Deputy Micheál Martin: The arrests yesterday and revelations of a very sophisticated scam involving illegal immigration to this country, particularly through Dublin Airport, were truly shocking and exposed a significant lapse in national security at key entry points into the State. This has wide-ranging ramifications in terms of future security policy and our capacity to withstand many types of violation of our security system. This is a wake-up call given the ease with which people could enter the country with the connivance of people working at the airport, either with carriers or in any other capacity. It seems an extraordinary gap in our system that could facilitate such illegal activity organised by global crime gangs targeting Dublin and Ireland generally as an easy route.

As the Garda Síochána has indicated, while evidence has not emerged yet it may not just be people being smuggled in this manner or by other routes. There could be firearms, drugs or large sums of cash coming in through similar systems to bypass controls. Tom Clonan, a well respected security analyst, made the point that Ireland through no fault of the Garda would be Europe’s weakest link. He is quoted as saying in response to this revelation that we do not know who is here.

Are we wide open for terrorists? I know that is a different paradigm from smuggling people but if they can bypass us so easily on that front it seems we need to review our national security to make sure we rid ourselves of any complacency in the system about terrorists exploiting such gaps and lapses in security for their nefarious purposes. Brexit is coming down the track with potentially very significant immigration issues arising, and issues pertaining to controls. It is alleged that the British security system has notified Dublin of its concerns about weaknesses in our national security. Will the Taoiseach ensure, and is the Minister for Justice and Equality committed to, a comprehensive national security review to ensure these types of lapses in security do not occur again?

The Taoiseach: I agree with that. This appears to have been quite a sophisticated operation. Somewhere between disembarking from an aircraft and going through passport control some people were apparently diverted and exited the airport and this seems to have been going on for quite some time. As the Deputy is aware, a Garda operation targeting illegal immigration led to the arrests of three people, including two employees of Aer Lingus, at Dublin Airport on Sunday night. As there is an ongoing criminal investigation, I cannot say too much at this time. I understand this matter is the subject of a Topical Issue matter allowed by the Ceann Comhairle
later today. There will probably be an opportunity for a discussion of a greater length at that time.

We should commend the Garda on its work in this regard. The smuggling of people, by
definition, crosses international boundaries. The Garda is working with other police forces. It
has a close connection with Europol and Interpol on various strands of its investigations. It is
worth pointing out that immigration officers in Dublin Airport process approximately 15 mil-
lion passengers per annum. Approximately 3,500 passengers were refused permission to land
at Dublin Airport last year, with more than 4,000 passengers being refused permission to land
across all points of entry. Constant vigilance is required. Cases like this are uncovered and
investigated on foot of such vigilance. Responsibility for the security of the airport itself is a
matter for the airport authorities.

Significant resources are being invested to secure our borders, for example, through the in-
creased use of technology. The sharing of data with other jurisdictions is very important. We
have a particularly close operational relationship with the UK authorities in managing the secu-
ryty of the common travel area between Ireland and the UK, which is so important for the future.
The gathering and sharing of relevant information is an important aspect of this co-operation.
The immigration and security information sharing arrangements in place between Ireland and
the UK are strong and are evolving constantly. That is as it should be. Ireland introduced new
regulations last year to enable the UK to collect advance passenger information from Irish car-
riers in respect of passengers entering the UK from Ireland. The Government is committed to
providing the Garda with the necessary resources to enhance its connectivity to a range of EU
and other international resources. A great deal of work is going on in this regard. This includes
connecting to the Schengen information system and to other EU and Europol information shar-
ing resources that are relevant to counteracting the terrorist threat. A series of measures is being
rolled out at EU level to build on the current framework. Aer Lingus and the Dublin Airport
Authority are co-operating fully with the Garda in this investigation. When further details be-
come available, the Government will see to it that an overall security assessment of the airports
of Ireland - the regional airports and our main airports - is carried out.

Deputy Micheál Martin: I am surprised that a national security review has not been initi-
ated already. This is a fundamental breach. We should not be waiting around on this issue.
Airports across the globe are being targeted by terrorists and different operators. We cannot be
complacent about it. The Taoiseach said in his reply that “the security of the airport itself is a
matter for the airport authorities”. He might clarify that for me because I think it needs to be
looked at fundamentally in the context of national security and when it violates national policy.
In Britain, MI5 and the intelligence networks are involved in protecting the integrity of the na-
tion’s security and borders. We do not know how long this went on. The Taoiseach has said that
15 million passengers are processed each year. The passengers in this case were not processed
and never wanted to be processed. The whole objective of the exercise was to bypass being
processed. Given the ease with which this seems to have happened, I think it is a wake-up call
for our system. The Garda needs to be involved in this. The proper guardians of the State - the
intelligence system within the State - need to take this over. There needs to be an overview of
what is happening. There needs to be a rigorous review of security at our ports and airports.
This wake-up call should be a catalyst for the Government to do that.

The Taoiseach: As the Deputy has rightly said, we do not know how long this has been go-
ing on. It has come to light because of vigilance at another airport. There has been an ongoing
assessment of the situation at our airports. While the security of the airport is a matter for the
airport authority, the point is that these people, in whatever number, never got as far as passport or immigration control. It is true to say that the authorities at Dublin Airport Authority - the premier airport in the country - have vastly scaled up the assessments of passports coming through. Everybody has that check.

The Deputy asked about terrorists. In that context, this matter is assessed with the international organisations such as Interpol and Europol. There is no evidence that indicates any specific difficulty with particular people. The matter is kept under assessment on a constant basis, as should be the case. As more details emerge, there will be a full response from the Government on what is happening and on what needs to be done to secure our place and reputation internationally.

Deputy Gerry Adams: Since the Brexit referendum result on 23 June last year, it has been clear that the British Government intends to leave the European Union and bring the North with it in defiance of the vote of the people in that part of our country. It has also been clear that if this is allowed to happen, the land frontier between the European Union and British state will be on the island of Ireland. It will run from Derry to Dundalk, and that has also been obvious.

What has been the Government’s response to this? Generally speaking, it has been to wait and see what the British might say next. It has been to watch their game instead of concentrating on our own game. The Taoiseach and the Fianna Fáil leader have bored us to tears - they have certainly bored me - with their idle speculation about what the British might do next, accompanied by lamentations that Britain is leaving the European Union. In fairness, the Taoiseach set up the civic dialogue after initially dismissing the idea when Sinn Féin first proposed it. I know the Taoiseach has said the priorities are trade, the economy, the common travel area, the peace process and the future of the European Union. That is fair enough but it does not match the significance or historical importance of what is happening.

Last week the British Prime Minister made a significant speech in which she reiterated her position. She also repeated her intention to withdraw from the European Court of Justice and she has already committed to scrapping the Human Rights Act and withdrawing from the European Convention on Human Rights. These are fundamental parts of the Good Friday Agreement. The Taoiseach’s response has been disappointing and dismal. Clearly, we need to protect, as best we can, our trading relationship with Britain. That is taken as a given. We also need to resist the effects of Brexit on this island and State. All of the remaining 27 EU member states will decide the conditions of Britain’s exit. I will quote the Taoiseach’s former colleague, EU agriculture Commissioner Mr. Phil Hogan, who has stated:

There is a risk that Ireland could allow our relationship with Europe to be defined by our relationship with the UK. Instead, we should have the confidence to recognise that post-Brexit Ireland will need to have in place different relationships with our EU partners.

I suggest to the Taoiseach that the starting point for the Government must be to actively seek special designated status for the North within the European Union. That will uphold the democratic rights and vote of the citizens there. It will also ensure that the frontier between the European Union and Britain will not be on the island of Ireland. That is crucial for both parts of this island. It is also in our national strategic interests that the Government takes an all-island view of the future. I again ask the Taoiseach to assert this approach by embracing the proposition that the North should be given a special designated status within the European Union.
The Taoiseach: I do not accept the Deputy’s starting premise. For the past 18 months, Ireland had been preparing for the possibility that there might be a Brexit vote. On the day after the vote, we published a comprehensive document setting out the main priorities, in so far as we saw them, arising from that decision of the UK people. On 9 September 2016, I delivered a detailed paper at the Oxford Union setting out the priorities that we see as important. The Deputy’s party was represented at that conference. I also set out the need for deeper analysis of the key issues, challenges, risks and opportunities for Ireland. I referred to the need for greater levels of public consultation and engagement around those issues. I outlined the need for deeper interaction with all our EU partners, the EU institutions and, increasingly, with the Barnier task force in order to ensure that our concerns were fully understood and respected. In addition, I highlighted the need to consider the economic implications for economic policy more generally and, where appropriate, specific measures to deal with the Brexit-related developments. Some of these were contained in the budget 2017 measures and others can be found in the action programme of the Department of Jobs, Enterprise and Innovation, which assesses the implications involved.

Other parties have detailed papers in respect of the issues that will arise in the agri-sector - with particular reference not only to the economy of the North and South but also to that of the east and west - in respect of which we have a trade surplus of over €1.3 billion. Obviously, by setting out all of that long before the UK Prime Minister was even elected, we committed to maintaining our place as one of the 27 member states of the European Union. As I said, our collective goals remain the same. In her speech last week, the Prime Minister referred to the current uncertainty relating to the Northern Ireland political situation. She reinforced the view that I have already outlined for Deputy Adams.

The Deputy makes a point about special designated status. When he gets the opportunity, I would like him to explain what he means by that. We have particular circumstances that are recognised in Northern Ireland arising from the Good Friday Agreement. Northern Ireland is the only location in the European Union where they apply. The rights of the citizens both North and South - which they voted for - are enshrined in that internationally-binding agreement. It has been lodged with the United Nations and supported by Europe, the United States, the British Government and the Irish Government.

Deputy Mary Lou McDonald: Exactly.

The Taoiseach: We will work very hard to see that those rights continue to be vindicated. When the people, North and South, voted for the Good Friday Agreement, they did so on the basis of being European Union citizens. The fact that the British Government decides to leave the Single Market and the European Union will not impact on their rights, as validated by their vote for the Good Friday Agreement. The circumstances we have are special. They are the only such circumstances in Europe and I want to build on that. With the help of Sinn Féin we might get some constructive suggestions.

Deputy Gerry Adams: I actually support the rationale outlined by the Taoiseach to the effect that the people in the North voted for the Good Friday Agreement and, therefore, that should have primacy. Let us follow the Taoiseach’s rationale. The people also voted to stay within the European Union. There are numerous precedents for the special designated status that we are advocating, including, for example, the case of Denmark and Greenland.

The Taoiseach lauded the Good Friday Agreement. The British Government is in default
and this Government is in default in respect of many grounds and elements of the Good Friday Agreement. What I am trying to focus in on is that the Government is accepting that the land frontier between the European Union and the British state will be on the island of Ireland. That is implicit in what the Taoiseach says. He should not accept that.

If the Government accepted our proposition, for which there is precedent, it would not affect the constitutional issue and the Government would ensure that the land frontier would not be not on the island of Ireland. There are technical, strategic and national interests to support the logic and common sense behind that. The Taoiseach refrained from embracing the proposition but I want to give him another opportunity to do so. Why does the Taoiseach not make it clear that his Government will accept the case for a special designated status within the European Union? He should make it a central plank of the Government’s negotiating strategy and policy. Moreover, he should tell the British Prime Minister as much next week.

The Taoiseach: The Government stands committed to see the implementation of the Good Friday Agreement, as well as all of its conditions, in full.

Deputy Gerry Adams: It does not.

The Taoiseach: I agree that significant elements of the Good Friday Agreement - some historical and some cultural - have not been implemented. These are matters on which we need to follow through.

We do not have a constitutional claim on the Six Counties of Northern Ireland any more, but the rights of the citizens, North and South, who voted for the Good Friday Agreement on the same day are enshrined in the Agreement. As I already said, in respect of the island of Ireland at some future date, the language around that in terms of negotiations will be something I intend to pursue very vigorously to allow for that possibility, if it becomes a matter for the people to decide at some future time. I have made that point to Deputy Adams before. This is a situation in which we have a particular special set of circumstances.

Deputy Gerry Adams: Yes.

The Taoiseach: We have a peace process supported by the European Union. We have cross-Border activities supported by the European Union.

Deputy Gerry Adams: Yes.

The Taoiseach: I want to see that continue-----

Deputy Mary Lou McDonald: In special designated circumstances.

The Taoiseach: -----as indeed does the British Prime Minister. I would be happy to talk to her-----

Deputy Gerry Adams: No, she does not. Please catch yourself on, Taoiseach.

The Taoiseach: -----about that and other matters when she comes here in the short time ahead.

Deputy Gerry Adams: Do not be vouching for Mrs. Theresa May.

Deputy Mick Wallace: Northern Ireland is facing an election, mainly because of the intran-
sigence of Mrs. Arlene Foster and her refusal to stand down to facilitate an investigation into the cash for ash scandal. I read today that the Taoiseach is about to commence a commission of investigation into certain Garda matters following the O’Neill report. Yesterday, the Garda Commissioner was on the airwaves telling us how wonderful everything is and how wonderful she is herself, bombing us with doublespeak. Meanwhile, the harassment of whistleblowers continues.

Last December, in reply to a question of mine, the Tánaiste said, “the Garda Commissioner is entitled to her good name - as, indeed, are people making allegations entitled to theirs - unless facts properly established prove otherwise”. Mr. David Taylor was interviewed for 21 hours. A file was sent to the Director of Public Prosecutions in September 2015 with no decision yet. Nothing has been proved against him. Is the Garda Commissioner allowed to ride roughshod over fair procedure in this area? The Commissioner said yesterday, “I’ve absolutely no knowledge nor was I privy to any campaign to undermine any individual in An Garda Síochána”. Mr. Keith Harrison wrote to her 14 times detailing his harassment and bullying. He has been out sick since May 2014. He is on €188 per week and has three kids at home. Mr. Nick Keogh has got nothing but grief since he reported malpractice.

The Commissioner was boasting yesterday about taking part in the fight against heroin. However, she has protected the chief superintendent who has been involved in the heroin case in Athlone. Last year, she placed a superintendent on the promotion list who has been accused on numerous occasions of harassing a whistleblower. In June 2015, the Garda Commissioner appointed an assistant commissioner to carry out an investigation into the allegations surrounding the chief superintendent and the garda from the drug squad in Athlone. It was the same assistant commissioner who had been accused of earlier leaking information back to the superintendent who was the subject of the complaint. In October 2015, the Commissioner stated that she had commenced an investigation into this alleged conflict of interests. There has not been a word of that since. I wonder where it is.

Following its investigation into the matter, the Garda Síochána Ombudsman Commission, GSOC, asked for disciplinary procedures to be taken against them. Who did Nóirín O’Sullivan appoint to look after it? Yes, the very same assistant commissioner, who also happens to be retiring in April, will probably will not even get to the end of the process and will delay it all even further. This month, GSOC asked to oversee the disciplinary procedure. Its request was refused. When is the Taoiseach going to publish the report? Will he include the protected disclosures of all whistleblowers in the investigation? If he does not, it is only a case of kicking the can down the road, because we will eventually have to do it. Does the Taoiseach intend to leave the Commissioner in place while the investigation goes on? It would make a mockery of it if he does.

**The Taoiseach:** I have confidence in the Garda Commissioner. There has been significant change to the procedures for members of the Garda who wish to report allegations of wrongdoing. The Protected Disclosures Act 2014, which came into operation on 15 July 2014, was part of the then Government’s comprehensive approach to enhancing the protection available to whistleblowers, including members of the An Garda Síochána. Under that Act, GSOC is now the prescribed body authorised to receive protected disclosures on Garda matters. Accordingly, members of An Garda Síochána may communicate their concerns to the Garda Commissioner, as their employer, if they so choose, or may make a disclosure to GSOC. Where a protected disclosure is made to GSOC, the Act provides that GSOC may investigate the disclosure, if it appears to GSOC desirable in the public interest to do so. People are protected under that Act
It is important to recognise the very significant fact that a member of the Garda who makes a disclosure in accordance with the Act is entitled to all of the protections for whistleblowers in the Act. These include protection from having their identity revealed, protection from being dismissed and protection from being penalised in their employment as a result of having made a protected disclosure.

In light of the public interest in An Garda Síochána having robust policies and procedures in place to support and protect whistleblowers, and to ensure that their complaints and allegations are fully investigated, the Tánaiste asked the Policing Authority on 2 June last year to examine and report on the policies and procedures in place in An Garda Síochána to deal with whistleblowers and whistleblowing. The Tánaiste also asked that it make any recommendations it considered appropriate in order to ensure that the policies and procedures in place are protected. The Policing Authority completed its review and reported to the Tánaiste on 11 November 2016. The report was published on the website of the Department of Justice and Equality and has since been laid before both Houses in accordance with the Act. On 7 December 2016 the Tánaiste received from Mr. Justice Iarfhlaith O’Neill the report of his review relating to the two protected disclosures cases which were made to the Tánaiste by members of An Garda Síochána in early October. Mr Justice O’Neill was asked to review the allegations of wrongdoing and to include any recommendations which he considered appropriate. The report, I understand, sets out in detail the allegations contained in the protected disclosures. I am sure that the House will appreciate that in the view of the nature of the allegations and the fact that third parties are mentioned the Tánaiste referred this to the Attorney General for advice on how to proceed, including the question of what material may properly be put in the public domain having regard to the rights of all concerned. The Attorney General has given some response to that but has some further matters to conclude on. The specific proposals will come to Government shortly including putting the conclusions and recommendations of Mr. Justice O’Neill into the public domain.

**An Ceann Comhairle:** Before Deputy Wallace comes back in I want to make a point to him please. I am reluctant to interfere with anything Deputy Wallace is saying because much of what he has said is in the public arena but the House is not a court of law – adjudicating of aspects of current controversy and any individuals associated therewith under fair and proper procedures rests elsewhere in accordance with the law, and not in this House. I put it to Deputy Wallace that he is perhaps sailing very close to the wind.

**Deputy Mick Wallace:** Only close to it.

**Deputy Timmy Dooley:** The Ceann Comhairle is only encouraging him.

**Deputy Mick Wallace:** The Taoiseach has not answered any of my questions. While the Government sat on the O’Neill report - the Taoiseach has still not told me when he intends to publish it - GSOC had to go to the High Court to force the Commissioner to hand over the transcripts of the O’Higgins report. It is almost eight months since the Tánaiste requested GSOC to investigate the same. Only last week the Minister received a letter from a whistleblower regarding a witness statement in an assault case being doctored by gardaí. The background to the assault case related to the planting of drugs by a garda. I ask the Taoiseach again when he intends to publish the report. Does the Taoiseach intend to leave the Commissioner in place? It will be laughable if he does. If all is so well, as the Commissioner likes to tell us, can the Taoiseach or the Commissioner explain to me why so many whistleblowers are out sick and why...
they are not at work? Why does Nóirín O’Sullivan not ring the whistleblowers? How is it that she has never even rung them? She has not rung any of them. Would the Taoiseach consider asking the Commissioner to ring the whistleblowers who she says she cares so much about? It is a bit scary that what she says in public is one thing but the reality on the ground could not be much different.

The Taoiseach: The Act protects gardaí - if they make a report to GSOC or to the Commissioner - from having their identity revealed. It offers protection from dismissal and protection from being penalised in their employment as a result of having made a protected disclosure. That is the law of the land. That is what the Act says it protects whistleblowers for. Deputy Wallace made reference to the Minister receiving the report from Mr. Justice O’Neill. There are third parties mentioned in this report and it is only right and proper that the report be referred to the Attorney General for advice as to what form, and in what element, it should be published. The Minister is engaging with the Attorney General on that matter.

Deputy Michael Harty: In regard to Brexit and its potential effects on the action plan for rural Ireland unveiled yesterday, which is a welcome recognition of what rural Deputies on all sides of the House have been seeking for many years, will the Taoiseach outline to the House how he envisages protecting rural areas from a hard Brexit, which appears to be the model the British Government is to pursue, given the Prime Minister’s speech last week? The United Kingdom’s withdrawal from the European Union is the most pressing political, economic and social issue to be confronted and managed by Ireland in the next decade. Ireland is intimately linked to the UK in many ways, most particularly in respect of agriculture, which is the lifeblood of rural Ireland. Without a sustainable agricultural sector, the action plan for rural development will not succeed.

The comprehensive plan, with its 276 recommendations, is very welcome. It is a compendium reference document against which actions and implementations will be judged in the coming years. In the Taoiseach’s words, there is something in the plan for everybody. It refers to rural-proofing Government decisions but does not address Brexit-proofing the agrifood industry. Our absolute proximity to, and substantial dependence on, the UK make Ireland very vulnerable to decisions that country will make solely with its own interests in mind. The requirements of the EU and Ireland are very far apart on this matter. Both the EU and the UK want a hard Brexit, but we want a soft Brexit.

Even before the UK triggers Article 50 of the Lisbon treaty, we in Ireland are feeling the effects of the uncertainty Brexit is causing, with a weakening sterling making the agrifood sector less profitable. It is envisaged that exports to Britain will fall by 30%, unemployment will rise and there will be a deepening regional inequality and a decline in economic growth. The agrifood industry will be the worst hit. Irish food exports have dropped in value by €575 million since the Brexit vote. The mushroom industry has all but collapsed, and beef, pigmeat and poultry exports will follow as the UK seeks cheaper imports from Brazil and Argentina. Our beef exports are 50% dependent on the UK market. Meanwhile, €10 billion of UK contributions to the Union’s agriculture budget will be withdrawn, resulting in cuts to single farm payments to Irish farmers. Will the Taoiseach indicate the particular measures he intends to take to protect Ireland and the rural agriculture industry from Brexit?

The Taoiseach: Yesterday’s publication of a comprehensive document to achieve the potential of rural Ireland, covering 600 towns and villages throughout the country, speaks for itself. The question is how that plan will be impacted when the shape of the new relationship
between the United Kingdom and the European Union is eventually decided. All of the analysis carried out in economic studies by bodies and individuals, ranging from the ESRI, to IBEC, Teagasc and Professor Alan Matthews, indicates an adverse impact on the agri-economy in Ireland. The Deputy referred specifically to the mushroom industry and commodity pricing, the latter being of great concern to the Minister, Deputy Creed. In the short term, the immediate concerns for agrifood exporters centre on exchange rates and the significant drop in the value of sterling against the euro, which have created particular difficulties for sectors such as the mushroom sector that are relatively more exposed to the UK market. The Minister has made €150 million available in the form of low interest, long-term credit. Specific measures were included in the 2017 budget for implementation in 2018. In addition, Bord Bia has activated a four pillar strategy to deal with many of these issues.

There is a particular dependence on the UK market for sectors like horticulture and forestry and in respect of the sizeable quantity of product, such as butter, cheese and seafood, that is sent to the UK for further processing or packaging and returned for finishing, the ingredients that are sourced in the UK for incorporation into Irish products, the products transiting through the UK en route to European Union markets, the transnational producer organisations, the transport of horses for racing and sale, and the very significant Northern Ireland dimension. These areas are all the focus of a forum set up by the Minister for Agriculture, Food and the Marine dealing with beef, pork, dairy and all these other sectors where there is a constant engagement. This is of exceptional interest to us here in Ireland given that we have a trade surplus in the agrisector of €1.3 billion with the United Kingdom.

The British Prime Minister, Mrs. May, having clarified some of the issues here, such as removing Britain from the Single Market, the question of the customs union and trading relationships is one that we will have to negotiate hard about and imaginatively in respect of our objectives. In that regard, from speaking to the Irish Farmers Association the other night, it recognises price commodity is an issue, as are many of the issues I have raised here. These are ones that we will focus on, through the Department of Agriculture, Food and the Marine and its agencies, as these negotiations begin to commence.

Deputy Michael Harty: My main concern is the strategy which Ireland is taking in Brexit negotiations. Ireland needs to take an independent line rather than being tied exclusively to the pan-European negotiation stance which does not represent our unique interests and vulnerabilities, in particular, in agriculture. We must be proactive and strong in our critical demands at the negotiation table and be as forceful as possible.

Our strategy is vague and unco-ordinated. We may need to support some of the UK demands, particularly in access to UK markets for trade, services and customs. We may not be able to take a negative stance in that regard. We must ensure our unique relationship with Britain is recognised by our European partners.

I would put it to the Taoiseach that we need to have a clear leader to deal with Brexit. I would put it to him that we need a Ministry for Brexit, essentially devoted exclusively to our negotiations Department by Department, which would be consistent, single and focused.

The Taoiseach: I do not accept that the approach of Government has been vague and unco-ordinated. As I pointed out to Deputy Adams, the day after the vote was taken by the United Kingdom, we published a strategy to deal with that future. On 9 September last at the Oxford Union, I set out our priorities in detail. Our three pillar strategy is to continue to implement
our programme for Government, to continue to manage the public finances well in the people’s interests, and to continue to both grow employment and reduce unemployment. Yesterday’s publication is to deal with 135,000 jobs in rural Ireland.

The second part is to have specific diplomatic negotiations with every Head of Government and the different Ministries at their councils in Europe. There is not a European country that does not know about our particular circumstances.

The third part is that when we start to negotiate, we will do so from a position of strength with a clear and comprehensive strategy. I have met quite a number of the leaders and will continue to do so until we have met them all separately from the European Council meetings. Our strategy is focused, strategic and co-ordinated. The game has not even started yet.

Order of Business

Deputy Eamon Ryan: Tuesday’s Government business shall be No. 1, Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016 [Seanad] - Second Stage. Private Members’ business shall be No. 86, motion re tracker mortgages, by Sinn Féin.

Wednesday’s Government business shall be No. 18, post-European Council statements; No. 1, Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016 [Seanad] - Second Stage, resumed; No. 4, National Shared Services Office Bill 2016 - Order for Second Stage and Second Stage; and No. 5, Criminal Justice (Offences Relating to Information Systems) Bill 2016 - Order for Second Stage and Second Stage. Private Members’ business shall be No. 87, motion re establishment of commission of investigation into the Stardust tragedy, by Independents 4 Change.

Thursday’s Government business shall be No. 19, statements on symphysiotomy; No. 4, National Shared Services Office Bill 2016 - Second Stage, resumed; and No. 5, Criminal Justice (Offences Relating to Information Systems) Bill 2016 - Second Stage, resumed. Second Stage of No. 30, Nursing Home Support Scheme (Amendment) Bill 2016, will be debated in the evening slot.

With regard to proposed arrangements for this week’s business, I refer Members to the report of the Business Committee dated 19 January 2017.

With regard to tomorrow’s business, it is proposed that the post-European Council statements shall commence immediately after Questions to the Taoiseach and be followed by Questions to the Minister for Foreign Affairs and Trade, and will be brought to a conclusion after 105 minutes. The speech of a Minister or Minister of State and the main spokespersons for parties or groups, or a member nominated in their stead, shall be no more than ten minutes each; a Minister or Minister of State shall take questions for a period not exceeding 20 minutes; there will be a five minute response from the Minister or Minister of State and all Members may share time.

In the context of Thursday’s business, it is proposed that Dáil shall sit at 10 a.m. to take statements on symphysiotomy, which shall be brought to a conclusion after 120 minutes. The speech of a Minister or Minister of State and the main spokespersons for parties or groups, or a member nominated in their stead, shall be not more than 15 minutes each and all Members may
share time. If the statements conclude before 12 noon, the House shall suspend until that time.

**An Ceann Comhairle:** There are two proposals to put to the House. Is the proposal for dealing with Wednesday’s business agreed to? Agreed. Is the proposal for dealing with Thursday’s business agreed to? Agreed.

**Deputy Micheál Martin:** The programme for Government contains a commitment to recognise the value and benefit of rural transport to many communities, in particular older people vulnerable to social isolation. It goes on to say that the Government will examine how best to improve integration of services in the rural bus network within regions, including public buses, school transport and the Health Service Executive, HSE, transport networks. However, what is happening within Bus Éireann flies in the face of that commitment. Last week, the Taoiseach gave an assurance to Deputy Troy that there would be no reductions or cuts in services or routes across the regions of rural Ireland. We have now moved on from a concern about Expressway services to one where the acting chief executive is saying that Bus Éireann services in their entirety are in jeopardy, with 2,600 jobs at risk. There cannot be a rural transport system if that comes to fruition.

In many ways, there has been policy by stealth under way with regard to public transport. Essentially, that is what is behind the moves in respect of Bus Éireann. It is not just a narrow management-union issue. Who is in charge of the implementation of the rural transport network aspect of the programme for Government? Can the Taoiseach indicate what steps will be taken to realise the laudable objectives in the programme for Government pertaining to such transport?

**The Taoiseach:** Deputy Martin is well aware of the industrial relations mechanism that now kicks in regarding the dispute between the management and unions at Bus Éireann. The Minister for Transport, Tourism and Sport has commented that in the event of changes introduced by Bus Éireann in rural transport, the gap will be filled by the National Transport Authority. The latter is referred to in the programme for realising our rural potential that we launched yesterday. The programme contains a section dealing with both the requirements involved and the necessity to have rural transport provided for people throughout the country. That will fall under the monitoring of the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, so there are two separate issues. Clearly, the assessment of the quality and value of rural transport is one. The outcome of the discussions and negotiations between management and unions in Bus Éireann might well have an impact on that element of rural transport having to be provided in a different way in the future.

**Deputy Gerry Adams:** The programme for Government states that the Government will honour our commitment to recognise the state of Palestine. I have raised this matter with the Taoiseach many times but he refuses to act on that commitment. The Dáil and Seanad have voted for this, but the Government refuses to act on the vote of the Oireachtas. In the first four weeks of this year, Israeli authorities have continued the theft of Palestinian land, the demolition of Palestinian homes and, in direct contravention of international law, have approved the construction of 566 new settler homes in east Jerusalem. We also hear from the Trump Administration that it expects to transfer the United States embassy to Jerusalem. This will seriously undermine the consensus that was expressed at the recent Paris conference on the Middle East. There is now widespread talk among Palestinian people about the need for a new intifada. Will the Taoiseach urgently inform the new US Administration that the State opposes any move of the US embassy to Jerusalem? Will the Taoiseach agree to recognise the state of Palestine for-
mally, as he is committed and bound to do following the Oireachtas vote on the matter?

The Taoiseach: The Oireachtas vote expressed itself in the House. The situation regarding Palestine and Israel is in transition. The comments made by the new US Administration have been very clear. I have always opposed the building of accommodation on what was deemed Palestinian lands. The question here is about accountability. Clearly, we, and the vast majority of people, have supported the two-state solution. This goes back to the late 1940s, as Deputy Adams is well aware. President Trump has said he would expect that his newly appointed ambassador here would have a major influence in being able to deal with the question between Israel and Palestine. What the outcome of that means is for discussion and negotiation.

Deputy Gerry Adams: The question is for the Taoiseach.

The Taoiseach: The Deputy is aware of former Secretary of State John Kerry’s intense involvement in this matter but to no avail. The situation is exceptionally sensitive and the position has changed.

Deputy Gerry Adams: Will the Taoiseach accept and recognise the state of Palestine?

The Taoiseach: Consideration is still being given to the outcome of the vote in the Oireachtas in terms of the recognition of Palestine.

Deputy Brendan Howlin: In 2012 the then Government agreed the heads of the mediation Bill, the purpose of which is to promote mediation as a viable alternative to court proceedings. It should be a priority to minimise the costs for individuals and the cluttering up of our courts system with cases that could be settled in a much more amicable way through mediation. When will the mediation Bill come before the House?

The Taoiseach: It is a priority for the Government in this session and work on it is very well advanced within the Department of Justice and Equality.

Deputy Mary Lou McDonald: It will never be done. It is what the Taoiseach refers to as a “priority”.

Deputy Mick Barry: I noted with interest yesterday’s announcement regarding the rural development plan. I also noted the Taoiseach’s reply to Deputy Micheál Martin’s question a few minutes ago. I further noted the guarantees Government spokespersons offered yesterday regarding the provision of bus services to rural towns and villages. I do not think the Government will be able to provide bus services to all the rural towns and villages at the same time as Bus Éireann introduces major cuts to services. Is the Taoiseach prepared to introduce legislation - and is he preparing such legislation - to legally underpin the guarantees given yesterday in respect of the provision of bus services to rural towns and villages?

The Taoiseach: I note that Deputy Mick Barry has noted lots of things. I hope he reads the document published yesterday about realising the potential of rural Ireland. It was never the intention that every single town and village in the entire country would be provided with transport. It is the intention, in so far as possible, that where communities come together and where the position whereby transport is currently supplied by Bus Éireann is - for whatever reason arising from the discussions that take place between management and unions - changed, services will have to be supplied in a different way. The document draws together all the different programmes and agendas that have been there for a long time and puts them under the control
and assessment of a senior Cabinet Ministry for rural affairs. It is one of the central features of the document, which is a worthwhile read. When the Deputy has read it, he can note that there are lots of things in it.

**Deputy Mick Barry:** I have noted the Taoiseach’s points.

**Deputy Ruth Coppinger:** It is the occasion for a big joke, is it?

**Deputy Danny Healy-Rae:** The Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, was in Kerry yesterday, outlining the housing strategy to deal with the housing crisis. However, more needs to be done before many of these actions or policies will work. Yesterday, the Minister said if elderly people moved in with a son or a daughter, they could then rent their house to the local authority and it could become available for social housing. This announcement has been queried by many elderly people since. Having inquired into this, I note the pension entitlements for a person on a non-contributory pension taking up this offer would be affected. What the Minister spoke about will not become a reality if he does not provide an incentive. Why would a person on a non-contributory pension give up their house for this leasing scheme if no incentive is provided? No elderly people will harm their pension if some incentive is not provided.

**The Taoiseach:** I will point out to the Deputy, as the Minister, Deputy Simon Coveney, did yesterday, there are currently 122 social houses being built in Kerry, 122 more than last year.

**Deputy Danny Healy-Rae:** That is not the question.

**The Taoiseach:** The Minister was not referring to houses that are currently occupied but ones which are vacant and could be made available for people to live in. The repair and leasing scheme that the Minister referred to yesterday deals with vacant houses which could be brought back to quality habitable houses in which people could live in comfort.

