



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Leaders' Questions	173
Questions on Promised Legislation	181
Pensions (Amendment) (No. 2) Bill 2017: First Stage	186
European Communities (Brexit) Bill 2017: First Stage	186
Bus Éireann: Motion (Resumed) [Private Members]	187
Criminal Law (Sexual Offences) Bill 2015 [Seanad]: Report Stage (Resumed)	199
Topical Issue Matters	224
Ceisteanna - Questions	224
Priority Questions	225
Rural Development Plan	225
Areas of Natural Constraint Scheme	227
Young Farmers Scheme	229
Agriculture Schemes	232
Aquaculture Licence Applications	235
Other Questions	238
Agriculture Scheme Payments	238
Greyhound Industry	241
Fish Quotas	243
Areas of Natural Constraint Scheme Data	245
Appointments to State Boards	247
Horse Racing Ireland	248
Fishery Harbour Centres	250
Agriculture Cashflow Support Loan Scheme	251
Topical Issue Debate	254
Maternity Services Provision	254
General Practitioner Services Provision	257
Respite Care Services	259
School Accommodation Provision	262
Committee Report on Garda Oversight and Accountability: Motion	264

DÁIL ÉIREANN

Déardaoin, 2 Feabhra 2017

Thursday, 2 February 2017

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

Paidir.

Prayer.

Leaders' Questions

Deputy Marc MacSharry: As every Member agrees, Brexit poses the most serious challenge to this country since the foundation of the State. We have already seen the policy decision to devalue sterling cost the agrifood industry some €470 million in the last few months alone. Today, the UK Government publishes its White Paper on Brexit which might give an indication as to how it proposes to manage the Brexit negotiations when Article 50 is eventually signed next month. Despite the platitudes on all sides, it is clear that we are not prioritising Brexit to the extent we must to address the effect on our economy. Yesterday, we had to depend on listening to the debate in the House of Commons to find out what the plans and the effects on this country will be. The Secretary of State, James Brokenshire, addressed the House of Commons and agreed with the DUP's Sammy Wilson that to give Northern Ireland a special deal would be the wrong approach. It is clear that there will be a hard Border. This morning, Mr. Lux of the EU Commission went into extraordinary detail to outline blue and red channels for goods crossing the Border. This situation is totally unacceptable and comes within 48 hours of Prime Minister May talking here about the need to avoid a return to the old Border situation.

The question is what we are going to do about this. Does the commentary of Mr. Lux this morning not clearly underline the need for Ireland to build an alliance against what is a very fast emerging hard Brexit for this country with a hard Border and red and green channels where heavy goods vehicles and others will have to be called in and checked? He said some of it will happen with the benefit of technology while it will also require Border posts and staff. This is a seriously retrograde step. Brexit has the potential to wreck the Northern Ireland peace process and the Good Friday Agreement and to impact seriously on Border communities which are already struggling in the context of damaged trade. We have heard constant platitudes from the Government about an all-of-Government approach. We need a Minister for Brexit, appropriately resourced, and the Government must immediately publish a plan about how bilateral negotiations with Britain will go and, more particularly, how negotiations are going to go with the EU Commission. It is essential that Northern Ireland is granted a special deal to secure the future of this entire nation economically, socially and politically.

Does the Tánaiste accept that there is a very real and serious risk facing Ireland with the implications of the Border controls confirmed this morning by Mr. Lux? Is the Government accepting that Borders are going to be put in, which Mr. Lux suggested this morning? Can the Tánaiste outline the position to the House?

The Tánaiste: We are under absolutely no illusion about the nature and scale of the Brexit challenge and we have a clear and comprehensive plan. That has been evident in our approach to date. The Taoiseach has made his own views absolutely clear on the fact he is leading on this and will continue to do so. All Ministers across Government are also involved as part of comprehensive planning and reaction to the very serious challenges we face as a country. We are absolutely clear.

To continue to talk about a lack of preparation is not the approach that the main Opposition party should take, from a reputational point of view as far as Ireland is concerned. It is very clear that the Government has done deep analysis across all areas of the Brexit network. There are 11 working groups. A significant amount of work has been done in my Department. I will meet the Home Secretary, Amber Rudd, on Monday to continue the discussion. It is very clear that the top-level priorities have been identified, namely, trade, economy, Northern Ireland, the peace process, the common travel area and the future of the EU. We have examined the risks, the mitigating factors and what is needed.

The House of Commons has now passed the first stage of the Bill, allowing the Prime Minister to notify the European Union of the intention of the United Kingdom to leave. We are now in a different situation, in that the first formal step has been taken and more is to come in terms of the legislative process and the publication of the White Paper. It will be useful for us to deepen our preparations and, at EU level, detail our priorities. There are ongoing meetings with different sectors, industry and civic society. The all-island dialogue will continue. Another meeting will be held very shortly.

I do not have time to go into the enormous programme of engagement that has been undertaken by the Taoiseach and other Ministers. Let me reassure the House that very intensive and detailed work has been done on all of the implications. Until Article 50 is triggered, formal negotiations will not begin.

Our plan is having an effect. Chief EU negotiator, Michel Barnier, has named four initial priorities. Deputy MacSharry referred to Northern Ireland, which is one of the priorities. I met Mr. Barnier and his team, as did the Taoiseach and a number of other Ministers, and had detailed discussions about our priorities for Brexit. We made our position on not returning to any type of a hard border very clear. His other priorities include protecting the common travel area, which is one of Prime Minister Theresa May's 12 negotiation priorities. When there is greater clarity from the British side, we will be in a position to continue to ensure that our headline priorities are centre stage in our contact with the UK and across the EU and in all the meetings we will continue to have with EU heads of state.

Deputy Marc MacSharry: It is time that we were honest with the people. The Tánaiste keeps telling us how busy she is and how much work is being done. However, Mr. Lux let the cat out of the bag today and spoke of red and green channels. The Tánaiste needs to clarify this for the people. Some six weeks ago, traffic was funnelled from the M1 onto the N1 at Ravensdale in order to allow customs guards and social welfare personnel to screen traffic. Is this a dry run for what we can expect in the future? It is time the Tánaiste outlined the plan clearly to

the people. Far too much is at stake. Can she confirm that additional staff and resources will be exclusively assigned to the issue of Brexit so these matters can be dealt with?

The Tánaiste: In response to the Deputy's dramatic statements, no decisions have been taken yet and no negotiations have begun. I do not think he should anticipate the outcome at this point. We have heard from many commentators and there are many opinions and individual comments, but we are not yet in negotiation mode, as the Deputy knows. We have had comments from many different European commentators.

This is a decision that has been taken by people in the UK and their Government. We are engaging with every member state to explain our unique issues, and that is progressing well. Of course the process will intensify in the period ahead. Every initiative that we can take is being taken at this point. In my meetings with my Northern counterpart and other meetings next week, we will discuss the applications for civil and criminal law, of which there are many. A significant amount of work needs to be done. There is very intensive engagement within and across Departments at this point, highlighting the priority of this issue for us as a Government.

Deputy Mary Lou McDonald: The result of a ballot of members of the Association of Secondary Teachers of Ireland, ASTI, is expected to be announced today. The ballot was held because of major issues surrounding teachers' pay as well as issues surrounding supervision and substitution duties. Despite some minor concessions on the Government's part, the deal put to teachers remains largely the same as that proposed before teachers went out on strike last October. The ASTI executive has recommended that its members should reject the deal on offer. If they do, industrial action will resume and schools will close again. As any parent will tell the Tánaiste, this will be very disruptive. As any student, particularly those in exam years, will tell her, it will also be very stressful.

Teachers have legitimate concerns about their pay and conditions. Their concerns are justifiably shared across the public sector following seven years of pay cuts, but the teaching profession in particular has been affected as it is the one area in which a large number of new recruits had to be employed over the past ten years because of demographic pressures. Teachers and the rest of our public sector workers want and deserve fair pay restoration. They are not looking for a pay increase, but pay restoration, that is, to be simply given back what was taken away.

The demands of teachers are not insurmountable but they remain unresolved because the Government has its head stuck firmly in the sand. The issue of pay equality, which was a central reason for industrial action in October has not been addressed in the slightest, but it must be addressed. New entrants - those who started teaching from January 2011 - start on a pay scale that is on average 10% less than their colleagues'. The Government has no plan to address that situation. Worse still, there is no commitment to equal pay for equal work.

I am of the firm view that this issue must be resolved before the scheduled ending of the Lansdowne Road agreement. The clock is ticking and kicking the can down the road will not resolve the problem. Will the Tánaiste, on behalf of Government, today commit unequivocally to the principle of pay equality for teachers? Will she agree that the issue of pay equality - equal reward for equal effort - for post-2011 teachers must be addressed and confirm that it will be addressed before the scheduled ending of the Lansdowne Road agreement?

The Tánaiste: I welcome the fact that the central executive committee of the ASTI took a decision to put the outcome of the recent talks process to a ballot of its members. We should

await the result which will be announced later today.

On the points raised, it is critical to note that three quarters of the gap for new entrants described by the Deputy has been closed in this deal. It is a good offer that was made following negotiations with all the trade unions. This was a final offer and we should respect the ballot process. A new pay process is starting under the Public Sector Pay Commission which will address the issues raised by the Deputy.

There are immediate benefits to individual ASTI members in accepting the offer. The current deal on the table would see new teachers get a 15% to 22% increase in their salaries, beginning in January; immediate backdated payments for supervision and substitution for all teachers; restoration of increments; and increased flexibility in how the Croke Park hours are used in schools. Acceptance would also mean that ASTI members can avail of a new voluntary opt-out from the supervision and substitution scheme and would provide for earlier permanency for those on fixed-term contracts as well as new arrangements for securing additional hours for part-timers. The Deputy will see why I say the deal on offer is a good one. I hope the result of the ballot later today will be positive.

It is important to note that under the package announced in the recent budget, which was also significant, there will be greater promotion opportunities on offer in schools for new teachers coming into the system. These benefits are only available to ASTI members if they vote to accept the package. The proposals also include arrangements for addressing concerns about the junior cycle, including arrangements for ensuring that no current third year students miss out on marks in their English examination.

I accept that the ASTI has outstanding pay demands and that the deal does not travel the full distance it set out to achieve. However, it represents significant progress, as I indicated. The door is certainly not closed to the trade union movement seeking to advance the issue further in the context of our public service pay talks when they get under way.

Deputy Mary Lou McDonald: The Tánaiste's response, while not unexpected, is nonetheless alarming and I am sure it will cause alarm among teachers, students and parents alike. The alarm resides in the following simple matter. Why can no Minister commit, as a matter of principle, to equal pay for equal work? That is what this issue boils down to. Nobody expects pay restoration to happen overnight and it is accepted, including by teachers, that no one has a magic wand. Why can the Government not make a commitment for new entrants who are currently disadvantaged, employed on a discriminatory basis and do not receive equal pay? Why can it not commit to implement equal pay for equal work over an agreed timescale? This is what needs to happen. Irrespective of the outcome of the ballot, which is a matter for the members of the ASTI to decide, this issue will remain outstanding. Why does the principle of equal pay for equal work and effort not apply for new and young teachers?

Deputy John Deasy: Why does it not apply to Sinn Féin Deputies?

Deputy John Brady: Unlike Fine Gael Deputies, we are not on the gravy train.

Deputy John Deasy: Sinn Féin applies double standards.

Deputy Louise O'Reilly: The Deputy needs to calm down.

An Ceann Comhairle: Can we have silence, please? It would be helpful if Deputy Deasy

did not provoke Opposition Deputies.

The Tánaiste: I put it to Deputy McDonald that the choice for ASTI members-----

Deputy Mary Lou McDonald: My question concerned the Government.

The Tánaiste: I will answer the Deputy's question. The choice is whether to accept the immediate benefits on offer and participate, with the other trade unions, in the further process of engagement or forgo these immediate benefits in favour of a very unpredictable future. It is for the ASTI leadership to explain its strategy in that respect. For the Government's part, as Deputy McDonald is aware, our approach to the budget was that we have a recovering economy with significant demands and we have to balance supporting those who are dependent on social welfare and taxpayers. If we did not have tax revenue, we would not be able to invest in services or implement the type of pay restoration that is under way.

Deputy Mary Lou McDonald: The Tánaiste should answer the question, which was on equal pay for work of equal value.

The Tánaiste: The answer to the question is that in terms of balancing this range of issues, the Government has taken the most prudent and careful decisions possible. We have also set up a process to engage with the trade unions and discuss future pay restoration, which will deal with those issues.

Deputy Mary Lou McDonald: Does the Government not believe in pay equality?

Deputy Joan Burton: The publication yesterday by the Central Statistics Office, CSO, of the survey on income and living conditions in Ireland, SILC, for 2014 and 2015 shows some progress has been made in the fight against poverty and a welcome reduction in economic equality. Much remains to be done, however, and tax justice is clearly the means by which we will advance this agenda. This week, we learned that the National Asset Management Agency will pay an additional €158 million in tax on profits made by the agency from the sales of property held through section 110 companies. Today, it is reported that Matheson has closed three charities that were used by vulture funds to avoid paying tax. I welcome that. However, a fortnight ago *The Irish Times* published a comprehensive investigation showing the intense lobbying before the budget by companies such as Kennedy Wilson, Oaktree Capital, Hammerston and CarVal. This investigation shows the depth and extent of lobbying activity by vulture funds of the Department of Finance to ensure that changes to our laws did not inconvenience their elaborate tax avoidance structures.

The statutory lobbying register shows a lot less activity. The lobbying returns for September-December 2016 show that only a small portion of those meetings were required to be declared and that much of the lobbying by these companies is carried out with junior officials so that it flies under the radar. It is clear that lobbying rules in regard to tax matters need to be strengthened so that all activity is captured. In at least one case letters from a vulture fund directly to the Minister for Finance, Deputy Noonan, have not been declared. In other cases, it may be that vulture funds avoided the necessity to declare their interactions by channelling their contact to more junior officials with whom contact does not have to be declared.

Tax policy is a particularly important part of public policy. Our tax must be just and fair. Continuing to allow vulture funds to influence tax policy under the radar is unfair to families and small businesses across the country who have no such access. Will the Government pre-

scribe the higher executive officer, HEO, and assistant principal grades within the tax division of the Department of Finance as designated officials to ensure that lobbying on tax matters, particularly by vulture funds, can no longer be hidden in the shadows?

In the context of the €150 million paid by NAMA, how much does the Government expect to collect from other companies following the rule changes?

The Tánaiste: The Deputy has raised a number of issues. On the CSO data, I welcome that survey which shows that Ireland became a wealthier and more equal country in 2015 as compared with 2014. It also shows an increase in income of 6.2%, with consistent poverty falling from 8.8% to 8.7% and a significant fall in deprivation rates. The rate of those not poor but at risk of falling into poverty is also decreasing. This data highlights the improvements that have been made in regard to those issues.

The Deputy also raised the issue of NAMA and section 110. As the Deputy will be aware, that issue has been discussed in the House previously. The Government has taken action in regard to section 110. A decision was taken to end the eligibility of section 110 companies, not taxable in Ireland, in relation to profit-making from property-related investment under that section. That change has been made.

The Deputy's point about lobbying, vulture funds and contacts with the Department of Finance is an important point in relation to lobbying on tax policy. A lobbyists register has been put in place. If there is evidence of people who should be registering not doing so that needs to be pursued. The message must go out to people that if they are lobbying in any area of government policy they need to register. I will ask the Minister to examine the report from which Deputy Burton quoted. There are clear obligations on lobbyists, the legislation in respect of which is very recent and was introduced by the previous Government. I am sure that it will be reviewed and that any gaps identified will be examined.

The principal point is that we all expect that if we have legislation stating lobbyists ought to register, they should do so. I understand many have registered. If there are gaps, however, they need to be examined. If changes to the legislation are required in order for that to happen, that can be considered.

Deputy Joan Burton: I asked the Tánaiste about shadow lobbying in Ireland. In order to seek tax advantages in this jurisdiction, very clever people are engaging in shadow lobbying. It makes our tax system more unequal than it needs to be. The reason I raised the SILC statistics is that they show clearly how much further we have advanced by comparison with Northern Ireland, for instance, in making a more equal and fair society, particularly through social welfare increases in 2014 and 2015. The statistics and comparisons exist and people can read them.

If we want to make our society more equal, which is what everybody wants, we must have circumstances in which lobbying is properly accounted for. People are flying under the radar and lobbying in the shadows by approaching people such as senior officials but also more junior officials at assistant principal and higher executive officer levels.

I asked the Tánaiste previously whether the Government will introduce a standing commission on taxation so society and the Parliament can be constantly on the watch for new tax-avoidance creations. Will it do so?

The Tánaiste: The Deputy was at the Cabinet table when the legislation was passed by the

Government. It was very important legislation. If what the Deputy is describing as a shadow system exists, it clearly needs to come out of the shadows. I have made that very clear. The legislation exists and lobbyists have a responsibility to register. If the Deputy has information about the shadow lobbying she believes is taking place, she should make it known to the Minister for Finance. It needs to be examined. We introduced the legislation because there was lobbying of various sorts occurring behind the scenes. A decision was taken by the last Government to have more transparency in this regard. If there is further work to be done on it, that can happen.

I agree with the Deputy's point on social transfers and their impact. The evidence from yesterday's CSO report and Gini analysis is very clear that social transfers continue to perform very strongly in reducing the at-risk-of-poverty rate. There was a reduction from 34.9% before social transfers to 16.9% after social transfers. That is a very significant reduction in poverty as a result of the decisions taken by the current Government and its predecessor.

Deputy Joan Collins: I wish to raise the very serious and escalating situation facing workers in Tesco. In recent weeks, Tesco has decided to take the extraordinary action of bypassing its workers' union, Mandate, and unilaterally imposing the terms of a contract. These terms, if accepted, would mean a pay cut of more than 15%, in addition to an attack on terms and conditions for the company's longest-serving workers. This is only the beginning. Tesco's union-busting activities are part of a broader plan known as Project Black, which was drawn up by a specialist international legal team called Eversheds. It aims to get rid of 1,200 of the most secure and well-paid jobs in the company, critically undermining the union in the process. If this plan succeeds, it will be a big step towards bringing Tesco into line with the low-hour, low-wage and insecure employment that is rampant across the retail sector. The company intends to enforce these changes by bullying its workers, trying to turn them against one another and disciplining those who speak out. This is both deeply worrying and unnecessary.

Tesco is no pauper. Research estimates suggest the company makes between €200 million and €250 million in profit per year in Ireland. Only a few years ago, Tesco was calling Ireland "Treasure Island" in its internal documents, a clear indication of the big money it made here.

In recent days in Britain, Tesco agreed to shell out £3.7 billion to buy Booker, the food wholesale company, and it plans to pay dividends to shareholders at the same time that it imposes cuts on workers. Tesco is a serious player. It is the largest private sector employer in Ireland. What happens to its 11,000 retail workers in the coming days and weeks should be of high priority to every Deputy. It will also tell a story about the reality of work in modern Ireland.

Figures show that Ireland is second in the OECD in terms of low pay at 25% of the workforce. The Tánaiste referred to yesterday's survey of income and living conditions, SILC, report but it also mentioned that 105,000 people were working poor. Every day, hundreds of thousands of people go to work in low-pay jobs on insecure terms and unpredictable hours, struggling to get by from day to day. In many cases, the public subsidises this. For example, 10% of Tesco's workforce is in receipt of family income supplement.

Will the Tánaiste condemn Tesco's latest actions? Will she defend the rights of workers to be represented in their workplaces and not to be bypassed by super-rich multinational corporations that try to impose terms unilaterally? Will she take action about the low-pay crisis, which already impacts on one quarter of our workers according to the OECD and threatens to escalate further under her Government?

The Tánaiste: I would make a number of points on the issue that the Deputy has raised about a particular firm. First of all, workers have a right to be consulted on any change in their contract. That goes without saying; it is a basic principle and we want to see that observed. The second point is that, in this country, we have the Workplace Relations Commission and the Labour Court. We would want to see these mechanisms being used to the full in a situation such as the Deputy describes. I will ask the Minister to liaise with her afterwards regarding any particular action that may be taken in terms of the situation that she has outlined.

The general point is that what we are seeing in Ireland at present is a huge increase in employment. We want to see well-paid jobs. We are seeing that across the country. We are seeing a huge reduction in unemployment from 15.7% down to just over 7% now. We want to continue that. We launched our new jobs action plan just this week. We want to see that improvement being reflected right across the country and we want to see well-paying jobs being available for individuals and for families because that is the best way out of poverty.

The Deputy has outlined a situation that she has concerns about in respect of Tesco but, in the first instance, it is for discussion between employers and employees. We have well-tested labour relations mechanisms available where there is conflict, and I would hope that they would be used.

Deputy Joan Collins: The Tánaiste is ignoring the fact that the jobs debate is not simply about quantity, but also quality. It is not just about establishing commissions. We need robust legislation. The Government is allowing us to become a low-pay Ireland. According to the OECD, one in four Irish workers is low paid. According to yesterday's SILC report, there are more than 100,000 working poor. The same report stated that consistent poverty among the children of lone parents, who are disproportionately retail workers, has increased to 26.2%. These figures do not even count those people who are underemployed or the prevalence of short contracts and low, insecure hours.

What action will the Tánaiste take on this? Tesco is one of the few employers in the retail sector that still has thousands of decent jobs in which workers earn enough on which to live, and it has these jobs because workers organised. Research shows that, in the retail sector, those in unions earn approximately 30% more than those who are not. I urge the workers in Tesco to stay strong, stay together and remember that if the company is given the right to impose terms unilaterally on one group today, it will do so to another tomorrow. This week is the 70th anniversary of the death of Jim Larkin. I will conclude with the slogan: an injury to one is an injury to all. That message should go out to every worker who is fighting those issues.

Deputy Denise Mitchell: Hear, hear.

The Tánaiste: We all share the goal Deputy Joan Collins outlined of creating high quality jobs in this country. We certainly want to see that. In relation to the statistics that were published today, I wish to make the point that the full impact of the recovery that is ongoing is not reflected in the 2015 figures because we have had improvements since the figures that are in the report today were examined. As the Deputy is aware, we were in a position to introduce a range of welfare increases from 2016 onwards and, as a result, fewer people are dependent on transfers. For example, the number of people in receipt of working age income and employment supports continues to fall, to just under 405,000 people in December 2016. I accept that is still a large number. However, it is 10% less than the number claiming those allowances in the previous year, thus showing the rise in income. The jobs that are being created are taking

people out of poverty and poverty traps but work remains to be done.

Questions on Promised Legislation

Deputy Marc MacSharry: The reports yesterday implied the Minister for Finance, Deputy Noonan, said the Government was pulling back from the already agreed commission of inquiry into Project Eagle. The Tánaiste is no doubt aware that we have had motions in the Dáil on the matter and it was agreed that a commission of inquiry would be established into the activities around the sale of Project Eagle and that its terms of reference would allow the said commission of inquiry to add modules should other revelations emerge. The PAC is completing its work in the coming weeks in terms of the examination of the Comptroller and Auditor General's report on Project Eagle. Could the Tánaiste indicate that the Government is still committed to holding a commission of inquiry, as agreed by the House, and could she please give that commitment today?

The Tánaiste: There were detailed discussions on this matter between the relevant spokespersons yesterday. I understand the PAC hopes to produce a report on the matter very shortly. It would be sensible to wait for that report to be published. Deputy MacSharry's own colleague suggested the same. We should wait for the report to be published and consider its findings before any further decisions are taken.

Deputy Mary Lou McDonald: That is a terrible answer. In 2015 the Government agreed to take the case of the hooded men back to the European Court of Human Rights. That was the right decision. Last night Channel 4 revealed that papers uncovered by the Pat Finucane Centre in Derry exposed at least four known cases of waterboarding by the British army and RUC. The Tánaiste is aware that waterboarding is an horrific method of torture which terrorises a victim and simulates drowning. The papers also revealed that the then Taoiseach, Jack Lynch, raised one case with the then British Prime Minister, Ted Heath. That is a very serious matter which demands the fullest investigation by the Government. Will the Tánaiste instruct officials in the Department to examine its files to determine if the Department of Justice and Equality has information that could shed more light on those claims? Could she raise the matter urgently with An Taoiseach and ask that he too instruct his Department and the Department of Foreign Affairs and Trade to do the same? Will the Taoiseach investigate and report back to the Dáil on what steps have been taken to pursue this matter? Will the Taoiseach release the minutes of the meeting between Jack Lynch and Ted Heath on those matters?

The Tánaiste: I take the point the Deputy made about the details that have just emerged. Whatever about the accuracy of the reports, they are a reminder of the very dark history of the Troubles on this island and everybody must face up to their responsibilities in that regard. It is clear there is a special obligation on any state to act at all times within the rule of law but we must also reflect on the many barbaric acts that were committed by others, which included torture and not even allowing a decent burial for people who were killed or disappeared. There is a legacy for all of us to reflect on, and we must continue to find ways to address the legacy issues. I hope the House will agree that what we should do is give priority to maintaining the Good Friday Agreement so that we do not return to those dark days. Of course, the Government takes these reports very seriously and is looking very carefully at the issues raised in the programme.

Deputy Joan Burton: In view of the challenges posed to our society by Brexit and the executive actions of President Trump in his first couple of days as US President and in respect

of the programme for Government, will the Minister for Education and Skills agree to restore history to a full place in the curriculum of Irish schools so that today's students are not besieged by alt-right and alt-left material and alternative facts but that we go back to history and looking at what its lessons may teach us? Could we see the development of language learning at primary level?

An Ceann Comhairle: The Deputy can only raise one point.

The Tánaiste Frances Fitzgerald: I will ask the Minister for Education and Skills to respond.

Minister for Education and Skills (Deputy Richard Bruton): We had a very useful debate in the Seanad on the role of history and I think there was unanimity around the motion passed. The position is that we are developing much better curricula in history and it is part of the junior cycle reforms. At present, compulsory history only applies in voluntary secondary schools - 52% of schools - but 90% of pupils take it up. One of the problems is that they fall away very rapidly thereafter so the junior cycle curriculum has not been a satisfactory curriculum and is being reformed. It is not very different from when I was in school and is based on trying to retain huge volumes of dates and events, which is not the true type of history instruction we need. We should be equipping our young people to have the critical skills to which Deputy Burton referred. We had a very good debate and are reforming the curriculum and it will be very good for history in Ireland.

Deputy Catherine Connolly: In respect of the promised review of A Vision for Change, the period ran out in January 2016. It is more than a year later and given all the debate in the Dáil on the absence of mental health services, where is the promised review, which was urgent?

The Tánaiste Frances Fitzgerald: I will ask the Minister of State with responsibility for mental health and older people to come back to the Deputy with the details of the review. I beg your pardon. I did not realise the Minister of State was here.

Minister of State at the Department of Health (Deputy Helen McEntee): We should have a final report on the review in the coming weeks. The review is looking at best practice - what has worked in Ireland and other countries. It will inform us moving forward in terms of the next step. That will be in the coming weeks.

Deputy Catherine Connolly: When?

Deputy Helen McEntee: In the coming weeks.

Deputy Mattie McGrath: Housing is a priority in the programme for Government and we have a housing Minister. The reply to a parliamentary question I tabled about the number of local authorities that have applied for fast-track funding - the one-stage process - was that only two local authorities had applied to build 15 housing units with a value of under €2 million. What is going on?

An Ceann Comhairle: That is a parliamentary question issue. It is not appropriate to the Order of Business.

Deputy Mattie McGrath: It relates to promised legislation and is a keynote of the Government.

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

Deputy Mattie McGrath: It is very appropriate because the programme for Government was built on the housing programme, the homeless and a housing Minister. What is going on with the local authorities and the Department that they cannot get it right? Two local authorities have applied to build 15 housing units when we have a housing crisis.

The Tánaiste Frances Fitzgerald: There was very detailed engagement on a range of issues. A total of 1,250 houses were built last year and there are detailed plans to deliver far more this year. A huge number of houses that were not available before the focus on that with the local authorities and that in the social programme were brought back into use. I will ask the Minister for Housing, Planning, Community and Local Government to communicate with the Deputy about that issue but he has already put a parliamentary question on the matter to the Minister.

Deputy David Cullinane: I again put it to the Tánaiste that she needs to provide clarity on the need for a commission of investigation into NAMA because it was promised and committed to. The Tánaiste's response is inadequate. Yesterday, the Minister for Finance and Fianna Fáil put forward a straw man argument in respect of the Committee of Public Accounts. The Committee of Public Accounts is doing a cost analysis of the transaction. It was not in a position to look at any allegations of criminality or wrongdoing, which as the Tánaiste, the Minister for Finance and Fianna Fáil all know can only be done through a full commission of investigation. I believe we are being primed for a row-back both by the Government and by Fianna Fáil. I ask the Tánaiste to clarify whether the Government is absolutely committed to the commission of investigation promised in November.

The Tánaiste: I have made it clear that we should await the publication of the Committee of Public Accounts report in the first instance. The Taoiseach engaged with all leaders when the issue came up first. I have no doubt that the Minister, Deputy Noonan, will address the issue again. As the Deputy said, there was detailed discussion here yesterday.

Deputy Danny Healy-Rae: Deer Lodge, a 40-bed unit in Killarney to treat mental health patients, was completed in June 2015. The HSE promised before Christmas that it would open this year.

An Ceann Comhairle: That is a parliamentary question issue and is not appropriate to the Order of Business. It could be raised as a Topical Issue.

Deputy Danny Healy-Rae: It was in the programme for Government that this facility would open. Is the Government responsible for health or not? The HSE promised that it would open this year. Last week, *The Kerryman* reported that it will not open this year. Where is the funding going for health or what is happening at all? If this 40-bed unit is not opened this year, will it be knocked down? Will it be sold? What will be done with it?

The Tánaiste: The Minister of State-----

An Ceann Comhairle: The Minister of State, Deputy McEntee, will revert to the Deputy on the matter.

Deputy Jack Chambers: In the latest publication of the Government's legislative agenda, the gambling control Bill has been removed as priority. Has the Government kicked this mat-

ter to touch indefinitely? The Government's repeated response is that it will engage in public consultation. We need more than that, as it has been going on for a number of years. Is it a personal priority of the Tánaiste's?

The Tánaiste: The Minister of State, Deputy Stanton, has responsibility for this area now. He has done a considerable amount of work on it. He will introduce some urgent amendments in legislation in the near future. It is hoped that drafting will begin on a more comprehensive Bill. I agree with the Deputy that it is needed. This is a largely unregulated area here. The Minister of State, Deputy Stanton, has taken responsibility for this. He has a great interest in it and did a considerable amount of work on it when he was Chairman of the Oireachtas Joint Committee on Justice, Defence and Equality. He will progress certain elements that he considers to be urgent in legislation in the near future and a more comprehensive Bill on gambling will be drafted towards the end of this year.

Deputy Josepha Madigan: When will the family court Bill go to pre-legislative scrutiny? As we know, this will help to streamline family law court processes and will provide a dedicated family court to help all those people going through cases involving separation, divorce, access, custody, maintenance and relocation issues in a very adversarial way. I would like to see this expedited.

The Tánaiste: It is a priority of mine to ensure we have family courts. Consultations are continuing and I hope we will be in a position to finalise those very soon. We do not need a constitutional referendum to establish family courts. I hope we will be in a position in the very near future to begin the process of examining legislation to establish family courts.

Deputy Tony McLoughlin: To allow institutes of technology, such as IT Sligo, to merge into new technological universities and obtain the benefits this would bring, can we expect Committee Stage of the Technological Universities Bill to be taken shortly?

Deputy Richard Bruton: The Technological Universities Bill will be restored to Committee Stage. Obviously, issues were raised in the course of Committee Stage that was debated in the last Dáil. We are seeking to work out some of those issues relating to industrial relations and partnerships of colleges so that when we come to Committee Stage it will be easier to progress the Bill. Work is being done to make sure we can progress that Bill. It is very much our intention to proceed with it. We hope it will be ready towards the end of this session.

Deputy Louise O'Reilly: Page 58 of the programme for Government commits to reducing emergency department overcrowding. I know from an answer given to my colleague, Deputy McDonald, that those in government are not massive fans of equal pay for work of equal value. They are very lucky that they are not getting paid by results. A total of 601 people were on hospital trolleys yesterday and there are nearly 520 people on trolleys today. What will the Tánaiste do about this that is new because whatever she is doing and however half-hearted her efforts, it is not working? What comfort can she give to people on trolleys now who are likely to be on those trolleys for the next two to three days? What is her plan? What does she intend to do that is new?

An Ceann Comhairle: I call Deputy Joan Collins on the same issue.

Deputy Joan Collins: To follow up on that point, the problem is not just affecting people in emergency departments. I have just got a text from a constituent stating that her 16 year old daughter was due to go into hospital to have a kidney removed today but she got a telephone

2 February 2017

call to say it was cancelled because approximately 42 people were waiting on trolleys and 20 people were waiting on beds. This problem has to be addressed very quickly. It is outrageous.

