not easy to come forward and talk about one's own personal circumstances like that. Certainly, their efforts have contributed significantly to bringing this to the point tonight where it is becoming a real political issue that demands early response and that is a good development.

While there have been many significant advances in modern medicine, there are still several conditions which are not eased by available medications. When efforts have been made to try to access cannabis-based medication, and when people have gone to all kinds of lengths to get those for their loved ones, they have found that such medication brings very significant relief. Whether these are various chronic conditions, whether it is people suffering from cancer and the side effects of cancer treatment or people in chronic pain with seizures, with spasms or with severe anxiety, these and others are situations and conditions where people have found relief from cannabis-based medications. There is a consensus here that we now need to move forward.

Clearly, the question of quality control and safety has to be paramount. The State cannot lightly give the go-ahead to a medication and there has to be proper rigour in terms of ensuring quality control and safety.

As well as licensing these medications, they must also be reimbursed. Four years ago, when I was Minister of State at the Department of Health, I started the process to introduce Sativex. While that medication is legal now, it is not reimbursible. That is one of the problems. It is a legal drug, but people must pay for it directly. It is important that we get to a point where the Health Products Regulatory Authority, HPRA, can give the go-ahead, so those products can become reimbursible.

I welcome the fact that we are focused on this matter tonight and that there will not be a vote on it. If there had been a vote on it and the measure was defeated, one can be sure that this would not be a live issue but would be buried again. The fact that it appears the legislation will pass Second Stage means that a clear focus will be kept on it. In addition, all of us will take on the responsibility of ensuring that the Minister keeps to the timeframe he outlined.

Deputy Pat Buckley: First, I commend Deputy Gino Kenny on bringing this Bill forward. It gives each of us a great opportunity. I have listened to the speakers and, despite what people think, we are human beings, we have feelings and we take matters on board. We are well aware of what is happening outside the House. This is a clean and fair debate. When Deputy Harty spoke earlier I looked at the opening line of my remarks. It states simply that the policy of a Government should be to do the most good while doing the least harm. We can tweak things but once the legislation passes this Stage there will be genuine consensus to do the right thing.

There has been a wide range of debate both here and across the world in recent years on cannabis. There is a great variance of opinions. In this case, however, there is little room for debate. The evidence is quite clear that in some cases cannabis can and should be prescribed to relieve debilitating symptoms of life limiting conditions. Medicinal cannabis use, where deemed appropriate by a doctor and his or her patient, can have a profoundly positive effect, with no more severe potential for harm than that posed by any prescription drug currently available. I am not a scientist or a doctor but I have read many of the conclusions and I have spoken to many people about this. It is clear that we must move this issue forward to the next phase.

We are talking about Sativex spray and CBD oil, which contain low-THC, the psychoactive ingredient in recreational cannabis. These medicinal products have been proven to improve the quality of life dramatically for people suffering from conditions such as MS or Dravet syndrome. In fact, in the case of Dravet syndrome it offers the potential to be life saving, given the severity and regularity of seizures related to that condition.

I have spoken many times to Vera Twomey about her daughter Ava, who suffers greatly with Dravet syndrome. One must pay tribute to the family and their relations. Perhaps Vera might consider running for President some day. One never knows. I am a parent, and parents take solace from people as well. It makes me angry and distraught at times to consider the position Vera is in at present. If it was me in the same position, I would do the same thing. I would fight to the bitter end for my child. That is what parents do. No parent should have to beg for his or her child's life. In 2016, are we at a stage where parents must come here and beg for their child's life? That is very hard.

We must do the right thing. We have a fantastic and amazing opportunity to improve the lives of many people on this island dramatically, including little Ava's. All of us have a responsibility to do this and I hope we will take it. For that reason I and Sinn Féin support this Bill.

Deputy Kate O'Connell: I thank Deputy Gino Kenny for bringing this Bill forward. It is an important step along the road to improving the health care and lives of many of our citizens. I believe the Bill is very well intentioned. Elements of the Bill have my full support, particularly the parts relating to the provision of medicinal cannabis for the treatment of people and to alleviate the pain they are suffering. Obviously, I have concerns about certain elements of the Bill and the introduction of a medicinal product to the wider market, perhaps circumventing some of the regulatory processes which I, as a pharmacist, hold dear. However, we are lucky to have the HPRA. Its role is to ensure that products are safe, effective and of appropriate quality based on clinical and scientific data. I always believe that we must take an evidence-based approach.