**Deputy Danny Healy-Rae:** Will the Taoiseach deal with the question?

**Deputy John Brady:** Last December, the Taoiseach launched the Creative Ireland programme, a five-year Government initiative. One reason for this was to develop Ireland as a global hub for film and television production and to further enhance our global reputation in this regard.

If the Taoiseach is genuine about this, will he clarify the State’s position regarding the 32% shareholding in Ardmore Studios? There are conflicting reports coming back from the Minister for Jobs, Enterprise and Innovation, Deputy Mary Mitchell O’Connor, and the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys. The former has said the State will not sell its 32% shareholding in the film studio while in a communication just before Christmas, the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs stated she will review the sale of the shareholding.

**An Ceann Comhairle:** This is not really relevant to promised legislation.

**Deputy John Brady:** It is. There is a commitment in the programme for Government around TV and film production and core to that is Ardmore Studios, of which the State has a 32% shareholding.

Will the Taoiseach clarify whether the State will continue its involvement in Ardmore Stu-
dios, or, as the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs has alluded to, will it review its ownership of the shares? The staff in Ardmore Studios and the people of Wicklow need clarity on this.

**The Taoiseach:** The State has done quite a lot in respect of making provisions for the film world. Over the years, Ireland has had a great reputation in this regard. The State has changed the capping levels for tax purposes in so far as that is concerned. A school of graphic design has been established and moves are under way to acquire extensive building capacity that can be insulated whereby movies can be shot inside these facilities. I visited Ardmore Studios several years ago.

I am not prepared to intervene between the Minister for Jobs, Enterprise and Innovation, Deputy Mary Mitchell O’Connor, and the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys. I will, however, get a clear statement from either one or the other or from both for the Deputy so he will fully aware of the situation pertaining to the 32% shareholding.

**Deputy David Cullinane:** Last week the Committee of Public Accounts had hearings on the issue of guardians *ad litem*. The Secretary General of the Department of Children and Youth Affairs was clear that there is a complete lack of checks and balances in place regarding the total amount of money spent in this area, which comes to €15 million per year in professional and legal fees.

**An Ceann Comhairle:** To what legislation is the Deputy referring?

**Deputy David Cullinane:** The Secretary General told me heads of a Bill are being worked on for guardians *ad litem*. The issue here is that Tusla, which is the paymaster, and Mr. Fred McBride, who was before the committee, said the organisation is operating at the limit of its powers and has no legal authority to do so. This is a very serious issue where we have millions of taxpayers’ money being spent without any proper checks and balances in place. Given the seriousness of the services that guardians *ad litem* provide to children at risk, it is very important that this legislation is prioritised.

On the issue of Bus Éireann and the Expressway-----

**An Ceann Comhairle:** The Deputy may only raise one matter. He should sit down.

**Deputy David Cullinane:** This is not an issue of industrial relations. It is an issue of Government policy-----

**An Ceann Comhairle:** Deputy, please.

**Deputy David Cullinane:** -----to privatise the bus route like it did in Waterford city where 100% of bus routes were privatised.

**An Ceann Comhairle:** The Deputy is completely out of order. The Taoiseach should address one issue, please.

**The Taoiseach:** That is not Government policy. The Government has increased the subvention in recent budgets.

In respect of the child care (amendment) Bill which Deputy Cullinane mentioned, the heads
were approved by Government at last week’s meeting and it now moves on for pre-legislative scrutiny. I am sure Deputy Cullinane will be invited to make the relevant point, which he has made, in the course of the consideration of the heads of the Bill.

**Deputy Eugene Murphy:** There was clear commitment in the programme for Government to the revitalisation of rural Ireland and also to the road network. I welcome the Taoiseach’s visit to Ballymahon in Longford yesterday, even though, in the new spirit of politics, nobody from this side of the House was invited. Nevertheless, it was a good day.

**Deputy Darragh O’Brien:** It happened a number of times.

**Deputy Eugene Murphy:** It will be good if the Government can implement some of what was included in the programme. My question was not answered yesterday as far as I understand. Will the Taoiseach give a commitment that the national primary routes, the N4 and N5, both going to the west and north west, will be included in the capital programme this year? The Taoiseach knows the neglect of these routes and he knows it is vital to upgrade them. It is vital to put a substantial sum into them. In the area of the west, apart from the roadway to Galway, there is no motorway into most of the west and north west where there are more than 500,000 people. At this stage, the Taoiseach must know, as I do, every pair of cat’s eyes on the N5. It is really in need of work. The Taoiseach knows that. He travels it a number of times a week. Will the Taoiseach give me a clear commitment that both the N4 and N5 will be included in the capital programme of works in 2017?

**The Taoiseach:** I have been aware of both of these roads twice a week for the past 40 years. There are sections where there are difficulties with the archaeological excavations. There is a major capital review programme to be carried out mid-year. Some sections are more ready than others. Let us see the state of readiness of sections of the N4 and N5. Clearly we need continuing, major capital expenditure in particular locations throughout the country. These are the main arteries into the west and from the west to Dublin. There are sections that need to be improved.

**Deputy Louise O’Reilly:** I want to ask the Taoiseach about the assisted human reproduction Bill. I want to know when the general scheme of legislative provisions dealing with assisted human reproduction will be published. I have asked quite a number of parliamentary questions about this and the Minister has advised that officials in the Department were drafting the general scheme of legislative provisions. Unfortunately, it is not down for publication this term. I am aware that the HRB was engaged to conduct a comprehensive review of international public funding models but I am also aware that this was due to be completed by 2016. Is it the delay in this research that is delaying the legislation? There are large numbers of couples who are desperate to see this legislation published and progressed as soon as possible.

**The Taoiseach:** This is a sensitive matter. The heads are being developed and quite a deal of work has been done on them. I cannot answer the question that the Deputy asked about whether it is being delayed because of that information or research she is talking about. I will find out for the Deputy and will advise her exactly as to the current state of play in so far as the heads being developed and coming to Cabinet for approval is concerned.

**Deputy Eamon Ryan:** With regard to the Taoiseach’s management of the Brexit progress, will he provide any update on the potential involvement of the Dáil in the upcoming visit by the British Prime Minister to Ireland?
Will he indicate when she is due to visit? Will he arrange a meeting between the leaders, as he has done previously, either in advance or preferably after such a meeting, in order that we can consider the outcome of the discussions with the British Prime Minister?

The Taoiseach: I received a letter from the Ceann Comhairle about this matter. My understanding is that the Prime Minister’s schedule will not allow that to happen and I am not in control of that schedule. Obviously, when details are absolutely finalised, we will be aware of those. My understanding is that the visit was to come to Government Buildings to have a Taoiseach to Prime Minister discussion, and to follow that with a particular set of issues. It is around this that the visit will take place. I will obviously keep the House updated as the issue becomes more finalised.

Deputy Michael Healy-Rae: The Minister for Health announced last week at the launch of the National Treatment Purchase Fund strategy for 2017-19 that driving down the length of time patients are waiting for procedures is a priority in 2017. I am glad further funding has been announced. Will the Taoiseach state in the House whether this will lead to a reduction in the waiting lists in Kerry and Cork where, as I have said before, people are going blind while waiting to have cataract procedures performed?

I highlighted to the Minister before Christmas a practical policy whereby we can make Kerry and Cork a centre of excellence for dealing with cataract operations. I am asking the Minister to ensure a certain amount in the NTPF is concentrated on the proposal I gave to him before Christmas. It will work, it will be value for money and it will make County Kerry in particular a centre of excellence for dealing with cataract operations. We are currently not performing any operations whereas we did before and we can do so again. We can buy the treatment in County Kerry.

The Taoiseach: I assure Deputy Healy-Rae that I will bring his express comment and request to the attention of the Minister personally. Clearly, if extra money has been made available, we welcome that. Medical and clinical decisions are made as to how that should be spent. I will advise the Minister of the Deputy’s comments in respect of a backlog of people who are having difficulty because of cataracts that need to be dealt with.

Deputy Eoin Ó Broin: The owners and residents of 600 apartments in Beacon South Quarter in Sandyford have been told they face a bill in excess of €10 million to provide for remedial works for properties they bought which, unbeknown to them, were of a substandard nature. We can now add this development to names like Priory Hall, Aras na Cluaine and Longboat Quay.

The legislative programme provides for a new building control Bill. My question is twofold. First, will there be a comprehensive review of the existing compliance regulations introduced in 2009 to ensure that, if any updates are needed, they can be provided in this legislation? More important, will the legislation include comprehensive consumer protections that apply not only to people who buy properties in the future but, like the consumer protections provided via the Financial Services Ombudsman, that could apply retrospectively to give relief to families such as those in Sandyford or elsewhere who have, through no fault of their own, bought properties that are clearly not meeting fire safety or building regulations?

The Taoiseach: I will ask the Minister, Deputy Coveney, to answer that.
Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney): The building control Bill is a priority for this term. We hope to have the heads ready to bring to Cabinet before the end of next month. I am sure we will have an opportunity to go through the detail of the Bill once it is introduced.

Deputy Tony McLoughlin: I am sure the Taoiseach will agree drink-driving is one of the most dangerous offences in this country and it is one which leads to many road fatalities. It is an offence which should result in an automatic driving ban for those convicted. On this basis, does the Taoiseach agree that the road traffic, fixed penalty notice, drink-driving Bill is urgently needed and will he update the House on its progress?

The Taoiseach: I expect we will have the heads of that Bill in about six weeks.

Deputy Martin Kenny: The programme for Government contains a commitment to the reform of banking and financial services, particularly in regard to the repossession of houses. Many people have had their loans bought up by various institutions - these vulture funds, as they are described. The issue is that many of these people find their loans are sold in groups of perhaps 40 or 50. I have come across numerous people who have tried their very best to deal with the banks to be able to buy their own loans back. That is all they want to do. These are functioning loans, there is no problem with them and the borrowers have always met their repayments. However, they find they are sold off to some company from China, Hong Kong or wherever. The borrowers want to take control again so that their loans do not end up with these vulture funds. Everyone in this House is agreed that this is an absurd situation. Will the Government change the relevant legislation to ensure that before a person’s loan is sold off, his or her bank must give him or her sufficient notice and an adequate opportunity to negotiate with the bank to buy his or her loan back, even if at slightly less of a discount than that at which a vulture fund would buy it?

The Taoiseach: I am not too sure we would interfere at that level. Where loans are acquired in bulk in such circumstances, the purchasers of have undertaken to adhere to the code of conduct set out by the Central Bank in respect of each of the tenants involved. In other such cases in the recent past, the Minister for Housing, Planning, Community and Local Government has intervened to protect tenants.

Deputy Carol Nolan: In the programme for Government there is a very clear commitment regarding a pilot scheme for the reopening of Garda stations. Is this under way? Many rural communities are living in absolute fear. In my constituency of Offaly and north Tipperary, Garda stations were closed in Shannonbridge, Geashill, Lorrha and Terryglass. I have also heard that there is no longer a Garda sergeant in place in Borrisokane and that the post will not be filled again, which I find absolutely shocking. I know for a fact that communities are coming together and trying to patrol rural areas at night themselves. This is absolutely shocking and a clear indication that something needs to be done about it. What is the status of the pilot scheme? Could the Taoiseach please provide a timeframe for it?

The Taoiseach: The Government has made extensive, increased amounts available for Garda purchases - including of vehicles, IT equipment and other items - in order that officers can do their jobs properly. This also includes text alert, community alert and the very close co-operation between gardaí and communities to deal with situations such as that to which the Deputy refers. The decision has also been taken to increase Garda strength to 15,000 by 2020, bringing the overall strength of the force- between civilians and gardaí - to 21,000.
The matter of the sergeant in Borrisokane is clearly one for both the chief of the district and the day-to-day running of the Garda by the Garda Commissioner. The programme for Government contains the reference, to which the Deputy refers, to a pilot scheme for six Garda stations, both urban and rural. It is a matter for the Garda Commissioner to set out the criteria by which she would assess the appropriateness of opening particular stations. I understand that this work is under way.

An Ceann Comhairle: Last but by no means least, I call Deputy Bernard Durkan.

Deputy Bernard J. Durkan: The Garda Síochána (compensation for malicious injuries) Bill is promised legislation in respect of which the legal advice continues to be analysed. On the basis of the progress of the analysis of the legal advice, when is it expected the Bill, which is of considerable importance, might come before the House?

The Taoiseach: I answered Deputy Durkan about this last week in saying that the legal advice received is being analysed. I will have to come back to him with a more detailed response as to when this will be finalised. I will inform Deputy Durkan when I get that.

Public Services and Procurement (Social Value) Bill 2017: First Stage

Deputy Frank O'Rourke: I move:

That leave be granted to introduce a Bill entitled an Act to increase competition in the public procurement tendering process by enhancing Small and Medium Sized Businesses' ability to compete for public procurement tenders by allowing public bodies to have regard to economic, social and environmental well-being in connection with public services contracts; and to provide for related matters.

Go raibh maith agat, a Cheann Comhairle, for the opportunity to introduce the Public Services and Procurement (Social Value) Bill 2017. I also thank my colleague, Deputy Darragh O’Brien, for co-sponsoring the Bill and for his help in its preparation. The Bill is drawn from legislation which he drafted and which passed Second Stage in the Seanad in 2015.

Small and medium-sized enterprises play a vital role in our economy, driving on growth and employing some 900,000 people across the island. However, many of these enterprises face significant administrative and legal barriers in competing for State contracts. The purpose of this legislation is to address the absence in our procurement guidelines of a social value clause, which other European countries have included in their procurement legislation. Section 3 which deals with the community benefits requirements sets out how a social value clause would work. It would require any State body, local authority or Department issuing a tender to take into account the benefits of awarding the contract to the local and national economy when assessing bids. My colleague, Deputy O’Brien, and I have met representatives of printing companies in Kildare, Dublin and Sligo, which have effectively been excluded from tenders for libraries due to contractual procurement requirements. This is a story repeated for much of the €8.5 billion the State spends each year on goods and services. Ireland ranks high in Europe in respect of the proportion of public goods and services procured outside the State. While it is a small open economy committed to the European Union, EU, it is not always possible to award contracts and tenders to Irish companies. The objective of this Bill is to achieve a level playing pitch. This will enable Irish companies to compete fairly alongside European businesses in line
with the rules of the Single Market. The full adherence to EU regulations is an important point in light of the rise of protectionism which we have seen recently. The Bill follows EU precedent. Denmark has successfully introduced social value clauses, as have the United Kingdom, France, the Netherlands, Austria and Belgium. I look forward to engaging with the Government and other parties to strengthen the legislation, address any issues with it and help to ensure it can deliver its objectives of empowering the Irish small and medium-sized enterprises, SMEs, to compete fairly and fully in future.

An Ceann Comhairle: Is the Bill being opposed?

Minister of State at the Department of the Taoiseach (Deputy Regina Doherty): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members’ Bill, Second Stage must, under Standing Orders, be taken in Private Members’ time.

Deputy Frank O’Rourke: I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

Ceisteanna – Questions

Cabinet Committee Meetings

1. Deputy Gerry Adams asked the Taoiseach if a meeting of the Cabinet Committee on Justice Reform took place on 12 December 2016. [40127/16]

The Taoiseach: The Cabinet committee on justice reform did not meet on 12 December 2016. Its last meeting took place on 21 December 2016 and the date for its next meeting will be scheduled shortly.

Deputy Gerry Adams: I asked that question because the State signed the Istanbul Convention to tackle domestic violence on 5 November 2016 and there are several outstanding Bills, the new domestic violence Bill, the Criminal Justice (Victims of Crime) Bill and the Criminal Justice (Sexual Offences) Bill 2015, which are all legislative actions required to facilitate the State’s ratifying the convention. I understand that the domestic violence Bill will be published this week. Will the Taoiseach confirm this? Members are told the drafting of the Criminal Justice (Victims of Crime) Bill is a priority. What precisely does that mean in terms of publication?

I welcome media reports that the Tánaiste and Minister for Justice and Equality brought a memorandum to Cabinet this morning to include within the Criminal Law (Sexual Offences) Bill a definition in law of sexual consent and, subject to seeing the detail, I hope it will fill a serious gap in the law because it is almost 30 years since the Law Reform Commission recommended changes in this regard. Can the Taoiseach tell Members when the amendments will be published and perhaps tell them whether it includes creating new criminal offences targeting online sexual predators? In light of all this, can he indicate when he expects the Istanbul Convention to be finally ratified?
I am advised, from the Garda Inspectorate report of 2014, that there is a deficit in the recording of incidences of domestic violence. The Central Statistics Office has said no specific assessment of the quality of domestic violence incident reporting has been conducted. Does the Government intend to ensure a proper record is kept of domestic or reported domestic violence incidents?

**Deputy Brendan Howlin:** Does the justice reform committee include in its purview the issue of security at airports? Is that part of the justice brief or is that left to the Cabinet subcommittee on transport? In respect of the deeply worrying events that have come to light in the past couple of days, which obviously will raise very serious concerns for most people interested not only in people trafficking but in ensuring that we have robust security, if it is not part of the Cabinet agenda or the agenda of the Cabinet committee on justice reform, would the Taoiseach agree that it should be? Would he agree further to report back to this House on the issue of taking clear control of security at Dublin Airport away from the Dublin Airport Authority and having a bespoke division within An Garda Síochána to ensure we have robust mechanisms to ensure the security of our seaports and airports?

I am not sure, from recollection, whether activities such as the operation of the Garda Síochána College fall within the purview of the justice reform committee. The Taoiseach might indicate whether it does and if the auditing of the accounts of the college, for example, would be properly a matter for the justice review committee.

**The Taoiseach:** The Garda Síochána College would come within the remit of the justice committee. We have referred to that before in terms of the reopening of the college during the Deputy’s time in government. I will follow through on any issue for him.

The Minister for Transport, Tourism and Sport, Deputy Ross, and the Tánaiste and Minister for Justice and Equality, Deputy Fitzgerald, spoke today about the issues we know about in Dublin Airport, the arrest of people and people smuggling. I expect to have a report on this tomorrow. As I understand it, the security of the airport premises is a matter for the Dublin Airport Authority. Deputy Howlin is well aware that gardaí are always in attendance in the airport area because of their connection with Interpol and Europol and so on. I take his point about having clarity about where and in what circumstances oversight and responsibility kick in for whichever of the agencies are involved. We will bring that before the House so that everybody understands it.

The domestic violence Bill will be published this week. This morning the Cabinet approved the recommendation from the Tánaiste and Minister for Justice and Equality in respect of the statutory definition of consent to a sexual act. The draft heads of that will mean that a person consents to a sexual act if he or she freely and voluntarily agrees to engage in that act. The person does not consent to such an act if he or she allows the act to take place or submits to it because of the application of force to him or her or some other person or because of the threat of the application of force to him or her or to some other person or because of a well-founded fear that force may be applied to him or her or to some other person; if he or she is asleep or unconscious; if he or she is incapable of consenting because of the effect of intoxication or of having consumed some other substance; if he or she is suffering from a physical disability which prevents him or her from communicating whether he or she agrees to the act; if he or she is unlawfully detained at the time at which the act takes place and if the only expression or indication of consent or...
Deputy Michael Moynihan: When will the report by the retired judge Mr. Justice O’Neill be published and available to the Dáil? From reports that are circulating, I understand that an inquiry will be announced. Perhaps the Taoiseach will confirm that. He might tell the Dáil when the inquiry will be set up and what will be its terms.

The Taoiseach: To be honest, I do not know what is in the O’Neill report. It was received by the Tánaiste before Christmas. As third parties are specifically mentioned in it, the Tánaiste quite rightly referred the report to the Attorney General for analysis and assessment of the form in which and the extent to which it might be published. I think the Attorney General has responded to the Tánaiste. There are some other matters to be finalised. I understand the Tánaiste will bring it to the Cabinet pretty soon. My understanding is that she will also make proposals for the implementation of any recommendations made by Mr. Justice O’Neill arising from the report. We will wait until it comes back to the Cabinet.

Deputy Bernard J. Durkan: I would like to return to the events at Dublin Airport at the weekend. I congratulate the Garda on its success in identifying the issue. Does the Taoiseach feel it is necessary to ensure that all airports and seaports throughout the country are similarly alerted with a view to protecting the immigration checking that has to take place in the normal course of events?

The Taoiseach: I agree with that. Dublin Airport has some of the most sophisticated equipment of any airport. We have other airports, such as Cork Airport, Shannon Airport, Ireland West Airport Knock and the smaller regional facilities, and we also have ports. Millions of people come into this country through Dublin Airport every year. We do not yet know for how long this was going on. It appears to have been quite sophisticated. It seems that these diversions enabled people who had disembarked from aircraft to go to a different place before they got to passport and immigration control. I commend the Garda on its work in making a number of arrests on Sunday night. I hope that this matter will be taken very seriously and that it will be responded to in kind at all our airports and ports in terms of security and vigilance.

Deputy Brendan Howlin: I would like to return to the two questions I raised earlier. In light of recent events at Dublin Airport, does the Taoiseach agree that there is no point in having sophisticated security systems if the mere fact of being employed in the airport by any of the companies that has an operation there is enough to exclude people from any scrutiny? Does he agree that we need to have some overarching security authority to ensure there is a rigidity about the constant checking of people who present themselves as purporting to be working for each company that is based at the airport? I understand, from what the Taoiseach said, that Dublin Airport Authority currently has this responsibility. I hope this will be contemplated by the review he mentioned.

I thank the Taoiseach for responding to the point I raised about the Garda College. He will have seen the disquieting report in The Sunday Times about the result of the internal audit. I am not sure if I can ask the Taoiseach specifically about whether this matter was discussed by the Cabinet sub-committee. It is highly likely that it was discussed. Will the Taoiseach, following
on from his initial reply, ensure that this matter is looked at again to ensure practices like the presentation of gifts and the leasing of land that were unearthed in the internal audit are fully investigated?

**An Ceann Comhairle:** As we are coming towards the end, I will call Deputy Burton as well.

**Deputy Joan Burton:** I represent many tens of thousands of people who work in Dublin Airport, which is one of the most vital engines of the economy. Any breach or lapse of security at the airport has to an issue of the utmost seriousness for the Government. Dublin Airport is vital to our national economy. If we become seen as a soft touch in terms of abuse, it will be very damaging to us at a time when we are facing the uncertainties of Brexit and the new Trump Administration. This is about people-smuggling.

**Deputy Brendan Howlin:** Exactly.

**Deputy Joan Burton:** We have raised this issue many times in the past year and a half. The Taoiseach will recall that when the Labour Party was in office, we discussed this issue as a Government. It is important to understand that people-smuggling is one of the most evil things on the planet. It often involves younger people and women, in particular, being smuggled and ending up in prostitution.

**Deputy Brendan Howlin:** Indentured.

**Deputy Joan Burton:** They often end up in completely illegal situations over a long period of years. The vast debts they owe to the people-smugglers often carry on through families. If the Garda National Investigation Bureau has been doing more work on this issue as a consequence of the civilianisation of the airport, I welcome that. An immediate high-level inquiry is needed to ensure that what has happened in this instance is closed down. If these people somehow had access to the catering vans going out of the airport, what does that say about the access of those vans to the air-side when they go to service catering on airplanes? If there is a weakness in one direction, it is almost inevitable that there is a weakness in the other direction. That is why we need a high-level inquiry into this immediately.

**The Taoiseach:** I agree with Deputies Howlin and Burton in respect of these matters. Deputy Howlin raised the reports in a Sunday newspaper regarding the presentation of gifts and the leasing of land. I will ensure that the matter is investigated fully.

We also need a review of the scrutiny of personnel. In most cases, there are points beyond which people cannot go because they do not have clearance. I am sure that the system at Dublin Airport is quite sophisticated. Clearly, there has been a breach. A scam operation that has been going on has allowed certain people who have come to this country to avoid making their way through to passport and immigration control. As Deputy Burton has pointed out, this is people-smuggling. As Deputy Durkan said, it is important for security matters at all our airports and ports to be considered at the highest level. I remind the House that we have pre-clearance in Dublin Airport and Shannon Airport for the United States. It is clear that these issues are rightly of concern to every country, but particularly so for the US and its Department of Homeland Security, as it has stated. It is very important for Ireland to be absolutely clear, accurate, competent, vigilant and professional in how it goes about its business here. A lapse has been identified thanks to the Garda and the arrests it made. The courts will deal with that matter. This is something that interests the entire country. It is a question of our national integrity.
2. **Deputy Bernard J. Durkan** asked the Taoiseach if, arising from ongoing developments and indications from the UK and Europe in respect of Brexit, he is satisfied that all EU colleagues remain supportive of Ireland’s necessity to remain at the heart of Europe, while at the same time endeavours to accommodate the island of Ireland as a single market incorporating a common travel and customs area and that recognition is given to that fact that this country’s geographic location in the context of Europe is such that the 12.5% corporation tax continues to prevail, thereby addressing in some part the geographic disadvantages. [1705/17]

3. **Deputy Gerry Adams** asked the Taoiseach if he will report on the informal meeting of the 27 EU Heads of State and Government held on 15 December 2016. [1715/17]

4. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the matters discussed and positions agreed on Brexit negotiations at the EU27 meeting at the European Council in December 2016. [1989/17]

5. **Deputy Micheál Martin** asked the Taoiseach if he will report on the next EU Council meeting and the matters that will be discussed. [2736/17]

6. **Deputy Micheál Martin** asked the Taoiseach his plans to visit and engage with the smaller EU member states prior to Article 50 being signed in March 2017. [3072/17]

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

An extensive programme of engagement with all other EU member states and the EU institutions has been under way for some time. Since the UK referendum on 23 June 2016, I have met Chancellor Merkel, President Hollande, Prime Minister May, President Anastasiades, Prime Minister Muscat and Prime Minister Rajoy. I also met the President of the European Council, Donald Tusk, and the head of the Commission’s negotiations task force, Michel Barnier, in Dublin. In all my meetings, I reiterated and explained Ireland’s particular concerns arising from Brexit including in respect of our economy and trade, the Northern Ireland peace process and Border issues, the common travel area and citizenship issues and the future of the EU itself. I will continue to engage with my EU counterparts, as will other Government Ministers, in the coming weeks to emphasise Ireland’s concerns and to ensure they are fully reflected in the EU position when the negotiations commence. There is a clear understanding from all of this of the significant implications for Ireland arising from Brexit. While this does not guarantee that it will be possible to mitigate all the negative consequences of the UK’s eventual departure, it is vital to continue to engage to defend our interests and promote our views to the greatest extent possible.

Following last month’s European Council meeting, a short meeting of the 27 EU Heads of State and Government focused on how the Brexit negotiations will be managed from the EU perspective. We agreed that the European Council will agree guidelines for the negotiations when Article 50 is triggered. We reconfirmed the principles agreed last June: that there can be no negotiation without notification, that the Single Market and the four freedoms are indivisible and that the UK will remain a full member of the EU until the withdrawal negotiations are concluded. There was no detailed discussion about the future of Europe. This will be the focus of a separate summit in Malta on 3 February.

As was set out in our statement after that meeting, Brexit will be constantly reviewed by
the 27 EU Heads of State and Government and the negotiating guidelines will be updated as necessary. Mr. Michel Barnier will be the Commission chief negotiator and will lead the technical negotiations. The General Affairs Council, the European Parliament, the committee of ambassadors to the EU and the official level working groups will also play important roles in this process. The next European Council meeting is scheduled to take place on 9 and 10 March. An agenda is not yet available but I will, as usual, report to the House both before and after the meeting in March.

Deputy Bernard J. Durkan: I thank the Taoiseach for his reply. I ask the extent to which he remains committed - I know it is the case - to the concept of ensuring Ireland remains at the centre of the European Union and from that position will continue to negotiate strongly, in the first instance, in favour of this country’s interests and in favour of the interests of the island of Ireland. As a result of that unique position which this country will be in, we should be committed to utilising negotiating value and strength from that perspective with a view to ensuring we as a nation will not in any way be disadvantaged in the course of the negotiations that will take place.

The Taoiseach: I assure Deputy Durkan, the House and the country that Ireland remains absolutely committed to remaining a member of the European Union and will sit among the 27 member states when the negotiations commence. We are well aware of our traditional contacts and connections with the United Kingdom in trade, social issues, the economy and all that over very many years. I have made certain agreements with the British Prime Minister in respect of the common travel area, no return to the borders of the past, the development of our economies and improvement in jobs and so on. Deputy Durkan can take it that Ireland remains 100% committed to remaining a central member of the European Union. It has a high regard for Ireland’s contribution over the past 40 years or so. In that sense, I also assure Deputy Durkan that the interests of the people in the Republic and those in Northern Ireland are central to our focus as we have a co-guarantorship responsibility in respect of the Good Friday Agreement. As I stated to Deputy Adams earlier, the issues upon which people voted in Good Friday Agreement so many years ago were on the understanding that people would be and would continue to be citizens of the European Union, with those rights conferred upon them in that internationally legally binding agreement. These matters are really central to our negotiations.

Deputy Gerry Adams: The Taoiseach gave a detailed report of his meetings and I thank him for that. He outlined how he put the Government’s main concerns, which include the Border, the peace process and so on. However, he failed to outline how the Government thought or thinks the European Union should address these concerns. That is vital and why we have been arguing for this proposition of the right of citizens in the North to a special designated status within the European Union.

I listened to the Taoiseach, who is a smart operator. He outlines the rationale of the Good Friday Agreement, the Government’s obligation to uphold it, the fact the people in the North voted for that and so on. Having set out that criteria, he ignored the fact that the people in the North voted to remain within the European Union. I would like him to address that anomaly in his thinking. He then said he has an agreement with the British Prime Minister that there would be no return to the borders of the past, but that is absolutely meaningless. The European Union tax and customs Commissioner this morning confirmed there will be Border controls. The former head of the European Commission customs unit at the weekend stated the controls on the Border will be returned post-Brexit. The British Secretary of State, Mr. Brokenshire, in a report carried by The Sunday Times, stated there is an agreement with the Irish Government.
that there would be what would be interpreted as controls at our ports. I am paraphrasing those comments.

An Ceann Comhairle: We must conclude.

Deputy Gerry Adams: The point is if the land frontier between the European Union and the British state will be on the island of Ireland, it will be a hard economic border. Sin é. There is no doubt whatever about that. We have been pointing that out and also pointing out a solution. If there is a special designated status, the frontier would be moved off the island of Ireland or at least to the coastal area of the island of Ireland, as opposed to across the island of Ireland from Dundalk to Derry. Given that the Taoiseach is failing to pick up that proposition, will he tell us why that is so?

The Taoiseach: Deputy Adams circles the issue on every occasion. The question of a hard or soft Brexit is one I discussed with the British Prime Minister the night before she made her speech at Lancaster House. I indicated to her that irrespective of how that presentation might be made, if it was the case that Britain would withdraw from the Single Market and customs union, whatever construction put on that would be deemed as a hard Brexit. Deputy Adams agrees with that. Prior to that we had agreed to maintain the common travel area and that there should be no return to a hard Border. What do I mean by a hard Border? It means customs posts on every road. Nobody wants the return of what was there along with those in the form of military installations. Neither does the British Prime Minister want that. The negotiations will take place in respect of the customs union or whatever. We will have to negotiate hard and creatively to comply with the agreement we have with the British Government in this regard.

An Ceann Comhairle: Thank you. We must be fair to other questioners.

Deputy Brendan Howlin: We have spent some time for the past six or eight months analysing and settling Ireland’s position and what is in the interests of Ireland. We have been looking to ascertain what exactly the UK position will be and that has become clearer. It is a much harder position than anybody in the House would have wished for and some of us hoped for. I am interested in the shaping of the position of the 27 remaining EU member states. How are we going to ensure the Irish position that we have talked about, and which Deputy Adams mentioned again, will be reflected in the common negotiating position of the 27 states? Is the Taoiseach sure it will happen? In terms of the European Union negotiating position, will it be-----

Deputy Gerry Adams: Frankfurt’s way or Labour’s way.

Deputy Brendan Howlin: -----to oppose or tell the troika to take a hike and ruin the country? We could all look backwards but I am interested in looking forward in the interests of our people. What is the EU negotiating position on the hard Frontex border? Will it be the position of the 27 states to oppose the imposition of a hard Frontex border on the island of Ireland? Will the 27 EU member states support and maintain a common travel area between these islands?

An Ceann Comhairle: Two other Deputies wish to contribute so I will give them 30 seconds each.

Deputy Seán Haughey: It has been a long time since the Brussels summit and much has happened in that time. What is the Taoiseach’s view on two particular interventions, one from Commissioner Phil Hogan suggesting there should be a shift in Ireland’s EU relationship? He went on to say there should be a move towards Brussels and away from ties with Britain. He
also stated that, post-Brexit, Ireland will need a different set of relationships with the EU. I am keen to know the views of the Taoiseach on this intervention, given that Commissioner Hogan was a close adviser of the Taoiseach at one stage.

A second intervention since the Brussels summit was made by a former Irish diplomat. Dr. Ray Bassett suggested that an Irish exit from the EU needs to be considered if Brussels fails to offer satisfactory terms. He went on to say that the country needs to stand up to Brussels in EU negotiations surrounding Brexit. What are the thoughts of the Taoiseach on those two particular interventions?

**Deputy Joan Burton:** The Taoiseach has told us time out of number that his position in the negotiations is one of 27. What people have been trying to convey to the Taoiseach for several months is this position is inadequate. The consensus is there needs to be a distinctive position regarding the island of Ireland in all its complexity and in the context of the Belfast Agreement being an international agreement to which the EU, made up of those 27 member states, has signed up.

The Taoiseach is going to face problems. The Taoiseach and previous Taoisigh have faced this before. The members of the European Council, the leaders of governments, often try to gang up. They have ganged up on Greece and attempted to gang up on the Taoiseach shortly after the previous Government came to office. The formula is being used again. The problem is that the island of Ireland, which we all understand, does not specifically feature. This is because it is an island where, in respect of these negotiations, the northern side of the Border is the United Kingdom’s border and the southern side of the Border is the European Union’s border.