The Tánaiste: It is absolutely unacceptable to all of us that hundreds of patients are on trolleys for long periods of time, especially patients who are elderly and vulnerable. It also means extremely difficult working conditions for front-line staff. We heard comments this morning from the Irish Association for Emergency Medicine. The trolley numbers for January are lower this year than last year. Nevertheless, it is an unacceptable situation.

The Minister for Health is determined to break the cycle we have seen previous Governments try to break. He is determined to break that cycle so that we do not continue to see that situation. He has outlined the three areas needed to deal with this problem. The bed capacity review is under way to examine precisely the type of new beds that are needed, whether it is high dependency and so on. He is working with all the relevant organisations. We have to continue to recruit. The Minister is in discussions with the nursing organisations and trade unions to see how we can accelerate recruitment because that is part of solving a very important aspect of the problem. The difficulties in that regard are well documented. Dealing with the new general practitioner contract that is needed is essential because the development of primary care services are part of the answer to this problem.

An Ceann Comhairle: Thank you, Tánaiste.

The Tánaiste: Action is under way-----

Deputy Louise O'Reilly: Sorry, a Cheann Comhairle, I want an answer to my specific question, please.

The Tánaiste: I am answering the Deputy's specific question.

Deputy Louise O'Reilly: What is she doing that is new?

The Tánaiste: That is what is new.

An Ceann Comhairle: We cannot have a debate.

The Tánaiste: In order to break the cycle, we have to deal with those three issues. There is an action plan in place-----

Deputy Louise O'Reilly: That is nothing new.

The Tánaiste: -----with regard to each of them. It will not happen overnight-----

An Ceann Comhairle: The Tánaiste to conclude, please.

The Tánaiste: -----but it is what is needed to break the cycle many Governments attempted to break in the past. To deal with this issue we have to act on each of those areas, and the Minister is doing that.

Pensions (Amendment) (No. 2) Bill 2017: First Stage

Deputy Willie O’Dea: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Pensions Act 1990 to provide for an appeals mechanism where a pension scheme is being wound up by the trustees of that scheme.

Recent events have demonstrated that there is a serious deficiency in Irish pensions law, which means that a solvent company can walk away from its responsibilities having run down its pension fund. In other words, it can close down the fund and leave accumulated liabilities to the detriment of members. This situation has been resolved in the United Kingdom for the past 20 years. Unfortunately, the UK legislation is running into some difficulties so we do not propose to repeat that here. We must take a more nuanced approach in our Bill, which we have done. It will meet many of the objections raised to the British legislation or to a proposal along the lines we are suggesting. I will outline the details of that when the Bill is being discussed on Second Stage.

In addition, the method of calculation of liabilities for defined benefit pension purposes grossly inflates liabilities. We are obliging the Pensions Authority to do a study of how liabilities are calculated and to report back to this House within six months. In addition to this, a pension protection scheme has been in operation in the UK for more than 20 years. I do not know whether a similar arrangement would be appropriate here but we are asking the Pensions Authority to report to us on this within six months. I refer to where the trustees of a defined benefit pension scheme make an application to the Pensions Authority under section 50 to change the terms of the scheme. We have had many complaints that in some cases a particular group of members, whether deferred pensioners, future pensioners, etc., might be more adversely affected than others and they have no redress. We would provide an appeal mechanism to the Pensions Authority in such a situation, provided the majority of the members of the scheme who vote in a particular ballot to deal with the situation propose to do so. I will recommend the Bill to the House during Private Members’ time next week.

An Ceann Comhairle: Is the Bill opposed?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): 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 Willie O’Dea: I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

European Communities (Brexit) Bill 2017: First Stage

Deputy Gerry Adams: I move:

That leave be granted to introduce a Bill entitled an Act to provide for the amend-

2 February 2017

ment of the European Communities Act 1972, so as to ensure the Government reports to the Oireachtas on negotiations regarding the United Kingdom's intention to withdraw from the European Union; and to provide for related matters.

Tá mé ag iarraidh go gceadófar dom Bille a thabhairt isteach chun Acht na gComhphobal Eorpach, 1972 a leasú. The purpose of the Bill is to amend the European Communities Acts to place a statutory requirement on the Taoiseach to outline to the Dáil the Government's approach to negotiations surrounding British intentions to leave the European Union. The Bill will oblige the Government to report on its approach to preserving the rights of those in the North who will remain EU citizens in the aftermath of Brexit by virtue of their Irish citizenship, and it provides that the Government will report on its approach to opposing the obligations of the British Government and the Irish Government under the Good Friday Agreement. It also obliges the Government to make a quarterly report to the Dáil and the Seanad on developments in the Article 50 negotiating process following the commencement of those negotiations.

I am of the firm view that the Bill will help to facilitate dialogue in the Dáil and go some way towards ensuring all of us are kept up to date on developments in the Article 50 negotiation process. This will facilitate an inclusive process of open policy debate and will inform, I hope, the Government's political and policy response to the British Government's Brexit plans and the EU's plans as they arise.

I understand the British Government will publish a White Paper. The Bill could also set out a practical vision and implementation plan which could form the basis of an Irish Government White Paper. The Government here clearly needs to publish this with all speed. I look forward to seeking the support of all Teachtaí for the Bill in the time ahead.

An Ceann Comhairle: Is the Bill opposed?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): 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 Gerry Adams: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Bus Éireann: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Robert Troy on Tuesday, 31 January 2017:

That Dáil Éireann:

recognises that:

- Bus Éireann is in serious financial difficulties with reported losses of €5.3 million in 2016, and greater projected losses in 2017;

Dáil Éireann

- Bus Éireann has said that the company's finances are in a 'perilous state' and that this could lead to job losses unless restructuring proposals are accepted;

- a major contributor to the falling revenues has been the commercial services which have struggled to compete with new market entrants in recent years;

- the company cannot continue to operate in its current loss making position which is depleting its reserves and that without action the company could face liquidity and solvency issues within the next 24 months; and

- any subsidisation of losses of the commercial operations of Bus Éireann, which competes with private enterprises, would likely encounter European Union competition and state aid issues;

acknowledges:

- that the report by Grant Thornton faults the Expressway services for the significant losses and recommends the possibility of significant reductions in Expressway services, up to and including Bus Éireann exiting these operations altogether;

- that such action would result in Bus Éireann shutting down many of its key routes serving large swathes of the country, leaving many areas in between big towns and cities with no direct Expressway services to Dublin or other cities and this cannot be considered acceptable;

- the fact that this is being considered as a potential option is creating huge uncertainty and fear and is evidence of the neglect of rural Ireland by the Government; and

- the need for the Minister for Transport, Tourism and Sport and the Government to act urgently to prevent the possibility of nationwide industrial action of the public transport services; and

calls on the Government to:

- commit to the importance of a public sector transport network that is adequately funded;

- take more determined actions to secure the future of Bus Éireann services nationwide and use its powers as a stakeholder to ensure that there are no changes to the Expressway service and that restructuring plans are agreed with workers and not imposed unilaterally;

- increase funding to Bus Éireann for free travel passengers as well as examining whether additional routes should be added to the public service obligation contract;

- review the route licensing system, in conjunction with the National Transport Authority, NTA, to ensure wider concerns such as those regarding rural isolation or whether competition is sustainable on a route are included in decisions as to whether to grant or refuse bus route licenses to operators; and

- introduce legislation to give the NTA greater licensing powers to approve or reject route amendments by Bus Éireann and private operators.

Debate resumed on amendment No. 4:

2 February 2017

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

recognises that:

- Bus Éireann is in serious financial difficulty;
- Bus Éireann has stated the company’s finances are in a “perilous state” and that this could lead to job losses unless restructuring proposals are accepted;
- a major contributor to the falling revenues has been the commercial services which have struggled to compete with new market entrants in recent years;
- the company cannot continue to operate in its current loss-making position which is depleting its reserves and that without action the company could face imminent liquidity and solvency issues; and
- any subsidisation of losses of the commercial operations of Bus Éireann which competes with private enterprises would likely encounter European Union competition and state aid issues;

acknowledges:

- that an analysis commissioned by the company identifies the commercial Expressway services as the source of significant losses and recommends consideration of the reconfiguration of certain Expressway services;
- the fact that this is being considered as a potential option is creating some uncertainty and fear; and
- the need for the company and trade unions to negotiate on changes to prevent the possibility of industrial action in a company that provides important public transport services; and

calls on the Government to:

- commit, while taking cognisance of the overall budgetary parameters, to the importance of an adequately funded public service obligation, PSO, transport network;
- review the adequacy of current funding levels associated with the free travel scheme, as well as examining whether additional routes should be added to the PSO contract;
- request that the National Transport Authority, NTA, continue to exercise its statutory powers to ensure that PSO services are adequate to serve the needs of rural Ireland, in the event that there are changes to Expressway services in the future; and
- bring forward amendments to the Public Transport Regulation Act 2009, taking account of the review of such legislation by the NTA and necessary improvements to strengthen public transport services to the consumer.

- (Minister for Transport, Tourism and Sport)

An Ceann Comhairle: I must now deal with a postponed division relating to the motion regarding Bus Éireann. On Tuesday, 31 January 2017, on the question that the amendment to the motion be agreed to, a division was claimed, and in accordance with Standing Order 70(2),

that division must be taken now.

Amendment put:

<i>The Dáil divided: Tá, 52; Níl, 82; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Adams, Gerry.</i>	
<i>Barrett, Seán.</i>	<i>Aylward, Bobby.</i>	
<i>Breen, Pat.</i>	<i>Barry, Mick.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Breathnach, Declan.</i>	
<i>Byrne, Catherine.</i>	<i>Broughan, Thomas P.</i>	
<i>Canney, Seán.</i>	<i>Browne, James.</i>	
<i>Cannon, Ciarán.</i>	<i>Buckley, Pat.</i>	
<i>Carey, Joe.</i>	<i>Burton, Joan.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Butler, Mary.</i>	
<i>Creed, Michael.</i>	<i>Byrne, Thomas.</i>	
<i>D'Arcy, Michael.</i>	<i>Cahill, Jackie.</i>	
<i>Deasy, John.</i>	<i>Calleary, Dara.</i>	
<i>Deering, Pat.</i>	<i>Cassells, Shane.</i>	
<i>Doherty, Regina.</i>	<i>Chambers, Jack.</i>	
<i>Donohoe, Paschal.</i>	<i>Chambers, Lisa.</i>	
<i>Doyle, Andrew.</i>	<i>Collins, Joan.</i>	
<i>Durkan, Bernard J.</i>	<i>Collins, Michael.</i>	
<i>Farrell, Alan.</i>	<i>Collins, Niall.</i>	
<i>Fitzgerald, Frances.</i>	<i>Connolly, Catherine.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Coppinger, Ruth.</i>	
<i>Griffin, Brendan.</i>	<i>Cowen, Barry.</i>	
<i>Halligan, John.</i>	<i>Crowe, Seán.</i>	
<i>Harris, Simon.</i>	<i>Cullinane, David.</i>	
<i>Harty, Michael.</i>	<i>Curran, John.</i>	
<i>Heydon, Martin.</i>	<i>Daly, Clare.</i>	
<i>Humphreys, Heather.</i>	<i>Doherty, Pearse.</i>	
<i>Kehoe, Paul.</i>	<i>Dooley, Timmy.</i>	
<i>Kyne, Seán.</i>	<i>Ellis, Dessie.</i>	
<i>Lowry, Michael.</i>	<i>Ferris, Martin.</i>	
<i>McEntee, Helen.</i>	<i>Fitzmaurice, Michael.</i>	
<i>McGrath, Finian.</i>	<i>Fleming, Sean.</i>	
<i>McHugh, Joe.</i>	<i>Gallagher, Pat The Cope.</i>	
<i>McLoughlin, Tony.</i>	<i>Haughey, Seán.</i>	
<i>Madigan, Josepha.</i>	<i>Healy-Rae, Danny.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>Healy, Seamus.</i>	

2 February 2017

<i>Moran, Kevin Boxer.</i>	<i>Kelleher, Billy.</i>	
<i>Murphy, Dara.</i>	<i>Kenny, Gino.</i>	
<i>Murphy, Eoghan.</i>	<i>Kenny, Martin.</i>	
<i>Naughton, Hildegarde.</i>	<i>Lahart, John.</i>	
<i>Neville, Tom.</i>	<i>Lawless, James.</i>	
<i>Noonan, Michael.</i>	<i>MacSharry, Marc.</i>	
<i>O'Connell, Kate.</i>	<i>Martin, Catherine.</i>	
<i>O'Donovan, Patrick.</i>	<i>Martin, Micheál.</i>	
<i>O'Dowd, Fergus.</i>	<i>McConalogue, Charlie.</i>	
<i>Phelan, John Paul.</i>	<i>McDonald, Mary Lou.</i>	
<i>Ring, Michael.</i>	<i>McGrath, Michael.</i>	
<i>Rock, Noel.</i>	<i>McGuinness, John.</i>	
<i>Ross, Shane.</i>	<i>Mitchell, Denise.</i>	
<i>Stanton, David.</i>	<i>Moynihan, Aindrias.</i>	
<i>Zappone, Katherine.</i>	<i>Moynihan, Michael.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Catherine.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</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'Dea, Willie.</i>	
	<i>O'Keefe, Kevin.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>O'Sullivan, Jan.</i>	
	<i>O'Sullivan, Maureen.</i>	
	<i>Penrose, Willie.</i>	
	<i>Pringle, Thomas.</i>	
	<i>Quinlivan, Maurice.</i>	
	<i>Ryan, Brendan.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smith, Bríd.</i>	
	<i>Smyth, Niamh.</i>	

	<i>Stanley, Brian.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Troy, Robert.</i>	
	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Michael Moynihan and John Lahart.

Amendment declared lost.

An Ceann Comhairle: Is amendment No. 3 being pressed?

Deputy Imelda Munster: I move amendment No. 3:

(a) To insert the following after “struggled to compete with new market entrants in recent years;”:

“ — Bus Éireann’s commercial service, Expressway, has suffered from falling revenues in part due to saturation of the market owing to poor licencing practice by the National Transport Authority;” and

(b) To insert the following after “amendments by Bus Éireann and private operators”:

“— demonstrate leadership by agreeing to intervene in the crisis and recommend to Bus Éireann management that proposed cost-cutting measures are set aside to allow for negotiations between all stakeholders;

— commit to carrying out and publishing a full review of operations of the Expressway service and the Expressway market;

— commit, in conjunction with the NTA, to carry out and publish a review of loss-making routes on which private carriers currently operate, including the number of private licences issued on these routes, when these licences were issued and when these routes ceased to make a profit due to oversaturation, and to provide for the NTA to review the renewal of such licences that are making a loss; and

— commit to publishing details of routes and services that have been identified for potential closure.”

Amendment put:

<i>The Dáil divided: Tá, 43; Níl, 92; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</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>Brassil, John.</i>	
<i>Broughan, Thomas P.</i>	<i>Breathnach, Declan.</i>	
<i>Buckley, Pat.</i>	<i>Breen, Pat.</i>	
<i>Burton, Joan.</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>Fitzmaurice, Michael.</i>	<i>Cannon, Ciarán.</i>	
<i>Healy, Seamus.</i>	<i>Carey, Joe.</i>	
<i>Kelly, Alan.</i>	<i>Cassells, Shane.</i>	
<i>Kenny, Gino.</i>	<i>Chambers, Jack.</i>	
<i>Kenny, Martin.</i>	<i>Collins, Michael.</i>	
<i>McDonald, Mary Lou.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Martin, Catherine.</i>	<i>Cowen, Barry.</i>	
<i>Mitchell, Denise.</i>	<i>Creed, Michael.</i>	
<i>Munster, Imelda.</i>	<i>Curran, John.</i>	
<i>Murphy, Catherine.</i>	<i>D'Arcy, Michael.</i>	
<i>Ó Broin, Eoin.</i>	<i>Deasy, John.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Deering, Pat.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Doherty, Regina.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Donohoe, Paschal.</i>	
<i>O'Brien, Jonathan.</i>	<i>Dooley, Timmy.</i>	
<i>O'Reilly, Louise.</i>	<i>Doyle, Andrew.</i>	
<i>O'Sullivan, Jan.</i>	<i>Durkan, Bernard J.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Farrell, Alan.</i>	
<i>Penrose, Willie.</i>	<i>Fitzgerald, Frances.</i>	
<i>Pringle, Thomas.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Quinlivan, Maurice.</i>	<i>Fleming, Sean.</i>	
<i>Ryan, Brendan.</i>	<i>Gallagher, Pat The Cope.</i>	
<i>Sherlock, Sean.</i>	<i>Griffin, Brendan.</i>	
<i>Shortall, Róisín.</i>	<i>Halligan, John.</i>	
<i>Smith, Bríd.</i>	<i>Harris, Simon.</i>	
<i>Stanley, Brian.</i>	<i>Harty, Michael.</i>	
<i>Tóibín, Peadar.</i>	<i>Haughey, Seán.</i>	
<i>Wallace, Mick.</i>	<i>Healy-Rae, Danny.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	

Dáil Éireann

	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Michael.</i>	
	<i>McGuinness, John.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>MacSharry, Marc.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</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, Dara.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	

	<i>Zappone, Katherine.</i>	
--	----------------------------	--

Tellers: Tá, Deputies Imelda Munster and Aengus Ó Snodaigh; Níl, Deputies Michael Moynihan and John Lahart.

Amendment declared lost.

An Ceann Comhairle: Is amendment No. 1 being pressed?

Deputy Brendan Ryan: I move amendment No. 1:

To insert the following after “Bus Éireann and private operators”:

- ensure a level playing field for all operators, avoid a race to the bottom and safeguard the interests of workers by committing to a sectoral employment order setting out minimum pay rates, as well as pension and sick pay schemes for employees across the sector.

Amendment put.

An Ceann Comhairle: In view of the fact the Fianna Fáil Party is not nominating tellers, and having regard to Standing Order 72, when one party fails to provide tellers, it is considered that the proposal is carried. I deem amendment No. 1 carried.

Amendment declared carried.

Deputy Mick Barry: I move amendment No. 2:

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

“recognises that:

— Bus Éireann’s financially parlous state arises in large measure from the legacy of a cut to the State subsidy which in 2016 was still €12 million less than 2009 levels;

— this has been further compounded by a financial contribution from the Department of Social Protection for free travel that is completely inadequate when approximately 30% of all passengers availed of free travel in 2016;

— the absence of an employment regulation order for the coach sector, the proliferation of licences issued by the National Transport Authority for inter-city routes and the absence of a proper inspectorate into the running of private coach operations has fuelled a ‘race to the bottom’ based on the more intensive exploitation of workers;

— the workers, from whom a cut in take home pay of up to 30% is being demanded under threat of the closure of the company, are blameless for the financial position of Bus Éireann;

— the performance of an adequately funded comprehensive inter-city and rural bus network cannot be discerned from its balance sheet but by the connectivity it provides for rural communities and the elderly, the reduction of carbon emissions and easing traffic congestion; and

— the position of the Minister for Transport, Tourism and Sport and the Government on the Bus Éireann dispute runs contrary to the aspirations they claim are enshrined in

the Action Plan for Rural Ireland;

calls on the Government to:

— commit to the importance of a public sector transport network that is adequately funded;

— reverse the cuts in the Department of Transport, Tourism and Sport subsidy, as a first step, and increase the Department of Social Protection contribution towards the free travel commensurate with the patronising of Bus Éireann by those entitled to free travel;

— not apply any charge towards the free travel pass on the elderly and other vulnerable groups; and

— introduce an employment regulation order for the bus sector with pay and conditions no lower than those currently enjoyed by Bus Éireann workers; and

views strike action by the workers as an entirely appropriate response to the actions of Bus Éireann management and commits to support them in their struggle to save their jobs, pay and conditions.”

Amendment put:

<i>The Dáil divided: Tá, 37; Níl, 97; Staon, 1.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Adams, Gerry.</i>	<i>Aylward, Bobby.</i>	<i>O’Sullivan, Maureen.</i>
<i>Barry, Mick.</i>	<i>Bailey, Maria.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Barrett, Seán.</i>	
<i>Brady, John.</i>	<i>Brassil, John.</i>	
<i>Broughan, Thomas P.</i>	<i>Breathnach, Declan.</i>	
<i>Buckley, Pat.</i>	<i>Breen, Pat.</i>	
<i>Collins, Joan.</i>	<i>Brophy, Colm.</i>	
<i>Collins, Michael.</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>Burton, Joan.</i>	
<i>Cullinane, David.</i>	<i>Butler, Mary.</i>	
<i>Daly, Clare.</i>	<i>Byrne, Catherine.</i>	
<i>Doherty, Pearse.</i>	<i>Byrne, Thomas.</i>	
<i>Ellis, Dessie.</i>	<i>Cahill, Jackie.</i>	
<i>Ferris, Martin.</i>	<i>Calleary, Dara.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Canney, Seán.</i>	
<i>Healy, Seamus.</i>	<i>Cannon, Ciarán.</i>	
<i>Kenny, Gino.</i>	<i>Carey, Joe.</i>	
<i>Kenny, Martin.</i>	<i>Cassells, Shane.</i>	
<i>McDonald, Mary Lou.</i>	<i>Chambers, Jack.</i>	
<i>Martin, Catherine.</i>	<i>Chambers, Lisa.</i>	

2 February 2017

<i>Mitchell, Denise.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Munster, Imelda.</i>	<i>Cowen, Barry.</i>	
<i>Murphy, Catherine.</i>	<i>Creed, Michael.</i>	
<i>Ó Broin, Eoin.</i>	<i>Curran, John.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>D'Arcy, Michael.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Deasy, John.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Deering, Pat.</i>	
<i>O'Brien, Jonathan.</i>	<i>Doherty, Regina.</i>	
<i>O'Reilly, Louise.</i>	<i>Donohoe, Paschal.</i>	
<i>Pringle, Thomas.</i>	<i>Dooley, Timmy.</i>	
<i>Quinlivan, Maurice.</i>	<i>Doyle, Andrew.</i>	
<i>Shortall, Róisín.</i>	<i>Durkan, Bernard J.</i>	
<i>Smith, Bríd.</i>	<i>Farrell, Alan.</i>	
<i>Stanley, Brian.</i>	<i>Fitzgerald, Frances.</i>	
<i>Tóibín, Peadar.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Wallace, Mick.</i>	<i>Gallagher, Pat The Cope.</i>	
	<i>Griffin, Brendan.</i>	
	<i>Halligan, John.</i>	
	<i>Harris, Simon.</i>	
	<i>Haughey, Seán.</i>	
	<i>Healy-Rae, Danny.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kelly, Alan.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</i>	
	<i>MacSharry, Marc.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Michael.</i>	
	<i>McGuinness, John.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moran, Kevin Boxer.</i>	

Dáil Éireann

	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Dara.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>O'Sullivan, Jan.</i>	
	<i>Penrose, Willie.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Ryan, Brendan.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Mick Barry and Gino Kenny; Níl, Deputies Michael Moynihan and John Lahart.

Amendment declared lost.

Motion, as amended, put and agreed to.

Criminal Law (Sexual Offences) Bill 2015 [Seanad]: Report Stage (Resumed)

Deputy Jan O’Sullivan: I move amendment No. 11:

In page 19, line 21, to delete “sexual.”, and substitute the following:

“sexual.

3) Money or any other form of remuneration or consideration that is paid or given for the purposes referred to in subsection (1) shall not, by reason only of that subsection, be the proceeds of crime for the purposes of the Proceeds of Crime Acts 1996 to 2016.”,.”.

Amendment put:

<i>The Dáil divided: Tá, 40; Níl, 90; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</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>Brassil, John.</i>	
<i>Broughan, Thomas P.</i>	<i>Breathnach, Declan.</i>	
<i>Buckley, Pat.</i>	<i>Brophy, Colm.</i>	
<i>Burton, Joan.</i>	<i>Browne, James.</i>	
<i>Collins, Joan.</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>Healy, Seamus.</i>	<i>Cannon, Ciarán.</i>	
<i>Kelly, Alan.</i>	<i>Carey, Joe.</i>	
<i>Kenny, Gino.</i>	<i>Cassells, Shane.</i>	
<i>Kenny, Martin.</i>	<i>Chambers, Jack.</i>	
<i>McDonald, Mary Lou.</i>	<i>Chambers, Lisa.</i>	
<i>Martin, Catherine.</i>	<i>Collins, Michael.</i>	
<i>Mitchell, Denise.</i>	<i>Connolly, Catherine.</i>	
<i>Munster, Imelda.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Murphy, Catherine.</i>	<i>Cowen, Barry.</i>	
<i>Ó Broin, Eoin.</i>	<i>Creed, Michael.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Curran, John.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>D’Arcy, Michael.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Deasy, John.</i>	
<i>O’Brien, Jonathan.</i>	<i>Deering, Pat.</i>	

Dáil Éireann

<i>O'Reilly, Louise.</i>	<i>Doherty, Regina.</i>	
<i>O'Sullivan, Jan.</i>	<i>Donohoe, Paschal.</i>	
<i>Penrose, Willie.</i>	<i>Dooley, Timmy.</i>	
<i>Pringle, Thomas.</i>	<i>Doyle, Andrew.</i>	
<i>Quinlivan, Maurice.</i>	<i>Durkan, Bernard J.</i>	
<i>Ryan, Brendan.</i>	<i>Farrell, Alan.</i>	
<i>Sherlock, Sean.</i>	<i>Fitzgerald, Frances.</i>	
<i>Shortall, Róisín.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Smith, Bríd.</i>	<i>Fleming, Sean.</i>	
<i>Stanley, Brian.</i>	<i>Griffin, Brendan.</i>	
<i>Tóibín, Peadar.</i>	<i>Halligan, John.</i>	
<i>Wallace, Mick.</i>	<i>Harris, Simon.</i>	
	<i>Harty, Michael.</i>	
	<i>Haughey, Seán.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</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, Dara.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughton, Hildegard.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	

2 February 2017

	<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'Keefe, Kevin.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>O'Sullivan, Maureen.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Jan O'Sullivan and Brendan Ryan; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I move amendment No. 12:

In page 19, to delete lines 27 to 30 and substitute the following:

“(d) in section 9, by the substitution of the following subparagraphs for subparagraphs (i) and (ii):

“(i) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(ii) on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.””.

Amendment put and declared carried.

Amendment No. 13 not moved.

Deputy Jonathan O'Brien: I move amendment No. 14:

In page 20, between lines 1 and 2, to insert the following:

“(g) in section 11—

(a) by designating the existing section as subsection (1), and

(b) by inserting the following subsection:

“(2) No person shall be prosecuted for an offence under this section where—

(a) the premises is used by that person to provide his or her own sexual services, and

(b) section 10(1) does not apply to that person.””.

Amendment put:

<i>The Dáil divided: Tá, 42; Níl, 87; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</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>Brassil, John.</i>	
<i>Broughan, Thomas P.</i>	<i>Breathnach, Declan.</i>	
<i>Buckley, Pat.</i>	<i>Breen, Pat.</i>	
<i>Burton, Joan.</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>Fitzmaurice, Michael.</i>	<i>Cannon, Ciarán.</i>	
<i>Kelly, Alan.</i>	<i>Carey, Joe.</i>	
<i>Kenny, Gino.</i>	<i>Cassells, Shane.</i>	
<i>Kenny, Martin.</i>	<i>Chambers, Jack.</i>	
<i>McDonald, Mary Lou.</i>	<i>Chambers, Lisa.</i>	
<i>Martin, Catherine.</i>	<i>Collins, Michael.</i>	
<i>Mitchell, Denise.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Munster, Imelda.</i>	<i>Cowen, Barry.</i>	
<i>Murphy, Catherine.</i>	<i>Curran, John.</i>	
<i>Ó Broin, Eoin.</i>	<i>D’Arcy, Michael.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Deasy, John.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Deering, Pat.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Doherty, Regina.</i>	
<i>O’Brien, Jonathan.</i>	<i>Donohoe, Paschal.</i>	
<i>O’Reilly, Louise.</i>	<i>Dooley, Timmy.</i>	

2 February 2017

<i>O'Sullivan, Jan.</i>	<i>Doyle, Andrew.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Durkan, Bernard J.</i>	
<i>Penrose, Willie.</i>	<i>Farrell, Alan.</i>	
<i>Pringle, Thomas.</i>	<i>Fitzgerald, Frances.</i>	
<i>Quinlivan, Maurice.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Ryan, Brendan.</i>	<i>Fleming, Sean.</i>	
<i>Sherlock, Sean.</i>	<i>Griffin, Brendan.</i>	
<i>Shortall, Róisín.</i>	<i>Halligan, John.</i>	
<i>Smith, Bríd.</i>	<i>Harris, Simon.</i>	
<i>Stanley, Brian.</i>	<i>Haughey, Seán.</i>	
<i>Tóibín, Peadar.</i>	<i>Heydon, Martin.</i>	
<i>Wallace, Mick.</i>	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</i>	
	<i>MacSharry, Marc.</i>	
	<i>McConalogue, Charlie.</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, Dara.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</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>O'Rourke, Frank.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Jonathan O'Brien and Aengus Ó Snodaigh; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 15 arises out of committee proceedings.

Deputy Ruth Coppinger: I move amendment No. 15:

In page 20, between lines 1 and 2, to insert the following:

“(g) in section 11--

(i) by designating the existing section as subsection (1), and

(ii) by inserting the following subsection:

“(2) It shall be a defence to proceedings for an offence under this section that--

(a) the brothel is used by that person to provide his or her own sexual services, and

(b) section 10(1) does not apply to that person.”.”.

Amendment put and declared lost.

Deputy Bríd Smith: I move amendment No. 16:

In page 20, between lines 2 and 3, to insert the following:

“**Amendment of Act of 1993**

26. Section 11 of the Act of 1993 is amended--

(a) by designating the existing section as subsection (1), and

2 February 2017

(b) by inserting the following subsection--

“(2) No person shall be prosecuted for an offence under this section where the brothel is used by that person to provide his or her own sexual services.”.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 17 to 24, inclusive, will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 17:

In page 20, between lines 13 and 14, to insert the following:

“Report on operation of Act

27. (1) The Minister for Justice and Equality shall, not later than 3 years after the commencement of this Part, cause a report to be prepared on the operation of section 7A of the Act of 1993 and shall cause copies of the report to be laid before each House of the Oireachtas.

(2) The report shall include--

(a) information as to the number of arrests and convictions in respect of offences under section 7A of the Act of 1993 during the period from the commencement of that section, and

(b) an assessment of the impact of the operation of that section on the safety and well-being of persons who engage in sexual activity for payment.”.

Deputy Ruth Coppinger: I move amendment No. 1 to amendment No. 17:

To delete the proposed amendment no. 17 and substitute the following:

“Review of operation of this Part

27. (1) The Minister for Justice and Equality shall, not later than two years after the commencement of this Part, review its operation and report thereon to both Houses of the Oireachtas.

(2) The report shall include--

(a) information disaggregated by gender and nature of offences on the number of arrests and convictions in respect of offences under this Part, under sections 6, 7, 8, 9, 10, 11 of the Act of 1993 and under the Act of 2008 during the period from the commencement of this Part,

(b) information on the nature and extent of prostitution connected to human trafficking, and

(c) an assessment of the impact of the operation of this Part, sections 6, 7, 8, 9, 10, 11 of the Act of 1993 and the Act of 2008 on the safety and well-being of persons who engage in sexual activity for payment.”.

Deputy Frances Fitzgerald: I am introducing amendment No. 17 to provide for a review of the operation of the new provision contained in section 25 of the Bill to criminalise the purchase of sexual services. A number of amendments have been tabled by Deputies proposing similar provisions and that are alternatives to amendment No. 17. I am referring
2 o'clock to those tabled by Deputy Coppinger and the Anti-Austerity Alliance, amendment No. 18 from People Before Profit, amendment No. 19 from Deputy Jonathan O'Brien, amendment No. 20 in the name of Deputy Jan O'Sullivan, amendment No. 23 in the names of Deputies Clare Daly and Wallace and amendment No. 24 from Deputy Pringle.

My amendment states that the report shall include information as to the number of arrests and convictions in respect of the new offence under section 7A as created by this Bill. This is the provision that targets the demand for sexual services and I have limited the review to this particular provision, as it is this that has given rise to some concern regarding the impact on the safety and well-being of sex workers. A review of prostitution legislation by an Oireachtas committee three years ago recommended the introduction of this offence, and there is nothing to stop a similar review from happening in the future. It does not require legislative provision.

However, in focusing the review provision in the Bill on the single offence of criminalising the purchase of sexual services rather than including it in a large review of trafficking legislation and prostitution legislation generally, which can be the subject of a separate review, we can concentrate more deliberately and forensically on the impact of the offence with less risk of it being minimised in the context of a much larger review.

