



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 1 Feabhra 2017

Wednesday, 1 February 2017

Chuaigh an Ceann Comhairle i gceannas ar 10 a.m.

Paidir.

Prayer.

Establishment of a Commission of Inquiry into the National Asset Management Agency: Statements

Minister for Finance (Deputy Michael Noonan): I welcome the opportunity to speak again on this matter. In September last year the Comptroller and Auditor General published a value for money report on the Project Eagle sales process. As we know, while some findings were accepted, there were clear differences of opinion on a number of findings in the report. Since its publication, the Committee of Public Accounts which is chaired by Deputy Sean Fleming has held numerous public sessions over a number of months to discuss the report. A large number of parties have assisted the committee with this work, including senior members of the National Asset Management Agency, in particular its executive team; past and current board members of NAMA; Lazard which was NAMA's financial adviser; Cerberus which was the purchaser of the portfolio; me, as Minister for Finance, and officials from my Department; the former Northern Ireland deputy First Minister; the Comptroller and Auditor General and his officials. The committee also received extensive documentation on the transaction from the National Asset Management Agency and other parties, including the Department of Finance.

The National Asset Management Agency has appeared before the Committee of Public Accounts to answer questions relating to Project Eagle on eight separate occasions. NAMA estimates that it has responded to almost 2,000 oral questions during these appearances and provided the committee with written responses to an additional 100 questions. We have also witnessed a similar extensive examination of aspects of the transaction by the Northern Ireland Assembly involving significant amounts of documentary evidence and witness testimony. All this evidence - hundreds of hours of witness testimony and thousands of pages of documentary evidence - is publicly available on the Internet to anyone who is interested. I would encourage those considering a commission of investigation into NAMA's activities to study this evidence, if they have not already done so. NAMA has answered every question put to it by the Comptroller and Auditor General and the Committee of Public Accounts. I acknowledge that there are differences of opinion but there are also findings on which we all agree. The Committee of Public Accounts will soon publish its findings and I look forward to reading that report. While

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I will await the committee's report, based on the evidence I also accept that the parties involved are entitled to hold differing opinions on matters of commercial judgment and that this does not imply wrongdoing by any party. Today, I do not believe that sufficient grounds have been established on which to progress a commission of investigation without first taking the views of the Committee of Public Accounts into account.

I would like to comment on ongoing criminal investigations. It has been suggested by some that arrests associated with the UK NCA investigation imply wrongdoing on the part of NAMA. On the contrary, NAMA advise that the UK NCA has confirmed that no aspect of the agency's activities are under investigation. Deputy Wallace has stated previously that he has brought important information to the attention of the Garda Síochána. We should commend him for doing so if he believes such action is warranted. Anyone who believes he or she has such information should bring it to the Garda Síochána and allow it to assess and, if necessary, investigate it. After all, it is the role of the Garda to determine if there are grounds for a criminal investigation in this State. As far as I am aware no such an investigation is being pursued by the Garda. I am also aware that the US Securities and Exchange Commission and the FBI have examined elements of the transaction. Should those agencies wish to engage with NAMA, NAMA has made it clear that it is more than willing to do so. I want it to be clear that the allegations of wrongdoing that have been made against particular individuals, and that are being criminally investigated, are a cause of concern. These concerns will remain until investigations are concluded and their findings are made known. As I speak, these investigations have not concluded and we do not know their findings. This Government, and I hope this House, supports each of these investigations and stands ready to assist in any way that is helpful.

There may well be calls today in the context of this debate for other NAMA transactions to be reviewed, either through a commission of investigation or otherwise. As we know, the Comptroller and Auditor General reviews the accounts and operations of NAMA. As Deputies should be already aware, the Comptroller and Auditor General is currently reviewing and assessing a broad sample of approximately 50 NAMA transactions from a value for money perspective under section 226 of the NAMA Act. I am sure Members will agree that we are looking forward to receiving the Comptroller and Auditor General's section 226 report, which I expect to be, as is always the work of the Comptroller and Auditor, very thorough.

I have little doubt that the calls to change NAMA's mandate or even halt NAMA's activities will continue. A change of mandate is outside the scope of a commission of investigation but I will attempt to summarise the position as, unfortunately, public discourse rarely captures what the agency can and cannot do. I want it to be very clear that NAMA's original mandate remains in place and will remain in place until it is fully wound down. NAMA has the independence to decide on the most appropriate strategies for achieving that mandate. In any market, but particularly in an open and transparent market such as Ireland, a move to constrain NAMA's activities would be commercially discriminatory and would irreparably damage our international reputation as a secure and transparent place to do business. In this regard, I point to the many unfinished housing estates that have been brought to completion, the dilapidated hotels that have been renovated and brought back into the market and the ugly skeletons of abandoned office and apartment developments that have been completed. This has only been accomplished through the significant investment in these assets and our economy by the purchasers of NAMA, IBRC and banks' loan and asset sales.

It is as important today as it ever was that Ireland remains open to investment capital for the development of our economy across the risk spectrum of investment opportunities. I will

not direct NAMA to halt or change its sales strategies nor will I direct it to do anything that is contrary to its commercial mandate, which it is entitled to do under the NAMA Acts. NAMA expects to have repaid €30.2 billion of its senior debt by the end of this year and to ultimately deliver a surplus of €2.3 billion. We must step back and realise what an achievement this will be. Many doubted whether NAMA could ever repay its debts let alone generate a profit of up to €2.3 billion, as is currently expected. Let there be no mistake, this surplus is a profit in every sense and far exceeds our expectations when NAMA was established. Many commentators attempt to disparage NAMA's achievements, referring to the original amount borrowed as the value of the loans when reporting on loan sales and claiming that selling loans for less than the original borrowed amount constitutes a loss by NAMA. This could not be further from the truth. NAMA paid the Irish banks €31.8 billion for loans valued at €26.2 billion. This purchase included an overpayment of €5.6 billion of state aid in the form of additional capital for our failing banks. Unfortunately, in the context of the financial crisis, the fact that the amount owed on those loans was €74 billion really has no direct bearing on their value. The chance of recovering €74 billion on these loans was lost in the financial crisis. It is the borrower's ability to repay the loan and the intrinsic value of the asset that determines its value. As we know many borrowers have faced difficulty repaying the full amount they borrowed.

I am well aware that last year the Taoiseach invited, received and discussed submissions from party leaders on this matter and that, in principle, there was agreement to progress a commission of investigation, if required. Last week, the Taoiseach, when referring to the report to be produced by the Committee of Public Accounts stated in the Dáil that it is sensible to wait to receive that report and to consider its findings before returning to the commission of investigation proposal. The Taoiseach went on to comment on the significant limitations on the work of the commission given the location of potential witnesses and documentation outside the jurisdiction, ongoing criminal investigations and the likely cost of such a commission of investigation. These limitations may ultimately be time bound but they cannot be ignored today and should be taken into account when considering possible terms of reference. The current limitations do not arise with respect to NAMA providing evidence because NAMA is already accountable for its operations under the NAMA Act. As I have already mentioned, NAMA has provided all documentation and has answered all questions put to it regarding suspicions about any transaction.

A commission of investigation, if progressed, cannot attempt to supplant or circumvent the functions of the Garda or any other law enforcement agency. To do so would be inappropriate and could jeopardise legitimate investigations and certainly would not be welcomed by the appropriate authorities. What should be most obvious, but is often overlooked, is that a commission of investigation cannot deal with wide-ranging and non-specific claims. If there is a political desire to advance a commission of investigation, the House must take collective responsibility for its costs, timing, terms of reference and implementation. For a commission of investigation to succeed, it is right that we give our attention to matters which could justifiably, realistically and specifically be examined. Although I have yet to hear a specific and substantiated allegation of wrongdoing against NAMA, I invite Deputies who believe they have information to enable them to make such an allegation to do so. Thus, if we move to a commission of inquiry, it will be based on specific allegations and information that may be investigated.

NAMA is clearly progressing its mandate ahead of expectations, and we must allow the agency to continue its work. We should not derail this good work by launching, among other things, a commission of investigation that is unfocused and ill defined. In the interim, I believe

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the upcoming report of the Committee of Public Accounts will provide useful additional material for this House to consider. Until we are aware of and understand the opinions of the Committee of Public Accounts, however, we cannot realistically propose taking further action at this time. Of course, we do not rule out such action.

Deputy Michael McGrath: I welcome the opportunity to contribute to this important debate this morning. It is my clear understanding that there is agreement in principle among the party and group leaders that there will be a commission of investigation, particularly to investigate Project Eagle. What I am hearing from the Minister this morning, however, is something of a row-back from that. He has said that, in his view, there are not sufficient grounds for a commission of investigation at this time pending the completion of the report to the Committee of Public Accounts.

There was a meeting of the various party and group leaders on 3 October last. I understand there was an agreement to proceed with a commission of investigation to investigate Project Eagle. It is important that the Minister and Taoiseach clarify this morning whether this remains the case. It is, of course, true to say the Committee of Public Accounts has undertaken an enormous amount of work under the chairmanship of Deputy Sean Fleming. He and all the members of the committee are to be commended on their dedication and commitment in probing the Project Eagle issue. Deputy Sean Fleming will elaborate on the work the committee has done, which has involved 12 separate meetings. I and others who are not members of the committee have followed the proceedings as best we can while being at some remove. It is certainly clear that there have been discrepancies and conflicts in the evidence. It is now a matter for members of the committee to seek to reach agreement on a report, which I hope can be completed and published in the coming weeks.

The fundamental point I want to make is that there now seems to be some muddying of the waters as regards the Government's commitment to embark on a commission of investigation to examine Project Eagle, in particular. That simply has to be clarified before this debate concludes.

Deputy Michael Noonan: I am not resiling in any way from the commitments made last October. What I am saying is that, until the Committee of Public Accounts publishes its report and there is further information on the table, it is difficult to see how a commission of investigation could be established immediately and proceed satisfactorily. A commission of investigation has to be justified on the basis of public interest and would have to have the equivalent of *prima facie* evidence before it started. Right now, I do not believe one could proceed to a commission of inquiry but the commitment and principle remain. I am awaiting with interest the report of Deputy Fleming and his colleagues. They did very good work. That is all I am saying.

Deputy Michael McGrath: I put it back to the Minister that there is a shift in the Government's position. It is one thing to say that finalising the terms of reference should come after the publication of the report of the Committee of Public Accounts but it is different entirely to say the decision as to whether to proceed with a commission is dependent on the content of the report of the Committee of Public Accounts.

Deputy Michael Noonan: I have not said that.

Deputy Michael McGrath: I believe, having listened to the Minister's language, which he uses very carefully, that is certainly where he is headed. My interpretation is that there is a

row-back. Others will give their own interpretation.

Deputy Michael Noonan: I am simply saying we need to be cautious. There is €10 million allocated already and we need to be cautious and ensure we have it right before we go down that road. There is a commitment in principle, however, to go down that road.

Deputy Michael McGrath: My time is elapsing quickly so I want to conclude the points that I have wanted to make.

I agree that any commission of investigation that is established - we believe there should be one - has to be structured in a manner that will give it the best prospect of success. We do not propose that a commission of investigation should go down every rabbit hole and examine every transaction in which NAMA has been involved because it would simply get lost and end up being a bonanza for the legal profession. That is certainly not our position. A commission needs to be focused and structured in a manner whereby it can actually succeed because it would be operating within legal constraints.

It was in June 2015 that a commission of investigation into certain transactions of IBRC was established. Where is that now? We were told at the time it would conclude by the end of that year. We are now being told that an inquiry much narrower in scope is likely to conclude by the end of this year. Last October, the Taoiseach told all the party and group leaders whom he met that a commission of investigation into Project Eagle and NAMA would conclude by the end of this year. I am not sure anyone believes that now given that it has not even been established.

Admittedly, we must learn the lessons from other investigations that have run into difficulty. I have made the point before that we still have to find the best method in Ireland of investigating issues of this kind. There is a tribunals of inquiry Bill from 2005 that is still not enacted. It proceeded to Second Stage in November 2007 and Committee Stage in February 2009. It drew on the report of the Law Reform Commission with the objective of streamlining and making much more efficient the tribunal of inquiry process. It has gone nowhere. The legislation has not been enacted and has not been concluded. It should be.

Deputy Sean Fleming: I am pleased to contribute to this debate. I am Chairman of the Committee of Public Accounts and, therefore, have a particular point of view. I am expressing that view in a personal capacity and not on behalf of the committee. I acknowledge there was agreement in principle last autumn to establish a commission of investigation. Since then, however, the Committee of Public Accounts has been carrying out a lot of work. As Chairman and in the interest of accountability to the Oireachtas, I believe we will have a detailed report available this month and that there should be a detailed debate in the Oireachtas on that report. After that, let us see what issues that could have been addressed by a commission will have been addressed by the Committee of Public Accounts and what issues are still not addressed. Many of the issues leading to the call for this commission are the result of a television programme in Northern Ireland on incidents in that jurisdiction that are beyond the remit of any commission. A commission would have no jurisdiction to investigate any events in the North.

The Comptroller and Auditor General has produced his report. NAMA gave a strong rebuttal, and I respect its right to do that. Subsequently, as the Minister has indicated, the Committee of Public Accounts has had 12 public meetings. We have had witnesses from NAMA, including not only the chairman and chief executive on various occasions, but also every single board member. This is possibly unprecedented. In addition, we have had witnesses from Northern

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Ireland and the United States. They could not be compelled by any commission of investigation and could choose to appear voluntarily, as they did before the Committee of Public Accounts. They would be entitled not to appear before a commission chaired by a High Court judge, for example, if they so chose. We have to be conscious of that.

The Oireachtas should not take the lazy option. If there is ability within the Oireachtas to examine NAMA, it should be exhausted completely because having the Committee of Public Accounts or any other committee carry out its work costs the taxpayer nothing. If after that work there is further work requiring a commission, let us by all means follow up on the agreement in principle.

I wish to add two other points. Every three years, the Department of Finance produces a detailed report under section 227 on NAMA's activities. Independently of that, the Comptroller and Auditor General conducts a report under section 226. These two reports, as well as that of the Committee of Public Accounts, will be before the Dáil and should be examined in detail before we go any further. It would be remiss of the Dáil not to examine the evidence before it and to pay a commission to do so instead. The onus is on the Dáil to follow through on this. I am not saying that there should not be a commission, but we need to know how to proceed with it.

I wish to address some of the practical issues that will arise. NAMA has made a complaint to the Garda under the Criminal Justice Act 2011 concerning possible contraventions of the Prevention of Corruption Act. I do not know the current state of play on that. NAMA has also made a complaint regarding a former member of the Northern Ireland committee to the Standards in Public Office Commission, SIPO, but I have not seen the outcome of that. NAMA made a further complaint to SIPO on 12 September in respect of possible breaches of the Ethics in Public Office Act. We have not seen the outcome of that.

The committee has received correspondence from the UK's National Crime Agency confirming that the latter is investigating the sale of NAMA's Northern Ireland loan portfolio. We have not seen the outcome of that police investigation. The committee has been informed that the US Securities and Exchange Commission is carrying out an investigation because the purchaser, Cerberus, is based in the US. We have also been informed that the US Department of Justice is carrying out an investigation, but we have not seen the outcome of that yet.

The report of the Committee of Public Accounts and any evidence that we possess will be available to those investigations and to any commission of investigation established by the Oireachtas but there is no point in establishing one if it will get bogged down by four or five other inquiries that have yet to be completed. I do not want to long-finger the issue.

I have confidence in the ability of the Oireachtas to examine NAMA in detail. We should not outsource our job because of laziness. If it is within the ability and remit of the House or its committees, we should do it. When we reach the end of the road, anything that remains unresolved should be handed over to a commission of investigation. We did not choose to use powers of compellability on our witnesses. By asking people to attend voluntarily, we received a good level of co-operation from most and were able to make speedy progress. Had we gone down the compellability route as we were entitled to do, we would only be reporting in two years' time. Some believe that NAMA should be stopped in its tracks, but it is substantially through its process, and I am concerned that we would still be running a commission of investigation after NAMA had completed its work and folded up its tent.

I am not saying that there does not need to be a commission, but let the Oireachtas perform its functions and exercise its role over accountability. In too many cases, the Oireachtas does not hold regulators to account and people ask what is happening. Regulators are accountable to the House, as is NAMA. Until we exhaust that process, we should hold off on deciding the terms of reference. When we reach that point I, as Chairman of the Committee of Public Accounts, will ask how much the commission will cost and what its timescale and objective will be. Narrow, focused terms of reference will achieve more results than broader based ones, given that we would have to change the latter to reach a conclusion as soon as possible.

These are my personal views as Chairman. They are not the views of the committee or Fianna Fáil. I hope that the Oireachtas respects the report being produced by the Comptroller and Auditor General, which the committee will be completing and publishing this month. If it does not cover the issues, I will be the first to accept that and agree that a commission of inquiry is required, but let us give the committee the courtesy of reaching that point before we rush the terms of reference.

Deputy Fiona O'Loughlin: I endorse the positions of my colleagues, Deputies Michael McGrath and Fleming, and commend the good work being done by the latter's committee.

"NAMA" are the four letters that have struck terror into the hearts of many since the body's establishment. Many red flags have been waved since then. The Minister for Finance, who has responsibility for NAMA, had two options. He could have reacted quickly and appropriately, as there was a great deal of factual information available on the challenges, issues and problems. I accept that there was also innuendo, but there were enough facts to take action. Alternatively, he could have let the situation continue, which is what he did.

NAMA was established by the State and has been answerable to no one. Nobody was taken to task. Greater interaction was, and continues to be, needed. As NAMA's financial mission nears completion, it could take on board the large social obligation of the housing crisis. There could be more interaction and co-operation with local authorities on solving the crisis.

NAMA is outside the political sphere, but there needs to be political accountability. If the legislation needs to be changed to make it accountable to the House, so be it.

Acting Chairman (Deputy Jim Daly): Deputies Pearse Doherty and Cullinane of Sinn Féin are sharing 15 minutes.

Deputy Pearse Doherty: In a few months' time, it will have been three years since I asked the Minister a parliamentary question on the sale of Project Eagle. When I asked him about the process and bidders - the Minister might read the transcript, given that he is leaving the Chamber - he told me before the sale was concluded that everything was okay. We now see that everything was not okay. Indeed, a deeply corrupted process was in place.

It is a year since the Comptroller and Auditor General produced a report suggesting a probable loss to the Irish taxpayer of £190 million, or €220 million, as a result of the Project Eagle sale. Four months ago, I represented Sinn Féin at a meeting where a consensus was reached among the representatives of all political parties and Independents that a commission of investigation should be established. As such, why are we back in the Chamber discussing a commission of investigation? We are not even discussing whether there will be one. As the Minister tellingly stated: "A commission of investigation, if progressed". He also stated: "If there is a political desire to advance a commission of investigation". This stance is clearly a row-back

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by the Minister from the Taoiseach's stated position at the meeting on 15 September, where consensus was reached that there would be a commission of investigation.

I believed that I had seen the end of the Fianna Fáil flip-flops on this issue. It prevented a commission of investigation being established when Deputy Wallace tabled a motion in the House and stated that no commission should be established until all legal cases had been concluded, which will be in a number of years' time. Thankfully, Deputy Michael McGrath is now saying that a commission needs to be established, but he is concerned that it will not be concluded before the end of 2017, as per the Taoiseach's statement. Within minutes, however, Deputy Fleming said that there should be no commission of investigation. Indeed, we should not even be discussing a the terms of reference until both Houses of the Oireachtas finishes their scrutiny of the report of the Committee of Public Accounts.

Deputy Michael McGrath: That will be this month.

Deputy Pearse Doherty: Which position does Fianna Fáil support today? Does it want a commission of investigation or is it reverting to its position of March-June 2016? Deputy McGrath's colleague endorsed both positions but I do not know how their party can have it both ways. Either Fianna Fáil wants a commission established - and rightly so, given the statement at the time that there would be an interim report within three months and that the investigation would be concluded before the end of 2017 - or it wants it Deputy Fleming's way, in which it will only be after both Houses have done their scrutiny that we will be allowed to start to deal with this issue.

We have been consistent in calling for a commission of investigation. The work that Deputies Wallace and Clare Daly have done on this issue needs to be commended. We should reflect on some of the allegations that are at the heart of this issue. Those are some of the allegations that others decide to turn a blind eye to and use different vehicles to try to avoid having a commission of investigation.

Let me put on the record what our party leader, Deputy Gerry Adams, said to the Taoiseach a number of months ago:

Some of the allegations are shocking. Between May 2010 and November 2013, a member of NAMA's advisory board [Frank Cushnahan] is alleged to have been charging a fee for advice about NAMA. It is further alleged that the same individual had an unethical working relationship with a senior NAMA officer who gave him access to additional and sensitive commercial information. It is also alleged that he was lobbying on behalf of clients to reduce loan repayment demands and in return he would secure cash payments, so-called fixer fees which were shared with the senior NAMA officer. When NAMA decided to sell its Northern loan book to the US vulture fund Cerberus, this individual was offering to disclose information relating to the value of the loans-----

Acting Chairman (Deputy Jim Daly): Could I advise the Deputy to please not name individuals?

Deputy Pearse Doherty: I will finish the quote, "to a bidder called PIMCO".

Acting Chairman (Deputy Jim Daly): That is not in order.

Deputy Pearse Doherty: The quote continues:

It is alleged that PIMCO discovered that payment of a fixer fee of £15 million was requested, to be paid if PIMCO was successful. PIMCO reported this to NAMA and withdrew from the process. According to the response to a Sinn Féin freedom of information request, the Minister for Finance, Deputy Noonan, [was aware of that but did absolutely nothing to prevent the sale of Project Eagle].

The Minister for Finance said he cannot direct NAMA under the NAMA Act but that is the height of bull. The reason we know that is because the Minister has directed NAMA on numerous occasions and not on minor issues. Let me remind the Minister, although he does not need reminding, that he issued NAMA with a direction to purchase the IBRC promissory note for more than €3 billion. However, that was not the only direction the Minister for Finance issued to NAMA that was outside of its commercial remit. He also issued directions, for example, in terms of the winding up of IBRC, providing short-term finance to IBRC, directing it to bid for the assets of IBRC and numerous other directions so why, when he knew there was a corrupted process in the sale of billions of euro of Irish taxpayers money, did he not direct NAMA to stop that sale? Indeed, in the context of the latest proposal whereby developers in NAMA are seeking to build 20,000 houses the Minister for Finance said in a meeting with NAMA that whatever it does it must make sure that the supply of housing does not interfere with its early repayment of bondholders. Again, it was not a written direction but it was advice or an instruction by the Minister. However, on this issue he was completely shtum.

Who benefitted from all of that? Who picked up the tab? Who reaped the benefit in a recovering economy? We know the answer to that. It is Cerberus which has reaped the benefit of the £190 million sterling that the Comptroller and Auditor General believes the Irish taxpayer has lost out, but that is only one sale. Since the Comptroller and Auditor General's report NAMA has sold billions of euro worth of assets. We know the process was corrupted yet we allow the agency to continue as if nothing happened. We know that information was leaked. We know there were fixer fees. We know all of that, but NAMA is still selling assets to the tune of €50 million per day, yet we turn a blind eye to it.

Who benefits? Let us look at the list I got last week from the Minister for Finance. A total of 13 of NAMA's developers escaped NAMA paying less than 5% of their debt. A total of 51 developers paid less than 5%, 143 paid less than 10% of their debt to NAMA before they escaped the clutches of NAMA, 225 paid less than 20% and, 293 developers paid less than 30% of the debt. I was told as a Member of the Seanad by the late Brian Lenihan, and we were all told when he went on "Prime Time", that NAMA would pursue the developers to the ends of the earth to recoup the €74 billion they owed the Irish banks when their loans were transferred into NAMA. What is NAMA doing? It is transferring that debt to vulture funds so it is the vulture funds that will benefit from an upturn in the property market. As bad as that is, we now know or at least we have enough evidence to tell us that the process in Project Eagle was corrupt, and there may be other sales that are corrupt also. It is time to bring this to an end and to suspend NAMA sales until we have a proper investigation and stop the nonsense about having a discussion, which we have been having for the past year. Let us get down to the business of dealing with the terms of reference, which we submitted to the Taoiseach as far back as four months ago, and establish the commission of investigation. Let us have no more row-backs from Fine Gael, supported by Fianna Fáil, as we have seen here today.

Deputy David Cullinane: It is clear from the statement by the Minister for Finance today and also comments from Fianna Fáil that we are being primed for a row-back on the commission of investigation into NAMA and Project Eagle. I am a member of the Committee of

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Public Accounts which is examining the Comptroller and Auditor General's report into the sale of Project Eagle. That was a value for money report. Our terms of reference were very clear. We were not in a position to examine allegations of criminality. We were prevented from doing that. The Government is conflating the two issues. It is hiding behind a committee which is examining a different element of the Project Eagle sale, namely, value for money and the loan sales process. The Government knows full well that the committee was not allowed to deal with the issues that need to be addressed as part of a commission of investigation.

I wish to read into the record of the House a letter that was sent to the Committee of Public Accounts. It was also read into the record of that committee so it is a matter of record. The letter is from Brown Rudnick, which is the international law firm that was working for PIMCO and a number of bidders, including the successful bidder. It states:

In late 2012 Mr. Coulter called Mr. Keinan [Mr. Coulter was Ian Coulter who worked for Tughans, the Belfast law firm, and Mr. Keinan worked for Brown Rudnick] regarding a potential real estate transaction involving NAMA's Northern Ireland loan portfolio. In substance, Mr. Coulter explained that he and Mr. Frank Cushnahan [who at the time was a member of the Northern Ireland Advisory Committee of NAMA] had been working for an extended period on a conceptual transaction that would allow NAMA to dispose of its entire Northern Ireland loan portfolio through a single sale. Mr. Coulter explained how such a transaction could benefit Northern Ireland, NAMA, and potential investors, and asked Mr. Keinan to identify and recruit potential institutional clients that might be interested...

In a subsequent meeting on or about November 27, 2012, [when Mr. Cushnahan was still a member of the NIAC] ... Mr. Keinan, Mr. Coulter, and Mr. Cushnahan at Tughans' Belfast offices, Mr. Cushnahan explained that he held an unpaid voluntary board position ... on the ... NIAC ... but insisted that he had no conflicts of interest in advising on such a transaction. Mr. Coulter told Mr. Keinan that Mr. Keinan was the only person to whom Tughans and Mr. Cushnahan were presenting this proposal ... During that same ... meeting, Mr. Coulter and Mr. Cushnahan proposed that they be compensated by a success fee [which would be £15 million sterling] ... that would be split three ways between Mr. Cushnahan, Tughans and Brown Rudnick.

Long before there was any reverse inquiry made to NAMA by PIMCO, and those individuals were working for PIMCO, they concocted a business deal that would include a fixer's fee or success fee of £15 million sterling that involved a member of the Northern Ireland Advisory Committee of NAMA. The letter goes on to state:

On February 14, 2013, Mr. Cushnahan, Mr. Coulter, and Mr. Keinan met with [the] Minister for Finance [Sammy] Wilson to have a preliminary discussion about the feasibility of such a transaction from the perspective of the Northern Irish Executive...

On April 30, 2013, Mr. Coulter, Mr. Cushnahan, and Mr. Keinan met with representatives of PIMCO at PIMCO's London offices....

On May 22, 2013, Mr. Keinan, Mr. Coulter, Mr. Cushnahan [met with a number of representatives of PIMCO but also with the First Minister, Peter Robinson, and the Finance Minister, Sammy Wilson, in the North.]

We had a situation where DUP Ministers met with-----

Acting Chairman (Deputy Jim Daly): Could I advise Deputy Cullinane against drawing conclusions or making findings against individuals on the issues raised. He has read information into the record but I must advise him about the situation re privilege.

Deputy David Cullinane: I am making a statement of fact.

Acting Chairman (Deputy Jim Daly): Please note the advice of the Chair.

Deputy David Cullinane: I note the advice. With respect, I am making a statement of fact. We had a situation where a member of the Northern Ireland Advisory Committee of NAMA met with senior members of the DUP when he was due to be in receipt of a fixer's fee and a success fee, long before any reverse inquiry was made to NAMA by PIMCO. The origins of this deal were very clear. This is a corrupted process. Project Eagle was undoubtedly a corrupted process. The terms of reference of the Committee of Public Accounts did not allow it to examine all these issues. We now know that a member of the Northern Ireland advisory committee, NIAC, was in line for a fixer's fee, was involved in meetings with senior DUP Ministers, including the then leader of the DUP, and had met and was in a business relationship with two international law firms - Brown Rudnick and Tughans - at a time when he was still a member of the NIAC. This was clearly a conflict of interest. We also know that NAMA knew Mr. Cushman had an association with six debtors and did not take the appropriate steps to deal with the allegations of conflict of interest, so it is quite obvious to everybody except the Government and Fianna Fáil that we need a full commission of investigation into these matters. This was undoubtedly a corrupted process that warrants a commission of investigation. A number of criminal investigations are already in play in three jurisdictions - the US, Great Britain and Northern Ireland - so there is a responsibility on us to do the right thing. We do not need to wait until the report of the Committee of Public Accounts report is published before we proceed with this commission of investigation.

Deputy Joan Burton: From everything that has been said by all the speakers to date, I think this discussion is premature because, essentially, we have a serious conflict among the different parties who have spoken in respect of the matter. The country is coming down with commissions of investigations into so many issues that if I was to ask people to stand up here, name them all and state what they are supposed to achieve, I doubt anyone here would be able to do so. Another one is now being proposed when we have just been told that there is a series of police and parliamentary inquiries taking place in different jurisdictions and when we have been told by the Chairman of the Committee of Public Accounts that the committee will report in the not too distant future. From what Deputy Fleming said, my understanding is that the committee is due to report in the next month or two. Is that correct?

Deputy David Cullinane: The terms of reference for that exercise are very clear and have nothing to do with any criminal----

Deputy Joan Burton: The point is that the Chairman of the Committee of Public Accounts, which has been examining the issue over a lengthy period, has said that the committee's report will be available shortly.

Deputy David Cullinane: Value for money.

Deputy Joan Burton: I strongly suggest that making a decision on the terms of reference before the information that has been referred to in the House is available does not best serve the public interest. We have seen other commissions of investigation, and I am sure other Members

of the House can talk about them, whose terms of reference were so broad and sweeping with everything bar the kitchen sink thrown in to such an extent that the people tasked with carrying out the commissions' work found it very hard to fulfil their remit within a reasonable timeframe.

People who have asked questions about NAMA are to be commended. It is proper that answers to the different questions that have been asked be given but a commission of investigation could go on for years or be so broad as to be almost unmanageable, as we have seen previously. If we have to have a commission of investigation, it is much better for it to be focused and tight and concentrate on the key issues. I have been involved as a witness and complainant in commissions of investigation into the planning process and saw long periods of inquiry into matters that in the end yielded relatively few outcomes for the public but ended up making lawyers very rich.

There is serious questions to be addressed here. At the moment, the Committee of Public Accounts is attempting to do this and has offered to make a number of answers available. The Labour Party and I did not support the establishment of NAMA. NAMA was a *fait accompli* that was brought about by the Fianna Fáil Government of the time, specifically by the then Minister for Finance, Brian Lenihan. It was structured in such a way as to be effectively out of bounds in respect of politicians' involvement other than the remit of the Minister for Finance of the day in terms of that Minister's powers under the National Asset Management Agency Act. The second issue, which was referred to by a previous speaker, was to ensure that developers would be unable to acquire their loans by the back door. NAMA was given a very detailed and extensive framework in terms of its governance to limit what could happen. At the end of the day, NAMA was effectively the State's bad bank vehicle which was designed to take bad loans off the books of our banks, which were in a state of collapse, and secure the maximum amount of money for the Irish taxpayer. It has not yet completed this job but many taxpayers in Ireland would like to see NAMA maximise its recovery of money.

I have not heard any argument that would explain at this point in time - perhaps there might be one after the report of the Committee of Public Accounts appears - what kind of commission of investigation is being talked about. I think what I have just heard is probably more to do with the fact that there will be an election in Northern Ireland than the argument that this House should sit down and work out what would be the terms of reference.

(Interruptions).

Deputy Joan Burton: At the time, the Taoiseach said that a commission of investigation would be set up if required. This is meant to be a discussion about the terms of reference of the commission of investigation but the Chairman of the Committee of Public Accounts has said he is due to report in a while. I do not have a problem with it happening provided the terms are identified clearly and that it will not be a commission that will go on for years, possibly a decade, and cost Irish taxpayers more millions in lawyers' fees. I want to see something focused and directed that will provide answers to those reasonable questions that can be established.

Some of what has happened in NAMA, particularly in respect of valuations, is a question of opinion. I do not honestly think that there will ever be a report that will be able to reconcile the understandable views and case made by the Comptroller and Auditor General for his estimate of how the valuations should have been approached and NAMA's position as a bad bank for Ireland and how it approached them. There are two completely different opinions in respect of those valuations. Members might see a way in which a commission of investigation will

be able to give more information than is contained in the statements of the two parties, both of them calculated on a particular basis and based on particular assumptions at a historic moment in time, but I have not yet seen it and I do not know how it is going to be done. A commission of investigation will take the statements of the different parties and probably weigh them in the balance depending on the assumptions it has made.

The proposal by the Chairman of the Committee of Public Accounts should be accepted. I am totally open to there being a commission of investigation but I honestly think that today's discussion is premature until those various reports are put into the public domain and people can analyse what those reports have to say, which could then inform a better structured commission of investigation which would get the kind of answers people want.

Acting Chairman (Deputy Jim Daly): Deputy Coppinger is sharing 15 minutes with Deputy Boyd Barrett.

Deputy Ruth Coppinger: This is an important discussion because the issue of NAMA is on the list of practically everybody outside this building. I have to refer to the totally self-serving contribution we have just heard from Deputy Burton. She tried to make all sorts of excuses as to why a commission is not needed. She complained that lawyers might get rich; in that case, we should cap their fees and take action to see that they do not.

She also tried to excuse her own role as a key Minister, the Tánaiste, in the previous Government by saying that NAMA was a *fait accompli* when her party came into government. It was set up by the previous Government, but unfortunately the Labour Party made no attempt to step in on behalf of the common good and particularly on behalf of the people devastated by the housing crisis in recent years when NAMA played a key role in hoarding land and accelerating the housing crisis. It has hoarded buildings that it has sold off in a glut of sales, including to vulture funds, as we have seen in recent times. The previous contribution was all about trying to excuse the Labour Party's complete inactivity.

Obviously, there is a need for an investigation into Project Eagle. According to the Comptroller and Auditor General, NAMA incurred a potential loss to the taxpayer of €223 million on the sale of a portfolio of all its remaining 860 Northern Ireland loans to Cerberus in April 2014. Other ways of calculating that would give a much bigger loss. NAMA paid €2.35 billion for the loans and according to *The Irish Times* sold them at a potential loss of 13%. According to another article in *The Irish Times*, the original book value of the Project Eagle loans was over €6 billion, so the true loss was €4.5 billion and not €223 million. Obviously, there are many conflicts of interest that have been well documented and reported, relating to Frank Cushnahan and others.

I wish to highlight some other things that should be investigated regarding NAMA. I do not advocate that they should be done in this investigation but should be done at some point. After initially hoarding land and property to help engineer a shortage of both and drive up prices, contributing directly to the current housing emergency, NAMA then decided to flog off as fast as possible huge portfolios of loans to vulture funds as we now see today. We were told they were the only ones with the money to buy billions of euro worth of property in one go. NAMA has sold off so many loans in the past two years alone that it has relatively little of its original portfolio left.

Last year, Ireland was the top European location for distressed loan sales for the fourth year

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in a row, all because of NAMA and the decision taken by the Fine Gael Party, and previously by the Fianna Fáil and Labour parties, to pursue this policy. It is absolutely outrageous and history will condemn all the parties that contributed to it.

The majority of NAMA's vast land portfolio has now been sold and we have a housing emergency. It is an incredible situation, as I am sure many could testify. In my constituency, NAMA is building luxury-end housing estates and mansions in Castleknock. Meanwhile, we have a homeless black spot in Dublin West. That is the contrast and how the NAMA policy is felt on the ground.

The second aspect worthy of investigation is the unconditional sale of completed residential properties to vulture funds and corporate landlords with no respect for tenants' rights or the way that rents rose after NAMA sold them off. It seems to have shown absolutely no regard in the process.

A third aspect of NAMA's dealings relates to the thousands of business loans on hotels, offices, shops and, as we found out last week, even a refugee hostel operating a State contract that have been sold by NAMA to vulture funds with no regard to what might happen to the 12 workers in Limerick or to the 64 men who lived there and have now been displaced.

Another aspect is the great tax robbery that NAMA has facilitated. Despite owning billions of euro in assets, the average vulture fund pays only €250 a year in tax. Nobody really knows how much has been lost already, but estimates range from about €1 billion to €2 billion a year over recent years. Under pressure, the Minister for Finance, Deputy Noonan, belatedly moved to close down some of the get-out clauses of which he and his Department had been aware for years, and which they used as carrots to attract these vulture funds to Ireland. The biggest carrot has yet to come, in the form of a complete exemption from CGT that the Minister has given to vulture funds that bought property from 2012 to 2014 and hold on to it for seven years. We must brace ourselves for another tax robbery from 2019 onwards when the vultures come home to roost and sell that off.

A further aspect of NAMA that deserves to be investigated is the writing off of €40 billion in debt, owned by Ireland's richest men - they are usually men - by the time NAMA winds up, sometimes while leaving them in control of their property empire. Figures provided to the Dáil last week show the scale of debt write-off for the richest people in Ireland at the same time as ordinary owner-occupier mortgage holders and others are being hounded from their homes. According to the Minister, by the end of 2016, a total of 505 debtors who originally owed €27.3 billion have now been allowed to exit NAMA, having repaid only €14.9 billion in debt. In other words, these 505 debtors have paid an average of €24.5 million, but more than that in individual cases. There has been huge debt forgiveness for these people.

Last week, the Minister also casually asserted it was never envisaged that NAMA would collect all the money owed. That is completely and utterly incorrect. When NAMA was established by the then Minister, the late Brian Lenihan, he made it perfectly clear it was not to be a vehicle for developers to write down debt and get off scot free. Obviously, that is not the case.

Deputy Richard Boyd Barrett: Many of the general points have been made. I will not go over them except to say that it is utterly unacceptable not to have a complete investigation into all matters pertaining to NAMA so that we can get to the bottom of what has gone on with the vast amount of assets, loans and property for which it has been responsible, and whether it has

served the public interest in how it has managed and disposed of those assets, loans and so on.

Obviously, Deputy Wallace has played a leading role in exposing issues and scandals relating to Project Eagle. Enough has been said - others will say it, let us put it that way. It is extraordinary that the whole process was not stopped when it was drawn to the attention of NAMA down here and the Minister for Finance that fixers' fees were being paid and that corruption was likely to be at work in the disposal of NAMA assets to vulture funds. That alone requires an investigation. As has already been said, even if NAMA turns the €2 billion profit it claims, the people of the country will take a €40 billion hit on all of this. Talking about NAMA turning a profit is nonsense. We have taken a €40 billion hit and our country has been crucified.

I want to raise a specific set of questions. I do not have all the answers, but I want to put this into the domain of issues that need to be examined. I received the folder before me on Monday in my office. It is a very detailed folder about Spencer Dock, a site owned by CIE that was to be developed by Treasury Holdings. I rang someone in NAMA today to try to get the par value of the original loans pertaining to the site and they could not give me the answer. They said they might get back to me. We are talking about a figure in the hundreds of millions of euro. That site is now commencing development again and it is being talked about as a €600 million development.

When I asked them on the telephone NAMA would not confirm who bought the site. We know from the National Asset Management Agency Act that the original developers were not supposed to get back the sites pertaining to their loans. The original developer was Treasury Holdings. It was reported in October of last year that Johnny Ronan, formerly of Treasury Holdings, was the preferred bidder in the bidding process, which was launched in February 2016. That site owned by CIE was put on the market at a guide price of €50 million, but CIE had an arrangement with Treasury Holdings. That arrangement was seriously questioned and criticised at the time by the then Minister, former Deputy Mary O'Rourke, and subsequently by former Deputy Pat Rabbitte. In fact, a report was ordered by the then Minister, Mary O'Rourke, into the entire deal between CIE and Treasury Holdings on the grounds that she and others believed that serious questions arose as to whether the public interest had been served in the deal that had been done between CIE and Treasury Holdings as all CIE would get from its site was 17% of the sale value of any development or 17% of the rent. The rest was to go to Treasury Holdings, Johnny Ronan, Richard Barrett and so on. They went into NAMA owing €2.6 billion in total in terms of Treasury Holdings, and €1.67 billion went into NAMA.

With regard to my first question, Johnny Ronan exited NAMA apparently paying off his €250 million debt, but he now has the site again. That figure of €250 million is not €1.6 billion. I do not know the exact breakdown of Treasury Holdings debt, but he has the site again. The guide price for that six acre site was €50 million. Comparisons with similar sites currently on the open market suggest one should be paying about €20 million per acre, which is €120 million, not the reported €42.5 million that Ronan, backed by Colony, a big investment fund which refinanced Ronan's loans, is reported to have paid, although I could not get the answer from NAMA when I rang this morning, which I find extraordinary. They said they could not tell me how much was paid for the site or who bought it but it was reported in October that it was sold for €42.5 million and that Johnny Ronan, backed by Colony, bought it. If that is true and if the comparable prices per acre are in the region of €20 million, that means NAMA sold a site worth €120 million for €42.5 million. That is shocking, and the developer who now has it is the developer who originally went into NAMA when Treasury Holdings was taken over by NAMA.

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On the valuations, in 2002, the value per acre in the Docklands was €8 million to €14 million. It is very reasonable to assume, therefore, given the massive surge in property values since then, that €20 million is a reasonable valuation.

The last question that must be answered in regard to this-----

Acting Chairman (Deputy Jim Daly): Thank you, Deputy. I cannot allow you to eat into anybody else's time. I call Deputy Mick Wallace, Independents 4 Change.

Deputy Ruth Coppinger: Some people did not use their time-----

Acting Chairman (Deputy Jim Daly): Thank you, Deputy, for that advice and comment.

Deputy Richard Boyd Barrett: I hope these questions will be answered because they are very serious questions and they deserve investigation.

Acting Chairman (Deputy Jim Daly): Deputy Boyd Barrett, please do not take up Deputy Wallace's time.

Deputy Mick Wallace: This debate was moved from Thursday to Wednesday to ensure the Minister, Deputy Noonan, could be in the Chamber and he is not here. His contribution at the start of the debate was pathetic. The contribution of the Chairman of the Committee of Public Accounts was not much better. The notion that the Committee of Public Accounts is an investigative body is rubbish. The Comptroller and Auditor General looked at one dimension of one sale, and the Committee of Public Accounts is looking at it also. It cannot access NAMA's papers. It cannot possibly hold NAMA to account. NAMA representatives went before the Committee of Public Account eight times and said what they liked. It is absolute rubbish.

It is four months since the Taoiseach agreed to establish a commission of investigation into the secret society that is NAMA. Since then, NAMA has sold over €4 billion in par value worth of loans to vulture funds, and almost €3 billion worth of those loans went to its good friend, Cerberus.

I agree that the commission should begin by examining Project Eagle as its first module, but the problems in NAMA are sadly not unique to NAMA's Northern Ireland loan portfolio. It is imperative that any commission adopts a modular approach, similar to the Irish Bank Resolution Corporation, IBRC, investigation.

The allegations made by Enda Farrell, a former NAMA staff member, should be the second module. It seems NAMA may have internally investigated some of the NAMA officials named by Mr. Farrell in his affidavit who may have leaked confidential information or engaged in malpractice. Those internal investigations should be made available to the commission. I have read his affidavit and I can tell the Minister of State that it is worrying.

The third module should examine the establishment of Hibernia REIT. It was set up in 2013, following a three year stint at NAMA by one of its founders, but it seems the company was in planning for a long time before that.

Some businessmen on the east coast of the United States were briefed on Hibernia REIT's arrival as early as 2011. Kevin Nowlan is on the record as stating: "We know enough people in Dublin to be able and go buy properties in Dublin without having to go to auction, of having to go onto the Market."

If one looks at some of the assets it has purchased, the links back to NAMA begin to appear - the Forum Building, the Dublin Observatory Building, the Harcourt Street building, Windmill Lane, New Century House and Central Quay. All those assets were in NAMA and are now in the hands of Hibernia REIT, either through direct purchases or secondary deals.

A fourth module should consist of an examination of any internal NAMA investigations into NAMA officials regarding the leaking of confidential information or alleged malpractice and, if the judge sees fit, to investigate any other allegations of unauthorised leaking.

The commission of investigation should provide its initial report on Project Eagle within six months and the remaining modules within 12 months. Importantly, any report should be made public.

Before referring back to Project Eagle, I would like to put on record that the Comptroller and Auditor General's role in regard to NAMA has been abused by the Government. At one stage, the Taoiseach tried to tell us that the Comptroller and Auditor General had staff within NAMA. That had to be rebuked by the Comptroller and Auditor General who stated: "an impression being given that everything that moves in NAMA is seen by and examined by somebody from my office is absolutely incorrect".

The Minister, Deputy Noonan, recently tried to tell me that the Comptroller and Auditor General would have called for a halt to NAMA's activities had he felt it was warranted. Again, the Comptroller and Auditor General rebuked that stating that he "is prohibited from expressing an opinion on the merits of policy".

As an aside, I want to tell the Minister that Cormac Butler, a financial consultant and a member of the *namaleaks.com* team, has pointed out that NAMA may not even hold legal title to the assets transferred from the Irish banks in 2009, given that when a bank is insolvent, the European Central Bank, ECB, automatically acquires control of its assets. If that is the case, it would mean that the ECB, not NAMA, is the owner of the loans. We have been raising some of these issues with the Minister and his Department since last August but to little avail.

Cormac Butler has also been making the point that when Wilbur Ross, President Donald Trump's Secretary of Commerce nominee, purchased Bank of Ireland shares in 2011 and then flipped them in 2014 for a profit of €477 million, he did so with the advantage of having access to the financial position of the bank, which was not in the public domain. That was information that was not available to smaller shareholders. I would like the Minister to confirm or deny that his officials are now aware that the activities of Wilbur Ross and his sale of Bank of Ireland shares is the subject of an investigation in the US. They do an odd one there; they are a little more fond of them than we are here.

To go back to Project Eagle, the sale stinks from start to finish. In late 2016, we travelled to Asia to meet a businessman named Barry Lloyd, who had contacted us through our whistle-blowing site, *namaleaks.com*.

As early as December 2010, Frank Cushnahan had been trying to sell the NAMA Northern Ireland loan portfolio in one lot. He met Barry Lloyd and told him he had been heavily engaged by NAMA and that there were very substantial opportunities for major returns for anyone who could access international funds to acquire blocks of development assets from NAMA. Barry Lloyd continued to meet and engage with Mr. Cushnahan and representatives from Tughans solicitors throughout 2011 with a view to securing Asian investors, but the proposed deal even-

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tually fell through in April 2012. Barry Lloyd signed an affidavit in the past week in Dublin, and has met the National Crime Agency.

In November 2012, Brown Rudnick met Mr. Cushnahan and Ian Coulter at Tughans' office. By February 2013, it was sitting down with the Northern Ireland finance Minister, Sammy Wilson. In April 2013, PIMCO was on the scene and by May 2013 it was meeting Peter Robinson, when it was informed by Brown Rudnick that it was the Northern Irish Executive's preferred purchaser for NAMA's Northern Irish loan portfolio, but there was still no price on it. We are told it did not meet Ronnie Hanna until September 2013. By December 2013, Mr. Hanna was arguing for an exclusive deal with PIMCO. I wonder why.

We then had some role-playing and pretending that it was going to be an open process. Lazard was brought in, supposedly to manage the sale, but it was not even allowed to value the portfolio or control the data room. When PIMCO pulled out, NAMA did not even tell Lazard why. Lazard did not even attend the meeting in late March between Cerberus and NAMA. Why? However, it was paid £4.3 million for a few months' work. This is a lot of money, just for a bit of back covering.

Hogan Lovells was brought in for legal advice, but NAMA did not even ask its advice following PIMCO's admission of a fixer's fee for the boys. NAMA did not even ask its advice when it discovered Cerberus had gone ahead and paid the £15 million fixer's fee anyway. NAMA stated it had a problem with PIMCO paying a fixer's fee, so why did it not have a problem with Cerberus paying one? Was it because the boys took Cushnahan's name off the list? Seriously? Why did NAMA refuse our freedom of information request regarding its correspondence with Hogan Lovells? NAMA agreed to pay Hogan Lovells £290,000 but ended up paying it £1.1 million, for what?

That Frank Cushnahan, Ronnie Hanna and Dave Watters were a cabal making it all happen in the background is now beyond question. Frank Daly told the Committee of Public Accounts last September that NAMA's key decision was to set a minimum price of £1.3 billion for the portfolio, but it did not do so as PIMCO set the price. Dave Watters did the business plans, Frank Cushnahan pulled the strings and Ronnie Hanna fixed the price in Dublin. The reason NAMA fell foul of the Comptroller and Auditor General was because the task of retrofitting the price led to it breaking its own rules. Of course, when Frank Cushnahan became unbackable NAMA decided to throw him under the bus and distance itself from him as much as possible. Why did it take NAMA until April 2016, two years later, to report him to SIPO? When did it report him under section 19 of the Criminal Justice Act, or did it?

We then began to hear NAMA tell us about how insignificant the Northern Ireland advisory committee, NIAC, was and that Mr. Cushnahan did not really matter. On 18 June 2012, the Minister for Finance said, "I would like to thank Frank Cushnahan and Brian Rowntree for agreeing to continue serving on NAMA's Northern Ireland Advisory Committee. I see this Committee as having a very important role in assisting NAMA to meet its objectives on both sides of the border". Then NAMA told us that Cushnahan had no access to confidential information, so why did it ask him to return or destroy it if there was no value in it? Frank Daly was still trying to distance himself from Cushnahan. When asked about joining the board of the religious charity Ciorani, of which Cushnahan was a long standing member, Mr. Daly stated:

I think it was a pure coincidence. It is a charity operated by the Redemptorists. He was on the board for quite some time. I know some Redemptorists in Dublin and was asked

whether I would join the board. It was not a month later. As far as I know, it was probably the best part of a year later.

The truth is it was a month later and not a year later. Cushnahan joined NIAC on 13 May 2010. Frank Daly joined Ciorani 32 days later, on 14 June 2010. Can we believe anything that he tells us?

Acting Chairman (Deputy Jim Daly): I ask the Deputy to be careful in his utterances and I ask him to withdraw where he identified Mr. Daly as a liar.

Deputy Mick Wallace: I did not say he was. I asked whether we can believe what he says.

The Project Eagle sales process was a text book disaster. There was a short time-span for possible bidders, limited information, a one bid process and no local valuations were allowed. This all suited PIMCO, and later Cerberus, who bought the same information from the boys. It was never a competitive process. PIMCO's gig became Cerberus's gig only, and NAMA's ridiculous decision to sell it in one lot suited the fixers just fine.

Did Ronnie Hanna declare any conflict he might have with Northern Ireland connections from his days with Ulster Bank in Northern Ireland? Why did NAMA treat business people in the Republic of Ireland almost four times less favourably than those in Northern Ireland? Is it possible that Frank Cushnahan or Ronnie Hanna might have had anything to do with it? During his employment at NAMA as head of asset recovery, against how many connections did Ronnie Hanna approve enforcement? All of these need to be investigated to ascertain whether there was favouritism or motivation of any sort. In the BBC Northern Ireland "Spotlight" programme, Frank Cushnahan clearly stated that he went to Ronnie Hanna to make sure that John Miskelly's lights would not be put out. Mr. Cushnahan said he and Ronnie Hanna were as thick as thieves. The entire Miskelly file needs to be investigated. All Northern Ireland and Project Eagle debtor files need to be looked at to discern whether there was favouritism or influence. In October 2015, I asked NAMA whether Ronnie Hanna, along with Frank Cushnahan or Dave Watters, ever met any investment fund personnel. NAMA stated that Mr. Hanna had no such meetings with these individuals. This is not true. I know for a fact he did.

When I said in the Dáil in July 2015 that £7 million of Cerberus's money had ended up in an Isle of Man bank account, NAMA claimed that it was the first it heard of it. Cerberus said it was informed by Brown Rudnick in April 2015 about the Law Society of Northern Ireland's investigation into Ian Coulter's conduct regarding the fee Cerberus paid to Tughans through Brown Rudnick. Is it credible that no one told NAMA? For the Government's sake, let me tell the House I have met an individual who was asked to look into the same matter in January 2015 on behalf of NAMA. The British National Crime Agency knew that all was not well so it commenced an investigation. The Securities and Exchange Commission in the US knew that all was not well. It too started an investigation. It was exercised by the possibility that Cerberus personnel John Snow and Dan Quayle may have abused their former office. It was looking at any possible bribing or inducing anyone for gain. All the while NAMA was in denial, stating that everything was grand and it was doing a great job, and the Government and Department of Finance were the cheerleaders.

Recently, Transparency Ireland stated that Irish people's perception of corruption rose in 2016, owing to the controversies surrounding NAMA, but it does not stop there. We have received very worrying information through *namaleaks.com* regarding the behaviour of some

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real estate auctioneer firms, where individuals were looking for cash to be placed in an offshore account before agreeing to sell properties belonging to NAMA and other financial institutions. Some of these individuals are well known and have reached positions of high authority in this country. I met a developer who told me he has paid large amounts of cash to an individual, a former employee of NAMA who held a very serious position there. A lot of money has changed hands.

Back in 2015, I mentioned the payment of €15,000 in a bag by an individual to a NAMA employee to garner favour. I am not sure where the Garda is with its investigation into this, but I can tell the House I am more certain than ever about what happened. They got their memorandum of understanding and were out the gap and away and they are doing very well for themselves. The newfound fortunes of these new kids on the block are built on the proceeds of crime. One of them is working in the higher echelons of Cerberus, which has been responsible for taking control of small businesses and family farms and forcing people out of their homes and onto the housing list. We must be one of the best little countries in the world to do business in.

What in God's name is wrong with us that we do not like the truth? What in God's name is wrong with us that we do not want to hold State bodies to account? What is wrong with us that we do not want the truth about NAMA? Is it because it is too distasteful? Is it that the Government will not like it because it has stood over what has happened for the past five or six years? Is this why it does not want the truth to come out about it? NAMA is rotten to the core. I believe the Minister knows this. I do not believe for a second he thinks it is clean. There are problems right through the workings of NAMA. The dogs on the street know it. Will the Government pretend forever it has done a great job and lie to the people? The people are tired of being lied to. This is why politics is changing. This is why the Americans elected an eejit called Trump, because they were tired of being lied to by the likes of Obama, Clinton and Bush. They will get tired of the Government lying to them too. Fianna Fáil and Fine Gael have engaged in deception in dealing with the people of Ireland and the people are tired of it. They will not get away with it forever. Social media has changed things and people are waking up to what the Government is up to and how disingenuous it is about how this country is run and how we organise society. It is such a frustrating place it makes my blood boil.

Deputy Mattie McGrath: I am also disappointed because I am a member of the Business Committee and we agreed with party leaders that we would have a motion setting up a commission of investigation. We agreed a change in the time for this, from tomorrow to today, to facilitate the Minister, Deputy Michael Noonan. He was here today and I know he is busy but the Rural Independent Group has provided pairs on his behalf. This is new politics but it will have to change if we do not get fair play and equality of esteem. Commitments were given around the need to establish a commission of investigation into NAMA's involvement in Project Eagle and this is not acceptable. Deputy Wallace has raised this on countless occasions over the past two or three years. He is elected by the people to do so and he knows a bit about the industry. All parties and groups agreed to this but this morning the Minister, Deputy Noonan, said we needed to wait further.