**An Ceann Comhairle:** You are way over time, Deputy.

**Deputy Joan Burton:** That is not satisfactory for people on the island of Ireland.

**An Ceann Comhairle:** Will Members agree to take five minutes from the third group of questions to deal with this?

**Deputy Brendan Howlin:** Yes.

**An Ceann Comhairle:** Deputy Moynihan is next and then Deputy Eamon Ryan. After that we will go to the Taoiseach.

**Deputy Michael Moynihan:** This will be a fundamental issue as we progress. I want to put two questions. Have discussions taken place on Northern Ireland between the Government and London on seeking a special deal for the North of Ireland? Have indications emerged from London that UK negotiators are refusing to seek a special deal? As the negotiations on Brexit progress, these points will be fundamental to the entire future of the European Union and how it is to operate. A raft of issues arise with regard to the European Union.

In every corner of Ireland people are concerned about Brexit. It is having an impact on the daily lives of people, especially in agriculture and rural communities. I believe there is insufficient urgency in terms of dealing with this fundamental issue as well as other questions. For example, how will our relationship with Europe develop? How will our relationship develop with the UK? How will our relationship develop on this island to ensure peace and harmony in the Thirty-two Counties?

**Deputy Eamon Ryan:** I asked the Taoiseach about this matter earlier. If the UK Prime
Minister is not to speak before the House, I suggest we write to her to ask that the leaders of the various groups in the House would have a chance to meet her in the same way that we met Nicola Sturgeon. It was useful for Ms Sturgeon to hear the variety of views within the House. That could be an important part of the visit of the Prime Minister. Will the Taoiseach present that as a proposal to the British Prime Minister’s team in advance of the visit?

An Ceann Comhairle: Taoiseach, you have four minutes to conclude on this matter.

The Taoiseach: Deputy Howlin raised several important issues, central to which is the nature of the proposition from the European Union. Of course, when Article 50 was written it was on the basis that no one would ever leave the European Union but as the saying goes, events, dear boy, events take place. Article 50 also states one cannot start formal negotiations until a country has completed its exit.

Deputy Howlin knows as well as do I that we cannot have two years of discussions about leaving without taking into account what Article 50 states and how it relates to the future framework relationship between the United Kingdom and the European Union. How do we ensure that Europe understands us? That is what I have been trying to say. We have had an intense engagement at leader level, ministerial level and at all the Council meetings.

Deputy Brendan Howlin: What is Michel Barnier’s position?

The Taoiseach: Let me come to that. At least every leader and country knows of Ireland’s particular and special circumstances.

I can confirm to Deputy Howlin that no negotiations have taken place at the two meetings of the group of 27 I have attended. As Deputy Howlin is aware, if we started that we would have to go around the table ten times and everyone would have different views on their different priorities, irrespective of whether they were related to Brexit in so far as Ireland is concerned, Northern Ireland or whatever. That is an issue.

Will the European Union support the common travel area? Member states have not given their views, but they will be hearing clearly from me that they should, because we have agreed it, as two Governments, as something that we have had for so long.

Deputy Brendan Howlin: Is Michel Barnier going to present a position?

The Taoiseach: There is a common travel area between Europe and Ireland and that will continue, as Deputy Howlin is well aware. The question of the arrangements between Ireland and England arises as well, and I expect that to be maintained, as does the British Prime Minister. I expect to have the support of our European colleagues when that question arises.

Deputy Haughey referred to the European Commissioner. I take the view that we have said we want to maintain the traditional links with Northern Ireland and the United Kingdom in terms of trade and so many other issues, including the Border and the common travel area. I expect us to be able to do that. That view is shared by the British Prime Minister.

We also share the view of the British Government that it should maintain the closest possible links with the European Union. The UK has given some clarity on removing itself from the Single Market and the customs union. In light of a proposal for a new trade arrangement with Europe, these areas are where the negotiations will arise. There is no question about that.
I have had no discussions with Commissioner Hogan about this. We will stay as a central member of the 27. We will stay as a member to follow the agenda of the European Union for the future, that is to say, with regard to the Single Market and the digital single market and the President’s reports, which are in two phases. The first is to be implemented this year. The second has implications as far out as 2025. There are some complications that will cause difficulty for several countries and in respect of which we are either going to make the decisions or will not. Ireland will defend its interests in all of those. We want to maintain our links with the United Kingdom but remain a central and strong member of the Union for the future.

I have no wish to comment on the remarks from a former Irish ambassador. Anyway, I am not talking about an Irish exit from the European Union. We are talking about maintaining our central role as a European Union member for the future. People can make all the comments they wish. We will fight for our future, our relationship and for our Europe. We have voted on this consistently over 40 years, since it began to transform our country.

**An Ceann Comhairle:** Time has elapsed. We need to move on.

**The Taoiseach:** Deputy Burton raised the point about a distinctive position. It is true that we are one country of 27. All 27 member states are not bundled in on top of Ireland. We have made that case, as has Deputy Burton, at Council meetings. The ministers in her group were not a collective of 27. Deputy Burton was one of 28 and she made her case vociferously, just as she should.

**Deputy Joan Burton:** That was my job.

**The Taoiseach:** That is why we are engaged in the diplomatic work we carry out. The idea is that they all know and will all understand. In answer to Deputy Howlin’s comments, it may well be that Commissioner Barnier might decide to say that if the only area in Europe where the land border will apply is between Ireland and Northern Ireland, then perhaps the negotiators should deal with that first. There is no constitutional issue, as there is in the case of Gibraltar. This is the only area where the circumstances apply. It may well be that they might like to have that matter dealt with first.

**Deputy Brendan Howlin:** When is the position of the 27 member states going to be decided?

**An Ceann Comhairle:** We cannot get into a further debate.

**The Taoiseach:** The 27 member states have not sat down to negotiate.

**Deputy Brendan Howlin:** When will that happen?

**The Taoiseach:** This is the point I am making to Deputy Howlin.

**Deputy Brendan Howlin:** When are they going to take a position?

**The Taoiseach:** This is the point I am making. The first thing that has to happen is for the UK Prime Minister to trigger Article 50. Second, within a two-year span, the exit or divorce proceedings will take place.

**Deputy Brendan Howlin:** Is the Taoiseach suggesting we do not settle on a position before negotiations begin?
The Taoiseach: Technically speaking, under Article 50, no formal negotiations begin until that matter is dealt with. Deputy Howlin and I know that, in the real world, these things have a habit of running in parallel.

Deputy Moynihan raised the question about the Government and London. The Prime Minister herself has referred to the special relationships between the Republic and Northern Ireland and between Ireland and Great Britain. We want to see those special relationships maintained. The Deputy said there is not enough urgency. I cannot move Article 50 and neither can anybody else, except the British Government. That is what everybody signed up for and voted on so many years ago. Not until the British Government moves Article 50 will the negotiations for exit be triggered. When the Deputy says there is not enough urgency, the 27 member states are not beavering around wondering what time this letter is coming in to say that Britain is moving out. The discussions that we are having are making arrangements for the options that we are going to have to deal with and the possible outcomes of all of those options - they cover a wide range of things - in order that we are well prepared and that everybody knows our particular and specific circumstances.

To respond to Deputy Ryan, there is nothing to stop people writing to the Prime Minister, but I cannot control her diary or the events that she attends. She did indicate that she is coming here and I will be very happy to receive her and hopefully have a really worthwhile discussion about some of the issues Deputies have raised in the House.

An Ceann Comhairle: Do Members wish to ask supplementary questions or can we move on?

Deputy Richard Boyd Barrett: As a point of order, the next set of questions is actually about the question we have just been dealing with. There is no need to extend the previous session.

Deputy Gerry Adams: I propose we move on.

Deputy Brendan Howlin: How many minutes have we left?

An Ceann Comhairle: We have about six minutes left. We will leave the third tranche of questions until tomorrow. We will come back to them. We will take supplementary questions and start with Deputy Howlin.

Deputy Brendan Howlin: I think that is better. There is no point in embarking on six questions in six minutes.

An Ceann Comhairle: No.

The Taoiseach: Agreed.

Deputy Brendan Howlin: I am looking for clarity on the settling of the negotiating position of the 27 member states. From what the Taoiseach has said to me, it seems to be that he cannot begin the settlement of the negotiating position until negotiations begin. That makes no sense to me. If the EU is actually negotiating with Great Britain, it has to know what it wants to achieve. It cannot sit down when the negotiations begin without knowing what exactly are its objectives. I believe it will take some time for the 27 member states to agree a negotiating position. Is it to be, as the Taoiseach envisages it, a timescale of the British Government triggering Article 50 of the Lisbon treaty and then a period of time, probably weeks or maybe months, in
which the 27 EU member states settle their position before settling down bilaterally with the United Kingdom to negotiate on each of those issues? Is that how the Taoiseach envisages the timescale?

**An Ceann Comhairle:** I will take the other supplementary questions. The Deputies have 30 seconds each.

**Deputy Michael Moynihan:** The special relationship between Ireland, Great Britain, the Republic of Ireland, the North of Ireland and all of that is taken as one. As an island nation on the periphery of Europe, we will have a major problem when our neighbours are outside the European Union. We have more to lose than any other country. Has the Taoiseach confidence in the European institutions to be able to deliver a result from the negotiations that will reflect Ireland’s position or benefit Ireland?

**Deputy Richard Boyd Barrett:** In these negotiations, there is a big difference between asking and telling. Frankly, I do not think we should be asking. People in Ireland, Britain, in the North and in the South of this island say they want to maintain the common travel area. It should simply be told to the European Union that that is going to be the situation and that we are not accepting anything less than that. I believe we should say the same thing about any question of reimposing a hard Border between North and South. It is just not acceptable.

**Deputy Gerry Adams:** The Taoiseach said he is in agreement with the Prime Minister in Britain that there will be no return to the Border of the past, as though it is something wonderful. That is absolute rubbish. He also has an agreement with the British Prime Minister for a civic forum in the North, an all-Ireland civic forum, a bill of rights for the North, a joint North-South committee on human rights, an all-Ireland charter of rights, obligations with regard to the European charter for regional and minority languages, the introduction of Acht na Gaeilge, a Weston Park commitment on a Pat Finucane inquiry and legacy issues.

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

**Deputy Gerry Adams:** The British Government has not acted on any of those and the Taoiseach is also remiss in his obligation to act on any of those. What worth has this nonsense about not returning to the Border of the past when these are all clear breaches of the Good Friday Agreement?

**Deputy Eamon Ryan:** On foot of the Taoiseach’s suggestion, would it be possible for the Ceann Comhairle himself to write to the British ambassador’s office or the Prime Minister’s office, subject to the agreement of other leaders of the groups in the House, that part of a visit would involve meeting the heads of the groups and the leaders of the different parties in the House in recognition of the need for all parties to be able to engage and to listen to what the Prime Minister has to say? Would the Ceann Comhairle be able to draft such a letter if it received support from the leaders?

**Deputy Joan Burton:** Taking the Taoiseach’s explanation of his strategy, he has said repeatedly that nothing happens until Article 50 is triggered, but his problem in terms of a strategy is that everything happens when Article 50 is triggered. Historically, the most important thing - the Taoiseach might agree with me - is that the Franco-German-Italian alliance becomes the absolute leadership and key force in the European Union. There are also countries like Hungary among the 27 member states who have said they are strongly in favour of Brexit. What we are saying to the Taoiseach, and what Brendan Howlin has made absolutely clear to the Taoiseach,
is that it is not good enough for him to sit on his hands until Article 50 is triggered.

An Ceann Comhairle: Thank you, Deputy. You are over time.

Deputy Joan Burton: He has to start actually negotiating Ireland’s strategic position in identifying the strategy right now-----

An Ceann Comhairle: The Deputy is over time.

Deputy Joan Burton: -----before we see this historic change.

Deputy Seán Haughey: To return to Commissioner Hogan’s comments last month, he went on to say that once Article 50 is triggered, the centre of power and influence will move away from London and towards the other EU states. Are we preparing for a post-Brexit situation in terms of the overall EU?

Deputy Bernard J. Durkan: Does the Taoiseach think that there is a recognition among the heads of the other 27 member states remaining of the importance of the position being taken by him on behalf of this country and the implications for the European Union as a whole in the event of the situation not going as anticipated?

An Ceann Comhairle: I notice that these questions will continue tomorrow. Perhaps these questions could be answered then, as we are now out of time.

The Taoiseach: The answer to Deputy Durkan’s question is yes. That is why we are meeting them individually away from European Council meetings, at Council meetings, at ministerial meetings and so on. They are fully aware of our very particular and specific circumstances.

In response to Deputy Haughey’s question about the post-Brexit situation, Britain will not have left the EU until the exit negotiations are completed. It remains a full member of the European Union, it pays its way and accepts its responsibilities until it has left.

Deputy Burton does not seem to want to hear the fact that the day after the vote was taken, we set out our strategy.

Deputy Brendan Howlin: Ireland’s strategy.

The Taoiseach: On 9 September last in Oxford, I set it out in detail.

Deputy Joan Burton: Not the island of Ireland.

The Taoiseach: We will have the all-island forum on 17 February. There will be 12 sectoral divisions working in the meantime. There will be sections in every Department dealing with their particular responsibilities. That has been communicated to Europe in order that it knows that Ireland will be the most adversely affected of all the countries when Brexit actually happens. From that point of view, we are not hanging around waiting to see what is going to happen. We are out there telling people of our particular needs and circumstances in order that they are fully acquainted with that.

No negotiations begin until Article 50 is triggered. There will be elections in the Netherlands, in France and in Germany. These will obviously take up quite a deal of the attention of the people in those countries. In practical terms, my view is that when the Prime Minister moves Article 50, negotiations on Britain leaving the EU will then start. Britain is leaving the
Single Market. There is the question of the customs union. When Britain has gone, there is the question of how to negotiate a new kind of trade arrangement.

4 o'clock

That is the British strategy and that is what we sought when looking for clarity. That clarity has been given on a number of those fronts. Are the other 27 member states now sitting down in a huddle and saying “What are we going to do about this?” They have not sat down like that but they are all, obviously, talking about it - at least those countries that are really interested. That concerns us greatly. That is why our diplomatic engagement is to talk directly to these people so that they do understand that when negotiations commence - either in parallel or at the end of point X - they will know exactly where we stand.

I am interested in the comments from people who speak about the special status. We have a special status in that the EU recognises our is the only peace process that is supported by it. This is a situation where the two sovereign Governments co-guarantee the implementation of the Good Friday Agreement. I would be the first to say that it has not all been done by any means. That is why we persist in the context of what we believe in, namely, Acht na Gaeilge, human rights and other matters. I will return to this issue tomorrow.

Topical Issue Matters

An Ceann 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) Deputies Noel Rock, Stephen S. Donnelly and Michael Healy-Rae - the resale of event tickets by ticket touts and official ticket outlets; (2) Deputy John Lahart - the decision to close St. Brigid’s nursing home in south Dublin; (3) Deputy Catherine Murphy - Prime Minister May’s comments regarding a common travel area between Ireland and the UK; (4) Deputy Louise O’Reilly - over-capacity difficulties with children under six years of age for GPs in Balbriggan; (5) Deputy Eugene Murphy - the appointment of a child psychologist for north Roscommon; (6) Deputy Seán Haughey - to ask the Minister for Foreign Affairs and Trade to discuss the Supreme Court ruling in Britain regarding the triggering of Article 50 and if he will make a statement on the matter; (7) Deputy Thomas Byrne - safety and efficiency concerns with the N2 road as a national route; (8) Deputies John Curran and Maureen O’Sullivan - the withdrawal of funding by the HSE north Dublin for Tiglin rehabilitation service; (9) Deputy Fiona O’Loughlin - job security for employees at the Bord na Mona plant in Kilberry, County Kildare; (10) Deputy Jonathan O’Brien - concerns for local authorities selling homes under the tenant incremental purchase scheme 2016; (11) Deputy Michael D’Arcy - the reinstatement of Gorey Garda district in line with the programme for Government 2016; (12) Deputy Tom Neville - bed capacity at University Hospital Limerick; (13) Deputy Catherine Connolly - Cinneadh Údarás na hOllscoile i nGaillimh deireadh a chur leis an riachtanas Gaeilge a bheith ag an gcéad Uachtarán eile den Ollscoil; (14) Deputies Jim O’Callaghan and Joan Burton - the need to address concerns regarding alleged people smuggling at Dublin airport; (15) Deputy John Brassil - the need for the Minister for Health to make a statement on the National Centre for Pharmacoeconomics, NCPE, decision on the Respreeza medication; (16) Deputy Timmy Dooley - the need for the Minister for Health to make a statement on conditions in emergency departments; (17) Deputy Dessie Ellis - to discuss the withdrawal of funding for the intergenerational learning programme for people over 55 years of age at DCU; (18) Deputies Mattie McGrath and
Michael Fitzmaurice - the delay in processing GLAS payments to farmers across the country; (19) Deputy Clare Daly - review of our trade agreements with Saudi Arabia in light of alleged human rights violations; (20) Deputies Lisa Chambers and Mick Barry - working conditions for Air Corps personnel at Casement Aerodrome; (21) Deputy Seán Crowe - construction of new housing units in occupied east Jerusalem; (22) Deputy Martin Kenny - the threatened closure of veterinary laboratories around the country; (23) Deputy Éamon Ó Cuív - consideration of the action plan for rural development; (24) Deputy Mick Wallace - to discuss the impact of NAMA policy on the housing crisis; (25) Deputy Richard Boyd Barrett - the crisis at Bus Éireann; and (26) Deputy Donnchadh Ó Laoghaire - social housing income limits and the difference in neighbouring areas.

The matters raised by the Deputies Noel Rock, Stephen S. Donnelly and Michael Healy-Rae, Jim O’Callaghan and Joan Burton, Donnchadh Ó Laoghaire and Catherine Connolly have been selected for discussion.

**Ceisteanna - Questions (Resumed)**

**Priority Questions**

**Defined Benefit Pension Schemes**

45. **Deputy Willie O’Dea** asked the Minister for Social Protection his views on the fact that a profitable company can close down a defined benefit pension scheme whilst the scheme is in deficit to the detriment of existing and deferred pensioners; his plans to rectify the situation; and if he will make a statement on the matter. [3027/17]

49. **Deputy Willie Penrose** asked the Minister for Social Protection the action he will take to prevent profitable companies from winding up their defined benefit pension schemes; and the way he will ensure the pension rights of workers and those already retired are protected. [3026/17]

**Deputy Willie O’Dea:** The Minister will be aware of the controversy before Christmas that indicated a major gap in Irish law, namely, that a solvent company can walk away at will from a defined benefit pension scheme. I ask the Minister if there are any proposals to change that situation.

**Minister for Social Protection (Deputy Leo Varadkar):** I propose to take Questions Nos. 45 and 49 together.

I am very much aware of the public concern highlighted by the recent publicity surrounding defined benefit schemes.

The provision of occupational pensions in this country is on a voluntary basis and depends on the willingness of employers and employees to contribute to, and maintain schemes for their members. Traditionally, many such schemes were organised on a defined benefit basis. This is now much less common. In recent decades, defined benefit provision has been under pressure
because of volatility in the stock markets and increasing liabilities arising from demographic pressures, longer life expectancy, lower interest rates and regulatory requirements. Accountancy standards, which make pensions liabilities very apparent on a company’s balance sheet, also contribute to the pressures under which defined benefit schemes are operating. During the financial crisis, the decline of defined benefit pension schemes accelerated to the extent that the whole pension sector was possibly at risk.

As a consequence of all these factors, the movement from defined benefit to defined contribution schemes has become a feature of the pensions landscape, even in cases where firms are very profitable. Almost all defined benefit schemes have a rule that allows the employer to cease contributions, usually after a notice period. There is no legislative obligation on the employer to make contributions and no further liability on the employer where contributions cease. Where changes to these schemes are being sought by employers, I am strongly of the opinion that they should first engage in discussions with the trustees and employee representatives or unions. The introduction of a debt on employer - as proposed by some - would raise a range of issues including possible negative consequences for defined benefit schemes, some of which may not be beneficial for members or the employees in the companies concerned. Neither the Minister for Social Protection nor the Pensions Authority has the power under legislation to intervene to freeze the winding-up of a scheme or to compel the employer to make contributions to a scheme. In recent years, however, the Government has amended pension legislation to protect the pension sector and to ensure fairer and more equitable outcomes for all scheme members. These changes make more resources of the scheme available in the initial distribution of assets to active and deferred scheme members. At this stage, further regulation may only serve to add to the pressures on defined provision and could be counterproductive.

While there are strong arguments in favour of the introduction of greater employer obligations, it is also important that we consider the less desirable side effects. These could include: prompting well-funded schemes to wind up to avoid future new obligations; threatening a company’s financial stability; rendering some employers insolvent; or giving a competitive advantage to employers that never provided a pension or put defined contribution schemes in place.

While I have no immediate plans to bring forward amending legislation to enhance the provisions in the Pensions Act regarding defined benefit schemes, I assure Deputies that the issues in respect of defined benefit schemes are continually scrutinised by my Department, especially in the current environment.

**Deputy Willie O’Dea:** I take the Minister’s point about these being voluntary and depending on the willingness of the employer to engage in them, but everything the Minister has said applies equally to the defined benefit schemes in the United Kingdom. The UK has introduced legislation to prevent a solvent company from winding up a defined benefit scheme until such time as it makes up the deficit that is owed to the scheme. Why is Ireland different to the UK? If the UK can do it, surely Ireland can follow suit. If it is right and fair and proper that it should be done by our neighbouring jurisdiction, what is the insurmountable barrier that is preventing us from doing it here? Has the Minister taken any cognisance of how the system has worked in the UK? What has he learned from that? Does he not think that such a system could be used here, with the appropriate adjustments for the particular circumstances in Ireland?

**Deputy Leo Varadkar:** There are two points. First, it is important to point out that the law in the United Kingdom has been different for a very long time. When employers established those defined benefit schemes decades ago, they knew they would have a liability in terms of
making up any deficit. We know, unfortunately, that even though the law in the United Kingdom is different, employers there have found any number of ways to get out of that obligation. This was seen in a number of scandals in the United Kingdom where companies used mechanisms to avoid their obligations. Even though the law is very different, it is not necessarily successful. In this State, we must consider what the impact would be if we were to change the rules, effectively retrospectively, and impose a liability on employers for liabilities accrued. Consider a situation where, for example, a company is solvent but where the pension fund associated with it is not. One could turn the company insolvent and the consequences would be that the employees would lose their jobs, receive only the statutory redundancy and, potentially, lose their pensions also. Consider the consequences for a company that plans on expanding. Having that liability added to its balance sheet would mean it could not expand any more. Consider the difference between two companies, let us say, for example, two airlines. Perhaps I should not use airlines as an example because I do not mean what people may think I mean. Consider one factory next door to another. One is a good employer that traditionally has a defined benefit pension scheme and the other does not and never did. If one imposes an employer liability on the factory that had the defined benefit scheme, it would be placed at an enormous disadvantage against the factory next door that never provided anything for its employees’ pensions. Thus, the good employer would be punished and the bad employer rewarded. All those issues must be considered.

Deputy Willie Penrose: Solvent employers can legally walk away from their liability to fund defined benefit pension schemes, as required under the employment contracts with current or former employees, simply by deciding to wind up the scheme. It is possible because most defined benefit scheme trustees and rules allow an employer to wind up a pension scheme and cease contributions while ignoring any deficit in funding of the scheme and its inability to pay the benefits promised. It is most unsatisfactory that an employer’s liability to fund the deficit of a scheme on wind-up is determined solely by the trustees rather than by legislation. Ireland is one of the few countries that does not underpin this right with legislation. My pensions amendment Bill will deal with this. I put it to the Minister that accountancy standards require employers to recognise the liabilities of pension schemes either on their financial statements or balance sheets. Removing those liabilities from the balance sheet has a major transformative effect for the employer, as we saw in a recent case. That malaise is spreading across the country, which Deputy O’Dea knows from events in his constituency. These companies are running amok because there is an incentive to walk away from a defined benefit pension scheme. My Bill includes a provision to end that incentive and allow for the crystallisation of the debt there and then, which would enable the trustees to sue the company for the debt. Does the Minister agree this is a simple way to deal with the matter once and for all? Deputy O’Dea is right that we are no different from the UK or anybody else. The companies that are running away from these schemes are profitable. They are skedaddling out the door and leaving their unfortunate workers behind. If we do not do something for those workers, we will have even more problems.

Deputy Leo Varadkar: I explained in my initial reply the difference between our regime and that of the UK. The Deputy has spoken passionately about his concerns for workers and his desire to do something for them. Will he consider the possibility that there may be unintended consequences of legislation such as he is proposing? Will he consider the situation of a company that is doing okay, is solvent and making a small profit, but has attached to it a pension scheme that is in trouble and with a large deficit? If that deficit is imposed as a legal liability on the employer, the company will become insolvent and where, then, will the workers be? These are the kinds of things the Deputy must consider if he is genuinely concerned for workers.
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presume he does not want to bring forward a Bill that has unintended consequences, the result of which will be workers losing their jobs.

**Deputy Willie O’Dea:** The Minister, in comparing the UK system with the Irish system, said that Deputy Penrose and I are trying to achieve something retrospectively. Everybody knows defined benefit pension schemes were in place in the UK before the relevant legislation was introduced, and its introduction did not have all the dire consequences the Minister has outlined today. The Minister’s position seems to be that we should do nothing because there were technical difficulties with the UK legislation which allowed people to get around it. Surely, with the knowledge of those technical difficulties, we can draft proper legislation which addresses the issues? I take the Minister’s point about driving companies into insolvency. There has been a great deal of discussion around the UK legislation, including a detailed review by a parliamentary select committee, and the possible consequences of its provisions. The UK Government has indicated it will introduce legislation to provide the necessary modifications to the existing legislation and ensure the threat is greatly reduced. Instead of doing nothing, as the Minister tells us is his intention, surely we should attempt to do something along those lines?

**Deputy Willie Penrose:** The attitude the Minister is displaying in the Chamber today will come as an awful shock to the working people of this country. Does he realise he is condoning an incongruous situation whereby the workers of a very profitable company with a pension fund deficit will be left with nothing? Moreover, many of those funds will not be in deficit within the next 12 months given that inflation and bond yields are coming back. Meanwhile, where there is double insolvency, that is, an insolvent fund and an insolvent company, the State has to ride to the rescue. That anomaly must be remedied and the only way to do so is through the legislation Deputy O’Dea and I are bringing forward. The Minister could have his input and we could resolve the matter in the Chamber. I am astounded the Minister, above all people, is becoming a prisoner of the bureaucrats in his Department. I never thought I would say that about him because he generally takes a great independent stance. I ask him to throw off the shackles of the Department and work with us to deal with this matter. We will co-operate with him to resolve it. It needs to be done within the next month because there is a cascade coming. These companies are running for the hills and they are not troubled firms. In fact, they are the corporate beasts of this country, some of which have tax-free status and pay nothing to the Exchequer. I advise people to watch this space in the coming month.

**Deputy Leo Varadkar:** I will check to confirm this but, as far as I understand, the UK legislation has been in place for decades. It was introduced at a very different time when there were not such extensive liabilities arising from defined benefit pension schemes. Certainly, the pension protection fund has been in place for decades. I am not sure about the employer guarantee but I will check to confirm. I assure Deputy Penrose that my only concern is for people’s pensions and their ongoing employment. I do not want this House to put through legislation that jeopardises people’s employment and potentially their pensions. We must be very careful that in an effort to do something good, we do not do enormous harm. That is why the only legislative changes I will recommend to the House, in association with the pension authorities, are ones I am confident will do good and not unintended harm. If Deputies Penrose and O’Dea and colleagues from other parties want to come together to put through legislation that could potentially do untold harm to many people, they should by all means do so. However, the consequences will be on their heads.
Deputy John Brady asked the Minister for Social Protection the criteria in place for those applying for carer’s allowance; if any reviews of those criteria have taken place; and if he will make a statement on the matter. [3060/17]

Deputy John Brady: Will the Minister outline the eligibility criteria for the carer’s allowance and indicate when the last review of those criteria took place?

Deputy Leo Varadkar: The Government acknowledges the crucial role family carers play and is fully committed to supporting carers in that role. This commitment is recognised in both the programme for Government and the national carers strategy. Carer’s allowance is a means-tested payment, made to people who are providing full-time care and attention to elderly people or people with disabilities and whose income falls below certain limits.

The principal conditions for receipt of the allowance are that full-time care and attention is required and being provided and that the means test which applies is satisfied. The means test is one of the least onerous in the social protection system. For a single person, €332.50 of gross weekly income is disregarded in the calculation of means. The equivalent for someone who is married, in a civil partnership or cohabiting is €665 of combined gross weekly income. A married couple with two children could have weekly earnings of €1,135 net of PRSI, union and superannuation contributions and still qualify for the lowest rate of carer’s allowance. In other words, a family earning €59,000 per annum would meet the eligibility criteria.

Considerable improvements have been introduced for carers in recent years. In budget 2016, the carer’s support grant, which is payable without a means test, was increased to €1,700. Other measures benefitting carers include extending the period when carer’s allowance can be paid following the death of a care recipient from six to 12 weeks. In addition to the Christmas bonus and the €5 increase in the weekly rate, budget 2017 introduced a measure that extends payment of carer’s allowance for 12 weeks where the care recipient enters permanent residential care. Carer’s benefit is available to employees who have to take time off to care full time. It can be paid for up to three years on foot of PRSI contributions and is not means tested.

There are no plans for a formal review of the qualification criteria for carer’s allowance. Instead, specific measures will be considered as part of the budgetary process in line with the commitments in the programme for Government.

In order to ascertain and assess priorities within the sector, my Department actively engages with carers’ representative groups and hosts an annual carers forum.

Deputy John Brady: At a committee meeting last December, the Minister indicated that in the first half of 2016, there was a 19% increase in applications for carer’s allowance compared with the same period in the previous year. I asked at that meeting what percentage of those applications were refused and I am still awaiting a formal response. Will the Minister provide it now? Statistics showing a high refusal rate for carer’s allowance applications are reflected in the outcome of such appeals at the Social Welfare Tribunal. Indeed, compared with other social welfare payments, the refusal rate for carer’s allowance is notably much higher. Clearly, there are more rigid criteria at play here and I need the Minister to outline that. How much discretion is given to the officials when making decisions on applications? Is the Minister genuinely concerned about the high refusal rates?
Is the Minister concerned that genuine cases may be being turned down? Such cases have been brought to my attention and to the Minister’s attention. Is the Minister concerned about genuine cases that are being refused?

**Deputy Leo Varadkar:** Of course I am concerned about any genuine cases being refused. That is why applicants can request a review and it is why they can also go to the appeals office. Applicants do go to the appeals office and have the decision changed.

What is particularly different about the appeals system in Ireland relative to that in other countries is we allow applicants to introduce new information on appeal which is not the norm in other jurisdictions. Applicants have the opportunity to apply, get a review and appeal. Therefore, there are adequate checks and balances in place to ensure genuine cases are looked after.

Obviously, a person must qualify under the means test. I mentioned to the Deputy earlier that the means test is the least onerous in the social protection system. A person qualifies with an income of nearly €60,000. If that person has been paying PRSI, he or she can qualify for carer’s benefit without any means test at all, and regardless of whether he or she paid PRSI, that person can qualify for the carer’s support grant without any means test.

The second test, beyond the means test, is whether the person requires full-time care and attention, and that is largely a medical assessment. It requires that the person is so incapacitated as to require continuous supervision to avoid a danger to himself or herself, or continuous supervision and frequent assistance throughout the day in connection with normal bodily functions, and that he or she is so incapacitated as to be likely to require full-time care and attention for a period of at least 12 months.

**Deputy John Brady:** The Minister outlined some of the financial criteria. I am glad he outlined some of the medical criteria that are needed. Last week I was made aware of a man who applied for carer’s allowance to look after his wife. There was a letter of refusal from the Department and this has been sent to the Minister. The letter stated his wife, whom he was seeking to become a carer for, was not ill enough. His wife is terminally ill with cancer. She has been fighting cancer for ten years. Her husband, who is a full-time carer, applied for the carer’s allowance and was turned down on the basis that she was not ill enough. That highlights to me, if anything ever did, there is a problem with the criteria being applied here. I ask the Minister again to examine the criteria that are applied in applications for carer’s allowance.

The Minister indicated a 19% increase in applications being submitted. There is a considerable delay in assessing those applications and in appeals being turned around. There are significant problems, but especially around the criteria. I ask the Minister to re-examine the criteria. That is a graphic case and there are many other genuine cases. The Minister stated he was concerned that genuine cases are being turned down. That is one example of many.

**Deputy Leo Varadkar:** I cannot comment on an individual case of which I have no information or prior details, but I would encourage anyone who feels that he or she was assessed unfairly to seek a review or to appeal. That is why we have that system in place.

The Deputy mentioned the delays in processing applications for carer’s allowance. That is something on which I placed a strong focus in recent months and I visited the staff in Longford to talk to them about it. We have seen a significant reduction in the average carer’s allowance application processing time from 22 weeks at the end of May shortly after I took up office to 11 weeks at the end of December, and the carer’s benefit application processing time has now been
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reduced to eight weeks. We have put additional resources into those assessments in Longford and, as a result, the waiting times for those who have applied for carer’s allowance have halved.

Pensions Reform

47. **Deputy Willie O’Dea** asked the Minister for Social Protection if he will clarify recent comments he made in the media to establish a new SSIA-style universal scheme for private sector workers; and if he will make a statement on the matter. [3028/17]

**Deputy Willie O’Dea:** This is as a result of a recent newspaper interview given by the Minister referring to the pressure that what we know as the old age pension system will come under due to the rapidly increasing elderly population. I merely want the Minister to elaborate on his ideas on how to deal with that.