I have set a date for the review being completed within three years of the section being commenced. I am recommending this because it is pragmatic and will afford the best opportunity to ensure that the legislation has been embedded for a sufficient period to measure its impact adequately. To begin the review at too early a point may result in an inconclusive report. Northern Ireland committed to reviewing its legislation after three years, and it would be useful to have a comparable period to measure the impact of the offence in this jurisdiction.

I remind Deputies that, under Standing Order 164A, the Minister with responsibility for implementation of an Act shall provide a report that shall review the functioning of the Act and must be laid in the Library. This must be done 12 months following the enactment of a Bill. Therefore, a report will be prepared within one year because that is the normal statutory provision.

The Opposition amendments, including amendment No. 1 to the Government amendment, are too broad. The Deputies are familiar with their own amendments. Some seek to include in the review the impact of our existing human trafficking offences under the 2008 Act on the safety and well-being of persons who engage in sexual activity for payment. The existing laws relating to human trafficking target those who traffic human beings for the purpose of exploitation, be it labour exploitation, sexual exploitation or exploitation of some other form. No one is suggesting that our human trafficking laws have impacted on the safety and well-being of sex workers and require a review in that light, yet that is the implication contained in some of the Opposition amendments.

I wish to make a general point about the work that has been done in monitoring the State's response to human trafficking. Last October, I launched the second national action plan to combat human trafficking in Ireland. It has been published and is available on our website. It is extensive in terms of setting out the goals and work, including interagency work, that are required

if we are to deal with this issue. The goals include the identification of victims of trafficking, protection and support for its victims and ensuring an effective criminal justice response. The plan outlines many initiatives across the agencies, including NGOs and the Garda, to monitor the provision of support to victims and so on. The plan is being overseen by a working group and was sent for evaluation by the Council of Europe in December. I met the Council of Europe and it will revert to us with its assessment. If it has recommendations, I will be open to implementing them.

I am satisfied that my amendment achieves the purpose that was debated on Committee Stage, namely, that we needed to review this legislation. I am happy to do that. We should examine the impact of the new offence of purchasing sexual services in the context of prostitution. Regardless, there will be an overall review in the usual statutory way after one year. I hope that the Deputies will consider accepting this as a way forward.

Deputy Jonathan O'Brien: I thank the Minister. I would have been happier had we managed to reduce the time to two years. The Minister probably considered the possibility of doing so. Her amendment reads “shall, not later than 3 years”, so there is no legal barrier to her producing a report within two years if the data exist. If she could give a commitment to that effect, I would be willing to withdraw my amendment.

Something that is missing from the Minister's amendment that is contained in all the others is the provision relating to “evidence of the extent to which this section has operated to reduce human trafficking”. We were told that combatting trafficking and brothel keeping was one of the rationales for introducing this legislation. Any report that is laid before us should at least reference this, given how it has played a central role in the reasoning behind the section.

I welcome the fact that the report will assess the impact of the section's operation on the safety and well-being of persons who engage in sexual activity for payment. This important provision is contained in all of the amendments.

I am willing to withdraw my amendment if the Minister can commit to producing a report after two years, if possible.

Deputy Frances Fitzgerald: Yes.

Deputy Jonathan O'Brien: A report will be undertaken after 12 months. We included this requirement in our amendment. It is important, given that the reasoning behind Part 4 initially was to reduce trafficking that any report which is published must at least reference that. If the data are there and they suggest it is having a positive impact then that should be included.

Deputy Jan O'Sullivan: The Labour Party amendment is No. 20. I too welcome the progress we have made with the Minister. We also sought to have the review after two years. The Minister has used wording which is similar to our amendment in terms of the extent to which, in the Minister's opinion, the operation of this Part has reduced human trafficking and the impact of this Part on the safety and well-being of sex workers, and also in relation to the data on the number of arrests, prosecutions etc. The Minister's wording is not unlike ours, apart from the fact that the review will happen after three years rather than two, but I do not think we are going to get any further at this stage so I signal that I will withdraw the amendment.

Deputy Bríd Smith: Deputy Jonathan O'Brien made a very good point and it is the one I wish to emphasise most, although there are a number of other issues of which we need to be

very cognisant when dealing with the question of having a full report on the implementation of the law that will be enacted. He referred to human trafficking. The justification for the campaign on the criminalisation of the purchase of sex was based on the concerns we all rightly have about human trafficking, in particular for the purposes of sex, where such unfortunates are, in effect, being kept in prison against their will and trafficked across borders. They are expected to carry out sexual activity to make lots of money for their traffickers. That is a concern for all of us.

However, as I said last night when I introduced our amendments, there has been a lot of conflation in this debate. The argument is fundamentally about whether criminalising the purchase of sex will deal with human trafficking. I do not believe that is the case and I have not seen any evidence to convince me otherwise. I have read lots of documents from Sweden, Norway, Amnesty and others that show quite the opposite is the case. Criminalisation of the purchase of sex does nothing to deal with the plight of those who are the victims of human trafficking or the criminality in that regard. We are in danger of conflating issues, which is the reason we specifically mention in our amendment that we want to see the impact of the legislation on the level of human trafficking. Whether the review is in two years or three years it must specifically focus on the impact on human trafficking. The Minister's amendment does not do that. I intend to press my amendment.

I will also press the Minister further on the question of timing. It will be three years and probably four before we get a report if we opt for the Minister's amendment and the issue is too urgent to leave it for that length of time, not specifically just on the trafficking issue but because there is a plethora of issues we have tried to amend. For example, the definition of a brothel is being taken to include a case where a number of sex workers work together in an apartment. They could be considered to be running a brothel and it could be shut down. If I was a sex worker vulnerable to all sorts of creeps out there with money to buy services I would much rather operate alongside a companion in the same apartment. Working together is not just a sign of being organised in an industry, it is about the health and safety of sex workers. Health and safety at work is a big part of legislation no matter what job one performs, whether a firefighter, nurse or sex worker. The health and safety of sex workers must be given a certain degree of priority, in particular because they are already extraordinarily vulnerable. The issue of working together does not necessarily mean people are running a brothel, it may just be a case of safety in numbers.

I am concerned about the heavier penalties for loitering that are contained in the Bill. We must also examine the impact of that on the human rights of the sex workers involved. Crucially, we must focus on health. I have just been going over the report on the Swedish model carried out by HIV Ireland and it is very worrying how such a measure could impact on the health of sex workers. As we said last night, very often sex workers are searched to see whether they are carrying condoms and the implication is that they are carrying them in order to facilitate the purchase of sex. There is evidence in the report that sex workers are less likely to carry condoms, which help protect their safety. There is evidence that the level of HIV is on the increase among sex workers in Sweden. There have also been statements from people connected with the Swedish department of health that they refuse to issue condoms to sex workers. I have two young nephews who have grown up in Sweden and I am aware that every school there has a nurse who provides condoms to teenagers if they request them because they are concerned about their sexual health. However, it seems all of a sudden we disrespect the sexual health of people who are engaged in sex work. That must be taken into account and in the shortest

possible time. Two years is much healthier than the three years proposed by the Minister. A reference to human rights and human trafficking must be contained within the review. I intend to press amendment No. 18.

Deputy Clare Daly: I intend to move amendment No. 23. We have looked at this entire issue the wrong way around. Rather than start with data, evidence and research and then deciding what policy to adopt, we started with a model that was an alleged solution and we are talking about carrying out a review after the event. That is regrettable. It contrasts sharply with the approach taken in the UK where a significant body of research was undertaken in advance of any proposals being put forward to alter legislation, which to me is a far better way. Interestingly, the Home Affairs Select Committee interim report found disadvantages to a sex buyer law based on the fact that provisions already exist for criminal offences associated with the sex industry. The finding is that demand is not reduced, just displaced. The committee also very worryingly cited harassment and other negative effects on sex workers. That bolsters the point I made last night that already sex workers are very vulnerable to exploitation by the Garda who are in a position of power. There were 70 reports to GSOC of threats and demands for sexual favours from the Garda. The health and policing implications are important as well. The conclusion of the British report is that the sex buyer law is based on the premise that prostitution is morally wrong and therefore illegal, whereas the law at present in Britain makes no such moral judgment.

We acknowledge that the intention of many of the supporters of the sex buyer law is to protect sex workers, especially women, from the harm, violence and exploitation that can occur in the sex industry but we also note that the sex buyer law makes no attempt to discriminate between prostitution which occurs between two consenting adults and that which involves exploitation. Much of the rhetoric also denies sex workers the opportunity to speak for themselves and to make their own choices, which is absolutely critical in terms of our amendment because we have devised the Bill while excluding the voice of the sex workers themselves. Our amendment calls for any review to put those people, and the organisations which work on the front line in harm reduction, as the core component. That is absolutely critical.

I echo the points made by Deputy Jonathan O'Brien. Given the Minister's proviso is "not later than three years" I hope she will commence the review earlier. We, like many of the others who proposed amendments suggested a two-year provision. A review of this type is not expensive. The representative organisations for sex workers and harm reduction agencies have their own records and data and publish yearly statistics, as do the gardaí in some instances, so it is just a matter of centralising data. However, we need to engage with the sex workers themselves.

The only contention put forward by those supporting the so-called Swedish model is that if we criminalise the purchase of sex, we will reduce demand and therefore have an impact on trafficking. This proposition is nonsense and I would love to see the evidence for it. There are already laws dealing with trafficking, which is the abhorrent forced bonded labour, abduction, kidnap, false imprisonment, rape and exploitation of women. Human trafficking is abhorrent. I am intrigued in some ways by the over-concentration on sex trafficking in contrast with the coercion and exploitation of people who are trafficked for other purposes, which is an interesting point. Given that we are talking about the health and vulnerability of a very marginalised group of people, we need to move far more quickly than three years. Our legislation should have been about enabling those vulnerable people to take control over their own lives and protect their health but we have disempowered them through this legislation by putting the power of negotia-

tion, place of work and so on much more into the hands of the buyer by criminalisation. Our starting point should have been the health and human rights of sex workers. Part of the problem with the legislation is that if all sex work is exploitation and there is no room for distinguishing between forced and voluntary sexual activity between consenting adults, in essence, you are saying that all women are victims and that the women or gay men involved do not know their own minds and cannot make a rational decision. We might not like that decision, it might not be one we would pick for ourselves and it might not be one that those people would pick for themselves if they had an alternative but it is a valid decision and choice for them to make and it is wrong for us to say that they do not have that right or do not know their own minds. People may say that only a few people are in these circumstances. Is it the case that minorities do not deserve protection and that just because somebody is in a minority, we should exclude their voice and silence them? It is completely wrong.

Our amendment puts the focus on the sex workers themselves. A very worrying trend in other jurisdictions that I could see happening here is moneys being diverted into organisations that worked with people to help them exit the industry. We are all in favour of people exiting the industry when they have choices and alternatives but the problem has been that much of the energy has been taken away from groups engaged in harm reduction which has put people's lives at risk. This part also needs to be analysed.

Deputy Jim O'Callaghan: There is general agreement that there should be a review of this legislation and that a report should be produced. That is a good idea. When we introduce new laws, it is important that we review them on an ongoing basis and come back with recommendations where they might be improved. It is important that we are not too prescriptive with regard to the legislation in terms of setting out what needs to be done when the review takes place. I know very many people in the Chamber have strong and certain views about what they think the outcome of this legislation will be. I think the legislation will be to the benefit of sex workers and Irish society. I am not certain about that nor am I certain about what the definite consequences of this legislation will be. I do not think anyone can be sure about what the consequences will be. For that reason, I think it is important that we leave any report and review open so that things that may happen which we did not expect to happen can be properly considered.

For that reason, I think the amendment put forward by the Minister is probably the best one. It states that the review will commence not later than three years after the commencement of this Part. We need to give legislation some time to settle down in order to get a good overview of its impact. I know that the Defamation Act 2009 has a review section that provides for a review after five years. We need to give the legislation some time. I also note that the amendment put forward by the Minister does take into account some of the concerns referred to by Deputies Clare Daly, Bríd Smith and Jonathan O'Brien. Under the Minister's amendment, section 27(2) (b) would provide that the review would conduct an assessment of the impact of the operation of the section on the safety and well-being of persons who engage in sexual activity for payment. An appraisal of people involved in sexual activity for sale will be at the forefront of the review to see the extent to which this legislation has affected them.

We need a broad overview of that. We cannot have a situation where we just review a piece of legislation from the point of view of one or two sex workers. We have to look at legislation in general to examine its impact on society and whether it has achieved the benefit for which it was designed and introduced and if not, what are the proposals to change it. With respect to Deputies Clare Daly, Bríd Smith and Jonathan O'Brien, I think it is appropriate to go along with

the amendment put forward by the Minister. In reality, the difference between all the proposals that are being put before the House is not huge. I would be concerned that if we had a very detailed section setting out what the reviewing body or section within the Department should do, it would find itself limited to what is set out in the statutory regime. Any review is better when it is given broad parameters because we do not know with certainty what the consequences will be as a result of the introduction of this legislation.

Deputy Ruth Coppinger: This is the first debate in which I have engaged since the new rules were introduced by the Oireachtas Sub-Committee on Dáil Reform. Essentially, we are meant to cover between five and six very complex amendments in seven minutes. This needs to be reviewed in light of the practical application of it because I think everybody agrees that this is an extremely complex Bill. It is unfortunate that many different things ranging from sexual offences to prostitution and sex work have been put into one Bill. They are huge and complex areas with many differences between them. To try to speak on particular amendments and the entire Bill in effect in seven minutes is extremely difficult.

There have been some important progressive changes in this Bill, some of which we argued for. Examples would be a legal definition of consent, for which rape crisis centres argued; the deletion of the criminalisation of sex workers with regard to loitering, for which many people, including myself, argued; and increasing penalties for criminal gangs which organise trafficking or prostitution. Those are positive elements in the Bill.

However, many other amendments for which we have argued have not been taken on board. For example, there has been no change in the definition of brothel keeping so that one or two sex workers not living off each other's earnings could still be harassed. Another example is the refusal to rule out going after the finances of sex workers. The amendments we are approaching will have a bearing on how people vote on the Bill. In respect of amendment No. 17, there is a difference between what we are proposing and what the Minister is proposing. The Minister proposes to review the ban on the purchase of sex but not to take up anything broader than that. Our amendment to amendment No. 17 proposes reporting within two years on arrests and convictions for all existing prostitution-related offences, the new offences created under Part 4 of the Bill dealing with prostitution with information aggregated by gender and offence, the nature and extent of prostitution that may be linked to human trafficking and the impact of all laws on prostitution-related offences and the safety and well-being of persons who engage in sexual activity for payment. We are proposing a much broader review to see what the impact will be, particularly of the criminalising of the purchase of sex. The Minister has not agreed to that.

Amendment No. 21 is extremely important and I will be pressing it. This amendment calls for a review and an outline of exit services for sex workers who want to get out of prostitution and sex work. People have suggested this is the Nordic model, of which I have criticisms, but it is not even the Nordic model because that model was accompanied by a number of supports that are not even envisaged by the Bill.

I believe that buying sex is an expression of power over another person. Some 99% of buyers of sex are male; it reflects the gender inequality in society. Therefore, I would be sympathetic to women, trade unionists and others who are calling for the criminalisation of the purchase of sex. However, the Bill provides zero exit strategies to accompany that move. No special measures are being introduced and no social services are in place to ensure that criminalisation does not make conditions more dangerous for sex workers. On that basis, I cannot support the Bill and will abstain on it.

Obviously, we need a transformation in our society's cultural attitudes. We have a male patriarchal society which objectifies women. We also have massive economic inequality which leads to many women and vulnerable transgender and LGBT people engaging in prostitution, which will persist until we eradicate those attitudes. It is very unfortunate that the Minister is not willing to countenance very important amendments and for that reason it is very difficult to support it. While the Bill contains progressive elements, the Minister should have taken on board the amendments we proposed.

Deputy Mick Wallace: We also tabled an amendment calling for a review within two years.

On the trafficking issue, it is important to note that Norway, which has a similar system in place, carried out a review of its legislation in 2014. It found that its law was actually leading to sex workers becoming increasingly dependent on traffickers and exploitative third parties. The number of cases of trafficking for the purpose of sexual exploitation reported in Norway did not change significantly between 2006 and 2014 after the change in the legislation, with 34 cases reported in 2006 and 37 in 2014.

Deputy Jonathan O'Brien was probably being nice to the Minister in saying that the Government was allowed to review it in less than three years. However, she would forgive us for suspecting that the Government would wait for the full three years before looking at it. Given that there are so many issues with the Bill from our point of view and from the point of view of the sex workers, and given the serious lack of sound evidence that the Nordic model has a positive impact on the people it claims to protect, I would rather see it being reviewed no later than two years after enactment.

The proposed Government report will include information on arrests and convictions made in this regard and an assessment of the impact of the operation of the section on the safety and well-being of persons who engage in sexual activity for payment. However, no details have been provided on how this assessment will be made or who will be consulted. We have repeatedly made the point that the voice of sex workers is absent from the Government's work to date, which is disappointing given that this is the very group the Government claims to want to support. The law should make specific provision to include sex workers and their representative organisations in any review.

Last night, I mentioned the Queens University survey of sex workers in Northern Ireland, which has been ignored by our Government and sadly also by the Northern Ireland Executive. Obviously, the findings are not in tune with the ideology driving the legislation down here. That Queens University report found that 98% of sex workers surveyed opposed the Swedish model; 61% felt this model would make them less safe; and 85% said this legislation would not reduce sex trafficking. The PSNI also expressed concern that this legislation would be unlikely to be effective against exploitation. Only 8% of clients surveyed said that criminalisation would stop them paying for sex.

We should review it earlier. Too many issues are at play, mostly relating to the fact that the sex workers have not been given any voice. I reiterate some of their main points. They insist that the Swedish model negatively impacts on the human rights of sex workers and further pushes people away from the police. That has to be a big problem. We are not taking on a harm reduction approach. As Deputy Bríd Smith said earlier, forcing people to work in isolation cannot be good. I do not understand the rationale. People who even use their own home can be addicted and obviously the legislation will not make it safer for immigrants who face

2 February 2017

the potential of being deported. Given what we are going into, there does not seem to be much evidence to suggest this is a good idea. It should be reviewed earlier because it is totally unfair to the sex workers, who also have rights that are sadly being ignored.

Deputy Frances Fitzgerald: Everybody has said there should be a review of the legislation and I agree. Three years is the appropriate time to begin to see the impact; that is the right approach.

I point out to Deputy Bríd Smith that the offence of loitering has been removed from the Bill. We build in reviews to legislation all the time. We do not define in legislation all the different aspects of the review. That would be quite an unusual thing to do, but I am happy to put the following on the record of the House. Obviously when doing a review of this new offence we would seek submissions from everybody, including those involved in sex work. I met representatives of the association and heard their views. People keep repeating that I have not taken into account the views of that group. I did take them into account, but I still think the approach taken in the legislation is the right one.

I will not repeat all the research I have used. Deputy Wallace keeps talking about an online anonymous study that was done; that is one study. I can quote to him the work of the Swedish Government, and the most recent report from the European Commission done by the University of Lancaster. I can also quote the Council of Europe, the European Parliament and the Oireachtas Joint Committee on Justice, Defence and Equality all of which suggest this is the direction to take.

As Deputy O’Callaghan said, we have to review it. This is a very important issue. I note there has been much focus on the individual independent sex workers. There has been a focus by some Deputies, but not by others, on the wider exploitation associated with prostitution which is driven by demand. All of those studies refer to reducing the demand and the very close link between human trafficking and prostitution. We see that repeatedly. All of the statistics indicate that the vast majority of people involved in prostitution now have been trafficked, and also that they are extremely vulnerable. I ask Deputies to accept that the review will involve all interested groups including An Garda Síochána and those involved in helping people to exit prostitution.

Deputy Coppinger should know that I have outlined a series of initiatives under the national action plan to support people to exit prostitution. There is greatly increased funding to the organisations working on the front line. The Deputy’s amendment seems to imply that those supports are not available. Obviously, they are not written into legislation but all she has to do is look at the website of the Department of Justice and Equality to see the work we are doing.

I make the point that the statistics Deputies say they want to insert in the legislation are available from An Garda Síochána and from the Central Statistics Office.

Deputy Ruth Coppinger: On the Minister’s last point about exit strategies, the type of strategies needed genuinely to assist people who want to exit prostitution are financial support, language support and treatment for those who may have an addiction. A range of supports would be needed to allow those who want to get out of prostitution do so.

The Minister would argue that the reason criminalisation of the purchase of sex is being introduced is to send a message from society that buying sex is not acceptable, and that it will reduce demand for the purchase of sex. That is fine but if there are no real ways for people to

get out of prostitution, they have to remain in it. The question arises that if we criminalise the purchase of sex without ways and avenues to help people get out of prostitution, we may make it less safe. That is a genuine concern. People are not saying that the buying of sex is wrong, but it is wrong. That message should be discussed in schools and in workplaces. It is an expression of power over another human being. On the idea that 99% of it is male, why are 50% not female? Obviously, it is related to gender and power in society.

It is all very well giving money to an organisation but the Minister is not allowing women who, for example, report traffickers, illegality and criminality to be dealt with in a very fair way. It is very likely, therefore, that it will continue. In any case, the Minister is not bringing in the Nordic model but if she were, I would look at it in a different way. I am not surprised by that. The Irish State does not have a great track record of doing these things for women and ordinary people in general.

Deputy Clare Daly: The reason we concentrated on those people who engage in sexual activity for the exchange of money on a consensual basis rather than those who were coerced into it is that that is the legislation we are dealing with here today. Substantial bodies of legislation already exist to deal with people who are coerced or trafficked into this activity. The Minister, I or other people may not like the fact that some people choose to engage in that activity or the reality that their choice is restricted by their economic circumstances does not make it a less valid choice. It is a choice people will be making today, tomorrow and the day after that.

We are putting forward this legislation against the backdrop of the week when the report on consistent poverty levels in Ireland was produced, which showed that the children of lone parents are three times more likely to be in consistent poverty than children who were not the children of lone parents. Deputy Collins highlighted earlier the statistics on the number of low paid workers in the State. Economic circumstances are the reasons people end up in prostitution because of the nature of work that is available and their status. It is laughable to say that giving money to organisations that will tell people to exit the industry will solve that problem. It will not solve the problem, and the current economic circumstances will mean that more people will be involved in prostitution.

We urgently need a review of this for the safety and welfare of the people involved. I would like the Minister to give an indication that she would be prepared to look at it again perhaps in two years rather than three. The justice committee might work on that and put it in that direction also because that will be critically important into the future.

Deputy Mick Wallace: I will leave the last point with Amnesty International, which classifies the Nordic model as a method of crushing the market. It states that all the focus is on the sex trade itself, which completely dehumanises the people involved. It states that we need a human rights based model and that Ireland needs to stop its moralistic crusade of violating the bodily integrity of its citizens and start allowing the full enjoyment of their human rights.

Deputy Frances Fitzgerald: As I said, a report has to be done after a year anyway, and that report will go to the justice committee. I am very happy to put on the record of the House that I will come back at the end of a two-year period with the most up to date information, including all the information we have on the impact in so far as we have it at that point. The formal review, however, would be after three years during which we would get the submissions. Data is available all the time and we will be gathering that together. As I said, it is available from the CSO and the Garda Síochána. If the justice committee wants to examine this on an ongo-

2 February 2017

ing basis, there is no problem with that. I have to do a formal review after a year anyway so information will be coming together. To be realistic in terms of impact and examining all the issues, a three-year period is appropriate but it will build on the one-year report and the ongoing statistical information that is available on trafficking and everything else. I believe that is a reasonable approach to it.

In terms of the exit strategies and supporting women who are vulnerable who might make a different choice if they had better supports, I would want to see every possible initiative being taken in that regard. However, it is not just about funding an organisation. It is about funding the organisation, as we have done in recent times, to put training programmes together that include the point Deputy Coppinger made about language, for example, and skills development, and that an alternative is available. Increasingly, we are putting supports in place to have that kind of practical initiative so that the exit routes can be clear. Women find themselves in a very difficult situation when trying to seek an alternative if they have got enmeshed in prostitution or sex work. There is much talk about free choice. All the studies indicate that these women often have very little choice for a range of reasons in the variety of circumstances in which they have found themselves over the course of their lives.

An Leas-Cheann Comhairle: I now-----

Deputy Clare Daly: Is there not a third round when one is proposing an amendment?

An Leas-Cheann Comhairle: Who proposed it?

Deputy Clare Daly: There is a group of amendments.

An Leas-Cheann Comhairle: No. It is the proposer of the amendment. The one who moved the amendment was Deputy Coppinger.

Deputy Ruth Coppinger: Can I clarify that? What the Minister is saying is not clear.

Deputy Clare Daly: There is a group of amendments.

An Leas-Cheann Comhairle: I know that, but it is whoever proposes the amendment.

Deputy Clare Daly: Each Deputy proposed an amendment. I am not being funny-----

An Leas-Cheann Comhairle: I know that.

Deputy Clare Daly: -----and I am not saying that everyone in our group should be allowed come in again, but one person from each group can come in.

An Leas-Cheann Comhairle: The Deputy spoke for seven minutes-----

Deputy Clare Daly: And the two minutes, but there is another two minutes.

An Leas-Cheann Comhairle: -----and two minutes. The only one who can speak now for the final two minutes is Deputy Coppinger. The Minister has-----

Deputy Ruth Coppinger: They tabled amendments as well.

An Leas-Cheann Comhairle: It does not matter.

Deputy Bríd Smith: I did not get two minutes.

An Leas-Cheann Comhairle: It does not matter. It is whoever proposes the amendment.

Deputy Clare Daly: We all proposed amendments.

An Leas-Cheann Comhairle: You all tabled amendments, but it is the Deputy who moved the amendment.

Deputy Bríd Smith: But you asked Deputy Daly whether she was moving her amendment.

An Leas-Cheann Comhairle: Yes, because it-----

Deputy Bríd Smith: You did not ask me that.

An Leas-Cheann Comhairle: -----is linked to this. The only person who can come back in for two minutes is Deputy Coppinger who moved the amendment to amendment No. 17, and I have double checked that.

Deputy Ruth Coppinger: Can I check the new rules? Is it not the case that anyone who tables an amendment can speak again?

An Leas-Cheann Comhairle: They have spoken twice.

Deputy Bríd Smith: I have not.

Deputy Ruth Coppinger: They have not.

Deputy Clare Daly: Deputy Smith has not.

An Leas-Cheann Comhairle: Then Deputy Smith can speak again. Deputy Smith is entitled to come in now for two minutes.

Deputy Bríd Smith: I seek clarification, not just for this, but for the future, that if a Deputy is asked whether he or she is moving an amendment the Deputy can speak again. The Leas-Cheann Comhairle did not ask me or Deputy Daly that. He asked Deputy Coppinger.

An Leas-Cheann Comhairle: We are dealing with amendment No. 1 to amendment No. 17 and amendment No. 17, and they are being discussed together. I will ask Deputies to move amendments when we come to them. It is nothing different to the past. Deputy Smith has the right to come in.

Deputy Bríd Smith: From everything I have heard from the Minister I do not doubt her sincerity, but I am a complete opponent of a system that exploits all workers. Since I joined the Dáil I have been on my feet, along with other Deputies, defending workers' rights, from Luas drivers to teachers to nurses to Tesco workers to Dunnes Stores workers. There is a system of exploitation of workers that is at the heart of this society and beyond. This leads to people being impoverished and living in the circumstances exposed by the report on inequality published yesterday. It leads to people taking measures to find an income which are often distasteful to many of us, not necessarily always distasteful to those who take the measures but distasteful to broader society. We should not have to see anybody put in this position. We need far more equality in society and this is not just something that we legislate for by passing nice words, it is how we implement it in deed. These deeds must be about sharing the wealth and economic opportunities available to anybody.

3 o'clock

2 February 2017

The Minister spoke about the exit strategy for those engaged in sex work and the opportunities that should be given to them through education. Twice yesterday, a serious cohort was mentioned as there is a rise in sex work by students. If we were to graph it we would probably find a similar trajectory on the graph with the rise of student poverty. Students are being impoverished because of enormous fees, including registration fees, the lack of grant support and the enormous rents they must pay to be able to live in a city or town to be a student. Many of them supplement their income with sex work. I regard the legislation as a whole as being totally inappropriate. I will vote against it and against the amendment on the three-year report because I do not think it is sufficient.

Deputy Jonathan O'Brien: We will not have a meeting of minds on this. This boils down to whether or not we support the model proposed by the Turn Off the Red Light campaign and it will be an ongoing debate. I am a member of the Joint Committee on Justice and Equality and I would like to see us take up a body of work in this regard. We hear many different views on whether it works or not and much research has been done. We will not resolve it here on Report Stage of this legislation. As a member of the Joint Committee on Justice and Equality, as are three other Deputies who are present, I propose the committee examines this issue, including all the research, and issues a report. I would like to think if this report comes back with information contrary to the Minister's research that it would feed into any report under the legislation. The drafting and rationale of the legislation is based on the Turn Off the Red Light campaign. If there is significant research to contradict it the Joint Committee on Justice and Equality has an onus to look at it, compile a report and feed it into any report under the legislation. We will not come to an agreement on whether it is done after three years or two years, but the important work will be done by the committee between now and the report on the outworkings of the legislation.

An Ceann Comhairle: Deputy Wallace may speak if he wishes.

Deputy Clare Daly: Why can he speak but I cannot?

An Ceann Comhairle: Because he has spoken only once. Deputies can speak twice. Deputy Wallace does not have to speak if he does not want to.

Deputy Mick Wallace: I am prepared to speak but I have to be honest, I did speak twice.

Deputy Clare Daly: That is why I was asking.

An Ceann Comhairle: I am afraid not according to the list I have here.

Deputy Mick Wallace: I will talk away so.

An Ceann Comhairle: As the Deputy has told me he had spoken twice he may sit down.

Deputy Mick Wallace: Honesty gets you nowhere. Just ask NAMA.

Amendment No. 1 to amendment No. 17 put and declared lost.

Amendment put:

<i>The Dáil divided: Tá, 103; Níl, 14; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Adams, Gerry.</i>	<i>Boyd Barrett, Richard.</i>	

Dáil Éireann

<i>Aylward, Bobby.</i>	<i>Broughan, Thomas P.</i>	
<i>Bailey, Maria.</i>	<i>Connolly, Catherine.</i>	
<i>Barrett, Seán.</i>	<i>Coppinger, Ruth.</i>	
<i>Brady, John.</i>	<i>Daly, Clare.</i>	
<i>Brassil, John.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Breathnach, Declan.</i>	<i>Kenny, Gino.</i>	
<i>Breen, Pat.</i>	<i>Martin, Catherine.</i>	
<i>Brophy, Colm.</i>	<i>Murphy, Catherine.</i>	
<i>Browne, James.</i>	<i>O'Sullivan, Maureen.</i>	
<i>Bruton, Richard.</i>	<i>Pringle, Thomas.</i>	
<i>Burke, Peter.</i>	<i>Shortall, Róisín.</i>	
<i>Burton, Joan.</i>	<i>Smith, Bríd.</i>	
<i>Butler, Mary.</i>	<i>Wallace, Mick.</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>Cassells, Shane.</i>		
<i>Chambers, Lisa.</i>		
<i>Collins, Michael.</i>		
<i>Corcoran Kennedy, Marcella.</i>		
<i>Crowe, Seán.</i>		
<i>Cullinane, David.</i>		
<i>Curran, John.</i>		
<i>D'Arcy, Michael.</i>		
<i>Deasy, John.</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>Farrell, Alan.</i>		
<i>Ferris, Martin.</i>		
<i>Fitzgerald, Frances.</i>		
<i>Fitzpatrick, Peter.</i>		
<i>Griffin, Brendan.</i>		
<i>Halligan, John.</i>		

<i>Harris, Simon.</i>		
<i>Harty, Michael.</i>		
<i>Haughey, Seán.</i>		
<i>Heydon, Martin.</i>		
<i>Howlin, Brendan.</i>		
<i>Humphreys, Heather.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelleher, Billy.</i>		
<i>Kenny, Martin.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Lowry, Michael.</i>		
<i>MacSharry, Marc.</i>		
<i>McConalogue, Charlie.</i>		
<i>McEntee, Helen.</i>		
<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>Munster, Imelda.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Murphy, Dara.</i>		
<i>Murphy, Eoghan.</i>		
<i>Murphy, Eugene.</i>		
<i>Naughton, Hildegard.</i>		
<i>Neville, Tom.</i>		
<i>Ó Broin, Eoin.</i>		
<i>Ó Caoláin, Caoimhghín.</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'Keeffe, Kevin.</i>		

<i>O'Loughlin, Fiona.</i>		
<i>O'Reilly, Louise.</i>		
<i>O'Rourke, Frank.</i>		
<i>O'Sullivan, Jan.</i>		
<i>Penrose, Willie.</i>		
<i>Phelan, John Paul.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Ryan, Brendan.</i>		
<i>Scanlon, Eamon.</i>		
<i>Smith, Brendan.</i>		
<i>Smyth, Niamh.</i>		
<i>Stanley, Brian.</i>		
<i>Stanton, David.</i>		
<i>Tóibín, Peadar.</i>		
<i>Troy, Robert.</i>		
<i>Zappone, Katherine.</i>		

Tellers: Tá, Deputies Regina Doherty and Tony McLoughlin; Níl, Deputies Clare Daly and Mick Wallace.