I have a grandchild aged three years who is learning that an orange light means "slow" while red lights mean "stop" but there are no green lights. The lights are turned off, as is the tap, and there is a huge blockage. A three year old can see that something is not right in the State of Ireland when we need to wait for the Committee of Public Accounts to finalise its report before we can investigate. I was pleased by the court decision relating to the Committee of Public Ac-

counts earlier this week. It is a good thing for parliamentarians and for democracy, even though it is a Tipperary woman who took the challenge. I am pleased that the court upheld the rights of our committees and the Oireachtas, whose Members are elected by the people. We are public servants, Teachtaí Dála, and we have a duty to serve the people but Governments are not serving the people and a lot of people have not been serving the people since NAMA was set up. We cannot wait for the Committee of Public Accounts because it could take forever. NAMA has been before the Committee of Public Accounts on eight or nine occasions in the past couple of years and has failed to answer the questions put to them by the Deputies on behalf of constituents, the people whom they were elected to represent.

The powers of this Parliament exist under inquiries legislation and they are necessary. As a legislature, we are here to enact more powers if we do not have sufficient powers and there are blockages in the courts. The US is a long way from here but President Trump has been elected by the people and he is enacting legislation under his powers. He promised he would do this when he was standing for election. We make promises to get elected but, as former Deputy Pat Rabbitte once said, those promises were only made during election time. People are sick of that and will not put up with it any longer. It is not fair, honest or just.

The commission of investigation was promised and was agreed by the Whips and party leaders. What is the problem? Why are the orange lights turned on, and the go slow signs put up? What are we hiding? Who are we covering up for and what is the delay? We cannot kick this can down the road and I will not allow it to be kicked down the road. I will raise it as long as I am in this House. The statements by Transparency Ireland on the perception of corruption in Ireland sadden me. There are changes in parliaments all over the world because the people have awakened as a result of social media. They are educated and know when they are being mistreated and coddled. The Competition Authority, which has existed for decades, is unable, unwilling and under-resourced to deal with issues of big deals, sweetheart deals and deals that went wrong involving major multinationals buying up companies just to close them and sell them. The Competition Authority is toothless and meaningless and has no function. The resources are not there for posts at sergeant level in the Garda or for other officials but we need to put the resources there. We have the resources for everything except getting the truth. It seems we do not want to find the truth.

There are many issues and yesterday we debated a motion on Bus Éireann and the savage crisis there. It is a vital public service for parts of rural Ireland. We heard about carers last week and about disability cuts, as well as cuts in the roads budget and the Rural Independent Group will introduce a motion this evening to address the lack of funding and investment in rural roads. Of all roads in the country, 94% are non-national roads and they have 54% of the traffic but there has been underinvestment in these for decades. We see all this money given over for sweet deals, however, and it beggars belief. It would not happen in the Congo or places where they have no democracy but only dictatorship.

I have just left the housing committee and we dealt with empty properties and commercial property in NAMA that cannot be touched. NAMA offered moneys and some 7,000 or 8,000 properties to local authorities but they could only take two. They were offered to Tipperary but we only took a small number. We tried to find out why from the housing sector, the county manager, the housing agency and NAMA but I am dizzy and frustrated as it is impossible to get a straight answer. These bodies have title and ownership and can give them over. If there are recent planning permissions it should be possible to use them but they say they are not suitable under sustainable development. It is a game of pass the parcel and I had hoped this commis-

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sion of investigation would be set up, with proper powers and headed by a retired judge with the power to call people in and to demand and get answers, leading to a report that would be brought to this House for debate. It was agreed to and must happen without any more dilly-dallying or ducking and diving. We need a commission of investigation, as agreed by the party Whips of the Business Committee, of which I am a member.

We talk about new politics and there was a request related to the pay of Ministers this week but the tap can be turned off. The Minister should bring that back to the Whip, to the Minister for Finance, Deputy Noonan, and to the Taoiseach. The Taoiseach is paired with one of our Members this week and we are willing to play ball but we have to have a modicum of respect and when we agree something at party leader level at the new Business Committee only for it to be turned on its face as it was this morning, it will not be accepted by our group as regards rural projects.

Deputy Wallace referred to the Project Eagle report, which came to me on the same day as Deputy Wallace received it. I was worried about it. It was too big a project and I did not understand it but I commend him on taking it up. The party sitting beside me had it for a lot longer but they would not deal with it. We need people to bring up these issues because it is taxpayers' money - the sweat and blood of our people who work and strive to raise their families despite the cuts they have to endure. There is a project in Clonmel which I refer to as "Project Jackdaw" but it could be described as "Project Gobdaw". I wrote to NAMA twice and got no reply until the person who had told me became angry and threatened to go to someone else, such as Deputy Mick Wallace, and I wrote again giving them four hours to come back to me, which they did. They thought I was talking about another hotel project from two or three years ago. This was a gaping eyesore. The Clonmel Arms Hotel had been a wonderful place but what went on there was disgusting and despicable. The commission needs to investigate that too. In fairness to NAMA, it responded and was willing to take up the personal whistleblower, but they declined, so I could not do any more. I pressed the matter with the Garda Síochána in case I would be told that I had not dealt with it.

It is a shameful situation that is going on with big auctioneering houses in this city and big business people who want to get rich quick and have done so. Bags of cash are being carried around to people and brought in to buy people elsewhere. It is disgusting. In fairness to NAMA, however, in that case it acted and was prepared and willing to act. How many other cases are there that I and other TDs do not know about? Other people may know about them and it is going on. It is murky, dirty, nasty and has no place in a modern, democratic country. We will be having tribunals into what is going on here in NAMA in decades to come. As sure as I am standing here, that will happen as it did with other matters, including the beef industry.

In spite of the wasted tribunal, the whole thing is a cartel. If it walks like a duck and looks like a duck, surely it is a duck. We all know it is a cartel yet in this Parliament we are toothless, meaningless and totally irrelevant because we will not deal with it. We made some effort but the Government rowed back on it this morning. That will not be allowed to happen, it cannot and must not happen.

We have to get to the bottom of this because there are too many people suffering and there is too much hardship out there. I did not mention what happened in the courts as a result of whole estates going into NAMA. In my village, I know of a young developer who was mad to get rich quick but he ended up losing most of it and went to Poland. He arrived back last Friday and told people in my village that he had bought it all back from NAMA. First of all, he paid a massive

amount for it where I live in Tipperary, which was madness. He wanted to build hundreds of houses which would have ruined the village so we held it up for years. Thankfully, the good people objected, although I was not one of the objectors. It is madness to put 200 houses into a village of 80 houses but the banks were willing to throw money at him. He went to Poland and now he is back and tells us that he has bought the property back again. I did not see any public auction or notice anywhere. I did not see any transparency. I have written to NAMA and it responded, but the response is disappointing. It said it divested its interest in it in 2015, but to whom, where or what? There was a list of receivers but we do not know who owns it now. He says he owns it and he probably does but where is the responsibility or accountability?

I have had people in who are being tortured every day of the week by bankers and vulture funds. They took out loans in good faith with an institution yet they were sold on for between 10% and 25% in some places. These vultures are no better than the grey crows that attack little lambs when they are being born. The Minister of State, Deputy Andrew Doyle, would understand that. Vultures are disgusting creatures which are trying to gain massively. Then they are getting a court system with backing orders.

The previous Government brought in the Land and Conveyancing Law Reform Act 2013. I called it an eviction Act, which it is. I am a member of the Land League and will stand ready to fight for people's homes. Now, however, I see that vulture funds will attack family farms. Farmers should not have any special protection but land is an emotive issue. Ordinary people living on the land in smallholdings will have the support of communities. This is not over yet.

County registrars are ready, willing and able to hear such cases but who appointed these registrars and who gave them those powers under what Act? Who appointed the judges to sit in adjudication of families, terrorising them and treating them like that? Remarks have been sent on to me about what happened in a court in Nenagh last week. I have not verified them and I will not say any more but if they were said they should not have been said by anybody next or near the Bench, not to mind those sitting on the Bench. I have no accuracy as to what was said, but it would not surprise me. That attitude has to change. We have to start serving the public. We are Teachtaí Dála, public servants, and we must stand up to what has happened. We bailed out the banks and what did we get back? A kick in the teeth and two fingers. They are laughing at us every day of the week. They want to sell off because profit is their guiding light, nothing else. Therefore, this commission of investigation must start now. It must have teeth, powers and resources. It must be able to compel people to appear before it. They will have a damn hard job, however, because there is a lot of digging to be done.

What I said about my village is going on in every community in rural Ireland. Anywhere they thought there were rich pickings, the banks shovelled money into them. Auctioneers also had a role to play yet now they are all inside working for NAMA and receivers. The whole murky business is a mushroom industry. It is mushrooming all the time and they are making vast profits from it, and to hell with people and their families. "To hell or to Connacht" was the saying with Cromwell but he is back worse than ever with the vulture funds. We appointed them and allowed them to operate so shame on us. This Government and previous ones allowed them but Cromwell was never as bad. He left a good bit of land in Tipperary to the forebears of a colleague of mine, the former Minister of State, Martin Mansergh, who acknowledged it himself. Cromwell was not as bad as that. We kept him out of Clonmel but we cannot get the vultures out. We have no protection in the courts. Something must be done about this because it is outrageous and disgusting. We must have a commission of investigation right now to do its job as quickly as possible with the necessary resources. We will come back to debate the

matter in this Dail.

Deputy Catherine Murphy: I wish to share time with Deputy Eamon Ryan.

Acting Chairman (Deputy Jim Daly): Is that agreed? Agreed.

Deputy Catherine Murphy: It is curious that we are having this debate today. The only conclusion I can draw is that we are being softened up for a roll-back, which would be totally unacceptable. The way in which NAMA was set up, and the secrecy surrounding it, always opened it up to the prospect of an inquiry. I listened to Deputy Burton who said she did not support the establishment of NAMA. However, the last Government had a gigantic majority and could have changed the way NAMA did its business in a much more open and transparent way. Right through the last Dáil's term, however, it did not take that opportunity.

Part of our problem is the way we do things which ends up with us having to hold inquiries because there is absolute nonsense about secrecy and not answering questions. That goes to the heart of some of the problems we have.

I am a member of the Committee of Public Accounts and during one hearing some additional information came to light following questions about bank assets and ownership of assets and loans. I had major concerns about Project Eagle which is the subject matter of that report. As has been said several times, it is a value-for-money report, not an inquiry.

Deputy Wallace has drawn attention to one of the things that came to light and I wish to expand on it. As regards some of the individuals I have spoken to since, because of their professional standing and background, they have the competence to raise serious points that need to be inquired into or fully investigated and responded to.

I want to read some parts of a document I got that will explain what is meant by that:

It appears that Bank of Ireland has delayed the recognition of losses with the financial position of Bank of Ireland being portrayed incorrectly when the bank drew down emergency funding from the Irish Central Bank-ECB. In an effort to delay the recognition of losses, Bank of Ireland relied on the International Accountancy Standards Board, IASB, rules. The particular rules in question, IAS 39 and IFRS 9, only apply to published accounts. However, IASB is a private entity and company law supersedes IASB. In 2010, the then governor of the Irish Central Bank, Patrick Honohan, raised concerns that Irish banks were delaying the recognition of losses, and the problems it was causing from a regulatory perspective. In addition, it appears that the financial position of Bank of Ireland was not portrayed correctly in accordance with the Chartered Accountants Regulatory Board, CARB, when the bank drew down its funds from the Irish Central Bank-ECB. NAMA claimed to have acquired approximately €10 billion in assets from Bank of Ireland in 2010. Some of these assets were sold by NAMA to Cerberus, but Bank of Ireland appears to have portrayed ownership of these assets when the assets were, in fact, owned by the Irish Central Bank-ECB by virtue of the aforementioned company law rules. In the Bank of Ireland's interim accounts 2011, page 100, it states that the ownership of the assets would be de-recognised when substantially all the risk and rewards of the ownership have been transferred to NAMA. This would only occur when the ownership of beneficial interests was legally transferred to NAMA. As such, the situation is that NAMA stated it had acquired assets from Bank of Ireland when according to research and company law they were not Bank of Ireland's to sell.

This is what the people I have been talking to said. That is simply because the Irish Central Bank and the ECB were the legal and beneficial owners of the collateral, the loans and all related security. On top of that, Bank of Ireland claimed to recognise the risk and rewards of ownership in accordance with accounting standards after they had supposedly been acquired by NAMA. Not only does that not comply with company law, it also does not comply with CARB. In essence, it appears the Bank of Ireland portrayed itself to shareholders and investors as the owner of assets of €35 billion when it did not in fact own them either legally or beneficially. In an investors' report issued in 2010, Bank of Ireland claimed its property and construction loan book assets totalled €35 billion, something which was also not portrayed in accordance with CARB. It goes on in some detail and I will provide it to the Department of Finance.

We need to have that clarified. It needs to be clarified by people who have the competence and professional capacity to give a proper judgment. In essence, Wilbur Ross, President Trump's incoming but not yet finally approved commerce secretary and his hedge fund partners acquired 35% of the Irish Government's stake of Bank of Ireland for a knock-down price of 10 cent as opposed to 24 cent. The Irish bank let go of a huge chunk of Bank of Ireland at the bottom of the market which, on the face of it, was baffling to many. Ross went on to make hundreds of millions from that transaction which the Minister for Finance, Deputy Noonan, lauded. Bank of Ireland still exists but the dubious accountancy practices fed vultures and profiteers through the sale of assets through the back door of NAMA. The establishment of a commission of investigation is fully warranted.

I want to come back on some of the points Deputy Boyd Barrett made on the document he received. I also received it last Friday. As Joe Higgins said in a previous Dáil, writing to the Central Bank is like hitting a sliotar at a haystack. We wrote to the Central Bank from the PAC asking if the rules were properly applied in relation to the issue I mentioned. We received a gobbledegook reply that did not answer the question and elongated the information. That is part of the culture we have to stop. There are key questions in the document we were sent. I want to pose them and I want a reply. Given the controversy that surrounded the original deal with Treasury Holdings in 1998, why did the board of CIE agree in March 2013 to extend the term of 1998 MDA with the NAMA-appointed receiver when the term was coming to an end and the land would have reverted back to CIE unencumbered? Why did CIE not take the site back unencumbered and offer it for sale on the open market where it could have achieved €150 million? It is not as if this company does not need money or that public finances would not have benefitted from that. Why did the joint receiver of NAMA agree to dispose of the sale agreement to Johnny Ronan who is a connected party under section 173 of the NAMA Act and why did the joint receiver and NAMA agree to dispose of the interest in the site to an individual who had cost the taxpayer in the region of €2.7 billion? Those are some of the questions posed in this document and we are entitled to have a reply to them.

Deputy Eamon Ryan: I was glad to be able to look in on some of the PAC hearings held on the Project Eagle sale. I attended the gallery on occasion as I am not a member of the PAC. My sense in listening to the questioning of the chairman, Mr. Frank Daly, in particular tallied with my wider sense that the key issue in the sale is that to a certain extent people do not trust the connection between the business and political communities in the North of Ireland. I see it in some way as an extension of the cash for ash controversy that has brought down the assembly. My sense of the reason for the different discount rates in the North or the reason one would possibly want to wrap up an entire loan and get the hell out of the place, for which language I apologise if it is intemperate, is that there is a sense that one does not quite know who one is

dealing with. One does not know who the background people, agents and interests are. The “Spotlight” programme which highlighted the activities of Mr. Cushnahan only corroborates that sense. I see that as the underlying issue. It is an issue for the political system in the North if that is a true reflection. It may be inaccurate but that is my sense of the key issue here. It is a political issue regarding the nature of the trust and ability to trust, in this case in relation to Project Eagle, the sale of the loan book in the North.

The key issue that relates to us it seems to me is the part Irish agencies South of the Border played and how that has worked out. I listened very much to what Deputy Wallace said and he made some strong allegations about Mr. Hanna’s role. Deputy Wallace said he fixed the price and that was his part of the arrangement. In that regard, it seems to me that the only way to uncover whether that is true, to be able to access his phone, his computer and the real detailed records is in the hands of the UK National Crime Agency which arrested Mr. Hanna last June on suspicion of that act. A commission of inquiry here would not have the same powers of criminal investigation as the UK National Crime Agency. I said in the autumn that the process was taking time which is colouring our debate here. If we had an answer to the crime agency’s questions, it would colour our debate here. I understand that Mr. Hanna wrote to the PAC in November and said he could not present evidence because he was under that process. I do not believe he is under bail conditions at this time but it is uncertain whether he is still a suspect. I do not know what mechanism we have to treat with another criminal investigation system but nine months after the arrest, we have an interest in getting a conclusion from the UK and US criminal investigations given the controversy here. Otherwise, we are flying blind in terms of what we do next and what role we have.

There is a huge issue in our debate in relation to the High Court judgment during the week regarding a previous hearing of the PAC with Ms Angela Kerins. That has huge consequences for our consideration of this issue. The judge says we do not conduct jurisdictional hearings but at the same time we have a certain freedom. There is a certain responsibility that comes with that and how we use the authority vested in us by the Constitution. It gives us significant additional authority and is an issue in terms of where we go here and whether we look to the PAC to take up that additional authority as recognised by the High Court during the week. That is an issue the PAC should be considering. I would like to know what questions remain unanswered on the PAC side in the lengthy and, to my mind viewing it from a distance, proper hearings that have been taking place.

Deputy Catherine Murphy is right that we need transparency in all things we do. One of the Green Party’s proposals two years ago to the Minister for Finance, to whom I wrote directly, was that on the wind down of NAMA, there should be full transparency of all the arrangements, including prices paid, par values and every detail of every transaction for those
12 o’clock lenders from NAMA who were not able to work out their arrangements in an ordinary commercial manner. The Minister wrote back to me on that occasion and said that was not possible. He set out a range of complex legal and constitutional arguments around the right to privacy and so on. However, what I am hearing in today’s debate only confirms further the case for an amendment to the NAMA legislation that on its winding down, all such transactions would be made completely available.

There ought to be a clearer, quicker and cheaper approach to getting back the confidence of the Irish people in terms of how the different loans were worked out.

There is an issue in terms of how NAMA works out the remaining assets. I am interested

in the comments of Deputy Boyd Barrett on Spencer Dock and how it relates to the current arrangements we need to make in order to integrate our transport and housing systems, and the role NAMA will play in that. It has an important job and we have to make sure it does it to the best of its ability in the next two years.

A range of questions have been raised about Bank of Ireland and the Spencer Dock site. The taxation of property needs to change. We are shutting the gates after the horse has bolted. We need to make sure that in NAMA's remaining years we maximise the benefits from the assets.

Leaders' Questions

Deputy Micheál Martin: I want to raise a very serious issue with the Taoiseach which, on reflection, could represent a serious scandal. It involves an unacceptable response by the State regarding exposure to dangerous chemicals at the aircraft maintenance shops in Baldonnel by members of the Air Corps over many years.

Three whistleblowers warned the Taoiseach and the then Minister for Defence, Deputy Simon Coveney, in November 2015 about the conditions at the Air Corps maintenance shops in Baldonnel and the degree to which staff were exposed to very dangerous solvents and chemicals. The links of the particular chemicals involved to cancer-causing diseases, genetic mutations, neurological conditions and chronic diseases have been well-established. A precedent has been set by Australia where, in the early 2000s, the issue was identified and acted on by the Australian Government.

Complaints were made to the Department of Defence, the Air Corps and the Army in 2012 regarding this matter. In November 2015, the then Minister for Defence, Deputy Simon Coveney, was informed that workers were not receiving occupational health monitoring, as is required by law under the Health and Safety Act 2005. In what was an extraordinary situation, they were not provided with protective equipment and clothing as they worked with very dangerous chemicals. PDFORRA wrote to the Air Corps in 2015, warning that any health inspection of Baldonnel would produce damning findings. It took until 2016 for the Health and Safety Authority, HSA, to threaten the Air Corps with prosecution unless it implemented a number of recommendations, including the provision of appropriate equipment for handling chemicals and the surveillance of staff health to monitor any adverse effects they experienced as a result of their duties. Is it not extraordinary that in 2016 the HSA wrote to the Air Corps to demand that very basic provisions of our law be implemented?

The whistleblowers received no formal acknowledgement from the Minister, Deputy Coveney, during that 12-month period. The response of the State has been standard and deeply depressing. It has resorted to the courts. There are currently six cases before the courts, and the Government is fighting them very strongly and acknowledging no negligence. In 2000, the Australian Government appointed a board of inquiry. Arising out of that, it commissioned a study of the health outcomes of aircraft maintenance personnel working in the F111 bomber programme, which came up with some fairly damning findings.

Why was the State so slow to respond to the whistleblowers and to investigate the health conditions at Baldonnel? Why were the whistleblowers not acknowledged by the Minister? Will the Government commission an independent health outcome study of aircraft maintenance

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personnel, similar to that carried out by the Australian Government, of personal working in aircraft maintenance shops in Baldonnel? Will it commission a similar independent board of inquiry of the entire affair and scandal?

The Taoiseach: A number of protected disclosures have been made regarding the Air Corps. An independent third party was appointed to review the allegations and those making the disclosures were informed of this. Since then, there has been a line of communication with the individuals involved. When the disclosures were received, legal advice was sought and an independent reviewer was appointed. Subsequently, the person appointed could not act and an alternative independent third party was appointed. In November, interim recommendations and observations were submitted to the Minister, which were passed to the military authorities for immediate action and response.

As Deputy Martin knows, I have delegated, by statutory instrument, responsibility for defence to the Minister of State, Deputy Paul Kehoe. On 7 January 2017, a response was received from the military authorities outlining the actions that are underway, which was forwarded to the independent reviewer who was appointed for his consideration. That reviewer will now consider this material, undertake the further steps he deems appropriate in order to finalise the review in the context of the situation being as serious as Deputy Martin has pointed out. Once a final review is to hand, let me assure Deputy Martin that the Minister of State will see to it that all recommendations to ensure the safety of the members of the Defence Forces are acted upon properly.

As the independent process is ongoing and these issues are the subject of litigation, I probably should not say any more. From my experience of dealing with the Defence Forces across the entire range of their operations, they have always operated to the very highest standards. The issues raised by Deputy Martin are very different and need to be dealt with. I hope that the response received from the military authorities, which is now in the hands of the independently appointed person, will be examined properly and the recommendations made by the independent reviewer implemented, as they should be.

Everybody wants those who give so much of their lives to the Defence Forces to have proper equipment, the very best facilities and be safeguarded, in particular in matters relating to health and safety, and that these are of the very highest standards. What the Deputy has referred to is different.

The HSA has carried out three inspections of the Air Corps in Baldonnel, focusing in particular on the control of occupational hygiene hazards in the workplace, including health surveillance issues. The HSA issued its report of inspection to the Air Corps on 21 October 2016. It listed a number of matters requiring attention, including risk assessment, health surveillance, monitoring of employees actual exposure to particular hazardous substances and the provision and use of personal protective equipment.

Deputy Micheál Martin: I am very dissatisfied with that response. The Taoiseach has not explained what happened between 2015, when the protected disclosure was made, and why the Minister, Deputy Coveney, did not acknowledge and respond to the whistleblowers. There is a sense that this has been buried.

The HSA report is dated October 2016. It states that staff needed to be given equipment to protect themselves from chemical exposure and that adequate and appropriately specified

personal protective equipment, in particular protective gloves, eye protection and respirators for protection against chemical exposure, must be readily available to employees as required by relevant risk assessment findings. The implication is that this was not the case of up to that point, which is quite extraordinary. I agree with the Taoiseach about the degree to which we hold our Defence Forces in high esteem. The continual lack of enforcement and protection of health surveillance and so on is quite extraordinary.

I put it to the Taoiseach that the response of the Government is to bury this matter. Litigation is ongoing. Will the Taoiseach ensure that the HSA report is published? Will he publish all internal reports in the Department pertaining to the matter? In addition, will the Taoiseach ensure that there was full public disclosure? We are not talking about just now, but what went on for the past 20 to 25 years.

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

Deputy Micheál Martin: The Australian Government's approach was markedly different to that of the Irish Government, which is to deny repeatedly and resist and more or less say to the whistleblowers that it does not accept anything they are saying-----

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

Deputy Micheál Martin: -----and that it has no time for the manner in which they have gone about this. I have spoken to them and that is how they feel right now.

The Taoiseach: Litigation is ongoing, so I will not comment on it. However, the issues that have been raised need to be and will be dealt with. On the first person to be appointed, it is quite difficult to get somebody with the range of competences to deal with all the implications of hazardous substances and that sort of area. The second person that was appointed has now received the material.

The HSA issued its inspection report to the Air Corps on 21 October last year, in which it listed a number of matters. I am advised that the military authorities responded in writing to the HSA report on 23 December last year and indicated that the Air Corps is fully committed to implementing the improved safety measures that protect workers from potential exposures to chemicals and that it will ensure that risks are as low as is reasonably practicable. The Air Corps has implemented an improvement plan which has been conducted over eight phases. The first phase commenced in September 2016, with phase completion dates to December 2017. I am advised that seven of the eight phases are due to be implemented by May 2017.

A number of disclosures were made to the Minister for Defence under the Protected Disclosures Act 2014. They were received in December 2015 and December 2016. I will update the House-----

Deputy Micheál Martin: What happened to them?

The Taoiseach: A person was appointed earlier on who was not able to take up the duty.

Deputy Micheál Martin: There was no response to the whistleblowers.

The Taoiseach: A number of other issues are the subject of litigation at the moment. However, I will update the House because we will sort this out.

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An Ceann Comhairle: I point out to Members that eight minutes are allowed for questions in each category and that that slot overran by in excess of two minutes. The second question is from Deputy Gerry Adams.

Deputy Gerry Adams: Guím Lá Fhéile Bríde faoi mhaise ar an gCeann Comhairle agus ar an Taoiseach feasta.

Deputy Bríd Smith: That is my day.

Deputy Gerry Adams: Maith thú. Fair play duit.

The management of Bus Éireann has announced measures that threaten the rights of bus workers, passengers and, in particular, the rights of citizens in rural Ireland. By slashing overtime and Sunday rates and cutting pay, the management is forcing the issue to an industrial dispute. This race to the bottom when it comes to workers' pay and conditions is totally unacceptable because it is not the workers who created the crisis at Bus Éireann. Like the Taoiseach, the Minister for Transport, Tourism and Sport, Deputy Ross, states that rural Ireland is a top priority for the Government but there is no evidence of it. The Government has closed Garda stations, post offices and hospitals. Today, 601 citizens are on trolleys. The Government has closed other facilities. Now it is attacking the public bus service.

Coming from County Mayo, the Taoiseach must know that a large number of people, particularly those in rural Ireland, depend on Bus Éireann services. They include the young, the old, the poor, the rural dweller and the tourist. Those are the people who take the bus. The outworking of Government policy for those living in rural Ireland who cannot afford a car or who cannot drive for some reason is that they have to stay where they are even if that means they cannot have access to work, study, health care or a social life. The nub of the issue is whether the Taoiseach believes that public transport is a right.

It is clear that the Government believes in privatisation and, therefore, the profit motive will determine who gets a bus service. Bus Éireann is part of our vital infrastructure, particularly in rural Ireland. With good management and by listening to transport users and workers and taking on board what they have to say, it is possible to create a service that will attract more people to public transport. That should be the Government's position but it is not the position of the Minister. The Minister should take a range of decisions, including the decision to have a full review of the Expressway service. A review of loss-making routes on which private carriers currently operate is also needed. There should be a review of the private licences issued for these routes. There should also be an increase in funding for the free travel pass. As it currently stands, the amount allocated covers just 41% of the cost of the average journey. Given the threats to routes, the Minister needs to provide clarity. What routes and services have been identified for potential closure?

There needs to be a full engagement by the Minister with all stakeholders. Will the Taoiseach ensure that the Minister, Deputy Ross, engages with all the stakeholders, including his Department, the NTA, Bus Éireann and the unions, to find a resolution of the issue and that this happens without delay?

The Taoiseach: I assure the Deputy that the Government's main priority in this context is to ensure that the travelling public has the greatest range of transport opportunities and frequencies as has been evident in the annual increase in the numbers using the transport fleet. There will be a motion on the matter today. Bus Éireann is in serious financial difficulties. It has stated

that its finances are in a perilous state. A major contributor to the falling revenues is the commercial service sector, where Bus Éireann has struggled for years against new market entrants. The company cannot continue to operate in its current loss-making position, which is not only depleting its reserves but could mean serious solvency issues lie ahead unless action is taken.

The Minister, Deputy Ross, is very concerned about the matter and has, in terms of the facilities of the State such as the Labour Court, made every effort to have the management and the unions get together. The analysis commissioned by the company identifies the commercial Expressway service as a source of significant losses and one that is a commercial problem which needs a commercial response. The Minister has put forward the proposition that he commits to taking account of the overall budgetary parameters through the importance of an adequately funded PSO transport network. He has also committed to reviewing the current funding levels associated with the free travel scheme. There were rumours that the Government was going to take away the free travel passes but let me assure the House that nothing is further from the truth.

The Minister has also made requests of the NTA, which has been vocal about the issue. If Bus Éireann were to adjust or reschedule some of its Expressway services, the NTA has stated that it would take up the option of providing services and transport for rural Ireland. This is an essential part of the programme for rural Ireland to realise its potential, which was launched in Ballymahon last week by the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys. The Minister has also committed to bringing forward amendments to the Public Transport Regulation Act 2009, taking into account the review of the legislation by the NTA and any necessary improvements to strengthen public transport services to the consumer.

The Minister is anxious that this matter would be dealt with in the same way as they are all eventually resolved, which is by sitting down and negotiating. Management and the unions need to get together. This is a serious matter that we do not want to see escalate so I ask both sides to do that. The PSO and the opportunity through the NTA and the adequacy and scale of the free travel pass system are important to both the Government and the Minister.

I hope that both sides can get together and work it out because it will have to be done eventually.

Deputy Gerry Adams: The Taoiseach stated that the Government's commitment is to ensure that the public has the greatest range of transport opportunities. Foremost among those must be a commitment to a public bus service, which the Taoiseach has not given. Our public transport network has been in a perpetual state of crisis. Last year, Luas and Dublin Bus workers were out on strike. There is a troubling rail review by the NTA and there are ongoing difficulties with Bus Éireann. This comes after more than a decade of underinvestment. Then there is the threat of more cuts to routes.

The Taoiseach knows that these routes connect people and rural and urban communities. He also knows that public transport can reduce traffic congestion and has a big part to play in protecting the environment. Public transport, by its very nature, is not always about profit. The reason it is called public transport is that it is a service to the public. The Taoiseach stated this matter could only be resolved by everybody sitting around the table but the Minister refuses to sit at the table. Will the Taoiseach explain the reason for that and will he ensure the Minister does so? Will he ensure there is proper engagement with all the stakeholders, including the

Department and Minister?

The Taoiseach: If everybody is interested in sorting out the issue, which I expect they are, and if people are serious, the opportunity presents itself to sit down and start to talk about the problems, both from a management and trade union point of view. The Expressway service is not subsidised. The Minister, through government, has increased the subsidy through the public service obligation, PSO, levy for subsidised routes, which is what the PSO is for. However, the commercial end of Bus Éireann, the Expressway route, is losing money - €6 million each year and the figure will increase. Should we endorse this or look at the issue and say we think it is a very good idea? Nobody does this and the travelling public do not want that either. If we are serious about sorting out this issue, people must sit down, negotiate and talk about the issues.

My understanding is that the company is developing a new plan which it hopes will restore Bus Éireann to a sustainable future. As part of this path to viability, negotiations between the trade union and management are crucial, as they are in all these cases and as Deputy Adams is well aware. The nub of the issue is that there is a commercial problem which requires a commercial answer. It will not be sorted out by talking over the media. People will have to sit down together, look at the issues, identify the options and make decisions. We thank all the drivers for the work they do, as well as those in bus management, in transporting more than 20 million passengers every year. This is a very important service and we want to see it continue.

Deputy Bríd Smith: There are a few flies in the Chamber. I do not know what that means or whether climate change is involved.

A Deputy: It is where they are landing that is important.

Deputy Bríd Smith: That is right and there are no flies on me.

Deputy Finian McGrath: Blame Shane Ross.

Deputy Bríd Smith: At a meeting of the Joint Committee on Communications, Climate Action and Environment last night, members had a hot and heavy debate following a presentation by the Broadcasting Authority of Ireland, BAI, on the proposed merger of Independent News and Media and Celtic Media. While I am aware that this issue has been raised previously, there must be proper public scrutiny of what is taking place. The National Union of Journalists has given me a document which features a map of Ireland in terms of media ownership should the proposed merger take place. It is not an accident that the map is coloured in blue. It shows that, in terms of media ownership, the country will be almost entirely owned by Denis O'Brien and his consortium, Independent News and Media, if the merger goes ahead.

There is extreme concern about plurality in the media in the event that the merger proceeds and the joint committee, of which I am a member, will examine the issue. We have been given an extraordinarily tight timeframe in which to make a submission to the Broadcasting Authority of Ireland, which is conducting a phase two investigation of the proposed merger. This is the first time the Competition Act, as amended by the previous Government under the watch of the then Minister, Mr. Alex White, will be put to the test. At the time, we were told the new legislation would protect media diversity.

The committee has approximately 12 days to make a submission to the Broadcasting Authority of Ireland. I had to fight hard in the committee to secure an agreement that we would attempt to have public scrutiny of the proposed merger and seek to quiz representatives of

Independent News and Media, Celtic Media and the National Union of Journalists, as well as academics, about what the merger would mean for the plurality of media and the future of media in this country. We have an extraordinarily short period to complete this process.

The joint committee will send an invitation to Denis O'Brien's news and media company to see if it will appear at the hearing. It may not be able to do so but some people are not able to pay their taxes here. It can be difficult for an exile living abroad to get permission from his advisers to make an appearance at such a committee within such a tight timeframe and it may not be possible. The Taoiseach and his entire Cabinet should be very concerned about this. Once upon a time - in the 1940s - the *Skibbereen Eagle* declared that it would keep an eye on the Kremlin. If the proposed merger proceeds, we will not have a single *Skibbereen Eagle* left and there will be no one left to keep an eye on anyone else.

An Ceann Comhairle: Does the Deputy have a question?

Deputy Bríd Smith: Is the Taoiseach concerned about the possible merger? Should there not be a forum for public scrutiny of this proposal?

The Taoiseach: The committee is perfectly entitled, Deputy Collins, to engage about the application in question, which I understand the Broadcasting Authority of Ireland is investigating. The Competition and Consumer Protection Commission, CCPC, clearly has a view on this matter, as does the Minister for Communications, Climate Action and Environment. While the timescale may be tight, members of the committee are fully entitled to engage with and interact publicly on this proposition with the bodies to which the Deputy referred and anybody else. However, it should be clearly understood that there is a process here and that this process is under way. Submissions to the Broadcasting Authority of Ireland must be made in the next short period and the BAI will make its view known on these submissions. The Minister for Communications, Climate Action and Environment will have to oversee what emerges from that over a certain period. I do not want to pre-empt the recommendations, views or analysis of the Broadcasting Authority of Ireland arising from the committee's discussions and the submissions it receives in the next ten days or so.

Deputy Bríd Smith: The reason I raise this matter is that the proposed merger is not only the concern of the committee of which I and other Deputies are members. I note the committee is weighted heavily with Fine Gael Senators and Deputies but that is just the way it is. The Taoiseach should also be concerned because this is a national concern. The joint committee is up against a ticking clock because the relevant legislation provides that submissions must be made by a certain date. In this case, I understand the deadline is either 12 or 14 February. The proposed merger is a matter of national concern on many levels, in particular in respect of the plurality of media.

The question of how Independent News and Media is dealt with by the State is also extraordinarily interesting. I referred to the difficulty some people have with paying their taxes in this country. At the same time, €100 million of INM's debt was written off by Allied Irish Banks. We then had the extraordinary ill treatment of workers' pensions by Denis O'Brien and Independent News and Media. This issue needs public scrutiny as otherwise we will hurtle towards a dictatorship in the media. The Taoiseach should not pretend this will be an even-handed discrepancy or that the media depends on good journalism. That is not the case because editorial control is everything. This is an issue of national interest and the Taoiseach should be concerned about it.

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The Taoiseach: I am concerned. Once a proposed media merger receives clearance from the Competition and Consumer Protection Commission on competition grounds, it has to be notified to the Minister for Communications, Climate Action and Environment to assess the proposed transaction on media plurality grounds. Upon receipt of notification from the parties, what is called a phase one examination of the merger is carried out by the Department. While this is focused on competition and market issues, the examination carried out by the Department is focused on media plurality, the point raised by the Deputy. This examination is guided by the relevant criteria set out in Part 3A of the Competition Act 2002, as amended by the Competition and Consumer Protection Act 2014. Statutory guidelines are in place on media mergers.

If, following the phase one examination, the Minister opts to send the case to the Broadcasting Authority of Ireland, the authority will, following its examination of the proposed merger, provide him with a report detailing its recommendations on the matter. A full phase two assessment, Deputy Collins, is a much more detailed process over 80 working days or 16 weeks instead of the 30 working days or six weeks provided for a phase one examination.

Deputy Bríd Smith: Why does the Taoiseach repeatedly refer to me as Deputy Collins?

The Taoiseach: There are significant differences between the two assessments. One of these is that the Broadcasting Authority of Ireland must invite submissions from the public on the proposed transaction and must directly invite a submission from the Joint Committee on Communications, Climate Action and Environment, which is the work the committee is doing. It is also possible for the Minister to establish an advisory panel to provide an opinion to the BAI on the application of the relevant criteria to the media merger application in question. This is a matter of concern and it is receiving-----

Deputy Bríd Smith: That was not a reply to my question.

Deputy Clare Daly: I want to discuss the prestigious, internationally recognised multi-billion euro horse racing industry, which is considered to be one of the jewels in Ireland's crown and where, behind the glistening exterior, lurks a world of vicious exploitation, wholesale and deliberate illegality, ruthless vested interests and criminal behaviour, without any proper oversight or regulation. Tens of millions of euro of citizens' money continues to be pumped into this industry every year. Ironically, on the very day that the Government was facilitating the sanction of the last tranche of cash in the week before Christmas and questions were being asked in this House about the flagrant breaches of working conditions in the industry, a collective agreement was announced between the Irish Stable Staff Association and the Irish Racehorse Trainers Association, to reassure us all that the problems had been solved and there was nothing further to see. Of course, that was a sham, a conjuring trick. The Irish Stable Staff Association, despite being represented on the board of Horse Racing Ireland, is not a trade union or a negotiating body. It has no membership or employees. It does not produce annual reports and one cannot join the association through its website.

In regard to the Irish Racehorse Trainers Association, we are told that trainers must be registered with the Turf Club and as such they could not be charging any less favourable rates. That is not true. The Turf Club has no oversight of wages and conditions in the industry. When it wrote to the trainers last year seeking P60s and returns for staff who were paid more than €25,000 in order to distribute a pension scheme, it received a list of only 300 names. How can it be that there are only 300 workers earning more than €25,000 in a multi-billion euro industry with thousands of workers? The Turf Club wrote again to the trainers, this time lowering the

horizon to €12,500, in respect of which it received a list of 800 names. Where are all those 800 staff? They are buried in the bowels of the black economy - cash-in-hand, on the dole, racing allowances agreed with Revenue as tax-free expenditure being calculated as part of the minimum wage, no contracts, no tea breaks, no time sheets - in an industry that is so brazen its collective agreement advertises illegality.

There is something very rotten at the heart of Irish horse racing which we have not fully figured out. However, we are learning more every day. Is the Taoiseach willing to help? Is he willing to launch a co-ordinated multi-agency swoop on the industry, involving officials from NERA, Revenue, the Department of Agriculture, Food and the Marine and the Health and Safety Authority of Ireland, because that is what is necessary?

The Taoiseach: The Deputy has raised a number of issues, the detail of which I do not have. In response to her question, there are rules, regulations and laws in place in this country in terms of employers, employees, minimum wages and so on. It is necessary that these measures operate as they should. I would be happy to follow-up on the issues validly raised by the Deputy. I am not too sure that it is necessary to have, as the Deputy suggested, a swoop. There is an issue to be addressed if, as she suggested, there is a black economy in this area such that there are people working in the industry at below minimum wage rates. If the Deputy forwards the information she has to me, I will be happy to follow through on it in so far as I can.

Deputy Clare Daly: The Taoiseach is correct that I have raised detailed points to which I would not expect him to be able to respond today but I do expect him to follow up on this matter. This is a task beyond the Taoiseach. The wholesale illegality is an open secret in the industry. It will not be sorted by any one individual or agency. It requires a multi-task force to intervene to ensure that our laws are being upheld because they are not. I would suggest that what might be advisable is a confidential hotline to allow good trainers in the industry, who want to adhere to the law and to pay the correct rates but are being viciously under-cut by the black market, to speak up. I am speaking in this regard of the staff who are virtually indentured slaves and small owners and trainers who are often the back-bone of employment in rural areas and want to play a role. They will provide the information. Sadly, the response of this Government has been to appoint to Horse Racing Ireland, the very people connected with Coolmore and the big players in the industry - the vested interests at the top. We will not get the answers from those people. What we need is outside independent scrutiny.

The Taoiseach: The Irish horse racing industry is of exceptional importance to the economy and to the reputation of Ireland internationally. It has proven itself over many years. The Deputy has raised a particular issue. I am happy to receive the information which the Deputy has and to ask the agencies and Ministers involved to follow up on it. There is already in place a facility through which people can make protected disclosures or provide information confidentially.

Questions on Promised Legislation

Deputy Micheál Martin: The programme for Government includes significant commitments on social housing in particular, for example, a commitment to the delivery of more than 3,300 social houses in 2017. The delivery and execution of that commitment has been abysmal. I put it to the Taoiseach that minimal, if any, social houses have been built over the past 12 months and that progress in this matter is very poor. Ireland's social housing stock is now

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at 9% of total stock whereas across the European Union, social housing stock is at least 17% of total stock. As the Taoiseach is aware, too many families with children are spending months and years in hotels. Many local authorities across the country did not build one social house last year. Why are councils reluctant to engage in the construction of social houses, which is a very significant factor in the lack of progress on the housing front?

The Taoiseach: The Minister, Deputy Coveney, in his capacity as Minister with responsibility for housing has dealt with this issue in great deal on numerous occasions. As Deputy Martin is aware, we have an extensive housing programme in respect of which serious allocations of money have been committed between now and 2020. There are planned programmes for the development of houses by local authorities, the private sector, housing agencies and so on. The Minister has previously set out the targets for this year. It is a case of coming from very far back with an industry that had collapsed completely. The Minister has made changes in terms of initiatives such as expediting planning permissions and opening up opportunities to public lands and sites that were inaccessible for buildings and contractors. All of this work is proceeding in parallel and simultaneously. This year, there will be significant developments in the housing sector, including from local authorities either purchasing existing houses or getting into the business of building houses in respect of which they have been allocated funds.

Deputy Gerry Adams: The programme for Government commits to tackling the most pressing challenges facing our society in terms of health provision. One of these challenges is the treatment of cystic fibrosis, CF. This morning, we learned that the HSE drug committee has not recommended the use of the drug Orkambi for more than 550 Irish cystic fibrosis sufferers. I am sure that the Taoiseach will appreciate that this will come as a huge blow to those people with this life-threatening condition. Prior to Christmas, many of us heard distressing first-hand accounts of cystic fibrosis sufferers and their families. Orkambi can dramatically improve the well-being of some sufferers - maybe hundreds of sufferers for all we know. This matter has now been referred to the executive management team in the HSE. If it does not agree to purchase the drug, the ball will rest with the Minister for Health. Can the Taoiseach confirm that negotiations with Vertex have concluded and will he set out the financial gap between Vertex and the HSE? Also, has a cost analysis been undertaken of the procurement of Orkambi versus the money that would be saved by reducing the hospitalisation of CF sufferers?

The Taoiseach: This is a matter of concern to significant numbers of people. I can assure the Deputy that the suggestions in some media reports that the discussions and negotiations have broken down are not true. The HSE re-entered into negotiations with Vertex, the manufacturer of Orkambi, in December following a decision by HSE leadership that it was unable to reimburse Orkambi at the price offered at that time by the company. The Deputy will be aware of this. The HSE subsequently met with Vertex in December and in January with a view to significantly reducing the cost of Orkambi for cystic fibrosis sufferers so that the State is in a position to fund the drug and provide it for Irish patients. Following the completion of that negotiation process, I am advised the HSE's drugs committee met last week and considered the manufacturer's latest price offerings. That will now be considered by the HSE at its next available meeting. A decision on reimbursement will be made on objective, scientific and economic grounds under the 2013 Act. I hope for a conclusion to this matter. Obviously, the Minister removed the decision-making capacity from the political process. Decisions are now based on clinical and medical accuracy in light of the quality of life afforded to the patient and the extent of the improvement.

Deputy Brendan Howlin: The Taoiseach will recall that when the public capital plan was

published in 2014, a mid-term review was promised. The Government announced this week that the review is taking place this year. The existing book of Estimates states that there is €34 billion to be expended between now and 2021. There is an unallocated sum of €2.6 billion. Apparently €5 billion was available last year, and half of this was allocated for social housing. When is the review to take place? What role will the Oireachtas, particularly Members of the Dáil, have in the review? Will the review supplement the money already allocated or are we simply talking about an additional €2.5 billion for expenditure, which would be a very small sum in the context of the capital works needed?

The Taoiseach: The Minister for Public Expenditure and Reform and the Minister for Finance have set out the strategy by which this will take place. The Minister informed the Cabinet yesterday that he will contact every Department in respect of its real priorities rather than just the usual endless list that comes in. He is not going to be in a position to do address the latter. The process is under way. Obviously, the relevant committees of the Houses will have an opportunity to air their views on future priorities.

The Deputy will be aware that the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, is considering the question of what kind of Ireland we will have in the next 25 or 30 years given the increasing population. He is also determining where the expansion in development and infrastructure should be. It is an issue that both Ministers are considering for the medium and longer term.

Deputy Brendan Howlin: What is the capital sum involved?

The Taoiseach: Ministers will now be requested to respond to the Minister for Public Expenditure and Reform on their real priorities in the context of the available moneys, which amount to just over €2 billion. It will then be a matter of considering the longer-term implications for the kind of country we will have in 25 or 30 years.

Deputy Brendan Howlin: Are we talking about €2.5 billion or more?

The Taoiseach: It is just over €2 billion at the moment.

Deputy Mattie McGrath: I wish to raise the ongoing crisis in the accident and emergency departments. I received information by way of parliamentary question on health and safety, the health information Bill, and patient safety. There is only one ambulance covering major towns in Tipperary each night. Some towns have no ambulance at all. Towns such as Clonmel, Cashel, Roscrea, Nenagh and Tipperary town have only one ambulance. With the problems in the accident and emergency departments in both Limerick and south Tipperary hospitals, it is often not possible to admit patients. There is chaos. This is surely unacceptable.

The National Ambulance Service has recommended that more staff be acquired for it. We are told we will have to wait for four years. When Nenagh's accident and emergency unit closed, we were promised extra rapid-response vehicles. What is happening is very alarming. Carrick-on-Suir, a town in the very south east of our constituency, has no ambulance at all. Having one ambulance per night is not acceptable because anything can happen. Ambulances can be delayed. It is not good enough for the patients in south Tipperary to have to wait and to have to call a 999 centre in Dublin that does not know the locations of the patients, not to mention all the rural and outlying areas. This is totally unacceptable and deplorable.

The Taoiseach: That is not a matter for legislation; it is a matter for management in terms

of the supply of ambulance services-----

Deputy Mattie McGrath: Legislation was promised. I refer to safety legislation.

The Taoiseach: -----and accessibility, the frequency journeys, etc. I will have the Minister for Health advise Deputy Mattie McGrath in response to his question.

Deputy Peter Fitzpatrick: Could I have an update on the health (amendment) Bill, which is to provide a medical card to all children in receipt of domiciliary care? It is vital that the legislation be put in place as a matter of urgency. What is occurring is unacceptable. I am visiting this Friday evening a family in Dundalk with a child with a severe disability. They are in receipt of the domiciliary care allowance and appreciate that but they badly need a medical card to pay the doctor, obtain medication and receive other vital services. We have promised this family and others that we will get them medical cards. What can I tell the family on Friday evening when I meet them?

The Taoiseach: I am glad Deputy Peter Fitzpatrick got in today.

Medical cards will be provided to all children in receipt of the domiciliary care allowance. It is a programme for Government commitment and a priority. It was funded in budget 2017 and will be delivered as quickly as possible but it does mean legislation must be introduced. The new legislation will mean all children in respect of whom a domiciliary care allowance payment is made will automatically qualify for a medical card and, therefore, no longer be subject to the medical cards means test at any point in the future while in receipt of the allowance. I can confirm for the Deputy that the legislation is at an advanced stage and will be brought before the Oireachtas as quickly as possible. There are approximately 33,000 children with severe disabilities under the age of 16 who currently qualify for the domiciliary care allowance. It is a monthly payment made by the Department of Social Protection. Deputy Peter Fitzpatrick can tell the family involved that work is advancing here. We hope to bring the legislation before the Dáil, and I am sure it will have the support of all the parties.

Deputy Michael McGrath: The decision by An Bord Pleanála on a municipal and hazardous waste incinerator in Ringaskiddy has been deferred now for the third time. In the context of the Planning and Development (Amendment) Bill 2016, does the Government intend to address repeated deferrals of decisions? In this case, the Department of Defence has lodged its own objection because an incinerator at the location in question would impair the usability of the naval base or naval headquarters and could, under certain circumstances, cause it to be closed. There is now growing concern that An Bord Pleanála is preparing the ground to grant permission, which would be devastating for the local community. I am interested in hearing what the Taoiseach has to say.

The Taoiseach: I am not sure whether Deputy Michael McGrath is asking for a change in the legislation that would allow for deferrals or whether he is asking for a change that would not allow for them. Clearly, An Bord Pleanála is completely independent in the way it goes about its business, with decisions eventually being made by courts and judicial reviews, if necessary. I am not aware of the reasons for the deferrals in each case but I will have the matter examined and perhaps have the Minister advise the Deputy if I can.

Deputy Willie O'Dea: As the Taoiseach will be aware, the motorised transport grant, which was for disabled drivers and passengers, has been in abeyance for five years. It was put into abeyance by the Ombudsman because he decided the scheme was not wide enough. For the

past five years, the grant has not existed at all. The Taoiseach has been promising us continually that its restoration would be imminent. I noticed that the comment in the legislation programme beside the health (transport support) Bill, the legislation supposed to provide for the grant, is that work is ongoing. For how much longer will it go on? What do we tell all those potentially successful disabled applicants who are queuing up for some sort of transport assistance to which they should be entitled? Are we going to tell them after five years that work is ongoing?

The Taoiseach: I thank the Deputy for raising this matter. Work has been ongoing for nearly five years. I agree with the Deputy in that regard. The last time this was raised, I said I would take an interest in trying to sort it out. I recall that the advice given at the time was that the scheme was structured such that only those then in receipt of the grant could continue to receive it and that new entrants would not be accepted. I assure the Deputy that a great deal of work has taken place on this matter. I want to find out whether I can give the Deputy a date for when the measure will be approved by the Government so it can be brought back into the House. I thank the Deputy for raising the matter. He raised it before and is not the only one who has done so. The matter is quite complicated, I believe, but I assure the Deputy that substantial work has been completed on it. I will advise the Deputy on progress.

Deputy Donnchadh Ó Laoghaire: Last Thursday in the High Court, proceedings on a case regarding the Magdalen laundries redress scheme were adjourned. This was largely due to the revelation that, on 20 December, the Ombudsman announced he was investigating the Department of Justice and Equality for what was described as maladministration of the scheme. The Minister did not announce that at the time, however, and it came to light only during the case last week. Will the Minister make a statement to the Dáil on this investigation by the Ombudsman and on the reasons she did not declare it was under way sooner?

The Taoiseach: I suggest that the Deputy raise this as a Topical Issue. If the Ceann Comhairle allows that to be answered, that is his decision. In any event, I will have the Minister respond to the Deputy.

Deputy Tony McLoughlin: When can we expect the reformed and consolidated domestic violence Bill to be before the House and have its heads been agreed?

The Taoiseach: That Bill will be published on Friday and will go to the Seanad first.

Deputy Thomas Byrne: The Taoiseach might be aware that there are 35,000 children without direct access to a National Educational Psychological Service, NEPS, psychologist. His county of Mayo and mine of Meath are two of the worst affected, with thousands of children having no access. This is not to say that NEPS is not doing tremendous work. For example, it did such work in my constituency on two well-known occasions recently, but this is an urgent matter. Assessments for children with disabilities are referred to in the confidence and supply agreement and it is a commitment in the programme for Government that NEPS would be beefed up. Has the Taoiseach an update for the House in that regard?

The Taoiseach: Not now, but the Deputy is aware of the change where, instead of having people queuing up to go to private assessments,-----

Deputy Thomas Byrne: That does not relieve this situation.

The Taoiseach: -----the situation will now be that schools will have access to expertise to identify these at a much earlier date. I will have the Minister, Deputy Bruton, give the Deputy

the up-to-date position nationally.

Deputy Martin Kenny: As the Taoiseach is aware, the Money Advice & Budgeting Service, MABS, does tremendous work. It has 51 offices around the country. The Citizens Information Board has proposed that MABS be regionalised into eight structures with managers in charge of each. To date, management of MABS has been done voluntarily by local committees and its services have been free of charge. It does a great deal for people. Some 80% of the €18 million that it gets annually is spent on the front-line staff delivering its services while the remaining 20% has been spent on office expenses and rent. This model works well but the proposed changes will decimate the service. I do not expect the Taoiseach to be able to intervene directly but could we ensure that this proposal is postponed until there has been a review and cost-benefit analysis? As far as I can see, it is just another effort to place a further layer of management on top of MABS, not to deliver the services being provided to date.

An Ceann Comhairle: It is not a question relevant to the Order of Business, but will the Taoiseach respond?

The Taoiseach: The Minister, Deputy Varadkar, can bring the Deputy up to date.

Minister for Social Protection (Deputy Leo Varadkar): This matter is being led by the Citizens Information Board, which has taken the view that being responsible for nearly 100 MABS boards is not the best way to manage the service or ensure good corporate governance and compliance. It is proposing to move to a more regionalised structure. However, that will have no impact on services on the ground. The Citizens Information Board has been clear with me in discussions that the MABS offices will remain where and as they are. This is solely a case of moving from nearly 100 different boards, which are difficult to monitor, to a slimmed down structure.

Deputy John Brady: The programme for Government commits to greater openness and improved accountability and delivery in this era of so-called new politics. In early December, I submitted a parliamentary question to the Taoiseach, the Tánaiste and all other Ministers asking whether they had used unsecured e-mail accounts for official business. The majority of Ministers responded that they had, but not where sensitive information was involved. In light of a freedom of information request that I made, however, untruths have clearly been told. Sensitive information has been circulated through unsecured e-mails by a number of Ministers.

I submitted a question to be taken orally and had hoped to put it to the Taoiseach today. Unfortunately, it was deemed out of order and I was told that this was a matter for the Cabinet, not the Dáil. Is this what openness and transparency are about? Untruths have been told and unsecured e-mail accounts have been used for transmitting very, very sensitive information.

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

Deputy John Brady: Will the Taoiseach make a statement on the matter?

The Taoiseach: Questions have been answered on this already. Dáil questions go through the Ceann Comhairle's office. Many Ministers do not see the Dáil questions at all until they are either diverted, refused or allocated, whatever the case might be.