However, there are people who are needlessly suffering and children who are having dozens of seizures daily. I met with Ava's mother, Vera. When she attended the briefing in the AV room and when she appeared before the health committee I thought of how brave she was and of how somebody who had that in their daily lives would travel up to see us and tell us her story. However, sitting at home last night thinking about it, I thought, "Well, maybe it was a break for her". Her daily life must be exceptionally challenging. I cannot imagine what it is like to have that on one's plate every day.

I acknowledge the points made by Deputies about the side effects of heavy-duty prescription items that are used in the treatment of epilepsy. The side effect profiles of any drugs that have neurological effects will obviously be fairly hefty, but there is a balance. Anything we do regarding this Bill should be directed towards harm reduction, improving people's quality of life and treating people in a humane and holistic manner. If families have a member who is suffering, it is very important for them to see that their offspring or loved one has a good quality of life in so far as possible. I understand the HPRA has been asked by the Minister to provide him with all the data and that this is being fast-tracked. We might have a report on this perhaps by the end of January.

I am not sure how I will vote on this measure yet. I find it difficult to balance the circumventing and I understand the limitations of the Bill. I might choose to abstain. However, I

am supportive of the principle involved. I am a member of the health committee and we have discussed this matter previously. We will debate it again and we will make it work. We will fix it. It is clear that, as Deputy Fitzmaurice said, we have thrown the ball into the air, so let us use the organs of this House to try to improve people's lives.

It is important to note for anybody outside the House who might be confused that we are not trying to legalise recreational drugs. I do not believe that Deputy Gino Kenny is trying to use this as a Trojan horse. However, I must support Deputy Harty's comments and concerns to some extent. I have had many dealings with Deputy Harty during my time in the House and he is a kind man and is committed to medicine. I fully understand his issues with the Bill, but I ask him not to hinder its progress. I assure him that I will work with him on the health committee to bring this, hopefully, to a positive conclusion. It is clear that we can all work together to come to an appropriate conclusion. Obviously, I have issues with elements such as another regulator, although I realise Deputy Gino Kenny has no intention of introducing another quango or the like. We can all work together to make this happen in a safe and appropriate manner.

I support Deputy Gino Kenny's Bill. I will work to the best of my ability to make this product and its derivatives available to people who require it. We will do our best to do what we were elected here to do, to be Teachtaí Dála and messengers of the people who have come and spoken to us. We will try to do our best for the people of this country.

Deputy Tom Neville: I am not on a member of the health committee, I am more involved on the mental health side. I was at the briefing in the Audio Visual Room when Ms Vera Twomey made a presentation to us. I could not be but be moved by her presentation and on seeing the anguish and the pain written all over her face in speaking about caring for her daughter who suffers from Dravet syndrome. I did not know much about her condition. The impact of it was compounded last Monday when a constituent from my parish visited my clinic, with her three year old daughter who also has Dravet syndrome, to speak to me about this Bill. She presented me with the detail of what she has gone through during the past three years. It impacted on me even more to meet the three year old girl who has the condition. Her mother explained the cocktail of medications her daughter is on and the side effects of those. Anything we could do to alleviate pain and give these people a quality of life must be supported and we must assist them in any way we can. I am speaking here tonight on behalf of that constituent from my parish and her daughter who I did not realise had that condition. It was a huge learning curve to hear about it.

I acknowledge Deputy Gino Kenny's work on the Bill. I have spoken to him about it since I spoke to that constituent. I take on board his sentiments that some of the challenges around the fringes of the Bill need to be addressed and they can be addressed on Committee and Report Stages. The ethos of this Bill is to improve the quality of life of these people. Therefore, I will not stand in the way of its passage. I will work constructively on it. It is a breath of fresh air that no political footballs are being bandied about here tonight and that we are having a constructive debate with constructive solutions. It has happened in other debates around mental health. It is very much welcomed. As a new Deputy, I want to see more of that and that we would work constructively together. We will not agree on everything. Members come from different political ideological backgrounds but it is very welcome when we can reach consensus on measures such as this and bring forward solutions rather than problems.

Minister of State at the Department of Health (Deputy Catherine Byrne): This Bill is about three words, families, compassion and hope. It is about families on a daily basis who

have to comfort their loved ones who, because of a serious illness, live a nightmare on a 24-7 basis. Sometimes politicians are not seen as being compassionate or having compassion in abundance. However, a new pathway, the new politics we all hear a great deal about from all sides, has been ignited.