**Deputy Leo Varadkar:** I have made pension reform a priority for my term as Minister for Social Protection. This includes an intention to develop a new supplementary retirement savings system for those workers without adequate savings for retirement.

The rate of supplementary pension coverage in Ireland is estimated at only 35% of the working population when the private sector is considered in isolation. If measures are not taken to ameliorate this low rate of coverage, many future retirees will suffer potentially significant unwanted reductions in their living standards on reaching retirement.

Despite considerable efforts over many years to incentivise voluntary pension participation, the purely voluntary approach is not achieving the desired goal of increasing coverage. Therefore, it is my intention to bring forward proposals for an auto-enrolment retirement savings system. The reform would be consistent with the outcome of the OECD’s 2014 Review of the Irish Pensions System, a key recommendation of which was to increase private pensions coverage through the introduction of a mandatory or quasi-mandatory earnings related system.

Initial consultations have taken place with Irish sectoral interests and international experts in this field. While there is much to learn by looking at the strengths and weaknesses apparent in aspects of other countries’ pension systems, any solution must be tailored to fit the Irish situation. Therefore, as work progresses, I will ensure that extensive efforts are made to build consensus across political, business and civil society lines and to consider the manner in which such a system would be best delivered.

**Deputy Willie O’Dea:** What the Minister is talking about is an auto-enrolment scheme where one will be opted in and one can opt out if one wishes. The Minister’s calculation is that, if he starts at 1% extra per annum, it would eventually rise to 6% per annum to be matched by employers and the State. Is he talking about a situation where, ultimately, when this is in place, there will be 6% extra on the individual, 6% on the employer and 6% extra on the State to provide a pension of approximately half the average wage? That was as I understood the interview.

This would be a supplement to the old age pension. Does the Minister envisage that we will not be able to continue increasing old age pensions at their present rate, and possibly even have to reduce them, but that this will be some form of supplementary income to compensate for that?

**Deputy Leo Varadkar:** The reason I have held back on too much detail in this area is be-
cause the detail has yet to be worked out and anything that is done, as we will be aware from experience in other countries, needs to be done with a degree of political consensus. It is one of the issues that I hope the new labour-employer forum will consider this year. Indeed, the Government will ask it to do that. It is something we want to develop with agreement, if possible, from unions and employers.

My view on the State pension is that it should remain the bedrock of the pension system. It is the mechanism by which we have 98% avoidance of pensioner poverty in this country. That is why I expressed the view, previously and in that interview, that I believe the State pension should increase every year at the very least in line with the cost of living. What I am saying clearly is that any new system brought in should be supplementary and on top of the State pension.

We do not yet have exact figures but if a person wanted an occupational pension that delivered roughly half his or her salary at retirement, the kind of figure that would need to be put in is roughly between 15% and 18%. That is the kind of sum workers have to put into their pensions to get the kind of return they would like, but of course that includes the tax relief from the State and, therefore, it is really approximately half of that.

**Deputy Willie O’Dea:** Does the Minister intend to start putting this system in place in time for the next budget and what sort of timescale does he envisage to have it completely in place? I accept this depends on political consensus and various other issues, but the Minister must have some sort of a timescale in mind. Does he intend to start at the next budget?

**Deputy Leo Varadkar:** On the timescale, based on other countries that have done this, such as the United Kingdom, New Zealand and Australia, people must be given a number of years’ notice that this will happen because employers have to factor it into their business plans. As wage demands are being made, for example, these matters must be factored in. What they did in Australia, for example, instead of getting a 3% or 4% pay rise every year, was to provide one percentage point of that 3% or 4% towards the pension system. Nobody was ever worse off in a year but instead of taking the full 3% or 4% pay increase, 1% of it went into the pension fund. That is the type of thing I envisage. Based on what other countries have done, it takes three to four years before the first set of accounts is opened and it takes approximately ten years to phase in and phase up the contributions. The UK did not bring everybody in on year one. It took in different sectors one by one. These are the types of issues that must be worked out and agreed, if possible.

I am convinced it must be done. I am anxious to ensure that nobody suffers poverty in retirement and that everybody, particularly in the private sector, at least has the opportunity to retire on a pension that is roughly equivalent to half his or her salary, just like people in the public service can at present.

**Local Employment Service**

48. **Deputy John Brady** asked the Minister for Social Protection the reason for the reduction in referrals to the local employment services; and if he will make a statement on the matter. [3061/17]

**Deputy John Brady:** In the space of a year the Minister has reduced referrals to the local
employment services by 10,454. People working within the local employment services across the State are asking the Minister to explain the reason he hugely slashed referrals to those excellent services.

**Deputy Leo Varadkar:** The Department has contracted with 22 local employment service providers for 2017, the same number as in 2016, and funding for the provision of the service has also been maintained for 2017 at the 2016 level of €20 million. We have not cut the budget for local employment services.

Local employment services form part of the State’s public employment service. This service is managed by the Department of Social Protection and delivered directly by its own Intreo service as well as by contractors, such as JobPath, the local employment service, LES, and job club providers.

Both Intreo and contractor staff provide unemployed jobseekers with advice and assistance to identify, pursue and secure employment.

Prior to the introduction of Intreo, my Department had approximately 300 case officers, including contracted LES staff, to serve more than 460,000 people on the live register. This was equivalent to a caseload of over 1,500 jobseekers per case officer as against an international best practice benchmark of 200:1.

In developing the Intreo service and introducing JobPath, the total number of case officers has increased to approximately 1,200. Combined with the welcome reduction in the number of people on the live register - from a peak of over 460,000 in July 2012 to about 275,000 today, with a reduction last year alone of just under 45,000 - the average caseload today is approximately 230:1.

The reduction in unemployment has also allowed the Department to increase the quality of case officer support to people who face the most difficult challenges in finding employment. These jobseekers are typically long-term unemployed and are dealt with either by the local employment services or by JobPath. In line with international norms, the Department is seeking to maintain the caseload for this cohort at no more than 125 clients per officer. In order to achieve this level of case officer support, the Department has reduced the number of people referred to local employment services but has asked the providers to increase the time they allocate to work with each jobseeker. This should result in reduced pressure on the local employment services and an improved level of service for clients.

**Deputy John Brady:** In 2015, the LES saw 30,321 referrals. In 2016, it saw 19,867 referrals. Every county in the State, with one exception, experienced a reduction in referrals in the space of a year. People working in the LES are deeply concerned about the Minister’s intentions for the LES and its sustainability into the future. If reductions continue at this scale, it will call into question the viability of the LES across the State. They are not my views or concerns, although I share the concerns, but the views and concerns of LES officers. The Minister said the reason for cutting the number of referrals is to provide a more intensive service to clients. That is like cutting an employee’s hours from 40 to 15 hours and telling them it is to make them work a little harder and to be more productive. However, the Minister is doing nobody in the LES any favours whatsoever, nor is he giving any benefits to people who are referred to the services. What consultation has the Minister carried out with employment services throughout the State? I do not believe there has been any. I have spoken to LES officers and there has been no
consultation with them. What consultation took place before the cut in the number of referrals?

Deputy Leo Varadkar: This is not rocket science. The number of people who are unemployed has gone down by half. Unemployment was 15% and it is now approximately 7%, so of course the number of referrals has reduced. That is simple mathematics. There is half the number of unemployed people so obviously the number of referrals has gone down. As unemployment continues to fall, the number of referrals will continue to fall. However, we have not reduced the budget for the LES or reduced the number of case officers. The reason is that we want those who are still unemployed to get far more time and individual attention than they received previously. Moreover, they need it because the people who are still unemployed are those who are most distant from the labour market and require far more one-to-one attention. That is what we want from the local employment services. We want them to have a smaller caseload and the case officers to have fewer people on their books but to work with them longer and harder, because they are the people who need the extra support.

Deputy John Brady: It is certainly not rocket science and I do not take the Minister’s condescending remark lightly. However, it is interesting to see the emergence of the privatisation of this area. At the same time as the Minister has been cutting referrals to the LES across the State, more than 60,000 people have been referred to private entities in JobPath. Is the real reason behind the huge cuts in referrals to provide a private service instead of the local employment service, which has been doing exceptional work? In the Pathways to Work 2016-2020 strategy the Minister committed to undertake a review of the LES to assess the services’ performance and value for money by the end of 2016. Where is that review? I have not seen it. If a review has been carried out, and I seriously doubt it, has that fed into the Minister’s decision making or is this just an ideological position essentially to privatise this service? The latter point is the crux of this question. Where is the review and will the Minister publish its findings?

Deputy Leo Varadkar: I apologise if the Deputy feels that I was condescending in some way. However, when one is talking about cuts in this area one is talking about a particular type of cut - the number of unemployed people being referred for support.

Deputy John Brady: Then referred to a private entity.

Deputy Leo Varadkar: If the number of people who are unemployed in a country halves, obviously there will be fewer referrals.

Deputy John Brady: There have been no cuts to JobPath.

Deputy Leo Varadkar: Every time we have questions the Deputy cannot handle the answers. Of course, when unemployment is down by half there will be fewer referrals. Would the Deputy like us to refer the same people twice or to start referring people who are not unemployed? What is the Deputy seriously suggesting?

With regard to the review, it is not ready for publication. It will be published when it is ready. One of the most interesting statistics from it, which the Deputy will see when it is published, is a comparison of the performance of the different local employment services in terms of the results they get. There is huge variation in that. Some local employment services get excellent results with 49% and 50% of people being placed in employment, while some do quite poorly with as low as 14% in some cases. That will be very useful in determining policy in the future.
Deputy Bernard J. Durkan asked the Minister for Social Protection the extent to which he proposes to put in place incentives to reduce youth and long-term unemployment; the extent to which existing schemes require upgrading in line with requirements; and if he will make a statement on the matter. [2761/17]

Deputy Bernard J. Durkan: The purpose of this question is to highlight the situation with long-term and youth unemployment, the extent to which progress has been made and the extent to which it is necessary to continue to ensure that the needs of the long-term and young unemployed are pursued.

Deputy Leo Varadkar: The Government’s primary strategy to tackle unemployment, including long-term unemployment and youth unemployment, is twofold. The Action Plan for Jobs supports continuing strong economic recovery and employment growth. Policies and actions to ensure unemployed people benefit from the increase in employment are set out in the strategy paper Pathways to Work 2016-2020. These policies have been effective in reducing both youth and long-term unemployment.

Youth unemployment is generally higher than adult unemployment in all EU member states because, at any time, a large number of young people are recent leavers from education and seeking a first job. However, the most recent data show Irish youth unemployment has fallen from a peak of 31.1% in 2012 to 14.5% in December 2016. Irish youth unemployment has thus fallen from well above the EU average in 2012 to below the current EU figure of 18.8%. Over the same period, the rate of long-term unemployment has fallen from a peak of 9.5% to 4.2%. Both figures can be expected to fall further this year in line with the forecast fall in overall unemployment.

Policy continues to focus on support for the long-term unemployed and young unemployed. For example, the Pathways to Work 2016-2020 strategy prioritises long-term unemployed people. It does this most notably through the roll-out of JobPath to engage more systematically with this group, targeted wage subsidies under JobsPlus and reserved places for long-term unemployed jobseekers on employment and training programmes. Under the Youth Guarantee there is monthly engagement by case officers with unemployed young people to assist them to prepare and implement personal progression plans for employment. Where young people do not find work quickly, additional supports are offered through places on employment and training schemes. I am confident these current and planned measures will support further reductions in long-term unemployment and youth unemployment.

Deputy Bernard J. Durkan: I thank the Minister for his reply. To what degree has any examination been carried out as to the underlying causes of long-term youth unemployment? To what extent have the qualifications of the young people on the live register been examined with a view to ascertaining how best to ensure people in the category have the best possible
chance of achieving employment at the earliest opportunity? To what degree are long-term unemployed people in the early 60s age bracket of particular concern?

Deputy Leo Varadkar: In our employment activation services, we try as much as possible to treat people as individuals rather than as part of a demographic group, whether old or young. Everybody is assessed and a probability of exit from unemployment, PEX, score is calculated, which indicates the probability of their finding employment without assistance. The focus is put on those who would find it most difficult to find employment. While one can put people into demographic groups and make assumptions based on it, experience has shown the best way to assist people from welfare into employment is to assess them individually, regardless of their age, see what their needs and education levels are, and work with them from there.

Deputy Bernard J. Durkan: I again thank the Minister for his reply. I welcome the individual, one-to-one assessment, which can personalise the attention given to the unemployed person, whether they are young or older. One of the experiences that has shown up over the years is that people in the early 60s age bracket seem to have different requirements from others in the sense that they may have been out of work for a long time and may have developed health issues in the interim. To what extent can their particular situation be catered for, given that they may have been out of work for a long time and may not be in the best of health?

Deputy Leo Varadkar: We have a particular concern with people who are unemployed in their 60s. Again, everybody’s individual story is different. Somebody may have been working for decades and may have been made redundant in his or her 60s. Another person may be in his or her 60s and may not have worked for decades. This is a very different person, and that is why it is important to assess people individually. In some cases, people are not able to work due to health issues and it is more appropriate for them to apply for an alternative payment such as an illness payment or a disability payment. The proportion of people in receipt of illness and disability payments rises through the 40s, 50s and 60s. If they are able to work and do not have a disability, they are considered to be jobseekers.

Family Income Supplement Eligibility

51. Deputy Richard Boyd Barrett asked the Minister for Social Protection if he will ensure people on zero-hour contracts who some weeks work the required 19 hours per week to qualify for family income supplement, FIS, are granted FIS for those weeks; and if he will make a statement on the matter. [2772/17]

Deputy Richard Boyd Barrett: We have an unacceptably high level of low-paid workers, the second highest in the OECD. That is bad enough. The Minister’s failure to do anything about low-hour contracts compounds it. What makes it even worse is that people who are on low-hour contracts and might be entitled to FIS often cannot get it, given that employers will not fill out the Part 8 form. The lone parents group, Single Parents Acting for the Rights of Kids, SPARK, has asked the Minister to get rid of the form and allow for other ways for workers on low-hour contracts to prove they were working and fit the criteria for FIS payments. I am asking the Minister again.

Deputy Leo Varadkar: FIS is an in-work support which provides an income top-up for employees on low earnings who have children. FIS is designed to prevent in-work poverty for low-paid workers with child dependants and to offer a financial incentive to take up employ-
In excess of 57,000 families with more than 127,000 children are in receipt of FIS. The estimated spend on FIS this year is approximately €422 million. To qualify for FIS, a person must be engaged in insurable employment which is expected to last for at least three months and be working for a minimum of 38 hours per fortnight or 19 hours per week. Any combination that reaches 38 hours over a fortnight is acceptable. A couple may combine their hours of employment to meet the qualification criteria. The applicant must also have at least one qualified child who normally resides with or is supported by him or her. The average family income must be below a specified amount, which varies according to the number of qualified children in the family.

For low income workers with less than the minimum hours of employment for FIS and working on a casual basis up to and including three days per week, the jobseeker’s allowance scheme provides in-work income support through daily disregards and tapered withdrawal of payments. Individuals on jobseeker’s benefit can also work up to three days per week. For each day they work, there is a proportionate reduction in their jobseeker’s benefit payment.

If a person cannot meet the 19 hours FIS threshold or if his or her hours vary significantly from week to week, the Department offers a number of other schemes that can provide income support that can be combined with earnings from employment, subject to each individual’s circumstances. These can include disability allowance, carer’s allowance, the one-parent family payment, jobseeker’s transitional payment and the part-time job incentive scheme. Combined, the Department provides an extensive system of social welfare support which facilitates recipients taking up some employment while maintaining their social welfare payments.

Deputy Richard Boyd Barrett: The Minister’s answer does not address the issue I raised. As SPARK made clear to the Minister at the meeting of the Oireachtas Joint Committee on Social Protection, many employers of employees on low-hour contracts will not sign these forms. People have come to my clinic to make the same point. The forms require employers to indicate that somebody works a minimum of 19 hours per week. Low-hour contract employers should be banned. However, given that the Minister will not ban them, they will not fill in a form in which they commit to employing people for 19 hours per week. Consequently, people who are entitled to FIS and who desperately need it given that they are on low-hour contracts and on low pay, cannot get FIS. The Minister needs to do away with the Part 8 form and allow for another mechanism by which these workers can demonstrate that they fit the criteria of working the hours required.

The three-month rule is a problem. Given the precarious nature of their employment, many of these workers will not necessarily fit into the rule. The jobseeker’s allowance payment available to people who work three days does nothing for workers on low-hour contracts who work four or five days but might work only four hours per day. They cannot get jobseeker’s allowance and, if their employers will not fill out the form, they cannot get FIS. The problem must be addressed for the sake of low-paid workers, many of them women, who need income support.

Deputy Leo Varadkar: I was not aware the Deputy was going to raise a particular issue around the Part 8 form and it was not in his original question. Accordingly, I am not in a position to answer directly today. However, we are obviously going to need some sort of mechanism to find out how many hours somebody worked. That is the basis to the payment. The Deputy suggested we replace the Part 8 form. With what does he suggest we replace it? We need some mechanism to find out how many hours someone worked and what he or she earned.
I got agreement at Cabinet today on beginning the public consultation for the new working family payment. As the Deputy knows, the programme for Government commits to the introduction of a working family payment to reduce child poverty and ensure families are not better off on welfare than in work. There are several ways in which we support working families with the cost of living such as child benefit, the increase for the dependent child and, of course, family income supplement, FIS. There is also the development of this new payment, which could be an additional payment to these or one to replace all of these, and is an opportunity to reform the whole system.

We need to have that information, however. I do not believe getting rid of the form would assist us in getting the information we are not getting.

**Deputy Richard Boyd Barrett:** It would. If employers are not willing to fill it out, then people entitled to the payment are not able to get it. There are other ways in which employees could prove entitlement, such as the use of payslips and so on, which would allow them to demonstrate they have been working. There is a three-month or more requirement. The Minister could have the option for it to be weekly, fortnightly or monthly assessed, where employers might be more willing. For example, an employer could state the person worked for a week for the required 19 hours or for the required hours in a month, because they might be reluctant to commit themselves for the year. Of course, that is a separate issue as employers should not have people on these low-hour precarious contracts.

Given the Minister has not banned these practices, there should be some mechanism which allows employees to prove in another way that they fit the criteria. Alternatively, we could change the assessment to allow it to be done on a weekly, fortnightly or monthly basis, where the employer might be more willing to sign the form stating this person worked the required hours over a period.

**Deputy Leo Varadkar:** I will certainly take that into consideration as part of any changes we are going to make. Like I said, however, I am not entirely clear as to why an employer would refuse to fill out this form. Expenditure on FIS in 2000 was €39 million. It went up to €186 million in 2010 and will probably hit €413 million in 2016. This has been a significant expansion in the number of families in receipt of FIS. My concern is the reverse, namely, that employers know FIS exists and believe they can get away with paying less than they should because the social protection system will top it up. It seems to be strange, therefore, that employers would refuse to sign this form.

**Deputy Richard Boyd Barrett:** That abuse goes on.

**Deputy Willie Penrose:** That is a big issue and that abuse needs to be stamped out.

**State Pension (Contributory)**

52. **Deputy Bernard J. Durkan** asked the Minister for Social Protection the extent to which progress has been made in addressing the issue whereby women, for one reason or another, are deprived of contributory pensions having retired from the workplace while raising their families or due to the marriage ban and who have made a major contribution to society in the course of their working lives; if their cases will be re-examined with a view to crediting them with sufficient contributions to enable them qualify for State or retirement pension; and if
he will make a statement on the matter. [2763/17]

53. Deputy Martin Heydon asked the Minister for Social Protection his plans to address pension reform in 2017 and, specifically, the way this might impact on many women who having left the workforce to raise families only qualify for reduced State contributory pensions; and if he will make a statement on the matter. [2778/17]

Deputy Bernard J. Durkan: My question, as does my colleague’s, relates to those women who, for one reason or other, had to leave the workforce either to raise a family or because of the marriage ban. As a result, they find themselves in a position of qualifying for a lower amount of a pension or, in some cases, no pension at all. It might be said their spouses might qualify but that is not the issue. There is also the other related issue whereby in the case of partners in a household, whether they be small shopkeepers, small business owners, small farmers or whatever, only one partner qualifies for a pension.

Deputy Martin Heydon: I have raised the issue with the Minister and his predecessor on several occasions in the past about contributions to the State contributory pension and how it has impacted out, particularly the whole area of averaging. I know the Department is undertaking a review of this. It has had an impact on women who worked in the home, were self-employed, were affected by the marriage ban or spent time raising families. I have some examples to give to the Minister after his initial response.

Deputy Leo Varadkar: I propose to take Questions Nos. 52 and 53 together.

The State pension is a valuable benefit and is the bedrock of the pension system. There are two State pensions. First, the State pension non-contributory is a means-tested pension funded from taxation. Second, the State pension contributory, which is not means-tested, is paid from the Social Insurance Fund. Accordingly, it is important to ensure those qualifying have made a sustained contribution to the Social Insurance Fund over their working lives. To ensure that the individual can maximise their entitlement to a State pension, all contributions, paid or credited, over their working life from when they first enter insurable employment until pension age are taken into account when assessing their entitlement and the level of that entitlement.

The homemaker’s scheme makes qualification for a higher rate of State pension (contributory) easier for those who take time out of the workforce for caring duties. The scheme, which was introduced in and took effect for periods from 1994, allows up to 20 years spent caring for children under 12 years of age, or caring for incapacitated people over that age, to be disregarded when a person’s social insurance record is being averaged for pension purposes, subject to the standard qualifying conditions for State pension (contributory) also being satisfied. This has the effect of increasing the yearly average of the pensioner, which is used to set the rate of his or her pension.

The marriage bar describes a rule that existed in most of the public service, and some private sector employments, where women were required to leave their employment upon marriage. It never applied to self-employment and the practice was abolished in 1973 when Ireland joined the EEC. As it was a rule rather than law, married women could either return to work or take up other work, and many did. It is worth remembering that public servants recruited prior to 1995 paid and still pay a reduced PRSI rate of 0.9% with no contribution from the employer. Accordingly, they are not entitled to the State pension, regardless of gender and marital status. In these cases of public servants recruited prior to 1995, had they not got married, they still would not
be entitled to a State pension. This also applies to men. In such cases, therefore, the marriage bar would not generally have impacted on State pension entitlement, as they would not have qualified for that payment had they remained in public sector employment. Instead, by impacting upon their continuing public service employment, the marriage bar’s pension implications, where they exist, more generally relate to a person’s eventual entitlement to a public service pension. Any questions regarding this issue are a matter for the Minister for Public Expenditure and Reform.

Where someone does not qualify for a full rate contributory pension, they may qualify for an alternative payment. If their spouse has a contributory pension, they may qualify for an increase for a qualified adult, amounting up to 90% of a full rate pension. Alternatively, they may qualify for a means-tested State pension non-contributory, which amounts up to 95% of the maximum contributory rate.

I have confirmed my intention to develop, publish and commence the implementation of an action plan for the reform of pensions. This action plan will include a roadmap for the reform of the State pension. It is planned that a total contributions approach will replace the yearly average approach from around 2020. The position of homemakers will be carefully considered in the context of that reform.

Deputy Bernard J. Durkan: I thank the Minister for his reply. There are several issues which slipped through the net but which we have discussed in the past. There is a question about the methodology of the calculation of an entitlement to a contributory pension. It is meant to be over the years within which a person worked, starting from the beginning to the conclusion. Take the case of people who may have worked for five years at the beginning of their working life, took a gap of 15 years and went back to work afterwards. Often, they may have actually worked longer than some of those who qualify for a full pension. However, by virtue of the methodology in the calculation, they find themselves having a reduced pension or, in some cases, a very much reduced pension, depending on the extent to which they have had contributions.

Another issue relates to the business sector. Take the case of a shopkeeper. Under the 1998 Act, the shopkeeper would have been eligible to make contributions and entitlement would have followed to a contributory pension. However, the partner in the business, say the spouse, in many cases is refused on the basis that he or she could not prove a partnership.

5 o’clock

There are two categories that need to be looked at very carefully.

The final point relates to the marriage bar. We know the situation in respect of people affected by the latter. It should be noted that many of those public servants got refunds of contributions when they married and withdrew from the public service and that this ended their entitlement to anything.

Deputy Martin Heydon: I will give the example of a constituent who started working in 1966 and has an average of 25 contributions, which means she is on a reduced rate of €196 per week. She was self-employed for a number of years which means she does not have the maximum contributions and believes this is unfair in view of the fact that others who did not work for as long are in receipt of pensions at a higher rate. I will touch on a point that was made previously. One can argue that she was disadvantaged in a way that is true for many cases with
which I deal. Somebody who worked for a couple of years early in life and then went on to raise a family would probably have ended up much better off if those first three or four years had not been worked because the average would have only been based on the time after the family was reared and the person went into employment. Those first few years, in the cases I have come across, tended to involve quite low-paying jobs but the person went out at 17, 18, 19 or 20 to get into the workforce and it ended up costing them a great deal in terms of their pensions. That makes averaging a particularly harsh and unfair mechanism.

I will look at some elements. Farming families are impacted upon here, as are small businesses. There are examples that show there is a need for change. We are mindful that whatever change is made, the knock-on impact on other pension holders has to be considered as well.

Deputy Leo Varadkar: There are a couple of points. If someone was a partner in a business, it should be easy enough to establish whether that person paid PRSI. If an individual did not pay PRSI, he or she is not entitled to a contributory pension. People do not get contributory pensions unless they pay PRSI. That is how a contributory pension works. It should be easy enough to establish their record if they paid PRSI. We have very good records in that regard. Once one has been paying PRSI for ten years, one is entitled to a contributory pension. If one did not pay, one is not entitled.

On the issue of the marriage bar, any public servant, male or female, recruited before 1995 is not entitled to a contributory State pension. Whether they are male, female, married or single, they are not entitled to it. A person might be entitled to a pension from the Department of Education and Skills - if he or she was a teacher or - the HSE or the Civil Service. However, a public servant recruited before 1995 is not entitled to a contributory State pension, whether they are a man or woman, married or single. The system was totally different then. They did not pay PRSI at the full rate. Therefore, they are not entitled to a contributory State pension.

Most contributory pensions work over a period of 40 years. If one worked two years, one gets two fortieths; if one worked ten years, one gets ten fortieths; and if one worked 40 years, one gets the full pension. The contributory State pension is very odd. One can get a full State pension after ten years, if one worked the right ten years, which is too little time. That is one anomaly. Conversely, one can lose out very badly if one started working very young, worked for a number of years and then had a big gap before going back to work again for a number of years. One might, having worked 20 years, get a lower pension than somebody who worked ten. Those are two anomalies and we will have to address them at the same time. One group will lose and another will win. I need to present the detail of those proposals to the House before we agree to implement them.

Deputy Bernard J. Durkan: The Minister clearly understands the implication of the situation and the complicated issues that are involved. We are trying to encourage him to change the system to accommodate the people to whom we refer. In the case of the employment, it is not as easy to establish the existence of a partnership as it was. At the beginning of the downturn in the economy, changes were made that mean it is virtually impossible to establish it even though both partners worked in the business. It should have been taken into account - and previously was taken into account - in the determination of an individual pension for each partner on the basis that there was a partnership. The problem was to prove that the partnership existed. With regard to those women who do not qualify for a pension at all, it can be said that the non-contributory pension is available. However, if the spouse qualifies for a pension, there is the old story that the household resources are not distributed evenly in every household. We
need to keep account of that.

**Deputy Martin Heydon:** I thank the Minister for his detailed response. I will come back on one point. The current system of credits was not in place when decisions were being made. Some of these individuals did not have the option look after their pension entitlements in the same way people can do now. I am not sure if the Minister’s Department has looked at costings around retrospectively giving back credits to deal with some of the people caught by this anomaly. Does he have any idea what the cost for such a move would be?

**Deputy Leo Varadkar:** We have various possible costings and projections but I would have to know exactly which anomaly the Deputy is referring to because there are a number of things that people describe as anomalies in the pension system. With regard to partnerships, unless I misunderstand Deputy Durkan, it is not a case of proving whether a partnership existed, it is a question of proving that somebody made PRSI contributions. Since PRSI was introduced 30 or 40 years ago, people have had to make contributions in order to get contributory pensions. If one did not make PRSI contributions, one does not get a contributory pension. That is the way it has always worked. PRSI is paid into the social insurance fund and out of that comes the State contributory pension. The test is whether a person can establish that he or she made PRSI contributions. If a person was not making PRSI contributions and was not paying tax, it is difficult to see how that individual would be entitled to a contributory pension. Such a person might be entitled to apply for a non-contributory State pension but a means test would apply.

## Community Employment Schemes Eligibility

54. **Deputy Brendan Griffin** asked the Minister for Social Protection the position regarding reforming the community employment scheme qualification criteria; and if he will make a statement on the matter. [2579/17]

**Deputy Brendan Griffin:** This question is about eligibility for community employment, CE, schemes. Something that has been brought to my attention in my constituency is that the eligibility criteria are far too restrictive for those who want to participate on such schemes. I have raised this matter with the Minister previously. He has been working on it, so I am seeking an update on the progress that has been made on broadening the criteria to allow more people to participate. This is a product of the good news that more people are returning to full-time employment. It is becoming more challenging to get people into schemes. CE schemes have a huge societal impact. They also have a very positive impact on the labour activation side. We would be very grateful if the Minister could update us on the position.

**Deputy Leo Varadkar:** As the Deputy is aware, community employment, CE, aims to help long-term unemployed people to re-enter the workforce by breaking their cycle of unemployment through a return to a regular work routine. To this end, CE also provides training and development to participants. I am very conscious of the valuable role that CE schemes play in the provision of services to individuals and communities across the county. The current eligibility criteria for the programme have been expanded and changed over the years and are designed to ensure the maximum availability and utilisation of places. The basic eligibility requirement is that a person is currently in receipt of a CE-qualifying payment from my Department for the requisite period. Recent changes to the eligibility criteria for CE include the reduction in the entry age for participants working directly with service users in the child care and social health care sectors to 21 years of age. The standard minimum entry age for CE is 25. The eligibility
criteria for participants aged 62 and over have been eased in terms of the maximum duration they can remain on the programme.

With the ongoing welcome reductions in the number of people unemployed, the Deputy will understand that issues such as the appropriate level of expenditure, the number of places and the criteria for participation on employment schemes all need to be considered and reviewed given the changes in the economy. I hope to bring a memorandum to Government on these matters in the coming weeks. If changes are agreed, consultations with stakeholders will be facilitated before their introduction.

Deputy Brendan Griffin: I thank the Minister and welcome his work on this. I appreciate that he is trying to address the matter. I suggest that further to the changes that have already been made, which are welcome, we look at the 2,000 rule and change it to allow more people back in, such as those who have previously benefited from the CE scheme. It should not be held against them. If that could be changed, it would be a very progressive move.

Universal eligibility at 21 would be another progressive measure. It would help participants on the CE schemes and also the communities that benefit from the work of those participants. The issue of having to be unemployed for 12 months is regrettable and six months or perhaps even three months is an appropriate amount of time for someone to gain eligibility. The issue of spousal swaps could also be looked at and there could be additional financial rewards for individuals for whom there is not enough financial incentive at present, for example, lone parents.

All of these issues could be looked at, given it would benefit everybody involved - the State, the communities which are served by the community employment schemes and, of course, the individuals who are participating. I have yet to meet a person who has participated in a scheme who has not benefitted from it. The benefits of community employment are very understated. I appreciate the work of the Minister to date. It would be very helpful if we could address those measures.

Deputy Leo Varadkar: I thank Deputy Griffin for raising this question at what is a very timely moment. What we have seen in recent years is a big expansion in the number of schemes. In addition to the extra CE schemes, Tús was added, Gateway was added on to that, JobBridge was added on to that and we now have JobPath as well. At the same time, we have seen a massive reduction in unemployment, which means many schemes, programmes and services are having difficulty filling vacancies, largely because of the mismatch that now exists between the number of placements and the number of people who are unemployed.

My officials are looking at some of the rules to see which ones can be relaxed. I hope to be able to bring proposals in that regard to the Cabinet sub-committee in the next couple of weeks for approval by Cabinet. I believe we need to be dynamic and to react and respond to changing economic conditions, so the rules should change depending on the economic conditions we face.

Deputy Willie Penrose: I am glad to hear the Minister is reviewing this. Due to the welcome drop in unemployment, which was outlined earlier, the current eligibility criteria for participating in the schemes are overly restrictive and, indeed, threaten the future of many of those schemes across rural communities. Many schemes are wobbling all over the place. At one time, notices looking for people would go up and would be taken down within a week, but they are now up for over three or four months. Deputy Griffin is right that those who participate in a
scheme, for the most part gain invaluable experience that allows many to transfer on to gainful employment. The schemes are also very important as a rehabilitative measure for many in the community.

**Deputy Leo Varadkar:** Deputy Penrose is correct. I am particularly looking out for schemes that provide important services locally, for example, cutting the grass in clubs and meals on wheels and in other areas where I do not want to see service provision damaged. I encourage supervisors to consider people who are harder to reach or who find it hard to take part in these schemes. Very good and qualified people were often available during the recession but they are no longer available as they have gone back to work. It now falls on CE scheme supervisors and others to make a greater effort to encourage people who are very long-term unemployed, those with mental health issues and those with disabilities in order to try to get them on the schemes. I know they are harder to work with but they are the ones who need the help the most.

It was mentioned that the additional payment is very small, which I acknowledge. In addition, the cost of travelling to and from the scheme, particularly in rural areas, can be very significant. I am not in a position to increase that this year but it is something I will certainly consider for the next budget.