First, Deputy Brady said that it was "sensitive information". Then he said that it was "very, very sensitive information". There are and were no rules against using unencrypted e-mails.

That matter is under review, obviously. I am not sure which Ministers the Deputy is talking-----

Deputy John Brady: The Dáil has been misled.

An Ceann Comhairle: Deputy, please.

Deputy John Brady: I was told that no sensitive information had been sent in this way.

The Taoiseach: I am not sure which Ministers the Deputy is talking about in respect of what he calls “very, very sensitive information” being sent by e-mail. It depends on what the definition of that is. Obviously, material that I receive myself as a Minister in terms of Cabinet agendas and so on like that are sent via encrypted servers.

Deputy John Brady: The Dáil has been misled on this matter.

Deputy Bernard J. Durkan: The Adoption (Information and Tracing) Bill 2016 is on the Seanad Order Paper, but no time has been indicated for the No. 2 Bill, which relates to foreign adoptions. When is it expected to be before the House, have its heads been cleared and is it ready for introduction?

The Taoiseach: That will not be dealt with until the first Bill has actually been completed. That work is under way, as the Deputy knows.

Deputy John Deasy: I am referring to the promised legislation to set up the statutory inquiry into Project Eagle and NAMA. Is the Taoiseach now aware of the identity of the official from within Government Buildings, and most likely within his own office, who last October contacted *The Irish Times* and told that newspaper that irregularities had been cited by the Comptroller and Auditor General in his report into Project Eagle and NAMA? That fabrication provided the justification for a Cabinet decision, in part, on that matter and a subsequent announcement of a commission of investigation. If the Taoiseach does not know the identity of the official, does he believe he should find out who that person is and why that person would act in that manner, particularly in light of what was said on the floor of the House during this morning’s statements on NAMA and Project Eagle?

For you, a Cheann Comhairle, there is a question for the House. Should the House not have a concern that an Oireachtas statutory inquiry was decided upon by the Cabinet and announced in large part based on a false and spurious premise?

The Taoiseach: I do not know the individual that Deputy Deasy is talking about. What I do know is that I met with party leaders last September with a view to hearing their views on the issues of public concern arising from NAMA and Project Eagle. I subsequently received a number of submissions from party leaders on the matter. I met them again on 4 October. It was agreed in principle to establish a commission of investigation under the Commissions of Investigation Act 2004 to investigate into the significant matters of public concern arising from this in relation to NAMA. This will be based on terms of reference providing for the sale of Project Eagle to be investigated in the very first module of that commission of investigation.

At those meetings, the party leaders also acknowledged that there would be significant limitations on the commission’s work given the location of potential witnesses and documentation outside the jurisdiction and the ongoing criminal investigation as well as the likely cost of the commission of investigation. Subsequent to those meetings, the public accounts committee held extensive hearings during the autumn in relation to the Comptroller and Auditor General’s

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report and has heard from many key witnesses as well as from NAMA itself on a number of occasions.

I understand that the PAC hopes to bring forward its report on the matter shortly. My view is that it would be sensible to wait for the PAC to produce its report and have it published and consider its findings before moving to the appointment of a commission of investigation.

I do not know the name of the official that the Deputy referred to.

Deputy Aindrias Moynihan: There is a commitment in the programme for Government to reinstate a fully funded local improvement scheme in order to support the maintenance of non-local authority roads. These roads are the last couple of hundred metres of the rural road network and provide shared access for multiple houses. Despite those households paying the same road and property taxes and planning and development charges, no maintenance is carried out on these rural roads.

Last week when the roads funding was announced for all the local authorities across the country, no allocation was approved for the local improvement scheme. In the same week the Government announced the plan for rural Ireland yet there is no money for rural roads. Will an additional allocation of funding be made available for rural roads? Where do rural householders stand this year in terms of the roads?

The Taoiseach: Traditionally, councils used to make an allocation from the general allocation they received from the Department of the Environment, Community and Local Government, as it used to be known. It is a matter that can be considered in part by the review of the capital programme in respect of what allocation may be made for roads to the Departments of Transport, Tourism and Sport and Housing, Planning, Community and Local Government. Councils have always chosen to make allocations from their Vote for local improvement scheme roads or as Deputy Moynihan called them, non-statutory roads. That process will take its course.

Deputy Pearse Doherty: This year marks the tenth anniversary of the Taoiseach's personal commitment to end the scandal of patients on hospital trolleys. After ten years we deserve to hear how he will end that scandal given that today we have 601 patients on trolleys. They are people whom it has been deemed necessary to admit to hospital but who cannot find a bed and are on hospital trolleys as we speak. Unfortunately, this issue has become normalised. Nobody in this House, bar Sinn Féin, has even raised the issue this morning. It speaks to the fact that it is nearly acceptable that we have hundreds of sick people who day after day and week after week are not able to get a hospital bed and may have to wait hours and sometimes days for one. After six years in office, what is the Taoiseach's plan to come good on the personal commitment he gave the Irish people ten years ago to end the scandal of hospital trolleys to ensure we never see a day like this again when 601 sick, vulnerable patients in this country are forced onto hospital trolleys because there are no beds in the system for them?

The Taoiseach: First, Deputy Doherty is wrong. According to the HSE TrolleyGAR system at 8 o'clock this morning, there were 458 patients waiting on trolleys in acute hospitals nationally. That figure is much too high. It is not about the allocation of money. At €14.5 billion, there has never been more money allocated to the Department of Health. Clearly the question of patients on trolleys is the top priority for the Minister for Health. He introduced the winter

initiative, allocated extra money, opened up additional step-down beds, and other new beds in various hospitals but clearly there are factors that exacerbate the situation such as the flu and the aging population, among others. The number of people on trolleys is monitored throughout the course of the day and the special delivery unit of the HSE is working with particular hospitals where there is overcrowding and people on trolleys in corridors and emergency departments to ensure a reduction.

Deputy Pearse Doherty: What about ending the scandal?

Deputy Eugene Murphy: I seek an update on the inland fisheries modernisation and consolidation Bill, which was promised in the list of proposed legislation. It is a very important Bill for many parts of rural Ireland and I am very anxious to see what measures the Bill contains. Could the Taoiseach give me any indication today as to when we might see the Bill come to the floor of the House?

The Taoiseach: I cannot, but the heads of the Bill are expected to come before the Cabinet shortly. It will go from there to pre-legislative scrutiny. I will advise the Deputy when the Minister expects to bring the Bill before the Cabinet.

Deputy Jonathan O'Brien: Yesterday was the deadline for the HPRA review into the use of cannabis for medicinal purposes. Is the Taoiseach aware of whether the Minister received the report on time yesterday and if he did, when it will be made available to the House?

The Taoiseach: I cannot confirm that but I will advise the Deputy as to whether the Minister has received the report.

Sentencing Council Bill 2017: First Stage

Deputy Jonathan O'Brien: I move:

That leave be granted to introduce a Bill entitled an Act to establish a Sentencing Council and to provide for related matters.

Sinn Féin has long called for the introduction of such a Bill. Sentencing councils are not a novel idea. They exist in many jurisdictions across Europe in particular. Such a Bill is timely given that we are seeking to reform how members of the Judiciary are appointed. We would also like to see changes made to regulate the conduct of the Judiciary. As part of a suite of measures, we want to see provision made to ensure there is consistency in sentences that are delivered for criminal offences in the courts. I stress that this is not about telling judges how to do their job. The Bill respects the independence of the Judiciary and would not put any obstacles in the way of judges.

The most recent research is seven years old at this stage but it shows wide variation in sentencing for similar and the same offences. The research found that the length of sentences ranged from 14 days to five months in assault cases, while the sentences for theft ranged from 30 days and nine months, and between two and 12 months for road traffic and burglary cases.

We believe it is essential that there is public confidence in the consistency of sentencing and, in part, that could be achieved through regular collation and publication of sentencing data, which would be the responsibility of the sentencing council. A sentencing council could

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promote a clear, fair and consistent approach to sentencing. It could engage in consultation and work with external organisations with relevant expertise. For those reasons, we are introducing the Bill.

An Ceann Comhairle: Is the Bill opposed?

The Taoiseach: 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 Jonathan O'Brien: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Electricity (Supply) (Amendment) Bill 2017: First Stage

Deputy Eugene Murphy: I move:

That leave be granted to introduce a Bill entitled an Act to reduce restrictions on the power of the Electricity Supply Board to carry out works concerning the levels on the Shannon Lakes (Lough Derg, Lough Ree and Lough Allen), to amend the Electricity (Supply) (Amendment) (No. 2) Act 1934 and to provide for related matters.

The Bill is part of a broad suite of measures to address the increased risk of flooding. As the junior Fianna Fáil spokesperson on the OPW and flood relief, I am moving the Electricity (Supply) (Amendment) Bill 2017 which aims to help address flooding issues along the River Shannon that affect many parts of the country. I acknowledge the help and support of Deputies Barry Cowen, Robert Troy and Anne Rabbitte, the parliamentary party and the party leader.

We wish to revise the legislation in order to remove outdated water level restrictions on ESB-regulated lakes along the Shannon, which is governed by the Electricity (Supply) (Amendment) Act 1934, which gave total control to the ESB to regulate water levels on the River Shannon. The River Shannon is an immense natural resource for the country. However, as the frequency and intensity of flooding has risen in recent years, it is clear we need a wide range of measures to help protect vulnerable communities along the banks of the river. We have all seen what people have gone through in recent years - farmers and small business people. Children have not been able to go to school, which is outrageous. That is why we feel this matter should be addressed by legislation.

The Bill addresses concerns outlined by various community groups and aims to update existing legislation. It will ensure the ESB will not have its hands tied in terms of setting water levels on Lough Allen, Lough Derg and Lough Ree. That will help ensure that decisions on water levels are made in conjunction with relevant bodies without any legal constraint and will help to maintain an adequate, safe water level. Essentially, the Bill removes specific water levels from the legislation and allows the ESB to continue to use its expertise to set the levels in conjunction with other relevant bodies such as Waterways Ireland, Inland Fisheries and, importantly, local authorities. The Bill offers real and practical solutions to major ongoing flooding

problems and includes proposals such as dredging new channels, deepening existing channels, the reconstruction of weirs and the altering, removal or reconstruction of quays, harbours, boat houses and bridges.

The Bill is not a silver bullet and it will not solve every single flooding problem. However, it must form part of an overall package of measures designed to address the difficulties communities along the Shannon face. None of us in this House can sit around any longer and allow the suffering endured in recent years by very good people who have contributed to this country down the years and who are seeing their livelihoods destroyed to continue. This Bill will be followed by a separate one that aims to create a single agency for the River Shannon. Many communities, towns and villages in my constituency of Roscommon-Galway and throughout Longford, Offaly, Clare and Limerick have suffered unbelievably and countless other communities have been under siege. This is the only phrase we can use. We must be brave, do the right thing for our communities and take decisions. We need to act on this now. I hope that all Members of this House, including the Government, will be able to support the progress of this Bill because it is essential to rally behind the people and take many of them out of the difficulty they have suffered.

An Ceann Comhairle: Is the Bill opposed?

The Taoiseach: 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 Eugene Murphy: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

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) Deputy Fergus O'Dowd - the extension of the designated rent pressure zones to County Louth; (2) Deputy Michael D'Arcy - the IDA's intentions to provide a property for FDI investment for Wexford town; (3) Deputy Sean Fleming - the death of a person (details supplied) in Kilkenny city on 15 February 2012; (4) Deputies Louise O'Reilly and David Cullinane - the withdrawal of the appeal in the recent consultants contracts case; (5) Deputy Niamh Smyth - the introduction of the 20-week anomaly scan at Cavan General Hospital; (6) Deputy John Curran - the lack of dental services for children in Clondalkin; (7) Deputy Bernard J. Durkan - delays in development at the town centre in Naas, County Kildare; (8) Deputy Donnchadh Ó Laoghaire - the funding of Scouting Ireland; (9) Deputy Brian Stanley - the future of Bord na Móna plants at Kilberry in County Kildare and Cuil na Móna in County Laois; (10) Deputy Jackie Cahill - the ongoing GP concerns which impact on accident and emergency services; (11) Deputy Fiona O'Loughlin - a request for a statutory inquiry into the investigation of a case, details supplied; (12) Deputies Joan Burton and Gino Kenny - the proposed sale of Luggala House and estate in County Wicklow; (13) Deputies Pearse Doherty and Pat The Cope Gallagher - the suspension

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of chemotherapy referrals and resourcing concerns at Letterkenny University Hospital; (14) Deputy Martin Heydon - school facilities in the Curragh and Newbridge areas; (15) Deputy Mattie McGrath - concerns around the National Children's Hospital project at St. James's Hospital in Dublin; (16) Deputies Clare Daly and Maureen O'Sullivan - the handling of the Magdalen redress scheme; (17) Deputy John Brassil - the lack of a dedicated obstetric theatre in University Hospital Kerry; (18) Deputy Billy Kelleher - the provision of FreeStyle Libre under the long-term illness scheme; (19) Deputy Mick Wallace - President Trump's executive order restricting immigration; and (20) Deputies Richard Boyd Barrett and Bríd Smith - statements by EU Commissioner Vestager on the Apple tax ruling.

The matters raised by Deputies Fergus O'Dowd, Pearse Doherty and Pat The Cope Gallagher, Mattie McGrath and Joan Burton and Gino Kenny have been selected for discussion.

Ceisteanna - Questions

Cabinet Committee Meetings

1. **Deputy Gerry Adams** asked the Taoiseach when the last meeting of the Cabinet Committee on European Affairs was held; and when the next meeting is scheduled. [2760/17]

The Taoiseach: The Cabinet Committee on European Affairs was re-established by the Government on 23 May 2016 and has met on three occasions to date. The last meeting took place on 12 December prior to the December meeting of the European Council. It is expected that the next meeting of the Cabinet committee will take place in advance of the March meeting of the European Council. A date has not yet been fixed for the Cabinet committee meeting.

Deputy Gerry Adams: I wish to ask the Taoiseach about three issues that may have been discussed at the meeting of the Cabinet Committee on European Affairs. I know the Taoiseach is limited in terms of what he can say. The first relates to the motion committing this State to taking in 200 children from the former migrant camp in Calais. The Taoiseach knows that the Ministers for Justice and Equality and Children and Youth Affairs travelled to Greece and France to discuss this. Can we be updated on these plans?

I again raise the issue of Palestine and the Taoiseach's downright stubborn refusal to follow through on the Oireachtas motion that acknowledged the state of Palestine. He knows that the Israeli Government will build another 566 new settler homes in east Jerusalem. An internal report by EU member states' ambassadors to the Palestinian territories filed only last month has warned of a loss of hope among Palestinians. From my contacts in that region, I know that this is the case. The ambassadors' report called on the EU to send a message that Israel must stop its settlement policy. I have raised this question with the Taoiseach at least a dozen times. He has just dodged the issue, has given me a fudged and ambiguous answer and has refused to send a message of hope to the people of Palestine. Will he formally agree to recognise the state of Palestine, for which the Oireachtas voted?

The Taoiseach: The Ministers for Justice and Equality and Children and Youth Affairs have been in contact with the authorities in Calais in respect of Ireland unilaterally making an option to take in 200 unaccompanied minors. Sometimes they are referred to as children but in the vast

majority of cases, they are not children but young adults or in their late teens or early 20s. The Ministers had quite a discussion over there. It was not discussed at the meeting of this Cabinet committee but that work is ongoing. The Ministers also visited Greece to take unaccompanied minors who in many cases were younger to Ireland as part of that.

The Deputy raised the issue of Palestine. This has gone on for a very long time. Either we accept the two-state solution or we do not. There has been a change of emphasis with the new US Administration. I have said previously that if there is a seriousness about dealing with this, it must be on the basis of the long-standing two-state solution, which we support. I have had representations from ambassadors from Palestine and Israel, both of which are contradictory, and I will not pronounce on them here. I have spoken to the Minister for Foreign Affairs and Trade about this. It is an issue we need to consider. For Israel to announce unilaterally that it intends to build very significant housing on West Bank lands is not in keeping with the two-state solution or that process. It is a complicated issue.

Deputy Gerry Adams: The Oireachtas voted on this two years ago.

The Taoiseach: I am aware of that but I am being approached very vociferously about the matter from both sides in respect of very contradictory measures.

Deputy Brendan Howlin: Has the Cabinet committee prepared any position papers on the impact of Brexit on Ireland. If so, will those papers be shared with us in this House? Has the Taoiseach read the comments by Peter Navarro, the top trade adviser to President Trump, where he attacked Germany and accused it of using a grossly undervalued euro to exploit the US? Does the Taoiseach have a view on that?

The Taoiseach: This committee has not produced a series of papers on Brexit options but the Brexit committee has. I have told the Deputy previously that as a party leader, I will see to it that he gets a full briefing from senior officials in respect of questions he raises or information he needs. A range of options have been looked at. The reason for the non-publication of these to date is because it is still not clear what the outcome will be in respect of the British Government. In respect of the British Prime Minister's speech at Lancaster House, clearly, Great Britain is moving from the Single Market. There is clarity there but there is no clarity regarding the British final proposition as to where it sees itself within the customs union. Obviously, this has implications for trade not just here but internationally depending on the nature of the proposition made.

I do not have the detail of the comments made by Mr. Navarro but, obviously, this particular Administration has a different view of Europe than the previous one. No doubt, this matter will be raised and discussed at the Finance Ministers' Council meeting and at the European Council meeting in Malta on Friday.

Deputy Micheál Martin: As the Taoiseach would accept, the EU is facing a deep and growing series of threats. Ireland is very much in the front line of these threats in terms of a move away from free trade and shared rule making and efforts to change tax rules. The pressure on the Government concerning the EU is dramatically higher than it has been at almost any time over the past 50 years. It seems that the Cabinet Committee on European Affairs needs to engage in a more reflective approach with the Department of Foreign Affairs and Trade in respect of the EU generally and its future. We are seeing a lot of activity but not a lot of action. I put it to the Taoiseach that in six years, we have yet to produce a core statement of Government

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policy on the future of the EU. It is interesting that the head of the National Trade Council in the US has launched a significant attack on the EU. It is very clear that President Trump and his Administration have very negative views about the EU and seem to be joining with those on the far left and far right in trying to destabilise the EU.

Deputy Richard Boyd Barrett: What about the extreme centre?

Deputy Micheál Martin: They accused Germany of being a currency manipulator similar to China and others.

The absence of policy in that context is very serious and too frequently we are playing catch up. We are doing everything on a case-by-case basis. Does the Taoiseach not think it is long past time for a formal White Paper on the European Union to be produced by him and the Cabinet committee?

The Taoiseach: The European economy grew by 1.8%, I think, which was above forecast. The attack today is on Germany and not on the European Union itself. Clearly the attitude of the European Union is one of concern about its future. The plan is there and is set out in terms of the digital Single Market and the President's report to be introduced and implemented in coming years on the European agenda. Elections are to be held in the Netherlands and France, with possible elections in Italy and there will be elections in Germany later in the year. There have been changes as a result of recent elections in Estonia and Bulgaria.

In so far as our relationship with the European Union is concerned, we remain a central member of that. Our Ministers participate very strongly at all Council meetings in terms of the agenda being pursued by Europe. There are certainly challenges in terms of the new relationship being forged between the European Union and the United States and also between the European Union and the United Kingdom when it exits as a member of the Union. In that context the position changes on a constant basis.

For me the European Union, one of the best-developed regions on the planet, has a clear agenda. It is a case of having greater co-ordination, between the Commission, the Parliament and the Council in terms of implementing that agenda. There is potential to create millions of jobs over the next ten or 15 years. That is where Europe needs to be focused. There are geopolitical issues outside that which are causing concerns in north Africa, in particular.

Deputy Richard Boyd Barrett: Has the Cabinet Committee on European Affairs discussed the issue of the European Commission ruling on Apple's tax affairs in this country? Does the Taoiseach intend having further discussions about the Government's highly reprehensible decision to refuse the €13 billion that the European Commission believes is owed to the Exchequer in Apple taxes after the Commissioner Vestager's testimony to the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach? It was an extraordinary irony that at yesterday's committee meeting, all those who were most critical of the European Union and its austerity policy, such as us, commended the Commissioner on at least the Commission doing this thing right and all the members from Fianna Fáil and Fine Gael, who are the most enthusiastic for the European Union, essentially impugning her motives for coming up with these findings.

She was a very strong performer. What it boiled down to was her saying there was no way the European Commission could conclude that a company that had no employees, no activities and no offices could possibly have been allocated the profits of Apple rather than the company that was tax resident in this country and carried out real economic activity. That is an unanswer-

able point. Tax evasion was going on. This was a bogus company and the Government and Revenue facilitated this tax evasion by Apple.

The Taoiseach: No. This was not a matter of discussion at the meeting of the Cabinet Committee on European Affairs. As the Deputy knows, this matter has had long and exhaustive discussion. A process is in train and it will be determined by the European judicial process. Ireland has appealed on the basis that there have never been sweetheart deals by Revenue with any companies. We are only entitled to take tax where economic activity occurs and with the 6,000-plus employees in Cork, that is what has happened.

Deputy Richard Boyd Barrett: That company was not taxed.

The Taoiseach: The Minister for Finance has made changes in recent budgets to get rid of the stateless concept and get rid of the double-Irish concept. We have been foremost with the OECD in terms of the BEPS proposition. We are the first to have a fully compliant OECD knowledge box at 6.25%.

Apple has also appealed the case. Lodging the money is a complicated process. It will be lodged in the escrow account-----

Deputy Richard Boyd Barrett: It has not been lodged yet, though.

The Taoiseach: -----and will wait there, pending the outcome of the court case at European level.

The Commissioner was at pains to say that the Commission did not want to interfere with corporate tax rates, which is a national competence here. I note that from her first finding she said that some of this estimated amount might well be due to other countries in Europe as well and it is matter for them-----

Deputy Richard Boyd Barrett: She did not actually say that.

The Taoiseach: -----to determine whether there was economic activity in their countries.

Deputy Richard Boyd Barrett: She did not.

The Taoiseach: The matter was not discussed at this committee.

Deputy Michael Noonan: It was in her press release.

Deputy Richard Boyd Barrett: She said they were free to make a claim.

An Ceann Comhairle: Deputy, please.

The Taoiseach: It is a subject of a court process at European level and will go on for a number of years.

World Economic Forum

2. **Deputy Mick Barry** asked the Taoiseach if he will report on the annual meeting of the World Economic Forum in Davos. [2758/17]

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3. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his attendance at the World Economic Forum in Davos. [2785/17]

4. **Deputy Ruth Coppinger** asked the Taoiseach if he will report on his visit to the World Economic Forum in Davos, Switzerland, and the discussions he had there. [2788/17]

5. **Deputy Bríd Smith** asked the Taoiseach if he will report on his visit to the World Economic Forum in Davos. [2796/17]

6. **Deputy Gerry Adams** asked the Taoiseach if he will report on his visit to the World Economic Forum recently. [3068/17]

7. **Deputy Micheál Martin** asked the Taoiseach if he will report on his visit to Davos and any meetings that he attended with companies (details supplied). [3070/17]

8. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his participation in the annual meeting of the World Economic Forum in Davos, Switzerland, and the cost of his visit. [4128/17]

The Taoiseach: I propose to take Questions Nos. 2 to 8, inclusive, together.

I was invited by Professor Klaus Schwab to attend the annual meeting of the World Economic Forum and I was in Davos from 18 to 20 January. The Minister for Finance, Deputy Noonan, also attended. The theme of this year's meeting was Responsive and Responsible Leadership.

The Minister, Deputy Noonan, and I used our time in Davos to promote Ireland as a location for international business and investment in the context of Brexit and other current global developments.

My programme included bilateral meetings with a number of companies that are potential investors in Ireland as well as with existing investors here. At these meetings, I emphasised that Ireland retains all the advantages that make it an attractive and stable location for investment and that we will remain a committed member of the European Union.

I also had the opportunity on Thursday to outline Ireland's priorities in Brexit negotiations and our preparations in advance of negotiations at one of the World Economic Forum's formal programme events, under the informal gathering of world economic leaders programme. This event was attended by over 15 Heads of State or Government and approximately 60 other attendees.

I briefly met the British Prime Minister, Mrs. May, in the margins of the forum. I also met Jamie Drummond, executive director of the ONE organisation. We discussed a number of international development matters and the work of the organisation.

As in previous years, I hosted an IDA Ireland dinner as part of my Davos programme. This was attended at the highest levels from existing and prospective FDI clients from some of the world's largest multinational corporations. There were 22 companies and approximately 40 senior executives represented this year. Those with existing operations in Ireland employ over 20,000 here. I again used the opportunity to outline Ireland's Brexit programme and to emphasise the strengths that underpin our success in attracting foreign direct investment.

I acknowledged the vital contribution that many of the companies represented had made to Ireland and to our economy. I urged those who were looking at potential locations for investment or expansion to consider our country.

I attended various media engagements, including interviews with Irish and international media.

As is the case for all my travel, my officials ensured costs were minimised and the best value for money pursued. The final cost of the trip is not yet available. I am satisfied that the costs of the trip to Davos are justified given the value of the opportunity to engage with so many key decision-makers, as well as supporting IDA Ireland in its role in promoting Ireland as a location for investment.

Deputy Richard Boyd Barrett: One of the central discussions at Davos - ironically, given that it is packed full of multi-billionaires and the world's elite - was inequality. One could not make it up. In so far as it was discussed, Oxfam made a shocking presentation revealing that eight billionaires own the same amount of personal wealth as the poorest 50% of the world's population. The presentation made it clear that the major contributory factor to this was corporate tax avoidance, ironically by the very same people with whom the Taoiseach rubbed shoulders at the forum, and who have engaged in aggressive tax avoidance and evasion in this country. Was the Taoiseach not embarrassed by the stark facts revealed by Oxfam about Ireland's deep implication in contributing to that level of global inequality when the Apple tax ruling confirmed, and it was named by Oxfam at the forum, that it is one of the major culprits in all of this yet we are appealing a ruling in which the EU Commission sought to do something about that? Contrary to what the Taoiseach said in his previous reply, Commissioner Vestager said there was no evidence whatsoever that any other European country had a claim on that €13 billion and that as far as she was concerned, the overwhelming majority of it was owed to Ireland because Apple had allocated profits-----

An Ceann Comhairle: Deputy, you need to conclude. Other speakers are offering and we want to get everyone in.

Deputy Richard Boyd Barrett: -----to a company that did not exist and Revenue had allowed that to happen.

The Taoiseach: If I recall the press release by the Commissioner, she was at pains to say that she was not interfering in any way with the corporate tax rates issue, which is a matter of national competence, but that her issue was state aid rules. If I recall correctly, the point was made that some of this estimated amount would be due to other countries-----

Deputy Richard Boyd Barrett: She did not say that.

The Taoiseach: -----but that is a matter for them to determine whether there was economic activity there or not.

Deputy Richard Boyd Barrett: She did not say that.

Deputy Micheál Martin: That was in the original press release.

The Taoiseach: Deputy Boyd Barrett spoke about rubbing shoulders with billionaires. I did meet with the Facebook company, AT&T, Medtronic, IBM, Shire, Salesforce, Excel, Novartis, Lloyds, Bank of America, Liberty Global and BT. Those companies are significant employers

in this country.

Deputy Richard Boyd Barrett: The Taoiseach meets them a fair bit in the Clearing House Group as well.

The Taoiseach: They employ over 20,000 people. Companies that attended in the past included Tech Mahindra, which announced 150 new jobs in an IT project for Dublin in January of this year. Kaspersky Lab announced the opening of a 50 person research and development laboratory last September. Credit Suisse announced 100 new jobs in January of last year. Facebook announced 200 jobs for a further expansion in Dublin last year, and Shire announced 400 jobs in a new biotechnology manufacturing centre in County Meath.

An Ceann Comhairle: Thank you, Taoiseach. We need to stick to the time allocated. Deputy Bríd Smith is the next speaker.

The Taoiseach: Those are all good employers of workers at home and abroad.

Deputy Richard Boyd Barrett: They still pay their taxes, do they not? Is that too much to ask?

Deputy Bríd Smith: I will call the Taoiseach Tánaiste because he calls me Deputy Collins all the time.

The Taoiseach: God bless you. I did not mean to do that.

Deputy Bríd Smith: I am just trying to be a smart aleck. I will stay on the same theme as my colleague and comrade, Deputy Boyd Barrett, that is, inequality, which was one of the main themes at Davos. Shocking economic reports published in the past year or so indicate that inequality in this country is growing and will probably reach United States levels if we do not do something to address them. In fact, Ireland is the most unequal society in Europe according to all the statistics. When the Taoiseach was in Davos, did the thought occur to him that when he thinks about Ireland as a microcosm of the capitalist economic system, Davos was a microcosm of the capitalist economic system? I am sure he is starkly reminded of the inequalities of capitalism in a place like Davos, where workers are stuck in small hotel rooms in bunk beds while at the same time lavish parties attended by film stars, billionaires and oligarchs take place. It might be interesting to know if the Taoiseach was invited to any of those parties or if he got paid to attend any of them because some world leaders do get paid to attend lavish parties put on by oligarchs who live in the mountains. We would like to hear if the Taoiseach attended any of them. My point is that Davos is a microcosm of inequality, as is Ireland. In the past the Taoiseach informed the business elite of the world that Ireland is a great little country in which to do business. Did he tell them that Ireland was a great little country in which to do inequality and that 2,000 children are homeless every night and that the trolley crisis is growing?

An Ceann Comhairle: Deputy, you have to conclude.

Deputy Bríd Smith: It may be a great place to do business and not pay one's taxes but it also has a major down-side for its population. Did the Taoiseach explain that to the attendees at Davos?

The Taoiseach: I do not agree with the Deputy that we are the most unequal society in Europe.

Deputy Bríd Smith: It is not my opinion. Economic studies show that.

The Taoiseach: The Deputy will be well aware that we have made specific changes in the last number of budgets to deal with the lower paid where inequality exists and to give people an opportunity and incentive to get out of the rut of unemployment and into the world of work. The evidence of that is clear in terms of a fall in unemployment from 15.2% down to 7.1%. I hope that decreases to around 6% in the coming months, which is an extraordinary response from the people in dealing with the economic situation. We have dealt with significant numbers of people on the minimum wage by removing them from liability under the universal social charge-----

Deputy Bríd Smith: They were given a rise of 10 cent.

The Taoiseach: -----and making changes in income tax at the lower levels to focus on the question of inequality. I support trade liberalisation. I support globalisation provided it is handled properly and that we do not have those gaps in income.

I assure the Deputy that I was not invited to any of the celebrity parties on the slopes of Davos. I did not receive any remuneration for the 20 hour day I put in at Davos, as any of the Members would were they in the same position. From that point of view, I can assure the Deputy that my agenda, which is published and available for everybody to see, was strictly business.

Deputy Bríd Smith: Business in equality.

An Ceann Comhairle: We will take the next three questioners, Deputies Adams, Martin and Howlin, together and then go to the Taoiseach for the responses.

Deputy Gerry Adams: I, too, want to raise the issue of Apple and ask the Taoiseach if it was raised in Davos. I was not at the committee but I read the accounts of the EU Competition Commissioner's appearance before the Oireachtas finance committee. I read all the points put forward by Fine Gael and Fianna Fáil representatives about so-called fantasy money and Ireland acting as a tax collector for the world but arguments around selectivity and tech sovereignty were forensically dismissed and destroyed, point by point, by the Commissioner. She made it clear that the more than €13 billion back tax is due to the citizens of this State. It appears to me also that she believes that what happened was not a misunderstanding, a mistake or a misapplication of procedure. The Commissioner is suggesting that it was a calculated, contrived and unique arrangement put in place to favour Apple at the expense of other companies, including indigenous companies.

If we lived in the type of society the Taoiseach appears to believe we live in, one could imagine there would be many reasons to be charitable towards Apple and to say that we do not need the €13 billion because what would we do with it? Could we use it to cure the crises in health or in housing? If Apple wants to appeal this ruling, that is fair enough but the Taoiseach should not appeal it and the Government should stop the waste of taxpayers' money on the back of the type of malpractice and evasion that obviously has taken place.

Deputy Micheál Martin: There are many people who would argue that the Taoiseach should never go to Davos. I am not one of those.

Deputy Richard Boyd Barrett: That is because the Deputy wants to go.

Deputy Micheál Martin: No. I have been there before. Davos will not change the world

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economy. It will have no impact on the world economy-----

Deputy Bríd Smith: It is just more of the same.

Deputy Micheál Martin: -----but it is a very good forum in which to promote Ireland and to engage with people who invest in Ireland.

Ireland cannot solve all the global problems of the world but the bottom line is that Apple employ thousands of people in my city, as does EMC, Facebook and Google. All of those companies employ thousands of people.

Deputy Bríd Smith: That does not stop them paying their taxes.

Deputy Micheál Martin: I put this to the Taoiseach that whether we like it or not, over the past 30 years, Irish industrial policy has been successful in bringing thousands of jobs to this country. That is never acknowledged by those Members who have spoken before me. The plight of the workers in those companies is never acknowledged. I have worked in enterprise. I have worked with IDA Ireland to try to bring in industry here, against competitors in different countries and often within the same company, with different sites trying to get extra activity and business. There was an onus on any Government of the day to try to win that.

The Taoiseach met the British Prime Minister, Theresa May, in Davos. He also met her yesterday. The Taoiseach seemed to say yesterday that the issue of the impact of Brexit on the Northern Ireland Act 1998 has not yet been raised with the British Prime Minister. Will he indicate whether he has raised it with her because it is a very serious issue? The Act implements the Good Friday Agreement and is a direct product of the negotiations. It requires the Northern Ireland Executive and Assembly to act in accordance with European Union law, not only the European Convention on Human Rights but also Council of Europe documents. Has this issue been raised with the British Government as something that must be protected with regard to Brexit?

Deputy Brendan Howlin: I have never been to Davos either, although I have made presentations to the World Economic Forum on behalf of the State in other locations. The RTE report from Davos stated papers are being prepared on ways to minimise customs checks on the Border between Northern Ireland and the Republic as a result of Brexit. Will the Taoiseach share these papers with us?

The Taoiseach listed a number of the financial services companies he has met. How many of those seeking alternative locations to the City of London or the United Kingdom are looking at Ireland? What are the prospects of relocation?

With regard to skill transfers, I was listening to “Morning Ireland” this morning and a number of people, particularly of the Muslim religion, working in tech or finance are looking to move out of the United States. Does the Taoiseach have a strategy to ensure they would find a safe and welcoming home in Ireland?

An Ceann Comhairle: We will have to take a couple of minutes from the third group of questions.

The Taoiseach: Apple was not discussed at Davos. To answer Deputy Adams, the Government profoundly disagrees with the European Commission and its analysis and has no choice but to take an appeal to the European Court of Justice to annul the decision. More than 70% of

the Dáil voted to support the Government's decision to appeal in September 2016. Ireland did not give favourable treatment to Apple. It does not do deals in this regard and no fine or penalty has been levied against the Irish State. This is important from the point of view of the integrity of the Revenue Commissioners over many years. We do not want a situation where, were this to be accepted by Ireland, it would send out a signal to all other companies that sweetheart deals were being done.

The European Commission has explicitly stated the decision does not call into question Ireland's general tax system or its corporate tax rate, and at present no other companies are subject to this decision by the European Commission. The appeal is under way and was prepared by the Attorney General. It is the subject of open legal proceedings and obviously it will take its course through the European court system. Nevertheless, Ireland is obliged to comply with the binding articles of the decision regarding recovery, which are set out in the final two pages of the document. This includes the order to calculate the exact amount of the aid and the process which ensures it is recovered from the Apple companies. Ireland is not subject to any fine, as I stated, arising from the decision itself, but could be subject to action, including the threat of fines, if sufficient progress is not made to satisfy the Commission, and we are aware of this. Work was ongoing throughout 2016 to ensure the State complies with all our obligations, which involves a high degree of co-operation with the Apple company. It is a very technical and complicated issue.

I agree with Deputy Martin. Ireland has been extraordinarily successful over many years under many Governments in its foreign direct investment policy. The Deputy's city of Cork is evidence of this, with EMC, Apple and many others which are so proud to be there. They are very happy with the reception and facilities they have. This is something we want to grow and build for the future.

I discussed the question of the Good Friday Agreement and its future implementation following the elections in Northern Ireland with, hopefully, a working executive and the involvement of the British Government after it exits from the European Union, and the issue of complying with European law here in so far as it is an internationally binding agreement. We will have more discussions on this.

I am sure Deputy Howlin would enjoy Davos if he went there, not that I have seen much of it when I have been there. With regard to the papers he mentioned, options have been considered and set out for analysis if a decision has to be made on X or Y. We are clear that Britain will leave the Single Market. I can give up-to-date information on what has been prepared on consideration of the customs union but this may not include the options that will be set out. We will have to consider all of this.

With regard to people I met in Davos, some will move and they will make their announcements in their own way. They are very happy to do so. These are business people. They make decisions irrespective of politics. They want to know the facilities we have here, such as language, schools, opportunities for investment, availability of commercial space and opportunities from London but mostly it is with regard to being part of the Single Market with access to a churn of talent coming through from other countries. I know some will make decisions and others are considering it. We will invite them here to see how it works and to speak to the Central Bank if they are in financial services. We will do the same with companies which might wish to relocate here from the United States.

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Cabinet Committee Meetings

9. **Deputy Gerry Adams** asked the Taoiseach when the Cabinet committee on housing last met. [3067/17]

10. **Deputy Richard Boyd Barrett** asked the Taoiseach when the Cabinet committee on housing last met. [4125/17]

11. **Deputy Brendan Howlin** asked the Taoiseach when the Cabinet committee on housing last met; and when the next meeting is planned. [4269/17]

12. **Deputy Micheál Martin** asked the Taoiseach when the Cabinet committee on housing last met. [4540/17]

The Taoiseach: I propose to take Questions Nos. 9 to 12, inclusive, together.

The Cabinet committee on housing last met on 10 January. It is scheduled to meet again on 6 February. It will continue to meet regularly as required to address issues related to housing and construction, including implementation of Rebuilding Ireland, the action plan for housing and homelessness. This remains a clear priority issue for the Government.

Deputy Gerry Adams: Last week, the Department of Housing, Planning, Community and Local Government published its homelessness figures for December, and it revealed that for the first time, more than 7,000 citizens are dependent on emergency accommodation funded by the Department. In December, 4,643 adults were in emergency accommodation, which was an increase of 207 on the previous month. The number of families remained at 1,105 and the number of children was 2,505. This is an emergency and crisis and is totally and absolutely unacceptable.

We have a rehash and launch and relaunch of action plans. The action plan for housing promised there would be an expanded and accelerated rapid build housing programme to deliver 1,500 social housing units to those in need. Only 22 were built and occupied in 2016. According to CSO statistics for 2016, there are almost 200,000 vacant houses throughout the State. Riddle me this: there are 200,000 vacant houses in the State and 7,000 homeless people so can we not match them up? Why does the Government refuse to provide sufficient funding, even for the 1,000 houses offered for sale by AIB? I ask the Taoiseach to put aside this nonsense that funding is not the issue when it comes to tackling housing and the homelessness crisis. It is clearly the core of the problem.

Deputy Richard Boyd Barrett: I want to know whether the committee has or will discuss several very specific areas of housing. People who do not have drug or drink problems, or who are trying to recover from alcohol or drug problems and are clean of them, are being put in emergency accommodation with active drug users or people with addiction problems. I am dealing with several cases of this nature at present. It is totally unacceptable. It is a recipe for disaster and pushes people in an already bad situation into a much worse one. Last night, I spoke at a meeting with Peter McVerry, who confirmed, as my own experience confirms, this is rampant in emergency accommodation and is totally unacceptable. What is the Taoiseach going to do about it? Has the Taoiseach discussed the issue of individual property owners in Beacon South Quarter in Sandymount? They have been landed with a bill for approximately €2 million for properties that were badly built, with fire problems, health and safety problems and water damage. IRES Reit, NAMA and others can afford to pay the €10 million being demanded

by the management company and IRES Reit does not pay any tax but ordinary property owners, who pay their tax and bought them in good faith, cannot afford it and want to know if the Government will provide some kind of compensation fund for them.

Deputy Brendan Howlin: I want to focus on the promise to deliver rapid-build housing. The Government promised that 300 modular or rapid-build houses would be completed or under construction by the end of last year but none had started by this time. What action will the Taoiseach take to make sure this happens? I agree with Deputy Adams that it is a matter of funding but it is not exclusively so. There have been local objections and planning and siting issues, including by councillors of parties represented here. We are either serious about tackling this issue or we are not. We need to ensure that promises, made solemnly by the Minister for Housing in this House, are delivered upon. Will the Taoiseach ensure that happens?

Deputy Micheál Martin: There is very little evidence of progress in delivering new social housing. The last approval recorded was in January 2016 and many local authorities did not even build one social house last year. The HAP system is proving particularly challenging for many people who are renting, because of the thresholds. There is an over-reliance on that in building new council housing. Our social housing stock is 9% of the total in this country while across the European Union it is 17%. The execution and delivery of housing policy is sadly lacking and very poor. Modular housing is a very good example of this as only 22 have been delivered so far in Ballymun. It was one and a half or two years ago that the then Minister, Deputy Alan Kelly, proclaimed this as a wonderful new initiative. There are some 2,751 vacant council houses at the moment, which is probably lower than it was but, nevertheless, should not be the case. When houses become vacant, they should be allocated straightaway given the emergency people are currently experiencing. Execution and delivery of policy are the key deficits in housing policy.

The Taoiseach: I have already outlined the figures. A total of 7,148 people used State-funded emergency accommodation during a week in December. They included 4,643 adults, 2,505 dependents and 1,205 families. A record 2,700 families and individuals exited homelessness in 2016, while the figure in 2015 was 2,300. At the last official count in December 2016, 142 people were sleeping rough. The budget of 2017 is €98 million, up by 40%, and by mid-2017 hotels are only to be used for emergency accommodation in limited circumstances. Rent supplement and housing assistance payment levels increased last July and the Dublin regional homeless HAP pilot was expanded so that 810 additional households were supported last year, with the target for 2017 being 1,200. The rapid delivery procurement framework is now in place and allows local authorities to advance rapid build projects much more efficiently and effectively. A €70 million rolling fund has been established for the housing agency to acquire 1,600 vacant units, with 200 houses acquired in the past couple of months. There is ongoing work on additional family and child welfare supports for homeless families.

Dublin City Council delivered over 200 additional beds, worth €6.1 million, under the winter initiative. There are now more than 1,800 emergency beds in Dublin ensuring sufficient space for all those recorded as sleeping rough. DCC will bring forward two further facilities to meet potential future increased demand and these will cater for individuals and couples. There will be a tripling of the housing first target to 300 tenancies for complicated cases where a lot of attention is required.

Deputy Boyd Barrett referred to people in hostels with alcohol problems and I often wonder why this happens when the charities who run many of these hostels are given substantial public

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moneys in addition to what they raise. The efforts which are being made to provide sufficient accommodation for this not to happen need to be looked at. People are reluctant to go into hostels because they feel they might be attacked or encounter somebody injecting themselves or under the influence of alcohol. The charities run these places but I am not blaming them.

My understanding is that the architectural design of Beacon South Quarter was as it should be, perfectly in order, but that, as in Priory Hall and Longboat Quay, the lack of supervision and a competent clerk of works to do the job properly resulted in inferior building standards. Greed was an element of this in the past where short cuts were taken and people paid big money, good money, for houses that turned out to be fire traps in the case of Priory Hall, and something else in the case of Longboat Quay, and this is of great concern to the tenants who live there.

Deputy Richard Boyd Barrett: Are you going to do anything about it? That is what I asked.

The Taoiseach: Deputy Howlin asked about rapid-build units. I expect there to be 1,500 by the end of 2018 and there are 350 at various stages of delivery at the moment, which will become occupied in the coming months. A further 650 homes are in progress this year while the target for 2018 is 500. Deputy Martin referred to the HAP and 810 were accredited for homeless households in the Dublin region in 2016, exceeding the target of 550. The target for 2017 is 1,200 tenancies. The Minister is not happy with the figures but he has had to provide a range of incentives for local authorities, individuals and construction firms, as well as money to local authorities to get back to building houses as they used to years ago. Over the coming year there will be a very significant increase in the construction of social houses, private houses, returning to voids and rapid-build houses to give us the capacity to deal with the numbers of homeless on the streets.

Priority Questions

An Ceann Comhairle: Deputy Kelleher is not in the Chamber so we will move onto Question No. 28.

Nursing Staff Recruitment

28. **Deputy Louise O'Reilly** asked the Minister for Health the steps that have been taken to implement the recommendations of an expert group report in August 2016 which called for additional nursing posts to be created and filled to look after all admitted patients in emergency departments and extra patients on wards; the steps that have been taken to secure and retain nursing positions that have been advertised; and if he will make a statement on the matter. [4858/17]

Deputy Louise O'Reilly: The question is about staffing in emergency departments, which is a frequent issue and one which I am sure the Minister is looking forward to debating.

Minister for Health (Deputy Simon Harris): The report of the emergency department expert group identified a need to take on additional nurses to care for boarded patients awaiting admission from emergency departments. This is particularly where the number of patients awaiting admission occupy over 50% of the emergency department cubicle capacity for the hos-

pital concerned. Having regard to the formula set out in the report for calculating the required nursing complement, an additional 107 nursing and midwifery posts are to be created and filled to look after all admitted patients in emergency departments. The group also recommended that nursing numbers in emergency departments are brought to their full agreed staffing levels.

There are many initiatives currently under way to improve staffing levels throughout the country. The number in nursing and midwifery increased by 1,650 between December 2013 and December 2016.

The HSE is offering permanent posts to 2016 degree programme graduates, and full-time permanent contracts to those in temporary posts. The HSE is also focused on converting agency staffing to permanent posts. Its national recruitment service is actively operating rolling nursing recruitment campaigns. The campaigns encompass general, mental health, intellectual disability, registered children's nurses and also midwives. The acute hospital groups have advertised a number of emergency department nursing posts and are currently in the recruitment process. Of the 144 emergency department nursing posts that were identified as vacant, half have been filled to date.

The HSE ran a three-day open recruitment event over the Christmas holiday period in Dr. Steevens' Hospital, which I was pleased to attend, for nurses and midwives from all disciplines who are interested in working in the Irish public health service. Some 220 people attended the event. Some 115 nursing and midwifery candidates were deemed successful following interview. This event will be followed by a series of career events for nurses throughout 2017 with the next one scheduled for 31 March 2017.

A relocation package of up to €1,500 continues to be available to nurses who return from overseas. These campaigns and others that are in the process of being developed will be used to fill the remaining vacant emergency department posts and the additional 107 posts that are to be filled. We remain absolutely committed to filling these posts. The Deputy will also be aware that we are currently in conversations about these very issues with the IMNO and SIPTU.

Deputy Louise O'Reilly: That was a comprehensive and eloquent answer to a question I did not ask. I specifically asked about the 107 posts that were identified. Regrettably, we have all become used to accident and emergency department overcrowding. The staff, God love them, have to put up with it on a daily basis. Whatever plans this Government or the previous one had to deal with trolley numbers, they are now escalating out of control. I heard An Taoiseach contradict the figures as to whether it is 400 or 600, but those 107 nurses are specifically needed.

Last week, we questioned the HSE and they advised us that the budget was not there when they consulted with the Department of Health for 107 nurses who are designated to nurse patients on trolleys. This is effectively a signal that the Department has given up and is accepting that trolleys are a reality. Whatever the Minister is doing is not working. Some 107 nurses are required in order to cope. Can the Minister respond to the HSE's claim that the Department did not fund those 107 nursing posts?

Deputy Simon Harris: The intention is to recruit 1,000 additional nurses this year. That was announced on budget day. The details of that will be worked out among the operational plans for each of the hospital groups. The process is under way and will conclude shortly for the individual budgets for each hospital. We do need to grow nursing numbers and I am not

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disputing that with the Deputy whatsoever. We do need to have more nurses working in our emergency departments. We are having an intensive engagement with the INMO and SIPTU on recruitment and retention. Given the Deputy's own background, she will understand the sensitivity of discussing that process now. However, these issues are being actively discussed and considered at the moment through an intensive engagement with the INMO and SIPTU. I hope we can make progress on that.

In talking about beds and trolleys, it is important to note that the issue is not just in emergency departments, but throughout hospitals. The fact that we have closed 104 hospital beds due to staff shortages indicates that recruitment and lack of nurses is actively causing pressures within our emergency departments. If we want to clear what is a vicious cycle in the trolley situation, which now happens annually - there are similar pressures in Britain and Northern Ireland - bed capacity, recruitment and a real move to primary care, which includes a new GP contract, are the three fundamental aspects that need to be addressed. We are committed to recruiting and have already filled half the vacant posts in emergency departments. We are committed to filling the rest of them and want to see the 107 nursing posts filled also. We are actively engaging with the INMO and SIPTU on that.

Deputy Louise O'Reilly: The HSE personnel were clear with us when they said that funding was not available or forthcoming from the Department for the 107 additional posts that are required. Let us be clear, they are required to nurse the people who are on trolleys.

Deputy Simon Harris: True.

Deputy Louise O'Reilly: The fact that people are on trolleys is a failure of Government policy, and nobody could dispute that. The HSE said, however, that there is no budget for those 107 nurses. What does the Minister say to the man or woman standing beside their elderly relative this evening who is on a trolley or in a chair in an accident and emergency department? It was agreed that 107 nurses is the absolute minimum number needed to nurse those people on trolleys. Let us give up and accept that trolleys are going to be a reality for as long as they are needed, but let us try to provide a basic minimum level of staffing. Can the Minister confirm that the budget is there for those 107 nurses? Or can he confirm that it is not? The HSE personnel were very clear with us in stating that when they went to the Department of Health that budget was not there.

Deputy Simon Harris: What I am clear about is that the budget is there to increase nursing numbers by 1,000 in 2017. That is what we funded for in the budget. How that is done is now a matter for the HSE in its operational plan. I am also clear that recruitment and retention of nurses is a key issue that needs to be resolved. I hear many doctors going on the radio saying that if one wants to end trolleys in emergency departments - which we have all wanted to do for decades, yet successive governments have failed to do it - we need more beds. I agree that we need more beds. It is not much good having the beds if they are closed because there are not enough nurses and other staff to open them.

There are 105 beds closed in the health service today due to staffing shortages. I fully accept that bed capacity and the ability to open extra beds is linked to the recruitment and retention of nurses, which in turn is linked to easing pressures on our emergency departments. That is why we have provided funding for 1,000 new nurses this year. It is a matter for the HSE to allocate how it wishes to do that. That is why we are actively involved today in discussions with the INMO and SIPTU. I will keep the House abreast of those discussions.

Health Services Funding

27. **Deputy Billy Kelleher** asked the Minister for Health his views on whether the €9 million additional funding for the expansion of existing services or the provision of new services in acute hospitals is adequate to meet demand; and if any of this funding is now likely to be used for other purposes in view of the HSE decision not to appeal the 2015 ruling of the Employment Appeals Tribunal on consultant contracts. [4907/17]

Deputy Billy Kelleher: I wish to ask the Minister for Health for his views on whether the €9 million additional funding for the expansion of existing services or the provision of new services in acute hospitals is adequate to meet demand. Is any of this funding now likely to be used for other purposes in view of the HSE's decision not to appeal the ruling of the Employment Appeals Tribunal on two consultant contracts?

Deputy Simon Harris: I thank Deputy Kelleher for his question.

In order to respond to increasing demand for hospital services, budget 2017 provides an additional €118 million for hospital services in 2017. Of this funding, €109 million will be used to maintain our existing level of service to take into account the costs associated with our ageing demographics, meeting increased demand for medicines, medical technology, and new procedures in hospitals. We would be criticised if we did not take these matters into account.

This funding will also provide for the costs associated with the restoration of payments to staff under the Lansdowne Road agreement. Therefore it is €118 million extra for hospitals in 2017 with the bulk of that allocation going to dealing with demographics, medical technology, procedures and the Lansdowne Road restoration payments for staff doing important front-line jobs in our health service. As a part of that €118 million, €9 million has been allocated to expand existing or develop new acute hospital services this year. In order to increase capacity in our acute hospitals, €1.4 million of that has been allocated to open a new emergency department in University Hospital Limerick, and a further €1 million has been allocated to the opening of a new 75-bed ward block in University Hospital Galway.

The setting of budgets for individual hospitals and hospital groups, including the allocation of the remaining €6.6 million of new development funding, is currently being finalised by the HSE as part of the development of hospital group operational plans. New developments to be funded from the €6.6 million include additional ICU and HDU beds at Cork University Hospital, cardiology services at Waterford University Hospital, phase 2 of a new AMAU for Portlaoise Hospital, implementation of the new cancer strategy, which we should hopefully publish later this month, and implementation of the all-island paediatric cardiology service.

My Department is currently engaging with the HSE with respect to finalising the funding allocations associated with these new developments. The 2017 HSE national service plan outlines the HSE's need during 2017 to continue to pursue increased efficiency, value for money and budgetary control in delivering safe and effective healthcare services within its budget allocation. The HSE's decision not to appeal the 2015 Employment Appeals Tribunal ruling on consultant contracts will not impact on new development funding. The Employment Appeals Tribunal award will be met from existing resources and finance allocations. My colleague, the Minister for Public Expenditure and Reform, has set out the broader context for that.

Deputy Billy Kelleher: It is extraordinary that in the overall budget the Minister talks about

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€459 million in headline figures and €180 million to address the ageing demographic profile in our acute hospital system. However, when one strips it all away we are talking about €9 million of additional funding to expand services. In other words, therefore, it is €9 million moving beyond where we currently are. By any stretch of the imagination, that will have a profound impact on the capacity of hospitals to cater for what will happen in the year ahead. It is already transpiring. There are 601 people on trolleys today, 1 February 2017. It is the third highest figure in the history of the State. That is where we are. The idea that we can continue to say we have an expanded budget to cater for additional demand is wrong. The Minister must know in his heart and soul given the budget passed last year that the HSE service plan is already now a mythical creature. As we stand here on 1 February, we know we will have continued waiting lists, outpatient and inpatient, and people on trolleys because of inadequate funding for the acute hospitals system.

Deputy Simon Harris: That is entirely incorrect. In the past, Opposition spokespersons on health would have been very critical of a HSE service plan that did not adequately set aside resources for demographics. We cannot talk about existing levels of services as though that does not impact on people. This is about trying to prepare the health service for the fact that more people will need health services next year and the year after as our population both grows and ages. Before we start adding additional services, I have a duty as Minister for Health to ensure that we fund adequately existing levels of service based on demographics. Words like “mythical” which the Deputy used would much more appropriately apply had I closed my eyes, blocked my ears and pretended there were no demographic pressures.

As the Deputy knows, there is much more than €9 million in the budget for developments for health services when one goes beyond the acute hospitals sector. I note the area of mental health, which is my colleague, Deputy McEntee’s area. Deputy Kelleher referred specifically to waiting lists and we have the first ring-fenced budget for waiting list initiatives since the onset of the recession. I know Deputy Kelleher is very supportive of those initiatives and, indeed, proposed many of them. Funding for extra disability services has also been provided. As such, it is not just €9 million for new services. It is €9 million out of €118 million more for the health service in our acute hospitals sector and there are many more developments in primary and social care also.

Deputy Billy Kelleher: I am trying to be helpful to the Minister by highlighting the deficiencies in the HSE service plan and the inadequate budget provided to him by the Government for health care in our acute hospitals system. This is primarily about the acute hospitals system itself. An additional €118 million is being made available to deal with the Lansdowne Road agreement and demographics. They are costs that should always be factored into the HSE service plan. For a number of years, the demographics were not being factored in. I accept that. However, in the context of new and additional treatments, procedures and service expansion beyond the demographic assessment, only €9 million is there. That will not deal with anything other than that which has already been assessed as going to come through the doors of hospitals due to demographic pressures. That is the reality. All that the Minister is providing for additional services above and beyond the demographics and the Lansdowne Road obligation is €9 million.