Amendment declared carried.

Deputy Bríd Smith: I move amendment No. 18:

In page 20, between lines 13 and 14, to insert the following:

“27. The Minister shall commission a report on the impact of *Part 4* within two years of the passing of this Act to ascertain if this Act has seen a reduction in human trafficking and to see its impact on the human rights, safety and well being of sex workers.”.

An Ceann Comhairle: Amendment No. 18 arises from committee proceedings and has already been discussed with amendment No. 17. Is Deputy Bríd Smith pressing the amendment?

Deputy Bríd Smith: Yes.

Amendment put and declared lost.

Amendments Nos. 19 and 20 not moved.

Deputy Ruth Coppinger: I move amendment No. 21:

In page 20, between lines 13 and 14, to insert the following:

“Review of supports and exit services for sex workers in prostitution

27. The Minister for Justice and Equality is to report on the education, language, training, financial, housing, healthcare, social welfare and rehabilitation services that should

2 February 2017

be provided by the State to support sex workers and assist them in overcoming the barriers and forms of exploitation that prevent them from exiting prostitution, within six months of the enactment of this Act. The needs of migrants, in particular the need to regularise their immigration status in order to afford them full employment rights and full access to legal employment and social welfare services, must be central to this review.”.

An Ceann Comhairle: Amendment No. 21 arises from committee proceedings and has already been discussed with amendment No. 17. Is the amendment being pressed?

Deputy Ruth Coppinger: Yes.

Amendment put:

<i>The Dáil divided: Tá, 38; Níl, 81; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</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>Brassil, John.</i>	
<i>Broughan, Thomas P.</i>	<i>Breathnach, Declan.</i>	
<i>Burton, 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>Fitzmaurice, Michael.</i>	<i>Calleary, Dara.</i>	
<i>Kenny, Gino.</i>	<i>Canney, Seán.</i>	
<i>Kenny, Martin.</i>	<i>Cannon, Ciarán.</i>	
<i>Lowry, Michael.</i>	<i>Carey, Joe.</i>	
<i>Martin, Catherine.</i>	<i>Cassells, Shane.</i>	
<i>McDonald, Mary Lou.</i>	<i>Chambers, Lisa.</i>	
<i>Mitchell, Denise.</i>	<i>Collins, Michael.</i>	
<i>Munster, Imelda.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Murphy, Catherine.</i>	<i>Curran, John.</i>	
<i>O'Brien, Jonathan.</i>	<i>D'Arcy, Michael.</i>	
<i>O'Reilly, Louise.</i>	<i>Deasy, John.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Deering, Pat.</i>	
<i>Ó Broin, Eoin.</i>	<i>Doherty, Regina.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Donohoe, Paschal.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Dooley, Timmy.</i>	

Dáil Éireann

<i>Ó Snodaigh, Aengus.</i>	<i>Doyle, Andrew.</i>	
<i>Penrose, Willie.</i>	<i>Durkan, Bernard J.</i>	
<i>Pringle, Thomas.</i>	<i>Farrell, Alan.</i>	
<i>Quinlivan, Maurice.</i>	<i>Fitzgerald, Frances.</i>	
<i>Ryan, Brendan.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Shortall, Róisín.</i>	<i>Griffin, Brendan.</i>	
<i>Smith, Bríd.</i>	<i>Halligan, John.</i>	
<i>Stanley, Brian.</i>	<i>Harris, Simon.</i>	
<i>Tóibín, Peadar.</i>	<i>Harty, Michael.</i>	
<i>Wallace, Mick.</i>	<i>Haughey, Seán.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>MacSharry, Marc.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Mattie.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Dara.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</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>O'Rourke, Frank.</i>	

2 February 2017

	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Ruth Coppinger and Bríd Smith; Níl, Deputies Regina Doherty and Tony McLoughlin.

Amendment declared lost.

Debate adjourned.

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 Niamh Smyth - introduction of the 20 week anomaly scan at Cavan General Hospital; (2) Deputy Thomas Byrne - safety issues and the general effectiveness of the N2 road as a national route; (3) Deputies Louise O'Reilly and David Cullinane - the withdrawal of the appeal in the recent consultants' contracts case; (4) Deputy Jackie Cahill - ongoing GP concerns which impact on accident and emergency services; (5) Deputy Michael D'Arcy - the IDA's intention to provide a property for FDI investment for Wexford town; (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, Naas, County Kildare; (8) Deputy Martin Ferris - respite care in County Kerry; (9) Deputy Brian Stanley - the future of Bord na Móna plants at Kilberry County Kildare and Cuil na Móna, County Laois; (10) Deputy Donnchadh Ó Laoghaire - funding for early childhood services in Cork; (11) Deputy Sean Fleming - the death of a person (details supplied) in Kilkenny city on 15 February 2012; (12) Deputy John Brassil - the lack of a dedicated obstetrics theatre in University Hospital Kerry; (13) Deputy Clare Daly - to discuss the Department of Justice and Equality's handling of the Magdalene redress scheme; (14) Deputy Mick Wallace - to discuss the U-turn of the Minister for Finance, Deputy Michael Noonan, yesterday on the establishment of a commission of investigation into NAMA; and (15) Deputy Martin Heydon - the need to improve school facilities in the Curragh area.

The matters raised by Deputies Niamh Smyth, Jackie Cahill, Martin Ferris and Martin Heydon have been selected for discussion.

Ceisteanna - Questions

Priority Questions

An Ceann Comhairle: I ask Members if they will agree to allow Deputy Mattie McGrath's Question No. 4 to be taken first as he has a medical appointment. Is that agreed? Agreed.

Rural Development Plan

4. **Deputy Mattie McGrath** asked the Minister for Agriculture, Food and the Marine the total funding from his Department to the rural development programme; the key RDP funding priorities for 2017; and if he will make a statement on the matter. [3600/17]

Deputy Mattie McGrath: The Government has pledged €30 million over the next five years to renew rural towns and villages. How much of that is included in the new rural action plan? Is it old money which is being regurgitated? There are some serious questions as to what exactly was announced and whether it is the same money. One cannot pay lip-service to rural Ireland. It is vital we deal with it in a meaningful and forthright manner.

Minister for Agriculture, Food and the Marine (Deputy Michael Creed): Ireland's rural development programme for 2014 to 2020 is co-funded by the EU's European Agricultural Fund for Rural Development, or EAFRD, and the national Exchequer. The total financial allocation for the period is approximately €4 billion, of which EU support amounts to €2.19 billion with the Exchequer funding the remainder. This significant financial commitment is a key component in our overall strategy to enhance the competitiveness of the agrifood sector, achieve sustainable management of our natural resources and ensure more balanced development in our rural areas. The allocation of Exchequer funding is part of and subject to the annual budgetary process. As part of that process, some €600 million has been allocated to the rural development programme for 2017. I emphasise that within the structures of the annual budgetary and Estimates process, we are fully committed to the allocation of sufficient Exchequer funding to ensure the full draw-down of the EU co-funded amount over the lifetime of the programme.

In terms of 2017 funding priorities, the funding allocation of €600 million provides continued support for the following: our flagship environmental scheme, GLAS, which now numbers over 50,000 farmers, and the associated GLAS traditional farm buildings measure; the Burren programme, a locally-led initiative focused specifically on the conservation of the unique farming landscape that is the Burren and a third tranche of which will open in 2017 to bring the number of farmers taking part to approximately 400; areas of natural constraint, or as the Deputy and I know them better, disadvantaged areas, with some 90,000 farmers receiving support because of the constraints to farming which they face; the highly innovative beef data genomics programme with 24,000 active farmers; the targeted agricultural modernisation scheme, TAMS, which funds fully completed on-farm capital investments; knowledge transfer groups which cover some 20,000 participants; targeted training for agricultural advisers and farmers who are engaged in the implementation of the rural development plan; the organic farming scheme, which has over 1,800 beneficiaries; legacy schemes from the previous rural development programme, including AEOS and the early retirement from farming scheme; the collaborative farming measure which contributes to the legal, advisory and financial services costs

2 February 2017

incurred by farmers in drawing up partnership agreements; technical assistance in respect of, among other things, the running of the national rural network, which promotes and monitors the rural development plan; and support for an evaluation of the GLAS scheme.

Additional information not given on the floor of the House

As well as continuing to support the schemes that have already been rolled out, two new measures will be introduced and funded in 2017. Tomorrow is the closing date for applications to the new sheep welfare scheme which provides support of €10 per ewe to farmers who undertake actions aimed at improving flock welfare. This scheme has been widely welcomed and fulfils a promise made in A Programme for a Partnership Government. Projects under the European Innovation Partnership, EIP, measure will also commence in 2017. This initiative brings together farmers, researchers, advisers and scientists to look at new and traditional practices, develop ideas and research and co-operate in their own local areas. Closing dates for tenders and proposals, which included the hen harrier and freshwater pearl mussel projects, have now passed but I am pleased to say that a very significant response has been received.

In conclusion, I reiterate that I am fully committed to funding the rural development programme and to ensuring that moneys allocated are spent. In this regard, it is worth noting that the Commission has advised that Ireland well exceeds the EU average in terms of execution of the RDP based on EAFRD spending to 15 October 2016.

Deputy Mattie McGrath: I thank the Ceann Comhairle and colleagues for allowing me to go first. The rural development plan must be shown to include completely new funding and not simply represent the rehashing of old budgets. The budget for the 2015 scheme to help rural villages was €6 million a year, but this did nothing to replace the funding lost under the Leader programme which the former Minister, Phil Hogan, destroyed. Information provided to me in reply to a parliamentary question suggests that Leader funding has been cut dramatically for the period 2014 to 2020. There has not been a bob for the last two years. The funding has been cut by 43% which means that towns and villages in rural areas will lose services relating to child care, rural transport and support for start-up businesses. Whereas €376 million was allocated under the programme for the period 2007 to 2013, the new programme to cover the period 2014 to 2020 has an allocation of only €220 million. As such, we are playing with figures. It is a cut of €156 million.

Deputy Michael Creed: I acknowledge and no one disputes the fact that Leader funding is not at the levels it was. That is a consequence of the financial climate in which the European Union found itself. Consequently, the funding for rural development under Leader was reduced significantly. In response, the Government asked how it could focus its limited resources at the front line in terms of valuable projects in rural areas. Not without some pain, we decided to cut the administrative side, capping the maximum amount to be spent on administration to drive the maximum amount to the front line for projects. Consequently, there has been a reorganisation of Leader groups, sweating down the number of organisations and targeting, as much as possible, the front line. In some areas, local authorities have put additional funding into this. The issue may need to be revisited in terms of Exchequer funding, but funding is in place. It would be better if the Deputy lit a candle rather than cursed the darkness. A lot of positive things are happening in rural Ireland and the Deputy, who represents a rural constituency, knows that.

Deputy Mattie McGrath: I am not quenching any candle, but we need to put on the lights as happened during rural electrification many years ago by the late Canon Hayes. There has

been a cut of €156 million to Leader funding. County Tipperary has lost €20 million in Leader funding. What about other spending on rural environments, such as group water schemes? In 2011, the Department funded all local authorities to administer the rural water programme to the tune of €70 million. By 2016 that amount had dropped to €20.9 million, which is an astonishing gap of almost €50 million and the Minister needs to explain that.

During the same period, in Tipperary alone there was a reduction in payments under the rural water programme of €1.95 million in 2011 to €718,000. We have been devastated. The Minister told me to light a candle rather than curse the dark. The Leader programme has been destroyed. It was held up as a model all over Europe, but the former Minister, Phil Hogan, destroyed us, and was supported by the Government. It is only now being restarted. Nothing has happened in the two years that have elapsed. Expressions of interest for the Leader scheme close tomorrow in Tipperary. That is the current situation. Not a shilling has been provided.

Deputy Michael Creed: I do not think anything I can say will change the Deputy's narrative or demeanour.

Deputy Mattie McGrath: Show me the money.

Deputy Michael Creed: I will. I was in Dún Laoghaire with fisheries local action groups, FLAGs. Deputy McConalogue knows about this because a group in Donegal covers the north west. We allocated funding from the rural development programme of over €12 million to the group. That is a multiple of what it received under the last rural development programme for rural peripheral coastal locations.

I acknowledge that Leader funding has been reduced, but FLAG funding has increased significantly. I appreciate that Deputy McGrath does not have-----

Deputy Mattie McGrath: Dublin is not Ireland.

Deputy Michael Creed: It happened to be launched in Dublin, but the funding is for all the coastal communities from Malin Head to Mizen Head. Tipperary is not included. I did not see the Wild Atlantic way washing the coastline of Tipperary yet, but the funding covers all the coastal communities and is multiples of what it was in previous years.

Areas of Natural Constraint Scheme

1. **Deputy Charlie McConalogue** asked the Minister for Agriculture, Food and the Marine the status of the process of reviewing qualifying areas for the areas of natural constraint scheme; if his Department has completed the mapping exercise; when the maps will be published; the consultation that will be undertaken with farmers on the review; and if he will make a statement on the matter. [5064/17]

Deputy Charlie McConalogue: I ask the Minister for an update on the process of reviewing qualifying areas where the areas of natural constraint, ANC, scheme, whether his Department completed the mapping exercise, when the maps will be published, what consultation will be undertaken with farmers on the review and if he will make a statement on the matter.

Deputy Michael Creed: Under the rural development regulations, each member state must designate areas eligible for payments under the areas of natural constraints, ANC, scheme. The

ANC scheme replaces the previous disadvantaged areas scheme or less favoured areas scheme. The designation of eligible areas under these schemes to date has been based on a range of socioeconomic factors. From 2018, eligible areas must instead be designated using a list of biophysical criteria. In cases where a member state does not introduce this new system for payment, the old scheme remains in place but payments must be phased out on a digressive basis. From Ireland's point of view, this must be avoided.

Under the new system of designation, which I have said must be introduced in 2018, eligible areas will have to be designated on the basis of biophysical criteria. The criteria set out in the legislation are: low temperature; dryness; excess soil moisture; limited soil drainage; unfavourable texture and stoniness; shallow rooting depth; poor chemical properties; and steep slopes. A number of the criteria will not have an impact on the new designation in Ireland, while others will have a small impact. In effect, the Irish process will be most impacted by soil drainage and soil moisture excess. The Department has commenced work on this project, and relevant technical experts are currently working on sourcing and analysing the data regarding the new criteria. Department officials have also been in contact with the joint research centre and the Directorate-General for Agriculture and Rural Development, DG Agri, in the EU Commission in regard to technical issues arising.

Technical work on biophysical criteria in conjunction with the fine tuning and designation of areas of specific constraint processes will produce a new map of areas which are deemed to be eligible. This designation must be signed off by the JRC and DG Agri. The process of moving from the current position with the technical work to the agreement of the designation and of the new scheme with the Commission will be complex and detailed. This analysis will identify areas deemed to be facing natural constraints, which will in parallel be subjected to a refinement process. Once this process is complete, the draft data will provide the basis for the identification of eligible areas for ANC. It is envisaged that stakeholders will be consulted as this process develops.

Deputy Charlie McConalogue: I thank the Minister for the response. As I am sure he is well aware, there is much concern in the farming community in regard to this review. The ANC payment can amount to about €4,000 for many farmers across the country. It is particularly important in more disadvantaged areas. I hoped that the Minister would be able to give me some new information regarding the process. We have been aware of what he said. I hope the Minister can clarify the timeline involved. When will the maps be published? Can he give an outline on that today?

Will there be an appeals system for any farmers who might be excluded? Would an appeals system and the consultation to which he referred be completed before he goes to the European Commission for approval?

Will the Minister give a commitment that every possible action will be taken by him and the Department to ensure that those who have payments retain them? It is also important that in the new ANC scheme there is proper funding that reflects the constraints of the land concerned so that farmers on hill land and severely constrained low land receive payments that properly reflect the difficulties involved in farming such areas.

Deputy Michael Creed: On the latter point on proper funding, it is something that the Government is committed to. In the programme for Government, we have provided for an additional €25 million in ANC payments in 2018. I appreciate that will not go all the way to make

up the cuts in disadvantaged areas that were introduced when Fianna Fáil was last in government, but it is a step in the right direction.

The critical timeline is that farmers must have the knowledge of the outcome in order to inform their 2018 basic payment scheme application. I expect it will be several weeks before we have a draft outline of maps which have the biophysical criteria superimposed on a map of Ireland and which show the areas that are included or excluded. It is my ambition, in so far as is possible, to ensure that anybody who currently receives a payment holds on to it.

I cannot definitively say what the biophysical criteria will be. The State is obliged to apply the new criteria. As I said, the timeline for the publication of maps which will inform the process will take several weeks. There will be consultation and an appeals process before there is a final outcome. The critical timeline is that this matter must be completed to allow sufficient time for farmers to submit their basic payment scheme applications in 2018.

Deputy Charlie McConalogue: I refer to the appeals and consultation process. Will it be completed before the Minister submits maps to the Commission for approval? Can the Minister be crystal clear about that?

The Minister referred to the €25 million allocated for ANCs for next year. Will he ensure that the money is distributed in a way that ensures those farmers who are farming lands with greater constraints, such as hill lands and severely disadvantaged low lands, will be the chief beneficiaries of the funding?

The Minister avoided my question on ensuring that the new scheme properly reflects the constraints on land. The payment currently does not do that. There are very small differences in the payment per hectare between the three tiers. It is crucial that the review properly reflects the difficulty of making a profit on poorer land where it is harder to make a margin, and such farmers must be properly compensated.

Deputy Michael Creed: I appreciate the Deputy's points. No decisions have been made with regard to how the additional €25 million will be spent in 2018. The funding is additional to current payments. As it said, there will be an appeals system and engagement with stakeholders. That will come within the confines set out by the European Commission in terms of the biophysical criteria. We are several weeks away from having an outline of the outcome of such criteria, which are clearly laid down in EU directives. I outlined them at the start of my response. There will be engagement with stakeholders. It is my ambition and that of my Department, officials and the Minister of State, Deputy Andrew Doyle, to ensure that what we have we hold this regard.

Young Farmers Scheme

2. **Deputy Martin Kenny** asked the Minister for Agriculture, Food and the Marine if he will allow young farmers who have enrolled but not necessarily completed an approved educational course to avail of payments on the basis that the EU has confirmed that the educational requirement for the young farmers scheme is a rule set at national level. [5063/17]

Deputy Martin Kenny: What is the situation regarding young farmers who have enrolled but not necessarily commenced - the tabled question states completed, which is a mistake - an

approved educational course, that is, the FETAC level 6 course, the green cert, that many farmers had to do? They had to have commenced it before May of last year. Many of them were not able to do so because the places were not available and now they find that they are being excluded. What is the Minister's response?

Deputy Michael Creed: In accordance with EU regulations, members states may define additional eligibility criteria as regards appropriate skills and-or training in respect of the national reserve and young farmers schemes.

Since the introduction of the single payment scheme in 2005 decisions relating to the national reserve, including decisions on objective criteria, are taken in consultation with the direct payments advisory committee, which comprises members of the main farming bodies and farm advisory services. The decision to include agricultural education as an objective criteria for the national reserve and young farmers schemes has been consistently endorsed by this group as it provides assurance that the funding for these schemes is made available to bona fide young and trained farmers. Otherwise, the funding could be allocated to non-farming landowners.

Persons who meet the definition of "young farmer" receive significant benefits in terms of preferential access to the national reserve and also in terms of qualifying for an additional payment under the young farmers scheme. Similarly, the category of "new entrant" provides preferential access to the national reserve for farmers who are establishing their holding for the first time or have established their holding in the previous two years but who cannot avail of the young farmer category due to their age.

To ensure that the benefits of the young farmer and new entrant categories are targeted at those who had a genuine interest in farming as a career, successful applicants are required to have completed a recognised course of education in agriculture giving rise to an award at FETAC level 6 or its equivalent. This requirement, endorsed by the direct payments advisory committee, receives wide support as it ensures that payments from the national reserve, which are in effect funded by cuts to the entitlements of other farmers, are targeted at bona fide young farmers and new entrants to farming.

The requirement in respect of a FETAC level 6 agricultural educational qualification, when combined with the high demand for places on agricultural courses, gave rise to a significant demand and created a challenge for the agricultural educational sector in 2015. The Department was aware of many prospective applicants who had an interest in pursuing such an agricultural course but may have experienced difficulty in achieving the completed educational qualifications in time to qualify for the 2015 young farmer and national reserve schemes. To ensure that no such young farmer or new entrant would be excluded from the benefits of these schemes, my Department announced increased flexibility regarding the timelines for achieving the required educational qualifications. It was decided that any person who met the other eligibility criteria for the relevant schemes and who commenced a qualified agricultural course anytime up to and including September 2016 would be accepted under the national reserve and young farmers schemes in 2015.

Additional information not given on the floor of the House

Ireland was required to notify the EU Commission of the additional educational eligibility criteria being applied to the national reserve and young farmers schemes, and the increased flexibility in regard to same. The EU Commission subsequently advised Ireland that the flexible

arrangements that would allow an applicant to commence their agricultural education after the date of submission of an application under the national reserve and-or young farmers schemes did not fit with the “annual logic of the direct payments” and creates a risk of being contrary to EU regulations governing the operation of the scheme.

To ensure that farmers would not be disadvantaged by this ruling and to comply with the notification from the EU Commission, thus avoiding the risk of a financial correction for Ireland, extensive efforts were put in place by my Department, Teagasc and other agricultural education course providers. This resulted in applicants to the 2015 national reserve and young farmers schemes being provided with a placement on an agricultural education course prior to 31 December 2015. All applicants who commenced their agricultural education course by end-2015 were deemed to have fulfilled the agricultural education requirements for the national reserve and young farmers scheme in 2015. To have enrolled but not commenced an agricultural education course would not be sufficient to comply with the requirement for “appropriate education”.

Similarly, for the 2016 young farmers scheme, successful applicants were required to have commenced their agricultural education by the closing date for the scheme. There was no requirement to have the agricultural education course completed in 2016.

Deputy Martin Kenny: The difficulty is that the Minister has previously stated categorically that this issue was an EU one. He said the EU Commission had stated that there was an issue with applicants commencing their agricultural education on a date after that on which they submitted the application for the national reserve and that they were excluded from the scheme if they had not commenced it beforehand. Up to now, the Minister and those in his Department have blamed entirely the EU for the situation, but the EU is not and has never been the problem. The Minister is now admitting that the EU is not behind it but rather the direct payments advisory committee which has agreed it in the past. The truth is that the Department, if it wanted to, could change these rules. It could make this flexible and accessible and offer opportunity to young farmers. If the agriculture sector is going to go anywhere in this country, there must be an opportunity for young farmers to enter it. We all agree that that is the reality. Rather than being angry, most people are disappointed to see that our Department and Government are finding ways to block and stop farmers. That needs to change. We need to find a way to ensure that we create the maximum amount of opportunity for farmers to complete the green cert so that they can move forward.

An Ceann Comhairle: Thank you, Deputy.

Deputy Martin Kenny: I will make one small point. There are 450 young farmers in the Sligo-Leitrim-Donnegal area doing the course at the moment. Some 50% of the tutors employed by Teagasc are now awaiting the renewal of their contracts. They are not sure if that will happen. If it does not happen, where will it all end?

Deputy Michael Creed: Successive Ministers in previous Administrations have always stipulated the educational qualification of young farmers as a criterion. We have to notify the Commission that it is an additional requirement that we are imposing so that our requirements are compatible with its requirements. The Commission has always approved the requirements that we, exercising a domestic competence, add to its requirements. We cannot do anything that would be incompatible with its regulations. Our requirements in terms of educational attainment are and have always been domestic and have always been endorsed by the advisory

group that advises the Minister on these matters. That group comprises the farming organisations, which have always agreed with those requirements. The national reserve is a scarce and valuable resource, but it is not the Department's resource. It is made up of farmers' resources. If we make this entitlement available to other farmers, it comes, by virtue of a linear cut, from everyone else's entitlements. It is a valuable entitlement that is much sought after, so it is only fair that we have objective criteria in terms of active farmers, farm income and educational qualifications to ensure that it is directed at those who are active farmers.

Deputy Martin Kenny: Surely this issue relates to flexibility and opportunity. The opportunity exists to create the flexibility to allow more farmers to enter it. Most farmers from all walks of life will accept that the problem is that we do not have a national reserve. The mechanism to get one, where if a farmer sells his or her entitlements a certain amount is clawed back, means no one is selling them. Instead, they are all going into the rental scheme and are being rented out. That is a problem. The leasing system is not working. The Minister needs to review this situation and come up with a way of ensuring that we can establish a national reserve so that young and new farmers and returned emigrants, etc., are afforded an opportunity. All we are asking for is that this opportunity would be provided. If the current cap on the level of payments people can receive was lowered to, say, €100,000, which would be more than enough for anyone to survive on, it would create an opportunity to put money into the provision of a national reserve for our young farmers.

Deputy Michael Creed: I must emphasise a point which appears to be lost on the Deputy, whether deliberately or otherwise. These entitlements are a valuable resource that farmers own. This is not Exchequer funding, so if we want to create a national reserve, we have to take it from other farmers. In targeting it at others, we have to ensure that we are targeting it appropriately, that is, at active and trained farmers and not at those who are perhaps just landowners who are not active farmers.

Deputy Martin Kenny: Such as the processors.

Deputy Michael Creed: These objective criteria have always been approved by the advisory committee, which is made up of farm advisory services and farmers' representatives. It is only right and proper that they would be assured that it is in the long-term interests of the industry if they are giving something from their members. New and young blood, training and educational qualifications are rational criteria on which to make the decision.

Agriculture Schemes

3. **Deputy Charlie McConalogue** asked the Minister for Agriculture, Food and the Marine if he will consider introducing a €200 annual payment for suckler cows to ensure the sustainability of the national herd; if he will reallocate unspent funds under the rural development programme for this purpose; and if he will make a statement on the matter. [5065/17]

Deputy Charlie McConalogue: Will the Minister consider introducing a €200 annual payment for suckler cows to sustain the national herd and if he will reallocate unspent funds under the rural development programme for this purpose?

Deputy Michael Creed: The introduction of a specific coupled payment for suckler cows from pillar 1 funding would involve a redistribution of funds allocated to farmers under pillar

1. This would necessitate a linear cut across payment to all basic payment scheme beneficiaries. The annual cost of such a measure would exceed €200 million.

Ireland has supported the greater market orientation of the CAP over recent reforms, including the decoupling of payments from production. This has provided farmers with a measure of income stability from the basic payments scheme while allowing them to adjust production in response to market demand.

The beef data and genomics programme is the current main support to the suckler sector and provides farmers with some €300 million of funding over the next six years. The programme builds on the substantial investment in data recording and genomics which has been made in recent years and will continue to drive further developments and improvements in this area.

The programme was agreed with the European Commission as part of Ireland's rural development plan for 2014 to 2020 alongside a number of other schemes such as areas of natural constraints scheme, GLAS and TAMS, which also benefit suckler farmers. I am conscious of the positive effect that the programme is having on the Irish suckler herd. It will help to improve productivity, profitability and carbon efficiency in the national herd.

The programme provides support to enable suckler farmers to improve efficiency and profitability by improving the overall genetic merit of their beef herd. I firmly believe that the scheme will deliver tangible long-term and cumulative positive effects for both suckler farmers participating in the scheme and for farmers who buy the progeny of suckler cows for further finishing. It is also a significant contributor to Ireland's well-established reputation as a producer of sustainable, high-quality beef.

On a possible re-opening of the scheme, this is being considered in the context of an assessment of budgetary priorities, the operation of the rural development programme and the potential impact on the scheme and other schemes. It should also be noted that support under rural development programme schemes can only be provided on the basis of costs incurred or income forgone. Even if it were possible to reallocate resources from within the programme, any increase in the level of payment to participants in the beef data and genomics programme would require the Department to submit an amendment of the rural development programme to the European Commission and an evaluation and approval by the relevant directorates general.

Additional information not given on the floor of the House

Even if a revised scheme were approved, any increase in the level of payment would inevitably result in additional actions being required to be carried out by farmers.

The Department will continue to keep expenditure under the rural development programme under review on an ongoing basis. As with all such programmes, there are inevitably issues of timing around the scheduling of payments. Savings in one year do not necessarily imply savings over the lifetime of the programme.

The provision of support for the suckler sector is critically important. The range of supports as currently configured represents a balance between direct income support for the sector and rural development measures designed to improve its competitiveness and sustainability. It is entirely appropriate to maintain this balance of developmental and income supports into the future.

2 February 2017

Deputy Charlie McConalogue: Rather than alluding to obstacles or setting out reasons precluding such measures, the Minister should recognise the importance of the beef industry and the pressure it is under. All politicians should work with the farming community to ensure supports are introduced to sustain the national suckler herd. The average income of the 64,000 farmers who produce calves from the suckler herd is €13,000. Unfortunately, they depend entirely on farm payments under the rural development programme and basic payment scheme.

The Minister referred to the beef data and genomics programme. The original commitment was to open the programme to 35,000 farmers but it was closed when the figure reached 23,000. Will the Minister indicate when the scheme will re-open?

Teagasc has indicated it costs between €4 and €4.50 to produce 1 kg of beef, yet farmers are being paid only €3.90 per kilogram. The beef sector is especially vulnerable to Brexit as 50% of the beef produced here is exported to the United Kingdom. It is crucial that the Minister shows a willingness to introduce the supports required to sustain the suckler herd.

Deputy Michael Creed: The Deputy calls for €200 million to be targeted at the beef sector. While I acknowledge the sector has had a difficult year, the Deputy comfortably avoided the issue of where this funding would be found. He indicated it should be allocated from the rural development programme. It must be borne in mind that we have expenditure lines that extend until the completion of the programme which means all available funding will be drawn down under current schemes. If the Deputy wants me to allocate €200 million from the programme to the beef sector, he must indicate from which scheme I should take this money. Should I take it from the green low-carbon agri-environment scheme, GLAS, or disadvantaged areas scheme? Should I abolish the sheep scheme?

If the Deputy is not suggesting I should allocate €200 million from the rural development programme and Pillar 2, he should state whether I should cut every farm payment under Pillar 1 to secure €200 million in savings to be reallocated to beef farmers. That is the uncomfortable choice that would have to be made.

A third choice, to provide Exchequer funding of €200 million, is a non-runner because of state aid rules. We do not have €200 million to spare in any case. If the Deputy asks for funding of €200 million, he must be specific about where it should come from. There is no plan to leave unspent moneys in the Common Agricultural Policy. While an underspend may arise in a given year, contractual obligations roll over. We are still making payments under the previous rural development programme, for example, under the early retirement and agri-environment options schemes. I have repeatedly made the point, although the Deputy does not appear to accept it, that schemes do not run precisely concurrently with the five year programme but contracts must be honoured over five years.

Deputy Charlie McConalogue: It is time the Minister stopped bluffing farmers about the Government's approach to the rural development programme. I have stated on several occasions that the Department is significantly underspending the allocation for the rural development programme. As matters stand, the Department is on course to record an underspend of €400 million in GLAS by the end of 2020. That figure is based on information provided by the Minister in a written answer. If he does the maths, he will see it is correct.

I outlined the reasons for re-opening the current beef data and genomics programme. The Minister gave a commitment that the scheme would be open for 35,000 farmers, yet it closed

when 23,000 farmers had joined. There has also been a major underspend in that programme, which could be re-opened tomorrow if the Minister was willing to do so.

We have to recognise the pressure the suckler herd is under and ensure we are prepared for the challenge presented by Brexit. We must also ensure export markets, specifically for live exports, are re-opened, and we need to reduce administrative costs, specifically the €8 administrative cost of exporting a calf. It is also crucial that the Department provide additional support in the form of a suckler payment of €200. Otherwise, we will no longer have a suckler herd, on which many farmers depend, in a few years from now.

Deputy Michael Creed: I note the Deputy failed to address the issue I raised. If he calls for something of this nature, he must be specific. He referred to a figure of €200 million. He must indicate whether this money should be taken from the disadvantaged areas scheme or GLAS.

Deputy Charlie McConalogue: I was specific. I pointed out the significant underspend in the rural development programme.

Deputy Andrew Doyle: The Deputy is well aware that there is no significant underspend in the programme. It is in the same position as all previous rural development programmes, as the Deputy would know if had been around for a little longer.

Deputy Michael Creed: The European Union has indicated that Ireland's drawdown of rural development programme spending is way ahead of that of all other member states.

Deputy Charlie McConalogue: The Minister is way behind on his domestic commitments. He has not lived up to his promises and he should acknowledge that.

An Ceann Comhairle: Please allow the Minister to answer the question.