**Deputy Brendan Griffin:** I thank the Minister and Deputy Penrose for their comments. Every Deputy will be aware of the positives and the huge benefits in this regard. I appreciate the Minister’s acknowledgement of the changes that have taken place in the economy. Thankfully, it has changed for the good but the schemes need to adapt and change as well. It would be an awful shame if the very positive work that has been done in recent years in building up schemes throughout the country that have given service and help to so many people was to falter due to a lack of supply of personnel. It is a challenge to strike a balance between having enough people to participate in the schemes and having an effective labour activation measure in place through the schemes. I welcome the Minister’s work to date and, hopefully, we will see progress.

**Social Welfare Benefits Eligibility**

55. **Deputy Willie Penrose** asked the Minister for Social Protection his proposals to extend more social insurance cover to self-employed persons including a form of jobseeker’s benefit where a person’s business fails or they can no longer continue working in their profession or trade; and when it will be implemented. [2756/17]

62. **Deputy Tony McLoughlin** asked the Minister for Social Protection the action he has taken to date to support self-employed persons here; the plans in place to extend benefits to this sector; and if he will make a statement on the matter. [2738/17]

**Deputy Willie Penrose:** I ask the Minister to outline his objectives and the policy he will pursue to try to achieve a just and equitable resolution for the self-employed in the application of the social welfare system, given the fact there are over 300,000 self-employed people across the country. They act as employers as well as employees at various times and provide vital employment but they have been omitted from the benefits of social welfare provision up to this point in time.

**Deputy Leo Varadkar:** I propose to take Questions Nos. 55 and 62 together.
The Government is committed to encouraging self-employment and entrepreneurship. This includes enhancing the position of the self-employed through a supportive tax regime and, very importantly, improving the level of PRSI-based benefits available to self-employed people. This has been one of my key priorities since becoming Minister in this Department.

On budget day I was pleased to announce important measures which will directly benefit the self-employed. From March 2017, the self-employed will have access to the treatment benefit scheme, which includes free eye and dental examinations, and contributions towards the cost of hearing aids. Treatment benefit entitlements will also be extended from October 2017 to provide further dental and optical benefits. More significantly, self-employed contributors will be eligible to apply for the invalidity pension from December 2017. For the first time, this will give the self-employed access to the safety net of State income supports if they become permanently incapable of work as a result of an illness or disability, without having to go through a means test. This is a real advance in the level of cover available to the self-employed.

I plan to continue extending cover for the self-employed to other benefits on a phased basis in future budgets. Throughout 2017 my Department will examine the extension of social insurance to cover other risks and contingencies, including, crucially, developing proposals on a form of jobseeker’s benefit where a person’s business fails or where they can no longer continue working in their profession or trade. I look forward to making further improvements in the years ahead.

Deputy Willie Penrose: Self-employed people have acknowledged that the Minister is making inroads and some significant improvements, which are very welcome. To have invalidity pension coming in from December and the extension of ancillary benefits, such as dental and optical benefits, coming in from March is very welcome. However, the two big bugbears for the self-employed are in regard to illness benefit and jobseeker’s benefit. Basically, the social welfare system tells them to pay their class S contributions but they must never get ill or become unemployed, which is incongruous to say the least.

The self-employed are working from when they get out of bed until they go to bed at night. They are great people who keep this country going. They are also tax collectors but they get no benefit from that, although they have to pay accountants and everybody else. Nobody does more, and nobody did more during the recession, to keep this country going than the self-employed. However, nobody was more disdainfully treated within the social welfare system than the self-employed. They were treated like beggars in their first encounter with the social welfare system, when they were asked to account for their income for the last year — like being asked where was the snow that came last January — it was a nonsense. The former Minister, Deputy Burton, eventually changed that. I was very angry about it as I come from a self-employed background myself. There is nothing in it for people except to keep paying and keep complying, but get nothing.

Illness benefit and jobseeker’s benefit are critical in order to deal with the issue of the self-employed. These people actually get ill more often than anybody else because of the nature of the work they are exposed to.

Deputy Tony McLoughlin: I want to support my colleague and I am sure every Member of the House is concerned in respect of the self-employed. I have many in my constituency who are very concerned and I have highlighted this issue to the Minister previously. It is important people are recognised for the work they are doing on the ground. These people tell me they are
paying a stamp but they are getting no benefits as a result. I know the Minister is in the process of reviewing this to make it acceptable to self-employed people. I think that-----

**An Leas-Cheann Comhairle:** I thank the Deputy. I am trying to accommodate all Deputies because others may ask supplementary questions. I call Deputies Brady and Willie O’Dea.

**Deputy John Brady:** I have a supplementary question. When the Minister came before the Committee on Social Protection last December, I asked whether discussions had started with the opticians and dentists. He said he was starting that process. Perhaps he will take this opportunity to outline how these discussions are going, whether he thinks the deadline of March is achievable and whether there are any foreseen difficulties with either sector. I imagine discussions are well advanced with both sectors at this stage.

**Deputy Willie O’Dea:** I ask the Minister for clarification. I know the advisory committee on extending benefits to the self-employed recommended that they be extended in cases of illness but not where the business simply fails and that a self-employed person should be entitled to jobseeker’s benefit. Did I hear the Minister say he intends to extend benefits in both directions? Businesses can fail because somebody gets ill but they can also fail because they can fail. We are trying to encourage people to go into business. This means there should be some sort of a social protection underpinning guaranteed income for them if the business fails. Does he intend to extend this beyond illness benefit to jobseeker’s benefit?

**Deputy Leo Varadkar:** I thank the Deputies for raising the important issue of the self-employed. This is a real priority for me, having been self-employed myself. My dad and my grandad were too. I always said if I was ever in this position, I would try to do something about it. Sometimes, though, self-employed people are unaware of what they are entitled to. I hear self-employed people all the time saying they pay class S PRSI and get nothing. To put on the record what self-employed people do get, they get the contributory State pension, in addition to any other pensions they may have, with no means test. If one had to raise that money oneself, one would need a pension fund of €350,000. They also get maternity benefit and, since last September, paternity benefit. If they die before they retire, the widow, widower or survivor gets a non-means-tested pension too. Therefore, they already get quite a lot. I am adding to this the treatment benefits and long-term illness benefits, which is the invalidity pension this year. That only leaves two payments, namely, short-term illness benefit and jobseeker’s benefit, and we need to do a bit of work on them, quite frankly. It is very straightforward when an employee loses his or her job, he or she gets a P45. It is less clear when this happens in the case of somebody who is self-employed. Similarly, when it comes to illness, when one is paid on an hourly basis, it is pretty easy to work out these things. If one is a barrister, or a doctor for that matter, and gets paid in lumps, questions arise as to which lump he or she was sick for and how much must be paid.

**Deputy Willie Penrose:** Barristers do not get paid at all.

**Deputy Leo Varadkar:** Many of these different matters must be figured out. It is not straightforward. We must also take into account that at the moment we give the self-employed all these benefits for a contribution of 4%. An employee pays 4% and his or her employer pays 10.75% on his or her behalf for these benefits. Therefore, for every self-employed person earning €100, the Social Insurance Fund gets €4; for every employee earning €100, the Social Insurance Fund gets €14. This needs to be borne in mind as well.
Regarding Deputy O’Dea’s question, I do not agree with the findings of the report. We should put something in place regarding jobseeker’s benefit. It may well be on the basis he himself proposed, that is, that it be on a voluntary basis with an additional contribution to do so. That might be the way to do it. I am meeting the dentists again on Saturday. I have scheduled another meeting with the opticians. Negotiations are going well. I still hope and expect to meet the deadline.

**An Leas-Cheann Comhairle:** The Minister has exceeded his time.

### Farm Assist Scheme Administration

56. **Deputy Charlie McConalogue** asked the Minister for Social Protection the date the 15% income disregard announced in budget 2017 will apply to all current farm assist recipients; and if he will make a statement on the matter. [2580/17]

**Deputy Charlie McConalogue:** I ask the Minister when the 15% income disregard introduced in the budget for 2017 will be applied to all existing farm assist recipients. Can he clarify that it will apply to all existing farm assist recipients and if their payments will go up this year as a result?

**Deputy Leo Varadkar:** I am happy to confirm that, following the Government agreement on budget 2017, the total reversal of cuts to farm assist is now underway. Deputies will be aware that the programme helps more than 8,000 farm families across the country. The commitment given in A Programme for a Partnership Government, as part of the Government’s commitment to rural Ireland, was to complete a review of the farm assist scheme, recognising the challenges facing farmers on low incomes. The review was completed by my Department in advance of discussions for budget 2017. Budget 2017 fully reverses the previous cuts to the farm assist means test. The changes mean that 70% of farm income will now be assessed as means, down from 100%, which is equivalent to a 30% income disregard, and an additional annual means disregard will be applied at €254 for each of the first two children and €381 for the third and subsequent children.

The introduction of additional income disregards for farmers with children further ensures that farm families with children will benefit. I also announced the provision of 500 more places on rural social schemes, bringing the total number of places from 2,600 to 3,100. At a time of falling farm incomes, it is essential we strengthen the safety net for farmers who are on the margin.

The farm assist scheme supplements mostly small farms on poor land, mainly in the west. Recipients retain the advantages of the jobseeker’s allowance scheme, such as the retention of secondary benefits and access to activation programmes. In 2017, Revised Estimates for my Department provide for expenditure of almost €83 million on farm assist.

I am happy to confirm to the Deputy that all existing farm assist recipients currently assessed with means will have their payments adjusted to take account of the changes in budget 2017. This will come into effect from the 8 March implementation date, with the relevant payments changing on 15 March as farm assist is paid weekly in arrears.

Farm assist recipients will also benefit from other measures in the budget, including the €5
per week increase in the weekly rates of payment and the 85% Christmas bonus. Farm assist recipients will also be eligible to avail of the 500 additional places on the rural social scheme.

All of this answer applies to fish assist as well.

Deputy Charlie McConalogue: I thank the Minister for his response. As he will be well aware, because it has been raised with him on a number of occasions, the consecutive 15% cuts regarding the means disregard in assessing a farmer’s eligibility for farm assist had a very real impact on the family income of those who depend on farm assist. I very much welcome this move in the budget and the confirmation from the Minister that it will apply to all existing farm assist recipients. The Minister might clarify further how this will be applied. Will he confirm that it will be a desktop exercise whereby the Department will go through all existing recipients of farm assist? I know they were all asked at the start of this year to confirm that their circumstances had not changed. I am pretty clear that this is what the Minister is saying, but if it is the case that the circumstances of each of these recipients have not changed from last year, will they see increases in their payments from the end of March as a result of the reintroduction of the 30% income disregard?

Deputy Leo Varadkar: That is certainly the intention. It will vary from one case to another. In some cases the uplift people see could be very modest; it could be as little as €5 or €10 per week. In other cases it will be as much as €40 per week. In any case, that is what we have in train to do over the next couple of weeks, and all the different offices are gearing up to do this. Anyone can request a review if his or her circumstances have changed.

Pensions Reform

57. Deputy Thomas P. Broughan asked the Minister for Social Protection the expected timeframe for his upcoming action plan for pension reform, as outlined in his 2017 priorities for his Department earlier in January 2017; and if he will make a statement on the matter. [2728/17]

Deputy Thomas P. Broughan: Pensions are on the Minister’s list of priorities that he published a few weeks ago for his action plan for pension reform. I think matters of concern include the transposition of the EU directive on institutions for occupational retirement provision, IORP; the revision of the directive, IORP II; and auto-enrolment in defined contribution pensions. I know we had a lengthy discussion about pensions earlier but I ask the Minister his progress in this regard. I think he mentioned he might bring forward legislation on at least one element of this in the near future. Pensions across both sides of the Irish Sea are of particular interest. I think the Minister has had some discussions with British Ministers on the impacts of Brexit on social protection in both countries. What has been achieved in this regard?

Deputy Leo Varadkar: Our pension system was set up over a century ago to provide an adequate and sustainable standard of living, and to prevent an unwanted reduction in living standards when people retire. As the Deputy will be aware, there are a number of challenges currently facing the Irish pensions system, including the sustainability of the system over the longer term in light of demographic change, rising life expectancy and the adequacy of contribution levels and benefits. While the State pension was intended to guard against extreme poverty, our expectations have risen since then and rightly so. People now expect and should expect a decent life and comfort in retirement.
Without change, a majority of our citizens will rely largely on the State pension in retirement unless the overall pension system is reformed. The cost of maintaining our current standards must be funded and increased longevity has huge implications for spending on State pensions.

I have highlighted previously that pension reform will be a priority of my Department and, earlier this year, I confirmed an intention to develop, publish and commence the implementation of an action plan for the reform of pensions. It is my intention that this action plan will be published this year upon completion of the required developmental work. This action plan will include a roadmap for the reform of the State pension, rationalisation and reform of the defined benefit pension landscape, transposition of the Institutions for Occupational Retirement Provision, IORP2, Directive and the introduction of auto-enrolment defined contribution pensions for all working people which I discussed earlier.

In respect of interactions with my British counterparts, I had one bilateral meeting in Brussels some weeks ago with one of my counterparts and will travel to London in the first week of February to meet the Secretary of State for Work and Pensions, Damian Green. Among the issues being discussed are pension rights as there are 35,000 people in this country and 135,000 people in the other jurisdictions who receive part of their pension from the United Kingdom. I am determined to ensure those pensions rights are protected.

Deputy Thomas P. Broughan: That is good to hear. Will the Minister and his Department have any input into negotiations between the EU and the UK to ensure a robust position is taken in respect of the protection of pensioners’ rights between the two jurisdictions?

Has the Minister given any thought to reform of the homemaker scheme which came up in the discussion on Deputy Durkan’s question about the kind of discrimination that these workers, who are mostly women, feel as they retire? They receive approximately €196 per week or that type of award as their State pension. They feel very hard done by. Has the Minister estimated the cost of reforming the homemaker’s scheme to give those workers on home duties or caring a better pension?

Deputy Leo Varadkar: Yes, I have, and as I committed to Deputy Curran and others, we will bring forward detailed options and proposals for change with the associated costings to the Oireachtas Joint Committee on Social Protection. If we move from the averaging approach to the total contributions approach, the homemaker credit scheme has to change because the basis on which it exists changes. The intention would be to have those changes in place but not to recalculate the pensions of everyone who is retired. It would cost hundreds of millions of euro which would be prohibitive. The new rules would apply to future pensions. If we were to apply the new rules to people already retired, we would be cutting some pensions too. That is not something I want to do to anyone. I have ruled it out. Under no circumstances will anyone who is already retired have their pension reduced.

Brexit is still a developing picture as Deputy Broughan knows. I want to maintain the arrangement between Britain and Ireland which has been in place for a very long time, that people in Britain are free to work in Ireland and vice versa, that people in Britain are free to claim welfare in Ireland and vice versa and that we recognise each other’s social insurance contributions as being the same. Someone who paid ten years’ national insurance in Britain and ten years’ pay related social insurance, PRSI, in Ireland is paid for 20 years, wherever he or she is. It is possible for us to maintain those arrangements. I am more optimistic about what can be done in respect of people than I am about trade and goods. My focus will be on people.
Written Answers are published on the Oireachtas website.

Topical Issue Debate

Ticket Touting

Deputy Noel Rock: When it comes to professionalised ticket touting in this country, it is very clear that there is a serious problem. Deputy Donnelly and I have drafted legislation in this direction but here we will outline the problem and the solution. There are three simple rules which could be imposed on Ticketmaster or other primary sellers of tickets which would prevent industrialised, professionalised ticket touting: limit the number of tickets an individual can buy; use the original debit or credit card on entry to a venue; and match the name on the ticket with a photo ID. This was not done for the recent U2 concert and is generally not done.

It appears that Ticketmaster, which owns the leading secondary selling website, Seatwave, and other primary sellers, is very comfortable with as many tickets as possible going on to Seatwave and does not restrict the primary sales of tickets in a reasonable way. The commission for each secondary sale is in the region of between 15% and 20%. The UK commissioned a substantial and comprehensive report into this as recently as last year and Belgium introduced legislation on this matter which was very effective.

Deputy Stephen S. Donnelly: I congratulate Deputy Rock on tabling the legislation and I am very happy to co-sponsor it with him. There are numerous cases of this going on, the latest being a few days ago with tickets for the U2 concert. There was reselling in bulk at the very same time that the monopoly seller, Ticketmaster, was sold out. We are not dealing with people who buy a few tickets, then decide they are not going to the concert and sell them. This is an organised industry with potentially very serious profits, bulk purchasing tickets from a monopoly seller.

In the past two days the Minister has published a consultation process. Are we looking at cartel behaviour? Are people violating anti-trust laws or consumer protection laws? Do companies like Seatwave get privileged access to Ticketmaster tickets and so forth? We are dealing not only with important consumer protection but I would like to know, and I have written to the Competition and Consumer Protection Commission, CCPC, to find out, whether any of these companies are violating existing laws.

Deputy Michael Healy-Rae: People in Ireland are being exploited in the worst form when it comes to ticket touting. There are people making their sole income from selling tickets to matches, concerts etc. at an outrageous cost, legally, on Ticketmaster’s partner website, Seatwave. As an example, tickets for the upcoming Coldplay concert in Croke Park on 8 July 2017 went on sale on Ticketmaster for between €69 and €144. These tickets sold out in a matter of minutes but the tickets started reappearing on Ticketmaster’s partner website, Seatwave, from people who purchased them from Ticketmaster and the price range on 20 January was €200 to €900 or €1,000. This is nothing short of a disgrace and the worst form of ticket touting. I have no problem with someone who cannot attend a concert because of illness or any other problem selling their tickets online at face value. When people are making their sole income from this type of business it is ridiculous and I call on the Government to take immediate action on this
Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O’Connor): I thank Deputies Rock, Donnelly and Michael Healy-Rae for the work they have done and for raising this issue here. I share the concern of the Deputies and the public about the resale of tickets for major entertainment or sporting events at inflated prices. Although this concern is not new, it has been highlighted by the resale of tickets for the U2 and Coldplay concerts next July.

I met the Minister of State with responsibility for tourism and sport, Deputy O’Donovan, in late October in response to the public concern over the issue. My Department then undertook an examination of the primary and secondary ticket markets and the measures taken, or not taken, in other countries to regulate these markets. That examination led to the detailed consultation paper which I issued last Friday together with the Minister for Transport, Tourism and Sport, Deputy Ross, and the Minister of State, Deputy O’Donovan.

The consultation paper sets out a range of possible measures that might be taken to ensure fans do not have to pay exorbitant prices to attend major entertainment or sporting events. Some of these measures would be the responsibility of the parties involved in the organisation of events or in the primary and secondary ticket markets. Other measures would be the responsibility of the Government. I encourage all interested parties, including Members of this House, to respond to our consultation paper.

The possible options for future action, including legislation to regulate the resale of tickets, will be fully assessed following the consultation process. The consultation paper clarifies that such legislation could take a number of forms. It is important that any such legislation does not cause ticket resale to be driven underground and away from the established marketplaces which at least offer guarantees to ticket buyers.

The online market for tickets to major events is essentially borderless in nature. Most EU member states do not ban or regulate the resale of tickets. Irish consumers will not be better off if legislation here causes ticket resale to be diverted to countries that permit it.

Deputy Noel Rock: I thank the Minister for her response. Given the plurality of comprehensive reports that are available, and in light of the acknowledgement from the Department when it launched its consultation on this issue last Friday that these problems are fundamentally the same from country to country, it seems that the launch of a new consultation process is perhaps not necessary. Nevertheless, I welcome the Minister’s comments and her commitment to taking on board the concerns of the various players, including the industry and Deputies like Deputy Donnelly and me. We will continue to work on our Private Members’ Bill because we feel this important issue is worthy of further public attention and scrutiny. I had a meeting on this matter today with an Irish company that has developed technology that has the potential to prevent ticket touting. Such technological innovations are now possible. I welcome the further pursuit of such avenues in the future. I believe they need to be matched with legislative action. That is why I am proud to continue to work with Deputy Donnelly on this matter.

Deputy Stephen S. Donnelly: I thank the Minister for her response. I think the key word she used was “inflated” because we are not talking about tickets going on sale for €70 and being resold for €85. We are talking about €70 tickets being bought en masse by companies that may or may not have privileged access to the monopoly seller and then being resold not for €80 but
for €1,000.

I agree with Deputy Rock with regard to consultation. I am not entirely sure that a lengthy period of consultation is required. If we use the legislative process, we could deal with many of the submissions on Report Stage. The Minister is taking the consultation approach. What are the timelines for the consultation process? When will we be able to debate the findings on the floor of the House? What can be done by the Government in the short term? We all know that consultation processes and follow-up legislative processes can take time. I wrote to the Competition and Consumer Protection Commission last week to ascertain whether any illegality is happening at present. I would like the Minister to give us her thoughts on what she and her Government colleagues can do now to send these companies a clear message in the short term that this sort of behaviour needs to stop.

Deputy Michael Healy-Rae: I thank the Minister for her response. I would like to highlight another aspect of this issue. I thank Deputies Rock and Donnelly for their excellent work. The Minister has been joined by the Tánaiste. When the US authorities were unable to get Al Capone for murder, they got him for taxes. Are those who are involved on a professional basis or otherwise in ticket touting in Ireland paying tax on their exorbitant profits? The U2 tickets that sold out in six minutes were being sold for more than €1,000 afterwards. Will those involved pay tax on their exorbitant profits? Everybody else in the country has to pay tax. Are they paying tax? I suggest that if we cannot get them in one way, we might be able to get them in another way. I remind the House that when Al Capone could not be got for one thing, he was got for taxes. This is terribly important because it is wrong for people who want to go to a sporting event or a concert to be fleeced and robbed in this fashion. It is another form of daylight robbery.

Deputy Mary Mitchell O’Connor: I thank the Deputies for their contributions to this debate. I understand the reasons they and the public are anxious to see action on this issue. If legislation is to be introduced to regulate ticket resale, an established procedure must be followed. This includes the preparation of a regulatory impact analysis. In Ireland, as in other countries, public consultation is an integral part of the impact analysis process. It is relatively easy to enact legislation, but it is more difficult to ensure that legislation will be effective.

Anyone who takes the time to read the consultation paper will see that the issues around ticket resale are neither simple not straightforward, as the Deputies have mentioned. The organisation of major events, and the sale or resale of tickets to those events, involves a number of parties with different interests. The record of legislative efforts to regulate ticket resale in other countries is mixed at best. Expert reviews on this issue in a number of countries, including the UK, have concluded that legislative regulation is not warranted or is unlikely to be effective. We cannot ignore these considerations in the clamour for action. My aim is to ensure whatever action is ultimately taken will make a material contribution to ensuring fairer access to tickets for consumers.

I am aware that a number of popular solutions were proposed in the document I published. Reference has been made to the possibility of making greater use of personalised and paperless tickets. It has been suggested that event organisers and primary ticket sellers could provide a facility for ticket buyers to return tickets they are unable to use and, if those tickets are resold, to be refunded at face value. Perhaps there is a need for greater readiness on the part of ticket buyers to resell tickets at face value. Greater co-operation from the secondary marketplace would help event organisers to identify people who are reselling tickets in breach of contractual
prohibitions on resale and on multiple purchases.

Airport Security

Deputy Jim O’Callaghan: We learned yesterday that a number of arrests were made at Dublin Airport at the weekend in respect of an alleged illegal immigrant smuggling network that may have been operating in the airport for a considerable period. I commend the Garda National Immigration Bureau and other individuals in Dublin Airport who carry out work on behalf of the State on an ongoing basis in respect of our borders and in respect of immigration issues. I am conscious that a number of individuals were charged before the District Court in Dublin earlier today. I do not want to raise any issue in respect of their predicament or say anything that touches on their cases. These individuals are entitled to be presumed innocent until the contrary is established by the courts.

It is important for issues that may arise in respect of our borders, and for which the Tánaiste and the Department of Justice and Equality are responsible, to be raised in this House. If it is the case that our borders have been undermined and there has been an illegal entry of individuals or goods into our country, that is a particularly serious and grave matter. Every country must be able to defend and protect its own borders. It is imperative that this country is seen to be able to do that in this time of particular international sensitivity in respect of migration and the protection of borders. Was the Department of Justice and Equality aware before yesterday of any other examples of our borders being threatened? Was it aware of any other alleged illegal activity in our airports or ports? If there have been any other allegations or suggestions of a breach of our immigration rules at Dublin Airport or any other airport, this House should be informed of that. I commend the authorities on the work they have done but it is very important that we are vigilant about this matter and that the Tánaiste provides assurances to the House that there are resources in place in respect of this matter.

Deputy Joan Burton: The recent arrests at Dublin Airport pose the most serious questions about security at the facility. The Taoiseach and Tánaiste, who is present, must order a high-level review into the current security systems in use at the airport. At the very least, those systems appear to be quite porous and will cause major concern among the tens of millions of people travelling through the airport every year. We cannot underestimate just how many jobs are dependent on Dublin Airport, which is a key engine of the Irish economy. To have any doubt cast on the airport’s security status is deeply worrying. It is very welcome that the Garda National Immigration Bureau has upped its surveillance with regard to people trafficking in the past year and a half but we must consider the totality of security, including at other airports and points of entry throughout the country.

We know people-smuggling is widespread throughout the world. It is an evil and lucrative trade, often involving women and young people who are forced into what is effectively sexual slavery and prostitution. Very often families and the people themselves run up enormous debts to traffickers. When I was Tánaiste and Minister for Social Protection, I introduced legislation to give enhanced powers to social welfare officials and officers present at airports and ports to identify people entering and leaving Ireland in a bid to clamp down on benefit tourism. That initiative was very successful and we must send out a message that Ireland is not a soft touch on security. I would like to hear the Tánaiste respond in respect of the obvious need for a high-level review of security arrangements at airports and ports.
Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank Deputies for raising this important topic. As Tánaiste and Minister for Justice and Equality, maintaining the security of our borders is always an absolute priority for me. I assure the Deputies that this matter is being taken very seriously by the Government and I thank them for providing me with the opportunity to update the House on it. Security at our airports and ports is always kept under review and rates very well by international standards but a breach of this nature is clearly unacceptable and, in this instance, is of very serious public concern.

As the Deputies will be aware and Deputy O'Callaghan noted, there is an ongoing Garda investigation targeted at illegal immigration and people-smuggling through Dublin Airport. A number of people are before the courts with regard to this matter so it would not be appropriate in those circumstances to comment in detail on the particular case. However, like Deputy O'Callaghan, I commend An Garda Síochána and the Irish Naturalisation and Immigration Service, INIS, on their work. An Garda Síochána considers this to be a smuggling operation rather than being terrorism or human trafficking-related. The issue remains very serious and we all know the enormous challenge, at national and European level, of trafficking of persons. It matches the drug trade in many ways in terms of criminal activity.

My Department has kept in close contact with the Department of Transport and both Aer Lingus and the Dublin Airport Authority are co-operating fully with the Garda investigation. The national civil aviation security committee, chaired by the Department of Transport, Tourism and Sport, and comprising representatives from other Departments, An Garda Síochána, airports and airlines, reviews and recommends effective security measures with a view to advising Government on aviation security policy. The national civil aviation security committee is reviewing all issues relevant to aviation security at Dublin Airport, particularly any issue relating to the access arrangements at the airport. We need to know how this happened and why. Therefore, in light of the seriousness of the issue, I will work with my colleague, the Minister for Transport, Tourism and Sport, Deputy Ross, to review the procedures in place so the public can have full confidence in the security of our borders.

I will put a couple of facts on the record. Immigration officers at Dublin Airport process approximately 15 million passengers per annum and approximately 3,300 were refused leave to land last year, with over 4,000 being refused across all ports of entry. Constant vigilance is required and it is by such vigilance that a case like this is uncovered and investigated. It is clear that this case has an international dimension and gardaí are co-operating with other police authorities, including Interpol and Europol, as we do all the time, with the investigation. An Garda Síochána and other independent analysts have pointed out that this is not a matter unique to Dublin Airport and that other international airports face the same risks, challenges and threats of illegal immigration. When it comes to border security, we must remain vigilant at all times. Where breaches are discovered, they must be thoroughly investigated and feed into a wider review of port security generally to identify where any improvements can be made.

To answer the Deputy’s question, we are not aware of any other related matters and none have been brought to our attention. Significant resources are put into policing our borders, including increased use of technology and the area of data sharing with other jurisdictions. Since becoming Minister I have put much emphasis on the interoperability of data systems so our security can be maintained and the Government has put increased funding again this year into that issue. Last November, we took a major step forward in launching an automated connection to Interpol’s lost and stolen travel documents database. In the first eight weeks of operating systematic checks against this database at Dublin Airport, over 700,000 documents
were searched and a number of people were refused entry to Ireland on the basis of an alert on the system being triggered.

**Deputy Jim O’Callaghan:** I thank the Tánaiste for her reply. I welcome the fact that she recognises that this is a matter of the utmost seriousness. I hope the review being conducted will be thorough and not limited to Dublin Airport. I hope it will consider all our airports and other ports. I note the Tánaiste’s statement that it is the view of An Garda Síochána that the allegations regarding the airport on this occasion relate to smuggling. Irrespective of that, if we have a porous border it sends out a very negative message to the international community from Ireland. It is important we ensure our borders are adequately secure. It may just have been a smuggling operation in this case but who is to know whether in the past there may have been misuse or abuse of procedure for something more serious. I welcome the fact that the review is being conducted and a written review should be brought before a committee of the House or a committee of the Oireachtas to ensure and make it known publicly that our borders are adequately secure.

**Deputy Joan Burton:** I thank the Tánaiste for her reply. With the clock ticking until the UK leaves the European Union, it is really vital that our borders are secure and any security issues at our airports or ports should be swiftly dealt with. I note with some concern that the Tánaiste stated that since last November and the connection to Interpol’s lost and stolen documents database, in the first eight weeks of operating systematic checks, with 700,000 documents being searched, a number of people have been refused entry to Ireland on the basis of an alert on the system being triggered. That adds to the concerns, although it is good these people were identified. When I was Tánaiste and Minister for Social Protection, I changed the position by giving enhanced powers at ports and airports to people like social welfare officers to limit and restrict benefit tourism.

6 o’clock

The Tánaiste needs to have an open mind about whether enhanced security arrangements need to be put in place.

**Acting Chairman (Deputy John Lahart):** I thank the Deputy. I am going to call the Tánaiste. The Deputy is well over her time and is eating into that of others.

**Deputy Joan Burton:** On the basis of the November examination, is the Tánaiste not concerned that Irish identities have been stolen? This is what her report suggests.

**Deputy Frances Fitzgerald:** It is important that we have Interpol’s lost and stolen travel documents database and that it is working effectively. I am of the view that it will and should provide reassurance to people about data checking. I refer here to a variety of issues relating to alerts being on the system. It is good that we are part of the collaboration involved. The reason for some of the work I have been doing is to ensure that there is interoperability between different systems. The idea is to ensure that An Garda Síochána and our airport authorities have the most relevant and up-to-date data-checking systems that operate an international level. An Garda Síochána has further work to do, but the project is under way.

There is a particularly close operational relationship with the UK authorities in managing the security of the common travel area between Ireland and the UK. The gathering and sharing of relevant information is an important aspect of this co-operation. There are robust and constantly-evolving security information sharing arrangements in place between Ireland and
the UK. For example, last year Ireland introduced new regulations to enable the UK to collect advance passenger information from Irish carriers in respect of passengers entering the UK from Ireland. In the first half of this year, we will begin to process advance passenger information on flights.

It was rather difficult to get agreement on this issue in the European Parliament. Ministers with responsibility for justice issues fought to have advance passenger information shared between countries and I supported the proposal. We will have this arrangement in place on flights from outside the EU. Preparations are also under way to implement the EU directive on passenger name records, a plan I have just referenced. These systems will provide further protection for our borders against crime, terrorism and illegal immigration threats. The information technology resources of An Garda Síochána are an important aspect of this. Last year, we started the connection to the Schengen information system, which is another important data-sharing system. This work continues.

Social and Affordable Housing Eligibility

Deputy Donnchadh Ó Laoghaire: I regret that the Minister is not present, particularly in view of the fact that this is not only an issue of national interest but also one of particular interest to him and to those in my constituency. Cork City Council recently passed a vote, proposed by Councillor Ted Tynan, seeking an increase in the income limits or the maximum eligibility threshold for social housing in the Cork city area. I would go even further. It is high time there was a far broader review of the rental limits in all local authority areas, especially large urban areas and those areas around the fringes of the major cities. The previous occasion on which limits were set was in 2011. Let us set out the context. Following everything that has happened since then, more and more young families, many of whom are known to the Minister and me, are trapped in the rental sector or in the homes of their parents and have few options given that they cannot get onto social housing lists. For those above the income limits by small or marginal amounts, the options are especially limited. Those affected are largely confined to the rental sector or family homes. For those who may have a desire to work towards a mortgage, the 10% deposit required is singularly difficult for them to put together. In large urban areas, such as Cork, a deposit could be in the amount of €20,000 or €25,000. Frankly, this Government has done nothing for this category of people. They are only marginally above the income limits. Many of them are still on low incomes.

There is a particular context to the problem in respect of Cork, namely, the boundaries relating to Cork City Council that are completely out of date. Large urban areas of Cork city are essentially in the Cork County Council bailiwick, such as parts of Togher, Douglas, Rochestown, Grange and Frankfield. There is 80 m between the Greenwood and Westside estates in Togher, but a difference of €5,000 in the income threshold applicable. A distance of 180 m separates Willow Park in Douglas and Douglas West Street in the village, but the income threshold is the same or even €6,000, depending on the size of the family. It is a particular issue and a serious anomaly for those areas.

In general, the thresholds are far too low. This reflects a failure on the part of the Government to recognise that this category of individuals exists and is growing. These people have few options and the Government is doing nothing for them. I imagine the Minister will say a change would result in an increase in the housing lists, and I appreciate that point. However,
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I would not criticise the Government for an increase on that basis. While those affected might not be to the front of the queue - I would not expect them to be to the front of the queue - eligibility is vital for their ability to draw down payments, such as the housing assistance payment. Currently, that payment is closed off to them. Their ability to build up time credit, which is more and more important in social housing allocation, is inhibited.