Deputy Simon Harris: I appreciate Deputy Kelleher’s helpfulness but that is simply not the case. For whatever reason, he is ignoring the reality that in addition to that €9 million, €20 million has been provided specifically for the NTPF to drive down waiting lists to more acceptable, albeit still high, levels by October 2017. It is intended to have no one waiting longer than

15 months for any procedure, whether inpatient, outpatient or day case. The Deputy is ignoring the fact that there is funding in the budget for 1,000 additional nurses. If we want to improve services in our acute hospital setting and across the health service, we need more nurses. The Deputy acknowledges the need for a bed-capacity review, on which we agree, and the work being undertaken to have it ready for the mid-term capital review. If we are serious about breaking the cycle of overcrowding that every Minister for Health has experienced in the last two decades, we will have to do something different on bed capacity. The Deputy's response ignores the fact that we are working actively and have started engagement on a new GP contract instead of operating off a 44 year-old contract which is out of date. A new GP contract will actually shift services decisively from the acute hospital setting into primary care. As such, there is a great deal more in the HSE service plan than just €9 million in addition.

Sale of State Assets

29. **Deputy James Browne** asked the Minister for Health the plans in place for the sale of a hospital (details supplied); if the funds raised by the sale will be used for improving mental health services; and if he will make a statement on the matter. [4908/17]

Deputy James Browne: My question is on the plans in place for the sale of St. Senan's Hospital and whether the funds raised will be used to improve mental health services.

Minister of State at the Department of Health (Deputy Helen McEntee): The HSE has recently offered the property and farmland at St. Senan's Hospital in Enniscorthy for sale in two lots. Lot 1 comprises the vacant building which is about 130,000 sq. ft., or 12,077 sq. m., in size and circa 45 acres. Lot 1 will be sold by private treaty. Lot 2 comprises about 44 acres of land and will be auctioned unless previously sold. Given its unusual size, previous use and layout, It is difficult to identify what a recovering property market will pay for these lots. However, the guidelines published online and by the HSE set out that lot 1 has a guide price of €780,000 and lot 2 has a guide price of €63,000.

New replacement accommodation has already been delivered for all the mental health care services provided previously from St. Senan's and the delivery of health services has been discontinued at the St. Senan's site. The use of the sales proceeds from these disposals will be subject to sanction from the Department of Public Expenditure and Reform. It is intended that the proceeds of the sale of this property will be invested in much needed mental health and other facilities. Details will be devised and agreed in the context of overall capital plans.

Between 2011 and 2016, about €23 million has been raised by the HSE from the sale of surplus assets, which was €2 million to €6.8 million depending on the year. With significant additional funding from the Exchequer, sanction was obtained from the Department of Public Expenditure and Reform to invest these proceeds in mental health facilities, including new builds, refurbishments and upgrades. That sets a precedent. As Minister of State with responsibility for mental health, I will advocate that any funds raised from the sale of St. Senan's will be invested back in mental health accommodation rather than in service delivery.

Deputy James Browne: I am somewhat comforted by some of what the Minister of State said. St. Senan's Hospital was built in 1868 and has been an iconic building in Enniscorthy, County Wexford, in and of itself as well as for staff, patients and their families over the last 150 years. It was closed down as part of A Vision for Change on the understanding that the facili-

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ties would be put into the community. There was also an understanding that an emergency unit would be placed in either Enniscorthy or Wexford town as part of the emergency department. It is critical but also it would be a fitting tribute to those who served as staff as well as to patients and their families that the money would be ring-fenced for mental health. That would also be in line with previous promises that the money would be kept in Wexford. It would provide additional accommodation for those who need access to emergency services for which they currently have to travel to Waterford or up to Wicklow. For a county of 150,000 people and a further summer population of 150,000, those services are needed.

Deputy Helen McEntee: As the Deputy outlined, recommendations were made under A Vision for Change to close St. Senan's. Following that, huge investment was made in the county of approximately €11.5 million which has resulted in a 50-bed mental health community nursing home on the grounds of Wexford General Hospital, a 13-place high support mental health hostel in Melview House, Enniscorthy and a ten-bed crisis housing facility in Enniscorthy to add to various other facilities. Recently, I visited Wexford with Deputy Browne and my colleagues, Deputies Paul Kehoe and Michael D'Arcy, and the local council. I also met staff in Tower House, a new mental health facility representing a further €3.5 million investment through the local authority and also the vocational education committee. Much work is going on and a lot of services have been provided. I agree that there needs to be continued investment in the area. As Minister of State with responsibility for mental health, I intend that any assets sold off results in the funding going back directly into mental health.

Deputy James Browne: I welcome those words because there is a lot of anger and frustration even though many facilities have been put in Wexford by the previous Fianna Fáil Government and the previous Fine Gael-Labour Party Government. I appreciate the Minister of State's intentions. However, an emergency department is desperately needed down in Wexford. While the Minister of State cannot answer for the Department of Education and Skills, I ask that the Department of Health and the HSE are open to convincing the Department of Education and Skills to purchase the property for use as a second or third level education facility. It would be fitting for the town of Enniscorthy and the county of Wexford that the building would remain in public use for the further benefit of the local community.

Deputy Helen McEntee: We need to keep our options open here. Lot 1 will be sold by private treaty and the property will be auctioned off. We still do not know what the outcome of that will be. We are talking about providing services across the board, not just in County Wexford, on a 24-7 basis.

The HSE is developing a plan as to what a 24-7 service would look like. We know that out of the 17 mental health areas, nine have full seven day a week services and seven have partial seven day a week services. The gaps need to be identified in order for a 24-7 service to be rolled out.

I again thank the Deputy for raising the issue. It is important that we continue to invest, not just in developing our services and staff but in our facilities, in order to make mental health a priority.

Health Services Funding

30. **Deputy Gino Kenny** asked the Minister for Health if, in view of the record number of acutely ill persons waiting on trolleys in emergency departments in January 2017 and the threat of strike action by nurses due to unsafe staffing levels, he will allocate emergency funding of €1.2 billion to urgently address the deficits in hospital beds, medical staffing and primary care services in the health service; and if he will make a statement on the matter. [4857/17]

Deputy Gino Kenny: I ask the Minister for Health whether, given the record number of acutely ill people who are waiting on trolleys in emergency departments in January this year and the threat of strike action by nurses due to unsafe staffing levels, he will allocate emergency funding of €1.2 million to address this problem urgently.

Deputy Simon Harris: I thank the Deputy for the question. On budget day 2017, the Oireachtas approved gross expenditure of €14.606 billion for the health services, which is the highest level ever, demonstrating the Government's commitment to investing the gains from a recovering economy in a better health service. The provision for this year represents a 3.5% increase on the final projected 2016 outturn. The Health Vote for 2017 has increased by 9.4% over the 2015 outturn, recognising the Government's commitment to providing a health service that seeks to improve the health and well-being of the people.

The additional funding secured will continue to support the health service to provide the optimum level of safe services for patients within the budgetary limits. However, there are still real fiscal challenges facing the health service. Health care demands continue to rise due to our growing and ageing population, there is an increase in the incidence of chronic conditions and advances in medical technologies and treatments which are good for patients but come at a cost in terms of having a limited budget.

Accordingly, we must continue to focus on the effective use of limited resources and the management of funding made available by the Oireachtas. In the past, the health service did not manage its budget and the first call on any extra resources went into a black hole. We have managed to avoid that this year and all of the additional resources can be used for additional health services and demographic pressures.

On 20 October 2016, the HSE was notified of its maximum level of expenditure for 2017. The level of health services to be provided within this available funding is set out in the HSE's 2017 national service plan. The allocation of additional funding to the health services is a matter for the Government and the Oireachtas, operating within the EU fiscal rules. It is fair to say that the Government used all of the fiscal space available to it, and health received a substantial increase in its budget as part of this.

This Government will continue to prioritise the needs of those requiring health services in determining the annual budget. This is evidenced by the provision of an additional €977 million in this year's allocation to the HSE compared to the original allocation for 2016. Perhaps in my response to the Deputy's follow-up question I will make the point that the level of funding is not the sole factor; we also have to consider how the money is spent within the health service.

Deputy Gino Kenny: This is not a perennial problem; it runs much deeper than the yearly crisis that is generated. I want to differentiate between the political and the personal, because that is important. I am sure the Minister and everybody else in the House does not want to see

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anybody on a trolley, but it happens. At one stage this year, 600 people were on trolleys. They are ordinary people who paid taxes and try to live a good life, but are sick and sought help from the Irish health service. It is an embarrassment, as a citizen of the country, to see people on trolleys waiting for basic health services.

I said I do not want to be personal, but rather political. The Fine Gael Party has been in government for the past six years and has had two previous Ministers for Health who failed abjectly. The Minister should be embarrassed to be a part of Fine Gael, a party that has let down many people in the country who paid tax and yet have to suffer.

Deputy Simon Harris: I am very proud to be a member of Fine Gael. In my engagement in the House, I always try to not be partisan because I am conscious that many different people from all parties have stood in this position as Minister for Health over the past number of decades - not yet from Deputy Kenny's grouping but that may happen - and have faced similar challenges to those that I face this January and February. I can engage in political partisan talk, and I am well able to do so, but it will not serve the substantive issue.

Health services in Ireland, the UK and Northern Ireland, as well as many other countries, have faced significant pressures during the winter period. We need to have a discussion on what we will do to make sure that we do not see the same challenges next winter and in subsequent winters. I am convinced that if we keep doing the same things, namely, increasing the level of funding and the Minister of the day announcing more budgets, we will not break the cycle. Solving this problem will involve doing something different.

That is why I am a great believer in the work of the Oireachtas committee to come up with a ten-year strategy that removes party politics from the issue and provides a level of certainty. That is why we need a bed capacity review. How many beds do we need? We have not built a new hospital in this country since 1998. If I told the Deputy that we have not built any new schools since 1998 he would not be surprised that there were not sufficient places for school-children. We need to determine what to do differently in terms of bed capacity, recruitment and so on.

Deputy Gino Kenny: I hope next year and the year after the Minister will be able to say there are no patients waiting on trolleys. The situation is very serious. Let us get down to the facts. This problem is also the fault of Fianna Fáil. Some 1,600 beds have been taken out of the Irish health service over the past nine years. Of course that would result in a crisis.

Worse than that is the morale of the accident and emergency staff, who are the best trained and motivated staff in the European Union. They are well qualified, but are demoralised by cuts in the health service and seeing people who could be their brothers and sisters on trolleys.

The Minister has the power to solve this issue. It is not rocket science. There is a solution to every problem. The solution to this problem is to provide more beds. The Minister should stake his claim and say there will be no trolleys on corridors in the next 18 months. If he can do that, he will go down in history.

Deputy Simon Harris: I appreciate the Deputy's bona fides and we share a desire to fix this issue. I agree that the staff in our health service are incredible and are doing incredible work, and have done so over the past number of years with fewer colleagues standing beside them on the wards. That is now changing.

Since I became Minister for Health, we have increased the health budget not once but twice. We have put in place dedicated funding for waiting list initiatives. We are recruiting more staff. We are not cutting the health service budget.

I have to be honest with the Deputy. I have been in the job for nearly nine months. It is about how the money is spent. If we think that the answer is to believe that everybody needs to go to an acute hospital for every service, that we cannot do more in primary care and every time a new Minister for Health comes into office he or she should start changing the plan the health service will not work.

The health service needs a ten-year plan. That is why we have a cross-party committee, on which the Deputy's colleague, Deputy Barry, sits. It is due to report in April. That is why I am committed to working with the committee to implement the plan so we can collectively say to the citizens of this country that we have a roadmap for the health service, it will take ten years to get there, here are the milestones and here is how we will pay for it.

Home Care Packages Provision

31. **Deputy Thomas Pringle** asked the Minister for Health his plans to introduce a home care scheme along the lines of the nursing home support scheme; when the consultation will start; when he expects to have a scheme in place; and if he will make a statement on the matter. [4859/17]

Deputy Thomas Pringle: This question relates to the recent announcement that the Minister intends to start a public consultation on the development of a home care scheme along the lines of the nursing home support scheme. I would like to hear further views on it.

Deputy Helen McEntee: It is Government policy that long-term nursing home care should be a last resort and we want to develop home care services to provide a more viable alternative to nursing home care for a greater number of people. Traditionally, home care was viewed as providing a lower level of support than residential care and not as an alternative to it. Increasingly, however, it is considered possible to support many people to continue to live at home who would previously have gone into residential care. That is clear when we consider the length of stay of people in nursing homes, which has changed from around six or seven to two years. People are entering nursing homes much later in life, possibly with more complex needs. This requires an increase in the amount and intensity of home care, and more effective integration with other supports including nursing, therapies and other primary care services.

Arrangements for home care have developed over the years with a significant local focus and, unfortunately, there is considerable variation in access to services in different parts of the country. The services people in Meath receive may be different to those people living in Donegal receive. The HSE is incrementally developing a more consistent and coherent system of service provision. The service plan for this year sets a target of 10.57 million home help hours to support 49,000 people, including 16,750 home care packages and 190 intensive home care packages.

It is my view and that of the Government that we need a stand-alone funding scheme designed for home care that recognises its particular characteristics together with regulation of home care services. A significant amount of detailed preparation needs to be done, and is cur-

rently under way, before final decisions are taken on the form of a home care scheme and the regulation of these services.

Last year, the Department commissioned the Health Research Board to carry out an evidence review of international approaches to the regulation and financing of home care services. The four countries examined were The Netherlands, Scotland, Germany and Sweden. The reason they were chosen was because of the type of framework they have and what it is that we are looking to apply here. The report is going through its final stages of being peer reviewed and will be published shortly. The Department is also undertaking a mapping exercise of current service provision nationally. This will take into account the scale and diversity of services funded by the HSE. This work will be used to identify major policy options for a new statutory home care scheme around the areas of regulation, financing, assessment and eligibility.

Once this is completed, a public consultation will be launched to allow stakeholders, including older people themselves, their families and healthcare workers, to express their views regarding a new home care scheme. It is my hope and intention that the consultation will be launched in May of this year.

Deputy Thomas Pringle: I thank the Minister of State for her response. I wonder about her figures on the length of stay of those in nursing homes. ALONE's figures are that 35.4% of those in long-stay beds have low to medium care requirements, which is a huge proportion of those in nursing homes. This is a huge cost to the State. They could be cared for at home and, in many cases, would wish to be cared for at home. It seems that there has been a huge growth since 2004 in the number of low dependency residents in nursing homes. This is bad public policy and bad for the residents themselves.

It is vitally important that home care would be supported more fully. As the Minister of State stated, more than 4%, or nearly twice the national average, of people in my county of Donegal are cared for at home. Families need the additional support to ensure they can do this. It is also far more cost effective than the nursing home support scheme. It is therefore vitally important that we would have this scheme.

I welcome the fact that the consultation will start in May but I press on the Minister of State that it should not be a consultation to replace what is already in place in terms of home help hours and home care packages.

Deputy Helen McEntee: As we develop a new scheme, it is important to continue to invest and see our funding increase and the Government has committed to continue its investment. This year, we will see €30 million of the €40 million announced for the winter initiative go into our home care packages, with an additional €10 million on top of that. The nursing home support scheme, which took seven years to devise and has a budget of more than €930 million, is a scheme for residential care. We need to ensure that those who are entering the nursing home support scheme cannot be cared for or provided with that support at home. The difficulty we face is that the demand far outweighs our ability to provide the support at home. There is an urgency to it, but it is important that we do this right. Some 70% of home care is currently provided through an informal arrangement, with private providers and family members, which is why the public consultation is so important. The other 30% is provided through the HSE.

Deputy Thomas Pringle: The reason the nursing home support scheme is oversubscribed is probably the lack of availability of home care packages. It is a little haphazard. Currently

families struggle to get increased levels of support that would enable them to keep their elderly at home. Many would take that decision. I do not think that County Donegal, with 4% of its elderly people being cared for at home, is that unusual. If the supports were available, we would see far higher levels of home care throughout the country. I welcome the fact that the Minister of State is starting the consultation. I hope that it will not take seven years to develop the scheme and that the scheme that is developed will facilitate families and the elderly and not simply push them into the hands of private operators.

Deputy Helen McEntee: As Minister of State with responsibility for older people, I stress that my priority and the priority of the Government is to ensure that older people can remain with the people that they love and in their homes and communities for as long as possible. The difficulty we currently face is that there is no statutory scheme. There is no framework for the provision of home help. While it has been developed over the years, it is very much on a county-by-county basis. It is therefore important that we provide a framework and ensure that it is sustainable, equitable and regulated in an appropriate manner. This will take time but I am also conscious that it cannot go on for seven years. We certainly will not allow that to happen.

Other Questions

Hospitals Funding

32. **Deputy Alan Kelly** asked the Minister for Health his plans for Our Lady's Hospital in Cashel in view of the volume of capital investment in the facility. [4409/17]

Deputy Alan Kelly: The date 24 October will long live in the Minister's memory because it was the day he visited the, for want of a better phrase, "phantom hospital" in Cashel. By any standard, it was bizarre, and I think the Minister acknowledged that fact. The hospital being visited by the Minister for Health did not have a single patient. A huge amount of funding has been put into the hospital and that spend will come before the Committee of Public Accounts, of which I am Vice Chairman, in the coming months. However, the real issue is that we have an empty state-of-the-art hospital. Following the agreement reached between the Cashel hospital action group and the health board as a result of the 1996 High Court case, many promises were made by many predecessors of all political colours on the services this hospital would provide, but all those promises have fallen by the wayside. The hospital in Clonmel has one of the worst overcrowding situations in the country, yet up the road we have this incredible facility. Will the Minister tell us today of a plan for this hospital?

Deputy Simon Harris: That day is etched in my mind because what I saw when Deputy Kelly showed me around was a beautiful facility that was not being fully utilised. The Deputy knows the history better than I, but Cashel Health Campus in County Tipperary, which includes Our Lady's Hospital, provides mainly primary care services. There is a small residential facility on the site, together with other services including day and outreach services. The residential unit, which includes elderly, mental health and intellectual disability beds, is currently fully occupied.

The development of the campus as a centre for non-acute health care services arose from a decision by the former South Eastern Health Board to centralise acute hospital services for the

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south Tipperary area on one site in Clonmel. This took place in 2007.

This development of the Cashel campus occurred over two phases. Phase one of the construction work was completed by the HSE in 2009 at a cost of approximately €9 million, which it assures me was within budget. It focused on new residential facilities, including elderly care, mental health and intellectual disability beds, all of which are occupied.

Phase two concluded in 2011 and, according to the HSE, also came within budget. It tells me it had a budget of approximately €14.5 million. Phase two was focused on facilitating day and outreach services in the former Our Lady's County Surgical Hospital. The Cashel primary care team is based at the campus and a range of services are provided on and from the site, including physiotherapy, occupational therapy, public health nursing, social work and disability services as well as home help co-ordination and community mental health nursing. Upgraded space for the minor injuries unit was also provided for in phase two. Other services include the south Tipperary community intervention team, of which the Deputy will be aware, which is a nurse-led service supporting both early discharge and hospital admission avoidance. There is also an ambulance station located on the campus.

That is the history, but I agree with the Deputy - I am going off script here - that there needs to be a plan to do much more at the site. This is why I instructed the HSE to come up with one. While South Tipperary General Hospital in Clonmel is under significant pressure on an almost ongoing basis, we have this fine facility in Cashel.

On spare capacity within the building, and acknowledging what is going on within it, CHO5 in conjunction with the acute hospital south west group has now developed a vision for the future of service provision in an integrated way which would be based in Our Lady's Cashel campus and, in particular, the old building. This proposal would see the use of areas for the purposes of day hospital assessment services, extended diagnostics and outreach rehabilitation services, which would work in conjunction with both community services and hospitals, provide alternative pathways, particularly for older people, and respond to the current emergency department pressures. This is where we need to get to. The proposal is still being discussed through the ongoing winter initiative weekly meetings that I chair. I believe that these developments would support the acute hospital in south Tipperary in addition to developments that should take place in Clonmel.

An Leas-Cheann Comhairle: The Minister has gone well in excess of his time.

Deputy Simon Harris: I apologise. I can come back with more detail on it.

Additional information not given on the floor of the House

I have been assured by the HSE that it will continue to explore and maximise the ongoing and future use of the Cashel campus and that services provided will continue to play a significant role in the provision of overall health services within the south Tipperary area. I have requested that the HSE explore what additional supports Our Lady's Hospital in Cashel can provide in alleviating pressure in South Tipperary General Hospital, including pressure on the emergency department. This work is ongoing.

Deputy Alan Kelly: I thank the Minister for his reply. There is welcome news in it given that a plan is to be put in place. However, let us get down to brass tacks. The hospital in Clonmel is under incredible pressure and the accident and emergency unit is overcrowded. It does

not have enough space. In the past few weeks, the HSE turned down a request for extra nurses and staff. It turned it down, despite the proposal having been made by the HSE management and nurses together in a process that was independently chaired by Professor Jonathan Drennan. We have heard all this before. Given commitments that there will be a vision for the two developments in Clonmel, I hope they will be part of the future capital plan the Minister will announce. Two future developments are ongoing there regarding upgrading computerised tomography, CT, facilities to bring in more trolleys and regarding a temporary accommodation facility. However, the taxpayers of Tipperary do not understand why the minor injuries unit in Cashel is not upgraded to admit more people-----

An Leas-Cheann Comhairle: Go raibh maith agat.

Deputy Alan Kelly: -----who are critically ill. They also do not understand-----

An Leas-Cheann Comhairle: I thank the Deputy.

Deputy Alan Kelly: -----why there cannot be some form of step-down facility-----

An Leas-Cheann Comhairle: The Deputy will have a further opportunity.

Deputy Alan Kelly: -----in order to alleviate the pressure.

Deputy Simon Harris: The fine people of south Tipperary are not alone in not understanding it because I do not understand it either. I did not make the decision in 2007, and neither did the Deputy, that the site at Cashel should be exclusively used for primary and social care. I am sure he wants to acknowledge, as I do, the hard work that is ongoing there. We had an opportunity to speak to the people who work there, and I acknowledge their work, but there is spare capacity in Cashel to do more. The Deputy can say correctly that people have heard this before, but what they have not heard before is that I as Minister for Health expect more to be done in Our Lady's Hospital in Cashel, that I have instructed the HSE to come up with a plan to do more and that the HSE has now come back with what I believe are the beginnings of a plan which sees the potential to do more in Cashel, particularly in day hospital, day assessment and diagnostic care and care of the elderly. This is in addition, as the Deputy said, to the additional measures that need to be taken in Clonmel, some of which are already funded in the winter initiative. As a former member of the Committee of Public Accounts, I welcome the fact that the committee will explore this issue. Regarding the industrial relations issue, while I note the Deputy's concerns, a process is ongoing through the IR mechanism and I do not wish to comment on that.

Deputy Alan Kelly: It is not completely an IR issue, it is a fact that the hospital does not have enough nurses, and the Department of Health needs to acknowledge that, as does the HSE. It is all very well to say the hospital will turn down the request for nurses, but I ask the Minister at least to engage at a level at which we will have a decision sometime soon because the place cannot take it at the moment.

I thank the Minister for his reply. When the decision was made to create the hospital as it is in Cashel, we were promised 25 geriatric assessment unit beds, 20 rehab beds, 15 nursing home convalescent beds, a palliative care unit, etc., so the Minister knows why the people are concerned and do not necessarily believe this will happen. What happens in Dundalk and Drogheda works well. The clinicians in Clonmel have a concern about going to Cashel - I understand that - but clinicians are only one part of the equation. We need to have a plan in which

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the people will believe, so I ask the Minister to not alone stress the importance of this matter to the HSE, which he has done, but also to publish a plan for this. I am anxious to know where the funds will come from. We need a plan, and I encourage him to publish one. Not alone that, I ask him to do us the service of meeting-----

An Leas-Cheann Comhairle: I call the Minister.

Deputy Alan Kelly: -----me and other public representatives-----

An Leas-Cheann Comhairle: Deputy-----

Deputy Alan Kelly: -----with the HSE in the near future-----

An Leas-Cheann Comhairle: I have been more than reasonable. I call the Minister to respond.

Deputy Alan Kelly: -----when this plan is published.

Deputy Simon Harris: The answer to the last part of the Deputy's comments is that it is a very good idea and I would be delighted to do so. He can therefore take it as given that we will have that meeting of the Tipperary Oireachtas Members. I ask that we give it a few weeks to allow-----

Deputy Alan Kelly: We should meet when there is a plan.

Deputy Simon Harris: -----the work started already to be done. I agree that there should be a published plan. I will not stand up here and suggest on the record of the Dáil that there is a funded plan for Cashel because there is not. However, there is a review, as the Deputy knows, of capital planning and there are further opportunities to include additional capital projects.

Deputy Alan Kelly: It is rather current expenditure that is required.

Deputy Simon Harris: That is possible. Current and capital may be required. The Deputy used a very good example of a network in Dundalk and Drogheda, and there are other hospitals in this regard. The whole idea of hospital groups is that different things are done in different hospitals and different hospitals have different strengths. The decision was made in 2007 not to classify Our Lady's Hospital Cashel as a hospital but rather as a primary care unit. I believe this was a mistake and needs to be rectified, so yes, we should publish a plan for Cashel and Clonmel working together and yes, we will have a meeting of the Tipperary Oireachtas Members.

With regard to the industrial relations point, there is ongoing dialogue with the INMO regarding not just issues in Tipperary, but also wider issues ongoing-----

Deputy Alan Kelly: I hope there is a decision soon.

Deputy Simon Harris: -----as we speak. I hope there is a decision soon too.

Deputy Alan Kelly: The hospital needs nurses.

An Leas-Cheann Comhairle: Question No. 33 is in the name of Deputy Seán Crowe, who has nominated Deputy O'Reilly to take it, and the Ceann Comhairle has approved.

Dáil Éireann
HSE Expenditure

33. **Deputy Seán Crowe** asked the Minister for Health the total subventions paid from the public HSE budget to general practitioners by supplement for employment of staff; and if he will make a statement on the matter. [4570/17]

Deputy Louise O'Reilly: The question is very simple. I ask the total subvention paid from the public purse to GPs on an itemised basis if possible. I do not expect the Minister to read out all the figures but to give us a flavour of them, if he would be so good.

Deputy Simon Harris: If I do not have adequate information here for the Deputy, I will revert to Deputies O'Reilly and Crowe.

The development of primary care is central to the Government's objective to deliver a high-quality, integrated and cost-effective health service. The programme for Government, as Deputy O'Reilly knows, commits to this decisive shift within the health service towards primary care in order to deliver better care closer to home in communities across the country, and I recognise that general practice has a key role to play in this context.

GPs contracted under the general medical services, GMS, scheme provide services to people who hold a medical card or a GP visit card and are remunerated for these services primarily on a capitation basis, with a range of additional support payments and fees for specific items of service. In 2015, the HSE made payments of approximately €464 million to GPs for the provision of general medical services for about 2.17 million eligible people, of which €81.6 million represented contributions towards the employment of support staff. Last year, total payments to GPs under the GMS scheme were in the region of €500 million, of which €85.3 million represented contributions towards the employment of support staff.

The Government is committed to ensuring that patients throughout the country continue to have access to GP services and that general practice is sustainable in all areas into the future. I want to ensure that existing GP services are retained and that general practice remains an attractive career option for newly qualified GPs.

I am cognisant, as the Deputy and everyone else will know by this stage, of the need for a new GP services contract which will help modernise our health service and develop a strengthened primary care sector. Health service management has already progressed a number of significant measures through engagement with GP representatives. The GP contracts review process, which has recently recommenced, will seek to arrive at further measures aimed at making general practice an attractive, fulfilling and rewarding career option into the future.

Deputy Louise O'Reilly: The Minister talks about wanting to make general practice an attractive option for GPs. It would be marvellous if it were an attractive option for practice nurses as well. A total of €81.6 million is spent on staffing, and a further several million - more than €21.5 million, I think - is spent on fee per procedure or fee per item. Does the Minister not think it would make more sense if the HSE directly employed those practice nurses and, to the extent possible, did away with the fee per item? I recall when other health professionals were being paid on a fee-per-item basis that there was much hand-wringing from Fianna Fáil, which I believe was in Government at the time, because the fee per item was not deemed to be good value for the public purse. This is an area where fee per item is rampant. Will the Minister give some consideration to the direct employment of these practice nurses?

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Deputy Simon Harris: The short answer is “I will”. I know the Deputy’s views on this, and we have had an opportunity to discuss them a little before. I refer to the question as to who employs the staff within primary care as it is developed. I will be influenced by the views of the cross-party group in this regard and the report of that group. The Deputy obviously recognises, as must I, that we currently operate under a GP contract. Schedule 8 of Statutory Instrument No. 233 of 2016 makes provision for the payment of subsidies to GMS contract holders towards the cost of employing support staff, namely, practice nurses, secretaries and practice managers. The rates of these payments are calculated according to a *pro rata* formula, whereby there is a sliding scale based on a patient panel size of 100 to 1,200 patients. The maximum payment rates apply where a GP has a panel size of 1,200 patients or more. As I said, this is set out in Schedule 8, which I will send to the Deputy. Each patient aged 70 years or over counts as two patients when calculating a GP’s panel size for the purposes of these allowance. Finally, where a GP qualifies for supports under the rural practice support framework, he or she is entitled to practice support subsidies towards the employment of a practice nurse, secretary and-or manager at the maximum applicable rate regardless of the size of the patient panel. I will reflect on the Deputy’s comments.

Deputy Louise O’Reilly: For example, the Primary Care Reimbursement Service, PCRS, data for 2015 indicates excisions, cryotherapy and diathermy - basically, the removal of skin lesions - amounted to 156,996 procedures at a cost of nearly €4 million. Given that there will be a renegotiation of the general practitioner contract, there is substantial scope to give direct employment to practice nurses and reform the way the process is paid for. I did not agree at the time when there was hand-wringing about the fee per item but I would be inclined to agree in this case that perhaps the fee per item is not getting the best value for money. The renegotiation of the GP contract gives the Minister and his team the opportunity to examine this.

Deputy Simon Harris: As I stated, I will reflect on the Deputy’s comments and the views of the Oireachtas Committee on the Future of Healthcare because getting this right is very important in terms of the development of primary care. I had the opportunity to address the annual conference of practice nurses recently and I heard from them some concerns about anomalies. They felt colleagues in most other settings across the health service have the possibility of engaging in educational opportunities, which they do not, and I have committed to engaging with practice nurses further on that. It is an important issue. My Department will also publish shortly policy proposals on the further development of the role of the public health nurse and engage with stakeholders and consulting in regard to that as well. Getting primary care right is absolutely about a new GP contract but it also involves a range of other health care professionals. We are at an early stage of the contract renegotiation and the Health Service Executive and the Department of Health have had initial engagement on the broad range of issues with two representative bodies of GPs. It is a very substantive body of work and I expect the negotiations to take the bulk of 2017.

Long-Term Illness Scheme Coverage

34. **Deputy Fiona O’Loughlin** asked the Minister for Health his plans to include Crohn’s disease on the list of long-term illness scheme; and if he will make a statement on the matter. [4627/17]

Deputy Fiona O’Loughlin: My question to the Minister concerns Crohn’s disease and its

first cousin, colitis, which is an incurable lifelong condition. There is a very strong case for that to be on the long-term illness list. We have one of the highest rates of these illnesses and it is growing. There are 450 young children with colitis, which is a matter of grave concern for us.

Deputy Simon Harris: I thank Deputy O'Loughlin for raising this important matter. The long-term illness or LTI scheme was established under section 59(3) of the Health Act 1970 and regulations were made in 1971, 1973 and 1975 specifying the conditions covered by the LTI scheme. There are no plans to extend the list of conditions covered under the scheme. For people who are not eligible to join the LTI scheme, there are other arrangements which protect them from excessive medicine costs. Under the drug payment scheme, no individual or family pays more than €144 per month towards the cost of approved prescribed medicines. There is a commitment in the programme for Government to try to reduce that maximum monthly threshold under the drug payment scheme and it is something I would like to do in future budgets. The scheme significantly reduces the cost burden for families and individuals with ongoing expenditure on medicines. People who cannot, without undue hardship, arrange for the provision of medical services for themselves and their dependants may also be entitled to a medical card. The Deputy is well aware of the assessment process for the discretionary medical card, which can take into account medical costs incurred by an individual or a family. Additionally, people may avail of a GP visit card, which covers the cost of GP consultations.

The LTI scheme is quite old and has not seen changes in many years. It is a scheme from the 1970s, with regulations from the early part of that decade. There are other ways in which we can try to address some of these issues. The €144 per month threshold of the drug payment scheme may be something we should look at in future budgets.

Deputy Fiona O'Loughlin: I accept the list has not been updated since the 1970s and the Minister has clearly indicated there are no plans to review it. That is not realistic and it fails to address the changing medical needs of the population we have now. The Ireland of today is very different to the Ireland of the 1970s and I fail to understand why it should be the Government's policy not to look at changing the list.

A 36 year old lady contacted me approximately three weeks ago who had been diagnosed with Crohn's disease 15 years ago. She continued with her life, working full-time, but when she had a child ten years ago, her condition deteriorated vastly. I accept there are different levels of illness. This lady does not have a medical card despite having a long-term illness. She should be entitled to that. Her husband works all hours but they genuinely cannot afford the medical bills they have. The Minister mentioned the €144 threshold for the drug payment scheme, which is still quite an amount of money that is beyond many people.

Deputy Simon Harris: Yes.

Deputy Fiona O'Loughlin: This lady's two-year illness benefit concluded in December 2016. There are many people like her. I mentioned some of the figures earlier. There are 20,000 people in the country seeing an impact, with 1,000 new cases being identified every year.

Deputy Simon Harris: I am very much aware of the plight of people with Crohn's disease in Ireland as I suffer from the illness. I can understand how debilitating it can be to so many people in this country. I understand the financial pressures for families on low and middle incomes in meeting costs of medication. I make the point to the Deputy that in considering

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how we can better support people with Crohn's disease, there may be better places to look than the long-term illness scheme. This view has been adopted by successive Ministers and Governments. The scheme has been in place since the 1970s and has dealt with a number of conditions, including acute leukaemia, and terms we do not use in this country any more, such as mental handicap, cerebral palsy and mental illness. It covers a range of other issues as well, such as multiple sclerosis and cystic fibrosis.

Working together and examining the cap for the drug payment scheme, which is a commitment in the programme for Government, is one way of addressing the issue. I would be happy to meet either individuals suggested by the Deputy or representative bodies to discuss the matter further.

Deputy Fiona O'Loughlin: I thank the Minister for his commitment to try to ensure that people suffering from this debilitating illness may have a better quality of life. It is very important for us to develop a national strategy to tackle Crohn's disease and colitis, as they have a devastating impact on the everyday lives of increasing numbers of people. I mentioned the 450 children in Ireland with colitis, and that represents a 90% increase in cases in children between 2002 and 2012. That is absolutely shocking. We need to have a strategy to deal with the issue.

A survey was conducted that identified the following key gaps in services to patients, which is very important. These are a lack of specialist inflammatory bowel disease nurses, lengthy waiting times for diagnostic tests and a lack of access to gastroenterology specialists and psychological services. I ask the Minister to take note of that and I wish him continued good health in dealing with the matter.

Today is Lá Fhéile Bríde and I wish a happy day to everybody.

Deputy Simon Harris: I wish a happy St. Brigid's Day to the Deputy as well. The Deputy makes a number of very important points. This condition seems to be rising in prevalence among the population, with an impact on people at a younger age. The Deputy mentioned statistics concerning children and that huge increase is quite revealing in that regard. It is not for me to give medical advice to people but there are a number of actions people can take to help manage that condition. How we can put public information campaigns and strategies in place is something on which I would be very eager to work with the Deputy.

Some of the Deputy's points on access to diagnostics, waiting times, etc., come back to how we deal with chronic disease management and whether we can do more of it in primary care.

3 o'clock This relates somewhat to the previous schedule about empowering GPs in primary care to help look after chronic disease management. That is instead of people not finding Crohn's disease or colitis until it is nearly too late and having seen a significant flare-up. I would be very happy to engage further with the Deputy on this and meet people to see how we can put better strategies in place.

An Leas-Cheann Comhairle: I suggest we next take Question No. 41 in the name of Deputy O'Reilly before reverting to the others. There is only one other Member in the House with a question tabled and that is Deputy Kelleher. We can take those two questions before reverting to the others. I am sorry to inconvenience the Minister but perhaps he can find the reply to Question No. 41.

Deputy Simon Harris: Does Deputy O'Reilly have permission to take Deputy Louise Mitchell's question?

An Leas-Cheann Comhairle: Yes.

Deputy Louise O'Reilly: Yes, I do have permission but I believe the Leas-Cheann Comhairle is asking if we can reverse the order of the questions. I do not mind. I am easy.

An Leas-Cheann Comhairle: To be fair, there is only one other Member in the House and there are approximately five questions outstanding. We can take those two and then revert to the original order. Is that agreed?

Deputy Louise O'Reilly: Does the Leas-Cheann Comhairle want to take the next question from Deputy Kelleher?

An Leas-Cheann Comhairle: Does the Minister have a reply to Question No. 41 with him?

Deputy Simon Harris: What is the question on?

An Leas-Cheann Comhairle: Question No. 41 asks about the number of elective surgeries cancelled.

Deputy Simon Harris: Yes, I have the reply to that question.

Health Services Data

41. **Deputy Louise O'Reilly** asked the Minister for Health the number of elective surgeries cancelled in each month to January 2017 inclusive; and if he will make a statement on the matter. [4549/17]

Deputy Louise O'Reilly: My question is fairly self-explanatory. I do not need 30 seconds to introduce it.

Deputy Simon Harris: I thank Deputy O'Reilly for giving me a chance to find the question and I thank the Leas-Cheann Comhairle for making sure we are all awake.

I thank Deputy O'Reilly for her question and fully acknowledge the distress and inconvenience for patients and their families when elective procedures are cancelled. Cancellation of elective procedures can occur for a variety of exceptional reasons, including because a bed or the clinical team is not available, the patient is unable to attend or because the patient may not be fit for surgery at the time.

Based on data provided by the National Treatment Purchase Fund, NTPF, collated from reports by hospitals, approximately 3,400 elective procedures, on average, are cancelled per month. In 2016 there were typically approximately 53,000 admissions to acute hospitals on a day case and inpatient basis per month.

Public hospitals need to plan, taking account of seasonal pressures and this is an area in which we need to get much better. The national emergency department escalation framework which was agreed with a number of representative bodies and management sets out procedures to be followed in hospitals during periods of high demand for emergency care to ensure that safe care is provided to all patients. The HSE intends to undertake a review of the escalation framework in the coming months to ensure its effectiveness. As the Deputy will know, part of that escalation framework is agreement that elective procedures will be cancelled.

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Reducing waiting times for the longest waiting patients is one of this Government's key priorities. In December 2016, I granted approval to the NTPF to dedicate €5 million to a day case waiting list initiative with the aim of ensuring that no patient will be waiting more than 18 months for a day case procedure by 30 June 2017. In addition, the NTPF will be working closely with my Department and the HSE to agree an approach to the remaining 2017 allocation, as well as planning the approach for the significant increase in the allocation to address longest waiting times in 2018.

The HSE is also currently developing a 2017 waiting list action plan for inpatient and day case procedures and for outpatient appointments to ensure that no patient is waiting more than 15 months by the end of October for any such procedure or appointment.

Written Question No. 82 includes a tabular statement setting out details of the number of elective surgeries cancelled from January 2016 to January 2017, broken down by month.

Deputy Louise O'Reilly: I am sure the Minister is as aware as I am that the full capacity protocol was initiated in one particular hospital on over 80% of the days in question, with 50% being the average across our hospitals. One of the things that happens when the full capacity protocol is activated is that elective procedures are cancelled. One of the other things that happens is that the people who have had their elective surgery cancelled when the previous full capacity protocol was initiated find themselves entering the hospital by the only door open to them, namely the door of the accident and emergency department. We are caught in a cyclical trap. We have elective procedures being cancelled and the people involved have to wait and wait, often in chronic pain. One would have to feel for the bed managers because very often it falls to them to make the phone calls telling people that they will not be coming to hospital for their operations.

Traditionally, surgical day wards were used as a safety valve but that has now become more of a permanent arrangement. I do not see any plan to reduce these waiting lists.

Deputy Simon Harris: There is a plan to reduce the waiting lists. I have outlined that plan and have also outlined the very specific target of getting the waiting times back to no longer than 15 months for outpatient, inpatient or day case appointments by the end of October. That is about as specific as I can be. The aim then is to enhance the target times further into 2018, recognising that we have €50 million allocated for waiting list initiatives in 2018 on top of the €20 million for this year. This will not all be done through the NTPF. It will involve the HSE developing its own waiting list plan - we have seen the progress it made in that regard last year - and the NTPF implementing its plan too.

As Deputy O'Reilly outlined, we have a system-wide escalation framework in place which has been agreed. The framework is aimed at making sure that when our acute hospitals experience overcrowding in their emergency departments appropriate measures are put in place. It is designed to support our hospital groups and community healthcare organisations, CHOs, in developing integrated escalation plans so that capacity and patient throughput is appropriately managed at a time of excess demand and the most acutely ill patients are seen. I take the point that it is an indication of the lack of adequate capacity. Indeed, it is the reason we need a bed capacity review, more beds and more staff within our health service. Bed capacity and recruitment are two key issues for the Department this year.

Deputy Louise O'Reilly: The Minister could put the bed capacity review to music and sing

it at this stage. We have not seen it yet but the Minister talks about it all of the time.

Deputy Simon Harris: It is not done yet.

Deputy Louise O'Reilly: The NTPF is just another sticking plaster in the Government's box of Band-Aid. It is not going to work. It has been proven not to work. I am not asking the Minister to take my word for it; Dr. Sara Burke will tell the Minister that it does not work and does not have any long-term impact. It only works in the short term. It might get the Minister a headline or two but that is about it.

It is regrettable that there is no plan to deal with this issue. There is nothing that will give people comfort while they are waiting. I spoke to a gentleman in Westmeath on Monday night who is waiting to have a hip replacement operation. I could see the pain etched into that man's face. His operation had been cancelled and he was given another date for April. He told me, however, that he has absolutely no faith that he will have his operation in April. The man can hardly walk. He is only one example of the hundreds of thousands of people right across the State who are waiting for care.

Deputy Simon Harris: There are far too many people waiting far too long for a procedure in Ireland. We all agree on that but what are we going to do about it? Just because Deputy O'Reilly keeps saying that I do not have a plan does not actually make it true. I have a plan. I have outlined that plan. It is funded to the tune of €20 million in 2017, with a further €50 million of funding for 2018. The Deputy might disagree with the plan or might not agree with the modality of it but I do have a plan. The Deputy can keep saying that I do not have a plan to reduce waiting list times. If she says it often enough it might even stick but it is not actually true. The plan is quite specific and it is going to reduce the length of time that people like the gentleman to whom Deputy O'Reilly referred are waiting in the Irish health service. Waiting times have become far too long in the health service. I concede that this is due to a lack of ring-fenced, targeted investment in waiting list initiatives over a sustained period of time.

On the bed capacity review, the Deputy has not seen it because it is still under way. We will have a very clear ask, by the time of the mid-term capital review, in terms of how many additional beds we need in the health service. It is not as simple as-----

Deputy Louise O'Reilly: What are the terms of reference of the review?

Deputy Simon Harris: I intend to brief members of the Oireachtas Committee on Health, including Deputy O'Reilly, on the review in the coming weeks and I would welcome her input.

An Leas-Cheann Comhairle: I am sorry to interrupt but I am trying to accommodate as many Deputies as possible. We will now move to Question No. 37. Deputy O'Reilly has been nominated to take other questions and I will get back to her. Deputy Thomas Byrne is next.

Home Help Service Provision

37. **Deputy Thomas Byrne** asked the Minister for Health the reason for the delay in providing home care services in County Meath. [4361/17]

Deputy Thomas Byrne: I will not delay the House. The situation in County Meath and many other parts of the country is that there are a lot of people who cannot get out of hospital

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or who are in need of home care but the home care simply is not available. Needs are being assessed and people are being told that home care will be provided but when it comes to the crunch, they cannot access it. I have received numerous representations on this issue, as have many other Deputies and I am sure the Minister has too.

Deputy Helen McEntee: As a fellow public representative in Meath, I can confirm that this is an issue that comes across my desk on a weekly if not a daily basis and not just because of my role as Minister of State with responsibility for older people.

To put the issue into context, the overall funding for services for older people this year will be €765 million. This includes additional funding for home care services which is aimed at allowing people to continue to live in their own homes, in their communities and with their families and also at facilitating the discharge of older people from hospitals. In this context, the winter initiative plan for 2016 and 2017 has yielded a significant reduction in delayed discharges with the numbers falling from a record high of 832 in October 2014 to just 436 at the end of last year.

The HSE's national service plan for this year provides for a target of 10.57 million home help hours to support about 49,000 people. It also includes the provision of 16,750 home care packages and 190 intensive home care packages for clients with complex needs, including clients with dementia who will be supported with co-funding from Atlantic Philanthropies under the Irish national dementia strategy.

It is fair to say that this represents a significant increase on home care in comparison to last year's service plan, which had a target of 10.4 million hours home help and 15,450 home care packages. This year's plan will see home help hours increase by 170,000 and home care packages by 1,300.

Despite this significant level of service provision, the demand for home care continues to grow. It is important to note that the allocation of funding for home care across the system, though significant, is finite and services must be delivered within the funding available. The level of activity and associated costs must be managed in each of the nine community health-care organisations, CHOs, in a way that ensures that those with the greatest needs are supported and that the overall expenditure on home care services by the HSE does not exceed the available funding.

County Meath, as Deputy Byrne knows, is part of CHO Area 8. The 2017 service plan provides for 1,260,000 home help hours and 2,373 home care packages in community health care organisation area 8, including 114 home care packages which, as Deputy Byrne stated, have been allocated to support the acute hospital system as part of the winter initiative. Applications are processed and supports are allocated promptly in line with the greatest need. Where resources are not immediately available, the approved applicant's name is added to the waiting list until such time as home care hours become available.

Deputy Thomas Byrne: What is the solution for people in need who are waiting for services? We all know the official line from the Health Service Executive. The Minister of State must deliver on the ground because these services are needed now. People are dying, while others are waiting or are stuck in hospital, which is the root cause of many problems. Will the Minister of State provide an answer for those people? When will they receive care?

Deputy Helen McEntee: I am aware of the difficulties being faced in County Meath, just

as I am aware of the difficulties being faced by people in counties Louth, Cavan, Donegal and every other county. It is for this reason that we are developing a home care scheme which will ensure we no longer have such a level of need. Demand currently far outweighs resources and capacity and we do not have a statutory framework to ensure the levels of services provided to people in County Meath are the same as those provided to people in County Donegal or any other area. The process of developing the home care service we hope to deliver is under way. Last year, the Department issued a report through the Health Research Board which examined the position in other countries with similar frameworks or population sizes. Following the publication of the report, we will open a public consultation process to allow people from County Meath and all other counties to have their say on what a home care support system should look like.

Deputy Thomas Byrne: While the strategy is being developed, people in County Meath and elsewhere are not receiving the home care service approved for them by the HSE. They do not know what is happening and they should receive an answer. I have made representations on their behalf through parliamentary questions. They badly need detailed answers.

Deputy Helen McEntee: It is important to stress that 1,260,000 home help hours and 2,373 home care packages, including 114 home care packages to allow people to be discharged from hospital, are being provided for community health care organisation area 8, of which County Meath forms a part. We now need to develop a system that will allow everyone to avail of a service that is uniform, regulated and fully funded. Until we have a statutory framework in place, we will not be able to provide such a service for anyone in County Meath or any other county. As the Minister of State with responsibility for older people, this is a priority for me. I want to ensure people in County Meath can continue to remain in their homes and receive support at home.

Questions Nos. 38 and 39 replied to with Written Answers.

National Children's Hospital Location

40. **Deputy James Lawless** asked the Minister for Health his views on the consistent objections being raised to the location of the new national children's hospital; and if he will make a statement on the matter. [4691/17]

Deputy James Lawless: My question relates to the choice of location for the national children's hospital at the St. James's Hospital site. This decision provoked controversy and a number of groups have made presentations to the relevant committee and contacted Members. Public confidence in the choice of site is not being helped by the lack of a detailed response to concerns expressed about the location. It would be helpful if these concerns were robustly addressed. Perhaps the Minister will be in a position to do so today.

Deputy Simon Harris: I thank Deputy Lawless for his question on this very important project and I accept the legitimate and strong feelings a number of people, including parents, have expressed about it.

The project to develop the new children's hospital is an extraordinary opportunity to enhance paediatric services for children. The granting of planning permission in April 2016 for the hospital, satellite centres and related buildings was a significant and very welcome milestone

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for the project. Independent reviews since 2006 have reaffirmed the importance of co-location of the paediatric hospital with a major adult academic teaching hospital. The Government decision in 2012 to locate the hospital on the St. James's Hospital campus was made in the best interests of children from a clinical perspective. St. James's Hospital has the broadest range of national specialties of all our acute hospitals and it is appropriate that the new paediatric hospital will be co-located on this site. In addition, the hospital has a strong and well-established research and education infrastructure, which makes it the hospital that best meets the criteria to enable the children's hospital to achieve our vision of excellence in modern paediatric practice.

Objectors to the location raise concerns primarily about access to the site. I reassure parents that the plans and design for the hospital recognise the need of most families to access the hospital by car, while noting that the campus is better served by public transport than any other hospital in the country.

While I am aware that not everyone agrees with the decision on the location of the hospital, further debate will not create consensus. My priority, as I have stated previously, is to make progress on the new hospital as soon as possible in order that we can ensure children, young people and their families have the facilities they need and deserve. An entire generation of children who were expected to benefit from a brand new national children's hospital have grown up without doing so.

Two paediatric outpatient and urgent care satellite centres will be provided at Tallaght and Connolly hospitals, respectively. Each of these centres will be projected to deal with 25,000 urgent care and 15,000 outpatient attendances each year. Each centre will provide consultant led urgent care by staff at the new children's hospital, with observation beds, appropriate diagnostics and secondary outpatient services, including rapid access general paediatric clinics.

Deputy James Lawless: While I appreciate the points the Minister made, I am not sure if they address the concerns raised by a number of groups, including the Connolly for Kids campaign. My party leader has also written to the Minister on this matter. I ask the Minister to respond specifically to a number of concerns about the St. James's Hospital site. With regard to parking and congestion at the site, it is anticipated that there will be 10,000 arrivals and departures at the new hospital using the already congested and narrow roads surrounding the site. It is predicted that this will produce traffic chaos. Evidence from Mr. John Smith, a retired paramedic and ambulance driver who was based at St. James's Hospital for 30 years, suggests the difficulty in accessing the site will lead to avoidable deaths of children. Concerns have also been raised about staff parking, with spaces due to be provided for only eight of every 100 members of staff in a shift. The modal shift from private to public transport required for the hospital to function, as outlined, has never been achieved in any organisation in the world and is, therefore, a bridge too far.

On the question of cost, in 2012, the former Minister for Health and Children, the then Deputy James Reilly, informed the Dáil that the cost of the new paediatric hospital would be €560 million. Five years later, the cost is projected to be closer to €1 billion or almost double the original estimate. This figure does not include information technology and fit-out costs.

The co-location of a maternity hospital has also been cited as a key argument in support of the decision. When is it envisaged that a maternity hospital will be completed on the St. James's campus? Where does it sit in the picture? We need answers to those specific questions.

Deputy Simon Harris: I note the Deputy's reference to a letter from his party leader. I understand the Fianna Fáil Party is supportive of the location selected and, like me and many others, wants us to get on with building it. I will try to answer the questions the Deputy raised. On the issue of parking, the design of the hospital has recognised the need of most parents to access the hospital by car. For this reason, 675 parking spaces have been provided for families based on current and projected future demand, and 325 parking spaces have been provided for staff. In total, 1,000 parking spaces will be provided, which is three times the number of spaces available for the three existing paediatric hospitals. The parking system will also allow families to reserve spaces ahead of arriving to the hospital and emergency drop-off spaces will also be provided.

The site chosen will not be changed because I want to move ahead and have the hospital built. With regard to the Connolly Hospital site, there is no guarantee that a planning application for the site would be successful. A report by An Bord Pleanála stated that arguments in favour of siting the hospital on a greenfield site on the M50 were flawed because they assumed unfettered access from a national primary route and on-site car parking. The report stated that transport policies did not support such a strategy and there was no guarantee in respect of congestion on the M50.

While we must move ahead and build the new national paediatric hospital, it is important to have ongoing engagement with parents on the issues the Deputy raises. We must ensure that those who are responsible for delivering the hospital convince parents of its benefits because we need the hospital. I recently visited Great Ormond Street Hospital in London. This is a fine, world class hospital with which we have great links, but it is certainly not located on a greenfield site.

An Leas-Cheann Comhairle: I offer my apologies to Deputy Louise O'Reilly. It has been brought to my attention that she has been nominated to take a number of questions. We will revert to Question No. 35 in the name of Deputy Denise Mitchell.

Deputy Louise O'Reilly: I thank the Leas-Cheann Comhairle. Perhaps we can work on improving communications between the Office of the Ceann Comhairle and the Leas-Cheann Comhairle because I went to the trouble of ensuring I could take these questions.

An Leas-Cheann Comhairle: I take responsibility.

General Medical Services Scheme

35. **Deputy Denise Mitchell** asked the Minister for Health the action that will be taken by the HSE to address a now common practice whereby general practitioners are charging GMS patients for diagnostic and routine blood tests; the recourse, other than making a complaint, available to patients that have been charged by their general practitioner for blood tests when they are needed; the way a refund can be sought; the action he will take with general practitioners to overcome this issue and barriers to care; and if he will make a statement on the matter. [4560/17]

Deputy Louise O'Reilly: The question is self-explanatory. It refers to the practice of general practitioners charging patients covered by the general medical services, GMS, scheme for blood tests. The Minister accepted in reply to a previous question I asked that general practi-

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tioners should not charge for these tests. I am interested in hearing what precisely he proposes to do to stop this practice.

Deputy Simon Harris: I thank Deputies Louise O'Reilly and Denise Mitchell for asking this question. There is no provision under the general practice general medical services contract for persons who hold a medical card or general practitioner visit card to be charged for routine phlebotomy services provided by their GP or a practice nurse on behalf of a GP, which are required to either assist in the diagnosis of illness or the treatment of a condition. The HSE has advised general practitioners that where a blood test forms part of the investigation or necessary treatment of a patient's symptoms or conditions, this should be free of charge for patients who hold a medical card or GP visit card. Notwithstanding this, I understand that in recent times some GPs have been charging GMS patients for these services. If a patient who holds a medical card or a GP visit card believes that he or she has been incorrectly charged for routine phlebotomy services by his or her GP that patient may make a complaint to the HSE local health office and it will deal with the matter in accordance with the complaints policy.

To achieve clarity on this issue, I have asked that any difference of perspective in regard to the provision of phlebotomy services be addressed in the GP contractual review process. I am pleased that initial meetings with GP representative bodies to progress this work have recently taken place and I look forward to constructive and positive further engagements. From my perspective, the rules under the existing contract are very clear - a GP should not be charging a medical card or GP visit card patient for such blood tests. The HSE's position is that in circumstances where the taking of blood is necessary to either assist in diagnosing or to monitor a diagnosed condition the GP may not charge a patient if he or she is eligible for free GMS services under the Health Act 1970. I understand this position is not accepted by GP representative bodies. To deal with GMS patient complaints regarding charges for phlebotomy services the HSE has put in place an arrangement whereby on receipt of a complaint from a patient or other representative or advocate it imposes a deduction on a GP's practice support subsidy payment and issues the patient a refund of the amount he or she has been charged by the GP for routine phlebotomy. The matter is further complicated by the fact that precise distinctions need to be made between what are deemed routine versus non-routine phlebotomy services. I do not have time to elaborate on that point but there is a difference between the two services.