Deputy Michael Creed: The Deputy conveniently ignores that in recent days we re-opened GLAS to bring numbers up to more than 50,000. We are committed to examining the beef data and genomics programme to identify any scope we may have in that regard. However, we are constrained by the commitments we have made in other areas. The Deputy is not being honest with those who are listening to this debate.

Deputy Charlie McConalogue: I have been crystal clear.

Deputy Michael Creed: Where will he find the funding he seeks? If it is to come from the rural development programme, will it be taken from the disadvantaged areas scheme, the sheep scheme we are introducing or GLAS? He cannot have his cake and eat it.

Deputy Charlie McConalogue: The Minister must live up to the commitments he and his predecessor made on rural development programme expenditure.

Question No. 4 taken before Question No. 1.

Aquaculture Licence Applications

5. **Deputy Eamon Ryan** asked the Minister for Agriculture, Food and the Marine his views on the planned increase in size and number of oyster farms in County Donegal; if an environmental impact assessment has been carried out; the local consultation that has been undertaken;

and if he will make a statement on the matter. [5066/17]

Deputy Eamon Ryan: Speaking at the launch of the national planning framework, the Taoiseach stated that planning would be all about community and bringing the community with us. The Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, promised a new marine strategy. I understand the Minister recently approved applications for a large number of new aquaculture licences in County Donegal of which no one was aware. A single advertisement was placed in a newspaper in August and a notice placed in a Garda station was missed by members of the local community. To take the example of Gweedore Bay, there will be a 700% increase in the area being given over to oyster farming. This is a major issue for the local community. Why did the Minister not seek an environmental impact statement on the proposed development? How can he justify a planning approach in which the local community is not consulted?

Deputy Michael Creed: All applications for aquaculture licences are considered by my Department in accordance with the provisions of the Fisheries (Amendment) Act 1997 and, in the case of marine aquaculture, the Foreshore Act 1933. The assessment process takes full account of all national and EU legislative requirements and reflects the full scientific, environmental, legal, public policy and engineering aspects of each application, including the specific production system proposed in each case.

On recent licensing decisions, my Department received a number of new aquaculture applications which relate to the cultivation of pacific oysters on Braade Strand, Gweedore Bay. These applications were considered by my Department in accordance with the applicable legislation which includes a period of statutory and general public consultation.

In the case of shellfish cultivation, an environmental impact statement is required if it is considered that the proposed aquaculture is likely to have significant effects on the environment. To facilitate this, my Department has established a screening group of officials drawn from my Department, the Marine Institute and Bord Iascaigh Mhara to advise on the environmental issues relating to each application by reference to national and EU environmental requirements. This procedure is adhered to fully in respect of all applicable licence applications. It was determined that an environmental impact statement was not required in the case of the applications in question and the reason for my decision on this aspect of the applications is published on my Department's website.

A public notice in respect of the public consultation phase of the licensing process was placed in the *Donegal Democrat* and the details of the applications were available for scrutiny by the public at specific Garda stations in accordance with the applicable legislation. Details of applications were also available on my Department's website during the public consultation phase.

Following consideration of all aspects of the applications by my Department, it was determined that licences should be granted. A public notice of the decisions was published in the *Donegal Democrat* in December 2016 and the reasons for them are set out on my Department's website.

The legislation governing aquaculture licensing also provides for an appeals mechanism. Appeals against licence decisions are a matter for the Aquaculture Licences Appeals Board, ALAB, which is an independent statutory body. My Department understands that the board is

in receipt of a number of appeals in respect of these licence decisions. As appeals are considered by the ALAB as part of a statutory process, it would not be appropriate for me to comment further at this time.

Additional information not given on the floor of the House

My Department is also considering a number of new licence applications and also applications for renewal of existing licences in this area. In some of these cases, the public consultation period is now closed. In all cases, a licence determination will only be made following consideration of the environmental, legal and public policy aspects of each case. As my Department's examination of these cases is ongoing, it would not be appropriate for me to comment further on these cases.

The Deputy may be aware that I have established an independent aquaculture licensing review group which is currently holding a public consultation to invite submissions on matters relevant to the review. This public consultation will remain open until 10 February and I encourage all stakeholders to engage in the process and make submissions to support the group in its work.

Deputy Eamon Ryan: I cannot believe the Minister did not ask for an environmental impact statement on this occasion. In my constituency, a pedestrian zone proposed for College Green required an environmental impact statement. The site affected in Gweedore Bay, one of 45 locations where it was decided an environmental impact statement was not necessary, covers 99 acres and is the most sensitive and beautiful place in the world. County Donegal is the coolest county in the world and the airport at Carrickfinn, which was voted one of the most scenic airports in the world, is located directly beside Gweedore Bay. It is an area of huge cultural importance in terms of the Irish language, fisheries and tourism. This is an incredibly sensitive site and a huge development. It beggars belief. I believe it will run counter to European regulations that an environmental impact statement, EIS, was not considered. Does the Minister have the scope to direct the appeals board that in this instance an EIS be carried out and to commence proper consultation on this matter. As I said, there was no consultation in this case because nobody saw the advertisement. This is not in line with the Taoiseach's statement today in regard to the need for proper community involvement.

Deputy Michael Creed: If I had acted against the advice of the Marine Institute, my officials and Bord Iascaigh Mhara, Deputy Ryan would be the first to criticise me, and perhaps rightly so. In this instance, as is provided for in the process of assessment of applications, the advice was taken on board. The experts made their recommendations and I abided by them. I have no doubt that had I done otherwise the Deputy would be excoriating me for not having done so. It is important that when we appoint people with expertise and they give advice, we assess that advice and proceed accordingly. I brought my own independent assessment of that to bear and I am satisfied in that regard. There is an appeals process under way and so it would not be appropriate for me to comment further on this matter. I did take the advice of experts on board in this regard.

I also point out that prior to Christmas I appointed a three-person review group to review the aquaculture licensing process because I am convinced that it can be a better and more transparent system. While not wishing to hidebound the people who are charged with that responsibility, they are eminent people who bring a range of expertise to bear on this issue. It is unsatisfactory that some licence applications take several years to determine. We have a land-based

2 February 2017

planning system in respect of which applications can be determined in several months while licensing applications in this area often take several years. As I said, a review of the system is under way.

Deputy Eamon Ryan: I agree with the Minister that the system is deeply flawed and has been so for years. I have seen aquaculture licensing which beggars belief in terms of what was allowed to happen. As the Minister said, the process is not working for anyone. This community is not opposed to the development of oyster farming in the area, rather it is opposed to the scale of the proposed development without any proper consultation. The Minister's job is on occasion to say to the experts that he has a different political perception in terms of community involvement. The massive scale of development in Donegal on this site should have set alarm bells ringing for the Minister, even if the argument of the experts was to the effect that such developments have been always nodded through without an EIS. In this instance, the Minister should have stood up and said that was not in accordance with the new culture of consultation, openness and transparency in terms of protecting the environment. I do not know if the Minister has ever flown into Carrickfinn or spent time there as it is a long way from north-west Cork. There is no other site that is more important culturally, environmentally or otherwise. At the very least, an EIS should be carried out and there should be proper consultation on this matter. Hopefully, as a result of this debate the appeals committee will see sense and start that process so that the community is brought on board and we protect our very precious environment.

Deputy Michael Creed: It would not be appropriate for me to comment in a way that would be seen to prejudice or influence the independent appeals board and I do not propose to do so. It is not the case that the advices that come to never recommend an EIS. The Deputy is aware of what happened in this instance.

Deputy Eamon Ryan: We are talking about a 99 acre site.

Deputy Michael Creed: In this case, the expertise was availed of and the advertisement process was complied with. Outside of the context of this specific application - as I said, I do not think it is appropriate to draw me into making a judgment on a matter that is before the independent appeals board - I have established a committee to examine the overall issue of licensing. It has *carte blanche* to examine all of these issues.

Other Questions

Agriculture Scheme Payments

6. **Deputy Charlie McConalogue** asked the Minister for Agriculture, Food and the Marine the reason his Department failed to meet its commitment to make GLAS and AEOS payments in December 2016; the total number of GLAS 1 and GLAS 2 farmers who have received 85% of their total 2016 payment; the number of farmers who have passed all payment approval checks and are awaiting their 2016 payment; the total number of GLAS and AEOS recipients who have yet to receive payment; and if he will make a statement on the matter. [4902/17]

Deputy Charlie McConalogue: Will the Minister explain why his Department failed to meet its commitment to make GLAS and AEOS payments on time in December 2016 and

outline the number of GLAS 1, GLAS 2 and AEOS applicants who have received 85% of their payments to date and when the remaining applicants can expect payment?

Deputy Michael Creed: The green low-carbon agri-environment scheme, GLAS, and the previous agri-environment scheme, the agri-environment options scheme, AEOS, provide valuable support to farmers to deliver environmental benefits and public goods which will enhance Ireland's agricultural sustainability credentials into the future. They provide support to Irish farmers aimed at enhancement of biodiversity, water quality and mitigation of future impacts of climate change while allowing Irish farmers to improve their agricultural practices in a sustainable manner. To date, support valued at over €120 million has been provided to Irish farmers in respect of 2016 payments under these schemes.

The number of farmers active in GLAS is almost 37,500, of which 25,825 are in GLAS 1 and 11,667 are in GLAS 2. Almost 20,000 farmers in GLAS 1 and almost 8,700 farmers in GLAS 2 have successfully completed the GLAS prepayment checks in respect of the 2016 scheme year and a first payment instalment of 85% has issued in these cases. The balancing payment due to farmers who have received 85% of their 2016 payment will issue later in the year when the last of the required on-the-spot inspections have been initiated. The most recent payments issued on 30 January 2017, with €4.2 million issuing to just under 1,200 participants.

The year, 2016, was an exceptionally busy one as an additional 11,500 farmers were processed to approval in GLAS 2 and a further 14,000 new applications were submitted under tranche 3 and are currently being processed to approval stage with a view to increasing the overall numbers in the scheme to in excess of 50,000 scheme participants from 1 January 2017. It is acknowledged that payment targets have not been fully met, with under 3,000 GLAS 1 and under 6,000 GLAS 2 payments remaining to be fully processed. This is due, in the main, to unanticipated outcomes of the checks required to be carried out on each individual application.

Outstanding payments under both GLAS 1 and GLAS 2 are delayed due to a variety of issues, including declaration of incompatible parcel usage on the basic payment scheme, BPS, application for a chosen GLAS action; changes in parcel boundaries on which a GLAS action is chosen, including splitting or merging of parcels; an applicant no longer claiming a parcel on their 2016 BPS; incomplete documentation such as incorrect information on low-emission slurry declaration; incomplete interim commonage management plans; and incompatible data and parcel history on Department databases.

Additional information not given on the floor of the House

Just over 8,615 farmers in the agri-environment options scheme are due a payment in respect of 2016. Payment has issued to 6,020 AEOS farmers, with almost 2,600 remaining to be paid. As in the case of GLAS, the AEOS 2016 payments are issued in two parts, with an advance payment of 85% and the remaining 15% issuing thereafter. The most recent payments issued on 31 January 2017, when over €850,000 issued to just under 350 participants. Payments will continue to be made on a regular basis as files are cleared.

Outstanding payments under AEOS 2 are largely delayed due to rechecks which must be completed on payments made for all scheme years before the final contract payment can be processed. Outstanding payments under AEOS 3 are delayed by stocking density checks. Farmers had until 31 December 2015 to meet their stocking density on commonages and a density check must be completed before payment can issue.

2 February 2017

I also point out that a number of payments under both schemes are held up due to incomplete documentation and all participants are reminded to submit any outstanding documentation as soon as possible to facilitate payment. Payments under both schemes will continue on an ongoing basis as issues are resolved and cases are cleared for payment.

Deputy Charlie McConalogue: It is unacceptable that it is now February 2017 and some 9,000 of the farmers who were promised by the Minister and his Department under the farmers charter that they would receive 85% of their GLAS payments in October last year have still not received their first payment. I asked the Minister for specifics on why this has happened. According to the Minister's reply, the Department was unable to process approximately 9,000 of the 37,000 applications because there were errors or issues with them. Farmers only learn about such errors or issues after they have failed to receive their payments. I do not accept that there could be 9,000 applications in respect of which administrative errors arose such that the Department has been unable to process them thus far.

Perhaps the Minister will elaborate on what IT issues fed into the delay in terms of processing payments. What are the IT problems and why were they not identified and dealt with sooner by the Minister? Many of the farmers concerned are due an average payment of €4,500, which they had banked on having before Christmas but they still have not received their payments. This matter needs to be sorted out immediately. I would also welcome a full explanation today from the Minister in terms of his oversight of this mess.

Deputy Michael Creed: I assure the Deputy that my departmental officials, administrative and IT, are working flat out to resolve this issue. I am not pointing the finger at anybody. When my Department hit the "pay" button in respect of GLAS, some applications did not get through the system. In terms of what needs to happen now, all of the outstanding applications will have to be scrutinised. The problems presenting relate to compatibility between GLAS actions and plots submitted under basic payment scheme applications and so on. Very often a bespoke IT solution is required to address these issues. It is, unfortunately, a slow process but the issues are being worked through as quickly as possible. Neither I nor my Department has a vested interest in delaying payments to farmers. We are working flat out to resolve this issue. I wish I were in a position to give a definitive timeline for when it can be resolved. I assure the Deputy it is not an issue of resources within the Department, nor is it an issue of pointing fingers. The issues that arose when the payments did not proceed are such that we have to eyeball every application that did not go through. We have to identify the reason each payment did not go through and then find IT solutions to enable payments to go through.

Deputy Charlie McConalogue: I would have believed that the whole idea of having an IT system was to have one that is fit for purpose such that it does not have to be revisited every time one comes up against a problem. One should not need to come up with bespoke amendments to the IT system to try to deal with the job that must be done by it. As I stated, there are 9,000 farmers in GLAS still awaiting payment, and there are 4,000 farmers in the AEOS whom I understand have not been paid yet. These are farmers whom the Department promised would be paid back in October. To say this is not a resources issue just does not stand up. To say the position on the IT system is acceptable does not stand up either. If the Department had been seeking to pay the moneys back in October and the Minister had been working to ensure this, these issues would have been spotted then. It was only after the payment was not made that the Minister sought to inform farmers there was a issue and to try to rectify it.

Farmers are waiting for 85% of their payments. Is it possible that the Minister could seek

sanction from the European Union to pay the farmers the 85%, for which they are so desperately waiting, and then work through the issues that exist? The Minister is telling me the applications have to be eyeballed one by one and that the resources are all in place to do so. Unfortunately, this will go on for weeks or months unless the Minister gets a handle on it and finds a mechanism to pay the farmers, many of whom are in desperate financial circumstances because they were expecting to be paid months ago.

Deputy Michael Creed: For the record of the House, the number of applicants awaiting AEOS payments is not 4,000; it is 2,600.

I fully accept the concern of anybody awaiting payment. In many respects, when one is explaining one is losing. I must be fair to the staff in the Department. We must be fair to everybody, including staff and farmers. Farmers are owed their money. We are contractually bound to pay them and will do so. We are working through a difficult set of circumstances, however, and it is not a resource issue. It is neither an administrative resource issue nor an IT resource issue. We simply have to eyeball each of the individual applications that are presented as a challenge to get them through our system. We are doing that. Staff are working flat out on it. It is a logistical issue, not a resource issue. I appreciate that the Deputy wants to spin a narrative of under-expenditure and deliberate under-expenditure. With regard to the difficulty that farmers are in at present, I acknowledge that if one is waiting for several thousand euro it presents a difficulty. I assure the Deputy that we are doing everything we can to resolve this matter.

An Ceann Comhairle: Before proceeding to the next question, let me point out that if every question runs over time, Members further down the list will not get an opportunity to pose their questions. Each Member present is as well able to read a clock as I am and, therefore, I appeal to them to have regard to the allocated time.

Greyhound Industry

7. **Deputy Maureen O'Sullivan** asked the Minister for Agriculture, Food and the Marine further to Question No. 563 of 13 December 2016 and in view of the huge drop in public interest and race meetings, his views on whether it is acceptable to support the greyhound industry with Government funding; and his views on whether funding should be cut in line with the drop in figures attending this sport. [4876/17]

Deputy Maureen O'Sullivan: My question follows up on a question from December. It considers the extent of Government funding for the greyhound industry, particularly in light of falling attendance rates at greyhound race meetings.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle): Bord na gCon is a commercial State body, established in 1958 under the Greyhound Industry Act 1958 chiefly to control greyhound racing and improve and develop the greyhound industry. Greyhound racing is a traditional industry that plays an integral role in rural society and the economy. Successive Governments have recognised the importance of both the greyhound and horse racing industries for our country and have supported them through legislation and policy initiatives down through the years.

In 2010 a report by Jim Power Economics, commissioned by Bord na gCon, estimated that the greyhound racing industry was responsible for sustaining in excess of 10,000 full and part-

time jobs directly and indirectly, many in rural communities, and injected an estimated €500 million into local economies. The greyhound breeding industry is very export orientated, with over 75% of greyhounds now running in the UK being Irish bred.

Since 2002, well in excess of 10 million people have attended greyhound racing meetings. Annual attendances at greyhound race meetings have declined over the course of the recession. Greyhound racing was not immune from the impact of the downturn and, in particular, the reduction in consumer disposable income, emigration and the collapse in the construction industry. Over the period of the recession, Government support for the industry was reduced significantly, which coincided with the effects of the economic downturn.

Bord na gCon has informed me that consumers and fans of greyhound racing are now consuming the sport differently. With the growth in social media and online distribution of racing generally, audience engagement is expanding. The board states attendance at greyhound stadia has stabilised in more recent times and saw an increase of 1% in 2016.

Deputy Maureen O’Sullivan: Between 2006 and 2016, the Government gave almost €140 million to the greyhound industry. Although there was a slight decrease in the allocation during the recessionary budgets, since 2014 the allocations have been on the increase. I include 2015 and 2016. In 2006, some 1.25 million people were attending per annum but since 2008 the number has been decreasing. In 2015, some 600,000 people attended. The number of meetings has also decreased by over 500. Sponsorship is falling, as is the number of greyhound owners.

Could the Minister clarify whether the Irish Greyhound Board has published its 2015 accounts? If so, are they available publicly? Is the Government compensating for the drops in attendance, the number of meetings, sponsorship and the number of owners by increasing the funding? Could the Minister of State clarify the number employed in the industry? The figure of 10,000 from 2010 seems a little excessive. How much do the Irish Greyhound Board and the Irish Coursing Club contribute to the welfare of the greyhounds that are abandoned?

Deputy Andrew Doyle: The basic premise of the Deputy’s question is that if something is sinking, one should just pull away money. There are problems in the greyhound industry. During the term of the last Dáil, the agriculture committee produced a report on it and made recommendations. One point made was that we need new robust legislation, which will be introduced shortly. I hope to have it agreed by the Cabinet so it can be forwarded to the current agriculture committee for pre-legislative scrutiny. It will provide for better governance, financial structures, control and regulation. Greater consumer participation is required but this must be based on confidence. If we simply say we should pull the money in the industry because it is in decline, it is contrary to most principles. If something is in need of assistance, we should continue to support it so that, in time, it can operate independently. This is a critical juncture. It is up to all participants and the greyhound industry itself to engage in this and ensure the industry has a future.

As for the numbers, maybe there is a question over the figure from 2010, but the industry is certainly still a significant contributor to rural communities.

Deputy Maureen O’Sullivan: In 2015, the then Minister, Deputy Simon Coveney, said in reply to a parliamentary question that €100,000 was received by the Irish Coursing Club from the Irish Greyhound Board. I hope the Irish Coursing Club and the Irish Greyhound Board are very much separated. I know greyhound owners who keep their dogs for racing do not agree

with live hare coursing, yet their fees are going towards supporting it. This has to be clarified.

Live hare coursing started in Clonmel last week. RTE showed a clip of it. It said before showing it that it would be too disturbing for some viewers. It showed a censored version. When some people rang up to find out why it was censored, they were told the footage was too bad to show. If the full, uncensored clip had been shown, it would have shown the greyhounds tossing the hares and mauling them. It would really have shown what live hare coursing also includes.

I hope that on foot of the Minister of State's report, there can be a separation between the two bodies. How much exactly has the Irish Greyhound Board given to the Irish Coursing Club over recent years in loans and payments?

Deputy Andrew Doyle: On the last question, I do not have the figures off the top of my head but I can certainly obtain them for the Deputy. I did not attend the national coursing championships in Clonmel but I understand no hares were killed in them. Whether that answers the Deputy's question, I do not know. If the Deputy was to ask the coursing club and the greyhound board whether they wanted to stay separate, they would probably agree with her, in that they want clear and distinct lines between their roles and functions. Some greyhound owners might prefer there to be no live coursing, but others do not. Animal protection is governed by other legislation, by the way, primarily in animal health and welfare legislation.

Coursing is not everyone's cup of tea, but it is part of the tradition. It is easy to sit up here in Dublin and judge people, but people in Dublin do things that are not always compatible with country life either, and I do not hear people in the country being quite so judgmental.

Acting Chairman (Deputy Eugene Murphy): I will reiterate the Ceann Comhairle's comments. I will be strict on times. Deputies have 30 seconds each to introduce their questions, the Minister or Minister of State has two minutes to reply, and then there are four minutes - one, one, one and one - for the supplementaries. The last time that I was in the Chair for questions, we did not get to four Deputies' questions because people ran over their time. I ask that both sides co-operate so that we can get through as many questions as possible.

Fish Quotas

8. **Deputy Pat The Cope Gallagher** asked the Minister for Agriculture, Food and the Marine if he will withdraw and cancel the consultation process relating to the sharing arrangements between the refrigerated sea water, RSW, pelagic fleet and polyvalent fleet in view of the fact that the basis for the review was the 14% increase (details supplied); and if he will make a statement on the matter. [4848/17]

Deputy Pat The Cope Gallagher: This question is self-explanatory. Even if a mistake had not been made by the International Council for the Exploration of the Sea, ICES, in its advice to the European Commission, I would be tabling this question, but the issue has grown more urgent than ever before thanks to the reduction of 9% in the updated advice. If that reduction does not happen this year, it will happen next year.

Deputy Michael Creed: The north-east Atlantic mackerel scientific assessment by ICES includes information from a number of sources, including catch data, tagging data and three

2 February 2017

survey indices. During preparations by ICES for the upcoming benchmark, an error was discovered in the calculation of the northern trawl survey index for 2016 that resulted in values being overestimated. Thus, the assessment conducted during the 2016 ICES working group and used as the basis for the 2017 advice released on 30 September 2016 overestimated the stock size.

Updated northern trawl survey index values have been calculated and a new assessment and forecast have been carried out by ICES. Based on this work, new advice for 2017 was issued by ICES on Thursday, 26 January. According to the Marine Institute, the updated advice is 9% lower than the initial advice for 2017, that is, 926,936 tonnes versus 1,020,996 tonnes.

The original advice for 2017 was for a 14% increase on that for 2016 and it was on this that the 2017 coastal states agreement was based. Subsequent to that agreement, Ministers confirmed the EU total allowable catch, TAC, and individual EU member state quotas at the December Fisheries Council. That decision has been given legal effect by the new TAC and quota regulations for 2017.

It is expected that the matter may be considered, probably informally, at coastal state level involving the EU, Norway and the Faroe Islands. At European level, the right of initiative rests with the European Commission. If there is support for amending the TAC at coastal state level, it will require a formal agreement. Following any such revised agreement, an amendment to the EU TAC and quotas would require a proposal from the European Commission and the European Council's adoption of the amending EU regulation. The Commission has not yet commented publicly on the new advice and a new ICES benchmark assessment for north-east Atlantic mackerel is due next month.

Additional information not given on the floor of the House

Any amendment to the EU TAC and Ireland's mackerel quota that may be determined by the EU Fisheries Council will be taken into account as part of my consideration of the review. This review relates to the allocation between the RSW pelagic segment and the polyvalent segment in respect of the increased mackerel quota for Ireland in 2017 over that in 2016. It is important to note that I have not made any decision at this time to change the allocations between the segments. All relevant issues will be carefully evaluated and consideration given to submissions made in this consultation before I decide if any amendment to the policy is justified for the proper and effective management of the mackerel fishery.

Deputy Pat The Cope Gallagher: Sadly, I have not received an answer to my question on what the Minister intends to do. However, I will have a further minute, so perhaps he might let me know.

If the reduction proceeds, it will set a dangerous precedent in law and departmental authority and fishermen will not be able to take anything for granted when planning in future. They make significant investments and create jobs at sea and ashore. They must have something definite. New boats are being bought and others are being refurbished.

The departmental consultation was based on the premise that there would be an increase this year. I do not agree with that. Even if there is an increase, it will be deducted twice over next year. This process is flawed, so what will the Minister do about it? Will he be pragmatic and take the immediate decision to scrap the consultation in light of the major mistake in Europe?

Deputy Michael Creed: Notwithstanding the mistaken advice, the revised advice still provides for an increase in the quota.

Separately, I received a submission from a producer organisation, PO, in respect of a review of the sharing of mackerel quota, in particular the proposed increase for 2017. On foot of that proposal and correspondence, of which I received much, I decided to put the proposal into formal consultation. Nothing that might emerge from that process, for example, that the level of increase is less than originally anticipated, is sufficient grounds to walk away from it. I propose to allow the consultation process to run.

Deputy Pat The Cope Gallagher: Does the Minister fully appreciate that the mackerel quota has been built up by RSW vessel owners, who have made major financial investments? Does he agree that the polyvalent fleet has seen an increase of 200% over the years? He needs to be realistic. What is his preferred choice? Do we revert to the quota under the revised ICES advice or will he propose to Europe to leave it until next year, which would be a double-edged sword? Absorbing this year's reduced quota as well as next year's would be almost impossible.

Deputy Michael Creed: The initiative on this matter rests firmly with the Commission.

Deputy Pat The Cope Gallagher: The Minister must-----

Deputy Michael Creed: We have no clear indication as to what it might do. It might seek to revise the TAC and quota arrangements for 2017 or leave it until the next coastal states negotiations in September-October.

I acknowledge the Deputy's points about the pelagic sector. I have an open mind, and so I should, about the consultation process that is under way. I am not predisposed towards any outcome. I received a submission and I decided to put this matter forward for formal consultation. I am sure that the Deputy's points mirror many of those that will be raised in that consultation process.

While I am going into this with an open mind, the matter is up for formal consultation in light of the submission that I received, and it would be inappropriate to comment further until we see all of the submissions that are received.

Questions Nos. 9 and 10 replied to with Written Answers.

Areas of Natural Constraint Scheme Data

11. **Deputy Thomas Byrne** asked the Minister for Agriculture, Food and the Marine the total number of farmers in County Meath that enrolled in the areas of natural constraint, ANC, scheme; the process of reviewing qualifying areas for the areas of natural constraint scheme; if his Department has completed the mapping exercise in County Meath; when the maps will be published; the consultation that will be undertaken with farmers in County Meath on the review; and if he will make a statement on the matter. [4928/17]

Deputy Thomas Byrne: I am seeking to know the number of farmers who are eligible for ANC payments and the impacts of the review on County Meath's farmers in particular.

Deputy Michael Creed: Article 32 of EU Regulation 1305/2013 requires all member states

to implement a new system for designating eligible areas under the ANC scheme from 2018 at the latest. Currently, eligible land under the scheme is designated by reference to criteria such as stocking density, family farm income, population density and the percentage of the working population engaged in agriculture. Under the 2015 ANC scheme, 1,319 holdings in County Meath were eligible for the scheme.

Under the new system of designation that must be introduced in 2018, eligible areas will have to be designated on the basis of biophysical criteria. The criteria set out in the legislation are low temperature; dryness; excess soil moisture; limited soil drainage; unfavourable texture and stoniness; shallow rooting depth; poor chemical properties; and steep slope. My Department has commenced work on this project and relevant technical experts are sourcing and analysing the data in respect of the new criteria. This analysis will identify areas deemed to be facing natural constraints, which will in parallel be subjected to a refinement process. Once this process is complete, the draft data will provide the basis for the identification of eligible areas for ANC. It is envisaged that stakeholders will be consulted as this process develops.

Deputy Thomas Byrne: The Minister stated that 1,319 holdings in County Meath were currently eligible. It is vital that they continue to be eligible. Will the Minister give a commitment that no farmer in County Meath will lose out as a result of the review?

Deputy Michael Creed: I can give a statement of my ambition, but there are clearly defined European Commission criteria that officials in my Department are obliged to apply in respect of lands across the country. Of course it is my ambition that what we have, we hold. There will be a consultation process and engagement with stakeholders. We hope we will be in a position to ensure that everybody who has a payment at the moment will hold it. However, as to whether I can guarantee that, of course I cannot, but I suspect it is highly likely that the overwhelming majority of people will retain the payment. That is the premise from which I started on this process. The Commission has set down revised criteria and we must apply them to the process that is under way across the entire European Union. We are working to ensure that people who have a payment and designation will hold them.

Deputy Thomas Byrne: Farmers in my constituency would like more of a commitment rather than an ambition because they are under severe pressure at the moment. The Minister must do everything in his power.

Deputy Michael Creed: That is my ambition.

Deputy Thomas Byrne: Yes, but the Minister must do everything in his power to turn that ambition into reality because the situation at the moment is not good enough. We must ensure farmers can have some level of security in terms of the bit of help the payment provides. The Minister is not doing that at the moment.

Deputy Michael Creed: I had a similar debate with Deputy McConalogue earlier. As I said, my ambition is to try to ensure that every farmer who has a payment retains it, whether that is in County Meath, County Donegal, County Cork, County Tipperary, County Kilkenny, County Wicklow or anywhere else. It is a critical part of agricultural income and household budgeting in respect of the farmers concerned and for obvious reasons, therefore, we are anxious to hold what we have.

Appointments to State Boards

12. **Deputy Clare Daly** asked the Minister for Agriculture, Food and the Marine the steps he has taken to ensure that the Irish National Stud will abide by the code of practice in appointing a new chief executive which is currently under way, in view of the controversy over the reappointment for a third term of a person as CEO of Horse Racing Ireland, despite the code of practice for the governance of State bodies stipulating a single, non-renewable term for CEOs of such bodies. [4855/17]

Deputy Clare Daly: This question comes on the back of the debacle on the reappointment of Brian Kavanagh as CEO of Horse Racing Ireland. As the Minister is aware, the position of CEO of the Irish National Stud is currently up for grabs and I hope the Minister can reassure me that the code of practice for governance of State bodies, in particular with regard to stipulation of a single non-renewable term, will be invoked in this situation because there is a perception at large that there is a bit of a clique in operation at the moment.

Deputy Michael Creed: I appreciate the image Deputy Daly wishes to portray but I assure her it is far from the reality. The Irish National Stud is a commercial State body. The appointment of a chief executive officer is a matter for the board of the Irish National Stud, subject to the consent of the relevant Ministers. I understand a recruitment competition is currently under way.

The Deputy will be aware that the board has its own obligations in relation to compliance with corporate governance standards. My Department has arrangements in place to monitor the activities of State bodies and ensure compliance with the code of practice for the governance of State bodies.

I understand the current CEO of the Irish National Stud has announced that he is stepping down from the position. I am aware that he has done an excellent job as CEO of the stud and I wish to add my voice to the many tributes that are rightly being paid to him. I understand that the INS board may request a temporary extension to the current CEO's contract to facilitate a smooth transition to a new CEO and I am open to considering that in line with Government policy and guidelines. I am sure the Deputy would wish to acknowledge the CEO's contribution as well.

Deputy Clare Daly: I do not think the Minister knows what I would or would not like to do. Horse racing has been called into serious disrepute due to the handling of the previous CEO's appointment. I am concerned to ensure that such a debacle is not repeated in this instance. I take heart from the fact the Minister has told me the position will not be filled by the current CEO who has just finished his term of office. I remind the Minister that the code of practice is there for very good reasons. Only a very small number of CEO positions are filled beyond the five or seven year term. Is the Minister saying the current CEO will not take up the new position and has not put his name forward for reappointment? The Minister mentioned he wishes to ensure a smooth transition but I do not know why provision was not made for that, given that the incumbent was well aware when his contract was due to terminate. Will the Minister assure us the transition period would only be for a matter of a month or two? Anything more than that would call into question governance issues and compliance with the code of practice.

Deputy Martin Heydon: I am a bit disturbed that Members of Parliament are asking questions based on the perception of a clique being in operation. We in this House have a duty to

2 February 2017

deal much more in reality than perception. On that basis and in light of what the Minister has just said, I put on record my appreciation to the outgoing CEO for a remarkable contribution to the running of the National Stud. One only has to look at the figures in terms of tourism, the equine industry and the overall figures relating to the state the National Stud was in when he took it over compared to the way he leaves it now. It is a credit to him and he deserves great credit for that.