There is a serious need to do something for this category of low and middle-income families for whom mortgages are out of the question. They are under severe pressure because of the rental market. Social housing is supposed to provide security and rent stability. These people deserve the benefits to which I refer but are denied access to them. That is wrong and it needs to be reviewed.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Catherine Byrne): I apologise that the Minister for Housing, Planning, Community and Local Government cannot be here to take this matter, which I thank the Deputy for raising.

On 1 April 2011, the social housing assessment regulations introduced a new standard procedure for assessing applicants for social housing in every housing authority. The aim of the new system is to move closer to a transparent, consistent and fairer approach to eligibility for social housing. The regulations include maximum net income limits for each housing authority in different bands according to the area, with income being defined and assessed according to a standard household means policy. Before the new scheme was put in place, there was considerable inconsistency in the various local authorities. Some authorities had income limits for social housing while others had none. The way income was assessed for limits varied widely, with different disregards and policies in various housing authorities. This meant that applicants for support who were on similar incomes could be treated differently because of where they happened to live. This approach was neither efficient nor fair. The income bands and the authority area assigned to each band were based on an assessment of income needed to provide for a household’s basic need plus a comprehensive analysis of the local rental cost of housing accommodation throughout the country. As a result, higher limits generally apply in urban areas than in surrounding areas, such as in Cork. The limits also reflect a blanket increase of €5,000 introduced before the new scheme came into operation. The purpose was to broaden the base from which social housing tenants are drawn and thereby promote support for sustainable communities.

Under the household means policy, which applies in all housing authorities, net income for social housing assessment is defined as gross household income less income tax, PRSI and the universal social charge. Most payments received from the Department of Social Protection are assessable. The policy provides for a range of income disregards. Housing authorities can disregard income that is temporary, short-term or once-off in nature. Given the cost to the State of providing social housing, it is considered prudent and fair to direct resources to those most in need of social housing support.

I am satisfied that the current income eligibility requirements generally achieve this aim. However, I welcome the opportunity to hear the views of the Deputy on these issues. They will be considered in the context of the ongoing review of social housing assessment procedures as part of the broader social housing reform agenda.

Deputy Donnchadh Ó Laoghaire: What caught my eye in the Minister of State’s response
was the following:

Given the cost to the State of providing social housing, it is considered prudent and fair to direct resources to those most in need of social housing support. I am satisfied that the current income eligibility requirements generally achieve this.

What that says is that for families that are essentially in Cork city, in some of the most competitive and expensive markets such as Rochestown, Togher, Douglas, Grange or even Carrigaline or Ballincollig, it is acceptable or reasonable to expect that a family of two adults and three children would be responsible for organising their own accommodation and would be obliged to find a mortgage out of an income above a mere €33,750. That is for a two-adult family. The other options are to spend the rest of their lives in the rental market or be cast back on their families. That is utterly unfair and unreasonable.

I again urge the Minister to consider a review of the income limits for social housing. The limits are absolutely unreasonable. If that is not possible, the alternative models that have been talked about to some extent are way behind track, such as the cost rental model. There is a review due to come back at the end of this year. That is quite some time before there will be any real action.

I also urge the Minister to consider some flexibility in the boundaries of local authority areas. There are about 50,000 people in and around the fringes of Cork city that are essentially part of the Cork city housing market. The boundaries have not been revised since the 1960s and that is another day’s problem. For those people, they are living in the second most competitive housing market in the State. Yet, they are dealing with income limits that are €5,000 to €6,000 below estates that are just up the road. It is impossible for them to secure any kind of long-term accommodation on those rental limits. Some kind of flexibility absolutely has to be considered for that southern division of Cork County Council.

Deputy Catherine Byrne: I understand the Deputy’s concerns and have noted many points he has raised, which I will bring back to the Minister. I am satisfied that the current income limit generally provides for a fair and equal system of identifying those households unable to provide accommodation from their own resources. These limits generally provide that a household in receipt of social welfare will not breach the threshold. I refer to the fact that the 2016 summary of social housing assessment reported that, of households on waiting lists nationally, slightly more than two thirds or 67% were entirely dependent on social welfare. I am also satisfied that these income bands and the authority area assigned to each band are based on the true access of income needed to provide for a household base, as well as on the comprehensive analysis of the local rental cost of housing accommodation across the country.

However, as the Minister has indicated, the issues raised today will be examined as part of the ongoing review of the social housing assessment process that is under way, which will consider whether there are disparities across local authority housing that discriminate unfairly against certain classes of household. I know that the Minister, Deputy Coveney, would be happy to consider any general issues of which the Deputy is aware. However, the Minister is precluded from becoming involved in a specified application for housing to a local authority.

I also express my concern to Deputy Ó Laoghaire. I myself have met many young people in a predicament in which they may be a little over the threshold at which social housing is provided and find that they cannot be included on the list. On a personal basis, I will certainly
raise the issue with the Minister myself. I apologise again that he cannot be here this afternoon.

Oideachas Tríú Leibhéal

Deputy Catherine Connolly: Mar is eol don Aire, tá cinneadh déanta ag údarás Ollscoil na hÉireann, Gaillimh, deireadh a chur leis an riachtanais Gaeilge a bheith ag an gcéad uachtarán eile den ollscoil. Mar is eol don Aire freisin, tá an cinneadh seo cáinte ag beagnach chuid dhream agus eagraíocht a fheidhmionn ar son na cúise - an comhchoiste Gaeilge, Gaeltachta agus na nOileán, iar-uachtarán na hollscóil, Misneach na Gaillimhe agus Comhaltas na Mac Léinn san áireamh. Ar ndóigh, tá sé dochreidte go ndearna an t-údarás an cinneadh seo, cinneadh comhthola - pointe a thiócfaidh mé ar ais chuige - beag beann ar na dualgais atá ag an ollscoil ó thaobh na Gaeilge de, go hárithe ollscoil a mhaíonn gur champas dátheangach atá ann.

Sa bhreis ar na dualgais agus an stádas faoi leith atá aici, is ollscoil í atá lonnaithe i gcathair a bhfuil aitheantas dátheangach bainte amach aici, aitheantas mar bhaile seirbhise Gaeilge agus cathair atá suite atar thairseach na Gaillimh is mó sa tir. Ina theannta sin, is féidir liom riocadh an ollscoil agus na dualgais sin uilig, tuilleadh dualgais eile agus an stádas faoi leith atá ag an gcathair, tá sé fior-thosach a thuiscint cén chaoi ar éirigh leis an údarás an cinneadh seo a dhéanamh agus níos suntasaí fós gur cinneadh chomhthola a bhi ann. Ach is scéal é sin do lá eile. Ardaionn sé seo an cheist ar an buachaille a bhfuil an chinn is mó san eolaíocht i naishte a bheidh leis an ollscoil agus a chéile a chur ar fáil leis an gcinneadh seo.

Sa bhreis ar na dualgais agus an stádas faoi leith atá aici, is fior-dheacair a thugtar ar éirigh leis an gcinneadh seo a dhéanamh agus níos suntasaí fós gur cinneadh chomhthola a bhi ann. Sa bhreis ar na dualgais agus an stádas faoi leith atá aici, is fior-dheacair a thugtar ar éirigh leis an gcinneadh seo a dhéanamh agus níos suntasaí fós gur cinneadh chomhthola a bhi ann. Ach is scéal é sin do lá eile. Ardaionn sé seo an cheist ar an buachaille a bhfuil an chinn is mó san eolaíocht i naishte a bheidh leis an ollscoil agus a chéile a chur ar fáil leis an gcinneadh seo.

I mo thuairim, ní féidir glacadh leis an gcinneadh seo atá déanta ag údarás na hollscóil. Tá sé thar a bheith príomhach go dtí an gcoiste Rialtais ar an Ghaeilge agus an Ghaeltacht. Tá sé thar a bheith príomhach go dtí an gcoiste Rialtais ar an Ghaeilge agus an Ghaeltacht. Tá sé thar a bheith príomhach go dtí an gcoiste Rialtais ar an Ghaeilge agus an Ghaeltacht. Tá sé thar a bheith príomhach go dtí an gcoiste Rialtais ar an Ghaeilge agus an Ghaeltacht.

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Fuair mé freagra ón Aire i mí na Nollag. Tá mé ag súil nach léifidh sé an freagra sin amach dom mar fhreagra ar an méid atá ar fáil riachtaithe inniu. An bhfuil an tAire sásta athbhreithniú a dhéanann ar a chineadh féin a rinne sé roimh an Nollaig agus brú ar an ollscoil agus an údarás aithneadh i bhfeidhm sin. Tá ról ar a bheith tábhachtach agus tábhachtach ag an tAire a bheith príomhach go dtí an gcoiste Rialtais ar an Ghaeilge agus an Ghaeltacht.

Minister for Education and Skills (Deputy Richard Bruton): I thank Deputy Connolly for raising this issue. I do not know whether she will be happy with the answer. I will set out the position as I understand it and I believe it to be correct. Third-level institutions are autonomous bodies and they have the responsibility for making decisions of this nature on their own authority, including in particular matters relating to recruitment and selection procedures. That rests with the governing body of the institution involved. NUI, in this instance, is exercising
the authority that it has, as it is entitled to do.

I know that the vacancy is arising and that they have put in place a procedure for the appointment to the position. I understand that they had a meeting of Údarás na hOllscoile and decided on a consensus basis not to continue with the requirement for the post-holder to have a proficiency in the Irish language. I can appreciate that Deputy Connolly feels strongly about this but the legislative authority is very clear. Neither the Universities Act nor the University College Galway (Amendment) Act require the proficiency in the Irish language. It is a matter for the governing authority itself to make that decision. The rationale appears to be that NUIG wants a full national and international opportunity for candidates to come forward to lead the university. That is its entitlement. It is also fair to say that the university has not in any way flinched from its commitment to the Irish language.

I took the trouble to get a briefing on NUIG’s strategic plan. At the heart of that plan is a huge commitment to the Irish language and an ambition to become even more effective in using the university’s infrastructure to support the growth and spread of the language, particularly in the context of introducing integrated language. This is where language is integrated into the teaching of other subjects, which I find highly attractive as a means of kindling a wider interest in the Irish language by using it in a more practical way. NUIG also has the activities of Acadamh na hOllscolaíochta, which plays a leading role nationally and in the university. It has a coherent leadership in the Irish-speaking community and is responsible for the delivery of programmes, research and other services through the medium of Irish that have been extremely effective and upon which we depend. There are Gaeltacht centres in An Cheathrú Rua, Carna and Gaoth Dobhair and NUIG has its own school, Scoil na dTeangacha, by means of which it is seeking to develop an exemplary bilingual campus. To be fair, NUIG is truly committed to its role as the fountainhead of knowledge research capability in the Irish language. It is fully committed to that but it has taken a decision - as is its entitlement - on the recruitment process relating to its president and I am not going to interfere with that decision.

Deputy Catherine Connolly: Cuirteann sé fiordhíomá orm é sin a chloisteáil. D’iarr mé ar an Aire gan an freagra céanna a thabhairt dom a thug sé sa litir a scríobh sé chugam roimh an Nollaig. Leag mé amach cúla na ceiste seo don Aire agus mhínigh mé cé chomh tábhachtach is atá an Ghaeilge don tír agus, sa chomhthéacs seo, do chathair na Gaillimhe agus don Ghaeltacht. D’iarr mé air, i bhfianaise an méid sin, an raibh sé sásta “athbhreithniú a dhéanamh ar a chinneadh” agus “brú a chur ar an ollscoil athbhreithniú a dhéanamh ar a chinneadh” a rinne siad. Is teachtaireacht dhiúltach amach is amach i an chinneadh atá déanta ag an ollscoil, a maíonn gur ollscoil dhátheangach í. Má táthar ag caint faoi straitéis nó faoi phlean straitéise, agus ag an am céanna ag cur in iúl don domhain mór nach féidir uachtarán le Gaeilge a fháil, níl i gceist ach Tadhg an dá thaobhachas. Ar a laghad, ba cheart uachtarán a fháil a bheidh sásta an Ghaeilge a fhoghlaim, cosúil liom fèin agus le daoine eile sa Dáil seo. Is eiseamlár iad na daoine sa Dáil atá ag streachailt leis an nGaeilge agus í a chur chun cinn.

Ní móir dom a rá arís gur chuir an freagra a thug an tAire dom fiordhíomá orm. D’éist sé liom, ach níor thuig sé an móid a bhí le rá agam. Tá an chosúlacht ar an scéal nár thuig sé focal ó mo bhéal maidir leis an nGaeilge a bhaineann leis an Gaeilge agus leis an eiseamlár atá in Ollscoil na hÉireann, Gaillimh mar ollscoil dhátheangach. Go háirithe, ní thuigeann sé an ról atá ag an Rialtas, agus ag an Taoiseach mar chathaoirleach ar choiste Gaeilge an Rialtais, monatóireacht a dhéanamh maidir leis an straitéis 20 blain. Ní féidir a rá go bhfuil lucht na hOllscoile i nGaillimh dáiríre faoin Gaeilge nuair atá teachtaireacht mar seo - nach bhfuil siad sásta an riachtanas Gaeilge a bheith ag an gcéad uachtarán eile den ollscoil a choinneáil, nó
Deputy Richard Bruton: The Deputy complains that I have not heard her when I say I do not agree with her. It is not that I have not heard the Deputy or have not understood her. However, there is room for legitimate difference in this area. NUIG has huge commitment to the Irish language but it has made its decision. I have not repeated what I said before. I went through many of the commitments the university has made, what is at the heart of its strategic plan and the fact that it has a very detailed execution strategy to make that plan happen, which is really ambitious and something to be welcomed.

This, however, is not to say that a university should confine its selection of its president to solely those who speak Irish. The university is one of the top 250 in the world and it wants to recruit from a much wider potential pool of talent. Who knows who will be selected? The person may well have competence in Irish but the university wants to select from a broader pool. The selected person may learn Irish, as Deputy Connolly advocates, and that would be a great thing. The Deputy is looking for me, as Minister, to issue a direction to an independent authority to reverse a decision it has made on a unanimous basis. That authority, as the governing body of the university, is best placed to decide what is in the best interests of NUIG.

The Deputy is not hearing what I am saying if she feels that I am not hearing what she is saying. I understand what Deputy Connolly is saying but the governing body has taken a different view. Its view is consistent with delivering the support structures to the Irish language that we need. Clearly, the governing body has an obligation and we will be making sure that whoever is selected as president continues to deliver on the university’s obligation to the Irish language. That will be a duty of my Department and the Taoiseach will have a role to play in that. The authority has made a decision that, in selecting the president, it wants to have the widest pool of potential candidates available to it. I have no objection to its decision in this regard.

Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016 [Seanad]: Second Stage

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: “That the Bill be now read a Second Time.”

I am very pleased to have this opportunity to introduce the Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016. It is a relatively short and technical Bill but it is also important. The Bill’s primary purpose is to address Mr. Justice Moriarty’s High Court judgment of 19 April last which found certain provisions of section 99 of the Criminal Justice Act 2006 to be unconstitutional. That section provides for the suspension and subsequent revocation of prison sentences.

The Bill was initiated in the Seanad and completed its passage through that House on 30 November. I am pleased to say that it received general support there with the need to remedy the legislative deficiency broadly recognised by Senators. Suspended sentences are an integral part of the judicial sentencing regime, indeed of the criminal justice system in general. They can be used as an alternative to the imposition of a custodial sentence where the court considers that the person might benefit from a second chance and that justice might be better served.
with the imposition of a suspended sentence. Suspended sentences are a valuable sentencing mechanism for the courts. They are a deterrent to the commission of further offences since the threat of the original prison sentence remains. A suspended sentence is imposed for a certain time period and is subject to a number of conditions. The primary condition is that the person must keep the peace and be of good behaviour. A breach of this condition can result in automatic revocation of the suspended sentence.

The statutory regime for the imposition and revocation - essentially, the activation of suspended sentences - is provided for in section 99 of the Criminal Justice Act 2006. The High Court has, however, found certain provisions of section 99 - subsections (9) and (10) - to be unconstitutional and these provisions have been struck down. These subsections provide that a person who is subject to a suspended sentence and subsequently convicted of another offence is, before sentencing for that subsequent offence, automatically returned to the court which made the order imposing the suspended sentence for revocation of that order. The difficulty identified by the High Court is that the person concerned does not have the opportunity to appeal the second triggering offence before the case is referred back to the revocation court, resulting in differing treatment so far as the rights of appeal are concerned. This means that a person could serve some or all of a revoked suspended sentence because of a second offence, the conviction for which may be quashed on appeal. It is necessary, therefore, to amend the legislation to provide that an appeal may be taken in relation to a second, triggering offence, before revocation of the suspended sentence is considered by the revocation court.

An alternative mechanism provided for by subsections (13) and (14) of the 2006 Act is currently being used on a case-by-case basis, pending enactment of this amending legislation, which will restore the automatic court-driven revocation process. These alternative provisions allow a member of the Garda Síochána, the governor of a prison or a probation officer to apply to the court for a hearing to revoke a suspended sentence where a breach of its terms has occurred. While this alternative mechanism ensures that suspended sentences may still be revoked, it is important from a procedural point of view that the provisions which have been found to be unconstitutional should be revised and replaced so that the system of automatic revocation of suspended sentences can be restored. The implications of the High Court judgment were considered in consultation with the Attorney General and this amending legislation was prepared in order to address the particular difficulty identified so that procedures relating to suspended sentences can operate as efficiently and effectively as possible. The Bill also deals with a number of related matters.

I will now outline the different sections of the Bill. Section 2 provides for amendments to section 99, dealing with the power to suspend sentences, of the Criminal Justice Act 2006. Section 2(c) provides for the insertion of various subsections to replace the subsections that were struck down. The new subsection (8A) provides that where a person commits an offence, referred to as a “triggering offence”, during the period of a suspended sentence and is subsequently convicted of that offence, the court concerned will, after imposing sentence for the triggering offence, remand the person in custody or on bail to a sitting of the court that imposed the suspended sentence no later than 15 days after the remand, or where there is no sitting of that court within the 15-day period, to the next sitting of that court. If, for whatever reason, the court to which the remand is made does not sit on the date of remand, the person will be remanded to the next sitting of the court held after that day. This provision ensures that a person will be remanded as soon as possible, once sentence for the triggering offence has been imposed, to the revocation court to have the matter of the suspended sentence dealt with. Subsection (8B)
clarifies that the remand process provided for in subsection (8A) applies following conviction for a triggering offence once proceedings are instituted against the person concerned within a reasonable timeframe following commission of the offence.

I take this opportunity to outline the most significant differences between subsection 99(9) of the 2006 Act and the revised subsections (8A) and (8B), as inserted by section 2(c). First, the requirement that the conviction for a triggering offence be handed down during the period of the suspended sentence has been removed. A second key difference between subsection 99(9) and the new amending subsections is the bringing together of conviction and sentence for the subsequent offence. This will allow a person to lodge an appeal against a conviction or sentence for a triggering offence prior to determination of the revocation issue. It also means that the court, in considering revocation of the previously suspended sentence, will be aware of the sentence imposed for the triggering offence and will, therefore, be in a better position to assess the gravity of the breach. A third important difference relates to providing a more workable and realistic timeframe for consideration of revocation of a suspended sentence, as I have outlined.

The notable difference between subsection (8C) and the original subsection 99(10) which it replaces is that the revocation proceedings will be adjourned pending determination of any appeal process. The adjournment of the proceedings to consider revocation of the suspended sentence ensures the procedural difficulty identified by the High Court is effectively dealt with by allowing a person to appeal conviction or sentence for a triggering offence before returning to the revocation court to have the matter of the suspended sentence dealt with. Revocation of the suspended sentence will not be considered until such time as the appeals process in respect of conviction or sentence for the triggering offence is complete.

Subsection (8E) sets out what is to happen when an appeal against conviction or sentence is withdrawn or abandoned. Subsection (8F) sets out what is to happen when the appeals process is final. Where the appeal is allowed, the revocation proceedings will be dismissed, but in all other cases, the revocation court will proceed to consider revocation of the suspended sentence. Subsection (8G) places an obligation on the person concerned to appear before the revocation court whenever required to do so by that court.

Section 2(e) substitutes subsection 99(11) and deals with the sequence in which the revoked suspended sentence and the sentence imposed for the triggering offence are to be served. I have clarified why this needs to be done.

Section 2(g) inserts a new subsection (13A) in the 2006 Act giving the Director of Public Prosecutions a power, similar to that of the Garda Síochána, the prison governor and the probation and welfare service under subsections (13) and (14), to make an application to a court to consider revocation of a suspended sentence where a condition under subsection (3) has been breached. This provision will strengthen section 99 by providing for an additional subsection (13) or (14)-type referral in order to ensure any breach of a condition of a suspended sentence is captured by the section, as is the policy intention.

Section 2(j) provides for a new subsection (18A) which sets out the procedure in regard to the remaining part of a suspended sentence when only part of the sentence is revoked. In this case, a further order may be made suspending the balance of that sentence. In this way, the section 99 procedure in respect of revocation of a suspended sentence will also apply to the part of a suspended sentence which has not been revoked.
Section 2(k) inserts two new subsections after subsection (19). Subsection (19A) takes account of the situation where a person has committed a number of offences and is subject to several sentences that are to be served consecutively. Subsection (19B) ensures District Court sentencing provisions are maintained and that the maximum term of imprisonment which can be imposed by the District Court in respect of sentences passed at the same time cannot exceed two years.

Section 2(l) provides for the inclusion of three new subsections after subsection (20). Subsection (21) clarifies that a consecutive sentence which is to be served following a part-revoked sentence should commence immediately following the expiry of the custodial period of the part-revoked sentence. Subsection (22) deals with sentences on appeal and provides that where a suspended sentence is imposed by a court on appeal from another court, the lower court from which the appeal was taken is the court to which the person will be remanded in order to have revocation of the suspended sentence dealt with.

Section 3 makes clear that where subsections 99(9) and (10) are referred to elsewhere in legislation, they are replaced by subsections (8A), (8B) and (8C), as inserted by this Bill.

Section 4 is a standard provision citing the Short Title of the Bill and providing for its commencement. As I have outlined, this amending legislation is a necessary response to the High Court finding of unconstitutionality in respect of some of the suspended sentencing provisions in the 2006 Act. The Bill addresses the difficulty highlighted by the court and revises the procedure in order to ensure the suspended sentencing system can operate efficiently and effectively. I am sure Deputies appreciate the need to bring forward this amending legislation. I commend the Bill to the House.

Deputy Jim O’Callaghan: I welcome the opportunity to contribute to this debate. Fianna Fáil supported the Bill in its passage through the Seanad and will also support it in this House. When dealing with criminal justice legislation, we tend to concentrate on the offences outlined in the Bill in question. Our laws are full of detailed definitions of serious and less serious criminal offences. For example, there is legislation to define how organised crime, firearms offences and misuse of drugs are prescribed and criminalised, including detailed descriptions of the nature of the criminal behaviour. Similarly, even in the case of minor offences such as minor road traffic offences, our laws outline the nature of the offence in detail.

This is the first opportunity I have had to deal with legislation focusing exclusively on sentencing. It is important that we acknowledge the importance of sentencing. We spend a lot of our time drafting legislation that criminalises certain types of human behaviour and includes, at the end, a section stating what the penalties will be. We must become more mature and advanced in our approach to the types of penalties and sentencing that are available to the courts. As things stand, the sentences imposed are largely the same sentences that were imposed in Victorian times, namely, fines and imprisonment. Part 10 of the Criminal Justice Act 2006 provides for different types of sentencing. Section 99, which we are dealing with today, is concerned with the imposition of suspended sentences. Other sentences are provided for under the legislation, such as the power to impose a fine, defer a sentence, restrict a person’s movement and monitor the movement of an individual who has been found guilty of an offence. We need to move beyond the standard fine and imprisonment and make available to the courts greater types of penalties to impose, particularly in respect of offences that do not involve violence or a threat to the safety of others.
What we are talking about this evening are suspended sentences. As the Tánaiste stated, such sentences play an important part in the criminal justice armoury. They are generally used in situations where a court thinks that an individual should be subjected to a custodial sentence but where there may be some exceptional circumstances giving rise to that sentence being suspended. Sometimes that applies when an individual has been convicted of an offence for the first time or where there are exceptional circumstances - for example, where the person convicted has young children to look after. It is important to recognise that suspended sentences should continue to play an important part in the criminal justice system.

The reason for this legislation arose out of section 99 of the Criminal Justice Act 2006, which deals with the power of the courts to impose suspended sentences. For many years after the enactment of that legislation, there was considerable difficulty with criminal practitioners in the courts as to how it should be applied. I suppose we should be grateful to Mr. Justice Moriarty, who clarified the matter and who brought a definitive conclusion to it in his decision given on 19 April last year in the case of Moore v. DPP. There were five other related proceedings with which the judge dealt in that judgment. Mr. Justice Moriarty was not the first judge to identify that there were failings and faults within section 99. The late Mr. Justice Hardiman commented upon it on 5 March 2015 in the Supreme Court decision in DPP v. Carter and DPP v. Kenny. It should be noted that when he was giving judgment in that case, the late Mr. Justice Hardiman referred to the fact that, as Mr. Justice O’Donnell had noted, section 99 had given rise to innumerable practical difficulties and problems of interpretation only some of which were illustrated by the present cases. He then went on to agree with the sentiments expressed by Mr. Justice O’Donnell, who had said that it was clear and beyond dispute that section 99 was in need of urgent and comprehensive review. I am pleased that this legislation, which has been brought before the Oireachtas in recent times, provides for that comprehensive review.

It should also be noted that the late Mr. Justice Hardiman also referred to the fact that some of the difficulties with section 99 would not have arisen if there had been any proper effort to consult the judges who implement the procedures for the activation of suspended sentences. There can be difficulties in trying to ask judges to review or consider legislation as it is going through this House because that would come close to interfering with the separation of powers. It is important, however, that when we are putting together sentencing legislation, we seek - in some general sense and without getting into the area of policy - indications and recommendations from those who have been judges as to how the legislation will be implemented and whether it can be implemented coherently and credibly by those operating in the courts each day.

The Tánaiste set out the difficulties in respect of section 99. If an individual is convicted of an offence and if the judge imposed a suspended sentence, there should be no difficulty provided the individual in question remains of good behaviour and that suspended sentence is not invoked or reactivated. In circumstances where the person commits and is convicted of a subsequent offence, however, problems arise. The reason for this is that the triggering of the second offence automatically reactivates the suspended sentence. The problem Mr. Justice Moriarty and other judges identified was that the individual, when convicted of the second offence and returned to prison on foot of it, had no opportunity to appeal because the suspended sentence had already been activated. If he or she appealed successfully, he or she had would have been sent to prison when that should not have happened because he or she would not have been guilty of the offence.

I welcome the legislation. I do not propose to go through it section by section since the
Tánaiste has done that already. It will be a useful addition to the body of law relating to criminal justice. It will help judges in seeking to impose suspended sentences. It will help individuals who are given suspended sentences and who then find themselves in a situation where they are convicted of another offence that they wish to appeal.

I also welcome that the legislation takes into account that consecutive sentences can, and in certain circumstances should, apply if an individual is convicted of another offence. All too often there is no downside to an individual being convicted of an offence while he or she is already convicted of an offence because sometimes it does not result in an increased sentence - the person can serve his or her sentences concurrently. It is important that this provision provides for consecutive sentences.

I also note that at the time this judgment was delivered, some efforts were made to make Mr. Justice Moriarty stop short of striking down the relevant subsections on the basis that revocation arrangements could be put in place in respect of the individual cases. Mr. Justice Moriarty was correct when he stated he had considerable reservations about the appropriateness and fairness of such a course.

I welcome the legislation. In many respects, it is unfortunate that the only time we have discussed sentencing legislation in the life of this Dáil is as a result of a decision of the High Court. The latter has forced us to draft legislation and to get it through the House in order to rectify the deficiencies in section 99. It is important that the Oireachtas considers further advancements in respect of the area of sentencing. This is an area to which we do not devote sufficient attention. We need to consult broadly. We may need a commission in respect of sentencing. We must mature our attitude to sentencing. Generally, unless the convicted are guilty of violent offences or offences, such as those involving drugs, which give rise to a threat to the safety of others, we should be slow about putting those individuals in jail. That may create difficulties in circumstances where persons are involved in and convicted of criminal offences which result in significant property crimes, but I think we need a more sophisticated attitude. We cannot merely keep putting those convicted into jail because that does not seem to work. We need a more mature attitude to sentencing. Suspending sentences is an important part of our repertoire. However, we need to look at more and different types of sentences that can be made available to judges who have to deal with the different variety of criminal offences that exist in the criminal justice system.

**Deputy Jonathan O’Brien:** I give notice to the Deputy due to speak after me that I will not be taking the full 20 minutes. Like previous speakers, I will probably take ten minutes.

I also welcome this Bill. As the Tánaiste stated, it passed through the Seanad and received considerable support. I was not aware that anyone had opposed it. I understand that it went through with the full support of the Seanad. I hope that will be replicated in this House. My party certainly will be supporting the legislation.

Like the Tánaiste and the previous speaker, Deputy O’Callaghan, my party believes that the option of suspended sentences is an important part of the criminal justice system. In circumstances where individuals commit and are convicted of particular offences and where judges have the option of handing down suspended sentences, my party would encourage them to exercise that power wherever applicable.

The conditions attaching to a suspended sentence should in all cases be preventative in na-
Dáil Éireann

ture. In other words, somebody who does not commit another offence should be given that second chance. The conditions should also be restorative. Somebody who receives a suspended sentence must acknowledge that he or she has committed a crime - he or she has been convicted after all - that he or she is under an obligation to either the victim or the wider community and that it is not just a case of staying out of trouble for six or 12 months or whatever. It should be built into the conditions attaching to suspended sentences that such individuals should give something back to the community. That would be beneficial for everyone involved.

I agree with Deputy O’Callaghan that we do not get the opportunity to discuss sentencing very often in the House. We usually deal with legislation related to imposing convictions or providing for offences for breaches of the law. Sentencing is probably one of the most important parts of the criminal justice system. It is supposed to be the deterrent to prevent somebody from committing another crime. It is well established, and the Law Reform Commission and the Irish Penal Reform Trust have published reports in this regard, that simply jailing people is not the answer in many cases. One sends somebody to prison where it is warranted, but even within the prison system it is not a case of punishing them but of trying to rehabilitate them. In many cases it is very unpopular for politicians to say that, but the reality is that this is what the prison system is supposed to do. It is supposed to rehabilitate people and give them the skills and education they may have been lacking prior to being sentenced. Perhaps it is time to have that grown-up debate about sentencing guidelines. Perhaps we must even examine certain guidelines for sentencing. It is certainly not popular to say that somebody who goes to prison should get access to education or training, which somebody who is not in prison might struggle to access because of their circumstances, but it is the right thing to do. It would benefit society in general if we had an open debate on the sentencing issue.

With regard to the legislation, the Minister outlined in detail the differences between what is being proposed and what is in the old legislation that was struck down by Mr. Justice Moriarty’s judgment in the High Court in April last year. I am not fully certain about one element, although this might not be the place to ask the question as it might be more appropriate to Committee Stage. However, let us say somebody receives a custodial sentence and part of it is suspended. Does this legislation cover the situation where they serve their custodial sentence, and two or three years are suspended as part of the sentence, and when they are out in that period of time they commit another triggering offence? I presume it does, but perhaps the Minister would clarify that.

One of the areas which we should debate is mandatory sentencing, and I am taking the opportunity to raise this while we are discussing legislation on sentencing. Some people are very much in favour of it, but I oppose it. We have provided for mandatory sentences for certain types of drug convictions. All of the evidence suggests that mandatory sentencing is counter-productive. That might be a piece of work for the Oireachtas committee on justice. The committee is finalising its work programme tomorrow and it is probably too late to include a piece of work on sentencing, but it is something that perhaps I and Deputy O’Callaghan could encourage the committee to examine in the near future. It is an important piece of work because, as I said, we must have that grown-up, mature debate on sentencing. On many occasions when we are discussing criminal justice issues in the Chamber, Members tend to go off on tangents to talk about local Garda stations being closed or other areas of policing and justice that are not really relevant to the legislation under discussion. That is not to say they are not important, but the one area we do not discuss or to which we do not give any consideration is sentencing and, as I and the previous speaker have said, that is probably the most important part. It is the
sentencing element of our criminal justice legislation that is the deterrent and the part that could change somebody’s life.

Suspended sentences are an integral part of our criminal justice system and judges should be encouraged to use them where appropriate. Again, in the conditions imposed with a suspended sentence obviously the priority is to prevent somebody from committing another offence, but there must be a restorative element built into it as well. We welcome the legislation and we support it. I hope all sides of the House will support it and that it can be enacted as quickly as possible.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank Deputies for their response to the legislation. I am pleased they have accepted the Bill and that it can proceed to Committee Stage. It is a short and technical Bill, but it is significant. I thank the Deputies for their support and I welcome their comments.

Deputy O’Callaghan made thoughtful comments on sentencing. Deputy O’Brien raised the question of mandatory sentencing, an issue that arises quite often. The expert reports I have received in recent times do not suggest further mandatory sentencing but, as the Deputy said, people in the public domain often think it is the way forward. However, when detailed consideration has been given to it, it has not been recommended to me in the reports and is not seen as the most effective way to proceed. That does not stop public demand for it at times, which is quite understandable. When people see horrific crimes being committed they think a mandatory sentence is the best way to deal with them, but that is not the recommendation I have received.

On the particular point Deputy O’Brien raised, section 2(j) provides for a new subsection (18A) which sets out the procedure relating to the remaining portion of a suspended sentence when part only of a sentence is revoked under the subsection. Where a court revokes a suspended sentence in part, a further order may be made suspending the balance of the sentence and the order will be regarded as if it were an order to suspend a sentence under subsection (1). In this way the section 99 procedure relating to a revocation of a suspended sentence will apply to the remaining part of a suspended sentence. This reflects what currently happens in practice.