Deputy Louise O'Reilly: The Minister said that this matter will be addressed as part of the GP contract negotiations. One wonders what is the point of the negotiations if GPs are not adhering to the current agreement. I would like to draw the attention of the Minister to the following matter. Many GP surgeries, including some in my own constituency, have put up signs advising patients that if they do not want to pay for their blood tests they can go to the hospital to have them done there. We have just spent a good deal of time discussing the pressures under which our hospitals are already operating. It strikes me that something more concrete can be done. Perhaps a message could be issued to GPs advising them that this is not an acceptable practice. We have already discussed the subventions which GPs receive on a weekly and annual basis. It should not be beyond the scope of the Department of Health to put an end to this practice once and for all.

Deputy Simon Harris: I have already outlined what the HSE will do. In other words, if a constituent of the Deputy or of any other Deputy is charged incorrectly for a service that my Department and the HSE believe is covered under the current GMS contract he or she, or another person on his or her behalf, can make a complaint in that regard to the HSE and it will impose a deduction on the GP's practice support subsidy payment and, more importantly from

the patient's perspective, will refund the amount he or she has been charged by the GP for routine phlebotomy services. There is no point pretending - there is a long history and record of disagreement on this issue between health service management and GP representative bodies. It is not for me to speak for either of them but I am aware that in their communications to their members they have asserted a different position. The best place to resolve this disagreement and difference of view is around the table through contract negotiations.

I do not accept the Deputy's view that our GPs do not honour their contracts. I believe they work extraordinarily hard in difficult circumstances. GPs need a new contract too. I have already outlined for the Deputy what the HSE will do in the interim for patients. We need to hammer out this issue as part of the contract negotiations.

Deputy Louise O'Reilly: It is patently obvious that GPs are flouting the current agreement and charging for this service. The fact that there is an arrangement in place to address situations where this arises indicates that GPs are clearly flouting the current agreement. It is entirely in order, therefore, that I would question the wisdom of cutting another deal with the same people who as the Minister said are flouting the current agreement and are doing things that they are not supposed to be doing. Perhaps it would be possible to send a message from the Department of Health to GPs instructing them to take down the signs I mentioned earlier because they are causing a great deal of concern. I am concerned that there might be people visiting GP surgeries who are unable to pay for a blood test or to go to a hospital to have it done who may decide to go home rather than present to the doctor for a test that they cannot afford to pay for. The signs need to be taken down. They are not a welcome addition in GP surgeries.

Deputy Simon Harris: It is of concern to me that people are being referred to hospital for a service that can be adequately provided in primary care and which the GMS contract enables to be provided in primary care. However, I do not want to escalate this disagreement with our GPs in the context of contract negotiations which have already commenced. My Department and the HSE have commenced the process of engaging with GP organisations. I will ask the HSE to reflect on the Deputy's views on the signs and to report back to me on the matter. As I outlined earlier, there is recourse available for patients. I am determined to ensure we have a modern fit-for-purpose contract that GPs and patients can benefit from in the interests of a decisive shift to primary care. That is my priority.

Deputy Louise O'Reilly: Will the Minister keep me updated on this matter?

Deputy Simon Harris: I will communicate in writing with the Deputy on the matter.

National Treatment Purchase Fund Data

36. **Deputy Jonathan O'Brien** asked the Minister for Health if the relaunched NTPF will provide data relating to the number, type and value of services and surgeries commissioned from the private sector; the cost and savings to the State of services and surgeries carried out by the private sector; and if he will make a statement on the matter. [4566/17]

Deputy Louise O'Reilly: As in the case of all my questions today, this question is self-explanatory. It relates to data from the National Treatment Purchase Fund, NTPF. The Committee on the Future of Healthcare has met a number of different organisations on this issue. It appears there is a difficulty in terms of extracting information from the private sector. The

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private sector not being my first choice for investment and the Minister having chosen to spend taxpayers' money in that area I am interested in hearing if he can provide the information requested.

Deputy Simon Harris: The Deputy would be upset if we went through an entire Question Time where we agreed on everything. We had better not do that. We have a difference of opinion in regard to the NTPF. I believe it to be an effective vehicle to reduce waiting times for patients and the Deputy believes differently, as is her right.

Reducing waiting times for the longest waiting patients is one of this Government's key priorities. Consequently, budget 2017 allocated €20 million to the NTPF, rising to €55 million in 2018. All NTPF initiatives include procedures to report on the type, nature and cost of treatments commissioned, including controls to ensure quality patient treatment, value for money and efficient processes. The Committee of Public Accounts also examined this matter in the past. My Department will also implement a robust monitoring framework in this regard.

In December 2016, I granted approval to the NTPF to dedicate €5 million to a day case waiting list initiative, with the aim of ensuring that no patient will be waiting more than 18 months for a day case procedure by 30 June 2017. Around 3,000 day cases will be managed through this process and outsourcing of treatment will commence shortly.

In addition to this day case initiative, the NTPF will be working closely with my Department and the HSE to agree an approach to the remaining 2017 allocation, as well as planning the approach for the significant increase in the allocation to address longest waiting times in 2018.

The HSE is currently developing a 2017 waiting list action plan for inpatient day case procedures to ensure that no patient is waiting more than 15 months by the end of October for an inpatient day case procedure or an outpatient appointment. This plan is being developed in conjunction with the NTPF's proposal for utilisation of its remaining €10 million funding for patient treatment in 2017. A similar plan is being developed for outpatient appointments. I expect to make known the details of both plans in the coming weeks. If there is specific information that the Deputy requires I would be happy to share it with her.

Deputy Louise O'Reilly: The Minister is aware of my view on this matter but I will repeat it. We will never improve the public health service by investing in the private sector, regardless of how many times we do it. The Minister can cross his fingers and wish really hard but it is not going to happen. We will agree to disagree on that point.

The Minister referenced a monitoring framework. Who will monitor this initiative? As I said earlier, the Committee on the Future of Healthcare has had discussions with the ESRI and other agencies on this issue, all of which said that it is difficult to extract information from the private sector for reasons of, as they put it, "commercial sensitivity", for which I have another term, although I do not propose to repeat it here. Perhaps the Minister will outline who will be involved in the monitoring framework and if it will be required to achieve targets on behalf of the public purse. Again, I do not believe this initiative is good value for money. However, we will agree to disagree in that regard also.

Deputy Simon Harris: I do not believe that we should invest in the private health service instead of the public health service. However, the man who is waiting for a hip operation does not care how we get his operation done. He just wants to know what I am going to do to ensure

he does not have to wait longer. While we build up capacity in the public health service we will use the NTPF as a vehicle. That is the ideological point on which we disagree. I will write to the Deputy with exact details on the monitoring framework within my Department. It is being put in place within the acute hospitals policy division of the Department.

I am not sure I agree in regard to the lack of specificity in respect of the NTPF. In my meetings with the NTPF, I noted it can tell one what one cannot always easily ascertain when one engages with a public hospital, that is, that in return for an investment of X, one secures Y amount of procedures by a certain date. I am happy to engage further with the Deputy, however, and I will write to her on it.

Written Answers are published on the Oireachtas website.

Topical Issue Debate

Rent Controls

Deputy Fergus O'Dowd: I welcome the Minister, Deputy Simon Coveney, to discuss this important issue.

I absolutely support his initiatives on housing. They are excellent, first class and well thought out, and the intention is good, particularly in rent pressure zones. Having said that, I live in a town where some of the estates are divided. An estate called Beaubec has some of its houses in the rent pressure zone while the others are not. In an estate called Rosevale, there is a rectangle in the green space around the houses. If one drew a diagonal across it, one would find all the houses on the left are rent controlled while all those on the right are not. It is a joke. It is a joke because the boundary between Drogheda and east Meath does not make sense. The boundaries are historical, dating back hundreds of years. There are no rivers or bridges on the boundary, just an imaginary line drawn on the ground. The issue emerges only in cases like this.

The problem concerns families living in these estates who are renting homes, particularly poorer families. It is poorer families whose needs I am addressing specifically. The supports for families who live in Drogheda, be they in the rent pressure zone or not, are higher than those for poorer families in cities such as Cork, Galway and most parts of this country. Therefore, poorer families are denied the protection of the Minister's rent pressure zones in my town. They are denied this on the basis of an arbitrary line and a formula that is inconsistent and does not take them into account. There ought to be a change to the formula so families who are poorer, unemployed and qualify for housing assistance payments will be put first. Drogheda has greater supports for the families in question than Cork and Galway, yet it is still excluded. Those affected could well be exposed in rent reviews over the next six quarters.

What were the rent reviews like in the past? In each of the past six quarters, the rents in Drogheda increased more than anywhere else. The increases are higher than the national average. Many of our tenants are being fleeced by these rent increases. They cannot afford them and are under serious pressure. My office is inundated with families who are very upset and concerned about this.

I have raised this matter with the proper authorities, including the RTB, ESRI, Housing

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Agency and the Minister's Department but I am still not satisfied that the formula is right. I await the Minister's response in regard to this. Ultimately, we must stand up for the poorest families, who face the greatest pressure in towns such as Drogheda and who, notwithstanding the good intentions of the Minister, remain excluded from the protection and safety of the rent pressure zones.

Minister for Housing, Planning, Community and Local Government (Deputy Simon Coveney): I thank the Deputy for raising the concerns of many people he represents very effectively in Drogheda. He rightly points out that rent pressure zone designation is assessed on the basis of local electoral areas. When local electoral area boundaries divide urban communities, as they do in certain parts of Drogheda, there are anomalies and consequences about which some people are not happy. Drogheda is unusual in terms of local electoral areas.

Issues arise in the town in which I live, Carrigaline, just outside Cork. They were raised by Deputy Donnchadh Ó Laoghaire during the week. Since the local electoral areas in the town are separated by the river, half the town is in and half the town is out. I have to have an assessment process that works on the basis of what is likely to be best for the vast majority of places. The most accurate way in which we could do that was to assess on the basis of local electoral areas.

We introduced the legislation before Christmas. Up until Christmas, we could assess on the basis of local authority areas. On that basis, there were only five local authorities in the country that actually qualified under the designation - the four Dublin ones and Cork city. We then looked in a much more granular and targeted way at local electoral areas within local authority areas to add significantly to the number of rent pressure zones that were going to qualify. The way it works is that the legislation states that the Housing Agency, in consultation with local authorities, can make recommendations to the Minister on areas that need further detailed assessment to determine whether they qualify. The agency recommended a series of areas that should be considered. On that basis, we designated 23 towns, or local electoral areas, as new rent pressure zones. They were announced last Thursday. They include Ballincollig-Carrigaline in County Cork, Celbridge-Leixlip, Naas and Kildare-Newbridge in County Kildare, Ashbourne, Laytown-Bettystown and Ratoath in Meath, Bray and Wicklow in County Wicklow, and all of Galway city. I can understand that there is frustration in towns that are close to these areas that do not qualify. We have to have, however, criteria that are independently assessed and not politically driven. They must be data driven. This involves the RTB working with the ESRI to obtain accurate data on the two criteria, which are that rents must be above the national average and must have been increasing by 7% or more annually in four of the past six quarters. We felt that was a reasonable balance that would be relatively easy to assess and understand. If it were made too complex, the assessment process would take too long and there would be further anomalies and so on.

We will re-examine Drogheda. At the end of each quarter, we need to assess again whether there are changing data for four of the preceding six quarters and whether the rent is above the national average. Towns such as Navan, big towns such as Drogheda and others may qualify in time but currently do not meet the necessary criteria. That is the only reason Drogheda has not been included to date.

Deputy Fergus O'Dowd: I challenge the criteria being used. I accept and acknowledge there is no political involvement in the formula but the formula is wrong. In Drogheda, rents increased in each of the past six quarters. They have increased by 16% in the past year, which

is much in excess of 7%. Poorer families are supported more because they have a greater problem. This is recognised by the Department of Social Protection and now by the Minister's Department.

I have asked the RTB to re-examine its formula. It is based on new available properties for rent, not on existing ones. There are very few houses available for rent in Drogheda in any case. People cannot get them. Those who are in properties accept rent increases because they have nowhere else to go.

I looked at *www.daft.ie*, which is mentioned in the statement from the Minister's Department. On Monday of this week, there were 46 properties listed in the Drogheda area. Drogheda is larger than just the town and stretches out to Clogherhead and almost to Dún Laoghaire. It is a huge area. Of the 46 properties, two thirds had rents of €1,000 or higher, which is more than the national average of €956. Most of the Drogheda properties below the €956 level were one- or two-bedroom apartments.

Is the RTB's formula correct? Is its mix of housing right? In urban areas, people are being charged a great deal for small, terraced houses. In east Meath, which I am happy has been included in a rent pressure zone, properties tend to be semi-detached housing or apartments.

I welcome the Minister's commitment to re-examine the matter. Poor families must be looked after and protected, but we are not protecting them under the formula. It must change.

Deputy Simon Coveney: Families on low incomes get many supports, for example, the housing assistance payment, HAP, the rental accommodation scheme and rent supplement. We took an extra 12,000 people onto the HAP scheme last year. We will take on even more, probably a further 15,000, this year. HAP and rent supplement payments were increased significantly last summer in many areas where there had been rental inflation. These increased support levels will cost the taxpayer an extra €50 million this year.

I agree with Deputy O'Dowd that the State has a responsibility to look after low-income families that are under pressure in the rental market. The core point is that we must increase supply. In Drogheda and many other towns, there are not enough available properties and there is too much competition for those that are available, which drives inflation. In some cases, landlords are abusing the situation. In others, they are not. Tenants are vulnerable in that type of market, which is why we have chosen to act in a way that no Government has ever acted, namely, to intervene in the private rental market and effectively put a cap on what rents can increase by each year for the next three years.

Under dispute in this debate are the criteria that allow an area to get into the protection zone for tenants. We picked something that was easy to understand. It was the subject of much discussion and consultation. It was relatively easy to assess independently by the RTB and the ESRI. Like the Deputy's figure of an increase of 16%, their calculation is based on new tenancies or new reviews and tries to get an accurate picture of the overall areas being assessed.

Acting Chairman (Deputy Eugene Murphy): I apologise for cutting in, but we only have 48 minutes for the Topical Issue debate. I thank the Minister and the Deputy for their co-operation.

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Hospital Services

Deputy Pearse Doherty: Before we start, can the Acting Chairman inform the House as to why the Minister for Health is not present? This is a serious issue for cancer patients in Donegal who have been denied treatments in their local hospital. The Minister was present a couple of minutes ago.

Deputy Pat The Cope Gallagher: He just left.

Acting Chairman (Deputy Eugene Murphy): I cannot. I am here to Chair the meeting, but I take the Deputy's point on board and will pass it on to the Ceann Comhairle and the Minister. Perhaps the Minister of State, Deputy Catherine Byrne, will tell us whether the Minister has another engagement.

Deputy Pearse Doherty: I have been placing this motion for a Topical Issue debate for two weeks. It is an insult from the Government that the Minister has not turned up in person to hear the concerns that I am relaying on behalf of people in Donegal.

In recent weeks, I have been contacted by countless constituents across Donegal, each of whom has raised serious concerns about the health and well-being of their loved ones who are undergoing chemotherapy following cancer diagnoses. While each gave accounts of a relative, friend or loved one who was facing into his or her unique cancer journey, their stories shared a deeply alarming common trend - they were all being denied treatment at their local acute public hospital in Letterkenny and were instead being forced to travel four, five or, in some instances, six hours to Galway to undergo chemotherapy.

With each new call, text, e-mail or Facebook message that I received, the crux of the story remained the same. It was the story of a seriously ill cancer patient being turned away from the local oncology department and redirected some 250 km distant, forced to endure all of the difficulties - health, financial and so on - that such a journey entails.

Having heard these reports, I immediately contacted the hospital. Last week, management confirmed our worst fears, namely, that Letterkenny University Hospital was no longer in a position to accept new patient referrals for chemotherapy. In its reply, management informed me that the decision to suspend this service for newly referred patients was taken due to the resignation of a *locum* oncologist consultant who had been providing cover for the vacant medical oncologist post at Letterkenny. Consequently, management has stated that, in the interests of patient safety, it was not clinically appropriate to start new patients on chemotherapy regimes when the hospital could only cover three of the six weeks until the new consultant was in place. Management informs me that, after my intervention, the new consultant will be in place on 6 March.

How was this allowed to happen? Why are some of the most seriously ill people in my county being forced to endure such suffering as to have to leave their homes, communities, families and all that they know and travel hundreds of kilometres to Galway? Will the Minister of State explain to the people of Donegal, the patients, the families that are affected and the professional staff in our hospital why it seems that action has not been taken to prevent the withdrawal of these services? Why is the consultant in Galway not travelling up to Letterkenny instead of asking these sick and vulnerable patients to travel to Galway for treatment that should be available, and had been available, in their local hospital?

Deputy Pat The Cope Gallagher: I concur with the protest made by Deputy Pearse Doherty. The Minister was in the House and, with all due respect to the Minister of State, is more familiar with this matter. He was at Letterkenny University Hospital twice, once privately and another time in an official capacity when he dealt with the Donegal medical academy in conjunction with NUI Galway.

I praise the excellent front-line medical and auxiliary staff of Letterkenny hospital, who perform their duties to the highest standards under the most considerable pressure on a daily basis. They are to be highly commended.

The hospital is the only general hospital in the county and caters for a population of more than 157,000 people. There are significant pressure points and strains on services within the hospital and the situation is worsening. Full capacity protocols have been exceeded 104 times in 2016 and twice already this year, and we are only at the start of the year's second month.

The failure to have a second oncologist appointed comes despite a commitment given by the then Minister of State, Deputy McHugh, on 25 January last year before the election that there would be a second oncologist. We are still waiting on that appointment. In addition, I understand that the appointment of a second breast surgeon could have been made some time ago. Other issues include the lack of bed capacity, hospital department problems, constituents waiting on trolleys, delays in the accident and emergency department having knock-on effects for procedures and a lack of full diabetic services for adults and children. Dermatological services were transferred to Sligo on a three-month basis. Eighteen months on and they are still there. The rheumatology department and urology services are not operational.

I hope the Minister of State does not tell us that our €14.6 million last year will deal with all of the issues. I have a specific proposal, which I will make when I ask my supplementary question.

Minister of State at the Department of Health (Deputy Catherine Byrne): I apologise to Deputies for the Minister not being present, but he has another engagement. I was asked to take this slot. The Deputies could have withdrawn this matter before standing if they did not want me to reply. I am here so I will reply if that is okay with the Deputies.

Deputy Pat The Cope Gallagher: That is unnecessary to say.

Deputy Catherine Byrne: I must be honest, in that what I am going to say will probably not satisfy them, but I will convey their concerns when they finish their contributions.

I welcome the opportunity to speak about the services at Letterkenny University Hospital. The hospital provides medical oncology services to patients and has two consultant medical oncologist posts. One of these posts is currently vacant and, as has been said, it had been filled by a *locum* pending the appointment of a permanent medical oncologist but, unfortunately, as the Deputies also indicated, this *locum* recently resigned. A new *locum* consultant medical oncologist is due to take up post on 6 March and, in the interim, some alternative *locum* arrangements have been put in place. All existing patients continue to receive their chemotherapy services in Letterkenny University Hospital. All patients newly referred to the oncology clinic at Letterkenny University Hospital from 1 December 2016 are triaged by the lead medical oncologist before being seen at the most appropriate location for treatment, principally in Galway University Hospital. It is expected that the full service at Letterkenny University Hospital will resume when the new *locum* consultant starts on 6 March.

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The Minister acknowledges the concerns of patients and the inconvenience associated with having to travel for chemotherapy treatment. However, patients continue to receive quality treatment and the HSE has assured him that every effort is being made to resume normal service at Letterkenny University Hospital at the earliest possible date. In relation to services more generally at Letterkenny University Hospital, my colleague, the Minister for Health, is aware of the need to provide services that are accessible to patients in Donegal and to minimise patient travel time where possible. There has been significant capital investment in Letterkenny Hospital in recent years. I can advise the House that most of the works required to repair the flood damage sustained by the hospital in August 2013 are now complete. In addition, a significant number of other capital projects are operational. They include the medical academy, blood science laboratory, replacement of sterilisation equipment, expansion of the recovery unit, provision of additional space for expansion of the dialysis unit and renovations to provide accommodation for a pharmacy, respiratory laboratory, cardiac investigations facility, medical records and mental health. The Minister opened the new state-of-the-art blood science laboratory, the new medical academy and the clinical skills laboratory when he visited the hospital just before Christmas.

Letterkenny also benefits from the development of a number of cross-Border initiatives in conjunction with Altnagelvin Hospital in Derry, whereby patients can access necessary services in Derry. The cross-Border cardiology service provides emergency primary PCI services for the treatment of patients from County Donegal with a diagnosed heart attack at Altnagelvin Hospital in Derry. From May to 20 December 2016, some 23 patients from County Donegal received treatment under the scheme. In addition, the north-west cancer centre at Altnagelvin Hospital opened in November last year and will provide access to radiotherapy services to people in the north west, including patients from the Republic. As of 6 January 2017, six patients from the Republic have commenced their care pathways for this facility.

Deputy Pearse Doherty: There is no need for the Minister of State to apologise to me. I am not a person requiring chemotherapy who has to travel for 45 minutes to Letterkenny General Hospital only to find that it is closed for my treatment and I have another four hours journey ahead. The people who deserve the apology are the cancer patients of Donegal who have been denied a chemotherapy service in recent weeks.

The response I got is pathetic. I knew everything that was in the response. In fact, I know more than was said. Serious questions must be asked. I understand there is a gap that needs to be filled when people resign, but the HSE has told me it can fill three out of the six weeks between now and 6 March until the new *locum* is appointed. In that case, why have patients been denied chemotherapy services in Letterkenny General Hospital since Christmas?

I hope the Minister of State will never have to find out what it is like for those patients and their families who have recounted to me the experience of what the journey was like for them. Their appointments were scheduled for 8 o'clock in the morning-----

Acting Chairman (Deputy Eugene Murphy): Deputy Doherty must conclude.

Deputy Pearse Doherty: I will finish on this.

Acting Chairman (Deputy Eugene Murphy): No, I am sorry but the Deputy has exceeded his time. He must abide by the Chair.

Deputy Pearse Doherty: I will finish on this sentence. Their appointments are at 8 o'clock

in the morning and they must do a five-hour journey. The response from the Government is pathetic. I expect the Minister to take a hands-on approach to ensure cancer patients are no longer treated in this way in the future.

Deputy Pat The Cope Gallagher: I am also disappointed. There was no reference in the reply to the questions about the breast surgeon, lack of diabetes services, dermatology services, rheumatology services and urology services. I have one message for the Minister of State to take to the Minister. I request that he appoint a review team to immediately go to Letterkenny and conduct a root and branch review of the hospital services, budgets and where the services are lacking. The team must work in conjunction with the front-line services and with management but report directly to the Minister. When the recommendations are made to the Minister, he should then implement them and provide the necessary funds. Although it has not been mentioned in this reply, to say €14 billion has been allocated to the health budget this year is of no interest. We are interested in ensuring that the people we represent in our county receive the best services. Rather than say what we got in the past we want to look forward. A team should examine the matter objectively, report to the Minister and the Government should respond. That should be done in a matter of weeks.

Acting Chairman (Deputy Eugene Murphy): I know it is frustrating for Members when I call on them to conclude when they raise very important issues but I am trying to keep within the time limits. I apologise to Members in that regard as I know they are trying to represent their constituents on a very serious issue. Does the Minister of State wish to respond?

Deputy Catherine Byrne: I do not mind. I note what the two Deputies have said. With the greatest of respect to them, their knowledge of the area they speak about is far greater than mine. Although it might be against my will, I agree with them that I would not like anybody to have to travel more than 200 miles for a service.

While a relevant point has been raised, the Minister also raised a relevant point in the reply in saying somebody will be appointed on 6 March. I know that is probably not of any satisfaction to those who have to travel but I assure them that I will bring many of the points, in particular some of those raised by Deputy Pat The Cope Gallagher about the review team, to the attention of the Minister, Deputy Harris.

I am sorry if Deputy Pearse Doherty already knew the information outlined in the reply. I will bring back the concerns of both Deputies to the Minister. I apologise, through the Chair, for the fact the Minister, Deputy Harris, was unable to be present.

Deputy Pat The Cope Gallagher: As there is a minute remaining, I urge the Minister of State to recommend the appointment of a review team to the Minister.

Deputy Catherine Byrne: I have made a note of it. I will pass on the suggestion to the Minister.

National Children's Hospital

Deputy Mattie McGrath: I thank the Ceann Comhairle for selecting this important topic today. I am disappointed the Minister, Deputy Harris, is not present but I say that with no disrespect to the Minister of State, Deputy Catherine Byrne.

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This is a very serious issue given the serious impact the project is set to have on all of the sickest and most vulnerable children in society and their families. As the Minister is aware, the concerns around the national children's hospital, NCH, do not simply relate to the cost, although that is a massive issue. *The Sunday Business Post* reported recently that the cost of the project has exceeded €1 billion, and that excludes the fit-out of the hospital. The project appears to have already overrun by hundreds of millions of euro. I estimate the cost overrun to be approximately €600 million, a staggering figure.

The main concern, however, is the impact the NCH project will have if it continues to be located at St. James's Hospital. There is enormous fear that best practice with respect to the co-location of the new national paediatric hospital is not being followed. That is very serious. It is absolutely vital that co-location occurs simultaneously. One could ask whether that is going to happen and the answer is "No", it most definitely is not. As a matter of record, the project director of the national paediatric hospital, Mr. Fitzpatrick, said in a recent talk at the Institute of Technology, Bolton Street, that it will be ten to 15 years before a maternity hospital is co-located with the NCH at St. James's.

In the meantime, we must examine what are the risks and outcomes for sick children. Those certain to be affected are babies born with congenital diaphragmatic conditions whose chance of survival will rapidly diminish. I beg the Minister of State to listen to those concerned. A total of 15 consultants from Crumlin have written a letter stating that if the maternity and paediatric services are not co-located, it will result in "avoidable deaths and disabilities for newborn babies".

I also wish to raise the point that for the NCH to be built, the St. James's outpatient department will have to be demolished and relocated as it currently occupies the space. Is anyone aware of that and the potential consequences? It will also mean, at the very least, that St. James's adult accident and emergency unit will have to be demolished and relocated as well as the intensive care unit, at enormous expense.

We can also mention the impact on the facility management hub at St. James's Hospital. All this is expected to add between €100 million to €200 million to the cost.

Where is the accountability? Is anybody listening? Organisations such as Connolly for Kids and the Jack and Jill Foundation are ignored and locked out of committee hearings. This is disgraceful. What consultations have been held with ambulance drivers and paramedics? This issue has all the signs of becoming the new NAMA in a few years' time but this time children will have died or become disabled and families will have been ruined. A RED C
4 o'clock poll in June 2016 showed that 73% of the public thought that St. James's Hospital was the wrong site. A total of 60,000 people signed a request to the Taoiseach in June 2016 to change the site to the Connolly and relocated Rotunda Maternity Hospital site in Blanchardstown at the M50-N3 interchange. The site location decision carries enormous adverse consequences for so many. It is still not too late to do what is right by sick children, their families and future generations. The public would respect the courage and integrity it would require to do that. We know the site at the M50-N3 interchange is accessible despite what I heard the Minister say earlier in reply to a parliamentary question. We all use that junction, which is accessible by road, rail and air.

Deputy Catherine Byrne: I apologise for the fact the Minister cannot be here to take this Topical Issue but I am glad to take it because it is in my constituency and I have been involved

for a long time in respect of the location of the project in St. James's Hospital. I thank the Deputy for raising this matter. I am pleased to take this opportunity to update the House about the new children's hospital. The project to develop the new children's hospital is an extraordinary opportunity to enhance paediatric services for children. The granting of planning permission in April 2016 for the hospital, satellite centres and related buildings was a huge and very welcome milestone for the project. Independent reviews since 2006 have reaffirmed the importance of co-location of the paediatric hospital with a major adult academic teaching hospital. The Government decision in 2012 to locate the hospital on the St. James's Hospital campus was made in the best interests of children from a clinical perspective. St. James's has the broadest range of national specialties of all our acute hospitals in addition to a strong and well-established research and education infrastructure making it the hospital that best meets the criteria to enable the children's hospital to achieve our vision of excellence in modern paediatric practice.

As announced in June 2015, the Coombe Women and Infants University Hospital will relocate to the campus, in time achieving the tri-location of adult, paediatric and maternity services. Tri-location has benefits for children, adolescents, newborns and mothers. In all cases, the benefits of tri-location are maximised where the adult hospital provides the broadest possible range of clinical sub-specialties and expertise, which are readily accessible for paediatric and maternity patients on the shared campus. Also, tri-location that delivers the most significant breadth and depth of clinical and academic research on site will enhance the potential of research to drive best clinical outcomes.

Furthermore, excellence in modern paediatric practice cannot be achieved without an embedded culture of, and focus on, research, education and innovation. More than a hospital, the new children's hospital and satellite centres will be a research-intensive academic health care institution. To deliver this vision, the main facilities for research and innovation will be located at the Children's Research and Innovation Centre on the St. James's Hospital campus. This facility will be located adjacent to the Institute of Molecular Medicine, a cross-university facility which delivers both undergraduate and postgraduate education and which has a strong research platform in cancer, infection and immunity and neurosciences. This direct adjacency reflects one of the many and significant opportunities being leveraged by co-locating on the campus with St. James's Hospital with its rich history in clinical research. Clinical management and research staff at the new children's hospital will be able to study, evaluate and improve the health care services provided to children and young people in Ireland.

Objectors to the location raise concerns primarily about access to the site. I wish to reassure parents that the plans and design for the hospital recognise the need of most families to access the hospital by car while noting that the campus is better served by public transport than any other hospital in the country. While the Minister for Health is aware that not everyone agrees with the decision on the location of the hospital, he believes the priority is to make progress on the new hospital as soon as possible so that we can ensure children, young people and their families have the facilities they need and deserve.

Deputy Mattie McGrath: I thought the Minister of State would add something from her personal perspective.

Deputy Catherine Byrne: I will.

Deputy Mattie McGrath: We have been there and seen that. What consultation did the Department have? Were the ambulance drivers ever consulted? In respect of problems with the

St. James's campus, helicopter restrictions mean that the helipad, which is on a fourth floor roof at one end of the children's hospital, can receive only the lighter Air Corps AW helicopters and then only on flight paths not restricted by the adjacent upper hospital floors. The heavier coast-guard and marine rescue Sikorsky helicopter is not licensed for roof landings and must land at the Royal Hospital Kilmainham. How are they going to get there then? Ambulance drivers and paramedics have contacted me to say they have listened to nurses and parents screaming at them about how much longer it will take to get to the hospital because they are stuck in traffic. The Minister of State knows it better than I do because she lives in the area. I would not dare to suggest something about access. The Minister of State knows the problems with traffic.

The parking limitations are appalling in respect of the proposed children's hospital. There is no space left on site for almost 600 surface spaces leaving them with a net gain of only 420 spaces. This gives one a final cost of over €138,000 for each of the 420 car parking spaces. We have been told they go down but one would think they were going down into soft sawdust. It is accepted that the children's hospital will have to cope with 10,000 arrivals and departures every day. An additional 3,500 staff will work at the children's hospital. If the essential maternity hospital is ever built, St. James's Hospital has indicated that there will be no additional parking. I have met nurses who work there. I am not demeaning the area but they fear for their physical safety going to and leaving the hospital. The biggest issue is the distress caused to patients. A community group in Munster is trying to set up a community air ambulance. It has raised €3 million to buy and run it voluntarily. We have volunteers who are willing to work along with the Jack and Jill Foundation and other groups yet the Government is making it more difficult. A helicopter cannot even land there. This is reckless and dangerous and will cause trauma, stress and, in what are not my words but consultants' words, unnecessary deaths.

Deputy Catherine Byrne: Hopefully, there will be no unnecessary deaths. The children this hospital will most benefit are very sick children who must endure very cramped conditions in Our Lady's Children's Hospital, Crumlin. These conditions go back 30 or 40 years. For the first time in this country, there is a commitment by this Government and the previous one to build a national children's hospital.

I will contribute my own thoughts on this matter. I was long involved in the lead up to the decision to locate the national children's hospital on the St. James's Hospital site. I do not think that some of the Deputy's accusations that certain buildings will need to be knocked down are true. An extra 670 car spaces will be provided for families. Some of the staff live less than 20 minutes away while some who arrive by car live less than ten minutes away so saying that this will present a problem for staff is an overstatement.

Deputy Mattie McGrath: It is not.

Deputy Catherine Byrne: I will finish because I do not want to end up arguing with anybody in the Chamber. That is not my way of doing politics. I assure the Deputy that there has been wide consultation during the past two years with every community group, every family with a sick child, every neighbourhood and all the staff and different services on the campus. I attended the oral hearing, which lasted more than two weeks, and sat through many presentations by people for and against locating the hospital there. The new national children's hospital on the site of St. James's Hospital will give us an excellent hospital that will facilitate and care for the very many sick children in this country, particularly those coming up from the country.

Deputy Mattie McGrath: A pipe dream.

Architectural Heritage

Acting Chairman (Deputy Eugene Murphy): I point out to Deputies Burton and Gino Kenny that as they are dividing their time I will be strict in allocating two minutes each initially. They will have a second opportunity of one minute each.

Deputy Joan Burton: I propose that the State should move to acquire the famous Luggala estate to ensure that the public can continue to enjoy its beauty and that it can also attract tourists to the Roundwood area of County Wicklow. This is one of the Guinness family's ancestral homes in Ireland and it has been put on the market with a suggested value of up to €28 million. The Luggala estate comprising 5,000 acres has been immortalised in poetry by Seamus Heaney. It has featured in some of the most famous Irish films on numerous occasions. It is enormously popular with Irish people and tourists to Ireland as being one of the most beautiful and iconic points in Ireland.

The estate has been the long-time home to the founder of Claddagh Records, Garech Browne, whose contribution not just to ensuring the preservation of the estate, but also to Irish culture and music has been outstanding. His stewardship of Luggala has ensured that the vast majority of the estate, other than the area immediately around the house, has become a favourite for local Irish people and foreign tourists alike. This is undoubtedly unique and is one of the most pristine estates in the country. If it is acquired for the people of Ireland, it would undoubtedly grow in popularity with tourists in a very rural and wild area of the Wicklow Mountains.

Unless the State intervenes, Luggala could be bought by a wealthy private purchaser or investor, leading to uncertainty over access to the estate. State ownership would ensure the pristine condition of the estate is maintained. This sale provides a unique opportunity to extend the Wicklow Mountains National Park and to secure access for the public forever.

Deputy Gino Kenny: Deputy Burton has robbed all my lines.

I would be interested in the Minister of State's view on the sale of Luggala estate. I probably go to Wicklow once a week. The backdrop with that road coming into Luggala estate is probably the most scenic and picturesque place not just in Wicklow, but in Ireland. Thousands of people use the amenity each year. There would be great value to owning the house and its 5,000 acres. It is an incredible site. I do not know if the Minister of State has been there. It is very accessible. As Deputy Burton has said, the current owner has made it accessible. We do not want it to become inaccessible. The land belongs to the people of the country and they should not be denied.

If it is sold it could become inaccessible meaning that people could not use it. I am sure that will be fought very hard. We are asking that the State should try to buy it in order to make it accessible for the people of Ireland. It has huge potential to be part of the Wicklow Mountains National Park and be an asset to the people of Ireland.

Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Michael Ring): I thank the Deputies for raising the matter. I am aware from media reports that Luggala house and estate comprising some 5,000 acres has been offered for sale with a reported asking price of €28 million. It is situated near Roundwood and is within the area of the Wicklow Mountains National Park.

The main mechanism for protection of our built heritage is the inclusion of buildings and

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sites on the National Inventory of Architectural Heritage, NIAH. As Minister I can make recommendations for inclusion on the record of protected structures arising from the survey to the planning authority. Luggala is recorded in the NIAH and is rated as of regional importance. Inclusion of buildings or structures on the RPS is a responsibility of the local planning authority and both the main house and a garden temple in the grounds of the house are included in the record of protected structures in Wicklow County Council.

As a Department responsible for our national heritage, my Department is fully aware of the cultural and economic importance of historic built assets nationally and of the importance of securing their future on an ongoing basis. Part IV of the Planning and Development Act 2000, as amended, provides for the protection of architectural heritage. The Act gives primary responsibility to planning authorities to identify and protect the architectural heritage by including relevant structures on the record of protected structures. Inclusion on the record of protected structures places a duty of care on the owners and occupiers of protected structures and also gives planning authorities powers to deal with development proposals affecting them and to seek to safeguard their future.

Over recent years several important houses have been offered for sale by their respective owners and negotiations in most cases concluded with their future secured by the support of new owners. My Department has no direct role in this process as it is a commercial matter between the owners of the properties in question and the parties interested in the purchase.

As the Deputies are no doubt aware, the scope for funding for the conservation of our built heritage is currently constrained by the significant reduction in the public finances. Funding for the protection of built heritage will continue to be provided by the Department in 2017 via a number of schemes.

The Department could only consider acquiring this property if the price fell within a certain range. In this context, I would also remind the House that in late 2016 my Department negotiated the extension of Wicklow Mountains National Park by purchasing almost 4,900 acres of Dublin Uplands at Glenasmole at a cost of €800,000. The Deputies might remember that the vendor was looking for €4 million at the time.

Clearly, the Guinness name is very famous in Ireland and should a donation of the property by the family be in prospect, then I would be very happy to entertain overtures from the vendors, in particular, as to the presentation of the house and lands as a publicly owned and accessible property.

It would, by any measure, be a significant addition to our stock of publicly owned heritage properties and lands and would add greatly to the integration of the Dublin and Wicklow national parks. It would sit on a par with the family's far-sighted and generous donation of Iveagh House and Gardens to the State in 1939. I hope they would consider giving the property to the State. I will negotiate with them and will ensure that the State protects and looks after the property. It would be a very generous contribution to the State. The Guinness name has been well recognised in the country. The family has many businesses and I have no doubt that it might consider this.

Acting Chairman (Deputy Eugene Murphy): The time for the Topical Issue debate is up, but I will allow the two Deputies and the Minister of State a short response.

Deputy Joan Burton: I thank the Minister of State for a very positive initial response. He

is clearly aware of the significance of this estate to people in Ireland. It also ties in with one of the Government's key issues, which is the development and protection of rural areas. There could be no more remote and rural area than this wonderful and beautiful estate in the Wicklow Mountains.

The Minister of State rightly referenced the Guinness family's donation of Iveagh House and Gardens in the earlier history of the State and that building now houses the Department of Foreign Affairs and Trade. The Guinness family sold - albeit at quite a high price in Celtic tiger times - Farmleigh, which has been a magnificent addition to Dublin and also St. Anne's Park. I draw the Minister of State's attention to a place where I walk every year once or twice - the woods at Cong, beside Ashford Castle.

We have many examples of what can be done here. This is part of all our heritage and I thank the Minister of State for his reply.

Deputy Gino Kenny: The Minister of State's reply was quite positive. He said the Department could also consider acquiring the property if the price fell within a range. If the price reduced, would the State be interested in buying the house? It would be even better if it was donated to the State. Is the Minister of State saying that if the price reduced dramatically, the State would engage with the owner?

Deputy Michael Ring: Deputy Burton is correct. I have just gone through this process with regard to Westport House, and I want to state on the record again today that I am delighted the Hughes family has bought Westport House.

Deputy Joan Burton: Absolutely.

Deputy Michael Ring: It was an issue of great concern. With regard to what the Deputy said earlier, I, too, was pleased with the outcome. I spent a year, as did the people of Westport, making sure that part of it was held in State hands but the rest of it by a family that is committed to Westport.

Deputy Kenny asked me a question. I will give a straight answer. The State does not have €28 million. I would ask the Guinness family, and Deputy Burton was correct when she said they have a great connection to Ireland in terms of the Guinness brand, to consider offering the house to the State. I am prepared to sit down and negotiate with them but I would hope they would hand it over to the State, as they did with Iveagh House. This house is a very important piece of infrastructure. It is of regional importance but in my opinion it is of national importance. I am prepared to negotiate with the family. The State does not have many resources but if the family are prepared to hand over the house to the State, it will be delighted to accept it and maintain and retain it.

Acting Chairman (Deputy Eugene Murphy): I thank the Deputies for their co-operation. I had to cut them off to some extent but I am sure they understand that I have to try to move things along.

Sitting suspended at 4.25 p.m. and resumed at 5.05 p.m.

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Roads Funding: Motion [Private Members]

Deputy Mattie McGrath: I move:

“That Dáil Éireann:

notes:

— that there are almost 91,000 kilometres of regional and local roads in Ireland, which account for 94 per cent of the country’s roads network and which carry around 54 per cent of all road traffic;

— the importance of regional and local roads which are crucial to economic activity and essential for balanced regional development;

— that good quality regional and local roads are essential for social inclusion, providing vital linkages among communities and between communities, their towns and larger urban centres;

— the shortage of outdoor council staff who have not been replaced;

— the importance of the speedy delivery of the planned upgrading of our national road network, for both the economy and a more balanced spatial distribution;

— that according to the latest National Oversight and Audit Commission, the kilometres of all road types mapped to date indicate that 81.6 per cent of all regional roads, 87.1 per cent of all primary roads, 92 per cent of all secondary roads and 93.2 per cent of all tertiary roads fall outside of the best grouped condition rating category, many of which fall in the worst grouped condition rating category;

— that large segments of the national road network will be overloaded and operating above capacity and safe levels by 2030, if traffic volumes continue to grow; and

— that the growing congestion problems are the result of significant underinvestment in transport infrastructure over successive decades;

acknowledges:

— the commitments given in the Programme for a Partnership Government to increase the capital budget for regional and local roads by approximately 50 per cent;

— the publication of the Action Plan for Rural Development commitment to progress the major roads projects detailed in the seven year transport element of the Capital Investment Plan 2016 - 2021, which will help deliver economic and business benefits across rural areas and regions; and

— that world class road infrastructure is vital to build a stronger economy and is essential to the future of regional and rural development, particularly in terms of attracting investment, enterprise, tourism and the agri-food industries;

and calls on the Government to:

— consider increasing the regional and local roads budget as part of the Capital

Investment Plan 2016 - 2021, in the context of the mid-term capital review which is underway;

— ensure that Transport Infrastructure Ireland and local authority funding is examined in the course of the expenditure review, with a view to being progressively resourced to ensure proactive national road project planning to increase the pipeline of essential roads projects, so that sufficient numbers of projects are brought through the planning and design stages and ready for construction as funding becomes available;

— accelerate support for the safety improvement schemes for dangerous junctions and bends, particularly where serious accidents and fatalities have occurred;

— continue funding, to enable the restoration of class 3/cul-de-sac roads;

— ensure continuation of Ceantair Laga Árd-Riachtanais (CLÁR) funding for disadvantaged areas;

— require local authorities to examine speed limits on all regional and local roads, and to ensure the process of adjusting speed limits continues to engage with local communities;

— ensure that local authorities take responsibility for ensuring that drainage, hedge cutting and the removal of overhanging trees are carried out where appropriate, in the interests of road safety, and to reduce damage caused to large vehicles particularly buses, lorries and agricultural machinery;

— urgently address road safety issues involving wild animals, such as deer, in co-operation with local authorities and other public bodies;

— undertake swift implementation of the commitment contained in the Action Plan for Rural Development, to examine the scope for increased investment in regional roads in the context of the review of the Capital Investment Plan 2016 - 2021, which will take place shortly; and

— reinstate a separate grant allocation to the Local Improvement Scheme, as funding becomes available, to support the upgrading and repair of non-local authority roads.”

I am delighted to introduce the motion on behalf of the Rural Independent Group. Ar an gcéad dul síos, ba mhaith liom mo bhuíochas a ghabháil don Aire. I thank the Minister, Deputy Ross, and the staff in his office, in particular Aisling, and Triona of the Rural Independent Group staff. I also thank Ray O’Leary at the Department of Transport, Tourism and Sport and officials in the Department Communications, Climate Action and Environment and the Department of Housing, Planning, Community and Local Government because the issue spans all of these areas. The Minister for Transport, Tourism and Sport, Deputy Ross, is aware of this and I wish to record my thanks and appreciation to him. I know how busy he is today.

This is an agreed motion. The Government has agreed it and we are very pleased about this. At our press conference today, I was asked about agreed motions as this is the third motion we have brought forward which has been agreed. We appreciate this very much. We are putting the Minister on notice that we will be holding him and the Government to account every day on

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Leaders' Questions and the Order of Business, with the permission of the Ceann Comhairle, to know when the promises will be delivered. We worked very hard for this and we are delighted we have an agreed motion. We have faith in the system and new politics, and I hope this will continue.

We have tabled the motion to ensure the importance of our regional and local roads is recognised so they can no longer be ignored and abandoned due to severe underinvestment which has occurred under this Government and previous Governments. In fairness to the Minister, he is a new man in the chair. Regional and local roads are of significant importance. They account for 94% of the country's road network and carry approximately 54% of all traffic. These figures are quite staggering. They are crucial for economic activity and essential for balanced regional development. However, these roads have been neglected for the past decade and longer. According to Transport Infrastructure Ireland, TII, which preaches the gospel according to the Minister, Deputy Ross, and everybody else, we are underinvesting in our roads network to the tune of €120 million a year. We will pay dearly for this.

My Rural Independent Group colleagues and I fought hard during the negotiations on the programme for Government to have funding for the road network increased dramatically. We received a commitment the Government would increase the capital budget for regional and local roads by approximately 50% over its lifetime.

I omitted to say that Deputy Grealish, who is not available today, and Deputy Danny Healy-Rae, who is detained in Kerry at the funeral of a very close friend, wish to apologise for not being with us.

The regional and local roads grant allocation for this year is €319 million, representing a 9% increase from last year. While this is very welcome and I thank the Minister for it, it falls very well short of what is required to maintain the network, as estimated in the strategic framework for investment in land transport published by the Department. While we continue this level of underinvestment, the backlog of repairs has increased from €3 billion in 2005 to more than €10 billion in 2016. The current allocation means we continue to put a sticking plaster on this huge problem. The Minister came to Tipperary and visited many projects and saw them for himself. This is very serious because it is getting worse. Anyone who knows construction, and I know a small bit about it, knows the longer it goes on without proper foundations the more expensive it will be to complete the job later.

The committed increase of 50% must be front-loaded. We cannot wait three or four years to increase roads funding as many of the roads are literally falling apart. We are failing the communities of rural Ireland, which are suffering with appalling road conditions, dangerous and overloaded roads, little or no public transport, huge motor tax payments and people trying to maintain vehicles with NCTs and DOEs. This is very unfair to people.

Last week, the Government announced its Action Plan for Rural Development, which aims to support 135,000 new jobs. How do we expect to attract investment into rural Ireland when access to rural Ireland is falling apart? It just will not happen. I slagged the Taoiseach about four country roads to Glenamaddy when he was speaking in Longford. This is what it is. We do not have access roads. Of greater concern is the fact we are not planning ahead. This is according to the TII chief, who stated very few projects are in the pipeline. It takes approximately ten years to bring a road project from design to construction. This is a very serious issue. If get we the funding, which I hope we will - perhaps we will win the lottery - we will not have

projects available to complete. This is very serious. We need to get back to proactive national roads project planning to increase the pipeline of essential roads projects so sufficient numbers of projects are brought through the planning and design stage and are ready for construction as funding becomes available. It is criminal this is not being done. I want an explanation as to why we will not have any shovel ready projects at advanced design stage or ready to roll out.

We have major roads projects throughout the country which need to be upgraded. I will give a major example from my area and my colleagues will speak about their own parts of the country. The N24 Limerick to Waterford road travels through Tipperary town, Clonmel and Carrick-on-Suir, as well as villages in Limerick. It is a major route that has been neglected for years and we continue to witness large volumes of traffic travel through these towns en route to Rosslare Harbour. The towns are suffering as a result of traffic backlogs and the condition of the road is appalling. In Tipperary town the road surface of the main street is appalling, but the local authority cannot repair it because it is a national route and falls under the heavy axe of the remit of the TII. This is very serious. The local authority states it can barely fill a pothole because of the TII. This bureaucracy must be weeded out.

More locally, many of our local tertiary roads have been absolutely abandoned, drains are no longer opened and hedges are not cut, and the local authorities take little or no interest in these roads. In many cases, they do not have the manpower as outdoor local authority staff have not been replaced and are at minimal levels.

We call on the Government to ensure that local authorities take responsibility for ensuring that drainage works, hedge cutting and the removal of overhanging trees are carried out where appropriate, in the interests of road safety and to reduce the damage caused to large vehicles, particularly buses, lorries and agricultural machinery. A mirror on a truck costs €200 at a minimum.

Local improvement schemes and class III roads must be supported. The local improvement scheme must be reinstated. Speed limits are all over the place, and we have raised this issue previously. There is an 80 km/h speed limit on byroads, culs-de-sac and boreens and that is a road safety issue. The Minister is trying to improve road safety but it is not all about speed. There are simple issues like this where things are just not working. World-class rural infrastructure is vital to building a stronger economy and is essential to the future of regional rural development, particularly in attracting investment, enterprise, tourism and the agrifood industries. I plead with the Minister to get stuck in with the TII. Last night an appeal was made to him to get involved in disputes but we are not asking him to get involved in any disputes. We are asking him to look at the situation in rural Ireland as it is devastating. People in rural towns and villages in Ireland are entitled to roads which are as good as any place else, including the Red Cow.

Deputy Michael Harty: The principal reason for the Rural Independent Group putting forward this motion is to highlight that the Irish road network is significantly underfunded. This raises safety concerns and concerns over the lack of connectivity between our major urban areas and it inhibits balanced regional development which significantly disadvantages our peripheral counties. The programme for partnership Government acknowledges that the capital budget for local and regional roads is still recovering after the economic crash and the new partnership Government proposes to increase this budget by approximately 50% in the years ahead if the national finances are improved. We acknowledge that the road budget has increased by 9% this year. This must be increased year on year to redress the ten years of underfunding. On 24

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January, the Minister for Transport, Tourism and Sport, Deputy Shane Ross, announced details of the €324 million investment programme for 2017 for regional and local roads. It was not a spectacular announcement but it was a step in the right direction.

We all pay equal road tax but unfortunately this does not ensure an even distribution of acceptable road infrastructure. The symbol of the rural road is still the pothole, which often multiplies and coalesces to change from comic to dangerous proportions. Poor road structure and inadequate investment must also be a contributory factor in some road traffic accidents and we are calling for urgent safety improvement schemes to address dangerous junctions and bends where serious or fatal accidents have occurred. Additionally, it is very difficult to convince county councils to take important simple safety measures to add rumble strips at entrances to our villages and towns where speeds are excessive and it is proving almost impossible to lower speed limits on roads which have excessive limits, as judged by local residents, road users and commercial traffic. The level of proof required that a limit is excessive is beyond the capacity of most local groups, having had to pass through so many regulatory bodies as to frustrate people to distraction. This process needs to be simplified and streamlined.

One of the legacies of the Celtic tiger era was the development of our motorway structure, linking our major cities. That undertaking was never completed and many projects were half finished or did not commence. We are still waiting for a motorway link between Limerick and Cork and for one between Limerick and Galway, to name but two projects. This deficit is a major factor inhibiting balanced regional development. My colleagues, Deputies Michael and Danny Healy Rae, are repeatedly speaking of the mythical Macroom bypass, which I presume will link Kilgarvan with the rest of the world. I am sure many of my colleagues will have similar projects which have not been completed or have not yet started.

The development of road connectivity is essential for economic development in trade, tourism and in health planning where travel time has been reduced allowing connectivity between hospitals. However, the recession has taken its toll on regional, secondary and local roads. A crumbling rural road infrastructure was one of the legacies bequeathed to the Irish people by the recession. It is estimated that roads need to have essential maintenance at least every seven years. Many of our roads have not been maintained for ten years or more and are now in a sorry state of repair. Maintenance costs multiply when roads are allowed to crumble and disintegrate, thus placing additional burdens on local authorities to bring them back to an acceptable level of structure. Additionally, county councils have lost many of experienced staff who had local knowledge on how to manage and maintain our secondary and local roads. Recruitment and retention of staff is critical if we are to upgrade our county road structure.

The Wild Atlantic Way has experienced extraordinary traffic increases over recent years and much of this traffic is using our secondary road system which is struggling to cope with the associated wear and tear. Combined with our extremes of weather, in particular flooding, this is putting great pressure on road maintenance requirements. The programme for Government also commits to reinstate a fully funded local improvement scheme to support the maintenance and repair of non-local authority roads. I am particularly keen to see the reinstatement of a separate grant allocation to the local improvement scheme, as funding becomes available, to support the upgrading and repair of non-local authority roads. This very worthwhile scheme was suspended in 2011. The purpose of the local improvement scheme is to provide funding for the upkeep and repair of isolated roads and lanes which have not been taken in charge by local authorities. In effect these are private roads, a legacy of history. The scheme was vital in keeping isolated people connected to their local community. So far the Minister has resisted

calls for a separate ring-fenced fund, despite the state of many rural roads and lanes. However, I believe he has indicated that he would like to get the scheme started by the end of this year and I can assure him that he will get every encouragement from the Rural Independent Group Deputies in this matter.

The action plan for rural development contains a commitment to progress the major roads projects detailed in the transport element of the capital investment plan 2016-2021. This should help to deliver economic and business benefits across rural areas and regions. However, the action plan is weak on the subject of rural roads and their importance is under-emphasised. The road network across rural Ireland is like the arteries of the body. When the artery becomes damaged and neglected, one does not need to be a doctor to realise the consequences.

Ministers need to be on notice that, in the coming months, we will be regularly knocking on their doors with a copy of the plan. Most rural Deputies were elected because of outrage at the economic and structural decline of rural Ireland, leading inevitably to a decline in the social and cultural fabric of an important element of the Irish nation. We have shouted “Stop” in regard to rural issues and we expect them to respond. The rural road which we are discussing today is emblematic of rural Ireland. It is vitally important in itself but is only part of a greater totality. The action plan for rural development, with goodwill and drive, can be the catalyst for positive change. It is our role to ensure that it is.

Deputy Michael Lowry: I support this motion. As rural Deputies we are very conscious of the difficulties arising from the lack of funding for our road network, particularly our rural road network. I welcome the fact that we have had an increase in funding this year but, in the context of the depreciation in funding over the past number of years, particularly during the years of the recession, the 9% increase goes nowhere to address the problems we have with local councils.

The Minister took the time to meet with all the Tipperary county councillors on a recent visit to Tipperary when they outlined the difficulties they face every day and the anger and frustration they meet as public representatives in answering to the public for the lack of quality roads in their area. People in rural areas are the same as those living in urban centres. They pay taxes, levies and charges and have the same entitlement to traverse their local roads as somebody traversing our national highways. However, that is not happening and the majority of rural roads in Tipperary are either impassable or passable with extreme difficulty. People are very agitated because of that and there has been a huge increase in the level of claims to councils. The councils are not accepting responsibility for it and insurers will not take responsibility. There has been a huge increase in people whose vehicles are being damaged after hitting a pothole. Some €200 or €300 of damage is done to their car but they have recourse to nobody for it

A targeted approach is needed. The Minister has a big problem because this will take a huge amount of resources. Those resources are not available from within the Minister’s Department, so this is an issue which has to be addressed by the Government. In other words the Department needs support and assistance, particularly from the Department of Finance, on how to tackle this problem. In this regard, moneys need to be put aside. The magnitude of the problem has already been documented for the Minister and his Department from every local authority in the country. The extent of funding required has already been notified to the Department.