Having listened carefully to all the speakers, I thank all of them for their valuable contributions to the debate on this important issue. In particular, I thank Deputy Gino Kenny and other speakers, including Deputy Harty who may not share the same view on this issue that we have. I have great respect for him and some of the issues he raised are also very important.

People care very deeply about this issue and I understand the concern of many people who believe that cannabis should be a treatment option for certain medical conditions. The Government has decided to urgently review policy on medicinal cannabis. The Health Products Regulatory Authority, HPRA, has been requested to report by the end of January. This review will provide us with expert advice and recommendations on how medicinal cannabis can be regulated in Ireland.

While the Members might think that a lot of research has been carried out on the use of medicinal cannabis, much of the evidence is anecdotal and not the type of clinical research that is normally required to authorise a medicine. There is still a good deal that is not known about the side effects of cannabis and about its interactions with other medicines that patients may already be taking. It is vital, therefore, that we appropriately weigh up the potential risks against the potential benefits in order to build a solid evidence base to support the safety and effectiveness of the use of medicinal cannabis by patients, many of whom may already be very ill.

It is important to understand that we are talking only about medicinal cannabis. The issue of recreational cannabis is a completely different issue. As the Minister of State with responsibility for the national drugs strategy, I am conscious that cannabis is the most widely abused illegal drug in Ireland.

I understand this Bill is intended to make medicinal cannabis available on prescription to patients. Like the Minister, Deputy Harris, and other Deputies, I have concerns about aspects of the Bill, in particular the amendments which would have removed cannabis from the Misuse of Drugs Act and legalised possession for person use. I understand that this was not the intention of Deputy Gino Kenny and that there is a willingness to amend this element of the Bill on Committee Stage.

Like the Minister, I do not see the need to establish two agencies. I believe the HPRA already has extensive experience in regulating health products in this country and we will stick with products that it regulates.

Despite concerns about the Bill, we share a common desire to progress it. As the Minister, Deputy Harris, has said, we will not oppose it. We look forward to receiving the HPRA report on medicinal cannabis early in January 2017. At that stage, we can consider what changes we might need to make to legislation to have the safest and best outcomes for patients. I again thank all Members who spoke on this important topic.

An Leas-Cheann Comhairle: We will now have the concluding remarks and ten minutes remain. I call Deputy Bríd Smith who has not spoken already to be followed by the proposer of the Bill, Deputy Gino Kenny.

Deputy Bríd Smith: I recommend that all Members read the executive summary of the Barnes report from the United Kingdom. I have it here, and it is very interesting. Rather than go through the list of the evidence that it found where cannabis offers potential alleviation from a plethora of medical problems and psychotic problems, I have asked Deputy Gino Kenny to put this executive summary up on his website. I ask Members to check it out.

It has been interesting over recent weeks to see the response in the House to this Bill. At this stage, Deputy Gino Kenny probably knows more Deputies than any other Deputy because everywhere we go, and I go for lunch with him frequently, I hear, “Gino, can I have a word with you?”. All the Deputies stop him to congratulate him and are excited that we are getting to a point where an issue that we are all interested in, have common ground on and that will do a lot of good for people in all of our constituencies is before the House.

Although Deputy Harty is the only dissenting voice here tonight he has been very honest in expressing his concerns. The Minister stated in his opening remarks that there are many doctors who would be cautious about this measure. That is the case, and Deputy Harty is one of them. Deputy Kate O’Connell expressed some caution as a pharmacist. There will be that concern but there are also many doctors and other medical people who are quite excited about the potential of this measure.

I want to address the concerns about gateway drugs. The argument has always been used if we allow a small amount of cannabis to be legal in society, we are telling people to go ahead and get stoned, have a great time and not to worry about it, and that it will be legal in no time. However, in this instance we have to be careful about framing it in that way because it is very clear from the Bill that this is not about a Trojan horse or a gateway drug to the legalisation of cannabis.

When I was young I smoked cannabis, and I still do occasionally, but I was never addicted to it. However, what I got addicted to, which could have killed me and it killed my father, was tobacco. Tobacco kills hundreds of people in this country every week. When we look at the problem of illegal drugs we see the products that have always been illegal that one gets high on but then there are the legal ones like tobacco and alcohol, which are advertised and promoted, although tobacco is no longer advertised, with which society does not seem to have a problem. The biggest gateway drug for people who smoke cannabis is tobacco and it is one of the biggest killers. Deputy Harty referred to the provision relating to smoking in the workplace. That was inserted because it is not recommended that people who take cannabis for medicinal purposes should smoke it but if some patients do, we have to guard against passive smoking, particularly in workplaces. The same applies to vaping as a method of taking cannabis.