Section 99 of the 2006 Act was a significant legislative development in the context of sentencing. It enshrined in statute the power to suspend a sentence but provided for revocation of the suspended sentence in the event of the commission of another triggering offence. It was very important when it was introduced. Prior to its introduction in legislation in 2006, suspended sentences were handed down under common law but were seldom activated and did not therefore act as a meaningful deterrent to repeat offending. Section 99 was designed to ensure that persons did not get away with breaching conditions of their suspended sentences. However, it gave rise to operational difficulties, as Deputy O’Callaghan mentioned, mainly in respect of the sequencing of court hearings for the triggering offence, the revocation of the suspended sentence and with regard to the appeals mechanism. This resulted in a number of legal challenges which culminated in the High Court hearing last April.

We are correcting the deficiencies that were identified by the High Court. I have already given the details of the changes and how they will operate in making necessary and desirable improvements to the suspending sentence regime, which is such an integral part of the judicial sentencing system. Again, I thank the Deputies for their support of the Bill and commend the Bill to the House.
Deputy Jonathan O’Brien: Will the Minister comment briefly on the restorative part of a suspended sentence? The conditions attached to a suspended sentence are obviously preventative, to encourage somebody not to commit another crime. Is there any element we could build in to make them restorative as well, so people give something back to the community?

7 o’clock

Deputy Frances Fitzgerald: The whole approach to suspended sentencing is in terms of restorative justice in the broadest sense of the term. It is based on the hope that the person will stay away from crime and will not become further involved. There is a motivation built into the approach to suspended sentencing. It is a separate issue and a court would consider it when bringing in probation or other initiatives. I can consider it further, ascertain whether there are any particular connections and address it on Committee Stage. I do not have anything further to say about it at this point.

Question put and agreed to.

Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016 [Seanad]: Referral to Select Committee

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 149(1).

Question put and agreed to.

Sitting suspended at 7 p.m. and resumed at 8 p.m.

8 o’clock

Tracker Mortgages: Motion [Private Members]

Deputy Pearse Doherty: I move:

That Dáil Éireann:

notes that:

- the wrongful removal of tracker mortgage rates from mortgage holders, or a failure to restore mortgage holders to tracker mortgage rates they were entitled to, has affected thousands of families;

- the damage caused by the action of the banks involved goes far beyond a purely financial effect and that the effects it has had on the health and social well-being of families, along with the accompanying social exclusion, must also be considered;

- the confirmed cases number at least 11,700 and that many more are still likely
to emerge with the Governor of the Central Bank of Ireland stating that up to 15,000 is a reasonable estimate;

- the unique economic circumstances prevailing at the time this wrong doing was ongoing resulted in a more pronounced effect and impact on families affected throughout Ireland;

- the occurrence of this behaviour across the banking system suggests a co-ordinated and deliberate attempt by Irish banks to deprive thousands of families of their rights;

- the banks have admitted that dozens of families have lost their home as a result, with AIB admitting to 14 cases, Ulster Bank to 15 cases, Permanent TSB to 22 cases and other banks not yet disclosing the number;

- there are also the homes which were surrendered and were a voluntary or agreed sale, the numbers of which are not yet captured but should also be considered a loss of home;

- in October 2015 the Central Bank of Ireland finally launched an industry wide examination into this practice, years after evidence of its existence emerged; and

- former Central Bank of Ireland head of financial regulation, Matthew Elderfield, told the Committee of Public Accounts, in 2013, that he did not believe the current legislation on the Irish Statute Book was strong enough to bring people to account for white collar crime;

commends the families and advisers who have campaigned to bring this scandal to light and pledges its support to all those affected;

condemns the widespread and scandalous abuse of mortgage holders’ rights carried out by multiple banks in which tracker mortgages and the applicable rates were denied to those who were entitled to them;

supports a comprehensive redress scheme that truly works for the customers affected, with a full right to access to tracker mortgages at the rate agreed as per the contract or at the rate applicable at the time the contract was entered into and compensation taking into account the financial and social impact of the bank’s behaviour;

questions the delay in the Central Bank of Ireland’s actions in carrying out an industry-wide examination and expresses concerns that no deadline is in place for the banks to conclude their investigations and to put in place a redress and compensation scheme;

calls for the Central Bank of Ireland investigation to uncover the grounds under which each lender decided or chose to carry out this level of wrongdoing;

believes that a major overhaul of existing law is required to ensure that individuals can be held responsible before the law for their actions in financial matters;

calls on the Government to bring forward legislation to ensure that individuals in financial institutions can be held accountable for white collar crime; and
calls on the Central Bank of Ireland, An Garda Síochána and the Office of the Director of Corporate Enforcement to co-operate, with a view to establishing if individuals, as well as corporate entities, can be held accountable for their part in this scandal.

It is my honour to move this motion which states clearly and loudly that the Dáil stands with the victims of the tracker mortgage scandal and that we want to see the banks sort out the mess they created. Moreover and just as important, we want to see accountability. We want to see those who oversaw this theft and the stealing of millions of euro from up to 15,000 Irish families held accountable. That is the message I want to send loudly and clearly and I hope all Members can support that call. It also includes recognition of the achievement of those mortgage holders who stood up to the banks and won round one. Some have shared personal details of the impact of this scandal on their lives in an honest way which we must appreciate and applaud. I also recognise and pay tribute to the work of Padraic Kissane and others in advising victims and raising this issue.

I am not going to pretend that this scandal had anything to do with system errors or misapplications. I am sure it was deliberate and calculated. Some customers were telling their banks for years that they should have been entitled to a tracker mortgage, but a deaf ear was turned. Thousands of families have been stripped of their rights and suffered hardship because of a decision taken by men in suits acting in the wrong.

We will hear many figures in this debate, rightly so. However, we cannot lose sight of the social impact of what has occurred. I have been inundated by victims of the scandal who have been telling their story and seeking political and practical support for some time, especially this week. What stands out for me is the level of anger at what has happened, not because of figures on a page but because the banks, in doing what they did, have caused stress, emigration, the loss of family homes and other assets, as well as other very personal damage. How can a bank compensate the family that could not afford to send their child to college? How does one account for the terrible cost of that decision? How does a bank compensate the family, the father of which had to emigrate to ensure they would be able to afford the home on which they were being overcharged? What about the 100 or so families who lost their homes simply because the banks were making them pay more than they should have been? How many losses of the family home about which we will never know because they were disguised as so-called voluntary surrenders?

We must bear in mind that much of this theft happened at the worst of times. The economy had collapsed, in large part due to the activities of these very same banks. Unemployment and emigration were at extremely high levels. It was at this time of extreme difficulty for almost all families that the banks decided to twist the knife in for so many. We also know that they did not suddenly have a conscience. This swindle was in full swing until recently. Every month they were taking from families and they would have carried on were it not for mortgage holders standing up to them. The potential scale of the theft would be close to €1 billion now if they had not been caught out and I have no doubt that they would still be at it. I am aware of staff at Bank of Ireland who seem to be completely excluded from the redress scheme. Where is their redress and the justice for them?

For many, it is still going on. The banks are still trying to minimise what they did and weasel out of their responsibilities. The chief executive officer of Ulster Bank told me in December when he appeared before the Oireachtas finance committee that the majority of victims would
receive letters before Christmas. From what I hear, that was simply an expedient comment with no basis in fact. There are hundreds, probably thousands, of families who each month receive an identical letter from their bank telling them that they are under review. Families who know that they are in the right have to wait until the bank that stole from them admits to the fact. In the meantime, they are still being overcharged.

Others have received letters stating the bank has returned or will return them to a tracker rate. Any old mortgage called a tracker rate mortgage is not what they signed up to; it was at a particular rate at a particular time. At this point the banks should not be allowed to define what a tracker mortgage is. Some victims have been on a tracker mortgage at Permanent TSB, for example, at a rate of 3.25%, plus the European Central Bank, ECB, rate, when, by all logic, they are entitled to a rate of 0.75%, plus the ECB rate. There is a difference of 2.5%. The Central Bank needs to ensure customers will be returned to the tracker rate to which they are entitled, not the tracker rate the bank would like to them to be at. The banks must fix the mess they created, stop the weaselling, return the money they stole and put things right. That means putting people back on the right rate, not any old rate and calling it a tracker mortgage.

At its core, this scandal is about the banking system. Why did this happen? When the Governor of the Central Bank, Mr. Philip Lane, appeared before the finance committee, he stated what was blindingly obvious, “Put frankly, there are far too many cases where it turns out there was a misapplication.” That is Central Bank speak for the banks knew well what they were doing, but that is not to let the regulator and political overseers off the hook in the slightest. There has been a massive blind eye turned to this scandal at a political level. We know that two of the biggest offenders, AIB and Permanent TSB, are owned by the Minister on behalf of the people. The Minister has not called in their chief executive officers or boards to tell them that this is unacceptable. If a semi-State body was found to have taken hundreds of millions of euro out of people’s pockets through overcharging, its chief executive offer would be sacked. When the banks do it, however, there is an examination and a redress scheme, which is essentially a euphemism for getting back what already belonged to someone.

AIB stated that, at the last count, 3,003 overcharged accounts had been identified. It is a 99.9% State-owned company which has been overcharging thousands of its customers - citizens - to the tune of over €100 million euro. The Minister should have called in the CEOs and the board of these State-owned banks and asked the questions about what was going on under their noses. I still appeal to him, at this late stage, to do just that. He should be on the telephone to the banks first thing in the morning seeking answers on behalf of the 15,000 citizens who were swindled by those same banks.

The question also needs to be asked why it took until October 2015 for the Central Bank to launch an industry-wide examination. Thanks to mortgage holders taking cases with the Financial Services Ombudsman, this scandal had already been uncovered many years before. Once again, when it comes to regulatory scandals, it seems the Central Bank is way behind the curve. Even now there is no deadline imposed by the Central Bank to sort out this mess. Let us be very clear about this, the blame does not lie with the Minister or the Central Bank for this crisis. They should have done more but it was the banks across the board that put this practice into place. They are the ones responsible. The motion before us calls on the Central Bank of Ireland, An Garda Síochána and the Office of the Director of Corporate Enforcement to co-operate, with a view to establishing if individuals as well as corporate entities can be held accountable for their part in this scandal. I will support any victim or any representative who goes to the local Garda station and reports what I believe is this crime. I urge people who feel
they have been robbed to do exactly that. It is their right in the same way it is when a person is mugged walking down the street - theft is theft.

The bigger picture here is that our white collar crime laws are clearly not deterring white collar criminals. We need to make our laws on corruption and stealing with a pen tougher. Yesterday a white collar criminal was sent to jail but he is the exception that proves the rule. If one positive can come out of this scandal it should be that the House gets serious about giving the Judiciary, the Garda and the Director of Corporate Enforcement the tools to tackle white collar crime.

I hope all sides of the House can support the motion. Up to 15,000 families deserve our support. They have done absolutely nothing wrong but have suffered at the hands of the banks. This is a scandal that has cost a section of the Irish people hundreds of millions of euro. It has unfortunately had a devastating impact on those families beyond the financial impact. We owe it to those families to stand with them tonight and send a message to the banks that we will accept nothing short of full redress and fair compensation.

Deputy Brian Stanley: I welcome the opportunity to speak to this important motion. The wrongful removal of tracker mortgage rates from mortgage holders is yet another scandal in a long list of scandals from within Ireland’s financial sector. Families and individuals who were entitled to lower mortgage repayment rates were deliberately misled and exploited by these institutions, which were losing money due to their own incompetence. The scandal only came to light through the initiative of people who were being exploited and took their cases to the Financial Services Ombudsman. There are many who have already been forced from their homes or were coerced into surrendering their homes due to the exorbitant rates unfairly imposed on them. The actions of the banks that engaged in this deception are deplorable and will rightly be condemned by all sides of the House tonight. This scandal has taught us yet again that empty platitudes of condemnation and concern for victims is not enough to tackle the problem of white collar misconduct.

It is particularly galling to see that some of the banks that were bailed out by the State, at great financial and social cost, have caused further hardship to people who saved them from collapse. To say that these institutions behaved unprofessionally is to put it mildly. Poor judgment and reckless management practices within the financial sector cost this State and its people €64 billion, with a large part of that debt being passed on to our children and grandchildren. The response of the banks has been to force some mortgage holders to pay for the costs of their incompetence.

As well as the scandal of the bailout and denying people their rightful mortgage rates on tracker mortgages, we cannot forget those who to this day live under constant threat and harassment from financial institutions that seek mortgage repayments for overpriced homes. My county of Laois has seen some of the highest rates of mortgage arrears in the country according to the Central Bank, with 16% of mortgages in arrears of three months or more and many people still trapped in negative equity. The figure for County Kildare is also high, with one in eight mortgages in arrears of more than 90 days. I say directly to the Minister of Finance that the response from the Government has been minuscule. The mortgage-to-rent scheme and the other schemes are not working. People are trapped in these situations. Many of them are willing and eager to arrange fair and affordable repayment plans but they do not have the same power or leverage as the financial institutions. The vulture funds who buy the loans have power. We have seen the power they have in recent times.
This whole saga only goes to prove that the captains of private capital are incapable of acting fairly or ethically. It underlines the need for a State banking sector that operates ethically, plans for the long-term future and works for the benefit of the people not just the captains of finance. There is nothing revolutionary about this. We talk about how much we like Germany. Many countries have successful state and public banking systems like the Sparkassen model in Germany, yet Ireland remains committed to the private-only model which has produced a litany of failures and scandals. We need a comprehensive redress scheme. It is the least the victims of this latest scandal deserve. However, if we are to avoid similar scandals in the future, a major overhaul of existing laws is required.

If the Government wants to claim it is acting in the interests of the people rather than the interests of the bankers, the Minister is obligated to act on the recommendations of the motion. I cannot see how anybody can argue with it. It is the fair and right thing to do.

Deputy Donnchadh Ó Laoghaire: Cuirim faílte roimh an rún seo atá os comhair an Tí. Tréaslaím leis an Teachta Ó Dochartaigh as ucht é a thabhairt os ár gcomhair. The purpose of the motion is to ensure the Government recognises a wrong has been inflicted on blameless citizens. Few will disagree with this. It must not only recognise that, it must rectify the wrong. As the previous speakers said, it appears that 15,000 customers, perhaps many more, have been affected by practices that were found to be improper and wrong by the Financial Services Ombudsman. Among the 15,000 customers affected, there are many families all over Ireland. There is a very high number of people in mortgage distress in my constituency in Cork. These families were kept on variable rate mortgages when they were entitled to extend or move on to a tracker rate. They were robbed of the opportunity to benefit from the tracker mortgages with quite significant amounts missed out on. They were deliberately denied lower rates. I speak for many who acknowledge that these sums would have been better in the pockets of families rather than bankers who, for far too long, have been unaccountable when it comes to questionable practices.

The banks have admitted that people have lost their homes as a result of decisions they made on this issue - 14 on the part of AIB, 15 in the case of Ulster Bank and 22 with Permanent TSB. That is a complete and utter scandal. Behind each of these numbers, there is likely a family who broke their hearts trying to hold on to their home. The fact that families have faced repossessions and countless others have lost their homes as a result of these practices, having decided on a voluntary sale after significant stress and hardship when they might have been able to sustain the mortgages in other circumstances, is more evidence that light-touch regulation has failed us. They are deserving of compensation in a timely fashion. I reiterate the calls for strict deadlines to be imposed for the redress and compensation to be paid. Compensation is not adequate. It cannot compensate for the upset, hardship and stress involved. We can only speculate about how many people went without a visit to their doctor or dentist or left bills unpaid or how many children were deprived of other necessities, educational opportunities or the chance to better themselves because their parents could not afford it as a result of the rate they were denied.

There is no question but that these practices have a real human cost and a wider social cost. This will be always framed as an error or oversight by some. The Irish banks seem to have actively worked to deprive people of their rights and entitlements. If that is the case, it makes it a crime. Therefore, while compensation may not be adequate, it is the very least that can be done for these families and individuals.

There is also the issue of justice as regards those who were at fault. There is no doubt
in my mind that there is a difference in attitude among officialdom in Ireland to white collar crime as opposed to other kinds of crime. Nil dearadh chomh dháiríre ann i dtaobh an saghas coiriúlachta seo, agus is coiriúlacht atá ann. The cost inflicted here shows it is not a victimless crime. The motion calls on the Central Bank, An Garda Síochána and the Office of the Director of Corporate Enforcement to co-operate with a view to establishing if individuals as well as corporate entities can be held accountable for their part in this scandal.

I do not think it is unfair to state the reaction of the Central Bank has, at the very least, been relaxed in dealing with the issue at hand. It has been slow to administer any sort of deterrent that might prevent similar scandals arising again. Arís tá faillí ar an mBanc Ceannais i dtaobh cosaint a dhéanamh ar ghnáthsaoránaigh. White collar crime legislation in Ireland remains as inadequate as when Matthew Elderfield said back in 2013 that the legislation on the Irish Statute Book was inadequate. The State must step up to the mark in protecting the victims and ensuring justice in this area also. That means stepping up in terms of legislation but it also means stepping up in terms of resources. The Office of the Director of Corporate Enforcement and the Garda National Economic Crime Bureau - formerly, the fraud squad - including all the units thereof, need to be better resourced. People are tired of seeing those involved in white collar crime, whether in banks or other forms of finance, get away with it. It is still one of the festering sores of the economic crisis and something that, at every door in the country, frustrates people beyond fury to this day. We need to ensure this does not happen again and this must be done by way of legislation, by way of resources and by way of a change in culture and attitude. That can begin through compensation and through ensuring those responsible for these actions are brought to account.

Minister for Finance (Deputy Michael Noonan): I move amendment No. 2:

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

notes that:

- the Central Bank of Ireland has a considerable range of supervisory, investigative and enforcement powers which have been enhanced in recent years across a wide range of areas to combat and punish wrongdoing;

- in October 2015, the Central Bank of Ireland embarked on a broader examination of tracker mortgage related issues and since then it has produced regular progress updates on the status of the examination;

- the wrongful removal of tracker mortgage rates from mortgage holders, or a failure to restore mortgage holders to tracker mortgage rates they were entitled to, has affected thousands of families;

- approximately 8,200 impacted accounts have been identified to date by the Central Bank of Ireland but that the total number of impacted accounts is likely to be higher;

- the responsibility for causing the problem, and therefore for rectifying the problem, rests in the first instance with the lenders which wrongly removed the right of their customers to a tracker mortgage rate; and

- the Central Bank of Ireland, utilising its powers, has already issued a reprimand
and imposed a fine of €4.5 million on one mortgage lender, and also required the lender to provide redress and compensation to impacted customers, in respect of breaches of its obligations to tracker mortgage customers;

supports the Central Bank of Ireland’s actions to initiate an industry wide examination and calls for the examination to be completed, with appropriate redress and compensation to impacted customers, as soon as possible;

recognising its independence, calls for the Central Bank of Ireland to investigate, and where pertinent, to apply appropriate sanctions to regulated entities and/or individuals for wrongdoing where supported by the evidence;

calls on the Central Bank of Ireland, An Garda Síochána and the Office of the Director of Corporate Enforcement to co-operate and act as necessary on matters arising from the examination of the tracker mortgage issue; and

calls on the Government to keep the legislation on financial regulation and white collar crime under review and to bring forward new proposals if necessary.

I thank Deputy Pearse Doherty for raising this very important issue. I also thank Deputy Michael McGrath for his amendment to the motion tabled by Deputy Pearse Doherty. The fair treatment of consumer borrowers is a key requirement of the financial services regulatory framework and of the Central Bank consumer protection code. This requires all residential mortgage lenders to act honestly and fairly in the best interests of their customers and not to mislead customers, either negligently or deliberately, about the products they provide. It also requires lenders to make a full disclosure of all relevant information to a consumer in a way which seeks to inform the consumer and to enable a consumer to make an informed decision before entering into, or changing, a loan or other financial services agreement.

As all Deputies in this House will be aware, these minimum standards have not been met in the case of a significant number of tracker mortgage customers. This was wrong and it is a very serious matter which now needs to be put right by lenders. The Government, therefore, very much agrees with the sentiment of the motion tabled by Deputy Pearse Doherty and the amended motion tabled by Deputy Michael McGrath. While the Government will move its own amendment to the motion, it does not dissent from the broad thrust and objective of either Sinn Féin’s motion or Fianna Fáil’s amended motion. However, the Government’s motion wishes to focus more directly on what it considers should be the primary tracker mortgage issues at this point. First, it wishes to state it is the lenders who caused this harm to impacted tracker mortgage borrowers in the first instance by their incorrect actions who have the primary responsibility for rectifying the problem. Second, it wishes to state the Central Bank industry-wide examination should be completed, with appropriate redress and compensation to impacted customers, as soon as possible.

Since 2010 the Central Bank has been dealing with mortgage lenders on tracker mortgage-related issues. The bank had identified and pursued issues in regard to transparency with specific lenders regarding their borrowers who opted to switch from a tracker rate or who had a right to revert to a tracker rate after the end of a period where their mortgage rate was fixed. Individual cases were also presenting to the Financial Services Ombudsman and that office was making a determination on these cases, some of which were also coming before the courts. In addition, due in part to these developments, the matter was coming to greater public attention.
more generally.

Having regard to such developments, the Central Bank issued a public statement in October 2015 which indicated that it had commenced a systems-wide examination of tracker mortgage-related issues which covered, among other things, transparency of communications with and contractual rights of tracker mortgage borrowers. This examination has turned out to be the largest review ever carried out by the Central Bank on its consumer protection side. It covers 15 mortgage lenders which may at any time have sold a tracker mortgage product to a consumer borrower. It covers banks and other regulated lenders and includes lenders which are no longer providing new mortgage credit. It also covers mortgages which have been redeemed or whose tracker mortgage has been transferred to another creditor.

The examination requires all lenders to examine the extent to which they have been meeting their contractual obligations to their tracker mortgage customers or their compliance with their obligations under the Central Bank’s consumer protection code and other consumer protection regulatory requirements. Under the initial phase of the industry-wide examination, the Central Bank required lenders to put in place governance structures and systems to conduct a comprehensive examination. Lenders were required to appoint external third party assurers to oversee the examination in line with the bank’s requirements for the conduct of the examination.

The second phase of the examination is currently ongoing and it involves an extensive internal review of mortgage books to identify borrowers which fall within scope. This involves a potential review of a very large number of mortgage accounts to identify the individual accounts which will warrant more detailed consideration and review. The Central Bank examination requires that when groups of impacted accounts are identified, the lender must, in the first instance, stop charging the incorrect rate of interest on the customer’s account and then communicate this to the customer in order that any further customer detriment is stopped as early as possible. Once a full review of the customer’s account is complete, following external independent third party assurance, the lender will then issue a letter to the customer explaining the nature of the error, the correct rate to apply to the customer’s account and information on the next steps in the tracker examination, including the redress and compensation process. The process also requires that lenders establish an independent appeals process to deal with customers who are dissatisfied with any aspect of the redress package they receive from lenders in respect of these matters.

As Deputies will be aware, last month the Central Bank issued an update statement which indicated that, so far, lenders had identified approximately 8,200 accounts where a right to, or the option of, a tracker rate of interest and-or the correct tracker rate of interest was not provided to customers in accordance with lenders’ contractual or regulatory requirements. This is the number of impacted accounts within the scope of the examination which have been verified to date. However, in his subsequent appearance before the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach on 20 December, the Governor of the Central Bank indicated that the bank expects to see lenders engaging with more impacted customers over the coming months.

There was considerable discussion at the committee meeting on the possible maximum number of likely impacted cases. At that meeting, the Governor did not dissent from an overall figure of 15,000 as being a reasonable estimate but, nevertheless, he did enter a caveat that it may not be that high. As I indicated in my responses to the Deputies’ Priority Questions on this subject last week, I do not have any further information at this time on the likely maximum.
number of impacted cases. While both motions as tabled by the Deputies opposite make reference to the number of confirmed cases as 11,700, the Government’s amendment proposes to refer to the number of impacted cases which so far have been verified in a definitive way by the Central Bank, that is, the 8,200 cases as set out in the Central Bank update statement of 19 December. However, it also recognises that the final number of impacted accounts is likely to be higher, without specifying at this point what that final figure is likely to be. This is done not to dispute what the final number of accounts will be - that will be determined in due course following the conclusion of the examination - but only to align the record of the Dáil at this point with the number of verified impacted accounts as currently stated by the Central Bank.

It should be noted that progress is already being made. On 29 November last, the Central Bank of Ireland announced that it had issued a reprimand and imposed a fine of €4.5 million on Springboard Mortgages Limited for serious failings in its obligations to its tracker mortgage customers.

The Opposition motion also refer to the possible need for more legislation to hold entities and individuals to account. The existing powers of the Central Bank are strong and should be used to punish wrongdoing where supported by the evidence. Of course, the Government will monitor the progress and outcome of this important investigation carefully, and if there is tangible evidence of gaps in legislation that need to be filled, the Government is prepared to bring forward the necessary legislation to strengthen the consumer protection function of the Central Bank.

What is clear is that some tracker mortgage customers have been treated disgracefully by mortgage lenders and that many borrowers have incurred considerable loss, in particular where they have either directly or indirectly lost their homes due to this harmful action by lenders. I assure the House that the Government is fully aware of the seriousness of this matter and it wishes to have adequate redress and compensation provided to impacted consumers as quickly as possible. At this point the Government wishes to support and encourage the Central Bank to complete its tracker mortgage examination investigation as quickly as possible.

I again thank Deputies Pearse Doherty and Michael McGrath for their very committed and serious contributions to this debate.

Deputy Michael McGrath: I commend Deputy Pearse Doherty and his colleagues in Sinn Féin for putting this issue forward and securing Dáil time to discuss what is a very important issue.

It must be borne in mind that of all the customers we know of who were wrongly denied tracker mortgage rates, the vast majority are still, in January 2017, not being charged the correct rate. The tracker rate to which they are contractually entitled has still not been reinstated by their banks under the supervision of the Central Bank, and that is a scandal and a disgrace. There seems to be no urgency whatsoever in the Central Bank’s handling of this issue and this investigation. Let us put it in real terms. A family with a mortgage of €200,000 which is wrongly paying a variable rate of around 4% and should be paying a tracker rate of 1% is paying about €500 every single month in interest more than it should be paying. That is the reality of what we are talking about. Many of these customers have been paying this every single month, every year, for many years. This is an enormous issue in the household budgets of many thousands of houses across Ireland tonight.
I made the point about the lack of urgency. I will highlight one sentence for the Minister. The Central Bank stated in an update issued on 19 December, “[B]ased on current progress we expect that relevant lenders will have identified and commenced engagement with impacted customers by mid-2017 with payment of redress and compensation, processing and consideration of any appeals and the Central Bank’s own assurance work continuing beyond this point for some lenders.” Therefore, it could be many months yet before customers who we know are affected in this regard and have been wrongly denied tracker mortgage rates are actually given those rates for their own mortgages. That is the position as of tonight. Correspondence that Bank of Ireland brought before the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach stated that the bank had completed the second phase of the four-phase Central Bank of Ireland tracker mortgage examination, that this phase was submitted on schedule at the end of September 2016 and that no timelines had been provided to complete the third and fourth phases. No timelines have been provided by the Central Bank to the banks in respect of the aspect of this investigation that really matters to people, namely, the reinstatement for them of the rates to which they are entitled. That is the nub of this issue.

There is a much deeper and wider issue regarding how this all happened, what exactly was known within the institutions and the nature of the redress that will be provided. However, the priority must be to ensure that those who are contractually entitled to a tracker mortgage rate are put on that rate without any further delay. If the Minister does anything, will he at least intervene and talk to the Central Bank about this issue and let it have direct contact with the individual lenders to ensure that this happens without any further delay?

The Minister spoke about the figures of 8,200 and 11,700. We were in a position to reconcile these figures over the course of the hearing we had with the Governor, Professor Lane, just before Christmas. The figure of 8,200 is the number of verified customers affected under the existing probe. However, we know there were almost 1,400 affected customers of Permanent TSB when it put up its hands and eventually, after many years of procrastination, dealt with this issue by way at least of acknowledgement in 2015, even though it has not been fully dealt with in the cases of individual mortgage holders. They are not included in the 8,200 but they are verified and confirmed. Equally, in 2010, Bank of Ireland, following a review, identified 2,100 customers who were wrongly denied tracker mortgage rates after having come off fixed rates. This is confirmed, verified and signed off on. While this is not part of the investigation, it is part of the issue at hand, namely, customers being wrongly denied tracker mortgage rates. One arrives at the figure of 11,700 by adding these up - the 8,200, the near 1,400 in respect of Permanent TSB and the 2,100 in respect of Bank of Ireland, a figure which dates back to 2010. When Deputy Pearse Doherty asked Professor Lane at the meeting on 20 December whether in the region of 15,000 customers could be affected, he did not dissent; in fact, he acknowledged this could be the case. However, the current figures are those we have outlined. We know there are 11,700. However, we do not have confirmation that many of the 15 lenders, to which the Central Bank wrote as part of the probe have completed the first and second phases, have done trawls of their mortgage accounts and have been in a position to confirm the number of affected customers. We do not know this as of now.

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach has done some very good work on this issue. In November and December, we brought in the main lenders - AIB, Bank of Ireland, Permanent TSB and Ulster Bank - and were in a position to go through this and other issues with them. We followed up on this with a meeting with the Governor before Christmas. We will continue in this regard. This body of work is far from complete.
We have made the decision as a committee, under the chairmanship of Deputy John McGuinness, that the Central Bank should come before us on a quarterly basis until we are satisfied that this issue has been dealt with. I understand the next meeting with the Governor will happen in the very early days of April of this year, which I welcome because the engagement we had before Christmas was not satisfactory. To be fair, I think the Governor and his officials did not believe the tracker issue would dominate the meeting, but it did dominate the meeting because of the information we had gleaned from our engagement with the other banks. The Governor and his staff will be very clear before they come before the committee on the next occasion that the focus of our engagement will be on the tracker mortgage rate issue.

There is a wider issue about the statutory role of the Central Bank in consumer protection. I have made this point on many occasions. The Central Bank is not adequately fulfilling its consumer protection role. Perhaps the reason for this is that after the financial crash, the immediate focus in strengthening and reforming our regulatory system was to ensure prudential supervision was beefed up in terms of resources and, for example, a more intrusive style of supervision. I would like to think this is happening. However, my observation is that the Central Bank is not playing Champions League football when it comes to consumer protection and protecting the statutory rights of the consumers of financial services products in Ireland today. In many respects, the Central Bank is really in the spotlight on this issue. I acknowledge that it levied a very significant fine on Springboard mortgages in respect of the 1,372 customers affected by the Permanent TSB - Springboard issue. It remains to be seen what it does about the possible enforcement proceedings that may follow this investigation. It has to have the space to do its work but we will put pressure on it to conclude that work at least from the consumer perspective as quickly as possible.

There are other issues that are relevant to this including the fact that many customers who should be on a tracker rate tonight are not. That has to be dealt with. There are other customers on the wrong rate. Bank of Ireland has acknowledged a significant number of its customers are on the wrong rate and presumably it is taking steps to correct this. The customers AIB has identified as affected by this issue are being put on a tracker rate of 3.67%. That makes no sense because with others I have examined the contractual position in the mortgage contract it is very clear that at the end of the fixed rate period the customer may choose between a further fixed interest rate period, conversion to a variable interest rate or conversion to a tracker interest rate mortgage loan at the bank’s then prevailing rates appropriate to the mortgage loan. In a further clause it clarifies the nature of a tracker rate saying it is made up of two parts: the ECB’s main refinancing operations minimum bid rate, the ECB rate, which is variable and the tracker margin as stated in part one of the particulars of mortgage loan “subject to paragraph 3.6.3 below”. In other words, the only variable element of a tracker mortgage rate is the ECB based rate. It is ridiculous to suggest customers who the bank recognises should be on a tracker rate are going to be on the ECB rate, plus 3.67%. At no time when tracker mortgages were being sold from the late 1990s up to around 2008 were people put on an ECB base rate, plus 3.67%, yet when we put this to the Central Bank it seemed to be standing over that practice. I do not believe that is accurate. If that is how this issue is to be handled it might as well go to the courts where the interpretation of those contractual rights will ultimately be determined. That should not be the case. There are groups of mortgage holders who are being represented by solicitors and if they have to vindicate their rights through legal recourse that is exactly what they will do but they should not have to do that because it is clear what the mortgage contract, to which they and their financial institution is party, says. I gave the example of AIB. Deputy Pearse Doherty gave the example of Permanent TSB where I think the rate is 3.25%, at least in some cases.
Fundamentally, the probe here by the Central Bank has to get to the bottom of how this happened in the first place. In Priority Questions last week the Minister used the phrase that it stretched the boundary of coincidence that all the main lenders happened to make the same mistake and they made it in the manner that was adverse and not favourable to the customer. Perhaps that was a coincidence. Why was this practice widespread and systemic? The Sinn Féin motion uses the word “co-ordinated”. I do not know if it was co-ordinated among the institutions. I do not have any evidence of that but they did all happen to make the same mistake. I want the Central Bank to go into each of those institutions to read the minutes of the executive management committee meetings and the board meetings, internal memoranda, the e-mails that went back and forth between the senior executives who were involved in this and see how they reacted when they became aware of it. They did not become aware of it today or yesterday. They became aware of it several years ago. We know in the case of Permanent TSB there was a concerted effort, through the work of the Financial Services Ombudsman and the court process to the very steps of the Supreme Court, to deny the blindingly obvious, that customers entitled to a tracker rate would not get that rate. The Central Bank probe has to be that forensic. It has to go in and find out exactly what happened. When the institutions first became aware of this how did they deal with it? Was a deliberate and conscious decision made to try to ride this out or was it a genuine mistake? Was it a systems error? I do not know but sometimes I despair. Having come through what we came through in the financial crisis of 2008 and having sat through the banking inquiry for almost two years, examining in detail the years leading up to the crisis, when the crisis originated, I wonder seeing this if the period overlaps. Have we learned anything? Have the regulatory authorities learned anything in respect of their approach?