Deputy Michael Creed: I thank Deputy Heydon for his comments. He addressed far more eloquently than I the track record of the outgoing CEO. It is insightful to look at the state of the National Stud when the CEO was appointed and its current financial state. Actions speak louder than words and his actions have been a tribute to the industry, which he leaves in a far better state than he found it. I acknowledge his contribution.

Appointments are, in the first instance, an issue for the board. The CEO has indicated that he does not wish to apply for the position. There will be a recruitment campaign and in order to ensure a smooth transition, we are open to considering a transition period. That is something which will be negotiated with the board. I do not envisage that being a problem.

Deputy Clare Daly: It is a matter for the board, subject to the Minister's approval. I am pleased the Minister said the outgoing CEO will not continue in the position. The recruitment process is already well under way. The gentleman's contract has expired. The question I asked the Minister is how long he is prepared to extend the contract and when can we expect the vacancy to be filled in line with the code of practice for appointments to State boards, which specifies that a different person would take up the position.

Deputy Michael Creed: I am prepared to consider that. I have yet to receive a formal request from the National Stud in respect of that matter. If such a request comes before the Department, it will be considered on its merits.

Horse Racing Ireland

13. **Deputy Clare Daly** asked the Minister for Agriculture, Food and the Marine further to Parliamentary Question No. 549 of 24 January 2017, the reason two persons, both with connections to the biggest player in the horse racing industry, have recently been appointed to the board of Horse Racing Ireland, particularly in view of the fact that one of the key objectives of the revised guidelines on appointments to State boards is to increase access and widen the pool from which potential appointees to State boards are drawn and the broadening of State board membership is another key objective. [4856/17]

Deputy Clare Daly: It is a pity the board did not contact the Minister before the expiry of the deadline. This question also relates to Horse Racing Ireland, which was the subject of much attention over the debacle surrounding the reappointment of Brian Kavanagh. We had the board members before the Oireachtas Joint Committee on Agriculture, Food and the Marine and to say they made an absolute show of themselves is probably a gross understatement. It was quite clear that what the board requires is strong independent intervention and for there to be independent regulation of the industry. Subsequent to that, why did the Minister appoint to the board two people with a very developed connection to Coolmore rather than individuals with an independent background?

Deputy Michael Creed: Horse Racing Ireland, HRI, is a commercial State body established under the Horse and Greyhound Racing Act 2001, and is responsible for the overall administration, promotion and development of the horse racing industry.

I can confirm that the recent appointments to the HRI board were made in accordance with the guidelines on appointments to State boards. They were advertised on *www.stateboards.ie* and the appointees were considered by the Public Appointments Service, PAS, to meet the detailed criteria for their roles on the board.

Deputy Clare Daly: I am not sure whether the Minister is choosing to misunderstand or if he just does not get it, but the reality is that there is a deep crisis within horse racing and an urgent need to have a capable, strong Horse Racing Ireland board. That is obvious and well known. The people the Minister appointed happen to be people with very developed connections to Coolmore Stud. There is a belief, which is not an abstract one, that there is an excessive influence by big players in the market. The Minister might like to comment on some of the crises around horse racing, for example, the foal levy, which is crippling small owners. There was an important court case in Naas last week where an owner who had won a case was met by the top legal establishment, if one likes, who was marshalled there by Horse Racing Ireland, to get the decision overturned. We know, for example, that it has a big impact on small owners. The Minister might like to comment on the fact that it is widely known that foals at a major stud in Kildare are registered in the UK where the fees are lower and an arrangement for a contribution is made to HRI despite the fact that under regulations, any foals born in Ireland must be registered in Ireland. Unhelpful and wrong practices are taking place and the Minister needs strong people on the board. Why is he putting in insiders to police themselves?

Deputy Michael Creed: I know the Deputy has some form in terms of questioning the outcomes of court proceedings. I do not propose to trespass on the findings of the courts on such matters in recent days other than to acknowledge the outcome. There is separation of powers, which the Deputy may not wish to recognise but I do.

There are 13 members of the board of HRI and the board is representative of all sectoral interests, including workers in the industry, race courses, trainers and owners. The board is so constructed as to ensure there is an adequate voice available to all the interested parties. The Deputy has come in here and unfairly and without substantiation cast aspersions on the most recent appointees to the board. I think the Deputy should reflect on this. She has made scurrilous, spurious and unsubstantiated allegations against two board members and I do not intend to dignify them other than to say that the appointments were made in accordance with the Public Appointments Service and in accordance with the criteria laid down.

Acting Chairman (Deputy Eugene Murphy): We are in a very privileged position here in that we can come in and ask very serious questions. That is our job, but we must also be careful about mentioning any names or making allegations in the House. I am always very hesitant to prevent people from putting across their point of view, but we must also respect other people who are not here to stand up for themselves.

Deputy Clare Daly: No points were made against the individuals personally. What I put to the Minister as the Minister who appointed them is that he has a requirement to secure independent oversight of an industry that is self-regulatory and, in fact, non-regulatory. I did not pass any judgment. Under the foal levy, small owners have to pay a 3% levy to HRI that is based not on the fee they paid, but on the advertised fee, which means that small people are

2 February 2017

being fleeced for the enrichment of HRI while the big boys, who dominate the HRI board and do so now in even greater numbers, are not affected because the ceiling is set at €30,000. If the Minister thinks everything in the industry is great, I put it to him that he is about the only one in the country who does.

Deputy Michael Creed: I told the Deputy, who chose to ignore it, about the not insignificant fact of the outcome of a court finding last week in respect of this matter.

In respect of the appointees, a clear skill set requirement was communicated to the Public Appointments Service as to the appropriate people required in respect of the industry. I am absolutely satisfied that the people who were appointed are more than well qualified to bring a unique and very valuable set of skills in respect of corporate governance and affairs and human resources experience to the board, of which the Deputy has been very critical in the past arguing that it did not have sufficient knowledge in the area of corporate governance.

Question No. 14 replied to with Written Answers.

Fishery Harbour Centres

15. **Deputy Thomas P. Broughan** asked the Minister for Agriculture, Food and the Marine if funding will be provided to carry out a dredging programme at Howth Harbour, County Dublin in 2017; if he will provide an update on the draft report from a €150,000 site investigation project which was commissioned in 2015, received in March 2016 and assessed by his Department's engineers in quarter 2 of 2016; and if he will make a statement on the matter. [4846/17]

Deputy Thomas P. Broughan: I have asked the Minister and his predecessor about Howth Fishery Harbour Centre for the past two or three years. Silting of over 2 m has occurred. The former Minister made some plans and €150,000 was made available for the site investigation works as part of the development programme. We heard that these were finished at the end of March. I remember asking the former Minister before the general election about when action would be taken. We need a foreshore licence and the dumping programme. When is the Minister going to do it?

Deputy Michael Creed: Howth Fishery Harbour Centre is one of the six designated fishery harbour centres which are owned, managed and maintained by my Department under statute. I am happy to advise the Deputy that between the years 2011 and 2016, as part of my Department's fishery harbour and coastal infrastructure development programme, in excess of €6.7 million has been invested in maintenance, development and upgrading works at Howth Fishery Harbour Centre, notwithstanding the challenging economic environment in which we operate. I will shortly be announcing further support under the 2017 capital programme.

With regard to the possibility of a dredging project in Howth Fishery Harbour Centre, I advise the Deputy that the report from a site investigation works, which was commissioned in 2015, was received by my Department in March 2016. The report included vital information on the nature of the material to be dredged in any future dredging project. The information revealed from the site investigation report indicated that certain of the dredge material would not be suitable for conventional disposal at sea.

In June 2016, a firm of consulting engineers was engaged to prepare a report on a potential

dredging project at Howth to include the possible scope of the project, various disposal options for the dredged material at Howth and permitting requirements. This report is scheduled for completion in the first quarter of 2017. A draft preliminary report indicating initial dredge quantities and cost estimates is expected by end February 2017. Depending on the outcome of this process, and as is the case for all developments in the six fishery harbour centres, any possible future dredging project at Howth Fishery Harbour Centre will be considered under future capital programmes on the basis of available Exchequer funding and competing priorities.

Deputy Thomas P. Broughan: Is it possible to include it in the 2017 capital programme? It is badly needed. It has not been dredged since 1981 or 1982 so we are talking about nearly four decades. I remember showing the former Minister's father around when he was a Minister. It came up even then as one of the issues nearly 20 years ago. Howth Harbour users action group has been in contact with the Department over many months to ask that this be done. Howth is the key fishery port on the east coast with a synchrolift repair yard and a lot of activity, but we could have much more activity on the fisheries and marine front, particularly marine tourism, if this work was done.

The Minister said he would put money into the fisheries local action groups, FLAGs, programme. We are in the north east FLAG. Is it possible that some of the works the Minister is talking about could be done as part of that?

Deputy Michael Creed: The FLAGs have independent jurisdiction over how they allocate the funds. I do not wish to prejudge their take on this but I suspect that the expenditure in respect of dredging would be far in excess of the funding they have available - I think it is €2.7 million across all the FLAGs for 2017. They are making a call for projects. I met with representatives from all the marine interests in Howth before Christmas and they made a very compelling case. It is complicated by the preliminary findings and the contamination. We will make announcements in the capital programme for 2017. I suspect it is probably too early on the dredging side. There is a substantial volume of work to be done and I hope we would be in a position to continue some improvement works in Howth, but perhaps not the dredging project.

Agriculture Cashflow Support Loan Scheme

16. **Deputy Jackie Cahill** asked the Minister for Agriculture, Food and the Marine if he will provide an update on the low cost loan scheme that was announced in the budget; and if he will make a statement on the matter. [4838/17]

Deputy Jackie Cahill: The low cost loan scheme announced in the budget is most welcome relief for farmers under severe financial pressure. Is there a timescale for when the Minister expects that money to be released to farmers?

Deputy Michael Creed: I was pleased to announce the launch of the agriculture cashflow support loan scheme on Tuesday. One of my priorities has been to address the impact of the change in the sterling exchange rate and lower commodity prices in some sectors, which have caused cashflow difficulties for farmers. The scheme was developed in co-operation with the Strategic Banking Corporation of Ireland, SBCI, which has confirmed that AIB, Bank of Ireland and Ulster Bank will distribute the loans making €150 million available to farmers throughout Ireland at interest rates of 2.95%. It will provide farmers with a low cost, flexible source of working capital and will allow them to pay down more expensive forms of short-term debt,

2 February 2017

ensuring the ongoing financial sustainability of viable farming enterprises.

This loan scheme forms part of a “three pillar strategy” in response to income volatility, which I announced as part of budget 2017. Along with tax measures and farm payments, it will alleviate some of the pressures being caused by the recent market difficulties, which have been compounded by the uncertainty around Brexit.

The loans will be available to all livestock farmers, tillage farmers, horticulture producers, including mushroom growers, and others involved in primary agricultural production, including poultry producers. The loans will be for amounts up to €150,000 for up to six years. The interest rate at 2.95% will represent a significant saving for farmers when compared with other forms of short-term unsecured finance currently available. The loans will be flexible with interest-only facilities of up to three years.

The SBCI has demonstrated its commitment to the agriculture sector and has worked with my Department to get this product to the market in a timely manner. I welcome the participation of the main banks, which will ensure nationwide coverage for the scheme. The fact that most farmers will have an existing relationship with the participating banks should facilitate the loan application process. Normal lending assessment criteria will apply although the loans will be unsecured in nature, thereby facilitating a more straightforward application process. Potential applicants should note that the loans will be disbursed on a first-come, first-served basis and will need to be allocated by late summer 2017 to comply with the requirements attaching to the European Union funding.

Acting Chairman (Deputy Eugene Murphy): Four Deputies are offering and they are all entitled to speak. I ask them for their co-operation, starting with Deputy Cahill, whose question it is. I will then call Deputies Heydon, Deering and Aylward.

Deputy Jackie Cahill: I welcome the announcement of the scheme. I asked the Minister when he expected the first of the money to be released to farmers and how that can happen. He said it was to be on a first-come, first-served basis. I believe the scheme will be oversubscribed and some people will be left waiting at the door. Unfortunately, the ones under the most financial pressure could be the ones left outside because their relationship with the financial institution might not be the best. I do not know about the fairness of a first-come, first-served basis and it could work out very unfairly.

I hope the scheme does not get buried in paperwork. There are significant difficulties with the payment of TAMS 2 at the moment owing to IT problems in the Department. I hope this scheme will be able to work in a far more friendly way and that the money can be given quickly to farmers so that they can reduce their debt and help them with their cashflow.

Acting Chairman (Deputy Eugene Murphy): I thank the Deputy.

Deputy Jackie Cahill: I hope the scheme does not get into an administrative mire and I have reservation about the first-come, first-served basis.

Acting Chairman (Deputy Eugene Murphy): I know I pushed the Deputy somewhat even though it is his question. However, I promised to get in the other three Deputies and I ask them to keep their comments short.

Deputy Martin Heydon: I will be very short; I appreciate the opportunity to get in. I thank

the Minister for his reply. Following on the point made there, I ask the Minister to clarify the flexibility for those farmers who, as I mentioned earlier, might be in financial difficulty. Surely the bank would be very happy to see them coming to make an application for this scheme, which might allow them to restructure debt. When the Minister mentions flexibility, does he mean one might be able to restructure more expensive debt with this lower interest rate?

In recent years it has been very difficult for farmers, particularly beef and tillage farmers, working off significant merchant credit. They build up the bill all year and the big cheque at the end of the year is supposed to clear it. Unfortunately, there have been a few years where the cheque has been insufficient, resulting in the debt rolling on at a high level. Will this scheme also cover that merchant debt?

Deputy Pat Deering: I thank the Acting Chairman for letting me in. I welcome this fund and it is important that as many as possible apply to the fund. I know that in my part of the country the banks will be making funds available next week. If Deputy Cahill gets stuck in Tipperary, he is more than welcome to come to Carlow for funding.

In the event that it is oversubscribed, is it planned to develop a similar fund in future? This is a very innovative way to get cashflow to farmers and it should be developed further for the future.

Deputy Bobby Aylward: Further to Deputy Cahill's question, could this scheme cover the purchase of stock? Many farmers have asked if it could be used for the purchase of cows or even cattle for fattening. Could the scheme be open for that?

Acting Chairman (Deputy Eugene Murphy): I ask the Minister to answer the four questions in one minute.

Deputy Michael Creed: I am satisfied that this will be a really good scheme. The Central Bank reported that the cost of credit in the first quarter of 2016 was significantly out of kilter with our EU counterparts. That is a significant input cost. This scheme is a response to that and it also addresses some Brexit-related challenges.

I am somewhat taken aback by the *volte-face* from the Opposition benches. Two weeks ago certain Deputies - not Deputy Cahill - more or less rubbished the scheme as offering nothing to farmers.

Deputy Charlie McConalogue: It should be complementing the tillage crisis.

Deputy Michael Creed: I very much welcome the *volte-face*. I point out to Deputy Cahill that it is available in high-street banks such as AIB, Bank of Ireland and Ulster Bank. In reality there is no other way to deal with it other than on a first-come, first-served basis and I advise farmers to engage.

The terms and conditions of the scheme are as constructed. For farmers paying high interest in overdraft facilities or paying credit card rates to cover merchant credit, this is an opportunity to substitute one with the other, which will improve cashflow and enable them to do the other things the Deputies mentioned.

Acting Chairman (Deputy Eugene Murphy): I have to stop the Minister.

Deputy Michael Creed: There is sufficient flexibility to deal with that. That is the point

Deputy Heydon mentioned.

Acting Chairman (Deputy Eugene Murphy): We must move on.

Deputy Michael Creed: I say to Deputy Deering that we will have to wait to see the success of it. I think it will be successful and success generates its own problems. That is something we will revisit at a later stage.

Acting Chairman (Deputy Eugene Murphy): I thank Deputy Cahill, in particular, for his help and co-operation with that last question. I thank other Deputies for making their points briefly. I thank the Minister, the Minister of State and all the Deputies who participated in putting questions to the Minister.

Written Answers are published on the Oireachtas website.

Sitting suspended at 5.05 p.m. and resumed at 5.25 p.m.

Topical Issue Debate

Acting Chairman (Deputy Eugene Murphy): I thank Deputies Niamh Smyth, Cahill and Ferris for their patience. I also thank the Minister of State, Deputy Catherine Byrne, who has been here for some minutes and who will reply to the first two matters. The Minister of State, Deputy Finian McGrath, will reply to the third. I call Deputy Niamh Smyth. The Deputy has four minutes to make her case.

Maternity Services Provision

Deputy Niamh Smyth: I welcome the opportunity to raise this very important issue regarding the 20-week anomaly scan at Cavan General Hospital. I have submitted numerous parliamentary questions in the past eight months and I have been getting mixed messages from the Health Service Executive, HSE, on this issue. I was first led to believe that it had been actively worked on for Cavan General Hospital and that it was the aim of the HSE to provide this essential scan to pregnant women in Cavan, Monaghan and across the region. We then heard that the equipment was in place in the hospital but that the management is unable to fill the vacancies with the required expertise. I have now been informed that scans will be provided for within the RCSI hospital group because staffing cannot be secured to have them carried out at Cavan General Hospital. That is cold comfort to expectant mothers in Cavan and Monaghan.

The hiring of professionals across all departments within the HSE appears to be a recurring problem. One must ask why that is the case. Is it just an excuse to get out of the original commitments to provide this anomaly scan in Cavan General Hospital and force pregnant women to travel up to two hours away to have the scan they need? Why should women in Cavan and Monaghan, and across the general area, not have this scan made available to them? I have to say they are being treated differently and discriminated against, and we are back to the same old story of only looking after those living in the big cities.

Unfortunately, too many harrowing cases have been reported in recent years regarding these scans. We had one only this week in County Cork. I do not know the reason the HSE is not

listening to the women who have been crying and concerned about this issue. Why will it not accept and implement the recommendations of previous cases taken against the HSE? When something goes wrong during pregnancy or, even worse, when there is a fatality, it has a devastating impact on the families involved and on the staff in hospitals. To hear that this anomaly scan, if available, could prevent and change the outcome in some way adds further insult to injury. To the families that have been bereaved, it is incomprehensible.

Having a scan available to expectant mothers at any other site apart from Cavan General Hospital is not good enough. It is not enough to cherry-pick certain areas and only provide in the big cities. To further compound the families' grief, misinformation has been given to the media by the professionals leading the public, and me, to believe that the scan would be made available in the hospital. That is simply not true.

I requested a meeting with the Minister, Deputy Harris, regarding one particular family, the Whelans, who have suffered terribly. In requesting the meeting for the Whelan family, the Minister's answer, which I will paraphrase, was that it would be better for them to meet the HSE. That is not what the Whelan family want to hear. They want to meet with the Minister to express their concerns and to ensure that this is implemented in Cavan General Hospital. When and why has the plan changed from providing the scan at the hospital to providing a regional maternal foetal medicine service with the RCSI group? Why does the HSE think this model would give greater recruitment success? Why has the HSE given up so easily on requiring the staff of the hospital to provide the scan, particularly when we believe all the equipment necessary for the scan is in the hospital?

Will the Minister of State outline what are the long-term plans of the Department and the HSE for the unit in Cavan General Hospital? It is a fabulous department which just requires this one scan, which has been recommended.

Minister of State at the Department of Health (Deputy Catherine Byrne): I apologise for arriving late and delaying proceedings. Unfortunately, the Minister, Deputy Harris, cannot be here. I thank Deputy Smyth for raising this matter and giving me the opportunity to update the House on the position on foetal anomaly scanning at Cavan General Hospital. The Minister, Deputy Harris, is advised that while the provision of routine foetal anomaly scanning for all pregnant women has been a key target for Cavan General Hospital, despite every effort having been made the hospital has not been successful, to date, in recruiting the necessary specialists required to provide a routine 20-week anomaly scanning service. However, the Minister is advised that those maternity hospitals and units currently providing anomaly scans will accept referrals from other maternity units, if requested. This occurs where the medical team in the referring maternity unit considers that an anomaly scan is clinically indicated.

The Minister, Deputy Harris, accepts that the provision of anomaly scanning is not uniform throughout the country but we are working to address this. The national maternity strategy is very clear that all women must have equal access to standardised ultrasound services. The strategy will be implemented on a phased basis over the coming years and this work will be led by the HSE national women and infants health programme. The programme was recently established, and the Minister anticipates it will drive improvements in maternity service delivery. On behalf of the Minister, I am pleased to confirm a programme director was seconded into position on 3 January. A clinical director has recently been appointed and will take up position on 1 March.

The Minister has been assured the issue of anomaly scanning is a priority for the programme. As a first step, clinical guidance on routine detailed scans at 20 weeks will be developed. In the meantime, the programme will continue to work with the hospital groups to assist in increasing access to anomaly scans for those units with limited availability. Of course, one of the current challenges to increase access to anomaly scans is the recruitment of ultrasonographers. In this context, it is expected the establishment of maternity networks across hospital groups will assist in the development of a sustainable service model that ensures that all women in each hospital group can access anomaly scans.

The maternity strategy recognises that smaller maternity services cannot, and should not, operate in isolation as stand-alone entities. Those units cannot sustain the breadth and depth of clinical services that the populations they serve require without formal links to larger units. Accordingly, maternity networks are being established across hospital groups. The Deputy can be assured the Government is fully committed to the progressive development of our maternity services. Last year saw the publication of Ireland's first ever national maternity strategy as well as the HSE's national standards for bereavement care following pregnancy loss and perinatal death and HIQA's national standards for safer better maternity services. In addition, each of our 19 maternity units now publishes a maternity patient safety statement on a monthly basis. I am sure the House will agree these developments represent key building blocks to enable us to provide a consistently safe and high quality maternity service.

Deputy Niamh Smyth: It is a fundamental piece of equipment and a fundamental service in any maternity ward. I am really not sure from the Minister of State's reply whether she has stated staff will circulate between various hospitals or there will be a designated 20-week anomaly scan in Cavan General Hospital and patients will not just be referred to the Rotunda or other hospitals.

I wrote to the Minister, Deputy Harris, to ask him whether he would meet the Whelan family. At the inquest into Conor Whelan's death, it was part of the recommendations the 20-week anomaly scan would be provided in the hospital so any fatal foetal abnormalities and any abnormalities in an unborn child would be recognised in the early days. Is the Minister agreeable to meeting the Whelan family? Is the Minister of State telling me we will have a designated 20-week anomaly scan in Cavan General Hospital?

Deputy Catherine Byrne: I acknowledge the concerns the Deputy has raised. As I stated, despite every effort being made, the hospital has not been successful to date in recruiting the necessary specialist required to provide a routine 20-week anomaly scan service. I will certainly bring back the Deputy's concerns about this. I will also bring back her concerns in regard to the Minister meeting the Whelan family. As a mother and grandmother, I know pregnancy is a very stressful time for the woman and the man in such cases and a 20-week scan gives some assurance to expectant parents that everything is okay. It is unfortunate the problem seems very much to be finding the proper specialist to provide the anomaly scan service. I will bring the Deputy's concerns to the Minister, particularly in regard to meeting the Whelan family.

Deputy Niamh Smyth: I really appreciate that.

General Practitioner Services Provision

Deputy Jackie Cahill: I thank the Ceann Comhairle's office for selecting this Topical Issue. The availability of GPs in rural and urban areas is becoming a huge issue in my county. At this stage, five or six positions are being left vacant because there are no applicants. Unless this situation is addressed fairly rapidly it will become a crisis for our communities. In recent months, an urban practice in my town has advertised a vacancy through the HSE three times, but no applicant has come forward for the position. The situation is grave and we must act now to avoid a crisis. We must attract young graduates to GP practices. Unfortunately at present this is not happening. Young graduates are deciding to emigrate, leaving us with a scarcity of doctors entering the system.

When FEMPI was introduced during the financial crisis doctors were hit more than most as 38% was taken from the fees they charged. Taking into account the salaries paid to nurses and other staff in GP practices, they suffered a 45% cut on what they receive from the HSE. This must be reversed and improvements must be made in the payment structure. With regard to the pensions received by doctors, they qualify for €17,000 under the GMS pension. This is a very small pension and it must be examined. It pales in comparison to what is available to managers in the HSE.

There has been a focus on building primary care centres but the reality is that most GPs in rural areas and small urban towns have their own facilities. Pouring money into primary care centres if we do not have GPs available is like putting the cart before the horse. I appeal to the HSE to examine each area before it builds primary care centres. Doctors with their own facilities should be allowed to use them and the extra resources should be put into trying to attract young doctors into rural areas.

Another anomaly is that doctors in a county such as mine must pay for 24-7 cover. They must contribute quite significantly to services such as Shannondoc. In large urban areas, however, there is no charge on GPs for 24-7 cover. This is an anomaly that needs to be addressed urgently.

Training places need to be increased because there are not enough for GPs at the moment. When GPs graduate it should be mandatory for them to spend a number of years working in this country. We have a very sought after education system for medical doctors but when they qualify a lot of them head to other shores to practise and the country gets no benefit from the investment that has been put in.

Locums are another huge issue for rural practices. The tax treatment of locums has to be looked at because it is virtually impossible for a rural practitioner to get a locum to help him out in his practice. One can expect no man or woman to work 365 days a year so it should be made attractive for locums to work in rural and small urban practices.

Community care teams have to be properly funded as these can take a good bit of pressure off local GPs, whether it is through the physio calling to a person's house or community care teams calling to dress a person's wound.

Deputy Catherine Byrne: I thank the Deputy for raising this issue. At the outset I would like to assure the House that the Government is committed to enhancing primary health care services, including GP services. The development of primary care is central to the Govern-

ment's objective to deliver a high quality, integrated and cost-effective health service and to reduce the numbers coming into hospitals. The goal is to deliver better care close to home in communities across the country and move away from a system which is too dependent on hospital care. In a fully developed primary care system, 90% to 95% of people's day-to-day health and social care needs can be met in the primary care setting. The winter period is one where particular pressures occur in the health service. For this reason the Minister for Health ensured that considerable planning was undertaken by the HSE ahead of the peak period. A sum of €40 million was provided to assist in the management of winter pressures and to manage the expected winter surge in demand for hospital care in an integrated way across primary, acute and social care. As part of the winter initiative, South Tipperary General Hospital has been identified as one of the nine focus sites experiencing the greatest challenges in terms of ED pressures. Consequently, under the initiative additional measures have been put in place to support the hospital in responding to surges in demand for emergency care over the busy winter period. These include actions to improve early discharging; increase access to community intervention teams, CITs; and increased access to diagnostics. The winter initiative has allowed for the provision of three additional home care packages per week at the hospital until the end of February 2017.

The winter initiative also recognises that there are specific challenges in relation to capacity at the hospital. The HSE is working towards providing extra surge capacity through the fit out of additional space on the first floor of the hospital to alleviate pressure on the ED. This extra capacity is expected to be available from early May and could be used to accommodate space for up to 11 beds. I acknowledge, on my behalf and that of the Minister for Health, the tremendous contribution of all the front-line staff to meeting the heavy demand on our health service during the peak winter period, both in hospitals and in communities. The management by GPs of seasonal pressures, which include many patients presenting with exacerbations of chronic conditions, is an example of how primary care plays a critical role in our health care system. In fact, GPs were at work over the Christmas and New Year period dealing with a substantial workload while many other people were able to enjoy a few extra days off.

It is important to recognise the commitment of GPs to ensuring a responsive, accessible and high quality service to patients on a year-round basis. Recent data from the HSE indicate that in 2016 there was an increase of around 5% in emergency department attendances nationally. In addition, early January 2017 saw continued significant pressure on EDs due to high demand, increased incidence of flu and respiratory illnesses across the country, which have been disproportionately affecting at-risk groups such as the elderly, as well as ongoing bed capacity restraints due to staff shortages.

GP out-of-hours services also experienced large volumes of patients in attendance. I understand that the number of contacts with these services increased by 13% in December compared to the previous month. In fact, there were over 1 million contacts with GP out-of-hours services in 2016, an 11% increase over 2015. The Government is committed to the continued development of GP capacity and in 2017 the training intake will increase for the second successive year, from 172 to 187 places. Further efforts undertaken in recent years to increase the number of practising GPs include changes to the entry and retirement provisions for GPs under the GMS scheme, as well as the introduction of an enhanced supports package for rural GP practices.

Deputy Jackie Cahill: Despite the Minister's reply, I do not believe the scarcity of GPs is being addressed. We spoke about health services the other night and about giving people the option of being cared for in their own homes. The preferred option of most people in their old

age would be to be looked after in the security and comfort of their own home but if we do not have a proper GP service in rural Ireland that cannot happen. I can give examples of seven different locations in my county which are now without a GP. This is a career choice for young graduates coming out of medical school but it is not financially viable for them to go into practice. A doctor who practised for 15 years in a rural town in Tipperary has decided to emigrate to Canada and it is obvious that there is something seriously wrong with the way GPs are funded by the HSE.

The issue has to be addressed as a matter of urgency. A lot of the infrastructure in rural Ireland is under huge pressure but if we lose our GP infrastructure it will be a death knell for people. We just cannot do without it. I appeal to the Minister to examine the pay structure but other things can be done to alleviate some of the pressure on GPs. Paperwork is a huge burden and if a group of practices were given a project manager to look after the paperwork for them it would be a great help to them. It has to be recognised that rural practitioners are different from practitioners in the large urban centres and have to be catered for accordingly.

Deputy Catherine Byrne: There has been an increase in home care packages. I am a Dublin Deputy but I recognise that the GP service in rural Ireland is in crisis and needs to be supported in more ways. The Deputy referred to emigration but a lot of young people, whether nurses or GPs, want to travel and experience other types of hospital care across the world. It would be unfair to prevent young people from leaving the country once they had finished their training. There was huge difficulty over Christmas, even in Dublin, over GP call-outs but there are commitments by this Government. In respect of new GP contracts, the Minister is very clear that future contractual teams should enjoy the support of a broad community of GPs and be informed by the input of key stakeholders. To achieve this the Minister has put in place a process that will honour the framework agreement of 2014 with the INMO and include formal consultations between the State and the NAGP. The Minister is pleased that this arrangement has commenced and hopes for constructive and positive engagement. Something is happening, therefore, but, unfortunately, it is probably not happening for many small rural communities. We hope, however, that in the coming months there will be an increase in GP services across the country, particularly locum services. Nonetheless, I will bring the concerns the Deputy has raised to the attention of the Minister and ensure he receives a response from him.

Respite Care Services

Deputy Martin Ferris: In the past two weeks I have been contacted by several elderly parents about the lack of respite care services in north Kerry. The best way I can articulate this matter is by reading a letter I received last weekend from one mother. She says:

I am writing this letter as a very upset and concerned parent of a daughter who is attending the Kerry Parents and Friends Association in Listowel. We were informed last week that they are reducing respite in north Kerry in our facility, The Haven. There is little respite now as beds are being used for residential clients with high medical needs. A house was purchased last June in the Kilmeany, Kilmorna, Listowel area for respite. My understanding is that this is a four-bedroom house. We expected this to be up and running within three months, as the urgency of lack of respite was already causing problems. The house still remains empty and we are now heading into February. Funding for staff was promised by the HSE but none has been released. After a phone call to the head of the HSE disability ser-

vices, we have been informed that there are no funds available, so the house remains empty. Once again we are badly hung out to dry regarding our sons, daughters and siblings. We have to join together now and let our voices of protest be heard once again. We have done it before and we can do it again. There are parents and clients at present who have never had respite. We are all getting older and we should definitely not be having this worry now - too scared of getting sick or old. We need to contact anyone and everyone we can - TDs, councillors, the HSE and Ministers - to tell them in no uncertain terms that we and our sons, daughters and siblings are entitled to respite. It is not a luxury.

I was also contacted by another woman and her husband. He is 75 years old and she is 70. They have a 46 year old son with autism and other intellectual disabilities. He is over 6 ft tall and a big and powerful man. Their difficulties are exacerbated because of their age and his physical strength. They have no access to respite care services. They are at their wits' end in trying to access some service. I am asking the Minister of State to make staff available at the four-bedroom house in the Kilmeany, Kilmorna and Listowel area to provide respite care for four people at any one time. Will he make this happen in order that some of those in desperate need will have some source of comfort?

Minister of State at the Department of Health (Deputy Finian McGrath): I thank the Deputy for raising this important issue and giving me the opportunity to outline the position on services for people with disabilities who need respite care support in County Kerry. I know that he has been a long-time, strong campaigner for people with disabilities.

The Government is committed to providing services and supports for people with disabilities which will empower them to live independent lives, provide them with greater independence in accessing the services they choose and enhance their ability to tailor the supports required to meet their needs and plan their lives. I am acutely aware of the changing needs of people with disabilities and understand many people require additional or alternative services. The provision of respite care services has come under increased pressure in the past couple of years. There is an increase in the number of children and adults seeking access to respite care, while there are increasing levels of changing needs owing to an increase in the age of people with a disability, as noted by the Deputy in the two cases he mentioned.