The 9% increase the Minister has obtained for the current year will simply not match the financial requirement. I would like to see an organised and co-ordinated approach whereby all councils receive sufficient funds to give priority to rural roads that are currently in an appalling

condition.

I support Deputy Mattie McGrath's call for future planning on new roads. In my home town of Thurles, during the last two Governments' terms, I brought a new by-pass road plan to the stage where it was given priority by the Department. The route has been selected and the job is ready to go. It would create employment as well as alleviating the difficulties of traffic congestion in Thurles. It is extremely difficult to get through the town from one end to the other. I ask the Minister to re-examine the possibility of putting the Thurles by-pass back on the project list for completion. Significant progress has been made on it and it is at a stage where it simply requires the Department to say that it continues to be a priority and will be funded in future.

I ask the Government to acknowledge the commitments given in the programme for Government to increase the capital budget for regional and local roads by approximately 50%. That commitment was negotiated but it has not yet been honoured. We are relying on the Minister to accept responsibility for that. He should ensure with his Cabinet colleagues that adequate funding is made available to meet that commitment.

Minister for Transport, Tourism and Sport (Deputy Shane Ross): I am hoping to share time with Deputy Moran.

An Ceann Comhairle: Yes, I noticed that.

Deputy Shane Ross: However, I am not quite sure whether he has got the right time for this debate.

Deputy Michael Healy-Rae: We will take the Minister's extra time.

Deputy Shane Ross: Okay. I thank the Rural Independent Group for tabling this motion. In particular, I thank Deputies Michael Harty, Mattie McGrath and Michael Collins for spending some time in my office last week in coming to an agreed motion, which was extremely helpful. I will try to respond in kind. I also thank Deputy Mattie McGrath for promising me a meeting in Tipperary some months ago to see the roads. He detained me for an extra three or four hours which is an indication of his commitment to remedying the county's roads.

I pay tribute to the Rural Alliance members who, in some sense, are the guardians of the roads in their constituencies. They are constantly on to me about the problems they encounter with their roads. I hope to respond not just in this reply, but also in visiting them once again. It may not be back to Tipperary because it seems to take ten times as long as it is meant to.

Deputy Patrick O'Donovan: The Minister can come to Limerick.

Deputy Shane Ross: I will certainly go to other areas and will, of course, go back to Tipperary.

I would like to start by acknowledging the major impact on the maintenance and improvement of our national, regional and local road network of the funding cutbacks from 2008 associated with the financial crisis. The size of the road network at around 99,000 kilometres made the impact all the more severe. That said, the fact that our public road network is twice the European average *per capita* will always present a funding challenge for the Exchequer and local authorities.

Analysis undertaken by my Department in relation to the *Strategic Framework for Invest-*

ment in Land Transport published in 2015 estimated, on a conservative basis, that expenditure of €580 million per annum is needed to keep the regional and local road network in a steady state condition. In order to avoid deterioration in the condition of the regional and local road network, each year 5% of the network needs to be strengthened and 5% needs to be sealed by way of surface dressing works. For the last number of years, only half the required road pavement works have been undertaken on the regional and local road network.

For the national road network the steady state analysis includes the cost of pavement works, signs and lines, safety works, bridge works, routine maintenance, small works and costs associated with programme support and network management. In addition to these network costs, there are also capital budget commitments requiring provision to be made for schemes at close-out and construction, and also for ongoing commitments in respect of PPP projects. The analysis conducted determined that on average the gross steady state requirement for national roads is around €580 million per annum, using 2015 as the basis.

Against the backdrop of serious funding constraints both Transport Infrastructure Ireland and my Department have been focussed on maintaining the network in as serviceable a condition as possible. In the case of regional and local roads this has meant concentrating resources on the maintenance and renewal of the public road network rather than new projects. The main grant programmes operated by the Department have been targeted at specific policy objectives: pavement sealing to protect the road surface from water damage, road strengthening based on pavement condition rating to lengthen the life of road pavements, and a discretionary grant which allows for a range of activities including winter maintenance. These three grant programmes account for most of the grant funding and are allocated based on the length of the road network in a particular county.

Local authorities can also apply each year for bridge rehabilitation grants based on condition ratings and for safety improvement schemes to address particular hazards.

In view of the fact that national roads and regional roads account for about 45% and 30% of overall road traffic respectively, the main requirement related to the regional and local road grant restoration programmes is that a minimum of 15% is expended on regional roads. Apart from that, local authorities have considerable flexibility in allocating grant funding and therefore it is important to emphasise that the decisions made on how best to use available resources are largely made by the local authorities in their capacity as the statutory road authorities responsible for their road network.

In this context, I would like to mention that while landowners along the road network have specific responsibilities in relation to hedge and tree cutting together with drainage, road authorities they do have the statutory power to intervene where necessary.

As part of the flexibility given to local authorities in managing grants, the practice since the recession has been to leave the decision on whether to contribute funding to maintaining private roads under the local improvement schemes, LIS, to individual local authorities. This is in response to what Deputy Harty had to say.

The reason a separate State grant allocation was not being made for LIS is that, given funding constraints, a ring-fenced allocation would result in a *pro rata* reduction in funding for public roads in a situation where public roads are significantly under-funded. In these circumstances it was preferable to allow elected members and officials of each local authority

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to decide whether to allocate funding to LIS, taking into account the own resource and grant funding available to it.

As State grants are intended to supplement local authority funding, my Department continues to emphasise to local authorities the importance of prioritising road maintenance when allocating their own resources. In fact, since the revision of the arrangements for the retention of local property tax in 2015, the Dublin councils no longer receive any grant assistance from my Department under the main grant categories.

I think everyone in the House accepts the importance of the road network in supporting the economic and social fabric of the country. The challenge for Government in recent years was how to address the real concerns about the condition of the network while operating within the EU fiscal rules and dealing with the many competing demands for limited resources. Almost inevitably, this meant it was not possible to restore funding levels as quickly as everyone would have wished.

The publication in 2015 of the capital plan for 2016 to 2021 marked a move in the right direction in terms of restoring capital funding for the transport sector as we started to emerge from the financial crisis. The decisions on the transport elements of the capital plan were framed by the conclusions reached in the strategic investment framework for land transport. Maintenance and renewal of the road network will be the main priority over the capital plan period and the bulk of the roads capital budget, or approximately €4.4 billion, is earmarked for such essential work with a further €600 million allocated for implementation of the PPP road programme which is already under way. In this context, the capital plan provides for a gradual build up in capital funding from a relatively low base in 2016 towards the levels needed to support maintenance and improvement works by 2022. While 2017 sees an increase in overall funding, it will take some years yet under the capital plan to restore steady-state funding levels for land transport and to progress the improvement projects included in the plan. I was, however, very pleased this year, when announcing the regional and local road grants, to be able to increase funding under the key road strengthening grant category and to make allocations to a number of projects which will support enterprises across the country.

As Minister for Transport, Tourism and Sport I know there is a robust case for additional investment in transport infrastructure and that maintenance deferred will result in higher costs later on. I am very hopeful that the review of the capital plan which the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, has started will result in additional funding for the transport sector. The Minister, Deputy Donohoe's public references to investment in transport are reassuring in this context. The final decisions on allocations are, however, matters for the Minister for Public Expenditure and Reform and the Government as a whole.

I thank the Deputies for introducing this motion. I thank all those who have invited me to their constituencies to see the roads. I do not think Deputy Michael Healy Rae has done so yet.

Deputy Michael Healy-Rae: I have. I was the first person to do it.

Deputy Shane Ross: I accept Deputy Healy Rae's invitation as I will accept one from Deputy Harty if it ever comes. I thank Deputy Mattie McGrath for an education on rural roads which I will never forget.

Deputy Mattie McGrath: "It's a long way to Tipperary".

An Ceann Comhairle: I suspect the Minister may get a lot of invitations.

Deputy John Brassil: Just send down the money.

An Ceann Comhairle: Moving on to the next group of contributors, I understand Deputy Robert Troy is sharing time with a number of colleagues.

Deputy Robert Troy: I wish to share time with five colleagues. For fear that the Minister would think it was only the Independents or the Rural Independent Group who look after rural Ireland, I note that could not be further from the truth. That was evident in the last general election which saw our party double in size, particularly in rural areas where it has a strong tradition of looking after the interests of rural Ireland. I suspect it has more to do with the precarious and unstable nature of the Government that the Minister, Deputy Ross, is love-bombing the Independents to my right, or rather to my left.

Deputy Mattie McGrath: Deputy Troy does not know right from left. He does not know where he is.

Deputy Robert Troy: The Minister will never know-----

Deputy Mattie McGrath: He needs a satnav.

Deputy Robert Troy: Unlike Deputy Mattie McGrath, I know where I am and I know where I am staying.

Deputy Mattie McGrath: Deputy Troy does not seem to know.

Deputy Robert Troy: It is not something Deputy McGrath can claim.

Deputy Mattie McGrath: Fianna Fáil lost its way. I know where I am.

Deputy Robert Troy: To get back to the motion, the Minister thanked my colleagues to my left for coming and discussing it with him last week. Perhaps that is the reason it took him until Monday to contact me and establish whether something could be agreed with regard to Bus Éireann, an issue that is just as important as rural roads. I am glad to see the Minister had his priorities right last week.

Deputy Mattie McGrath: I have a point of order.

An Ceann Comhairle: No.

Deputy Mattie McGrath: A point of order, please.

An Ceann Comhairle: It is not relevant.

Deputy Mattie McGrath: Just on a point of order-----

An Ceann Comhairle: Not on this, please.

Deputy Mattie McGrath: We discussed that one last night. We did not object or interfere with Deputy Troy's motion.

An Ceann Comhairle: Will Deputy McGrath resume his seat, please?

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Deputy Mattie McGrath: Deputy Troy should not be so petty.

An Ceann Comhairle: Will Deputy Troy please proceed?

Deputy Robert Troy: I am just making the point that the Minister could have contacted me in relation to Bus Éireann.

There has been a critical underinvestment in the maintenance of regional and local roads since 2012. The funding allocation for 2017 is still far below the level required to maintain regional and local roads across the country. Over the past four years, spending on roads in each county from 2013 to 2016 was, on average, 48% below what was needed to keep roads in good condition. That is according to the steady-state estimate from the Minister's own Department. As the Department itself has outlined, as approximately €580 million is required annually to keep our roads in good condition, this means current underspending is on average €258 million a year. This will result in many more roads being left in poor condition.

The Minister complimented himself on an increase in funding this year. To be fair to the Department, I acknowledge the good investment in roads infrastructure in particular to help the Center Parcs development in Longford. However, when one compares the funding in 2017 with the initial funding in 2016, there has been a reduction of €43 million. The Minister is not accounting for the fact that there was a supplementary budget during the year of €95 million to make allowances for the bad weather and flooding. As such, it is a little bit disingenuous of the Minister to say there has been an increase.

One of the areas where this has fallen down is the local improvement scheme. The Minister alluded to the fact that local authorities can use their own discretionary budgets to fund local improvement schemes. However, many local authorities do not have that capacity. It is a regrettable step because a small amount of money, even of the order of €4.5 million, would have made a huge difference to many local authorities. It states in the programme for Government that the Minister will reintroduce the local improvement scheme. Perhaps he might be able to indicate to the House when he plans to do so as per the programme.

An area in which the Department is not being forceful enough and in which it is not taking sufficient action is the underinvestment in transport infrastructure. Our level of capital spending in comparison to the rest of Europe places us second lowest. Despite having Europe's fastest growing population, spending on infrastructure is half what it was seven years ago. As Minister for Transport, Tourism and Sport, has the Minister, Deputy Ross, had any consultations with the European Commission about availing of the Juncker plan to borrow at a low interest rate to make critical investments in our infrastructure? Perhaps the Minister will respond to that point in the wrap-up.

Deputy John Brassil: I thank the Rural Independent Group for tabling the motion. I draw the attention of the Minister to the National Oversight and Audit Commission, NOAC, which carried out a survey of Irish roads last year and categorised them from worst to best and somewhere in between. Of regional roads, 18.4% were in the best category as were 12% of primary roads, 8% of secondary roads and 6% of tertiary roads. In other words, 82% of our regional roads are not in an acceptable condition. Of our secondary and tertiary roads, 92% are not in an acceptable condition. That is the challenge before us. The fact that we are €250 million shy of the required amount of money to maintain our road network sends a very strong message. We need to increase that funding because otherwise the road network will break up even further and

the cost of putting it back will increase significantly.

I refer to the local improvement scheme. The Minister is more than welcome to come to Kerry for his holidays or to look at roads, but I would much prefer if he just sent us down the money.

Deputy Shane Ross: That is personally extremely insulting, is it not?

Deputy John Brassil: When I was elected to the Chamber, the first Topical Issue I raised was the reinstatement of the local improvement scheme. The Minister gave me a firm commitment that it was part of the programme for Government and would be reinstated in 2017. He turned to his colleague, Deputy Kevin Boxer Moran, and said he would not let him off the hook on this one. I do not know what has happened in the meantime, but the Minister has said it is the responsibility of local authorities. They do not have the money. We want a specific grant for local roads and improvement schemes or we will be going nowhere.

No more than the Minister, I do not like to be made a liar of, but when I get an answer from him I believe him. I relate that back to my constituents. I now find we are back to the same situation we were in last year, namely, that local authorities do not have money and local roads are going nowhere. I plead with the Minister to reinstate a specific grant so that every year a set amount of roads are improved and no other budgets are affected. The Minister has no idea how important the issue is to rural Ireland and I plead with him to address the matter.

I will briefly mention two other areas. As the Minister also has responsibility for tourism and sport, I note the Wild Atlantic Way is a major success but the road network that makes it up is in severe need of reinvestment. There should be a specific fund for the Wild Atlantic Way which runs right through my constituency. More money is required.

With regard to sport, there is a significant bid for the rugby world cup. We are very confident we will get it. It is being headed by a Kerryman, Dick Spring, which makes me even more confident that we will get it. However, the Killarney to Cork Road and the Macroom bypass is an essential piece of infrastructure if we are to make the project a success, should we be successful in our bid which I have no doubt we will be. I again plead with the Minister to get the Macroom bypass on the capital infrastructure programme. It is too important a project not to include.

Deputy Declan Breathnach: It would be remiss of me if I did not take the opportunity to remind the Minister of his commitment to the Narrow Water bridge and the Ardee bypass, which were part of the regional and rural network in Louth. Obviously, he is not interested in that because he has left the Chamber.

The condition of our rural road network is the third most frequent representation I receive in my office, after health care services and social welfare payments. I spent 25 years in local government before I came into the House. When I joined the local authority in 1991, the cycle of repair and resurfacing of the road network was at a disgraceful once in 32 year cycle, which improved to once in 19 years in the 2000s. Since 2010, most of the rural network has a possibility of getting resurfacing work done once in 30 years.

In my county, those who live on roads which have less traffic, namely, local, primary, secondary and tertiary roads, are being treated as third class citizens. Despite paying their property, motor and agricultural vehicle taxes, development levies etc. they are not getting a fair

share of spending in the areas where they live.

For the record, 75% of all of the roads in County Louth are made up of local roads and the national primary and secondary regional roads only make up 25%. There are about 386 km of tertiary roads in Louth, and not one red cent has been spent on a pothole repair programme for those roads, not to mention resurfacing, in the past three years. That equates to 27% of all the rural roads in Louth. The diktat from management in the local authority to the workers is that if they attempt to fill a pothole on tertiary roads they will lose their jobs.

Based on the Department's strategic framework investment in land transport programme, Louth is getting less than half of what is required in the allocation for regional and local roads, leaving us with a deficit of €6.8 million. The 2017 allocation of €5.18 million for Louth is being lauded by many Deputies on the other side of the House. However, there has been further deterioration in the roads and an increased expectation that something will happen on all roads. People are failing MOTs, the tyres on their cars are collapsing and vehicles are being wrecked. As others have said, the state of the roads alienates motorists, cyclists and pedestrians who traverse the roads.

The corporate plan for Louth County Council outlines that, in regard to infrastructure, its aim is to maintain and improve the road network to ensure it is accessible, safe, smart and integrated and continues to deliver modern and sophisticated infrastructure providing ease of access for all citizens in Louth. That is aspirational at most and will not be achieved without proper funding.

The CIS scheme has not operated since 2014. The required level of input from residents to repair local roads was 20%. I have been informed by Louth County Council that 50% will be sought from people who are already crippled with road taxes. People do not have money to fork out for services for which they have already paid through their road and other taxes. I ask for realistic funding to be put in place to make road infrastructure better without further delay.

Deputy Jackie Cahill: I welcome this motion. I found the Minister's comments extremely insulting. No one has a preserve on defending rural Ireland. Yesterday, we debated the threat to rural transport and are now discussing the threat to rural infrastructure. I, as a member of the Fianna Fáil Party and a rural Deputy, will fight on my back for rural Ireland and try to ensure that the Government delivers on the promises it made during the last general election which so far it has failed miserably to do.

We were promised that the LIS scheme would be reintroduced in 2017, something which has not happened. The funding for roads in Tipperary in 2017 is €2.54 million less than what it was in 2016. The Department's estimate is 47% less than what is needed to keep the roads in an adequate condition. Major infrastructure projects were promised for Tipperary. The N24 bypass of Tipperary, Clonmel and Carrick-on-Suir and a ring road for Thurles have gone off the radar and are not mentioned in the capital programme.

Deputies who purport to have influence with the Government want to see them back on the table, but they are not mentioned in the capital programme. Our county is being forgotten about by the Government. Unfortunately, we are not the only rural county that has been forgotten about. This cannot be allowed to continue.

There is a lack of funding for rural roads. Constituents who have come to my clinic have told me that milk lorries are unable to enter farmyards, which puts their livelihoods at risk. We

need more funding for roads. We do not need empty promises or resolutions; rather, we need funding now.

Deputy Anne Rabbitte: I also welcome the opportunity to speak on this motion. It is one of the few topics for which I do not need to prepare notes because I live it every single day, as do my constituents. Galway County Council will be down €16.4 million in 2017.

People in East Galway do not understand how funding is allocated and the difference between an N, R and L - the classification of roads makes no odds to them as long as funding is delivered. It is an ill wind that blows some good. If we had not had flooding last year the roads would not have been fixed. The N65 in Portumna would not have been done at all: we had been falling into potholes for five years. It was the main bridge between Portumna, Tipperary and Offaly. There are concerns about Kilmeen Cross. People have waited for over five years for lighting and signage. Annagh Hill will not receive the required level of funding.

People who pay taxes, charges and levies feel like second-class citizens or the forgotten cousins of people in larger urban areas because their roads are not being resurfaced. In the case of roads under Galway County Council one is lucky if a road is resurfaced once in 30 years. Constituents are continually canvassing to get their roads done and it is hard to explain to them that the funding will be cut again this year by €16 million.

Deputy Kevin O’Keeffe: It is almost 20 years since I first entered local government but to this day we are still talking about potholes in my community. I commend the local authorities on the work they do with the limited resources that are made available to them. Issues can be addressed here today and I am delighted that the Rural Independent Group tabled the motion, although it may be compromised since they went into the Minister’s office.

Many issues have arisen in recent years. When funding for roads was cut, health and safety issues were brought to the fore. It could take two workers to fill one pothole because of health and safety issues, which causes tremendous cost for local authorities. Major road works, such as village roads being resurfaced, are another issue. The villages are shut down for months on end. It happened in Buttevant, where two local byroads suffered heavily. Extra funding should be made available for those projects to facilitate the byroads while the works are going ahead.

On a bigger scale, we have to get the M20 up and running. Why do I say that to the Minister of State and to the House? It is good to see a rural Minister of State across the Chamber. I say it because the Government speaks about more people being back at work. The more people who are back at work, the more cars that are on the roads and the more parents who are out and about taking their children to school and so forth.

The Minister for Transport, Tourism and Sport, Deputy Shane Ross, was on the television and radio after Christmas giving out about the major increase in the number of accidents. People rang me and said, “Kevin, a lot of those accidents are because of bad roads”.

An Ceann Comhairle: We will move on. I call Deputy David Cullinane who is sharing time with his colleague, Deputy Peadar Tóibín.

Deputy David Cullinane: Deputy Tóibín will speak first.

An Ceann Comhairle: I call Deputy Tóibín.

Deputy Peadar Tóibín: Míle buíochas.

I was surprised when I first read the motion because I felt that it should have been stronger and I expected it to be stronger. I did not expect it to be stronger, however, because the motion was tabled by Opposition Deputies but because the state of the roads in the country needs a stronger response. I do not believe that the motion goes far enough given the decline in regional and rural areas throughout the State. The whole system in many parts of the country is disintegrating, making it really difficult for people to function. There are calls to “consider” increasing the regional roads budget and references to road funding being “examined” as part of a “review” and a “continuation” of funding. Those types of words are not what is required. We need a stronger commitment from the Government. It needs to put its money where its mouth is; quite simply, the Government needs to fulfil its spending responsibility in this regard.

The Government is not even heeding its own advice. Last week, the Government launched with great fanfare a regional and rural development document which promised €60 million that is to be spent on 600 towns and villages throughout the country. Last year, the Department of Transport, Tourism and Sport stated that €3 billion was necessary to repair the roads throughout the State and bring them to the necessary level of safety and function. The contrast between the Government’s lack of ambition and what is necessary could not be more stark. The Department stated that €580 million was necessary annually just to keep the local and regional roads in decent condition. Contrast that to the Government’s response, which last year provided for €298 million for that particular job. The Government is not even meeting half of the investment necessary just to maintain the road stock in its current state. At the end of a collapse in capital investment that lasted eight years, we are still not even keeping up with the level of depreciation of and disintegration in our local road system.

Transport is a key ingredient to enterprise. There is no point in launching a document on regional and rural development if the enterprises that we are seeking to invite into a local area do not have the opportunity to access markets and get their workers safely to and fro or the ability to function in the locality. The major backdrop to this situation is that under Fine Gael, and Fianna Fáil before it, there was a major over-concentration of development and of population in a handful of counties on the east coast. This was to the detriment not only to many of those living on the east coast, but also those living on the west coast. Dublin’s current population is 39% of that of the State. By the end of our generation, its population will be 50% of that of the State. It will achieve city state status under this Government’s watch, yet no investment efforts are being made to disrupt this over-concentration on the east coast. Until we talk about serious investment, we will not disrupt that over-concentration.

In my constituency, in the north west of the county of Meath, people regularly take detours to get to work, school, the shops or the church. Ambulances, milk lorries and post office men will not go down certain laneways. Small business owners do not invite customers to their towns but meet them in a café in another town for a coffee because they are so embarrassed and think that those customers will not do business with them because of the isolation forced on them by Fine Gael’s lack of investment over recent years.

This comes down to investment. After eight years of capital depreciation and lack of investment, the State is second from the bottom in terms of infrastructural investment in Europe. It was only pipped by Romania from having the notoriety of being last. The great lie of this Government in recent years is that the crisis is over, but what the Government has done is roll up the crisis in a massive debt and we pay €7 billion every year in interest on that debt. That €7 billion is an opportunity cost to the roads, health service and education system in the country.

Deputy David Cullinane: I commend the Rural Independent Group on tabling the motion. I agree with an Teachta Tóibín that the motion could have been stronger in its intent and in what it calls on the Government to do, but it does afford us an opportunity to speak again on the issue of rural Ireland and the importance of protecting rural communities, especially in the context of infrastructural development and, particularly, roads, to which the motion speaks.

Again, during Private Members' business, the relevant Minister is not present to hear all the contributions from all the parties. We had something similar this morning when we discussed NAMA and the Minister for Finance left after one or two speakers had made their contributions. Notwithstanding the presence of the Minister of State, such an approach does not pay respect to all the speakers in the House.

However, given that he is here, the Minister of State might pass on a message to the Minister for Transport, Tourism and Sport, Deputy Ross, which is that the Minister is also welcome to visit Waterford. He can visit places such as Aghish, Villierstown, Clashmore, Ardmore and many more, where, as in other parts of the country, as a result of floods, decay and all sorts of other issues, roads have been washed away. However, they have not been replaced because, as stated by an Teachta Tóibín, the capital budget was slashed during the recession and not rebuilt. We have one of the lowest capital spends in the entire European Union and the areas of roads was one of the biggest areas that suffered as a consequence.

The Minister of State might have seen the movie "Jerry Maguire". It had a famous phrase, "Show me the money". That is what this comes down to; we can have all the motions and action plans we want but we need to invest the money. The Government announced a plan for rural Ireland where €60 million is made available for 600 villages and towns over three years, which is €30,000 for every town or village in the State per year. How in God's name will that deal with all the issues, including broadband, roads, and infrastructural development, facing rural towns and villages? The plan states that there will be rate reviews and rate reliefs for businesses but the Government is trying to pull the wool over people's eyes with its €30,000 per year per village. It is not giving us the resources we need.

While I commend much of what was said by those in Fianna Fáil in their contributions today, at least we in our alternative budget provided for significant additional money for roads and capital investment. Our capital plan provided for €1.2 billion of additional money. As I have pointed out several times, this could be paid for given the flexibilities in spending and the fiscal rules which mean that we can smooth capital investment over four years. We can front-load capital spend. What we had from Fianna Fáil was a back of an envelope alternative budget that was not even costed by it.

The budget presented by the Government did not deliver the goods or the funding required. The harsh reality is that we are discussing these issues again because the Government did not do what it should have done in the budget.

Many new roads need to be built, including the Waterford to Cork and Waterford to Limerick roads. Significant good work has been done to link Dublin with other cities and while this work has been necessary, many routes and cities outside the M50 built have not been joined up. If we want to build up the regions and achieve proper, sustained and balanced regional development, we must have a strategy and plan backed up with resources.

While I welcome the motion, the good intent behind it and many of the sentiments ex-

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pressed by Fianna Fáil Party Deputies, we must be prepared to put our money where our mouths are and properly invest in rural Ireland. We must ensure the national broadband plan is rolled out and proper funding made available for flood relief schemes. These issues are all linked. I cited a number of towns and villages in west County Waterford which require flood relief works. Flooding damages roads. If we invested in proper flood prevention works, we would not experience the types of problems we have in recent years.

The Government has not delivered a joined up plan for rural Ireland and has failed many rural towns and villages. Much more needs to be done and this will require investment, money and resources. Without these, there is no plan and we are left with the spin we heard in recent weeks.

Deputy Willie Penrose: On behalf of the Labour Party, especially rural Deputies, I express full support for this important motion and compliment the Deputies who tabled it. The 673 regional roads extending to more than 13,000 km make up only 15% of the non-national road work but carry approximately 30% of all road traffic. We also have 1,000 km of local roads. If we want to achieve serious bang for our buck, we must introduce a programme of investment to upgrade regional and local roads and connect towns and villages to ensure they are not left behind. This investment will be vital if we are to have a thriving rural economy.

If the objectives of the recently announced rural renewal and survival plan are to be achieved, resources must be provided to do so. If we are to promote tourism, cycling and walking, good quality local roads are needed. People take their lives in their hands going for a walk on many roads. Many regional roads are too narrow for articulated lorries and agricultural machinery and are no longer fit for purpose. On some roads, the level of potholes and broken down and crumbling structure is poor recompense for taxpayers and car owners who pay substantial road tax and find their vehicles are damaged by deficient pavements.

County Westmeath has 307 km of regional roads, while County Longford has 152 km of such roads. Imagine what it would mean for rural development and local tourism if these roads were in top condition. I welcome the funding of €6.8 million and €6.1 million for counties Longford and Westmeath, respectively, announced by the Minister for Transport, Tourism and Sport, Deputy Shane Ross, last week. In particular, I welcome the moneys allocated to help accommodate the Center Parcs project.

It is time to consider how to better use the road network to connect rural areas and revitalise communities. For example, a road rating categorisation attaches to roads and guides their repair level for non-national roads. Ranging from one to ten, a rating of ten is good and indicates only routine maintenance is required. In County Westmeath, the total cost of restoring to a good pavement standard the worst non-national roads, namely, those with a rating of less than five, would be €20 million alone. The cost of restoring all roads to level seven or eight would be a multiple of this figure. The problem is that expenditure on roads is at its lowest level since 1975 and the evidence is there for all to see.

I note the capital plan provides €6 billion for investment in the road network in the period until 2022. It is clear, however, that significant additional expenditure is required. I recognise that significant resource constraints are in place, money cannot be generated confetti-like and we have just emerged from seven or eight years of significant recession. I note the Department of Public Expenditure and Reform yesterday called for applications for meritorious projects across Departments seeking some of the €2.6 billion available to the Minister following a re-

view of capital funding. In that context, the upgrading of the N4, which is known locally as the N4 Mullingar-Longford-Roosky road scheme, is paramount as it is a high value project in the context of regional development.

In 2010, Westmeath and Longford county councils, in partnership with the National Roads Authority, NRA, and subsequently Transport Infrastructure Ireland, TII, announced the publication of the preferred route corridor for the scheme. The project was to upgrade approximately 52 km of the N4 national primary route between the N4 Dromod-Roosky bypass and the N4 Mullingar bypass. The scheme has been designed to bypass Newtownforbes, Longford, Edgeworthstown, Rathowen and Ballinalack. It is a vital project which was proposed for several reasons, in particular to cope with increased traffic flows, reduce journey times and improve road safety. It was suspended following the selection of the preferred route corridor and the delivery of the route selection report in 2010. Funding was not available to advance the scheme to the compulsory purchase order stage. The estimated cost of carrying out preliminary design and an environmental impact study and complete the compulsory purchase order documentation in readiness for submission to An Bord Pleanála is €4 million spread over three years. As I indicated, the construction of this road scheme would be of significant benefit to counties Westmeath, Longford, Leitrim and Sligo and the entire midlands and north west regions. I appeal to the Minister to provide funding to progress this priority infrastructural project, namely, the €4 million required to allow it to immediately progress.

The N55 from Ballymahon to Carrickboy is another important project in urgent need of funding. Longford County Council initially tried to advance this project with the NRA. More recently, it has been working with Transport Infrastructure Ireland. I had a meeting with representatives of TII on 15 December 2016 and it is acutely aware of the need for funding for this project as the matter was raised by the executive, local authority and Oireachtas Members at this meeting alongside other very important road projects.

Without good road access, investment simply does not take place. Highway access has been determined by a US annual corporate survey, presented to us by IBEC at the united N4 link chambers presentation in December, as being important in 85% of corporations' location decisions. Heavy vehicle use on the single carriageway N4 is higher than on some of our motorways. The typical maximum capacity on a single carriageway road is 11,000 AADT or annual average daily traffic. The AADT for the Longford-Mullingar stretch of single carriageway is currently 14,483 vehicles and is quickly approaching two or three carriageway levels. The Center Parcs project in Ballymahon, an extremely important development for the region, has significant potential to increase daily vehicle usage of the roadway, with up to 2,500 guests coming daily to visit this wonderful facility which will provide 900 jobs.

My local authority, Westmeath County Council, has done tremendous work at executive and local authority membership level in the past decade and a half to advance and drive forward projects such as the development of the N4 eastwards and the westwards development of the M6 motorway. Excellent work is being done on a portion of the N52 arterial route within the county boundaries of Westmeath at Billistown, Cloghan, Dalystown and Clonfad. This is an important route from the north east as far south as Borrisokane and Roscrea in County Tipperary. Enterprise initiatives by Westmeath County Council and ambition have resulted in significant work being done.

Some of this work can be done by direct labour. It is time to remove the shackles of the employment moratorium from local authorities and allow them to employ more staff directly,

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as they did in the past. They are treated like children in a kindergarten by the Departments of Transport, Tourism and Sport and Housing, Planning, Community and Local Government. More autonomy should be devolved to local authorities to enable them to get important road works completed using their preferred method and employ local labour.

I will speak briefly about the disastrous decision made by the Department to refuse to grant a separate allocation of funding for local improvement schemes or LIS, the most cost effective and efficient schemes. The local improvement schemes have an entirely positive cost-benefit ratio and provide access to people who live and work on the roads in question. This funding must be restored. Using wide boy tactics by allowing local authorities to use up to 50% of their initial discretionary grants for local improvement schemes is a Pontius Pilate act by the Department, which reduces the discretionary budget. The local improvement scheme funding should be allocated directly by the Department to local authorities.

People living in culs-de-sac are entitled to the same the level of service, facilities and access as people living along main routes. They pay tax, rear families, work hard and contribute to their local communities but believe no one cares about their plight as the condition of some culs-de-sac is deplorable to say the least. I appeal to the Minister to devise a special allocation for culs-de-sac to ensure residents of such roadways do not feel left behind or left out altogether. Many of those who live in culs-de-sac give money to local authorities as part of planning conditions. Having done so, they are wiped from the map, so to speak, and the only time they see anyone is when a politician knocks on their door. They used to see postmen the odd time but since An Post erected monstrous green boxes at the entrance to laneways, they no longer see them either.

I have always been a great supporter of community involvement schemes. Westmeath County Council has been extremely enterprising and initiative driven in this regard. Some wonderful realignment work has been carried out following co-operation between local authorities and landowners and home owners, especially in recent years, all of which had a single focus on safety. This has been recognised in Westmeath where the council's engineering staff must be lauded and praised for the drive and enthusiasm they have shown in this respect. The Department should also provide a specific funding stream for this important work. I again compliment the Deputies who tabled the motion.

Deputy Thomas Pringle: I support the motion, although I agree with other Deputies that its wording is very conciliatory and should be much stronger in calling for investment in our local and regional roads because that is vitally important. It is true that over the past eight years since the recession started, funding for local and regional roads has been slashed across the board. This very short-sighted policy will lead to increased problems into the future in terms of our road network. There is evidence that this is already happening. Many of the surveys that have been undertaken have flagged that massive investment is required to bring our roads back to a reasonable condition. It is important that this is done.

When the funding for regional local roads was announced a couple of weeks ago, much was made of the fact that there had been a 9% increase in funding. However, when one drills down into the figures, the increase in funding in relation to my own county of Donegal is only 1% and there has been a 42% reduction in the specific improvement grant for County Donegal, which means that areas within the county identified over many years as problem areas cannot be addressed. For example, we have been trying to have Fintra Bridge replaced for many years. Based on the current level of funding, the council will never be in a position to replace

it. Unfortunately, most of the bridges in Donegal will have to collapse before they will be dealt with and it is strange that when bridges do collapse, funding can be made available to replace them. Many communities see this as the only basis on which infrastructure will be repaired or replaced.

The funding provided this year to Donegal County Council will allow for the improvement and restoration of approximately 3% of the road network in the county, which means, as others have pointed out, that it will take 30 years to address the issues throughout the road network in the county. This is not acceptable. As I said earlier, all we are doing is storing up problems for the future. We will hit a crisis point in the next couple of years such that investment will have to be made because otherwise roads will become unusable. This is the legacy of the crisis and the recession. There is much talk about recovery, keeping the recovery going and things turning around but in terms of funding for our roads, there is little evidence of any recovery or things turning around. Funding must be restored so that local authorities can put in place a realistic programme of renewal for our local and regional roads.

During the negotiations on the formation of the minority Government, much was made of the fact that the local improvement scheme was to be reintroduced in 2017 but that has not happened and it is unlikely to happen. As pointed out by Members, local improvement schemes are vitally important to families and individuals living in rural areas who cannot afford to maintain the lanes on which their houses are located. The local improvement scheme, by way of grant aid, enabled those people to improve the lanes and maintain them in a reasonable state. If we do not invest in the maintenance of the road network to a reasonable level, we will see into the future a continued and accelerated deterioration of the network such that significant investment will be needed to return it to a reasonable state.

Donegal County Council previously operated on an eight-year cycle in terms of the repair and restoration of our county roads. Local authorities should be able to expect funding from Government to enable them maintain our roads in useable condition. It makes far more financial sense to provide an adequate amount of funding to allow for the maintenance of roads on an eight-year cycle basis. This would ensure that all county roads are maintained in reasonable condition. As I said, there is no doubt that we will face a crisis in the future in relation to our local and regional roads and that we will have spend a hell of a lot of more than the Government has been allocating to date.

Deputy Eamon Ryan: I propose to share time with Deputy Seamus Healy.

I welcome the opportunity to speak on the critical issue of how we develop our transport system and how we improve our infrastructure, particularly in rural Ireland. I am conscious that this debate follows on from our debate on Bus Éireann and how we invest in it. The reality for any Minister in Government is that hard choices have to be made around what should be prioritised and on what money should be spent. The budget is not limitless and there are constraints on it in terms of education, health, housing and so on.

I fully understand the sentiments of the motion in terms of the need to maintain our roads in a safe condition. The number of pedestrian deaths in the last month alone calls into question the safety of our roads and the need to ensure they are maintained and safe to use. To my mind, we need to invest in the centre of the 600 villages and towns identified in the rural development plan. For example, if we do not invest in a new rural bus service, everybody will have to drive, there will be more cars on our roads and our roads will continue to deteriorate. This will

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continue the cycle in the direction in which we have been going for about 20 or 30 years now of having a car based system and having to continually increase investment in the road network because there is no public transport alternative.

The Minister mentioned that the allocation for maintenance of our roads as they are is €580 million. The sum of €580 million is not a small, insignificant part of the total capital transport budget. I wish we were spending the same amount on public transport provision this year. In terms of priorities, we have to start investing in public transport. We also have to start investing in technology that encourages people to use alternatives. There is technology on the horizon in terms of automation, car-sharing and other innovative ways of organising transport which may allow us to reduce the volume of traffic on our roads. We need to focus our effort on increasing the volume of people walking, cycling and using public transport. This can be done in the context of the national planning framework and the review of the capital plan to which the motion refers. We have to make the strategic decision to concentrate development as best we can in the villages, towns and cities throughout the country so that they become growing areas of development.

For rural Ireland, it is more important than anything else that our market towns and villages work. This will require decisions to be made on issues such as how we invest in water systems and housing systems, but also in transport. If we want to make rural Ireland work, investment in the public transport alternative should be prioritised because it helps the concentration of development within towns and villages in particular. That is not to suggest that we should not maintain our road network in safe condition. If we continue with the current system such that the road transport budget is three to four times that of the public transport alternative, it will not set us in the right direction. We need to make a radical shift to get more sustainable development, reduce environmental emissions and make rural Ireland and Ireland work as a whole. This will require investment in public transport rather than in our road network. That should come first.

Deputy Seamus Healy: I welcome the opportunity to speak on this Private Members' motion and I compliment the Rural Independent Group Deputies on bringing it forward. As we all know, local and regional roads are vitally important for social interaction and economic development. Many of these roads have fallen into disrepair and are almost impassible. While roads funding was diverted to other purposes, including the paying down of debt, local authorities have been starved of road grants. The grants were initially cut by the Fianna Fáil-Green Party Government and the cuts continued under the previous Fine Gael-Labour Party Government. There were substantial cuts to those grants, the result of which is that 87% of all primary roads, 92% of all secondary roads and 93% of all tertiary roads - local or county roads - fall outside the best rating category. A significant proportion are in the lowest-rated category. Local councils have to spend an increasing amount of their own moneys trying to keep these roads in a state of reasonable repair. Many of them, particularly the county roads in Tipperary, are in deplorable condition, littered with potholes, with the surface undermined, and require re-pavement and reconstruction. This is giving rise to significant damage to vehicles. The councils are now receiving regular claims for repairs to damaged cars as a result. There is a need for urgent investment in these roads if they are not to disappear altogether.

We have been seeking a bypass on the national primary route through County Tipperary, the N24, for well over 20 years. The road is the main link and it is a vital social and economic corridor through the county, extending from Limerick to Kilkenny, Waterford and Rosslare. It is not included in the current capital programme. I ask the Minister to consider urgently its inclu-

sion in the review of the capital budget for roads, which I understand is to take place this year. This matter of the N24 affects Tipperary town, in particular. It runs right through the centre of the town, carrying huge numbers of vehicles down the main street on a daily basis. It extends to Clonmel, where the Frank Drohan Road, or the bypass, as it is known, is effectively a car park at many times of the day. Carrick-on-Suir is also affected. The stretch into County Kilkenny near Piltown is very dangerous. This road urgently needs to be included in the capital programme and a bypass for this whole area needs to be considered immediately.

Deputy Michael Healy-Rae: I thank the leader of our group, Deputy Mattie McGrath, for his work on this motion. I also thank Aisling in the Minister's office and Triona, David and Máirín in Deputy McGrath's office for their work. This is a very important Private Members' motion.

Regional and local roads providing links between rural communities and towns and larger urban centres are vital. Members and councillors representing rural areas know at first hand, and better than most, the value of funding for roads. With regard to the lack of funding for roads in County Kerry and throughout rural Ireland over the years, local authorities are not to blame. They are starved of funding. Every one of us knows that.

I wish to highlight the conditions on roads in Kerry. Certain roads, particularly in north Kerry, could be described only as something one would see in Beirut. Funding is required urgently to bring these roads up to the standard in the rest of the country.

It would be very neglectful of me at this time if I did not compliment and thank Kerry County Council. I praise our county councillors, the management of our council, our senior and junior engineers and, most important, the people who work on our roads. The latter are the people I most admire. These are the people who at 12 midnight, 1 a.m. and 2 a.m. are out in lorries salting the roads if the night is frosty. They are the people who are out the morning after a flood trying to repair the damage done the night before, be it by cutting back trees or filling potholes. They drive JCBs to clear the roads and keep them open. It would be very neglectful of me not to thank those people. I can speak only for people working in County Kerry but I wanted to go on the record of the Dáil to say I appreciate every hour they give on our roads and the work they are doing. I appreciate also the people who came before them who are gone to their eternal reward. I praise from a height those I knew and the ones I know now.

County Kerry is choked from both sides. The problem arises coming through Adare on one side and through Macroom and Ballyvourney on the other. This is resulting in businesses not wanting to locate in our county even though it is the finest county not only in Ireland, but in the world. It is most unfortunate that access has been neglected over many years. Major projects need to go ahead and require continued funding urgently. I am glad there is now movement on the Macroom and Ballyvourney bypasses but we need sustained funding for a number of years to ensure we will have a bypass in Adare and direct access down from Cork city, which is of huge importance.

Let us consider some of the circumstances with which we are dealing and the dangerous junctions in County Kerry. I highlighted this previously in the Dáil and it was most unfortunate that some Deputies believed it was something to laugh at. There is nothing to laugh at. I make no apology to anybody for raising in the Dáil the need for more funding to deal with dangerous junctions in our county. If I must raise the requirement for lights to deal with the number of accidents at dangerous junctions, such as where the R569 meets the Cork-Killarney road, the N22,

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I will not be one bit ashamed of raising it in the Dáil. I was sent up here to represent people on both big and small issues. Any issue of people dying on our roads is paramount.

Another issue I want to raise is that of hedges overhanging and encroaching on roads in County Kerry. People talk to me about the protection of birds. It is the biggest load of nonsense because a bird has a brain too. I know of no birds that are foolish enough to want to put their nests on the edge of the road where a lorry will be whistling by. They will go into a field and into quiet areas where they can build their nests and hatch their eggs in peace away from the traffic. Any person who believes it is wrong to cut hedges at certain times of the year is only talking balderdash. It makes no difference in the world what week of the year one cuts a hedge if it is going to protect people's lives. In the past, councillors were able to use councillors' allocations to cut hedges. That practice should be allowed to continue. In many instances, there will be landowners who are not present. They might be away in America or have emigrated. Trying to have uniformity such that everybody with land along a road will cut hedges at the same time is not working.

Deputy Mattie McGrath rightly referred to damage to vehicles and I disagree with him on only one point, namely, the cost of a mirror. There are certain vehicles for which one would not get a smell of a mirror for €200; they cost a lot more. Some coaches and buses have heated mirrors that in many instances can cost up to €1,000. If the poor people running the buses broke a mirror every couple of weeks or so many times in a year, it would be a fair loss to them.

The Minister, Deputy Ross, referred to deaths on our roads earlier in the year. I acknowledge he is extremely concerned about this, as is every Member in this House. We do not want people to die on our roads. I know for a fact - I would not say this only I know it to be true - that roaming deer are contributing to deaths on our roads. There has been an explosion in the deer population. It is no exaggeration to say a 70% cull of deer is urgently required. I refer to wild deer coming onto the roads. They are definitely causing deaths because people are swerving off the roads and losing their lives. The deer vanish and afterwards people ask why the car left the road. It is very clear and evident to me. Many have had their cars destroyed. If this occurs, young people cannot claim off their insurance. The killing thing about it is that the OPW and such bodies say that if one is out shooting deer, it is their deer. However, when the deer is on top of the car's bonnet and the person is wondering whether anyone will provide compensation, the answer is "No" because the deer is a wild animal. That the vehicle is broken and the person may have been injured is his or her own tough luck.

I will mention something that is close to my heart. Many years ago, I attended a famous meeting in a great place called Glencar, which is up from Beaufort in County Kerry, where we fought for funding for local improvement scheme, LIS, roads. When I started out on Kerry County Council, I was proud that it was doing anything up to 60 roads per year under the LIS.

We can discuss roads until tomorrow night, but the most important section of any road for anyone is the last stretch that he or she travels every day to get home. Let us take the Leas-Cheann Comhairle as an example. When he was far away in Europe, the one place that he had to travel was the last stretch to his house, wherever that might be. Regardless of whether that happens to be a mile, half a mile or a quarter of mile of a private road, and regardless of whether there is just one house or multiple houses on it, that road is of national importance to its residents. The people of Ballinskelligs are every bit as good as the people of Blackrock. Do not ever forget it.

Deputy Mattie McGrath: Hear, hear.

Deputy Michael Healy-Rae: They deserve a proper quality road. They might live on a private road, but they are paying VRT, VAT and every tax in the world just like everyone else.

There should be a properly funded scheme. We were given an assurance in the programme for Government that an adequately funded LIS would be launched in 2017. The Government cannot make promises that it will not keep. It has to honour its word. This promise was written down in black and white. It is not good enough to tell county councillors that they are the ones who must decide whether to spend money on their regional roads or the LIS. That is not how it used to work previously. In the past, there was a special fund for the roads in question. Of course we want it in County Kerry, but I appreciate that every Deputy present wants it, and should have it, for his or her county as well. The LIS is of major importance.

There is a lack of drainage on our roads. They are not being drained properly because local authorities are not allowed to replace workers who have retired or, unfortunately, died. The roads workforce is dwindling. There are plenty of young people who would adore the opportunity to work for their local authorities. They would be proud to do so, but they cannot because they are not being hired. That is wrong.

Other Deputies have criticised the Minister, Deputy Ross, in recent days for not visiting his own Department in Killarney, County Kerry. I will not do likewise because I know that, although it was his genuine aim to do so before Christmas, events took a hold of him and he was not able to visit. However, he will accept the invitation that I issued to him many months ago. He was to visit the county to view a number of serious issues. I am glad that he has put on the record of the House tonight that he will visit County Kerry and his Department there and that he will examine the dangerous situation caused by our roads. I thank him in advance for his trip to County Kerry and I will be the first there to welcome him.

Deputy Tom Neville: I echo the sentiments of a number of Deputies, in particular those of Deputy Healy-Rae, who mentioned Adare. Its bypass has been approved and work on the Limerick-Foynes Port route is ongoing. It has been deemed a tier 1 port in Europe.

I wish again to raise the provision of a spur road at Croagh on the proposed Limerick-Foynes route. Croagh is home to 200 jobs and 11 or 12 family businesses, but no spur road has been provided to the village. Croagh has been absent from the talk of rural connectivity and regeneration. A number of meetings have been held by Limerick City and County Council on this matter and a motion was passed by all councillors who were present to provide the spur road. The cost has been used as an excuse, but I do not buy it, given that a considerable amount of money has been allocated to the overall project. I do not know why the village of Croagh cannot be included. A three or four-month review has been mentioned, but I do not buy that either. This project could be undertaken much faster. Another excuse is that a spur road can only be built every 11-12 km. That does not wash, given what happens on other national primary routes. We must use every power available to us to ensure that pressure is placed on Transport Infrastructure Ireland, TII, and the powers that be to provide a spur road at Croagh.

A motorway between Cork and Limerick is needed immediately. This project was shelved as a result of the economic crash a number of years ago, so I welcome the fact that it has entered the planning phase. I thank the Minister of State in that regard. Some €20 million has been spent on planning so far, with a further €1 million to be spent now. A plan is required

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immediately if we are to meet our target of 300,000 jobs for the southern region and develop it as a counterbalance to the eastern seaboard. The Cork-Limerick-Galway Atlantic western corridor that has been talked about since 2004 is needed urgently. Some €2.6 billion extra in capital spending can be allocated. This motorway needs €800 million. Building it would take a number of years, but we want to concentrate on the most dangerous points along the route, for example, from Croom to Mallow, which is the narrowest part of the road.

A number of roads that have been downgraded often have lower speed limits than primary roads that are of poorer quality. A speed limit review is necessary.

I wish to discuss regional and rural roads. I was still a councillor 12 months ago and was working on this matter with the local authority. We used to have tertiary road grants. They vanished in the crash, followed by the LIS and, later, councillors' discretionary funding. The Government has worked with people on improving the economy and giving the benefits of that to roads, so I find it difficult to take when the other side of the House fails to mention all of that and seems to abdicate responsibility.

As Deputy Healy-Rae stated, junctions pose the greatest danger at the moment. A country-wide programme of low-cost improvements to junctions needs to be put together. It would be a front-loaded, one-off investment. The roads are the same width now that they were 30 years ago, but there is a higher volume of traffic and vehicles are wider. As such, junctions are more dangerous. The investment would make them safer by, for instance, removing hedges and blind bends. The Minister and local authorities should discuss how to devolve some power to the latter so that they can, for example, use development contributions, which seem to have increased in recent years owing to an increase in the number of developments. Perhaps a percentage of these contributions could be used to top up the existing funding.

We must come to this Chamber with ideas and solutions. We need more funding, but we also need to start putting our heads together, find solutions and use the financial fruit of the economic recovery.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Patrick O'Donovan): I thank the Deputies who tabled the motion for giving Members from across the House the opportunity to enunciate their constituencies' issues. As a Minister of State in this Department, I understand the issue of rural roads well. I come from one of the most rural constituencies in the country.

I acknowledge the points made by the Minister, Deputy Ross, and other contributors. We all appreciate the role that our road network plays in providing access to jobs, education, health services, social networks and recovery in our economy. As outlined by the Minister, the financial crisis and the resulting funding cutbacks of recent years had a major and tangible impact on the maintenance and improvement of our road network. Given the very extensive nature of Ireland's public road network, with twice the European average *per capita*, the real challenge for the Government in recent years has been to balance the concerns about the condition of the road network while operating within very limited financial resources. The difficult choices which had to be made resulted in major cuts in funding for the road network.

The statistics for recent years have been stark due to funding constraints with only half the required road pavement works having been undertaken on the regional and local road network and the priority for both Transport Infrastructure Ireland, TII, and the Department of Transport,

Tourism and Sport has been focused on maintaining the network in as serviceable a condition as possible. In the case of regional and local roads, that meant concentrating resources on the maintenance and renewal of the public road network rather than new projects. While the Minister referred earlier to funding provided by the Department for road infrastructure, further funding is being provided under the CLÁR programme, which was reopened by my colleague the Minister of State, Deputy Ring, in October last year. The programme provides funding for small-scale infrastructural projects, including roads, in disadvantaged rural areas that have experienced significant levels of depopulation. That is a welcome development.

CLÁR 2016 provided funding for three measures, namely, safety measures for schools and communities, sports facilities, playgrounds and multi-use games areas, MUGAs, and local access roads. All 23 local authorities with designated CLÁR areas were invited to make submissions under the measures and in the context of their own county development plan funding. Following an assessment of the applications received, on 1 December 2016, the Minister of State, Deputy Ring, announced funding of €8.24 million to 651 successful projects under the programme. Some of the road projects which received funding under CLÁR in 2016 included pedestrian crossings at schools, new road markings and road safety signage, among others. The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs has a budget of €5 million for CLÁR for 2017 and details of the 2017 CLÁR scheme will be finalised and announced shortly.

While the funding available for roads will take some years to build up under the capital plan 2016-2021, by the end of the period, transport sector plan funding levels will be back to where they need to be to support maintenance and renewal of the road network. Given the scale of the crisis the country faced and the need to ensure expenditure programmes are sustainable, the gradual restoration of funding was the prudent approach to take. As the Minister, Deputy Ross, highlighted earlier, there is a very strong case for additional investment in transport infrastructure. The Minister for Public Expenditure and Reform has now launched the review process for the capital plan and has identified €2.65 billion as the extra capital funding that can be allocated within the current capital plan period. The Minister, Deputy Ross, and I are very hopeful that this process will result in additional funding for the transport sector while recognising that the final decisions on allocations are matters for the Minister for Public Expenditure and Reform.

In the limited time available to me, I welcome the fact that my county of Limerick received an additional €3 million this year from Transport Infrastructure Ireland, which is badly needed. A reference was made to speed limits. For the first time in many years local authorities have received allocations this year from Transport Infrastructure Ireland to carry out the remaining element of work required to complete the national road network speed limit review. Local authorities have engaged with Transport Infrastructure Ireland and it is up to local authority members at this stage to adopt or reject the plans drawn up by TII. Money is being made available for the movement of signs. It is also important to pay tribute, as several Deputies have done, to outdoor staff in local authorities across the country. This has been a very mild winter but in recent years the weather has wreaked havoc on the roads and it should be pointed out that local authority staff have gone out in the worst form of inclement weather.

One of the most important things local authorities can do, as several Deputies alluded to, is in regard to roadside drainage. There has not been a proper programme in that regard for many years and that is something we really need to get back to because in many cases we are putting good money in after bad. Roads are not being properly drained and the lack of local knowledge about inlets and water tables is a considerable problem. I welcome the consensus on the mo-

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tion. I thank the Leas-Cheann Comhairle for his latitude. I also thank the Deputies who tabled the motion.

Deputy Michael Fitzmaurice: I support the motion. We have seen a deterioration in roads right around the country in recent years. In the early 2000s and prior to that, roads were resurfaced once in every ten years. Now that less money is around for that purpose, the likelihood of a road being resurfaced has become once in every 20 years. That is the reason we have seen such a deterioration in the condition of the roads. It is easy to give out about the Government but the reality is that when another Government blew up the country, we did not have the money we needed to spend on roads.

There is no doubt that for a country to come out of the situation in which we were and to move forward, no more than someone in business one has to spend a pound to make a pound. One might have to borrow money to ensure we bring things up to a certain standard. New systems are currently being used for road maintenance, such as rotavating them and putting a new type of macadam on them and such new roads are good for 20 years. What we used in the past was not suitable. However, the new method costs more. It is necessary for Ireland to borrow money in order to get out of the recession we were in.

Funding is required for the N4 and the N5 road from Mullingar to Castlebar must be finished. The road from Donegal to Tuam must be completed, as must the Mallow to Cork road. If we do not put in place the proper infrastructure and ensure people can get to a motorway within 20 to 25 minutes of leaving their house then one will not open up sufficient opportunity to them. The sad reality is that Galway County Council had a budget of €32 million for roads and it is down to €19.5 million. Roscommon County Council has €11.5 million for roads but it once had €19 million. It will cost money but in the long run it will save us money and it would help more people to find work and make the roads safer. A report showed that in certain counties, 14% of the roads are dangerous. I concur with what the Minister of State said earlier about council staff around the country and the amount of work they do. That must be acknowledged. I encourage the Government to examine all infrastructural requirements, be they hospitals, schools or roads and if necessary it must borrow money and ensure people in all parts of the country have an equal opportunity.