We have not named the Director of Corporate Enforcement and An Garda Síochána directly in our amendment to the motion because the Central Bank has to do its work and that has to be led by the evidence. If the evidence points to criminal wrongdoing the Central Bank has no option but to refer it to the Garda. If there is any evidence whatsoever of a contravention of the Companies Acts it has to refer it to the Director of Corporate Enforcement. I do not need to spell that out in our amendment, but it is relevant. A review of our legislation on white collar crime and deterrents is well overdue. It does not have to be directly connected to the Central Bank investigation but it is warranted. When one considers the proceedings taken against individuals concerned, the length of time it has taken for cases to come to the courts one has to question its efficiency and effectiveness. The Government should institute an independent review of our law in that area as quickly as possible.

The priority is to ensure those affected will receive restitution as quickly as possible and that the Central Bank moves through the various stages of its process to ensure customers will be treated fairly. We will do our job as elected representatives through the work of the Oireachtas Joint Committee on Finance to maintain the public and Oireachtas spotlight on this issue.

I do not know how the voting on the Sinn Féin motion, our amendment and the Government’s amendment will work out but it would be good if the Oireachtas could speak in some degree of unison on this issue and some agreement could be reached so that a motion does pass in respect of it because there are strengths and weaknesses in the motion and amendments.

What happened is a disgrace. With each passing day we hear individual stories of how it has affected people. Even the Central Bank acknowledges that perhaps up to 100 families have lost their homes directly as a result of this. Can the Minister, any Deputy who has not gone through that trauma or I really understand its nature, what it does to a family, the devastation involved? We cannot and how can people who have lost their homes be compensated, apart from provid-
ing them with another home that meets their needs? For people who lost their homes that is exactly what needs to be done. The banks have a duty to ensure they have a home and that it is one they can afford because there will be some job of work to be done here to go back over each of these mortgage accounts to see exactly the level of compensation, the reimbursement of money taken from people, compensation for that loss and added compensation if they lost their homes. I advise people to trawl through their houses, find their mortgage contracts and have a good look at the documents. I refer, in particular, to people who started off on a tracker rate and were placed on a fixed rate in 2006, 2007 or 2008 when the ECB base rate was climbing. Many fixed at that stage, for fear that their tracker rate would get out of control, only to be put straight back onto a variable rate at the end of the fixed rate period. They might not be aware that they were entitled to a tracker rate. People who think they might be affected by these issues should find their mortgage contracts, read and check them again and obtain independent financial advice.

Can we have any confidence in the trawl being done by the individual institutions? Can we be confident that the supervision of the Central Bank will unearth all of the individual cases that have been affected? The answer is no, we cannot. We thought, for example, that Bank of Ireland had disposed of this issue in 2010 when it found that tracker rates had been wrongly denied to 2,100 customers. We found out in the course of the investigation that Bank of Ireland had not got to the bottom of the matter, as 602 other customers had been denied tracker rates and an even larger number of customers - 3,916 - had been put on the wrong rate. These cases were not picked up in the original probe. If the Central Bank had not undertaken its subsequent probe, would these customers ever have been identified? My advice to customers is to take nothing at face value. They cannot trust that the investigations the banks are undertaking will identify their cases. They cannot trust that the supervision of the Central Bank will deliver justice for them. They will have to fight for justice themselves. That is exactly what customers will do. From our perspective in Fianna Fáil, we will work collaboratively with others in this House and at the Oireachtas committee to ensure those affected will get the justice they deserve.

Deputy Richard Boyd Barrett: I would like to share time with Deputy Mick Barry.

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

Deputy Richard Boyd Barrett: I commend Deputy Pearse Doherty and his Sinn Féin colleagues for tabling the motion. As previous speakers said, it is scandalous that significant numbers of families lost their homes because of the practice of multiple banks to fail to give them the tracker rates to which they were entitled. It is shocking that the banks moved against these families on the basis of their inability to pay mortgage rates they should not have to pay. As we have heard, immeasurable anxiety and hardship were needlessly suffered by over 11,000 families, perhaps up to 15,000, in these circumstances.

The measures being proposed in the motion are absolutely correct and I support them fully. People need compensation and redress. The investigation has to be concluded and the banks that acted in this manner need to be held to account. We need to get to the bottom of how all of this happened in the first place and ensure it will not happen again. There must be severe penalties for financial institutions that can impose this needless suffering.

As I said, I agree completely with the motion. I do not have the same expertise on this issue as Deputies Pearse Doherty and Michael McGrath who have been following it at committee level, but I cannot help having an enormous sense of frustration that all of this has been done
by the financial institutions we bailed out. This is one of multiple wrongs these banks have done to mortgage holders and the more general population as a result of what happened in 2008, which resulted from their greed for profit. It is difficult not to conclude that the immoral greed for profit of these institutions which propelled the entire economy over the cliff almost a decade ago is also the reason this specific issue has arisen. Even now, eight years on, up to 15,000 families are suffering needlessly.

The Central Bank has still not got to the bottom of the matter and the Government is standing idly by. It is allowing the issue to drag on, while the suffering continues. I cannot help feeling extraordinary frustration about the Government’s failure to act as we suggested when the crash hit. Many mortgage holders are still in mortgage arrears and being threatened with repossession as a result of the Government’s refusal to nationalise the banks we bailed out. Rather than taking control of the banks we bailed out which are continuing to inflict this suffering, the Minister is standing back and saying it is the responsibility of the Central Bank to act and that he can do nothing about the commercial activities of the banks.

I agree 100% with the motion. Frankly, everything that has happened in this case and more generally makes clear the need to fundamentally change the banking model and take banks into proper public ownership.

Deputy Mick Barry: This is corporate theft and the bosses who masterminded this crime should be made to do the time. We are talking about bank customers who were denied their right to tracker mortgages or the option to have such mortgages and about cases in which the correct tracker mortgage rate of interest was not applied. The Governor of the Central Bank, Mr. Philip Lane, reckons that as many as 15,000 householders have been cheated out of money. It would cost hundreds of millions of euro to repay those who have been cheated in this way. According to some estimates, it would cost €1 billion or even more, but what has been the human cost? People who lost their homes have suffered anxiety and depression. Have there been suicides as a result? What has been the scale of the toll of human misery?

I remind those who believe this was accidental that it happened across the board in all of the banks. That clearly points towards it being systematic organised robbery of thousands of ordinary people. Decisions would have had to have been made by individuals in positions of influence and power. We are talking about crime. Just because it is white collar crime does not mean that it is any less criminal. If one does the crime, one should do the time. To be quite blunt, more than a few jail cells should be cleared out in Mountjoy Prison for the boys who dreamed this one up. Yesterday a former executive of Anglo Irish Bank, Mr. Willie McAteer, was found guilty of an €8 million fraudulent loan arrangement. He will not spend one extra day in prison as a result of the verdict because the sentence will run concurrently with another he is serving. That is wrong and I do not think it should be the template for what happens in this instance.

I will not have time to make all of the other points I intended to make. The tracker mortgage financial product was an attempt to squeeze the last bit of air out of the last credit bubble. A new credit bubble is being pumped up. Although the banks are owned by the State, they are still pursuing a capitalist model of banking. AIB and Permanent TSB are being lined up for privatisation, but we need a different model of banking in this country. The banks should be run as public utilities. They should offer low interest loans to customers and should fund them from customer deposits. They should offer reasonable and low interest rates that would not depend on the boom and bust cycle of the capitalist financial markets.
That is the model we should pursue rather than the current model. It is a for-profit banking arrangement that has allowed this scandal and corporate theft to take place.

Deputy Thomas Pringle: I fully support tonight’s motion and I commend Sinn Féin for bringing it forward. It is really hard to believe, eight years since the financial crash, that this kind of carry-on is still evident within our banks. It is also hard to fathom that only the work of individuals who looked at their own contracts and fought this brought the issue to light by bringing the banks to court to vindicate their rights. We can consider that at least 15,000 mortgage holders and families are affected by this and the banks have admitted to 41 cases where families have lost their homes because of the actions of banks. Up to 100 families may have lost their homes because of these actions. It is disgraceful.

Anybody on this side of the House who considers this reasonably must conclude that this was a co-operative action on behalf of the banks. It is too much of a coincidence that all the banks suddenly arrived together at a decision that they could do this and attempt to get away with it. Nobody would have seen a group of businesses stumble across the same idea and put it into action independently. We have seen cartels operating in other forms of business across the country and there is no doubt in my mind that a cartel operated among banks as well with the goal of defrauding their customers and citizens who bailed out those same banks. We have loaded debt on our society to keep those banks going.

This issue must be investigated fully and the Central Bank must be given every power to ensure executives within the banks pay for this and are held individually accountable. The institutions must also be held accountable for their actions. I find it very difficult to square the Government’s amendment, which argues that the Central Bank of Ireland has a considerable range of supervisory, investigative and enforcement powers that have been enhanced in recent years across a wide range of areas to combat and punish wrongdoing with the evidence of the former financial regulator, Mr. Matthew Elderfield. He indicated to the Committee of Public Accounts that he did not believe current legislation in the Statute Book is strong enough to bring people to account for white collar crime.

This demonstrates what we seem to think of white collar crime in this country. We think it is grand, dandy and dead-on if one can get away with it. If a person gets caught, he or she can throw his or her hands up and give a few euro of compensation to the people it affects. Then he or she can trundle on a merry way, finding the next scheme to screw the customer base and get away with it again. That is what is wrong. The banks in this and probably every country are amoral institutions. They do not care about the individuals they deal with or the people and lives they destroy. All they care about is the pursuit of profit. Unfortunately and sadly, this and the previous Government have done nothing but ensure these institutions can continue without hindrance as we will foot the bill and pump in the money to allow them continue. This must stop now.

Deputy Michael Harty: The problem with banks is they seem to operate without reference to ethical standards. Too often they do not seem to appreciate the difference between right and wrong or good and bad behaviour. It does not seem to bother their conscience that overcharging on mortgages results in families either losing their homes or being subject to the most horrendous stress, both financial and emotional. The banks must be made to care and if it requires strong legislation to make them honest, so be it.
Dáil Éireann

It was a few days before Christmas that the Central Bank disclosed that at least 8,200 home owners were denied a tracker mortgage by their lender and shortly afterwards, the Governor of the Central Bank, Mr. Philip Lane, conceded that the number of people affected by the tracker mortgage scandal could be as high as 15,000. It is unconscionable that banks wrongfully removed tracker mortgages from mortgage holders or failed to restore tracker mortgage rates to which they were entitled. It seems people mainly affected by this scandal are those who were either denied a right to or an option of a particular tracker interest rate, or the rate was not given in accordance with their contract.

The motion notes that in October 2013, the Central Bank head of financial regulation, Mr. Matthew Elderfield, stated that he did not believe that current legislation on the Statute Book is strong enough to bring people to account for white collar crime. If that is the case we must change our legislation. If we can bring a shoplifter to court and sometimes to jail, surely we must throw the book at organisations and individuals whose wrongful action has robbed families of their rightful tracker rate and sometimes of their homes. The Minister for Finance has stated that what happened was outrageous and the Fianna Fáil spokesman, Deputy Micheal McGrath, described it as scandalous. Both seem to agree that the buck stops with the Central Bank and Fianna Fáil has called on it to exercise its statutory powers fully to ensure this issue is comprehensively resolved. However, the question raised in 2013 by Mr. Elderfield as to whether Irish law is strong enough to tackle white collar crime is worth repeating. Perhaps the Central Bank could tell us if the legislation is sufficiently strong to deal effectively with crime in financial institutions. If there are sufficient powers, the Central Bank must pursue offenders in co-operation with gardaí and the Office of the Director of Corporate Enforcement. If legislation is insufficient, the Government and the Oireachtas must be informed and it would be up to us to give the bank the tools to do the job.

Deputy Eamon Ryan: On behalf of the Green Party I am very happy to support the motion presented by Sinn Féin. I commend the party for raising the issue and the work that has been done in the Oireachtas committee over the past year and a half or two years. A number of points have been raised by people who have been actively engaged with the matter and one of the first recalled is that the Central Bank has been particularly slow and did not respond with the urgency desired of a consumer protection agency. That is deeply disappointing after having gone through such a dramatic banking crash and after trying to put in place the necessary legislative means to help the Central Bank, which had failed in its core operation of looking after the financial health of our institutions. The new structuring of the Central Bank and how it breaks down affairs of the consumer, banks and other Central Bank roles is clearly not working. The Central Bank has real questions to answer as to why it has not been more proactive and why it was not quicker in responding to this evolving scandal. It is not like this has just emerged in the past few months or even the past year. Victims of this crime were raising the matter long before that but they were not heeded and their case was not heard with sufficient urgency.

I am raising information from colleagues or friends who have been involved in the process. Their message is that the problem is ongoing and it is not an historical legacy. There are still banks and institutions pursuing customers but not upholding protections that exist in contracts. They are using every legal trick and mechanism to get consumers out of tracker mortgages. This is still happening.

The wider concern I have to a certain extent is what this says about the Irish banking system. One would think after the scale and nature of the crash we experienced, there would be a system that would, more than anything else, try to restore trust. It should treat customers in a scrupu-
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loosely fair manner. I do not wish to pick on any one institution but I am aware of AIB because I am a customer. It is a State-owned bank. For the past 30 or 40 years, the bank has been involved in a series of scandals. We have seen the DIRT inquiry, the ICI scandal in the 1980s, the Rusnak scandal and the foreign exchange scandal in which €65 million was defrauded through the bank under improper foreign exchange regulations. All of these scandals occurred before the banking crash and the insane lack of security and attention to lending and risk management processes. For such a bank to be caught again is extraordinary.

We know 3,000 customers have been affected and some 14 households were forced to lose their homes on the back of the improper treatment of tracker mortgages. It is deeply disquieting that we do not seem to have learned the lessons or know about proper banking and the propriety needed to enable people to raise deposits and extend loans. This applies especially to mortgages, which have such a profound effect on the lives of people. It is deeply concerning that the lessons do not seem to have been learned. We should address this as well as the commendable actions set out in the motion. We should be looking to the core and the very nature of banking in our society.

The Green Party has been presenting a particular proposal on the concept of public banking. We will continue to do so in the Dáil, should we get the Private Members’ time. The concept is based on old-fashioned precepts based on strong contact between the bank manager and the customer. I gather a similar idea was included in the rural development plans yesterday. This should be an essential part of any development in this area. We need to start to develop new ethical professional banking systems.

At the core of this model is a close relationship between the bank manager and the customer. The lack of such relationships is one of the reasons things have broken down. We changed the nature of the banking system 30 or 40 years ago. The system went in the direction of target-based lending with various incentives if managers met or issued a certain number of loans. This put serious pressure on staff in banks, especially in the tracker mortgage area, and encouraged staff not to give customers the break and not to do the right thing. Instead, they became obsessed with the target-based measures of progress. This got the banks and so many of our other financial institutions into real trouble.

We need to direct the Central Bank to take far swifter and more rigorous action. We need to examine what white collar crime measures may be applied. However, we need to learn wider lessons about the nature of banking and lending. It is not only a question of the risk side. The responsibility side was clearly forgotten in this instance, to the cost of at least 15,000 households. This House is rightly standing up for those households.

An Leas-Cheann Comhairle: With your agreement, Deputy, you can share your time. You have two minutes left.

Deputy Eamon Ryan: I am happy to give it to Deputy Danny Healy-Rae, should he want it.

An Leas-Cheann Comhairle: Are there any conditions?

Deputy Eamon Ryan: No.

Deputy Danny Healy-Rae: There would be uproar if a bank was robbed. We have it the other way around now - the banks are robbing the people. There is frustration and anger at the fact that so many people lost their homes. The repercussions for families, children and parents
have been significant. People have had to leave their homes. I know so many who have lost their homes. It is so sad to think that banks and financial institutions could do what they have done.

It is not a building that did this; it was the people within those institutions who inflicted this wrong on those affected. There should be some accountability from the managers or the people in charge who meted out this bad wrong to these unsuspecting people.

I was comforted to hear the Minister for Finance, Deputy Noonan, saying that there will be redress and a compensation package for the disenfranchised borrowers. I hope it does not take long because these people have suffered for long enough. The people who did this should be made accountable for their actions and behaviours. The examination by the Central Bank needs to be fast-tracked and we need to see a determined effort to finalise it as soon as possible.

I recall the anguish many felt some years ago when the banks squealed on the people with foreign accounts. The banks advised these people to take out these foreign based accounts. It was not the case that people in lonely hillside farms thought of putting money into these foreign addressed accounts; the banks advised them to do it. Then, the banks gave their names to the Revenue Commissioners and squealed on them. Many people suffered at the time because of the advice the banks gave to unsuspecting account holders. The people in these banks who meted out this wrong to so many families should be made to feel pain now because it is only right and fair. I thank Deputy Eamon Ryan for allowing me to share time.

**Deputy Caoimhghín Ó Caoláin:** Táim sásta an deis a fháil labhairt ar an ábhar tábhachtach seo agus molaim go mór mo chomhghleacaí, Pearse Doherty, as ucht an rún seo a chuir chun cinn.

The human impact of this mortgage scandal cannot be underestimated. The despicable deliberate actions of our banks have caused misery for approximately 15,000 mortgage holders and their families throughout the country. The crux of the scandal boils down to the fact that thousands of fixed-rate mortgage holders were deliberately kept in the dark by their banks in respect of their entitlement to move or move back to the cheaper tracker mortgage rate. This was all to the serious detriment of those who believed there was no escape from their prohibitively expensive fixed-rate mortgage and, of course, it worked to the advantage of the banks. The implications of this were significant, with thousands of families struggling to pay the higher rate and many dozens of families losing their homes due to the excessive mortgage loan repayment costs they faced.

Since the Financial Services Ombudsman investigated this matter and found in favour of the customers, bank after bank has admitted that it had not given trackers or the option of a tracker to hundreds and thousands of customers. Hearing banks claim that it was little more than a mistake would be comical were it not so serious. The evidence that exists proves that this was a calculated plan. This was a way for them to reap greater returns without a care about the human impact of their actions.

This all amounts to nothing other than theft. Those responsible must be held to account and a strict deadline must be imposed for the redress and compensation to be paid to those affected. It is not enough to now secure a return of the moneys taken illegally by the banks from these customers. Adding a paltry sum in compensation for what they have suffered does not cut it either. Greater contriteness and generosity is required on the part of the banks. The individu-
als who oversaw this policy, the bank employees who knowingly directed and implemented this policy in each of the bank entities involved, should face the full rigours of the law. They have not only been directly involved in theft on behalf of their employers but they have been complicit in the ruination of many lives. I speak not only of individual lives, including lives lost, but of the ruination of whole families and with a generational impact as well. Innocent and unsuspecting citizens must be protected.

The question asked by the motion is whether we want a republic that upholds and defends the interests of its citizens or one that has sold its soul to corporate interests and the banking elites. Let us not forget those who are entrusted to oversee the policies and practices of the commercial banks and other lenders. The Central Bank of Ireland was at best dilatory in its address and investigation of this corporate criminality. The Central Bank is getting ready to move to its new shiny gold-coated premises on the quays. It strikes me looking at it when driving past that it looks like a Donald Trump outpost. The Central Bank of Ireland and its officeholders have apparently changed little from the years of its former Governor, who believed, or claimed he believed, that all was well with the Irish banking sector. I appeal to the Minister of State and to all Members of this House to accept and endorse the spirit of the motion before us. Le bhur dtóil, tugaigí bhur dtacaíocht don rún seo.

Deputy Carol Nolan: Tá mé an-shásta as ucht an deis labhartha anocht ar an ábhar fíor-thábhachtach seo atá ag cur isteach ar na mílte clainne ar fud na tíre. As we know, the scandal of the tracker mortgages affects up to 15,000 mortgage holders across the State. The pace in addressing this scandal has been painfully slow. It clearly shows that there is absolutely no urgency in terms of remedying this issue, which has caused great distress to too many families across the country.

The update on the examination of tracker mortgages in late December 2016 states the following: “Based on current progress we expect that relevant lenders will have identified and commenced engagement with impacted customers by mid-2017 with payment of redress and compensation, processing and consideration of any appeals... continuing beyond this point for some lenders.” While lenders have dragged their feet on this issue and are clearly in the wrong, dozens of families have been forced out of their homes as a result of the extra costs they incurred on a more expensive mortgage. That is totally unacceptable. This Government has a duty to protect and defend all of its citizens. We should uphold the vision of the 1916 Proclamation of equality and fairness for all of our citizens.

This scandal only came to light due to the actions by various householders in taking their cases to the financial ombudsman. It would never have have come to light otherwise. I commend them on their courage and determination. Now these families must wait for justice and that is totally wrong. It is not good enough and we in Sinn Féin will not accept it. We will not stand idly by when this happens. Clearly, there is a need to develop more appropriate and robust legislation to ensure that individuals in financial institutions can be held responsible before the law for their actions in financial matters.

This motion is an opportunity to send a very clear message to the victims of this scandal. As I said, there have been too many victims and it cannot be ignored. We must send a message that the Dáil is on the people’s side and not on the side of the banks, which represents corporate greed and acts in an absolutely disgraceful manner. I call on all parties to support this motion.

Minister of State at the Department of Communications, Climate Action and Environ-
ment (Deputy Seán Kyne): The tracker mortgage examination is a matter of great interest to the public and one the Government considers to be of the utmost seriousness. This debate has raised a number of important points and I thank all the Deputies involved for their contributions.

As has already been referenced by the Minister, Deputy Noonan, the Central Bank, as the independent regulator of financial services in Ireland, is currently undertaking an investigation into tracker mortgages. This industry-wide examination, which began in 2015, is ongoing and while all lenders are currently in the process of carrying out their internal reviews, it is important to note that some lenders may have their internal reviews completed sooner than others, depending on the size of their mortgage books and the complexities associated with them completing the examination. The purpose of the investigation is to identify cases where the contractual rights of borrowers under the terms of their mortgage contract were not honoured or where lenders did not fully comply with various consumer protection requirements and standards regarding disclosure and transparency of information for the customer.

In its most recent update on the matter, the Central Bank announced that it expects that all relevant lenders will have identified and engaged with all affected customers by mid-2017 with payment of redress and compensation, processing and consideration of any appeals and the Central Bank’s own assurance work continuing beyond this point for some lenders. This is certainly a matter of great significance to the Oireachtas and the wider public. The work of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform and the Taoiseach, in particular, should be acknowledged in giving the issue the attention it deserves. The focus now should be on completing the Central Bank examination as quickly as possible.

There has been some progress on this issue. In his earlier statement, the Minister referred to a €4.5 million fine imposed by the Central Bank on Springboard Mortgages Limited. Deputies may be interested to hear further details on this matter. The fine and reprimand issued by the Central Bank on Springboard Mortgages Limited was the culmination of the Central Bank enforcement investigation into that firm which found it had breached key requirements of the consumer protection codes 2006 and 2012. In addition, the Central Bank required Springboard to implement a major redress and compensation programme to customers impacted by the breaches in the amount of approximately €5.8 million to date.

The Central Bank’s investigation found that the company failed to apply the correct interest rates to 222 customer mortgage accounts over a seven-year period between August 2008 and July 2015. The length of time customers were required to make higher mortgage repayments than required ranged between 12 months and six years and 11 months. The average amount overcharged to a customer’s account was €19,351. Overcharged amounts ranged from approximately €100 to approximately €68,000. Having to make higher that required mortgage repayments, due to the failure of the company to apply the correct mortgage interest rate, caused serious difficulties for customers with some customers going into mortgage arrears and some being subjected to legal proceedings.

The key elements of the redress and compensation programme required by the Central Bank from Springboard included the restoration of impacted customer accounts to the correct tracker interest rate; the adjustment of the balance of impacted customer accounts to the position the accounts would have been in if the correct interest rates had always been applied; the refund of any overpayments to customers after their account balances have been adjusted; the provision of compensation payments to impacted customers to reflect the detriment suffered by them as a result of the breaches; the provision of additional payments to impacted customers to enable
them to take professional advice in respect of the redress and compensation offered to them by the company; the establishment of an independent appeals process to ensure that impacted customers can challenge the redress and compensation offered to them in an expeditious and customer-friendly manner; and the provision of redress and compensation to impacted customers upfront, regardless of whether they appeal. Also, the company agreed not to invoke any statutory limitation period in respect of any complaint that impacted customers may choose to make to the financial services ombudsman and the courts for a certain amount of time.

Charging an incorrect higher interest rate was clearly a very detrimental activity on the part of Springboard and was totally unacceptable. The strong sanctions applied by the Central Bank, however, demonstrated that it has considerable powers to punish regulated firms for detriment they cause to their customers. The focus now should be, as previously indicated, on bringing the full Central Bank examination to a conclusion as quickly as possible.

It is important that we remember that both the cause of this problem and the primary responsibility for repairing the damage caused to consumers rests with the relevant lenders, which did not act in the best interests of their customers or which did not properly honour the mortgage contracts they entered into, and it is essential that these affected customers now receive acknowledgement for the harm they have suffered, with appropriate redress and compensation packages. This Government is committed to ensuring and assisting the Central Bank complete its independent examination as quickly as possible, to bringing this damaging episode for the financial services industry to a conclusion and, most importantly, to ensuring that impacted home owners and consumer borrowers are properly compensated and dealt with by their lenders.

An Leas-Cheann Comhairle: Glaoin ar an Teachta Pearse Doherty chun deireadh a chur leis an díospóireacht.

Deputy Pearse Doherty: Ar dtús báire, cuirim mo bhuíochas in iúl d’achan duine a labhair ar an ábhar seo anocht. Mar atá ráite ag go leor Teachtaí eile, is ábhar fíorthábhachtach é a chuireann isteach go mór ar chuid mhór dár saoránaigh. Gabhaim mo bhuíochas leis an Aire, an Teachta Noonan, na Teachtaí McGrath, Boyd Barrett, Barry, Pringle, Harte, Ryan, Healy-Rae, Ó Caoláin agus Nolan agus an tAire Stáit, an Teachta Kyne. In achan rud a luadh inniu sa díospóireacht, bhí sé iontach soiléir go bhfuil cáineadh láidir á dhéanamh ag Teachtaí Dála d’achan pháirtí agus ag Teachtaí Neamhspleáchacha ar an dóigh a lámhseáil na bainc an 15,000 duine atá thóis leis an méid a thit amach anois. Tá difrír ann maidir leis an dóigh chun duine a mheithiú.

I welcome the contributions that have been made. There was a lot of common ground in all of them. Members have used the words that I have used myself on many occasions in saying that this situation is scandalous and outrageous. This is also some of the language we are
hearing from the Minister for Finance, Deputy Noonan. There is no doubt that when we boil this down, many of us - and I include myself - have been inundated by individuals who have contacted us with regard to how this has personally affected them. I am sure there is not a Member in the House who has not had a constituent telling them what this has meant to them. I remember my first personal experience in uncovering this. I was dealing with individuals in their sitting room. They were worried they were about to lose the family home. They had just, for the first time ever, gone into arrears of €300. I explained to them that there was no way they were going to lose their family home over just €300 of arrears. I asked them to pull out the contract and within minutes it was very clear to me, it was in black and white, that after the period of fixed interest rate had expired they would go back on to the tracker rate. I asked them what tracker rate they were on and they explained they were on a standard variable rate. I told them it was in black and white that they were entitled to a tracker rate after the variable rate period. They took a case to the Ombudsman but at that time there were other cases with the Ombudsman and a lengthy delay. This was because the banks, in particular the Permanent TSB, a State owned bank, fought these individuals all the way. When the Ombudsman came down on customers’ side the State owned bank said “No” and that the bank was going to take the Financial Services Ombudsman - the customers’ representative - to the High Court.

Years went by, people were overcharged and had to make sacrifices and some of it was very personal. It affected people very much. I recall a conversation with one individual who had just come off the phone with her bank. The mother was left in tears. The child, who had not reached its sixth birthday, came up with a piggy bank and gave it to the mother saying “That is for the bank”. The mother felt terrible because she felt that she had failed to insulate her child, who should not be thinking about these things, from this issue that had taken over the child’s family for the last number of years. She should not have been made to feel like a failure but the phone calls were to plead with the banks to restore the family back onto the rate they were entitled to. There were different sacrifices, things that can never be compensated for, such as missing out on family activities, taking the children on holidays or, if the child is in transition year, the school trips where these families might be the only ones whose children could not go. There are many families who cannot do that anyway, but these particular families could have done so only for the fact that the bank was overcharging them in the region of €500 or up to €1,000 per month.

There were also cases of families that were broken up. It was not that the marriage broke up, but because the bank was overcharging them one of the adult family members had to leave the State and find a job elsewhere. That will never be compensated for. How does one compensate for children growing up for those years without their father there every day? It can never be compensated for but that is what the banks have done in this regard.

The more I got into the situation the more astonished I became that this seemed to just brush past. There was no outrage in regard to how this happened. I make the point again that if the banks had got away with this it would have been €1 billion they had taken wrongfully from 15,000 individuals. It is the biggest swindle the State has ever seen.

The Minister spoke about the Central Bank. The Sinn Féin motion states that the Central Bank’s industry-wide review in late 2015 was belated. Let us be clear. The review was a result of a letter that was sent by the CEO of the Irish Mortgage Holders Organisation on 26 October 2015, just one month previously, that called on the Central Bank to have an industry-wide review. At that point the Permanent TSB acknowledged that it had overcharged some 1,400 customers. The Irish Mortgage Holders Organisation was telling the Central Bank that
the organisation had hundreds of other individuals on its books whom it believed were in the same situation. The finance committee wrote to the Central Bank backing the call from the Irish Mortgage Holders Organisation and that prompted the bank into action. I believe there are serious questions there.

The spirit of the Fine Gael motion is similar in terms of getting to the crux of what happened but a number of crucial parts are missed. I will focus on the Fianna Fáil motion because it is nearly identical to what we are saying, bar two issues. One issue is that it deletes the fact that the Central Bank only acted after the situation had been well known for a number of years. That is a statement of fact and it is a minor issue with regard to the motion. The second issue relates to the reference to the different agencies working together to identify if - not that they are, I have my own views - individuals as well as entities should be held accountable.

The other difference is the Fianna Fáil motion’s call for an independent organisation to review the legislation. There is already an independent organisation doing this work. The Law Reform Commission issued a paper earlier this year on white collar crime. The Office of the Director of Corporate Enforcement, ODCE, the Garda and the Central Bank should work together because it is in no way just the responsibility of the Central Bank to investigate this. There are enough grounds already for the two other organisations to carry out their own investigations. I refer to a 2010 submission by the ODCE on white collar crime which is shouting out to us. Let us not forget that we are talking about 1,500 individuals who have had hundreds of millions of euro taken from them. Individuals have lost their houses. In some cases mental health has broken down and there have been other consequences.

Our motion says that we need to strengthen white collar crime legislation. The Fianna Fáil motion is proposing an investigation and then acting on the recommendations. The Sinn Féin motion makes reference to the fact that in 2013, the Central Bank head of financial regulation said that Ireland needs to strengthen white collar crime legislation. He was telling us that the best way to stop this happening in the future was to provide for individual as opposed to institutional accountability.

The submission to which I referred by the Office of the Director of Corporate Enforcement states:

The ODCE has only a partial role with respect to “white collar crime”, and therefore our experience is not as extensive as that of An Garda Síochána. Nevertheless, we consider that the following issues may be worthy of short-term or longer-term policy consideration:

- extending criminal liability in the areas of reckless trading...;
- creating new offences in respect of bank fraud, mail fraud, wire fraud and the making of false statements in loan and credit applications;
- raising the penalties for potentially serious “white collar crime” offences;
- extending the periods for investigating/prosecuting particular “white collar crimes” where these periods are unrealistically short;
- clarifying the precise form of a corporation’s criminal liability and the duties of its officers to prevent malpractice;
- clarifying the extent to which accused can defend themselves on the basis of errone-
- improving the ability of An Garda Síochána and regulatory bodies to work together to fight “white collar crime”;

- introducing a more widespread use of administrative sanctions as an option as well as criminal sanction and, in some cases, decriminalising minor regulatory obligations which are subject to administrative sanction;

- improving the investigation and prosecution of “white collar crime” by the use (or greater use), in appropriate cases, of immunity programmes, plea bargaining, deferred prosecution agreements, certificate evidence and hearsay evidence in criminal investigations; and

- alleviating, where appropriate, the inhibiting impact of legal professional privilege and the exclusionary rule of evidence in “white collar crime” investigations and prosecutions and providing to some extent that witnesses who are not suspects can be compelled to give evidence in such cases.

That is what this particular agency was telling us seven years ago. In 2013, the former Financial Regulator told us it is difficult in the extreme to hold individuals to account as a result of what is contained in the Statute Book.

We must get to the bottom of this scandal. We must find out what happened and ensure the affected individuals have their repayments restored to their proper rate, which is not happening under the current scheme. We need to ensure the appeals process, which is not working in the interests of these customers, is put back in place. We must ensure the Central Bank starts to give this matter the focus, attention and urgency it needs. In addition, we need to ensure this never happens again in another guise. To do that we must take heed of what we were told by the Office of the Director of Corporate Enforcement and the former Financial Regulator. We need to do what everybody in this country knows we must do. After eight years of financial crisis, we bloody well know the system for detecting and penalising white collar crime is not robust enough to hold certain persons within corporate entities - viewed by many as criminals - to account.

I commend the motion to the House. In recognition of the points raised by the Minister and Deputy Michael McGrath, I ask that the Government withdraw its amendment and allow the Dáil to adopt a single voice on this matter. There is little difference in substance between the amendment and the Sinn Féin motion.

Amendment put.

An Leas-Cheann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 26 January 2017.

The Dáil adjourned at 9.45 p.m. until 12 noon on Wednesday, 25 January 2017.