The way in which residential respite care services are provided has also changed as agencies comply with HIQA standards and the national policy on congregated settings. This affects the capacity of services in County Kerry to respond to the growing need for respite care. In some instances this means that beds are no longer available. For example, vacated beds for residents who go home at weekends or for holidays can no longer be used to provide respite care. This is a major problem. Currently, there are 12 beds available in County Kerry to provide respite care services for adults with an intellectual disability. These beds are provided by St. John of God and the Kerry Parents and Friends Association. On average, 426 nights of respite care are provided in County Kerry each month for children and adults with an intellectual disability or autism. A further 52 days, on average, of day respite care are also provided each month. The HSE acknowledges the current level of provision does not adequately meet the identified needs in the area. I totally accept that reality, but we have to do something about it.

The expansion of respite care services for people with disabilities is recognised as being essential to enable families to continue to care for individuals with disabilities and, in particular, those with significant disabilities. The HSE supported the Kerry Parents and Friends Association in 2016 by providing capital funding to purchase a house in Listowel to be used as a respite

care facility. Unfortunately, no revenue funding is currently available to progress the opening of the facility. By the way, I do not accept this. The Kerry Parents and Friends Association recently reported that, owing to HIQA compliance requirements, it has had to reduce the number of respite beds available, leading to a decrease in respite care services for some. The need for increased respite care and residential facilities in County Kerry is acknowledged. The HSE continues to work with agencies to explore various ways of responding to meet this need in line with the budget available. Where a residential service is not available, the HSE endeavours to work with families and service providers to increase the support available through the provision of home support hours and day services. Of course, we have to act on and do something about this matter. I will make it a priority issue in the coming weeks.

Deputy Martin Ferris: I thank the Minister of State for his response and welcome his comment that he intends to do something about the matter in the weeks ahead. Can he tell me how many beds were closed by HIQA? If the four bedrooms were available, would they meet the shortfall? Will the savings made by HIQA in reducing bed numbers be used to provide a respite care service in the house purchased by the HSE? The Minister of State needs to
6 o'clock make this issue a priority, although I know that he also has to deal with priority matters raised by other Deputies concerning respite care services for parents and their children with intellectual disabilities. The people to whom I am talking are coming to the end of their lives. As I said, one of them is 75 years old. They have looked after their children and watched them grow into adulthood. The respite care service they received was of some comfort to them.

The fact that it is no longer available is causing huge alarm and fear. As they come towards the end of their lives, their fear as to who will look after their loved ones cannot be stressed enough. I hope the Minister of State will make this a priority, as he says. I look forward to seeing the outcome of that.

Deputy Finian McGrath: I thank Deputy Ferris again for raising the issue. As far as I am aware, the figure he is looking for is between four and six beds. His proposals on the funding, costs and savings are something we should look at clearly. In the negotiations for this year's social care and disability service plan, the overall budget was set at €1.688 billion, which is an increase of €96.3 million or 6% on last year. I am going to go back to the people involved in the distribution of funding. Under that budget, we managed to secure 8,400 residential places, 182 respite overnights, 1.4 million PA hours for 2,400 people, 24,800 day places, 41,000 day respite sessions and €2.7 million for home support hours for 7,500 people. A service is there with a budget of €16.2 million to deal with emergency cases and within that sum there is funding for the new home supports in home respite for emergency cases. That is the approach I will be taking.

We need to ensure that when we provide funding for a house like the one Deputy Ferris mentioned in Listowel, we have the resources to provide the service. I will continue to pursue additional funds to increase the level of respite provision in Kerry. The HSE will continue to work with the service providers to explore all options regarding the provision of respite for all the adults in Kerry. Where residential respite is not available, the HSE and I will endeavour to work with those families and service providers to increase the support available through home support hours and day services. Of course, I will go back and make Deputy Ferris's issue a priority. As far as I am concerned, it is unacceptable.

2 February 2017

School Accommodation Provision

Deputy Martin Heydon: I thank the Ceann Comhairle for selecting this very important Topical Issue tonight. It is one on which I am sure the Ceann Comhairle will agree with me. There are three schools in the Curragh Military Camp. The Curragh post-primary school is a Kildare and Wicklow Education and Training Board school with approximately 170 pupils and to say the school building is Dickensian would be a fair description. It has great staff and pupils but they are operating in a building that has not been upgraded since the time the British were around. Across the road is the Curragh girls' primary school with a little over 100 pupils. Again, it is housed in a very old building with significant problems. A summer works application is in for roof repairs, but since it was made problems have emerged with heating and plumbing in the school. Down the road a little further but still within the camp is the Curragh boys' national school with 89 to 90 pupils. That school has made another summer works application to address a long-standing problem with its plumbing which is causing significant problems.

I called out to visit the principal of the Curragh boys' school last year. It happened to be just after the Minister's predecessor had opened the Educate Together primary school in Kildare town. Within the space of an hour and crossing the short distance from Kildare town to the Curragh Camp, I went from a brand new school with the best of provision for the children of Kildare town to a school with a bucket in the middle of the floor under a leaking roof. I saw a very big difference between the haves and the have-nots. It is incumbent on us to address the structural deficits in the three schools. There is a common denominator here. All the schools have great staff and pupils but an excellent education is being provided in sub-standard accommodation within the Curragh Camp, which is under the remit of the Department of Defence.

I want the Department of Education and Skills to develop a vision for the future provision of education in this area. I want the Department of Education and Skills to share my vision for a new school campus at primary and secondary level on a greenfield site in the Curragh. I have had initial discussions with my colleague, the Minister of State at the Department of Defence, Deputy Paul Kehoe, and flagged with him the deficit that is there and the need for an upgrade. This comes under his remit because there are ambitious plans for the Curragh Camp. The peace and leadership institute will be a fantastic development in the coming years as a result of significant investment by the taxpayer via the Department of Defence in the Curragh Camp itself. The freeing up of the three school buildings might well suit the Department of Defence and encourage it to offer us a greenfield site somewhere else. It could be argued that it is not really appropriate to have school provision at the heart of a military camp.

It would be much easier to talk to the Minister for Education and Skills and his officials about the provision of a new school building in this area if there was a greenfield site to start with. As such, I ask him to help me with discussions and that his officials would engage directly with their counterparts in the Department of Defence to talk about these issues and see if a solution can be found. To develop a primary and post-primary campus would address three schools that are currently in substandard accommodation and it would also address the very significant capacity issues for the greater Newbridge area, which I have raised with the Minister previously.

Minister for Education and Skills (Deputy Richard Bruton): I thank Deputy Martin Heydon for raising this issue. What he has stated there goes considerably beyond his originally

tabled issue which was on the improvement of the school facilities in the Curragh area. My reply, which deals with summer works programme approvals and applications, is available to him and is being circulated. However, he has raised a much wider issue.

The Department approaches a proposal like this from the perspective that the patrons are in a position to develop it. No such proposal has been put forward by the patrons at this stage. If an amalgamation of the primary schools was being considered, there would have to be considerable consultation. In terms of the development of new schools, my Department is obliged to consider not only the individual school, conditions and enrolment in respect of which the application is made but also the broader context of schools in the area. While recognising that the Deputy and Ceann Comhairle represent an area where there is considerable and growing pressure on schools, I have not seen a proposal from these schools and my Department has not had a chance to consider any such campus against the context of other provision and needs in the area. As such, I am not in a position to respond in detail to what the Deputy put forward. Clearly, if there was a desire on the part of the patrons to put forward such a proposal, the Department would discuss it against the context of the planning model we have to apply.

As the Deputy knows, the demand for new places is running at about 20,000 net additional places every year. That is occupying more than 80% of our budget, which places a significant constraint on the Department in terms of considering any application. It has to apply the slide rule to determine how we meet our first responsibilities to ensure there are seats for everyone who wants to attend school. There is no doubt that if the Deputy feels there is an interest in the community in developing this proposal and that the capacity exists to do some sort of swap, I will get my officials to discuss it with the appropriate patrons and consider it in the context of other capital demands.

Deputy Martin Heydon: I thank the Minister for his detailed response and for outlining a roadmap for us. I can assure the Minister that all three boards of management are very keen to address the structural deficits. I will take the Minister up on the process he outlined and talk to him about the matter. The two summer works applications that have been submitted for the two primary schools are a matter of great urgency and I hope they get the utmost consideration in the short term.

The Minister referred to capacity and the planning of new schools. I welcome his announcement last weekend of engagement between Kildare and Wicklow ETB and Educate Together on a possible partnership. This comes after a very long campaign, as the Ceann Comhairle is aware, by the South Kildare Educate Together campaign. The Minister's announcement did not refer to a specific school. Locally, the ETB would have argued that St. Conleth's was the preferred option. I ask that the Department maintain an open mind on a possible partnership as those discussions continue.

The Educate Together campaign in south Kildare had a two-pronged approach. It fought for increased provision of choice in the south Kildare area, which is needed and desired by a number of parents and constituents. The second element concerned the pressure on space in Kildare, in particular the Newbridge area at second level where there is a lot of pressure in terms of capacity. There are three schools listed on the building programme which require extensions, namely, the Patrician Secondary School in Newbridge, Cross and Passion College in Kilcullen and at Athy Community College. Spaces in those schools were needed yesterday. There is significant pressure and I want the projects to be progressed as quickly as possible.

2 February 2017

A new school building on the Curragh site would address some of the capacity issues in Newbridge town. It would deal with all of the feeder schools in the rural hinterland. In the overall context of the pressure on school spaces in south Kildare, a new school on the Curragh campus would fit. I look forward to working with the Minister and his officials on the matter.

Deputy Richard Bruton: I am very aware of the issue. The Deputy, the Ceann Comhairle and other Deputies in the area have raised the concerns of parents with me, such as their desire to have new choices. We have outlined that there is a planning process within the Department which examines 314 different planning areas and the demographic pressures within them. Each planning area encompasses a significant range of schools.

I can understand the need for change. As the Deputy knows, there is a commitment in the programme for Government to advance the range of choice and ensure more schools emerge. I am very enthusiastic about the idea of Educate Together and local ETBs getting together in some form of collaborative patronage. It would open up new options.

I am confined to the planning approach because the Department's funding is under pressure and we have to make sure that we are systematic in the way we approach different parts of the country and are as fair as possible to everyone. I am very keen to accommodate, where possible, the needs of parents, but I have to work within the constraints of the budget and planning process. I am happy to work with representatives in the area.

Committee Report on Garda Oversight and Accountability: Motion

Deputy Caoimhghín Ó Caoláin: I move:

That Dáil Éireann shall consider the Report of the Joint Committee on Justice and Equality entitled 'Report on Garda Oversight and Accountability', copies of which were laid before Dáil Éireann on 15th December, 2016.

I thank the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, for her attendance to debate the report of the committee on Garda oversight and accountability. I also thank the members of the Joint Committee on Justice and Equality who contributed to the production of the report. The report was unanimously agreed by the committee at its meeting on 30 November 2016 and was formally launched in the audiovisual room on 15 December. I am delighted that it is now the subject of debate in the House.

The Joint Committee on Justice and Equality identified Garda oversight and accountability as one of the issues it wanted to address in its work programme agreed in September 2016. The committee was of the view that, notwithstanding the outstanding work of the overwhelming majority of members of An Garda Síochána, the service has been mired in controversy in recent years, relating in particular, but not exclusively, to whistleblowers' allegations. The joint committee is also of the view that it is of critical importance that public confidence in An Garda Síochána is restored and maintained by having the highest standards of oversight and accountability.

To assist it in its work, the joint committee invited representatives from the three oversight bodies, namely, the Garda Síochána Ombudsman Commission, the Policing Authority and the Garda Inspectorate. The committee also met with the Garda Commissioner and senior repre-

sentatives of An Garda Síochána. We met Judge Mary Ellen Ring, chairperson of the Garda Síochána Ombudsman Commission, and Ms Carmel Foley, Commissioner, on 21 September. This was followed on 28 September by an engagement with Ms Josephine Feehily, chairperson of the Policing Authority, and Ms Helen Hall, the CEO of that body.

The meeting with the Garda Inspectorate took place on 19 October, when the then deputy chief inspector Mr. Mark Toland and acting deputy chief inspector Eimear Fisher came before the committee. We met Garda Commissioner Nóirín O'Sullivan on 12 October. She was accompanied by deputy commissioner Donal Ó Cualáin and assistant commissioner Eugene Corcoran, assistant commissioner Jack Nolan, Joe Nugent, the chief administrative officer, and Gurchand Singh, head of the analysis service.

During the course of the evidence heard, it became evident that the legislative powers governing the oversight bodies needed to be strengthened to ensure more effective oversight and accountability. Our report contains nine recommendations which are set out on pages 20 to 22. The first three recommendations relate to GSOC. The legislation underpinning GSOC, the Garda Síochána Act 2005, has been in operation for over ten years and the committee recommends that Part 4 of the Act should be amended and updated to facilitate GSOC in functioning more effectively and efficiently and recommends a number of reforms such as informal resolution, improved oversight of complaints referred to An Garda Síochána, enhanced powers in regard to reviewing investigations and extending the power of GSOC to investigate former members of An Garda Síochána.

Recommendations 4 and 5 relate to the Policing Authority. Recommendation 4 recommended that the regulations and commencement order to allow the Policing Authority to appoint persons to the senior ranks of An Garda Síochána be completed without further delay. I understand that this provision came into operation as of 1 January this year, which I welcome, and I thank the Tánaiste for acting on this important matter. Recommendation 5 is recommending that the statutory remit of the Policing Authority be expanded to include the following functions and responsibilities: supervise the function of the Garda Commissioner's Office and the discharge of functions by the Commissioner; appoint, supervise and, where appropriate, discipline senior management within An Garda Síochána; establish policies or procedures for An Garda Síochána; cause to be published and made accessible to the public all sections of the Garda code and Garda operational policies and procedures; and review the adequacy and appropriateness of the policies and procedures which underpin the operation of an effective policing service. Recommendation 6 is calling for the Garda Inspectorate to be given statutory power to make unannounced visits to Garda premises, as is the case in other jurisdictions.

Recommendations 7 and 8 relate to whistleblowers. The committee acknowledges the importance of the role of whistleblowers within An Garda Síochána and the important role they play in highlighting inappropriate actions or behaviour, helping improve accountability and enhancing the service provided. In that regard the culture within An Garda Síochána must develop and mature in order that the true benefit of whistleblowers who identify malpractice and-or wrongdoing is properly recognised and respected within the service. Furthermore, sanctions should be introduced and applied to serving members of An Garda Síochána, up to and including demotion, where they are found to have interfered with and-or obstructed legitimate whistleblower claims and evidence. In the most serious of cases, sanctions up to and including dismissal from the Garda service would apply. I want to state very clearly that the committee members adopted this and the previous recommendations because they, individually and collectively, want to see emerging from this period of great uncertainty within An Garda Síochána

2 February 2017

and of great disquiet among the public a police service that will have the deserved confidence, respect and support of all citizens.

The final recommendation relates to resources. The committee is of the view that to ensure effective oversight and accountability of the policing service, it is imperative that all the bodies engaged in Garda oversight are adequately resourced to enable them to carry out their functions efficiently and effectively. The determination of the required additional resourcing should be carried out in consultation with the respective bodies. The committee is of the view that the implementation of the recommendations contained in the report will result in significant strengthening of the oversight powers and thereby will help restore public confidence in the service which will benefit both the public and the serving members of An Garda Síochána.

It is the earnest hope of the members of the Joint Committee on Justice and Equality that all the recommendations are accepted and acted upon by the Minister. I hope that she will reflect positively on the report and its recommendations and advise a timeframe for action.

I thank the oversight bodies and the Garda Commissioner for the evidence they presented to the committee. We were very appreciative of the time given by each of the delegations. On behalf of the committee, I express to all concerned our gratitude. I urge everyone to read this report in conjunction with the transcript which is available on the committee page of the Oireachtas website. I commend the report to the House.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I welcome the report on Garda oversight and accountability, which is a critically important area. The report was published by the joint committee. It represents a significant contribution to the ongoing debate on policing in this country. I thank Deputy Ó Caoláin, who chaired the committee, and the committee members for the production of the report in such a timely way. It will make a contribution to reforms in this area. I look forward to working with the committee and engaging with it on the various recommendations.

Since my appointment as Minister for Justice and Equality, I have overseen a significant programme of reform. There are many different elements to it. I have made it clear that the process of reform does not end and must continue. It must be ongoing. It is not all done at once, however, nor is it done overnight. It needs to be an ongoing process and engagement about reform and these important issues of oversight and accountability. Reform must be our watchword. There is no question but that change is the order of the day at present. However, it must be managed and carefully considered, which is what happened in the report. Reform never stops and we must end bad practices wherever they occur, which is why oversight and accountability are so important. They lessen the chances of that happening and, more important, of it continuing.

I am pleased to take the opportunity afforded to me by this debate to inform the House that I intend to seek Government approval shortly to prepare heads of a Bill to amend Part 4 of the Garda Síochána Act 2005, which concerns the Garda Síochána Ombudsman Commission to improve its operation. This was recommended in the report. I will return to this presently.

As part of the programme of reform which I initiated, there have been very significant legislative changes related to policing in this country in recent years. Any reasonable observer of these changes would acknowledge that. When we consider the history of policing in the country, some of these changes have been quite dramatic and include the establishment of the

Policing Authority, which is at an early stage of development. Therefore, we must be careful in trying to evaluate the contribution of these changes before they have had enough time to make their full impact. When we set up new organisations such as the Policing Authority, it is important to be aware that we have to give it time to settle in and develop its resources and staffing expertise, its programme of work and its strategy. There has been an excellent start under a chairwoman who is doing an excellent job and board members who are totally committed to the work in hand.

As Deputy Ó Caoláin stated, it is very important that we restore and maintain confidence in An Garda Síochána. It is a central part of our democracy, so it is critical the public has confidence in it. Gardaí put their lives on the line when they go out to do their work every day. We have seen that some have paid the ultimate price while doing their job. I agree with Deputy Ó Caoláin that it is important we show our appreciation for the work they do day in, day out, that is, the everyday work they do. We have seen some excellent examples of operations in recent weeks that challenge and interrupt crime and bring criminals to justice. There was Operation Hybrid and Operation Thor and there was a huge reduction in burglaries as a result of targeted policing in recent times. This was very striking targeted policing that has really made a difference to the quality of life of our citizens. As a Government, we have also dedicated huge resources in this regard. I believe that all members of An Garda Síochána throughout the organisations are entitled to take credit for those achievements.

The report addresses a number of specific issues related to An Garda Síochána itself and those other bodies that have a role in oversight, accountability and reform. I will say a few words on each aspect. GSOC has a very important role in ensuring public confidence in An Garda Síochána is safeguarded. It has extensive powers under the 2005 Act to enable it to carry out its responsibilities. Significant changes were made to the powers of GSOC in the past two years, including making GSOC a dedicated body for receiving protected disclosures.

I am committed to ensuring that we have in place the most effective mechanism for the investigation of complaints. I met the chairperson and other members of the Garda Síochána Ombudsman Commission in early January in the context of considering what changes are necessary. In her contribution to the joint committee's work and her meeting with me, the chairperson - and other members - called for changes to Part 4 of the 2005 Act which deals with the investigation of complaints in order, as she sees it, to allow GSOC to function more effectively. The chairperson also referred to minor service issues, which are also addressed in the report, that she felt should be managed by Garda line management rather than GSOC. I fully agree with her on this issue. The chairperson also sought changes to the powers of GSOC to require the Garda authorities to provide it with information and documents in the context of investigations.

Similarly, the joint committee report recommended, among other proposals, that service level issues be handled more efficiently; informal resolution, mediated by GSOC, be used more widely; and further measures to improve the timelines of conducting investigations be pursued. Recent reports show improvements in these timelines and this has been acknowledged.

The Garda Síochána Ombudsman Commission has been operating for ten years now and it is time to examine fundamentally the legislative provisions relating to the manner in which complaints are made to and dealt with by GSOC. Accordingly, I informed the chairperson that I propose to seek Government approval soon to prepare heads of a Bill to amend Part 4 to enable GSOC to carry out its functions more effectively and efficiently and help to continue to ensure

2 February 2017

proper accountability of the Garda Síochána in providing a service to the public. I expect the forthcoming changes to mirror very closely the recommendations in the joint committee's report. I must and will consult all relevant stakeholders during the preparation of the heads of a Bill.

Resources and funding, which have been increasing, will continue to be kept under review to ensure these oversight bodies are enabled to continue to operate effectively and efficiently and in accordance with their statutory remit.

The establishment of the Policing Authority has been one of the most significant and progressive reforms to the justice system in recent years. The recent transfer to the authority of the appointment function for senior ranks is a particularly important signal of this reform and not one that should be underestimated given the history of this issue and the change it signifies. There are suggestions that the provisions of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 are too limited and should provide for the full removal of the Government and Minister for Justice and Equality from any role in the area of policing. I repeat the general point I made that some changes need further time to embed themselves. We also have to be mindful too of the constitutional restrictions, as advised by the Attorney General when I was doing the legislation, on the extent to which it is open to the Government to delegate to another body important functions relating to the executive power of the State. This matter was considered very carefully when I was doing the legislation. The provisions in the Act are designed to strike the right balance between, on the one hand, the exercise by the Policing Authority of effective and meaningful oversight of the Garda Síochána and, on the other hand, the retention by government of essential residual powers in regard to policing. I accept fully that we need to monitor how these new arrangements are working.

The Garda Inspectorate performs a very valuable service in seeking to ensure the highest level of efficiency and effectiveness in the operation and administration of the Garda Síochána is maintained. I know the joint committee also heard evidence from An Garda Síochána. The modernisation and renewal programme 2016-21, published in June 2016, is the vehicle for the implementation of the Garda Inspectorate's wide range of recommendations aimed at An Garda Síochána. As Deputies will know - this is important - I have asked the Policing Authority to monitor implementation of these agreed recommendations. This creates another level of oversight. The Garda Inspectorate will make recommendations which the joint committee will examine from time to time. I have also asked the Policing Authority to monitor their implementation and I will receive the first report in the coming days.

I note the joint committee's recommendation on access by the Garda Inspectorate to Garda stations. I agree with this recommendation and I would like to progress it. It may be helpful to mention that we are considering what arrangements might be put in place for independent access to all places where people are detained in light of international developments in this area. I note the joint committee's report points out that this is done in other countries and I do not see any reason it could not be done in the context described in the report.

I note and accept fully the joint committee's reference to the important role played by whistleblowers within An Garda Síochána. In 2016, the Garda Síochána published its protected disclosures policy and it has been working with Transparency International Ireland and other external providers to create an environment to ensure whistleblowers are protected and supported. As Members are aware, in June I asked the Policing Authority to examine and report on the policies and procedures in place in An Garda Síochána to deal with protected disclosures

and make any relevant recommendations. The revision of the protected disclosures policy was finalised on 13 December 2016 and the revised document was published to the Garda internal portal on 14 December 2018. This is an area which is being kept under independent review by the Policing Authority. These matters have been the subject of public engagement between the authority and the Garda Commissioner and her team.

A new code of ethics has been prepared by the Policing Authority. People have spoken about a code of ethics for a long time and its launch two weeks ago is an important milestone. I also welcome the commitments in the policing plan to embed this code into the day to day thinking and actions of the organisation. The code is an impressive document to read and I want every new recruit in Templemore, from which several hundred gardaí graduated today, to know, understand and implement this extremely important code of ethics.

In the area of protected disclosures, it may be helpful to mention that I have received a report from Mr. Justice Iarfhlaith O'Neill relating to two protected disclosures I received in October last year. While I am still consulting the Attorney General on a number of complex issues which arise, I expect to be in a position to bring proposals to Government in the very near future.

I hope it is clear from what I have said that the Government and I are committed to ensuring that An Garda Síochána continues to provide a modern, efficient and accountable policing service. The new structures which have been put in place are a significant contribution to that. As I stated, reform is ongoing. I welcome the report and I have given my initial reaction to a number of the recommendations it makes and the progress I intend to make on them. I thank the chairperson and members of the joint committee for their report, which provided a valuable input into the discussions I had and will no doubt have in future. It will also help in progressing some of the changes I have outlined to the House.

It is very important that we continue to work together to ensure An Garda Síochána is as accountable and effective as possible. The considerable resources the Government has committed to the Garda in recent years have resulted in the reopening of Templemore, the recruitment of new gardaí and more civilians to a force that will have 21,000 people, new vehicles and more information technology resources. All this will contribute to efficiency and accountability.

I thank the joint committee for its report. The recommendations cover the activities of the Garda, GSOC, the Policing Authority and the Garda Inspectorate. Each of these bodies has its own functions and objectives. I have tried to be as comprehensive as possible in the time provided and to give as clear an indication as I can at this stage as to how I view the recommendations in the report.

Deputy Jack Chambers: I thank the Cathaoirleach of the Joint Committee on Justice and Equality, Deputy Caoimhghín Ó Caoláin, who played a very proactive role in compiling this report. I also thank the other members of the joint committee for their input and welcome those who are present. The report was primarily based on engagements the committee had with An Garda Síochána, the Garda Síochána Ombudsman Commission, the Garda Inspectorate and the Policing Authority. These discussions and engagements were invaluable in gaining a better understanding of the existing oversight and procedures within and outside the operation of the country's police force. There are many strengths and weaknesses currently being practised and the report addresses these in good measure.

2 February 2017

The report and its recommendations should be considered in the current environment of the ongoing efforts to reform An Garda Síochána following a number of recent controversies. I was pleased to hear contributors stress that An Garda Síochána is first and foremost a police service and its primary objective is to serve and assist the people of this State. It is of fundamental importance that the focus of the Garda charter is on communities and community interaction. Public confidence in upholding the law of our country and the Garda Síochána's role in developing proper public confidence will be critical into the future in the context of what has happened in recent months and years.

The report is intended to ensure there are robust oversight structures and mechanisms in place which will ultimately help gardaí to carry out their duties in an effective way and ensure they are receiving the necessary supports to do so. However, ink on a page alone will not achieve this. The onus is now on the Minister to ensure these recommendations are implemented. It will be to the detriment of the hard working men and women of An Garda Síochána if this is just another report left to gather dust. The shelves of Government Buildings are already groaning under the weight of inaction. I sincerely hope this report will not end up on a shelf.

The meetings with the four agencies were beneficial, although I concede I am still unclear about some areas, including where one agency's remit ends and the next one begins. There seems to me to be a crossover and some grey areas. Some of the recommendations aim to remedy this. I was surprised to learn from my own meetings with the Policing Authority on the issue of its engagement. In my view, it should be critical engagement. There should be greater separation between the Policing Authority and senior management of An Garda Síochána. In saying that, I am not personalising anyone within or An Garda Síochána or the Policing Authority. A proper oversight mechanism must be such that the auditor or anyone who provides oversight does not have a collaborative, constructive input into the making of a policing plan. In my view, its role should be to analyse and engage critically on policing plans and then to bring those plans to senior management who will then bring them to the Policing Authority. It was mentioned that the issue in this regard is one of time and efficiency. In my view, it would be better if the Policing Authority had a greater degree of separation and oversight competencies such that it does not involve itself in the act of making a police plan because were it to be the scribe of a plan it would be difficult for it to provide adequate oversight of it.

Many of the recommendations are aimed at freeing up resources. We learned that one in five complaints dealt with by GSOC are minor in nature and could be more effectively dealt with in-house by Garda line management. It is also recommended that mediation be more widely used, where appropriate, to resolve disputes quickly. I welcome the Minister's statement in regard to the additional powers to be provided by way of amendment of Part 4 of the Garda Síochána Act. I hope this can be progressed expeditiously through the House. As a committee we were all agreed on the need to for GSOC to be empowered and resourced to play its role as set out in the legislative framework.

The provisions in the Garda Síochána Act in regard to appointments within the service need to be commenced to allow the Policing Authority to appoint Garda to senior rank. I know this matter is also being progressed. Promoting young officers who have shown promise in their fields is crucial to maintaining high policing standards. This is especially true in the current climate of retirement of many senior officers from An Garda Síochána.

I also welcome the recommendations relating to whistleblowers, which were suggested by members across the committee, including my party colleague, Deputy Jim O'Callaghan, who

will be in the House later to speak on this issue. In all organisations and institutions, transparency is paramount and whistleblowers play an important role in this regard. Gardaí should feel confident to raise matters of concern and such practice plays an invaluable role in improving accountability and enhancing services to the public. Officers who raise concerns should be supported, not inhibited, by management and colleagues. It should be a matter of pride for a garda to know that he or she and his or her colleagues are doing their best to serve the people.

During the hearings, I raised important issues around helping gardaí on a day-to-day basis as they tackle ruthless criminals who are well-resourced and use the latest technologies to evade the Garda. The need for modern technologies was also recognised by the Garda Inspectorate during its appearance before the committee. Gardaí have had many recent successes in combating criminals and their empires. It is no coincidence this has come about because extra resources and personnel have been deployed in sophisticated, intelligence-led operations. The recent high profile drugs seizures and arrests in relation to the ongoing feud in Dublin are to be commended. However, further success is dependent on gardaí remaining one step ahead of these subversives. The most up to date technologies need to be made available. I would like to see greater roll-out of automatic number plate recognition, ANPR, technology. I do not believe this is being progressed as quickly as it should be, although I acknowledge that allocations in this regard have increased. We are way behind a number of countries, including the UK, in relation to ANPR technology. This must be to the fore in tackling many issues. As I said, this technology and the roll-out of other IT infrastructure will greatly assist the Garda in their investigations. I have previously raised that issue with the Tánaiste. In addition, there is no reason why gardaí should not be utilising real time information on their mobile phones. Specialist units, focusing on the rapidly developing world of cyber-crime, also need to be set up.

I again call on the Tánaiste to ensure that officers have the necessary resources to continue to keep our streets safe. Additional budgetary allocations should not be a once-off response to the ongoing feuds in Dublin and elsewhere but a continual funding model to tackle serious crime. Other important measures going forward include the hiring of civilians with appropriate skillsets to allow increased visibility of Garda on the streets and enhancing the role of community policing teams. Unfortunately, owing to years of cuts and disregard the morale among many gardaí is now very low. Most worryingly, young gardaí appear to be among the most disenchanted. These are the officers who should be the most excited and invigorated in their work. We all have a lot of work to do to rectify this and I hope adoption of this report will go a way towards this goal.

I thank the Chairman of the Joint Committee on Justice and Equality for his work in relation to this report. The committee has an exciting work programme this year. I look forward to hearing the contributions to this debate of other members of the committee.

Deputy Mick Wallace: Deputy Ó Caoláin is probably tiring of being complimented and told how wonderful he is. Nevertheless, I compliment him on his work and on his enthusiasm as Chairman of the Joint Committee on Justice and Equality. I also thank the Minister for being here tonight for this debate. As I have criticised her in the past when she did not come to the House for other debates, it is only fair that I should commend her when she does so. The Minister was here late last night, early this morning for Leaders' Questions and the Order of Business and she also dealt this afternoon with the legislation relating to sex workers. It is no fun for any of us, or the staff, to be here at 7 p.m. on a Thursday evening. As for the Ceann Comhairle, he probably has nothing better to do.

An Ceann Comhairle: Thank you.

Deputy Mick Wallace: I welcome the points made by the Minister in regard to Part 4 of the Garda Síochána Act and the creation of capacity for the Garda Inspectorate to make unannounced visits. It is pretty much common sense that that should be allowed because any notice in respect of a visit allows for preparation for it. It does not make any sense for someone in an inspectorate capacity to have to give notice of a visit.

I would like to address a couple of the recommendations. One of the recommendations states:

Enhanced powers for GSOC in relation to reviewing investigations. In unsupervised investigations, a complainant has a right to have GSOC review the investigation. However, the outcome stands.

That certainly needs to be addressed.

Just how the Minister will do that will be interesting. One can introduce rules and regulations until the cows come home but they must be implemented. Will there be sanctions if there is non-compliance? In light of how the Garda relates to GSOC, there is much speculation on how it will relate to the Policing Authority and Garda Inspectorate.

It goes without saying that we are still raising many issues that we find unsatisfactory in respect of how things are done but, being an optimist, I am of the view that change is coming, albeit very slowly. I acknowledge it is not easy to implement change.

In 2012, Deputy Clare Daly and I put a lot of time into examining how we do policing in Ireland. That is when the first whistleblowers came to us. There definitely has been some change in the past four and a half years, but probably not as much as we would like. When the former Commissioner, Mr. Martin Callinan, and the former Minister, Mr. Alan Shatter, departed the scene before mid-2014, we felt there would be serious change. There was a lot of talk about change. There was some but not nearly enough. I will address a few points in this regard in a minute. We have been raising many issues in respect of the new Commissioner. Obviously, from our perspective circumstances are far from what they should be.

Sadly, serious change is still to be made in the organisation. A huge cultural change is required. To achieve this, there will be a need for a change to the hierarchy in An Garda Síochána. When Northern Ireland considered replacing the RUC with a new organisation, which became the PSNI, Mr. Patten was adamant that the desired change would not occur until the authorities got rid of the hierarchy. They literally did so. They more or less paid off the staff in the top sections, moved on and created a new field of players at the top. That will have to happen here also.