The Barnes report describes how “the human brain and other organs contain naturally occurring cannabinoid receptors as well as chemicals that bind to those receptors”. These have “a range of important natural functions, including modulation of pain, control of movement, protection of nerve cells and a role in natural brain adaptability (plasticity), as well as a role in various metabolic, immune and inflammatory processes” and they are in us naturally. THC and CBD mimic, exaggerate and help to stimulate the effects of the human system. That is why they alleviate spasmodic episodes, pain and nervousness to help people relax, etc. Medicinal cannabis is an efficient drug. It can help alleviate a long list of complaints and ailments and big pharma worries about this. George from Ballyfermot is in the Visitors Gallery and is dying to get his hands on this for his granddaughter, Ellie, who also suffers from severe fits just like Ava Twomey. If the legislation was passed, within a matter of months, we would be able to

dispense with many more poisonous and harmful drugs such as opiates, benzodiazepines and other chemicals we constantly have to put into our bodies to relieve the symptoms of cancer, fits and so on. I have a friend whose husband is also in the Visitors Gallery. She has been having cannabis treatment over the past few months to alleviate the effects of radiotherapy on her body. It is remarkable to see the difference in a matter of weeks in respect of the relief she is getting and the change in her body, which means she can sleep and eat better.

This is a big issue in working class areas. We have held public meetings and campaigned on this in our constituencies. People in working class areas are aware of medicinal cannabis and they have been researching it on the Internet. I acknowledge that is not sufficient for us to pass legislation, hence the Bill and the question of us going through the proper process in the House. Nevertheless, this will be an amazing breakthrough for us if we can get the legislation through. It should not only be about the tough cases; it should be about multiple sufferers of cancer, MS and Parkinson's disease. Many people could benefit.

When I was a young one, I was big into reggae. Peter Tosh on his album, "Legalise It", sang that cannabis was a cure for glaucoma and that has always stuck in my head. All he talked about was glaucoma. If THC and CBD were part of a medicinal treatment, there is a long list of diseases they could alleviate for humanity. The end game for us is to create a better and more pain-free society for everybody and this is a small contribution on that road. I congratulate Deputy Gino Kenny and I congratulate everybody in the Visitors Gallery for coming in and for sticking with us. They should not go away because we have not got the Bill through yet.

Deputy Gino Kenny: It has been a healthy debate and I have taken everybody's view on board. It has been quite an emotional and hard week for me but not as hard as some people's circumstances. I can see people in the Gallery whom I have gotten to know over the past few months and I consider the likes of Ava, Paul, Colette, Mark and a few others whose names I forget to be my friends. It has been a fantastic five or six months, even though I have heard about the hard circumstances of their lives. There has almost been a reawakening of goodness to want to help people.

I accept the bona fides of every Member. I disagree with much of what the Minister says but he is genuine on this issue. I disagree with Deputy Harty and I am slightly disappointed by some of his comments. It is his own opinion. I respect him but I am disappointed.

Many provisions in the Bill could be amended, including those relating to the research institute and the cannabis authority. That was intentional because I am new to this game. The last thing I want to do is set up another quango.

Deputy Jonathan O'Brien: There are two.

Deputy Gino Kenny: I would not be called Gino Kenny then; I would be called Quango Kenny.

It has been a healthy debate. There is no going back, just like Vera Twomey's walk. When she first suggested it to me, I thought, "Oh God, what is she doing?", but it did awaken people and it did awaken the Minister and he acted. It is up to the House now to act for the benefit of many people. It is a healthy day for democracy in Ireland that we can agree on something very valuable to many valuable people.

Question put and agreed to.

Cannabis for Medicinal Use Regulation Bill 2016: Referral to Select Committee [Private Members]

Deputy Gino Kenny: I move: “That the Bill be referred to the Select Committee on Health pursuant to Standing Orders 84A(3)(a) and 141.”

An Leas-Cheann Comhairle: Ba mhaith liom mo bhuíochas a chur in iúl do gach Teachta as ucht an chomhoibriú a bhí anseo anocht. Bhí go leor Teachtaí a bhí ag iarraidh páirt a ghlacadh sa díospóireacht. Fuair gach Teachta a bhí ag iarraidh labhairt sa díospóireacht an deis sin os rud é go raibh comhoibriú ann.

Question put and agreed to.

The Dáil adjourned at 9.40 p.m. until 2 p.m. on Tuesday, 6 December 2016.