Deputy Eugene Murphy: I sincerely thank Deputy Michael Collins and his colleagues for providing me with two minutes to speak in this very topical debate to which everyone wants to contribute. I compliment Deputy Mattie McGrath and his colleagues on raising this very important issue.

Time is limited and I will adhere to the rules. I echo much of what my constituency colleague, Deputy Fitzmaurice, said. I am pleased the Minister of State, Deputy Patrick O'Donovan, is present because he is a listener and he will take the message back. I will be very parochial. The constituency of Roscommon-Galway was utterly devastated last year. The total bill to fix the roads and bridges, as submitted by the county engineer, came to €11.5 million. We got €6.5 million. Roscommon is still 4% to 5% behind what the east coast got. One must remember that before one starts to talk about an increase of 4%. We have a deficit of €5 million. Roads are still not properly passable in County Roscommon and in parts of Galway. The Minister, Deputy Ross, has totally neglected the county that was worst affected by the floods. While I welcome the allocation of 11.4% and the 4% increase, it will still leave us with a deficit of €5 million. The senior engineer, area engineers, overseers and workers who were called by the politicians at 3 o'clock, 4 o'clock and 5 o'clock in the morning and got up and went way beyond the call

of duty to help people-----

Deputy Michael Healy-Rae: Hear, hear.

Deputy Eugene Murphy: -----are being totally laughed at in this situation. They put in the plan and told the Minister what was needed but we are left with a deficit of €5 million. I urge the Minister to revisit the situation. I accept I am being parochial.

The Minister should also consider bringing back local improvement schemes. Local improvement schemes and the CLÁR programmes brought in by a Fianna Fáil Government were very positive and were good. They achieved things for rural areas, as the Deputies present know. If they are brought back, they will solve a lot of problems. The N4 and N5 need to be upgraded as a matter of urgency. They have been neglected. I urge the Minister to include them in the capital programme for 2017.

Deputy Michael Collins: There are approximately 91,000 km of regional and local roads in Ireland. They account for 94% of the country's road network, which carry around 54% of all roads. The Minister, Deputy Ross, was in the Chamber earlier. He inherited a mess made by previous Governments which has left many roads with little or poor funding, especially in areas where political representation was weak. We raised the condition and funding of roads on numerous occasions last year during discussions on the programme for Government. We have now received a commitment in the programme to increase the capital budget for regional and local roads by approximately 50%. An extra spend of 9% this year is a move in the right direction but is in no way enough. A figure of 50% over the lifetime of the Government is neither enough nor soon enough as many roads in south west Cork, which I represent, are crumbling. Last year was a prime example of this where roads throughout west Cork were closed for weeks on end. The road in Ballinspittle in west Cork is still closed. In some cases, not even a digger could travel on these roads. This was not the fault of the Minister. As I said earlier, he inherited a mess as the roads budget was totally underfunded.

Local authorities need to be funded properly and to revert to having more council staff on roadsides having a bigger effect in their counties. An embargo on council workers was simply penny wise and pound foolish. Dykes and gulleys are blocked. The fact that dykes have not been cleared has led to roads being washed away costing millions of euro. There is simply no funding for staff. This embargo must be lifted. Local authorities had full charge of verge cutting down through the years and it was carried out brilliantly. The fact that our verges are not being cut is costing this country millions of euro in terms of car damage and car rental companies not paying people who rent their cars because of scratches and tears. It is costing our tourism industry quite a lot as well. Tree felling needs to be carried out by local authorities. The local authority needs to look after the roadside. We are paying so many taxes, including the local property tax. Surely the roadside should be looked after by the local authority when we are paying motor tax. We have potholes on our roads and our cars are being damaged on a regular basis.

There has been report after report in respect of the N71, R586 and R585 in west Cork, but little or nothing has been spent on them down through the years. The money that has been spent on reports should be spent on passing bays. They will not cost a fortune but would be hugely effective. We do not want any flyover there. We want some simple work to be carried out to create employment in west Cork and promote our region as a place apart, which it is. The Minister met with a cross-party delegation from west Cork some weeks back. Since this

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meeting, we have had movement and the Minister has given consideration to many of the roads I mentioned. If he does, he will be the first Minister to have done so and will have the full support of the Rural Independent Group in what is a very difficult job. I also thank the Minister and his Department for the announcement of over €500,000 for west Cork roads last week. This is greatly welcomed by all of us in west Cork and is a move in the right direction.

Deputy Mattie McGrath: I thank the Leas-Cheann Comhairle and the Ceann Comhairle for their forbearance all night. When he was here earlier, the Minister said that he was hopeful that the review of the capital plan, which we hope will be at the end of this year, will help rural roads and get more money. Indeed the Minister of State has supported the Minister in that. I do not say that it might happen. I say it must happen because if we do not invest in roads, it will be penny wise and pound foolish. It has been accepted by Transport Infrastructure Ireland, TII, and many other studies that roads are deteriorating. The quicker we address the situation, the better because the worse the condition of the roads, the more it costs.

I thank the management of Tipperary County Council, including the engineering staff and, above all, the outdoor staff, tributes to whom have been paid by many of my colleagues. They work so hard in all the troubled times and are out there trying to do a lot with such a limited number of staff. I thank county councils. They have a very important role and must be listened to and given more powers and more respect unlike their treatment by the former Minister, Phil Hogan. He banished local councillors but the councillors are the eyes and ears and are at the front line and I commend them. They deal with the staff and role they have. We have too many chiefs and not enough Indians. The embargo must be lifted. The local man on the road with a shovel is as important as the draftsman doing the work.

I said earlier that we need projects in the pipeline. We do not have enough of them. TII has said that forward planning must be looked after. We did not have enough time here tonight but I thank every Member who contributed and supported our motion. I do not even listen to the begrudgers who complained that our motion was too conciliatory and that we were contaminated in the Minister's office. We were not. I thank the Minister and his officials along with the Minister of State and everybody else for the spirit of co-operation they showed. According to some, we are going to be "anti" everything and give out. Deputy Troy seemed to be lamenting that we had access to the Minister's office. Thankfully, we have access thanks to the Independent Ministers and other Ministers. While that situation works, we will support it but as I said earlier, we will be raising it on the Order of Business and the Topical Issue debate to ensure it is delivered on and that the promises that made in the programme for Government are delivered. We want front-loading of the funding.

I make no apologies to Deputy Troy or anybody else. They want to have it ever which way - in government and out of government. They do not know what they want. They are like the dog in the manger. They are in opposition and can turn off the tap whenever they like but we are about rural people and rural Ireland. We do not begrudge Dublin the Luas, the Port Tunnel or the M50. We use them ourselves. However, we want a fair and equal slice of the cake - no more and no less. Every person in Ireland who pays their motor tax, NCT charges and insurance and who has to repair their car and support their children going to university and work is entitled to the same standard of roads. At the moment, it is not a level playing field. A total of 94% of roads are rural, local and regional roads with 54% of the total traffic. Think of those figures. It is time we had fair play. Former Ministers, Noel Dempsey and Martin Cullen, flew around in helicopters. The door even fell off the helicopter in Cork. They did not care about the people. They thought they were kings but now we are suffering from decades of neglect so

it is important we get fair play. That is all we want. The Rural Independent Group is fighting for that for the rural road network and rural business. The Government's plan for rural Ireland launched in Longford will be useless and toothless if we do not have a road network that allows people, tourists and businesses to travel.

The Minister of State and the Government know that we need support and funding for the roads. We need to allow our councils and private people to look after the roads. As Deputy Michael Healy-Rae said, the last half mile of every journey is as important as the M50 when we all travel home to our counties and the people we represent who send us here. We are Teachta Dálaí, messenger boys and public representatives serving the public rather than being self-serving like some former Ministers when they had the money during the Celtic tiger. Let the work happen, the roads be repaired and the people be given the respect they deserve with a half-decent road and they will never complain.

Let us ensure there is basic drainage and tree felling and that we do not have too much officialdom interfering and telling us we cannot do this or that. We should have one agency. I hope the Minister goes to TII and allows the likes of the roads in Tipperary town to be resurfaced, a bypass for Thurles and the N24 to be created from Pallasgreen to Waterford. The people deserve no less. They are as important as anyone else. In respect of progress, where Tipperary leads, Ireland follows so I ask the Government to look after Tipperary and all the other counties in rural Ireland. It is not all about the capital city.

Question put and declared carried.

Criminal Law (Sexual Offences) Bill 2015 [Seanad]: Order for Report Stage

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: "That Report Stage be taken now."

Question put and agreed to.

Criminal Law (Sexual Offences) Bill 2015 [Seanad]: Report Stage

An Leas-Cheann Comhairle: Amendments Nos. 1 and 52 to 55, inclusive, are related and may be discussed together.

Deputy Ruth Coppinger: I move amendment No. 1:

In page 6, between lines 8 and 9, to insert the following:

“ “consent” in reference to sexual activity, means voluntary agreement to engage in the sexual activity in question, unless otherwise stated in this Act. Allowing sexual activity

does not amount to consent in some circumstances—

(a) a person does not consent to sexual activity just because he or she does not protest and/or offer physical resistance to the activity,

(b) a person does not consent to sexual activity if he or she allows the activity because

of—

- (i) force applied to him/her and/or to some other person(s),
 - (ii) the threat (express or implied) of force being applied to him/her and/or some other person(s), or
 - (iii) the fear of the application of force to him or her or some other person(s),
- (c) in any of the cases in paragraph (b) above, it is immaterial whether it is the accused who applies force and/or threats of force against the complainant and/or other(s), or not,
- (d) a person does not consent to sexual activity if the activity occurs while he/she is asleep or otherwise unconscious,
- (e) a person does not consent to sexual activity if the activity occurs while he/she is so affected by alcohol and/or some other drug(s) that he/she cannot consent or refuse to consent to the activity, whether or not that person took alcohol and/or some other drugs voluntarily,
- (f) a person does not consent to sexual activity if the activity occurs while he/she is so affected by a physical condition or impairment of such a nature and degree that he/she cannot consent or refuse to consent to the activity,
- (g) a person does not consent to sexual activity with another person if he/she allows the sexual activity because he/she is mistaken about the identity of that person,
- (h) a person does not consent to sexual activity if he or she allows the activity because he or she is mistaken about its nature and quality,
- (i) a person does not consent to sexual activity if that consent is expressed by the words and/or conduct of someone other than themselves,
- (j) a person does not consent to sexual activity if he/she expresses by word and/or conduct, a lack of agreement to engage in that activity,
- (k) a person does not consent to sexual activity if, having first consented to sexual activity, he/she expresses by words or conduct a lack of agreement to continue to engage in that activity,
- (l) this section does not limit the circumstances in which a person does not consent to sexual activity;”.

I do not think there is a need to push our amendment. I welcome the fact the Minister has incorporated points we and others made. It is practically the same wording that was discussed on Committee Stage and I am happy to accept it and withdraw our amendment. This has been an important issue, particularly for rape victims. In theory, we should not need a definition of consent but we do. It follows a process that has taken place on campuses, schools and colleges about what is and what is not consent.

We have seen a number of cases where this issue became very important. In Ireland, cases were pursued with people bravely identifying themselves publicly and waiving their anonymity to progress this issue. I salute those in the rape crisis centres and other agencies who have pushed for this to be taken on board.

Deputy Jonathan O'Brien: I thank the Minister for taking into account the views of those of us who raised the issue on Committee Stage. We also indicate our support for the Government amendment, which is comprehensive and covers all of the concerns articulated on Committee Stage.

Deputy Jim O'Callaghan: We had tabled an amendment in respect of consent on Committee Stage, which we withdrew. The Minister indicated that she would propose a definition. That was helped in large part by a decision of the Supreme Court on 11 November in the case of the DPP v. O'R which gave a broad overview of the issue in respect of consent. Obviously, people previously had a definition of consent when it came to cases being heard by our courts, but it was not written down anywhere. There is an advantage for the public to be able to see in a written document, in a law, what this country regards as defining the meaning of consent. We have tried to do that as best we can.

7 o'clock

Obviously, in practical terms when it gets to a court case, although the issue of consent is an objective fact, it is an issue that is sometimes in dispute. Irrespective of the definition we put on it - I think the one put forward by the Minister is a good one - it will still be an issue of conflict in a trial and it is matter for a jury to determine whether consent was or was not given. That is a very difficult task.

Deputy Clare Daly: I am very glad that we are having this discussion. It is one that society has engaged in. In some ways we have moved on, and in some ways we have not. While "No" meaning "No" is the general guideline, this amendment seeks to address those grey areas where "No" might not have been expressed or there has been some reinterpretation.

As a society, we have advanced. We have moved from the position whereby, in the relatively recent past, for example, marital rape was considered acceptable. In those cases "No" meaning "No" was irrelevant. In the old days, masters could rape their servants, and in other parts of the world that still goes on. Ireland has moved on in that sense. However, there is a grey area where somebody might not have been fully able to articulate and express their consent. In that sense, I welcome some of the clauses in the amendment. I would prefer the amendment tabled by Deputies Róisín Shortall and Catherine Murphy. Of the three amendments, it is the most balanced and uses the clearest and most concise language, and it would be my preference.

While we need to spell out circumstances where somebody can go to bed with somebody else, engage in a sexual activity at the start of the night and decide not to continue or reactivate that later on in the night, we know of instances where somebody is incapacitated and wakes up to find somebody engaged in a sexual act. That is obviously not acceptable. However, there are issues. I am glad amendment No. 1 is to be withdrawn because I was concerned over references to somebody being mistaken as to the quality of the activity and that they did not give their consent to that, which leaves open a laughable scenario in which people could come back claiming they did not consent because they did not have an orgasm or whatever.

I am concerned about the issue of being mistaken as to identity of a person and I ask the Minister to explain it. There are a few scenarios. For example, this could mean that if some-

body agrees to a sexual engagement with a person who may be a transgender person - he or she did not realise that the person had been born a previous gender, but he or she had liked that person and met him or her in their present gender - decided to have sex with the person and then realised later on that the person was born a man or a woman, he or she could then say, "I've been deceived here, I didn't give my consent to that." I do not think that constitutes rape or sexual abuse in those circumstances.

There are obviously issues relating to trust in a relationship. However, by us specifying it, where does that fit in? I have seen the television programmes featuring somebody masquerading as somebody in a position of influence. For example, in one television programme a janitor posed as a college professor, offering to sleep with women in return for their children getting into college. The women had agreed to do it and then found out that it was not actually a professor with influence, but the janitor in the college. The issue was that they were mistaken as to the person's identity because they thought they were sleeping with Professor Bloggs who decided on the admissions to the college and did not realise it was the janitor. I think that is a bit of a stretch. The behaviour of the individual is reprehensible, deceitful and appalling, but does that constitute rape? I am not sure.

We need to debate some of these issues in detail. When we define circumstances in black and white, we have to be very conscious that we are dealing with areas that are not black and white. Judges clearly need guidance because some of them have given the most appalling judgments, accompanied by really ignorant commentary. It is equally important that, as a society, we educate not just our judges, but also our young people, on sexual activity and on consent. Young people should be able to freely enjoy sex with other people who want to freely enjoy it with them. We need to get across an understanding that sex is best had when it is also enjoyed by the other person - or the other people or whatever one is having oneself. As long as the person agrees to that and gets pleasure from it, it is fine.

I have certain concerns. I am glad amendment No. 1 has been withdrawn. Given some of those complexities and the way things could be interpreted, the amendment tabled by Deputies Róisín Shortall and Catherine Murphy is by far in a way the clearest and gives the greatest protection to all concerned.

Deputy Róisín Shortall: I apologise for being late in arriving.

I wish to speak to amendments Nos. 52 to 54, inclusive. Amendment No. 52 provides for a positive definition of "consent", which is important. It is very welcome that the Supreme Court last year reaffirmed that sexual activity without consent is rape. However, the Bill presents a key opportunity to address some of the case law going back as far as the 1800s and we should avail of that. I propose that we send a clear message by providing a statutory definition of consent, and I recognise that the Minister has done that on foot of points that were made on Committee Stage.

Amendment No. 52 would put in place a positive definition of consent and clearly define the circumstances in which consent should not be considered as having been given. The amendment would provide for a new Part 8 relating to consent with the first subsection of that stating: "An individual consents if he or she agrees by choice and has the freedom and capacity to make that choice." It is a recognition that for adults it should be very clear not just by stating what consent is not, but also by stating positively what is consent.

In a recent article, the CEO of the Dublin Rape Crisis Centre, Noeline Blackwell, noted that victims will often minimise their assault because they may not recognise the many ways in which rape can take place. Placing a non-exhaustive list on a legislative footing serves to provide clarity on the law.

The Minister has tabled her own amendment, No. 53, and while the substance of her amendment and the Social Democrats amendment is broadly similar, the Minister's amendment addresses coercion in terms of the application of force. I do not believe that is sufficiently wide in terms of defining "coercion". As we know, coercion can take many forms that do not necessarily involve physical force. That is the reason I am proposing the amendment that employs the more general term of "harm", which I believe is more appropriate. When we think of people being put under duress in circumstances like this that can involve rape, it is not just about physical force. There can be threatened harm in other ways apart from physical harm. We can think of endless ways. One way would be threatening to withhold a child or access to a child, for example. Another way would be to threaten to disclose something about the other person, which ultimately would amount to blackmail. There is potential for disclosure of information which is confidential to the victim and that person being put under duress because of threat of that disclosure. Another one we could very easily visualise happening would be a situation where, for example, a landlord put a victim under duress and threatened to harm the victim by changing their lease or evicting them from their home. There are umpteen ways in which threatened harm could put a person in a situation where they were under duress. What is required in terms of coercion is a broader definition. That is the reason I am proposing that we change "physical force" to "harm".

The final point I would make is on amendment No. 54. As the law stands, consideration is given to the intentions of the perpetrator of rape and whether they generally believed the victim was consenting, no matter how unreasonable that belief may have been. The proposed amendment would lower the threshold to a reasonable belief in consent while giving consideration to the intellectual capacity of the perpetrator. With regard to that proposed amendment, in light of the announcement made by the Minister, Deputy Zappone, the other day in terms of referring this matter to the Law Reform Commission and undertaking to produce an early Bill based on the findings of the Law Reform Commission, I am happy to withdraw that amendment.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank Deputies for their responses to these amendments. I have been considering this for a number of months. Deputies in the House raised this issue, as did the Rape Crisis Centre in the person of Ellen O'Malley-Dunlop and Noeline Blackwell, the current chief executive officer. I met with Dr. Susan Leahy, one of the experts on this topic who did her PhD on this subject. She has also met with officials from my Department and we have been liaising very carefully and in detail with the Attorney General. The original view was that we would work on precedent rather than a definition but we have worked it through to the point where I am in a position to bring forward these amendments this evening.

The amendment introduces the definition of consent into the Criminal Law (Rape)(Amendment) Act 1990 as opposed to a stand alone provision in this Act. Section 9 of that Act already provides for a clarification in respect of consent in that it states that failure to offer resistance of itself does not constitute consent.

The provision I am now proposing reflects that proposed by Members of the House and expands greatly on that clarification. Section 1 of the new section 9 of the 1990 Act provides that

a person consents to a sexual act if he or she freely and voluntarily consents to engage in the act. Subsection (2) sets out the circumstances which, if proven, would vitiate consent. These include, as Deputies have said, the application of force; if the person is asleep or unconscious; if the person is incapable of consenting because of the effect of alcohol or some other drug; if the person has a physical disability which prevents him or her from communicating his or her agreement to the act; and if there is a mistake as to the identity of a person involved in the act or a mistake as to the nature or purpose or if the consent is given by a third person. All of these circumstances are reflected in the other amendments in this group.

Deputy Shortall's list is exhaustive. I would make the point, which is important, that the list I am introducing is non-exhaustive, which is the approach that has been supported by the people who would be very supportive of moving to a definition. The Deputy will see in the definition I have given that other factors can and will be taken into account in the circumstances of a court hearing on the issue.

Subsection (4) clarifies that consent may be withdrawn at any time. Subsection (5) confirms that failure to offer resistance does not of itself constitute consent. Subsection (6) defines what a sexual act is and replicates the definition already contained in the Criminal Law (Sexual Offences) Act of 2006 and in section 20 of this Bill. That includes rape, rape under section 4, sexual assault and aggravated sexual assault.

I believe the amendment I have brought forward reflects the amendments that have been submitted by Deputies in the course of the discussion on this Bill. I note that Deputy Shortall said she will withdraw the other amendment pending the referral. It is a very complex area of law. I have discussed it in detail with the Attorney General. What the Minister, Deputy Zapone, said to Deputy Shortall is correct, namely, that we agreed to refer it to the Law Reform Commission for a full report on it in order to deal with it effectively at a later point.

Deputy Róisín Shortall: I accept that the Minister has gone a long way in terms of providing a very comprehensive definition of consent. However, I do not believe she has addressed the issues I raised, namely, that the question of force implies physical force but there are other ways a person can be put under duress by threats of causing harm in other ways. I listed three possible ways and there are umpteen others. It would be sensible if there was a change in the actual wording in terms of accepting the term "harm" instead of "force". I would very much welcome the Minister's comments in that regard because it will be a missed opportunity if she does not do it at this stage.

Deputy Frances Fitzgerald: I would make the point, which I am sure Deputy Shortall is well aware of, that in all cases where consent is disputed, consent must be decided within the circumstances of each case. The amendment sets out the circumstances which have been identified by our courts as vitiating consent. Whether the Deputy decides to pursue this or not, I ask her to bear in mind the point I have made about it being a non-exhaustive list. There will be other legislation at a future point. We will also have the report from the Law Reform Commission on the other issue raised.

Deputy Clare Daly: I had asked about the Minister's understanding of the section that dealt with somebody being mistaken as to the identity of the person. Could she clarify what that meant, particularly in the scenario I outlined in terms of a transgender person?

An Leas-Cheann Comhairle: The Minister can only respond once but these are exception-

al measures. I ask her to hold back and Deputies might indicate in advance. Deputy Coppinger has the right to contribute after the Minister has spoken.

Deputy Ruth Coppinger: I will leave it until after the Minister has spoken.

An Leas-Cheann Comhairle: Deputy Coppinger can do so but if she has a question now is the time to ask it.

Deputy Ruth Coppinger: That is fine.

Deputy Frances Fitzgerald: There have been a number of cases where this has been an issue - for example, cases where people have pretended to be medical professionals and various acts took place which led to court cases where issues of consent and rape became central. With regard to the issues raised by the Deputy, it is important they are included and I am advised they should be. Each case will be considered on its own circumstances, and the weight to be given to a particular issue on identity must still be decided at an individual court hearing, with all the circumstances taken into account, even in the type of case outlined by Deputy Coppinger. At the end of the day, this must be considered by the judge and jury, having heard all the circumstances relating to a particular case and an identity question.

Deputy Ruth Coppinger: The definition of “consent” put forward by me and other members of the Anti-Austerity Alliance was copied word for word from the Rape Crisis Centre. We took our cue from people who work in the area, who are experts and who deal with victims. The Minister has picked on one particular word but the definition she has gone with is virtually identical. The need to include definitions of consent is to try to in some way rebalance the rights of victims of rape and sexual assault, who, in the majority of cases, are women. The victims are not always women and obviously men can be the victims of rape but in the majority of cases the victims are women. We have a victim blaming culture when it comes to rape whereby women are continually questioned about their background, what role they may have played, what they wore and whether they fought. This is why these are important, and they have been campaigned for by young people, students, the USI and every progressive organisation there is. We could debate it further, but I am happy to accept what the Minister has put forward, on the basis it takes on board much of what the organisations working with rape victims have said.

Amendment, by leave, withdrawn.

Deputy Róisín Shortall: I move amendment No. 2:

In page 13, line 17, after “education,” to insert “faith formation.”

This is an amendment to the section of the Bill which relates to a person in authority. A number of categories have been listed in the Bill but it is important to add “faith formation” after “education” because we know religious education and faith formation often take place in an informal setting. The amendment aims to clarify the existing section by placing beyond any doubt the inclusion of those engaged in faith formation among those considered to be a person in authority. I hope the Minister will accept the amendment.

Deputy Jim O’Callaghan: Are the amendments grouped? I thought we would deal with amendments Nos. 1 and 52 to 55, inclusive, together.

An Leas-Cheann Comhairle: We have dealt with them. They have been discussed together but it is when we come to amendments Nos. 52 to 55, inclusive, that we will move them.

Deputy Ruth Coppinger: Are we dealing with amendments Nos. 3 to 9, inclusive, now?

An Leas-Cheann Comhairle: After we deal with amendment No. 2, which stands alone.

Deputy Jonathan O'Brien: I support the amendment. While there are a number of definitions or cases included in the legislation, it is important to include faith formation because we will have situations where people engage in faith formation, including priests and religious teachers, outside of the school system and an educational setting. It makes sense to include it. With regard to the UN Convention on the Rights of the Child, which demands the highest standards of care are given to children, it would be appropriate to include the wording in the legislation.

Deputy Jim O'Callaghan: Part of the definition of a person in authority is any other person who is, or has been, responsible for the education, supervision, training, care or welfare of the child. I take it this includes people such as sports coaches and members of the clergy involved with children at a particular time. I am interested to hear the Minister's view on this.

Deputy Frances Fitzgerald: To answer Deputy O'Callaghan, he is correct and of course it would include a member of the clergy or a sports coach. It is absolutely envisaged that they would be dealt with under the definition.

Amendment No. 2 proposes to include the words "faith formation" in the definition of a person in authority in section 15 of the Bill. This section amends the definition of person in authority in section 1 of the Criminal Law (Sexual Offences) Act 2006. The Act provides for offences of engaging in sexual acts with children, and a person in authority who engages in a sexual act with a child is subject to greater penalties, reflecting the very serious breach of trust involved.

The amendment is not necessary for a number of reasons. The first is because of what Deputy O'Callaghan has said. Section 15(a)(f) of the definition of "person in authority" is sufficiently wide to include those with responsibility for religious or faith instruction. The definition is wider than the definition we have at present under the 2006 Act which it will replace. As an addition to including persons with responsibility for the education, supervision or welfare, which would include spiritual welfare, of a child, it also includes those with responsibility for the training and care of a child. I am absolutely satisfied the definition addresses the matters raised by Deputy Shortall.

A second issue arises, which is a drafting problem with the words "faith formation", because it is an undefined phrase which, at the very least, could be very broadly interpreted. At a colloquial level we all understand it but from a legal perspective it could be seen as very vague and leave the definition open to challenge, perhaps undermining the purpose of the amendment. This is a concern I have. Having said this, I am advised the existing definition, by referencing those with responsibility for the education, supervision, training, care or welfare of a child, includes members, and I want to be very clear about this, of religious orders who are in a position of authority in respect of a child.

Deputy Róisín Shortall: The Minister and I will not agree on this. A person providing informal faith formation such as preparation for sacraments is strictly not covered under any of the categories. This is why I propose, for the avoidance of doubt and to be absolutely clear about it, that we include this category of person. It would be wise to do so. This is my view but I do not think the Minister and I will have a meeting of minds on it.

Deputy Frances Fitzgerald: The example the Deputy has given would be covered under the current definition. A person involved in faith formation or giving classes would come under a number of the definitions in the Bill as it is drafted. It has been subject to a lot of work and was the subject of extensive legal advices and scrutiny during the drafting of the Bill. I reassure the Deputy that the points she makes on faith formation are covered by the approach we have taken.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendments Nos. 3 to 9, inclusive, and 57 are related and will be discussed together. Amendments Nos. 4 to 6, inclusive, are physical alternatives to amendment No. 3.

Deputy Jonathan O'Brien: I move amendment No. 3:

In page 17, to delete lines 7 to 34 and substitute the following:

“Sexual act with a relevant person

21. (1) A person who engages in a sexual act with a relevant person knowing that that person is a relevant person or being reckless as to whether that person is a relevant person shall be guilty of an offence.

(2) A person who invites, induces, counsels or incites a relevant person to engage in a sexual act knowing that that person is a relevant person or being reckless as to whether that person is a relevant person shall be guilty of an offence.

(3) In proceedings for an offence under this section, it shall be presumed, unless the contrary is shown, that the defendant knew or was reckless as to whether the person against whom the offence is alleged to have been committed was a relevant person.

(4) A person guilty of an offence under *subsection (1)* where the sexual act consisted of sexual intercourse, buggery or an act described in section 3(1) or 4(1) of the Act of 1990 shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.

(5) A person guilty of an offence under *subsection (1)* where the sexual act consisted of an act which if done without consent would constitute a sexual assault shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years.

(6) A person guilty of an offence under *subsection (2)* shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years.

(7) For the purposes of this section, a person lacks the capacity to consent to a sexual act if he or she is not able to understand, at the time that the sexual act occurred, the nature and consequences of the sexual act and the available choices at that time.”

The use of language was another area on which there was a lot of discussion on Committee Stage. The use of the term “protected person” contravenes all the other legislation with which we have been dealing with recently. In its own report on sexual offences and the capacity to consent, the Law Reform Commission proposed that the term “relevant person” be used as opposed to “protected person”. The term “relevant person” is also the term used in the Assisted

Decision-Making Act. It is more respectful and has no material effect on the legislation. The Minister gave a commitment on Committee Stage to look at this and it is unfortunate that she has not been able to come back with a definition.

Amendment No. 7 states, “It shall be presumed that a relevant person has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of this Act.” Some people with intellectual disabilities have reported that their rights to consensual sexual relationships have been impinged upon by the shadow of the Criminal Law (Sexual Offences) Act 1993. The proposed Bill will still create a focus on the rights of persons with disabilities as being people with questionable capacity to consent and it is important that a rebuttal presumption of capacity is included so that persons with intellectual disabilities are free to enjoy consenting sexual relationships, free from interference, and so that people providing support, education and training have clarity on the legality of their own activities in providing that support or education. This amendment will provide that presumption of capacity. It should be noted that it only states a relevant person has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of this Bill. All the other issues around consent will still be included.

Deputy Jan O’Sullivan: Our amendment in this group is amendment No. 4. This group of amendments is around some of the core provisions of the Bill relating to definitions and the burden of proof. Our amendment also uses the term “relevant person” for similar reasons as Deputy Jonathan O’Brien. We have some differences, however, and we want to tease out the interaction between the proposed definitions of capacity on the one hand and, on the other, consent and the reversal of burden of proof. We are concerned that there may be some injustices regarding the burden of proof. The Minister proposes that a person lacks the capacity to consent if he or she, by reason of a mental or intellectual disability or a mental illness, is incapable of understanding the nature or the reasonable foreseeable consequences of a sexual act or of evaluating relevant information for the purposes of deciding whether or not to engage in that act. It is clear that such capacity could be situation-specific. It could come and go and one could have the capacity on one day while not on another. An example might be somebody on medication, who had the capacity while on medication but not when they stopped taking it. Such a person might be in a stable relationship but the partner might not be aware that the other had not taken his or her medication. I do not have a problem with the definition but with the fact that it is combined with the burden of proof being on such a person to know that his or her partner does not have the capacity to consent. I ask the Minister to address that issue in order that we do not inadvertently put somebody in such a situation. Can she tease out this issue? Real issues are involved and we want to make sure we get it right

Deputy Clare Daly: Our amendments in this group are amendments Nos. 5 and 8. I also am sorry that the Minister has not taken on board the points made on Committee Stage and inserted the disability-neutral language that has been very much sought after by disability advocacy groups, while removing the reference to protected persons. Our amendments look to do two things. The first is a new section with neutral language but which does not lessen any of the protections. The second expands the current narrow definition of a relevant person from a person with a mental or intellectual disability to a broader one that does not single out one group of people.

The legislation is a step forward on the 1993 legislation but it could go further by properly adopting disability-neutral language, as recommended by all the UN bodies. Human rights should be for all without distinction. The category of a protected person includes a requirement

of disability and that is a distinction and, therefore, in contravention of UN human rights. It implies that people with disabilities should be treated differently in issues such as consent and sexual activity and in this sense it constitutes a form of disability-based discrimination that is prohibited under the Convention on the Rights of Persons with Disabilities.

The Minister needs to understand that there are very legitimate concerns about language, status, labelling and so on and the protected approach can impact on the freedoms of a person as well as interfere too much with their ability to make decisions freely, because it presumes they do not have capacity. It thus takes a patriarchal approach, in contrast to the aims of the Convention on the Rights of Persons with Disabilities.

A lot of the organisations made submissions to the Minister and their views were not taken on board. They strenuously argued that a separate category in law, identifying those with intellectual disabilities, was not good. As Deputy Jonathan O'Brien said, the Law Reform Commission report on sexual offences and the capacity to consent proposed the term "relevant person". The Assisted Decision-Making Act proposes references to a relevant person. Legal advice given to Inclusion Ireland states it is not necessary to have such a category in a prosecution case and it advised against using it on the grounds that it was discriminatory and amounted to offensive terminology. If somebody is opening a case for the Director of Public Prosecutions and uses the term "protected person" they are prejudging something. The terminology requires a jury to make a judgment about a person before it has heard any evidence. On Committee Stage, the Minister cited the word "protected" from the UN regulation, but failed to put that in the context in which it was intended at the time. That was clearly in the context of protecting rights and not creating a legal category called a protected person. Article 5, under the heading of "Equality and non-discrimination", calls on state parties to recognise that all persons are equal before and under the law, and are entitled without any discrimination to the equal protection and equal benefit of law. Furthermore, Article 12, under the heading "Equal recognition before the law", requires state parties to reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law. It recognises that persons with disabilities enjoy legal capacity on an equal basis with all aspects of life.

Our amendment is changing the wording of the current section to offer the exact same level of legal protection and sanction against the perpetrator of an attack or crime against a relevant person, but it uses neutral language. It does not necessitate a separate category in the eyes of the law and therefore we are trying to give that person a right to equal treatment. We have given consideration to what is required in terms of providing necessary protection against abuse but without unduly overstepping the mark and interfering with a person's other rights. From a prosecution point of view there is no reason the absence of a protected person category would prevent a legal representative from doing their job effectively. It would not, so I do not see any justification or reason we need to compromise a person's right to equality or to differentiate his or her status. It is a hugely upsetting issue for activists in the disability sector.

I will come back briefly to the other amendment which is to broaden the definition of a relevant person as currently contained in section 22(8). It would allow a wider interpretation in order that one is not singling out people with an intellectual disability, but recognising that there could be any number of reasons a person could be reliant on a person in authority where such a person could exploit him or her and behave in a criminal manner. He or she could be in an incapacitating accident, have a drug or alcohol dependency, be in a period of recovery from surgery, have a temporary physical impairment or any other reason. The definition we have now is too narrow and makes an assumption about the capacity and status of the persons cited

in the category of a person who has a mental or intellectual disability or a mental illness. At a minimum, the definition of “relevant person” must be expanded to include other adults who do not have a mental or intellectual disability or mental illness but who nonetheless might be sexually exploited by somebody in a position of authority.

Deputy Thomas Pringle: I want to speak to amendments Nos. 6 and 8 as well. As Deputy Clare Daly said, it is vital we use disability neutral language in legislation. Particularly after the Assisted Decision-Making (Capacity) Act 2015, we should be very careful and use disability neutral language when we are drafting legislation. What we are doing in legislation should not cause further difficulties for people with disabilities in dealing with the law.

Language is important; we must, therefore, get it right. This has been mentioned by the UN Convention on the Rights of Persons with Disabilities, the Law Reform Commission and Inclusion Ireland. These amendments attempt to provide such neutral language and the same cover as was the original intention of the legislation.

The difference between amendments Nos. 5 and 6 is simply that the former is responsible for faith formation and we have had a discussion on that. As regards amendment No. 8, it is important to change the language used in the definition of a relevant person. The Bill states that a relevant person is a person who has a mental or intellectual disability or a mental illness. That is not a proper use of language, however. The amendment provides for more neutral language that gives the exact same cover, in effect, as has been outlined earlier. That is, therefore, very important.

Deputy Mick Wallace: I want to make one simple point. The language used and the creation of a new category does go against the 2006 UN Convention on the Rights of Persons with Disabilities. That convention advocates a rights-based and equal treatment approach. We should keep that in mind.

Deputy Frances Fitzgerald: We had a long and detailed discussion on this provision on Committee Stage. I did consider it and looked at the section. I will take some time to go into detail on the approach in the Bill and why the various terms are being used. To begin with, the use of the term “protected person” is not related to disability but to the inability to consent to a sexual act. It identifies those persons who, owing to the nature of a particular disability, lack the capacity to consent to a sexual act. It is a very particular group of persons. The UN convention requires us to provide protection on a legislative basis. To provide adequate protection, we have to identify the group. Section 22 identifies the broader category of people which would address the concerns raised by Deputy Clare Daly and which are defined as “relevant persons”. I want to go into detail on the approach but wanted to say that to begin with.

A number of amendments have been put forward which primarily seek to address issues regarding the language used in section 21, especially the use of the words “protected persons”. The amendments indicate a preference for the words “relevant person”. To go into the background, as has been outlined on Committee Stage, the provisions that will replace the status-based approach adopted in section 5 of the Criminal Law (Sexual Offences) Act 1993, are for the protection from exploitation of persons with disability. What is to be introduced by way of section 21 is what I would call a functional-based approach which will focus on the capacity of the person to consent to a sexual act.

Amendment No. 3 tabled by Deputy Jonathan O’Brien and amendment No. 4 tabled by

Deputies Brendan Howlin and Jan O’Sullivan follow the approach set out in section 21. We all agree that the language and approach in section 5 of the 1993 Act is outdated. However, section 5 also fails to meet the requirements of the UN Convention on the Rights of Persons with Disabilities. That requires state parties to eliminate all discrimination against persons with disability, facilitating their full participation in society and the realisation of their human rights. In addition, Article 16 of the convention imposes a specific obligation to put effective legislation in place to ensure instances of exploitation, violence and abuse against persons with disability can be identified, investigated and prosecuted.

The UN Committee on the Rights of Persons with Disabilities has made specific reference to the need to provide protection against sexual violence committed against, for example, intellectually disabled women. Also considered in preparing these amendments were the responses to a discussion paper that was prepared by the Department and which included draft proposals on replacing section 5. They were circulated to a wide number of stakeholders, interest groups and academics. We got a wide range of written responses to this and took a lot of time around it. However, no consensus emerged or was identified. The Bill’s provisions seek to address the substance of the concerns which were expressed by people about the existing law.

Section 21 creates the offence of a sexual act with a protected person. I will return to the term “protected person” shortly. In order to define the persons who require protection under this provision and to move away from the approach adopted in the 1993 Act, a functional test as to the capacity of a person with a mental or intellectual disability or mental illness has been adopted. Essentially, the offence arises where an individual engages in a sexual act with a person he or she knows lacks capacity to consent to the sexual act by reason of a mental or intellectual disability or mental illness. The offence also arises if the person is reckless as to the capacity of the person to consent to the sexual act. A lack of capacity to consent to a sexual act is defined in section 21(7) and arises where the person is incapable by reason of the disability or illness in question to understand the nature or reasonably foreseeable consequences of the sexual act, to evaluate relevant information for the purposes of deciding whether to engage in the act or to communicate his or her concern about the act.

There is no presumption. I want to be clear on this because some comments make the assumption that a disability or illness of itself gives rise to an incapacity to consent. However, where a disability or illness results in a person being incapable of understanding the act or evaluating relevant information or communicating consent, there will be no capacity to consent. As such, the section provides strong protection for persons who fall within its provisions as there is a presumption in section 21(3) that the accused knew or was reckless as to whether the person against whom the offence was committed was a protected person. This approach is in line with the UN Convention on the Rights of Persons with Disabilities which requires both a respect, which many Deputies have mentioned, for full participation in society by persons with disabilities as well as appropriate protection for those who lack the capacity to consent to such an act owing to the nature of their disability. The amendment will introduce the required provision.

The words “protected person” have been used in recognition of the lack of capacity of that person to consent, not the fact of a person’s disability alone. We have also used the term “protected person” to distinguish the persons protected under the section from those to whom section 22 applies. Section 22 provides for an offence by a person in authority who engages in a sexual act with a person with a mental or intellectual disability or mental illness and in respect of whom they, as part of a contract of services, have a responsibility for education, supervision, training, treatment, care or welfare. This offence targets breaches of trust by persons who may

take advantage of their positions to engage in a sexual act with someone in their charge. The category of persons is where there is some confusion. The category of persons protected by section 22 is different from that under section 21 as consent is not a defence under section 22. For this reason, the persons protected under section 22 are referred to as “relevant persons”. Under section 21, where capacity to consent is an issue, we call them “protected persons”. To be very clear sections 21 and 22 relate to two different groups of people. Therefore, to use the same words in both sections would cause confusion. That is why different terms are used.

Amendment No. 3 proposes to remove the reference to “disability” in section 21 and states at subsection (7) that a person lacks the capacity to consent to a sexual act if he or she is not able to understand at the time that the sexual act occurred, the nature and consequences of the sexual act and the available choices at that time. I note to Deputy Jonathan O’Brien that the effect of that amendment would be to make the offence apply to all persons and overlap with aspects of the amendments earlier discussed relating to consent. For example, it would arguably cover unconsciousness or intoxication as well as incapacity by reason of a particular disability. The UN Convention on the Rights of Persons with Disabilities also imposes an obligation on the State to put effective legislation in place to ensure that instances of exploitation and abuse against people with disabilities can be identified and prosecuted. We want to be clear in the legislation about who needs to be protected. That is why we have the two different categories.

Deputy Jonathan O’Brien: The Minister will also need to look at amendment No. 7, which states that it shall be presumed that a relevant person has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of the legislation. That is important. I do not accept the Minister’s explanation and I am sure I am not alone. Even having discussed last night the Disability (Miscellaneous Provisions) Bill, which is the State’s attempt to give effect to the UN Convention on the Rights of Persons with Disabilities, it is clear that the wording is important. Therefore, I will be pressing my amendment. I cannot speak for anyone else but it is my view that the amendment is in line with the convention. It contains language which has been used in previous legislation and which has been articulated by the Law Reform Commission. Therefore, we will be pressing the amendment.

Deputy Jan O’Sullivan: The Minister made a distinction between a protected person under section 21 and a relevant person under section 22. Will she elaborate on why the word “relevant” could not also have been used in section 21? They would then be the relevant persons under that section rather than under the other section. I did not fully understand her explanation as to why she was able to use “relevant” in section 22 but not in section 21 when “relevant” is clearly the preferred language of the various groups that have lobbied on the Bill. Will the Minister also address the issue I raised of fairness in a situation where the burden of proof is on the person who is being accused and where there may legitimately be a lack of knowledge that the person at that particular time did not have the capacity to consent when that person generally does have the capacity to consent in other circumstances?

Deputy Clare Daly: I do not agree that the Minister’s approach is a functional one. It is a status based approach. She talked about having an obligation under the UN Convention on the Rights of Persons with Disabilities in relation to the word “protected” but that is out of context. The context is that we have an obligation to provide protection for the rights of people with disabilities, not create a new category of protected person. In the context of our second amendment, the Minister’s provision as drafted is, in effect, singling out people with intellectual and mental disabilities as the victims of an offence of being exploited sexually by a person in a position of power. In reality, this duplicates the offence of rape. If the goal is to recognise the

seriousness of abusing a position of power to sexually exploit a vulnerable adult, this could be done by providing for an aggravating factor in sentencing. One does not need to create a separate criminal offence, which is what is being done here. It is a dangerous precedent to create a separate offence which only applies to certain groups of adults, such as people with disabilities.

If a person with a disability is raped, it should be prosecuted as rape rather than as a separate special form of rape which only applies when somebody has a disability. Everybody should have equal protection under the law. Section 5 of the 1993 Act has not resulted in increased prosecutions or convictions for sexual offences perpetrated against people with disabilities. However, it has been reported that it has had a chilling effect on the provision of meaningful sexual education and support for people with disabilities due to a fear among disability service providers and others that they might be aiding and abetting the commission of criminal offences by providing support for a person to have a sexual relationship.

We know that some parents cannot deal with the fact that their son or daughter who has a disability might also have sexual desires and the right to have a sexual relationship. We are being too presumptuous and the wording is too restrictive. Like Deputy Jonathan O'Brien, I think the amendments should be pressed.

Deputy Frances Fitzgerald: I will give some more detail on amendments Nos. 5, 6 and 57 because I did not get a chance to deal with them earlier. I am absolutely satisfied that what the amendments seek to achieve is addressed in section 22. The majority of the submissions received during the consultation process supported a specific offence, as did the Law Reform Commission in its report on capacity and consent. What we are doing is precisely what the United Nations stated we should do in being able to prosecute these offences.

In response to Deputy Jan O'Sullivan's query, we need to use two different terms in sections 21 and 22 because using the same term in both sections could create confusion as both sections are related to the protection of two different groups in line with our obligations. That is the technical and legal advice I have received. It provides for greater clarity in different sections.

There is concern about the breadth of amendments Nos. 5, 6 and 57 tabled by Deputies Clare Daly, Mick Wallace, Catherine Connolly, Thomas Pringle and Jonathan O'Brien. If they were to be introduced, the provisions set out in the amendments would mean that there would be no limitation on the range of potential victims other than that someone must have a relationship of dependence or trust with another person who, in taking advantage of that position, engages in a sexual act with him or her without the him or her giving his or her free consent. That would be included in the definition of "position of dependency and trust" as a person who occupies a position of authority. That could be interpreted broadly and would present difficulties. Without further qualification, it would apply to a wide range of persons, including, for instance, where there was employment relationships, something Deputies should note. Because of the manner in which they have been drafted, the amendments would cause difficulties.

Amendment put:

<i>The Dáil divided: Tá, 35; Staon, 0; Níl, 84.</i>		
<i>Tá</i>	<i>Stاون</i>	<i>Níl</i>
<i>Adams, Gerry.</i>		<i>Aylward, Bobby.</i>
<i>Barry, Mick.</i>		<i>Bailey, Maria.</i>

<i>Boyd Barrett, Richard.</i>		<i>Barrett, Seán.</i>
<i>Brady, John.</i>		<i>Breathnach, Declan.</i>
<i>Broughan, Thomas P.</i>		<i>Breen, Pat.</i>
<i>Buckley, Pat.</i>		<i>Brophy, Colm.</i>
<i>Collins, Joan.</i>		<i>Browne, James.</i>
<i>Connolly, Catherine.</i>		<i>Bruton, Richard.</i>
<i>Coppinger, Ruth.</i>		<i>Burke, Peter.</i>
<i>Crowe, Seán.</i>		<i>Butler, Mary.</i>
<i>Cullinane, David.</i>		<i>Byrne, Catherine.</i>
<i>Daly, Clare.</i>		<i>Byrne, Thomas.</i>
<i>Doherty, Pearse.</i>		<i>Cahill, Jackie.</i>
<i>Ellis, Dessie.</i>		<i>Calleary, Dara.</i>
<i>Ferris, Martin.</i>		<i>Canney, Seán.</i>
<i>Funchion, Kathleen.</i>		<i>Cannon, Ciarán.</i>
<i>Healy, Seamus.</i>		<i>Carey, Joe.</i>
<i>Kenny, Gino.</i>		<i>Casey, Pat.</i>
<i>Kenny, Martin.</i>		<i>Chambers, Jack.</i>
<i>Mitchell, Denise.</i>		<i>Corcoran Kennedy, Marcella.</i>
<i>Murphy, Catherine.</i>		<i>Coveney, Simon.</i>
<i>Ó Broin, Eoin.</i>		<i>Cowen, Barry.</i>
<i>Ó Caoláin, Caoimhghín.</i>		<i>Creed, Michael.</i>
<i>Ó Laoghaire, Donnchadh.</i>		<i>Curran, John.</i>
<i>Ó Snodaigh, Aengus.</i>		<i>D'Arcy, Michael.</i>
<i>O'Brien, Jonathan.</i>		<i>Daly, Jim.</i>
<i>O'Reilly, Louise.</i>		<i>Deering, Pat.</i>
<i>O'Sullivan, Jan.</i>		<i>Doherty, Regina.</i>
<i>O'Sullivan, Maureen.</i>		<i>Donohoe, Paschal.</i>
<i>Pringle, Thomas.</i>		<i>Doyle, Andrew.</i>
<i>Quinlivan, Maurice.</i>		<i>Durkan, Bernard J.</i>
<i>Ryan, Brendan.</i>		<i>English, Damien.</i>
<i>Smith, Bríd.</i>		<i>Farrell, Alan.</i>
<i>Stanley, Brian.</i>		<i>Fitzgerald, Frances.</i>
<i>Wallace, Mick.</i>		<i>Fitzpatrick, Peter.</i>
		<i>Fleming, Sean.</i>
		<i>Harris, Simon.</i>
		<i>Harty, Michael.</i>
		<i>Haughey, Seán.</i>
		<i>Healy-Rae, Michael.</i>
		<i>Heydon, Martin.</i>
		<i>Humphreys, Heather.</i>
		<i>Kehoe, Paul.</i>
		<i>Kelleher, Billy.</i>

Dáil Éireann

		<i>Kenny, Enda.</i>
		<i>Kyne, Seán.</i>
		<i>Lahart, John.</i>
		<i>Lawless, James.</i>
		<i>MacSharry, Marc.</i>
		<i>McEntee, Helen.</i>
		<i>McGrath, Finian.</i>
		<i>McGrath, Mattie.</i>
		<i>McGrath, Michael.</i>
		<i>McGuinness, John.</i>
		<i>McLoughlin, Tony.</i>
		<i>Madigan, Josepha.</i>
		<i>Mitchell O'Connor, Mary.</i>
		<i>Moran, Kevin Boxer.</i>
		<i>Moynihan, Aindrias.</i>
		<i>Moynihan, Michael.</i>
		<i>Murphy O'Mahony, Margaret.</i>
		<i>Murphy, Eoghan.</i>
		<i>Murphy, Eugene.</i>
		<i>Naughton, Hildegarde.</i>
		<i>Neville, Tom.</i>
		<i>Noonan, Michael.</i>
		<i>Ó Cuív, Éamon.</i>
		<i>O'Brien, Darragh.</i>
		<i>O'Callaghan, Jim.</i>
		<i>O'Connell, Kate.</i>
		<i>O'Donovan, Patrick.</i>
		<i>O'Dowd, Fergus.</i>
		<i>O'Keeffe, Kevin.</i>
		<i>O'Loughlin, Fiona.</i>
		<i>Phelan, John Paul.</i>
		<i>Rabbitte, Anne.</i>
		<i>Ring, Michael.</i>
		<i>Rock, Noel.</i>
		<i>Ryan, Eamon.</i>
		<i>Scanlon, Eamon.</i>
		<i>Stanton, David.</i>
		<i>Troy, Robert.</i>
		<i>Varadkar, Leo.</i>
		<i>Zappone, Katherine.</i>

Tellers: Tá, Deputies Jonathan O'Brien and Pat Buckley; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

Deputy Jan O'Sullivan: I move amendment No. 4:

In page 17, to delete lines 7 to 34 and substitute the following:

“Sexual act with a relevant person

21. (1) A person who engages in a sexual act with a relevant person knowing that that person is a relevant person or being reckless as to whether that person is a relevant person shall be guilty of an offence.

(2) A person who invites, induces, counsels or incites a relevant person to engage in a sexual act knowing that that person is a relevant person or being reckless as to whether that person is a relevant person shall be guilty of an offence.

(3) A person guilty of an offence under *subsection (1)* where the sexual act consisted of sexual intercourse, buggery or an act described in section 3(1) or 4(1) of the Act of 1990 shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.

(4) A person guilty of an offence under *subsection (1)* where the sexual act consisted of an act which if done without consent would constitute a sexual assault shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years.

(5) A person guilty of an offence under *subsection (2)* shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years.

(6) For the purposes of this section, a person lacks the capacity to consent to a sexual act if he or she is, by reason of a mental or intellectual disability or a mental illness, incapable of—

(a) understanding the nature, or the reasonably foreseeable consequences, of that act,

(b) evaluating relevant information for the purposes of deciding whether or not to engage in that act, or

(c) communicating his or her consent to that act by speech, sign language or otherwise,

and, in this section, such a person is referred to as a “relevant person”.”.

Amendment put and declared lost.

Deputy Clare Daly: I move amendment No. 5:

In page 17, to delete lines 7 to 34 and substitute the following:

“Abuse of a position of dependence and trust

21. The Criminal Law (Sexual Offences) Act 1993 is amended by substituting the following for section 5:

“Offence of abuse of position of dependence and trust

5. (1) Any person who being in a position of dependence and trust—

(a) takes advantage of his or her position, or

(b) aids, abets, counsels or procures another person to take advantage of his or her position, and

(i) induces or seduces a person to have sexual intercourse with him or her, or

(ii) commits any other sexual offence involving a person,

shall be guilty of an offence of abuse of position of trust and shall be liable upon conviction on indictment to imprisonment for a term of not less than ten years.

(2) Where a person charged with an offence under this section can establish that, in respect of the sexual act which had been engaged in, no offence would have been committed had the consent of the victim been granted prior to the act, it shall in those circumstances be a defence for a person who is charged with an offence under this section to prove that—

(a) he victim consented to the sexual act which had been engaged in, and

(b) that such consent was granted freely and in the absence of duress or coercion.

(3) In this section—

‘position of dependence and trust’ includes, but is not limited to, a person who—

(a) provides care,

(b) is responsible for welfare,

(c) occupies a position of authority,

(d) provides education,

(e) provides support services including therapy or counselling, to the victim, or

(f) is responsible for faith formation;

‘sexual offence’ includes—

(a) a sexual offence within the meaning of section 3 of the Sex Offenders Act 2001,

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(b) an offence under section 2, 3 or 4 of the Criminal Law (Rape) (Amendment) Act 1990,

(c) an offence under section 6 or 7 of the Criminal Law (Sexual Offences) Act 1993,

(d) an offence under section 4 or 5 of the Criminal Law (Human Trafficking) Act 2008, or

(e) any other offence of a sexual nature contained in any other enactment and which has been so prescribed in regulations made by the Minister for Justice and Equality under this section.”.”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 6:

In page 17, to delete lines 7 to 34 and substitute the following:

“Abuse of a position of dependence and trust

21. The Criminal Law (Sexual Offences) Act 1993 is amended by substituting the following for section 5:

“Offence of abuse of position of dependence and trust

5. (1) Any person who being in a position of dependence and trust—

(a) takes advantage of his or her position, or

(b) aids, abets, counsels or procures another person to take advantage of his or her position, and

(i) induces or seduces a person to have sexual intercourse with him or her, or

(ii) commits any other sexual offence involving a person,

shall be guilty of an offence of abuse of position of trust and shall be liable upon conviction on indictment to imprisonment for a term of not less than ten years.

(2) Where a person charged with an offence under this section can establish that, in respect of the sexual act which had been engaged in, no offence would have been committed had the consent of the victim been granted prior to the act, it shall in those circumstances be a defence for a person who is charged with an offence under this section to prove that—

(a) the victim consented to the sexual act which had been engaged in,

and

(b) that such consent was granted freely and in the absence of duress or coercion.

(3) In this section—

‘position of dependence and trust’ includes, but is not limited to, a person who—

- (a) provides care,
- (b) is responsible for welfare,
- (c) occupies a position of authority,
- (d) provides education, or
- (e) provides support services including therapy or counselling, to the victim;

‘sexual offence’ includes—

- (a) a sexual offence within the meaning of section 3 of the Sex Offenders Act 2001,
- (b) an offence under section 2, 3 or 4 of the Criminal Law (Rape) (Amendment) Act 1990,
- (c) an offence under section 6 or 7 of the Criminal Law (Sexual Offences) Act 1993,
- (d) an offence under section 4 or 5 of the Criminal Law (Human Trafficking) Act 2008, or
- (e) any other offence of a sexual nature contained in any other enactment and which has been so prescribed in regulations made by the Minister for Justice and Equality under this section.”.”.