In 2013 and 2014, we introduced policing Bills. In 2013, our recommendations were laughed out of this House. In 2014, our Bill was allowed to pass through the House but it did not get any further. Looking back at this matter today, I picked out a few points. Our Bill at the time proposed to set up an independent policing board similar to that of Northern Ireland in its powers and level of independence from Government interference. The Bill provided that the new policing board would appoint and remove the Garda Commissioner and deputy and assistant commissioners following consultation with the Minister, and that it would appoint superintendents and chief superintendents in consultation with the Minister. The Government's

Policing Authority Bill, however, left the appointment of the Commissioner and deputy commissioner in the hands of the Government and allowed the authority the power to nominate in accordance with the recommendations of the Public Appointments Service, which provides us with one name only. That Bill also allowed that the Minister for Justice and Equality and the Minister for Public Expenditure and Reform would determine the number of appointments to assistant commissioner, chief superintendent and superintendent levels, but that the authority could make these appointments subject to a selection competition. This left the system under the 2006 and 2014 regulations intact such that the selections are by the promotions advisory council and board, controlled by the Commissioner and Minister and which choose candidates for the authority to rubber-stamp. We are of the opinion that the Policing Authority needs to be made more independent of the Government. We still believe we need to further the depoliticisation of our policing service if we are to have the sort of service we would love to have.

Like Ms Justice Mary Ellen Ring when she appeared before the committee, I believe GSOC is not yet in any way fit for purpose, as it should be. The Minister has agreed to make some changes. Every recommendation in the committee's report should be considered strongly. I acknowledge the Minister will implement some of them. When the Garda Inspectorate produced 200 recommendations approximately two years ago, the Commissioner said she would take some of them on board. She did but it is a pity she is not compelled to take all of them on board.

The Minister said she would publish the O'Neill report in the very near future. Could she confirm that she will publish it before the end of this month? What are her plans in this regard?

We can bring in various measures and make things better, which is good. Circumstances are improving. It is important to note that the people now expect a different police service. That places extra pressure on An Garda Síochána to consider how it operates. If we are really to have the police service we want, it is imperative to have cultural change. We need a change to and a clean sweep of the existing hierarchy in order to bring about that cultural change.

Deputy Clare Daly: Like everyone else, I thank the industrious Chairman of our committee who has us here again on a Thursday evening. Ours is the most productive committee and has issued many reports. It is important to state this is the first justice report we have published. We have published two based on our equality brief. In some ways, it is not accidental that this is the topic we chose first because it is of enormous interest to society and the Garda.

7 o'clock We have all been educated over recent years and I will not repeat the points on the committee's recommendations except to say we regard them all as a package. This report is not just aspirational, containing ideas we have circulated for the craic; these are serious observations, made in part on the basis of the engagement we had with the oversight bodies and the Commissioner and her team and in part from our experience over recent times. In that context, I welcome the fact that the Minister will take on board some of the committee's recommendations. That is a very welcome development. Without in any way being churlish, I believe it is an awful pity some of the recommendations were not taken on board previously.

It is a matter of record that many of the recommendations contained in the report and the Minister's Bill were made by us a number of years ago during the debate on the first GSOC and Policing Authority Bills. I am not saying this to score points, but people have suffered as a result of some of these provisions not being available during the two years since the most recent GSOC Bill was implemented.

GSOC has been unable to do the job expected of it as a Garda oversight body. When we

first heard of or came into contact with it, we knew that many members of the public who had approached it believed - they still do - that it was a part of the conspiracy and was only there to whitewash the Garda's activities, not uphold complaints. They believed this because of the low follow-up levels. Perhaps we also believed this at first, but it has not been our experience. Our engagement with GSOC in recent years has led us to believe that it has capable personnel within its ranks, but that they must work within deficient structures. While they have a desire to hold the Garda to account and investigate complaints, the Oireachtas has not given them sufficient legislation to do so. That is what the committee is asking the Minister to do. Legislation is necessary if GSOC is to do the job that it is supposed to do. It also needs the ability and, importantly, the resources to fill vacancies when they arise.

We must be realistic about why the concept of oversight has gained popular currency and is being talked about by the dogs on the street. There is just one reason, that being, the heroic stance of a number of Garda whistleblowers who shed a light on an insular blue wall of silence, an organisation in which, contrary to what the Commissioner says, dissent was deemed to be disloyalty and punished accordingly. The order of the day was rats, death threats and serious intimidation of people who tried to do the right thing.

The public perception of what a whistleblower is has been stood on its head. Now, being a whistleblower is identified as a position to be lauded, and one that makes a valuable contribution to improving the situation for all gardaí and members of society. There are many good gardaí and, for some time, they have believed that the situation will change. They stepped forward accordingly to join the ranks of the whistleblowers and improve matters.

We have engaged with ten serving members of An Garda Síochána who have made protected disclosures of one sort or another. Under a change in the previous legislation, GSOC is now the confidential recipient and the vehicle through which gardaí make complaints. That service needs to be beefed up radically because GSOC does not have the time or resources to provide it adequately. It does not have the legislative power to compel Garda co-operation that it needs. Many cases have stalled because of delays in the Garda handing over material that GSOC needs to conduct its investigations. This non-co-operation continues today. It can be covered up as administrative delays and so on, but it impacts on the work being done. A number of the whistleblower cases in question are in the public domain, but others whose cases are with GSOC - in the instance of Keith Harrison, for more than two years - have had relatively limited meaningful engagement with GSOC because of delays with documentation and so on. In Nicky Keogh's case, the GSOC investigation has practically concluded and disciplinary recommendations have been made, but the Garda has not agreed to GSOC's involvement.

These serious matters are ongoing. One must ask, if the situation is improving, why all these gardaí bar one are out sick. All have made allegations about bullying and harassment since coming forward, which is in direct contrast with the public statements of the Commissioner that she does not know of any harassment. We know that she has been directly informed of that harassment, as has the Minister. Most recently, serious allegations were made, and were widely covered in the provincial media, during an assault case after Christmas. In open court, evidence was produced of doctored witness statements. The people involved in the assault were also involved in a case in which a garda had been accused of involvement in the drug trade and so on. Criminal prosecutions are being impacted.

The situation cannot be right if so many people are out sick. The case of the only garda who made a protected disclosure but who is not out sick is appalling. It involves a family law

case. He received information to the effect that the judge, who was a family friend of his former wife, had held a meeting before the court case and then granted a protection order against him. He then made a complaint to the Garda. Not only was his complaint not investigated, but the senior garda involved initiated criminal proceedings against him for interfering with the judicial process when the circumstances clearly did not meet the criteria. That person, albeit a member of the Garda, was a victim, only to be revictimised by what the senior garda did. To add insult to injury for him and a number of other Garda whistleblowers, the very man who did that was brought by the Commissioner to attend our committee's hearings into oversight as a witness for An Garda Síochána. Confidence among serving members is not developed if this type of behaviour is happening.

The Minister will see from the committee's recommendations that we want the Policing Authority to have more control over the Commissioner. This is not a new idea. The authority needs to be beefed up. This relates to the Minister's remarks about the O'Neill report. It is not acceptable that she has had that report since October. It is now February. It is not a large report and is pretty straightforward.

Deputy Frances Fitzgerald: December.

Deputy Clare Daly: The process was initiated in October and Mr. Justice O'Neill was supposed to have concluded it quickly. The Minister has probably had it for two months, although certainly for six weeks. It is only a paper review. It is not a large body of work. Clearly, there are questions for the Commissioner to answer and the political problem is one of how she can remain in place while the matter is being investigated. She cannot, not when every other garda who is under investigation is removed.

The ability of the Policing Authority to hire and fire the Commissioner is key if we are to develop independence at the top, as that is where the change must come from if we are to get the type of service that we need. We are a long way from that, however. We are on the road, but I am not sure that we are even half way through the journey.

We look forward to seeing the Minister's Bill, but we want it to include all our recommendations.

Deputy Louise O'Reilly: I welcome the opportunity to contribute on this important Oireachtas committee report into Garda oversight and accountability and I join colleagues in commending the Chairman, an Teachta Ó Caoláin, for progressing it. The report is a comprehensive document that provides an outline of the Garda oversight mechanisms currently in place, with the committee hearings functioning to review these powers and identify how they could be strengthened to make oversight more effective. The committee engaged in extensive questioning of GSOC, the Policing Authority, the Garda through the Commissioner and the Garda Inspectorate.

On the face of it, we have an extensive oversight structure, with GSOC investigating matters of alleged misconduct by gardaí, public complaints and matters referred to it by the Policing Authority or the Garda Commissioner. The Garda Inspectorate has inspection powers over the operation and administration of the Garda and advises the Minister and the Policing Authority on best practice. The Policing Authority has oversight of the Garda's performance.

The Garda Síochána Act 2005 was a landmark law, but it came after what was arguably the greatest scandal ever faced by the Garda. The Morris tribunal identified gross misconduct

and corruption within one Garda division. It is unfortunate that the reforms to oversight in this jurisdiction have been driven by intermittent crises of confidence in the work the Garda is doing. We must take this report now and strive to do better, not because of a national scandal but because we want the police service to be human rights compliant.

I acknowledge that reforms have been made to at least introduce a theoretical model allowing for the independent investigation of complaints, but there is clearly a problem concerning the level of public confidence in how complaints are handled, and there is often a lack of transparency. The members of GSOC are appointed on the nomination of the Government. However, the practice is that it is the Minister who chooses and there are no independent applications, interviews or competition. The European Human Rights Commissioner has stated that is not fully compliant with human rights based practice which stipulates that the ombudsman should be accountable to the legislative assembly.

As far back as 2013 when GSOC was under the spotlight regarding a failure to investigate certain complaints expeditiously, it resulted in the submission of a special report to the then Minister for Justice and Equality on its public interest investigation of Garda compliance with informant handling procedures. The report was at pains to outline the commission's dependence on Garda information and the barriers that existed to it in accessing the information. Accessing such information was necessary for the organisation to be able to fulfil a core function effectively. The report explicitly stated that it "reflected a serious weakness in the independent investigation of complaints", leading to questions being raised over the oversight investigative function of GSOC. That was reiterated in a subsequent report that same year.

One of the difficulties regarding complaints procedures is that they are often not as independent as they need to be. Research conducted in this and other jurisdictions has suggested that the habit of gardaí investigating gardaí leads to a lack of public confidence. While the policing skills of the Garda are valued and the experience of members should not be disregarded, they can often be prone to viewing a matter through the eyes of another garda as opposed to a complainant member of the public, and even where they are absolutely professional and do not engage in that practice, there is the risk that they appear to be biased. That is relevant at the grassroots level of the Garda as one of the committee recommendations is that the minor complaints should be investigated through standard Garda line management rather than soaking up GSOC resources. Clearly, there is merit to this idea. However, careful attention must be paid to how that would be implemented in order that people who have legitimate grievances can have faith that the senior garda to whom they complain will investigate the matter effectively.

The Garda in general is well respected by the public. One only has to examine the esteem in which people in rural areas hold their local stations to see that. However, that connection with the public does not automatically equate to accountability to the public, and as this committee report outlines, there is much more to be done in this regard. Policing structures throughout Ireland can only benefit from maximum openness, accountability and oversight. Sinn Féin is committed to working within the existing structures of accountability and oversight throughout Ireland, to strengthening accountability structures where they do not work properly, and to creating new structures where they do not yet exist.

It was important that the committee report referred to the Patten commission report and the Good Friday Agreement. It was, and remains, our view that the model of oversight that emerged from Patten, namely, an independent civilian management board, independent community policing partnerships operating at district level and an independent ombudsman to han-

dle complaints, offers the greatest potential for ensuring policing is non-partisan, that it can be held to account in the event of wrongdoing, and that its primary focus is on policing within the community.

The Garda Síochána Ombudsman Commission is not actually independent. It is almost entirely dependent on the Garda to conduct its investigations for it. A number of key staff are seconded from the Garda, others were transferred directly from the old Garda Complaints Board or simply retired from the Garda Síochána to take up a position immediately in the ombudsman commission. Complainants' reported experience has involved huge delays in responding to and progressing complaints, failure to return calls, failure to keep complainants updated on the progress of investigations, despite express commitments to do so, and a failure to provide reasons for decisions. Some but not all of that can be explained by resource issues.

All of the above significantly undermine any semblance of transparency or openness in the complaints process, making confidence in the current system impossible. The report found that there is a lack of proper oversight and accountability in formal disciplinary investigations. Sinn Féin believes that only by achieving high standards of discipline based on honesty, integrity and transparency will a police service earn the confidence and support of the community. Without that confidence and support, all other aspects of policing are undermined. An effective system for disciplinary proceedings for misconduct when necessary and prosecutions for criminal behaviour where warranted are therefore an essential complement to the oversight mechanisms outlined. That is necessary for enforcing human rights compliance and ethical conduct standards.

The analysis of complaints, discipline and civil actions against the police provides important information for monitoring the PSNI's and the Garda's compliance with human rights and equality legislation and the European Convention on Human Rights in particular. Both the number and content of such complaints are an effective measure of the relationship between the police and the community and the efficacy of police policy and practice. Sinn Féin believes that less serious complaints, involving rude conduct or unprofessionalism, for example, should be resolved informally but, as stated previously, work needs to be done to ensure public faith in the process. Further, given that the Garda disciplinary regulations date back to 2007, it is clear they should be reviewed and updated where necessary.

During every discussion concerning Garda oversight and the Garda Inspectorate, the issue of not being able to carry out unannounced visits to Garda stations has arisen. That should be rectified as a matter of urgency and it should be noted that this report refers to a previous committee report that stated any protocol requiring advance notice of inspections should be removed by amending the Garda Síochána Act of 2005.

There is no barrier to doing so, bar the lack of political will to carry that out. That is just one legislative measure that is needed. We welcome the recommendations in the report stating that GSOC should be given enhanced powers in reviewing investigations and that measures must be taken to provide a penalty for failure by the Garda to deliver reports back to GSOC, as well as allowing GSOC a statutory framework in which it can report back to the Garda on systemic issues it may need to rectify. I urge the Minister to bring forward the inspection of places of detention Bill, which is on the legislative programme, to enable the ratification of the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is accepted that different jurisdictions will be at different junctures in a process of developing police accountability and human rights compliance, and

demands have been made from political representatives, activist groups and non-governmental organisations, including the Irish Human Rights and Equality Commission, which has said that we should look to the Six Counties in reducing the democratic deficit of police accountability. Regrettably, the Garda still cannot be held fully to account under the existing structures of accountability in the Twenty-six Counties. The gap between oversight structures North and South should be removed as a matter of urgency. The NI Criminal Justice Inspectorate has been in place since 2002 and the matter should not be delayed any further. We welcome the report and its recommendations and look forward to the robust discussions that will take place during their implementation.

Deputy Jim O’Callaghan: Approximately 50% of my time as spokesperson for justice and equality is devoted to issues concerning An Garda Síochána. That is not surprising when one considers that it is a force of up to 13,000 members who interact with members of the public every day. One of the downsides of discussing An Garda Síochána in this House is that we only really get to focus on issues affecting An Garda Síochána when things go wrong. One of my first debates as justice and equality spokesperson was in respect of the O’Higgins report that highlighted a number of failings within the Cavan-Monaghan division of An Garda Síochána, and it correctly received much discussion in here and publicity in the media.

It is also important, however, to acknowledge the good work An Garda Síochána does every day of the week. One could say that is just a platitude and we are not here to discuss that, but in recent times An Garda Síochána has had considerable successes in terms of the investigations it does. The guilt or innocence of any individuals who are subjected to a Garda investigation is a matter for the courts, but what is apparent in recent times is that An Garda Síochána has achieved considerable success. On behalf of myself and Fianna Fáil I commend and congratulate the Garda on those recent successes. It deserves to be commended in respect of them. When gardaí make mistakes, overstep the mark or engage in wrongdoing, it is important that this House discusses and refers to that. Similarly, when An Garda Síochána does excellent work, it is important to refer to it.

I also refer to the work of the Oireachtas Committee on Justice and Equality chaired by Deputy Ó Caoláin. The process we went through last year for the purpose of appraising and evaluating the oversight of An Garda Síochána was an excellent piece of work. Representatives of GSOC, the Policing Authority and the Garda Síochána Inspectorate appeared before the committee, as did the Garda Commissioner and her senior officers. It was an excellent example of how the democratic process and the representative body that is the Houses of the Oireachtas keep an overview of the statutory bodies we create. Sometimes laws are passed and statutory bodies created and we wave goodbye and have no more to do with them. It is essential that the Joint Committee on Justice and Equality continues to review the work of An Garda Síochána to see how the system can be improved on a ongoing basis. I commend the Chairman and members of the committee. The process that took place was very useful. It did not involve interaction with any Government Ministers but it was an illustration of how the Oireachtas can fulfil its very important functions pursuant to its oversight role.

When one looks at the committee’s report, one will see that it has produced many recommendations relating to the specific statutory bodies established under the Garda Síochána Act 2005 that are responsible for Garda oversight. GSOC appeared before the committee. I welcome its chairman, Ms Justice Mary Ellen Ring, and other persons from GSOC to the Public Gallery. GSOC plays a vital role in Garda oversight. As Fianna Fáil justice spokesperson, I am frequently contacted by people who complain that An Garda Síochána did not provide them

with a good service. Sometimes they claim that there was Garda wrongdoing. As a politician, I cannot assess that. I can listen to them and give them advice but it is essential that we have a statutory body that is responsible for investigating allegations of Garda wrongdoing. We have the correct statutory system in place by having GSOC there to do it. I am concerned that sometimes when complaints are made to GSOC, and serious ones have been made regarding members of An Garda Síochána, it can take a very long time for those reports to be completed. I refer, in particular, to the report into a complaint made by Lucia O'Farrell about the death of her son. I suspect the reason it takes so long is a question of resources. If we are serious about these statutory bodies fulfilling an important oversight role, it is important that they are properly resourced so that they can carry out their functions. Without the necessary resourcing, we are doing them a disservice.

The statutory body with the most opportunity for development and the most potential is the Policing Authority, which is chaired by Josephine Feehily. She came before the committee and gave a very good presentation in terms of the functions of the authority. It is a body that is just starting out. I welcome the fact that the authority now has responsibility for senior appointments and promotions with An Garda Síochána. This can bring about a very significant change in the manner of promotion within An Garda Síochána. It will be an important oversight mechanism in terms of how gardaí will be promoted, what competitions will be run, whether people from lower levels can jump one or two levels to be promoted if they show excellence and whether we are prepared to allow recruitment to An Garda Síochána through some graduate promotion at higher levels rather than by means of the traditional route through Templemore. This would require the intervention of the Minister and Oireachtas but it is something on which I will be interested in seeing the Policing Authority work.

The third relevant body the committee spoke to was the Garda Síochána Inspectorate, which produces reports on how the force can be more efficient and effective. It was a matter of some concern to me when somebody mentioned recently that the inspectorate's website used to have a display of its recommendations and information on whether they had been implemented by An Garda Síochána. I understand this has now been taken down. It is extremely important that if the inspectorate is to make recommendations that will have the effect of improving An Garda Síochána, we ensure that they are followed up. There is no point in bodies making recommendations and everybody being satisfied with them but there being no review process to appraise whether the relevant changes have been implemented. If we are serious about changing the force for the better, we need to ensure the inspectorate's recommendations are properly implemented and we need to be able to see what ones have not been implemented.

The fourth body that came before the committee was An Garda Síochána itself. I know that one of GSOC's recommendations, which I support, was that some minor complaints against members of An Garda Síochána should be handled within the force. They could be complaints about discourtesy or a Garda not being particularly polite to an individual. People are perfectly entitled to make those complaints but we are clogging up GSOC by requiring it to investigate what I would refer to as minor complaints. They are matters that should be dealt with by the employer, which is An Garda Síochána.

The Garda Commissioner came before the committee and discussed the changes that are taking place at senior level in the force. This is something we must keep under constant review. We sometimes allow personalities to take the place of the important priorities. We need to ensure that Garda reform continues at a pace. It is important, as Deputy Louise O'Reilly mentioned, that we recognise that the Irish public has faith in An Garda Síochána. This does not

mean that when a complaint is made or where we have serious concerns as to potential wrongdoing in An Garda Síochána, we turn a blind eye. We would be doing the public a disservice if we did so. However, it is important to recognise that we, as legislators, have a duty to apprise the public that this House has confidence in An Garda Síochána but that there are mechanisms in place to ensure that any wrongdoing by the force is identified and that we can improve its operations by means of the inspectorate and the Policing Authority.

The Tánaiste indicated that she proposes to amend Part 4 of the Garda Síochána Act to enable GSOC to carry out its functions more effectively and efficiently and to help continue to ensure the proper accountability of the force in providing a service to the public. In doing so, I hope and presume she will take on board the recommendations in the committee's report. The Committee on Justice and Equality is the first committee of which I have been a member, and it could be the last, but it represents what is best in the Houses of the Oireachtas. People leave their party affiliations outside and work together. I commend all the members of the committee, particularly the Chairman, who is very efficient, thorough and always on time and who has produced a series of reports. The last time I spoke about one of these reports which came before the Dáil, I praised the fact that the committee was heading the stakes in terms of the number of reports produced. I think we are now up to four. I will wait to see other committees come in here to introduce their reports.

Deputy Bernard J. Durkan: I have wanted to say few words about this issue for a long time. I congratulate the Chairman, members and secretariat of the committee for compiling the report, which they obviously took very seriously, as is indicated by the result. Gardaí have a right to be proud of their force and to take pride in their job, responsibilities and the public trust in them in anticipation of the latter's confidence being well founded. Over a period, a number of incidents throughout the country raised certain questions. There were countless debates inside and outside this House and a number of court cases took place. One thing that became obvious was that a gradual chipping away erodes public confidence in any system. This took place, as we in this House all know from observing events. It was unfortunate that this happened but a number of issues that were raised chipped away at that public confidence. As a result, gardaí are now said to have low morale, low confidence and low self-esteem. That is not good. It is now incumbent on everybody - us, as public representatives, gardaí, management of An Garda Síochána and the Minister - to recognise the importance and seriousness of ensuring issues that cause concern to the general public which are raised time and again are investigated thoroughly to the satisfaction of the justice system. That is without pillorying or victimising anybody or in any way dumbing down the organisation or individuals in it but to be sure to be sure we all have confidence in the system and the investigative procedures in order that we can relax in the clear knowledge that whatever is required of the Garda will be done impartially and in accordance with best practice.

I understand how gardaí feel from time to time when they receive criticism which is sometimes unjustified. They will say they are on the front line and they are facing criminals and everything that could be thrown in their direction. Very often they are treated with contempt by some members of the general public, which can be very demoralising. They raise the same questions repeatedly, yet nobody says, "Apart from that, you are doing a great job," because we tend to pick out the issues that irritate us and look at where things go wrong. Every aspect of our society has been tried and tested in the past 20 years or so and all have been found wanting in one way or another. There is no aspect of our society that has not been checked and tested in the courts by way of investigation or inquiry in the past 20 years and the reason is different

standards are now expected. There are different standards of transparency and accountability which did not apply many years ago, notwithstanding the fact that all those years ago gardaí had to stand up and put their lives at risk on a daily basis in carrying out their jobs. Some of them paid the ultimate price. In the course of this debate, therefore, we need to acknowledge the things that have happened and recognise the sacrifices made by the individual members of An Garda Síochána at all ranks and their families in the job they took on in very challenging circumstances.

I want to comment on the new procedures. I compliment the Tánaiste and previous Ministers on introducing GSOC, the Garda Inspectorate, the system of investigation and the new Policing Authority, all of which should serve to underline the importance of having public confidence in the system. When in difficulty, following a robbery or something more serious, a member of the public will ring An Garda Síochána. That is the first point of contact, but the telephone is not always answered. That is a fatal flaw. I know that there may be a difficulty with resources, but there should be no difficulty in ensuring the telephone is answered. That is the first time a member of the public who very often is vulnerable gets to measure his or her confidence in the system which he or she expects to protect him or her. We need to be certain that issue is addressed, but it is not always addressed and I am being as kind as I can in the circumstances. The Ceann Comhairle knows what I am talking about.

Within every big organisation there are victims and there are people who victimise others. There are people who bully others and there are people who have done the same thing for years and got away with it. I will not go into too much detail. Suffice it to say I recognise the importance of the whistleblower and the role he or she can and must take in current circumstances. That person should not be abused either, but there could be a tendency to do so. There is management or there is not and a whistleblower is not a manager but somebody who says something has gone wrong and needs to be addressed. Such matters need to be investigated and put right. However, it should not follow that the whistleblower should take on himself or herself executive powers because that is not his or her function but of somebody else in the pecking order. I emphasise this because we all have had experience of working with big organisations and people know what I am talking about.

In the context of the report, we should recognise the huge complementary work done by the Garda during the years. We should also recognise the challenges facing it and the growing demands which will only increase those challenges further. We should recognise that modern policing methods will help to make its job easier. Harking back to what happened in the past under the old system and how workable it was is a waste of time and energy. The Garda needs to adopt modern policing methods in concert with all other police forces throughout Europe and across the globe. We have to recognise that members of the general public can often point to various people who have committed horrendous crimes over a period of time and apparently walk away. There is that perception among the public. In many cases the Garda has pursued such persons endlessly and still seems to be thwarted and frustrated by the fact that somewhere along the line they seem to receive bail, get off with a warning, a suspended sentence or whatever the case may be. I am not making reference to any particular case, but we all know what I am talking about. We also need to address these issues because they are part of the delivery of the system. In the final analysis, members of the public expect the Garda to serve and protect them. It is the Garda's job to do this impartially, fairly and without fear or favour. When we get to that stage - we are on the way - we will have done a great job and justice to the system and need for accountability and transparency. We will also have done ourselves justice.

2 February 2017

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank all Members for their contributions to what has been a very balanced debate. I also take the opportunity, as Deputy Jim O’Callaghan did, to welcome Ms Justice Mary Ellen Ring, with Mr. Toland and other representatives of GSOC. I thank them publicly for their work and leadership.

As everyone has agreed, oversight and accountability are extremely important. Equally, members of An Garda Síochána have to be allowed to get on with the task of meeting the daily challenges in their work, as Deputy Bernard J. Durkan, in particular, emphasised. We have to acknowledge the challenges and demands posed by that work. As any objective person would conclude, at this point there is considerable oversight. There is the Garda Inspectorate, GSOC and the Policing Authority. Of course, An Garda Síochána also has its own disciplinary measures and there is the work of the Oireachtas Joint Committee on Justice and Equality. It is important to have an appropriate balance. We have to have the right bodies in place. As a number of Deputies said, we have to be absolutely sure the recommendations they make and the changes to which they point are implemented. We will need to spend a considerable amount of time examining the issue of implementation. The Oireachtas Joint Committee on Justice and Equality will undoubtedly also be doing this. Clearly, change within these organisations and the legislative changes we can make are an important aspect. Following my most recent meeting with GSOC, I highlighted that it was time for a review. It will be a ten-year review which will, of course, be informed very considerably by the work of the committee. I intend to go to the Government very shortly to get permission to produce the heads of legislation in that regard, on which I have no doubt we will have detailed discussions.

I want to make a general point about oversight bodies, and I saw this in the work of the Health Information and Quality Authority, HIQA, when I was Minister for Children and Youth Affairs. The relationships that are formed between, for example, An Garda Síochána and these bodies will go through different stages. To take the example of the Policing Authority, the relationship between the two bodies is at a very early stage and we have to give it time to bed down and to see where it goes in the future. The point I am making is that these relationships are developmental, and they need to be developmental. We must assess and monitor them and, as I said, reform is an essential part of that. It would be surprising if we did not talk about changes and developments in the legislation, as Deputy Ó Caoláin was suggesting, in the report with regard to the various bodies.

Suffice it to say that I fully endorse what people are saying with regard to transparency, accountability and oversight. We have come from a period some time ago where that was not the case. Undoubtedly, we have seen poor practice and the need for change. The more transparency and accountability that comes into the system, the better the service the public will get and the more satisfying it will be to be a member of An Garda Síochána. Quite a number of members have emphasised the need for cultural change, and management have to lead that cultural change. It is challenging, but I know from dealing with management of An Garda Síochána that it has a huge amount of experience. With regard to talk of a clean sweep, I believe cultural change is necessary but we must also recognise the level of experience and the contribution that has been made by so many people. That is not to sweep anything under the carpet or to say that change is not needed but we should take a balanced approach to this. We are all very aware that if one operates in a climate of constant criticism and undermining, it can be very hard to do one’s job and the citizens of this country need the members of An Garda Síochána to be out there delivering effective services. Quite a number of Deputies spoke about the regard with which the members of An Garda Síochána are held but it is clear that changes are necessary. We

have seen examples of poor practice in reports we have discussed in this House in very recent years, so there is work to be done. I believe that is recognised by all.

I thank the bodies involved in oversight and accountability. They do an incredibly important job. There is very good leadership in each of them. At the same time, we will examine if there are things we as legislators should do to ensure that they can do their job more effectively. That certainly will be in the interest of citizens as well.

Deputy Caoimhghín Ó Caoláin: I could not see our visitors, who must be in the Gallery behind me, but I would like to join with colleagues in welcoming Ms Justice Mary Ellen Ring, the commissioner, Mr. Mark Toland, and colleagues who I understand may be with them here this evening.

I would again like to record my thanks to the Tánaiste and Minister for Justice and Equality for attending and engaging with us in this debate this evening. I want to thank all the members of the committee and the other colleagues who are not members but who took the time to join us over the course of these couple of hours. I note the Minister's welcome for the report at the outset of her contribution and I agree that reform is an ongoing process but I would add that there is a body of steps that can and should be taken now, and I hope she would recognise that many of those are contained in this report.

I welcome the Minister's confirmation that she had a specific meeting in this regard last month with the chairperson of the Garda Síochána Ombudsman Commission, GSOC, and I am happy to note that the Minister is shortly to go to Cabinet to secure approval to prepare heads of a Bill to amend Part 4 of the Garda Síochána Act of 2005 in line, she advises, and I note with some encouragement, with the recommendations contained in the joint committee's report. I noted from the Minister's contribution that the changes will mirror closely the recommendations in the committee's report. That indication is welcome and hopefully will be realised in the not too distant future when all of us will have the chance to again address these matters in the course of the progress of the facilitating legislation.

I acknowledge the recent transfer of the senior Garda appointments function to the Policing Authority. It came into effect as of the first day of last month. I again urge the Minister's acceptance that oversight and accountability, in real supervisory terms, and especially of the higher ranks, should be vested in the Policing Authority. That it is a relatively new body is not an acceptable excuse for not giving the authority the responsibilities and powers it needs to be the force for change it can and must be and, I emphasise, the guarantor of a police service into the future that has, as I stated earlier, the deserved confidence, respect and support of all citizens.

Unannounced visits to Garda stations and related functional areas is a necessary reform in the context of the role of the Garda Inspectorate. I urge that this provision is introduced as soon as possible. It should be noted that the inspectorate does not expect to employ this power on a regular let alone a continuous basis. It is a power that would be employed on an occasional or reserve basis, and it should be provided for.

I emphasise the importance of a change in the sadly all too evident skewed view of the actions and intentions of whistleblowers from within Garda ranks. It is imperative that this cultural change is not only encouraged and promoted but insisted on with, I state again, penalties applying where there is a failure to respect or worse the actions of a colleague who reports or brings to public attention wrongdoing or inappropriate behaviour by members of the Garda

2 February 2017

service.

The Minister referenced that resourcing and funding will continue to be kept under review. It is fine to have a watchful eye on resourcing and funding but the oversight bodies need to be recognised as the critical bodies to ensure the achievement of the goals we have all declared we wish to see achieved in regard to policing in this jurisdiction. In consultation with the respective bodies, resourcing and funding should be increased and, in line with any additional roles and responsibilities provided either by legislation or regulation, as the case might be, there should be a commensurate increase in resourcing and funding to ensure that the bodies entrusted with these roles and responsibilities are able to function, and I repeat the words, efficiently and effectively and as we would all hope that they will.

I will conclude by thanking whatever process it is that allows for the selection of a committee's report. This is the second such bite of the cherry we have had from the Joint Committee on Justice and Equality, and I very much welcome it. I also add, with some humility, that I believe we also deserved it. That is a tribute in return to my colleagues who are no longer in the Chamber, and I thank them for their kind words in the course of their contributions.

I look forward to engaging with the Minister on these matters in the coming period of time. I wish the exercise she has indicated a fair wind. I extend very best wishes to each of the three bodies, GSOC, the Policing Authority and the Garda Inspectorate. I hope the exercise in which they were very important participants will prove rewarding and worthwhile to them in their roles in the future.

An Ceann Comhairle: Am I to take it that the report is agreed? Agreed.

Question put and agreed to.

The Dáil adjourned at 7.50 p.m. until 2 p.m. on Tuesday, 7 February 2017.