Amendment put and declared lost.

Deputy Jonathan O’Brien: I move amendment No. 7:

In page 17, between lines 34 and 35, to insert the following:

“(8) It shall be presumed that a relevant person has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of this Act.”.

An Leas-Cheann Comhairle: Is the amendment being pressed?

Deputy Jonathan O’Brien: I understand the amendment is no longer relevant as the section it proposed to amend was defeated and, as a result, the term “relevant person” does not appear in the section.

An Leas-Cheann Comhairle: We still have to dispose of the amendment.

Amendment, by leave, withdrawn.

Deputy Clare Daly: I move amendment No. 8:

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In page 18, to delete lines 26 to 30 and substitute the following:

“ “relevant person” means—

- (a) a person whose capacity to consent to a sexual act is called into question, or
- (b) a person who lacks capacity to consent to a sexual act,

and it states that a relevant person’s lack of capacity to consent for the purposes of this Act may arise because of—

- (i) a disability,
- (ii) ill health, or
- (iii) any other reason.”.

Amendment put:

<i>The Dáil divided: Tá, 35; Staon, 0; Níl, 86.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Níl</i>
<i>Adams, Gerry.</i>		<i>Aylward, Bobby.</i>
<i>Boyd Barrett, Richard.</i>		<i>Bailey, Maria.</i>
<i>Brady, John.</i>		<i>Barrett, Seán.</i>
<i>Broughan, Thomas P.</i>		<i>Brassil, John.</i>
<i>Buckley, Pat.</i>		<i>Breathnach, Declan.</i>
<i>Collins, Joan.</i>		<i>Breen, Pat.</i>
<i>Connolly, Catherine.</i>		<i>Brophy, Colm.</i>
<i>Coppinger, Ruth.</i>		<i>Browne, James.</i>
<i>Crowe, Seán.</i>		<i>Bruton, Richard.</i>
<i>Cullinane, David.</i>		<i>Burke, Peter.</i>
<i>Daly, Clare.</i>		<i>Butler, Mary.</i>
<i>Doherty, Pearse.</i>		<i>Byrne, Catherine.</i>
<i>Ellis, Dessie.</i>		<i>Byrne, Thomas.</i>
<i>Ferris, Martin.</i>		<i>Cahill, Jackie.</i>
<i>Funchion, Kathleen.</i>		<i>Calleary, Dara.</i>
<i>Healy, Seamus.</i>		<i>Canney, Seán.</i>
<i>Kenny, Gino.</i>		<i>Cannon, Ciarán.</i>
<i>Kenny, Martin.</i>		<i>Carey, Joe.</i>
<i>Mitchell, Denise.</i>		<i>Casey, Pat.</i>
<i>Murphy, Catherine.</i>		<i>Chambers, Jack.</i>
<i>Ó Broin, Eoin.</i>		<i>Collins, Niall.</i>
<i>Ó Caoláin, Caoimhghín.</i>		<i>Corcoran Kennedy, Marcella.</i>
<i>Ó Laoghaire, Donnchadh.</i>		<i>Coveney, Simon.</i>
<i>Ó Snodaigh, Aengus.</i>		<i>Cowen, Barry.</i>
<i>O’Brien, Jonathan.</i>		<i>Creed, Michael.</i>

<i>O'Reilly, Louise.</i>		<i>Curran, John.</i>
<i>O'Sullivan, Jan.</i>		<i>D'Arcy, Michael.</i>
<i>O'Sullivan, Maureen.</i>		<i>Daly, Jim.</i>
<i>Pringle, Thomas.</i>		<i>Deering, Pat.</i>
<i>Quinlivan, Maurice.</i>		<i>Doherty, Regina.</i>
<i>Ryan, Brendan.</i>		<i>Donohoe, Paschal.</i>
<i>Ryan, Eamon.</i>		<i>Doyle, Andrew.</i>
<i>Smith, Bríd.</i>		<i>Durkan, Bernard J.</i>
<i>Stanley, Brian.</i>		<i>English, Damien.</i>
<i>Wallace, Mick.</i>		<i>Farrell, Alan.</i>
		<i>Fitzgerald, Frances.</i>
		<i>Fitzpatrick, Peter.</i>
		<i>Fleming, Sean.</i>
		<i>Harris, Simon.</i>
		<i>Harty, Michael.</i>
		<i>Haughey, Seán.</i>
		<i>Healy-Rae, Michael.</i>
		<i>Heydon, Martin.</i>
		<i>Humphreys, Heather.</i>
		<i>Kehoe, Paul.</i>
		<i>Kelleher, Billy.</i>
		<i>Kenny, Enda.</i>
		<i>Kyne, Seán.</i>
		<i>Lahart, John.</i>
		<i>Lawless, James.</i>
		<i>MacSharry, Marc.</i>
		<i>McEntee, Helen.</i>
		<i>McGrath, Finian.</i>
		<i>McGrath, Mattie.</i>
		<i>McGrath, Michael.</i>
		<i>McGuinness, John.</i>
		<i>McHugh, Joe.</i>
		<i>McLoughlin, Tony.</i>
		<i>Madigan, Josepha.</i>
		<i>Mitchell O'Connor, Mary.</i>
		<i>Moran, Kevin Boxer.</i>
		<i>Moynihan, Aindrias.</i>
		<i>Moynihan, Michael.</i>
		<i>Murphy O'Mahony, Margaret.</i>
		<i>Murphy, Eoghan.</i>
		<i>Murphy, Eugene.</i>
		<i>Naughton, Hildegarde.</i>

		<i>Neville, Tom.</i>
		<i>Noonan, Michael.</i>
		<i>Ó Cuív, Éamon.</i>
		<i>O'Brien, Darragh.</i>
		<i>O'Callaghan, Jim.</i>
		<i>O'Connell, Kate.</i>
		<i>O'Donovan, Patrick.</i>
		<i>O'Dowd, Fergus.</i>
		<i>O'Keeffe, Kevin.</i>
		<i>O'Loughlin, Fiona.</i>
		<i>Phelan, John Paul.</i>
		<i>Rabbitte, Anne.</i>
		<i>Ring, Michael.</i>
		<i>Rock, Noel.</i>
		<i>Scanlon, Eamon.</i>
		<i>Stanton, David.</i>
		<i>Troy, Robert.</i>
		<i>Varadkar, Leo.</i>
		<i>Zappone, Katherine.</i>

Tellers: Tá, Deputies Mick Wallace and Thomas Pringle; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

Amendment No. 9 not moved.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 10 to 16, inclusive, are related. If amendment No. 10 is agreed, amendments Nos. 11 to 15, inclusive, which are physical alternatives to amendment No. 10, cannot be moved. Amendment No. 13 is a physical alternative to amendment No. 12. Amendments Nos. 10 to 16, inclusive, may be discussed together.

Deputy Bríd Smith: I move amendment No. 10:

In page 19, to delete lines 3 to 38, and in page 20, to delete lines 1 and 2.

It is unfortunate that a number of complex issues are conflated in this Bill. By this I mean that there is a conflation in the construct of the Bill in the context of the issues of trafficking, coercion, sex work and, to a degree, pornography. However, they are all very different issues. The justification for this Bill lies largely in what is known as the Nordic model. I am of the view that the Bill fails to understand and recognise that the most recent research into that model raises very profound questions around the criminalisation of the purchasers of sex. When the Unite trade union women's committee had a debate on this issue a number of years ago, I was a lone voice in opposing the Nordic model on the basis of the arguments I propose to make this evening. These arguments were rejected by very progressive women in the trade union who are now having a rethink on the attitude of the union to their response to the Turn Off the Red Light campaign at that time. That is a fair and intelligent thing to do in the light of recent evidence

and research, and arguments made by groups such as Amnesty, that criminalising the purchase of sex will drive sex workers into more dangerous and precarious lives and increase their vulnerability and has done so in the areas where this model has been introduced.

Targeting the purchase of sex is driving sex work underground. Where clients are in a position to demand more structures regarding how the act they are about to purchase takes place and the sorts of safe places in which they wish to buy the sex or have the work performed, sex workers are even more vulnerable.

Let me refer to Amnesty International which examined the Nordic model and talked to Nordic sex workers. It concluded that it would be much better to decriminalise all aspects of sex work. The Amnesty report refers to a larger problem that befalls sex workers owing to the criminalisation of the buyer. It examines what happened in Norway and patterns of police surveillance of sex workers and of evictions and deportations, particularly of migrant women, who in some cases rely almost totally on sex work. The report finds that because sex workers are now sometimes used as evidence in court to convict a buyer, practices such as carrying condoms can be used as evidence in a court case. Therefore, sex workers tend not to carry condoms as much as they would have done before the purchaser of sex became the criminal. It does not have to be stated that not protecting oneself while carrying out a sexual act, particularly with a stranger, is extraordinarily dangerous to one's health. In many cases, it has led to an increase in sexually transmitted diseases, etc.

The reporting of violence, aggression and attacks has decreased among sex workers because they find complaints they make to the police often result in their being more harassed. There is no evidence that the criminalisation of the purchaser reduces the discrimination, stigma and violence experienced by sex workers. In reality, the Nordic model has increased the danger for sex workers. There is an urgent need to examine the evidence produced in many surveys. The survey by Amnesty International is particularly useful and broad. It refers to the utterly disgraceful circumstances of women seeking asylum and states their participation in sex work is often used against them to evict them and sometimes to deport them.

If we were to introduce this Bill, it would create all the dangers I have outlined for sex workers here. I refer in particular to sex workers living in direct provision and those who are refugees or migrants. The Bill would increase the risk and drive the whole business underground even further. It would do nothing to deal with the reality of the sex workers' lives. It would increase the sex workers' chances of being at the wrong end of the law and in the courts.

The Norwegian Government's own research found that criminalising the purchaser has the effect of strengthening and increasing the dependence of migrant sex workers on traffickers and exploitative third parties. When we examine the section that seeks to outlaw brothels and sex workers working together in groups of more than two, we will note that there is much evidence that the driving underground of sex work as an act or function also makes sex workers much more vulnerable. This Bill would worsen the lives of sex workers and increase the danger associated with their work and the danger to their health.

The purpose of our seeking to delete the section is to ensure all aspects of sex work and prostitution will be decriminalised. I refer to both the purchaser and sex worker. If we were to reach a point where we accepted this as the sensible norm, we could then regard our responsibility as legislating to provide supports, both educational and functional, to people who believe they are driven into sex work rather than those who have chosen it as a lifestyle. We are going

about this in completely the wrong way. This is why we are arguing for the deletion of the entire section.

Deputy Mick Wallace: Since the introduction of the Nordic model in Sweden and Norway, there have been reports, including by government agencies in those countries, of greater harassment on the streets, increased competition for clients and more pressure on sex workers to accept riskier clients who are aggressive or drunk and engage in dangerous behaviour, such as unprotected sex. According to UNAIDS, criminalising clients deters those who do not want to commit a crime but not those who actually intend to abuse sex workers, thereby increasing the proportion of clients who are aggressive or dangerous. Prosecuting sex workers who work together indoors for safety on grounds of brothel keeping is another way to ensure they will be unsafe. The lack of focus on harm reduction in the Nordic model has led to increased surveillance and searches by the police in Sweden, who are reportedly confiscating condoms for evidence, thus increasing the risk of HIV and other sexually transmitted diseases. The World Health Organization and HIV Ireland are just two of the many health-based organisations advocating the decriminalisation of sex work as the model for preventing further transmission of HIV.

The Norwegian Ministry of Justice and Public Security report entitled Evaluation of Norwegian Legislation Criminalising the Buying of Sexual Services, dated 2014, found the Swedish law criminalising the purchase of sex had created a buyer's market and that violence against sex workers had actually increased.

In a context of high unemployment, depressed wages and increased homelessness and debt, where asylum seekers are forbidden from entering the workforce, it is actually irresponsible to consider any model of sex industry regulation that would make it more difficult for marginalised people to survive. Despite the overwhelming evidence highlighting the negative consequences of the Nordic model, the Irish Government has taken an unjustifiably positive view of the legislation. Mr. Michael Lynn, SC, stresses in his legal opinion the fact that there is no concrete evidence that the Nordic model has actually reduced the level of prostitution, which was its aim in the first place. According to the legal opinion, the importance of the evidential deficit cannot be overstated. It is claimed the legislation may have serious negative consequences for the rights, including the physical safety, of the group of people it is designed to protect. Nobody knows what the effect of the legislation will be in Ireland. It is stated gambling with the lives and welfare of sex workers is highly dangerous and obviously unjustifiable. According to research carried out by Chu and Glass in 2013-14, any claim that there has been a reduction in street prostitution in Sweden must be qualified by the fact that much of it has been displaced to indoor markets.

A key issue is that the Government willingly conflates the issues of sex work and trafficking. A report by the UN special rapporteur on the right to health in 2010 stated the conflation of consensual sex work and sex trafficking in such legislation leads, at best, to the implementation of inappropriate responses that fail to assist either of the relevant groups in realising their rights and, at worst, to violence and oppression. Clearly, where people are coerced into selling sex or are unable to leave sex work if they wish to, we need to have specific laws to protect them, but consensual adult sex is a very different issue.

The Bill portrays sex workers as vulnerable and without any agency or autonomy of their own. No importance is attached to the consent of the sex worker. No sex act should ever happen without consent, but the Bill disregards the ability of a sex worker to give consent. This raises an interesting question. Why does the Government believe consent does not count when

it comes to a sex worker? Treating all sex work as abuse or sexual assault is to tell the workers involved that their consent is irrelevant. If people can be believed when they assert that they do not consent to sex, surely they can also be believed when they say they do. By dismissing the rationale that adults have consented to sex, one is implying that one knows their minds better than they do.

Proponents of the Nordic model, consciously or otherwise, are seeking to undermine the right of sex workers to self-determination in the context of sex work. An upshot of this infantilising attitude towards them is that in not respecting their right to consent to engage in sex work, it makes it more difficult for sex workers who are the victims of rape or sexual assault to be taken seriously. Furthermore, the attitude that sex work is inherently degrading is not only insulting to sex workers, it also perpetuates the stigma around it. The Government believes it is helping sex workers through this Bill, but in diminishing their agency, it will make them more vulnerable. The legislation's moralistic nature must not be ignored. We could be discussing abortion laws, the symphysiotomy scandal or what happened in the Magdalen laundries, all of which continue to have serious implications for bodily autonomy rights.

Criminalising sex workers' clients is *de facto* a criminalisation of the sex workers and creates additional risks for an already marginalised group. Regardless of who is criminalised, it focuses law enforcement efforts and public money on fighting the sex trade, essentially treating everyone involved as a criminal and creating an adversarial atmosphere. Police officers are increasingly seen as enforcers rather than protectors. Any legislative change purporting to make sex workers' lives safer should focus on improving their relationship with the police in order that they will feel free to seek help when they need it while addressing the issue of exploitation. According to a 2004 report from the Norwegian Ministry of Justice and the Police, entitled "Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences", the negative relations between sex workers and the police made them less likely to reach out when they witnessed trafficking, abuse or exploitation. Sex workers were less safe and abusers could act with impunity.

I do not see the rationale behind the Bill and disagree strongly with this approach. Sex workers have not been listened to and life will be more difficult for them after this legislation is passed.

Deputy Ruth Coppinger: I wish to deal with this amendment because I am perplexed. Perhaps the Deputies proposing it or the Tánaiste might provide clarity. It proposes to delete all of the new provisions, including that relating to paragraph (a) of the 1993 Act, from line 3 onwards to the following page. I fail to see how that would make the lives of sex workers safer or decriminalise them, given that section 25 of the Bill deletes from that Act solicitation by a prostitute - a person "offers his or her services as a prostitute to another person" - from the offence of soliciting for the purposes of prostitution.

Deputy Frances Fitzgerald: Yes.

Deputy Ruth Coppinger: Why are the proposers proposing the deletion of this measure? Doing this would also leave in place section 7 of the Criminal Law (Sexual Offences) Act 1993, which reads:

A person who in a street or public place solicits or importunes another person or other persons for the purposes of prostitution shall be guilty of an offence and shall be liable on

summary conviction to a fine not exceeding--

- (a) £250, in the case of a first conviction,
- (b) £500, in the case of a second conviction, or
- (c) £500 or to imprisonment...

I am in favour of the provisions on the harassment and criminalisation of sex workers being deleted. As such, why are the proposers proposing the deletion of those measures that decriminalise sex workers? Sex workers would continue to have no protection. In proposing the amendment the proposers are stating sex workers soliciting to sell sex should remain criminalised, up to and including being imprisoned for four weeks. It is bizarre. The Deputies profess to have an interest in sex workers' rights. Why would they rather see people continuing to be criminalised while men would remain free to buy sex? That is the element they are deleting but they are leaving the *status quo*. It seems that, in essence, they would prefer a woman who solicits for clients on the street to be sent to prison rather than criminalising the man. I cannot understand how people can claim that this would assist sex workers or make their lives safer.

Nobody could argue that consent and purchasing consent are the same things. To say there are no sex workers or people involved in prostitution or the sex industry who are not vulnerable is whitewashing and sanitising the industry. The Socialist Party and socialists in general do not make judgments about anyone who becomes involved in the sex industry. It is not about moralising or considering what is right but about perpetuating the culture that women's bodies or those of trans or vulnerable people are subservient to - let us face it - male desires. As the purchasers of sex are 99% male, there is a gender aspect.

I will cite Mr. Tom Meagher who is involved with the White Ribbon campaign and whose wife was murdered by a rapist. He made the point that anyone who challenged the male purchasing of sex or male violence was told that "men were men." He stated: "The sentence 'it's not ok to pay for sex' is controversial and often unpopular, one that invites accusations of moralising ... as if it is simply sex and not the systematic oppression of women and the rape and murder of women in prostitution in particular that we object to." That is the nub of the argument. Passing laws will not get rid of prostitution. Prostitution is the product of a society in which there is significant inequality and eight men have as much wealth as 3.5 billion people. As long as this continues to be the case, people will be pressured because of poverty, drug addiction and so on. There are people who have been able to make a decision to take part in sex work, but they are in a minority and should not be over-represented in the general discussion. The amendment is particularly mystifying if people want to protect sex workers.

Further down the list are amendments which could be deleted if this amendment is passed, in which we in the Anti-Austerity Alliance argue that the pimps, the organisers of prostitution and the traffickers should be pursued and heavily fined. Some of these points have been taken on board, whereas others have not. In recent cases people who have been arrested for engaging in prostitution have had the proceeds taken from them. This should be catered for in the Bill, but it is not. We will continue to see sex workers being persecuted.

I am mystified by the proposal that the entire section be deleted, including measures that would increase the safety of those involved in prostitution in the context of soliciting, loitering and so on.

I just do not understand where that is coming from if one wants to protect sex workers. It seems that in trying to prevent the purchase of sex, generally by men, and in deleting that measure, all of the protections are being deleted and I wonder why that is the case.

Deputy Jonathan O'Brien: We have similar concerns to those expressed by Deputy Ruth Coppinger on amendment No. 10. As people are aware, it is our party policy to support the Turn Off The Red Light campaign, and while there is growing evidence around the purchase of sex and whether that has a knock-on effect on the safety of sex workers, we think deleting the entire section is also deleting some of the existing protections for sex workers. Two separate debates are required and for that reason, unfortunately, we will vote against amendment No. 10 if it is put to a vote.

Amendment No. 11 is a well thought out amendment tabled by the Labour Party. If it remains the case that we are going to criminalise the purchase of sex, the sex worker could be prosecuted under current legislation, namely, the Proceeds of Crime Act, as he or she could be perceived to benefit from a crime having been committed. The Minister must clarify the situation in this regard. If there is no clarification and the amendment is put to a vote, we will support it.

We support Government amendment No. 12 as it includes penalties and goes after those who organise prostitution, namely, the pimps. While we can argue about whether what is proposed goes far enough, a penalty of up to ten years in prison is something we welcome.

Amendment No. 13 also deals with sentencing. Perhaps Deputy Ruth Coppinger or even the Minister might clarify whether it is possible to specify an unlimited fine in legislation. If that is the case then I would not object to that. Whatever about an unlimited fine, we should certainly consider including a minimum fine and we need not specify a maximum fine. We will support the amendment if it is put to a vote.

Amendment No. 14 is a Sinn Féin amendment. Amendment No. 15 has been moved by the Anti-Austerity Alliance and amendment No. 16 by People Before Profit. In essence, they all propose to do the same thing, namely, to give some protection to a sex worker who is working within a property or building with another sex worker for safety reasons. There is a significant difference between individuals who are forced into the industry by pimps, who are victims of trafficking and exploitation and the women who choose to be sex workers and to engage in such activity. We should provide every safety mechanism to those women that we can. The essence and spirit of the three amendments tries to do that and to distinguish between a sex worker who is working within a property with another sex worker for his or her own safety, as opposed to someone who has been forced into the industry by a pimp and has been subjected to trafficking.

We often talk about unforeseen, unintended or unknown consequences when we deal with legislation, but in this case the consequence has been flagged on every Stage of the legislation. It is unfortunate that the Minister has not been able to come up with a wording to provide protection to sex workers who work in groups for their own safety and who are not being exploited or who have not been trafficked. It is unfortunate that we have not been able to come up with a suitable combination of words. Provided amendment No. 10 does not pass, we will push amendment No. 14 to a vote, and if amendments Nos. 15 and 16 are also pushed to a vote, we will also support them.

Deputy Jan O'Sullivan: I welcome Deputy Jonathan O'Brien's support for our amend-

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ment No. 11. I hope the Minister will consider accepting the amendment which I signalled in the course of my Second Stage contribution on the Bill. We felt there was an anomaly in the Bill whereby a person who is a sex worker could have his or her assets seized by the Criminal Assets Bureau as a result of the legislation. We propose that money or any other form of remuneration or consideration that is paid or given to a sex worker in return for sexual services would not, by reason of the creation of the new offence, be deemed to be the proceeds of crime for the purposes of the Proceeds of Crime Acts 1996 to 2016. In effect, anything above €5,000 could be seized from a sex worker as the proceeds of crime.

Deputy Jonathan O'Brien: I thought it was €1,000.

Deputy Jan O'Sullivan: I am sorry, it is €1,000. The point we wish to make is that this is an unintended consequence of the legislation and we do not believe the sex worker should have his or her home or anything else seized by the Criminal Assets Bureau.

On the more general issue, I also have a problem with amendment No. 10 because I would be very concerned if we were to remove protections from sex workers, which appears to be the result of taking out that entire page of the Bill. I know that the proposers of the amendment will have another opportunity to explain the position to us.

We are also generally in support of the intention of the legislation and of the Turn Off The Red Light campaign. The Immigrant Council of Ireland and Ruhama have told us stories about women who in many cases are coerced into being sex workers. There is a great deal of exploitation and for many sex workers it is not a free choice but they are in the industry for a variety of reasons that are not connected to freely choosing to be a sex worker. I accept some sex workers are in a position to make a free and unencumbered choice that is not exploitative. However, I contend a large number of sex workers are exploited and for that reason we have given our support to the Turn Off The Red Light campaign. Clearly, there are different views on that major element of the legislation but we do support the Government in this regard.

I urge the Minister to consider accepting the Labour Party amendment. I do not think it would cause any difficulty for the intention of the legislation but what it does do is protect the sex worker from having his or her assets seized by the Criminal Assets Bureau.

Deputy Richard Boyd Barrett: I will let those who are on the committee deal with the more technical point that seems to be raised, if they can answer it. Clearly, the suggestion that amendment No. 10 is removing protections is absolutely not the intention. It is also not entirely clear that is what it does. As I understand it, it leaves in place some of the existing legislation, which should be amended.

Deputy Clare Daly: Exactly.

Deputy Richard Boyd Barrett: To deal comprehensively with all the legislative aspects of trying to decriminalise sex work, which is the intent of our amendment, one would require further amendment of the 1993 Act. We take that point, but I do not think the suggestion that what we are doing is removing protection is correct. Deputy Catherine Connolly and others might add to what I said in that regard. On the substantive issue, Deputy Bríd Smith made the biggest point. Everybody here is at one in wanting to ensure we protect women or people engaged in sex work from exploitation, abuse, violence, being treated in a degrading way, objectification and the commodification of women's sexuality against their will. We are probably all at one on that, but we believe a law and order approach is not the way to deal with those problems

because in an effort to make things better, one ends up making things worse for the very people one believes one is trying to protect. That is the essence of it. A law and order approach does not and will not work. The evidence for that is increasing. It is obvious that if you criminalise the buyer of sex, prostitution will not end, as has been acknowledged by those who oppose this amendment. It will continue, people will continue to purchase sex and the people who do so will be the ones most willing to defy the law. They will be the more dangerous buyers of sex. The business will be driven underground in a way that will remove protections that may exist for sex workers. That point has been largely made.

Some people involved in sex work make a decision to do so. As Deputy Mick Wallace said, we should not stigmatise and patronise all those involved in sex work and assume that at least some of them do not make a decision of their own free will. However, I believe this is a minority, as Deputy Jan O'Sullivan said. If we want to do something about the majority of women who go into sex work because they are forced to do so, we need to look at what forces them into it. I do not believe it is demand - the fact that there are people willing to buy sex - that forces women who would not do so otherwise into sex work and the degradation involved in it if it is not their free choice. If the Government wants to do something about that, they need to look at the profile of people who are forced into sex work. What categories of people are being forced into sex work and what are we going to do to give them options so that if they do not want to be involved in sex work, they do not feel they have to be involved in it? If one looks at things that way, one is immediately into areas like student poverty or people who are denied rights because they are migrants or in direct provision or because in one way or another, they are on the margins or are vulnerable people who do not have other options available to them and who feel the necessity to engage in sex work to survive. That is the issue that needs to be addressed. It is about dealing with issues like low pay and precarious work that affects women. One of the terrible things is the increase in young university students getting involved in sex work because of high levels of student poverty. If you want to do something about that, it is not about a law and order approach, it is about dealing with escalating dire student poverty that is forcing young people in universities into feeling that they must go out and engage in sex work to survive.

Deputy Jim O'Callaghan: On Second and Committee Stages, Fianna Fáil's attitude to Part 4 of the Bill, which deals with the purchase of sexual services, has not altered. Therefore, we will not support amendment No. 10. It is important to recall what lies at the heart of prostitution. At its heart lies abuse of vulnerable women and that vulnerability has been growing in recent times. When you look at the statistics in respect of the women involved in prostitution in Ireland, you find that very many of them are immigrant women living in significant states of destitution who are forced into prostitution. I fully recognise that if we criminalise the purchase of prostitution, it will not end it. It will still continue. Notwithstanding that, if we were to adopt that argument, we would criminalise nothing and say things are just going to continue and what is the point in introducing any laws to deal with it. It is extremely important that men recognise and take responsibility for the fact that they get involved in an abusive situation with women. Up to now, they have been able to walk away scot free and the woman is the person who has faced the consequences. For that reason, we will not support amendment No. 10. I do not know what the consequences of this will be in terms of prostitution, however, I believe it will be of assistance to women who find themselves in prostitution because it will lessen demand and that will have a consequence for women who find themselves involved in sex work.

With due respect to Deputy Jan O'Sullivan, I do not think amendment No. 11 is helpful. This amendment could create even greater difficulties for vulnerable women who find

themselves working in prostitution. The proposal put forward by the Deputy would mean that moneys that are the proceeds of crime and that are held by sex workers and prostitutes would not be confiscated. This just provides an opportunity for those in organised crime and men who are criminals to force sex workers and prostitutes to hold on to money in the knowledge that this money will be protected from seizure by the Criminal Assets Bureau. Last year, this House introduced legislation to ensure we could have a mini Criminal Assets Bureau whereby smaller amounts of money could be seized. The obvious way for criminals to get around that would be to hand it to women and say, make sure you say this is money you got from sex work or prostitution.

Amendments Nos. 12 and 13 are similar, although the use of the word “unlimited” in amendment No. 13 is not appropriate. It is appropriate that there should be a fine and a punishment for conviction on indictment for the organisation of prostitution. That fine needs to be there and it is important that men or women who are in the business of organising prostitution, which preys on extremely vulnerable women, know that if they are convicted for that, they will face a serious sentence and that on indictment, they could face a sentence of up to ten years.

Amendment No. 14 from Deputy Jonathan O’Brien and amendment No. 15 would defeat the whole purpose of the legislation. What we are trying to do is to ensure there is criminalisation of the purchase of sex. Amendment No. 14 states no person shall be prosecuted for an offence under this section where the premises is used by that person to provide his or her own sexual services and that section 10(1) does not apply to that person. My reading of that is that there would be no prosecutions if the sex work was provided in the sex worker’s own accommodation. That defeats the whole purpose of the legislation because it would be so easy to get around it. Everyone would simply engage in the services in their own accommodation.

Deputy Clare Daly: I support amendment No. 10 which provides for the deletion of a section inserted by the Tánaiste in respect of the criminalisation of the purchase of sex. We propose to remove something the Tánaiste is proposing. It is surprising that people would turn that on its head and choose to translate it into suggesting we propose to remove protections for sex workers. Everyone here is genuinely motivated. People here who are putting forward diametrically opposed views are doing so for genuine reasons. To imply motivation in some people’s motions or contributions by stating that this is being done in order to overturn and remove protections for sex workers is utterly ludicrous.

In listening to and opposing the points we made on Committee Stage about soliciting, the Tánaiste suggested that our removal of section A inadvertently leaves soliciting in place. However, that can be amended in the primary legislation at any stage. It is not, therefore, a reason to oppose the amendment. Ironically, by removing soliciting, the Tánaiste has inserted a new soliciting offence under the loitering under public order offences. What she gives with one hand, she takes away with the other. Concentrating on that rather than focusing on the real issue, which is the broader debate that societies are having about how best we deal with this issue, is regrettable and an attempt to muddy the waters.

The theory of the Nordic model is that criminalising the purchase will reduce demand and the activity will go away. That is it in a nutshell - traffickers will be deterred because nobody will be buying. The sad fact is that there is no evidence to support that viewpoint. In fact, there is a considerable and growing body of evidence showing the opposite, namely, that it does not do as has been suggested. It is not necessary to be a rocket scientist to know that prohibition has never worked. All it does is drive the activity underground to a less visible place where

transactions are likely to be negotiated in a more rushed way, compromising the health and safety of the sex worker.

Points have been raised about how a purchaser of sex can be tracked. That can only be done through the person who is selling. The issues of surveillance of and interference with sex workers will take centre stage in that regard. Many of the issues raised have not been adequately addressed. For example, what role will the Garda play? We know that many people are highly vulnerable from the point of view of immigration status. They are also highly vulnerable to further exploitation and threats. For example, 70 complaints were made to GSOC from sex workers about gardaí attempting to exploit them and demanding sexual favours. How much worse will this be when the legislation is changed?

HIV Ireland has serious concerns about the model. Apart from an elevated risk of violence against sex workers, the whole issue of HIV and sexually transmitted infections, STIs, is very worrying in light of issues relating to carrying condoms and so on.

I will not repeat the points made by other Deputies. International data-based studies have been conducted by organisations such as Amnesty International, which argue for a human rights-based approach to protect sex workers. It is worth saying that the only research carried out on this island relates to a study conducted by Queens University Belfast. The researchers talked to sex workers and their clients. Some 67% of sex workers said they would not report crimes against themselves to the PSNI. The users of sex workers - those who purchase sex - said criminalising the purchase would not deter them from the activity of doing that. The notion that it will suddenly go away if we do this does not stack up.

A previous speaker said that all sex workers were exploited. I recognise that fact. However, all work is exploitation. The idea that a sex worker does not have the ability to realise what a consensual sexual act is - albeit that he or she chooses to engage in that activity in exchange for money - is an appalling thing to say about any woman, any man, any human being. In the context of remarks made about consent, I find that absolutely incredible.

Of course, there are people who are trafficked into this country and who are coerced and made to perform sexual acts that they would not otherwise willingly perform. Those crimes are already prohibited in our laws. The new addition here relates to those instances where adults consent to a sexual activity in exchange for money. People can put whatever moralistic spin on it they like. It might not be a great choice, it might be a very limited choice or it might be a choice that the person would not, in many other circumstances, make. However, they are rational responsible adults who can say, "Well, okay, I don't like it, but it's the choice I'm going to make."

The Tánaiste should listen to the testimony of the USI students in this country who are engaged in sex work and who will tell her why they are doing it. It makes me sick to think that we patronise women in particular in this country while we are cutting grants, cutting housing benefits, attacking lone-parent payments and making it harder for women to support their children in decent employment, yet we are taking away an option making it more difficult by taking away their clients.

This legislation will not help any woman. It will not deter any man or person who wants to purchase services from a man, a woman or a transgender person. We say that based on the evidence in other countries. We have debated this matter on many occasions in the House. We

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all know how the votes will go. However, a review of this area is badly needed. I am sorry to say I believe we will regret passing this legislation tonight.

Deputy Catherine Connolly: The Bill is very positive and I support it. However, I think sections 24 and 25 have no place in it. This is a Bill to protect vulnerable children and people with disabilities. I have difficulty with the definition of “capacity”. The simplest thing to do in order to get consent across the floor would be to delete these two sections. There is absolutely no need for them. I have taken the precaution of reading the contributions to the Oireachtas Joint Committee on Justice, Defence and Equality and I realise the huge work that went into the legislation. The fundamental problem is that the Tánaiste is either inadvertently or deliberately conflating two issues - trafficking and the purchase of consensual sex.

Dr. Eilís Ward and her colleague from NUI Galway, where I am from myself, made a very sensible contribution. She told the committee that their research suggested that prostitution is an area of social policy that is not amenable to control through the law and may, in fact, be impossible to abolish. Their written submission expands on this:

“[T]he current policy situation [where the purchase of sex is not a criminal offence] may in fact represent the best kind of response – one in which prostitution is neither legalised nor abolished, in which the state is empowered to address trafficking through existing anti-trafficking legislation...

In the Bill the Tánaiste proposes to criminalise the purchase of sex, ostensibly to protect the sex worker. I have no doubt it will do the complete opposite. I did not come into the Chamber lightly to speak against these two sections. I realise that more than 90% of the women involved in prostitution wish to exit it. That was very clear in their contribution to the Oireachtas joint committee. Quite a substantial number of the sex workers get into the sex industry below the age of 18 years. I have no hesitation in acknowledging openly that this is a very vulnerable segment. However, the Tánaiste is approaching this in a patriarchal manner whereby the Government knows best, as opposed to actually listening to the voices of the people involved.

They have pointed out repeatedly that it will lead to more danger for them. They continue to express concerns that the criminalisation of the purchase of sexual services will greatly impact the safety and the well-being of workers. Criminalisation puts sex workers at risk of isolation and further danger as the power to set terms and conditions lies with the person facing risk of arrest. I want to deal with that, and the Minister might reflect on it as a woman. If a man is paying for the purchase of sex and he is criminalised for doing that, how dangerous does the Minister believe that makes it for the woman? She provides the service, gets her money and is then supposed to complain to the Garda. Can the Minister imagine what a vulnerable position that places her in to the person who is now being criminalised? I do not know how the Minister will get convictions because she is asking the sex worker to make the complaint and go into the court as a witness in order that the man can be criminalised.

Deputy Ruth Coppinger is right in one sense. By deleting all we are deleting, we are leaving the 1993 Act in place, which makes it an offence to solicit. However, what she is failing to point out is that the Minister’s legislation is introducing a new offence of loitering under the Public Order Act.

Deputy Frances Fitzgerald: That is gone.

Deputy Catherine Connolly: It is introducing further punishment. It is introducing a fine

for the purchaser of sex, but it is introducing a prison sentence for the sex worker. The Minister is actually introducing a fine-----

Deputy Frances Fitzgerald: It has been deleted from the Bill. It was removed on Committee Stage.

An Leas-Cheann Comhairle: The Minister will have an opportunity to respond.

Deputy Catherine Connolly: To be clear, the Minister is introducing a fine as a way of penalty for the person who is purchasing the sex and in parts of this Bill she is introducing a prison sentence for the sex worker. I do not know if the Minister has read it, but that is what she is actually doing here in the guise of protecting the sex worker on the ground. This is a very good legislation that should be passed unanimously by the Dáil, but it cannot be passed because of these two pages regarding the criminalisation of the purchase of sex. It will do absolutely nothing to lead to better safety for the sex worker.

I will conclude by referring to what the sex workers themselves have said. They stated: “We think it unacceptable that under S. 24(b) people who are found guilty of paying for sexual services are subjected to a fine yet if the sex worker who provides the service is found guilty of working indoors with another person or of returning to a public place after being directed to leave by Gardaí they can face fines and/or a prison sentence.” Where is the protection for the sex worker in that?

Many organisations, including Amnesty International, have pointed out that this model is a failed model. It is not a model to follow. In addition, other organisations have pointed out that it will lead to health and safety concerns.

I am saying to the Minister we should work on this as women. There is talk of a caucus in this House. We should work together to pass this legislation, which is excellent legislation in regard to the protection of children and all the sections the Minister has brought in. We should leave out these sections and come back to them on another day in a more reasonable and rational manner.

An Leas-Cheann Comhairle: That brings us to the Minister who has seven minutes to respond. Nine Deputies have spoken, each for seven minutes. Seven minutes may be sufficient time for the Minister, but if she needs a few extra minutes, she make take them, with the agreement of the House. Is that agreed? Agreed.

Deputy Frances Fitzgerald: I thank Deputies for their contributions. I want to deal with those two technical points raised and provide factual information on them. The first relates to the public loitering section mentioned by Deputy Catherine Connolly. I removed that on Committee Stage so that is no longer in the Bill.

Second, Deputy Ruth Coppinger is right. Deleting the entire section will reintroduce the offence of solicitation by those offering sexual services. That offence is being removed by paragraph (a) of the section. Deputy Clare Daly has commented on that. I am not saying anything about the motivation behind it. I am just making the point that it does that. In deleting the whole section we go back to the original legislation and so we are reintroducing the offence, which is the opposite of what Deputies actually wanted to do with regard to solicitation.

Deputy Richard Boyd Barrett: The Minister is just not deleting it. That is slightly differ-

ent.

Deputy Frances Fitzgerald: We are deleting the whole section, yes. That is what happens when we do that.

I refer Deputies who have spoken to the most recent research that has been done regarding this issue. It is well worth reading. It has been done by the European Commission and the University of Lancaster. It was published in 2016. We have had a good deal of research quoted here. I can quote a good deal of very fine research that totally supports the approach I have taken. It concluded that the evidence for the harmful effects of the sex purchase law in Sweden was extremely weak. I point out to Deputies that this European Commission report recommended just last year that member states consider criminalising the purchase of sex. What is clear is that, legal or not, prostitution is an underground activity. It carries risks for all involved.

This new offence is about targeting the demand which feeds both the trafficking and the exploitation of persons for the purposes of prostitution. It is expected that, in time, this will reduce the numbers of young women and young men in prostitution which will result in an overall reduction in levels of harm. I put it to the House that that is a valid aim, and it is the very clear aim of this legislation.

It is interesting to look again at the very detailed study from just last year where it references the impact in Sweden of the legislation and the changes that have come about as a result in Sweden. It is called Study on the Gender Dimensions of Trafficking in Human Beings. The first point it makes is that 95% of these women are the victims of trafficking, mostly for the purposes of sexual exploitation. A small number are for labour exploitation. It highlights the impact of trafficking on women that is leading on to sexual exploitation. It refers to the seriousness of the very specific ways the bodies of trafficked women are abused. There is severe, brutal and long-term gender specific physical, gynaecological and mental health harm, risks to life, and trauma from trafficking for purposes of sexual exploitation. It refers to the need to take account of all of this information on trafficking and prostitution and how much of prostitution is now dependent on trafficking. We see that in Ireland as well.

The study refers to demand reduction being a strategy that is absolutely appropriate. Somebody here said that demand reduction does not have anything to do with the issue. Of course, it does. It is a strategy to prevent trafficking by reducing the economic attraction of the institutions into which people may be coerced by traffickers.

Another point it makes about the introduction of this legislation in Sweden is the normative effect it has had on male behaviour. That is well worth thinking about. We have had a good deal of discussion here about sex workers and the rights of sex workers and I recognise the issues around danger. I have spoken about increased supports to Ruhama, for example, and other services. I take the broader economic point that we do not want to see women being forced into prostitution. It refers to the normative effect of the legislation on male behaviour or the threat of sanctions, how the market has decreased in Sweden, which has a smaller sex market than many other European countries and so on.

I can also quote the joint committee that looked at this and made this recommendation unanimously, and the European Parliament. I have never suggested there are not women who voluntarily engage in offering sexual services for payment, but I am convinced that the level of exploitation associated with prostitution must be tacked. To ignore that and to focus solely on

the small numbers who engage voluntarily is to blindly ignore the exploitation and harm associated with prostitution. I am very surprised at the lack of discussion by some contributors in the House about the harm of prostitution and its broader social context.

I would like to address some very particular points, if I have the time. To take Deputy Jan O'Sullivan's amendment, about which a number of Deputies have spoken, it would disapply the proceeds of crime legislation to the conduct set out. I have very serious concerns, and Deputy Jim O'Callaghan has also addressed this issue, about a specific exemption from the Proceeds of Crime Act because it could create opportunities for those who would seek to exploit such an exemption. For instance, the exemption of purchasing sexual services from criminal conduct with regard to the proceeds of crime could lead sex workers to being pressurised into holding moneys as legitimate-seeming fronts for pimps, traffickers and other organised criminal gangs. It could also make it more difficult for the Criminal Assets Bureau, CAB, to pursue proceeds of crime held by such people. For example, the CAB would be required to show a derogation from trafficking-related prostitution as distinct from non-trafficking-related prostitution. There are difficulties with going down the route of the amendment and I ask Deputy Jan O'Sullivan not to push it on this basis.

It is also the case that while the amendment would disapply the proceeds of crime legislation to money obtained by a person who offers sexual services, that money would still be the proceeds of criminal conduct for the purpose of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. To attempt to exempt the purchasing of sexual services in this respect could have potential effects on international obligations. It could have effects on the regulatory system for money laundering prevention and detection and the potential for sex workers to be used as legitimate-seeming fronts for holding money in the way I have described. The risks posed by it are too great and I cannot accept the amendment on this basis.

We have had a very extensive discussion on this legislation. When we discuss later amendments, I have built in various reviews because I absolutely take the point we need to review the legislation. We are joining many other countries which have moved in this direction and they have all thought about it, looked at it carefully and examined at the research. They include Sweden, Norway, Iceland, Canada, Northern Ireland and, in April last year, France. I accept there are different views on this, which are legitimately held, and there are different approaches but this is the approach I recommend at this point in time based on good evidence and certainly on built-in reviews, as have been requested by Deputies. I have looked at the research and the experience of states that have addressed prostitution in a different way. The goal of these provisions is primarily to target the trafficking and sexual exploitation of persons through prostitution. The Council of Europe and the European Parliament have recognised the effectiveness of the criminalisation of the purchase of sexual services as a tool in the fight against human trafficking.

Deputy Thomas Pringle: On a point of information, the Minister stated the section on the increased offence of loitering was removed on Committee Stage. It is in the Bill as amended on Committee Stage. It is section 25(c).

Deputy Frances Fitzgerald: That is just the penalty that applies to the person purchasing the sex and it is related to the 1993 Act. It has been removed for the person-----

Deputy Thomas Pringle: Does that not relate to the person who does not move on?

An Leas-Cheann Comhairle: The Minister can deal with it in her response.

Deputy Jonathan O'Brien: Perhaps the Minister might clarify this, but it is my reading that it is "A person who without lawful authority or reasonable excuse fails to comply with a direction" under section 7A(1) as inserted in the 1993 Act in section 25. As section 7A(1) refers to a person who pays, gives, offers or promises to pay, my reading is that it only relates to the purchaser of sex but perhaps the Minister can clarify that. It references back to section 7A(1), which makes it very clear that it is not with regard to the sex worker herself or himself.

I take on board what the Minister said on amendment No. 11. Will the Minister comment on amendments Nos. 14 to 16, inclusive, which try to give some protection to sex workers who work with another sex worker for their own safety? I understand fully we are speaking about a very small number of individuals when we speak about people who give their consent. While the legislation is primarily directed at victims of trafficking and exploitation and targets the pimps and organised criminals who exploit and traffic those individuals, we also have to recognise that a small number of individuals who are involved in sex work give their consent and are not trafficked, coerced, harassed or exploited. Amendments Nos. 14 to 16, inclusive, try to recognise this small group of people do exist and try to give them some protection from the legislation proposed. If these amendments are not acceptable to the Minister, how do we propose to give some protection to these individuals who want to work in pairs for their own safety?

Deputy Jan O'Sullivan: I still do not accept the fact that a sex worker should be impoverished. I understood the amount specified in the Proceeds of Crime Act is €5,000 but I am subject to correction if it is €1,000. Either way, whether it is €1,000 or €5,000, if a woman is to be only left with that basic amount of assets then she will be impoverished. Surely there is some way in which the CAB could distinguish between money that a pimp was asking a prostitute to hide as opposed to the basic money she earned from her sex work. I am not concerned about whether it is €5,000 or €1,000, but I am concerned we could end up basing having the CAB seize most of the income and assets of a sex worker. I do not know whether it should be in this legislation or whether there should be a way of amending the Proceeds of Crime Acts but either way, there is a danger that we are exposing women to losing their basic assets. I am not speaking about thousands or millions that might have been earned in an illegal way. I am just talking about the woman herself and the income that would have actually come to her. If there is any way the Minister can deal with it then I ask her to look at it.

I will not comment further on the other issues. It has been made fairly clear and I can understand the way in which people have read this, but it is clear enough because it is under section 7A(1) that it deals with the purchaser as opposed to the sex worker.

Deputy Ruth Coppinger: I wish to discuss some of the other amendments apart from section 10. The Minister has taken on board the loitering issue, which was deleted and I absolutely agree it would have been scandalous to keep it in, but there are other measures in the Bill. Sex workers will still be penalised whereby if they arrested, their earnings can still be removed. I ask the Minister to support the amendments several of us have tabled in this regard. The Minister made the point that it could lead to people higher up the chain, such as big organised prostitution pimps, putting pressure on prostitutes, but the reality is sex workers are those who are paying. We should bring in laws to deal with the pimps and the organisers. I note that the Minister has taken on board the much heftier penalties against those who organise prostitution. We have tabled an amendment to exclude from the definition of brothel-keeping two women working together in a brothel but not pimping. This is important because sex workers should

not be subject to harassment and prostitution. It might be asked how we can go after the brothel owners in such cases but that is very simple. We introduce different laws to deal with them. We do not have to keep laws that penalise sex workers to target people higher up.

Deputy Mick Wallace: The points made by Deputy Catherine Connolly were very strong and she spoke a lot of common sense. I wish the Government would take some of them on board. Queens University, Belfast did some research that found it was a bad idea to criminalise the purchase of sex, but the Northern Ireland Executive ignored the research, despite the fact it was involved in commissioning it. Not listening to the people for whom we are supposed to legislate does not sit well with me. Just because those who choose freely to work in the industry are in the minority does not mean they are not entitled to rights. I agree with Deputy Jan O'Sullivan's amendment on money. It is common sense and money should not be taken from them in that manner. We need to be sensible. This is not something that should get bogged down in technicalities. If we are genuinely trying to help sex workers we would not penalise purchase.

Deputy Clare Daly: Our amendment does not reintroduce the offence of soliciting. There is an offence of soliciting as it stands, and if our amendment were passed, the situation would be exactly the same tomorrow. If the Minister amended that legislation, we would happily support her. These issues should not be in this legislation. What could have been a really good Bill with really positive protective measures has been in a quagmire for years over the controversial aspect of the criminalisation of the purchase of sex.

The points the Minister made about Sweden and trafficking are not substantiated and everybody would be delighted if we could just magic away trafficking. Trafficking is already outlawed and criminal and by criminalising the purchase of consensual adult sex, Garda resources are being taken away from trafficking and the exploitation of young children. That point has been supported by the police in Sweden which states claims about a drop in the purchase of sex cannot be substantiated because the data were never collected.

The Minister mentioned France but the sex workers union, STRASS, noted a very sharp increase in the number of attacks and acts of violence since the law was changed. It says the new laws have already put the livelihoods of its members at risk, forcing them to accept more undesirable clients than previously and placing them in much more danger than before. A review is very urgently required but our measures are being proposed because what the Minister is providing for will make the situation more unsafe for sex workers. We think the section should be deleted.

Deputy Catherine Connolly: I support what the Deputy said. Later on the Minister proposes a review after three years, but this is much too long. It will be more dangerous for sex workers on the ground. The Minister is conflating trafficking with sex workers. If the Government is seriously interested in stopping demand and stopping sex workers on the ground, it would have built an exit strategy into this Bill. I understand that Northern Ireland has done something like that, with a firm commitment of an exit strategy to help those who want to leave the industry, which amount to over 90%. I would be much more reassured of the Minister's bona fides if there were such a measure in the Bill.

Deputy Frances Fitzgerald: On Deputy Jan O'Sullivan's point, the main concern I have is the exploitation of the exemption. I have very strong advice that there would be huge concerns over this and it would not be easy to disaggregate the money as she suggested. It would

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be fraught with difficulties and I would be very concerned about the exploitation of women in those circumstances. I am not in a position to accept the Deputy's amendment. While I cannot accept the Deputy's amendment because of a very minor technical point, I am moving an amendment that deals with what she is proposing.

The Deputy also raised questions about amendment Nos. 14 to 16, inclusive. I am very concerned that any decriminalisation of brothel-keeping would create a legal loophole ripe for exploitation by organised crime gangs involved in trafficking and exploitation of women in prostitution. Women would come under pressure to claim they were working independently when that was not the case and gardaí would be limited in the actions they could take to close brothels and disrupt the activities of pimps and criminal gangs. There is evidence from New Zealand that some women have been used by pimps to establish businesses which appear legitimate and from which the pimps profit. Creating exemptions from existing criminal law is a clear signal to those who would seek to exploit such exemptions and the opportunities it would present. I do not want to accept that. Amendments to the offences under the 1993 Act would require very wide consultation with law enforcement to understand fully and comprehend the impact of such amendments.

A number of people have spoken about whether women were more or less likely to seek help. There is no robust evidence to support this claim nor did most women seek assistance before laws like this have been passed in other jurisdictions. It can also be counter-argued that the decriminalisation of persons offering sexual services makes it possible for the police, support services and other professionals to have more open relationships with the women involved. We have shown our commitment to and support for services that work with women with our increased funding for Ruhama and the work of the anti-human trafficking unit. There has also been funding for further training courses to support women who want to exit prostitution.

10 o'clock

Amendment put:

<i>The Dáil divided: Tá, 10; Staon, 1; Níl, 100.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Níl</i>
<i>Broughan, Thomas P.</i>	<i>Pringle, Thomas.</i>	<i>Adams, Gerry.</i>
<i>Collins, Joan.</i>		<i>Aylward, Bobby.</i>
<i>Connolly, Catherine.</i>		<i>Bailey, Maria.</i>
<i>Daly, Clare.</i>		<i>Barrett, Seán.</i>
<i>Healy, Seamus.</i>		<i>Barry, Mick.</i>
<i>Kenny, Gino.</i>		<i>Brady, John.</i>
<i>O'Sullivan, Maureen.</i>		<i>Breathnach, Declan.</i>
<i>Ryan, Eamon.</i>		<i>Breen, Pat.</i>
<i>Smith, Bríd.</i>		<i>Brophy, Colm.</i>
<i>Wallace, Mick.</i>		<i>Browne, James.</i>
		<i>Bruton, Richard.</i>
		<i>Buckley, Pat.</i>
		<i>Burke, Peter.</i>
		<i>Butler, Mary.</i>
		<i>Byrne, Catherine.</i>

		<i>Byrne, Thomas.</i>
		<i>Cahill, Jackie.</i>
		<i>Calleary, Dara.</i>
		<i>Canney, Seán.</i>
		<i>Cannon, Ciarán.</i>
		<i>Carey, Joe.</i>
		<i>Casey, Pat.</i>
		<i>Chambers, Jack.</i>
		<i>Coppinger, Ruth.</i>
		<i>Corcoran Kennedy, Marcella.</i>
		<i>Coveney, Simon.</i>
		<i>Creed, Michael.</i>
		<i>Crowe, Seán.</i>
		<i>Cullinane, David.</i>
		<i>Curran, John.</i>
		<i>D'Arcy, Michael.</i>
		<i>Daly, Jim.</i>
		<i>Deering, Pat.</i>
		<i>Doherty, Pearse.</i>
		<i>Doherty, Regina.</i>
		<i>Donohoe, Paschal.</i>
		<i>Doyle, Andrew.</i>
		<i>Durkan, Bernard J.</i>
		<i>Ellis, Dessie.</i>
		<i>English, Damien.</i>
		<i>Fitzgerald, Frances.</i>
		<i>Fitzpatrick, Peter.</i>
		<i>Funchion, Kathleen.</i>
		<i>Harris, Simon.</i>
		<i>Harty, Michael.</i>
		<i>Haughey, Seán.</i>
		<i>Healy-Rae, Danny.</i>
		<i>Healy-Rae, Michael.</i>
		<i>Humphreys, Heather.</i>
		<i>Kehoe, Paul.</i>
		<i>Kelleher, Billy.</i>
		<i>Kenny, Martin.</i>
		<i>Kyne, Seán.</i>
		<i>Lahart, John.</i>
		<i>Lawless, James.</i>
		<i>MacSharry, Marc.</i>
		<i>McEntee, Helen.</i>

1 February 2017

		<i>McGrath, Finian.</i>
		<i>McGrath, Mattie.</i>
		<i>McGrath, Michael.</i>
		<i>McHugh, Joe.</i>
		<i>McLoughlin, Tony.</i>
		<i>Madigan, Josepha.</i>
		<i>Mitchell O'Connor, Mary.</i>
		<i>Mitchell, Denise.</i>
		<i>Moran, Kevin Boxer.</i>
		<i>Murphy O'Mahony, Margaret.</i>
		<i>Murphy, Catherine.</i>
		<i>Murphy, Eoghan.</i>
		<i>Murphy, Eugene.</i>
		<i>Naughton, Hildegarde.</i>
		<i>Neville, Tom.</i>
		<i>Noonan, Michael.</i>
		<i>Ó Broin, Eoin.</i>
		<i>Ó Caoláin, Caoimhghín.</i>
		<i>Ó Cuív, Éamon.</i>
		<i>Ó Laoghaire, Donnchadh.</i>
		<i>Ó Snodaigh, Aengus.</i>
		<i>O'Brien, Darragh.</i>
		<i>O'Brien, Jonathan.</i>
		<i>O'Callaghan, Jim.</i>
		<i>O'Connell, Kate.</i>
		<i>O'Donovan, Patrick.</i>
		<i>O'Dowd, Fergus.</i>
		<i>O'Loughlin, Fiona.</i>
		<i>O'Reilly, Louise.</i>
		<i>O'Sullivan, Jan.</i>
		<i>Phelan, John Paul.</i>
		<i>Quinlivan, Maurice.</i>
		<i>Rabbitte, Anne.</i>
		<i>Ring, Michael.</i>
		<i>Rock, Noel.</i>
		<i>Ryan, Brendan.</i>
		<i>Scanlon, Eamon.</i>
		<i>Smith, Brendan.</i>
		<i>Stanton, David.</i>
		<i>Tóibín, Peadar.</i>
		<i>Troy, Robert.</i>
		<i>Varadkar, Leo.</i>

		<i>Zappone, Katherine.</i>
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Tellers: Tá, Deputies Bríd Smith and Mick Wallace; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

Debate adjourned.

The Dáil adjourned at 10.20 p.m. until 12 noon on Thursday, 2 February 2017.