



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 7 Feabhra 2017

Tuesday, 7 February 2017

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

Paidir.

Prayer.

Leaders' Questions

Deputy Micheál Martin: Last night's edition of "RTE Investigates" revealed very deep suffering among men, women and children across the country because of the lack of proper funding and strategies to address waiting times in hospitals. We saw the human stories behind the figures and they were quite harrowing, particularly in the case of young children with scoliosis. The programme was a shameful and disgraceful illustration of how those children were failed. It is not today or yesterday that the issue pertaining to scoliosis patients was raised. Less than two years ago, we were given assurances that the issue would be resolved but that has not happened.

The people who volunteered to be interviewed showed great courage and were articulate and brave. We owe them a great debt of gratitude. We saw Dara from Kilkenny, a very bright child of seven who has scoliosis and who is exhausted on a daily basis because of the lack of action to address his needs. His mother, Clare, described the physical impact on his breathing, his ability to eat and so on. We saw how Megan Halvey Ryan found it impossible to attend school because of her scoliosis. We heard from Colette, John and Betty, all of whom are living in chronic pain because of the lack of access to vital surgery. It is difficult to comprehend how a person with a brain tumour could be waiting so long for surgery at Beaumont Hospital.

The National Treatment Purchase Fund was mothballed by the then Minister for Health, now Senator James Reilly, in 2012. It was not the solution to everything but while it was in operation, between 2002 and 2011, it dramatically reduced waiting times to six months or three months for the vast majority of people waiting for elective surgery. For some reason, however, it was mothballed and the figures began to deteriorate rapidly from 2012 onwards, particularly for those waiting beyond 12 months, of whom there were up to 12,000 in 2016. The figure in 2010 was a fraction of that. It is easy to track what is going on, as well as the lack of capacity and investment in our system. Many people resisted the re-establishment of the National Treatment Purchase Fund for the purpose of surgery. Even in our talks on a confidence and supply agreement, many Fine Gael Ministers did not want it brought back. To be fair, the current

Minister for Health has said that he has €20 million for this year and €55 million for next year. If anything comes out of the programme, I would ask that the Government make it a certainty, no matter what it takes, that no child with scoliosis has to wait beyond when it is medically important for that child to have the operation and that the curvatures do not get so extreme that it damages the child and causes more clinical complications. Parents want nothing less for their children. I cannot understand why private capacity was not sourced for those children or why might and main was not moved to ensure those children's operations got done if they could not be done in Crumlin.

An Ceann Comhairle: I thank Deputy Martin. The time is up.

Deputy Micheál Martin: It happened before in the case of other disciplines when children underwent operations elsewhere if they could not be done in Crumlin. That at least should have happened with instances of scoliosis because many Deputies were bringing those cases to the attention of the Government over the past three to four years. We were told it would be sorted and it was not.

The Taoiseach: I thank Deputy Martin for his question. I, no more than the Minister, found it difficult to watch this programme, and the stories of Betty and Pat, and Peter and Kate and Patricia, and Elaine and John and Alan, and Kira and Darragh and Megan speak for themselves. This is 2017 and nobody wants to see a situation like this.

A perception that there was an attempt to cover up figures is not true. Since the National Treatment Purchase Fund started in 2002, this was always the way, according to best international standards at that time, that these figures were presented. Patients would get a call to say they would have an operation or a treatment. Those who have had one treatment but need a second were never counted in the figures. Irrespective of that, it does nothing for the parents of children who have curvature of the spine, which Deputy Martin mentioned. This is a serious issue, and Deputy Martin raised it in that spirit.

The €2 million that was provided in 2016-2017 specifically for surgery for scoliosis has meant that 133 spinal fusion treatments for scoliosis have been conducted in 2016 for children under the age of 16 years and adolescents between the ages of 16 and 18 years, of which 44 were outsourced to the independent or private sector or the UK under the HSE winter initiative funding.

Deputy Martin himself has been through this. During the previous Minister for Health's time, the big question about scoliosis was whether we had the theatre capacity. A sum of €3 million was found and invested in a theatre specifically for this purpose in Crumlin and it is still not open. The Minister is meeting the chief executive later today, as well as the NTPF and the HSE. He wants to make it clear that the scoliosis issue is an absolute priority, that he will do more and that he will refer again to the question of the private sector to assist with this. The opening of a brand new theatre is dependent on the recruitment of adequately trained staff and exceptional efforts are being made to recruit staff who are qualified to do this work. This is an issue the Minister was upset about.

In respect to the situation that applies generally, €900 million more has gone into the health system this year than last year. It is now €14.5 billion. The strategy of health reform is correct in the decision in respect of the National Maternity Hospital, the decision in respect of the national children's hospital, the provision of primary care centres throughout the country and the

reduction in the waiting list for routine colonoscopies by 90%. These are all improvements in the health service which of themselves and in respect of the staff who deliver them are also to be commended. However, this is not something that we can stand over.

I found it difficult to watch the programme but it is very necessary that these programmes and patients' stories be heard in 2017. I would point out that the function of the Minister for Health, on behalf of Government, is to set the overall policy and strategy and to provide funding within what can be provided, that is, €14.5 billion or €900 million more than last year. Those charged with delivering the services differ in their opinions. I heard opinions today about bringing in business people. I heard opinions today about doing a lot of small things together. There were also other opinions. None of them deals with the issue of the child who is waiting for scoliosis treatment. Today the Minister, in seeking a whole-of-Government response, will examine what it takes to open a theatre which the taxpayer paid €3 million for but which is not open and was designed specifically for dealing with children with scoliosis.

Deputy Micheál Martin: The way the waiting lists are calculated was changed in many years - 2005, 2007, 2009, 2010, 2011 and 2014. The most recent change has been to extend the targets to 18 months, which is extraordinary. Why did the Government bury the National Treatment Purchase Fund in 2011? We could never get an answer as to why the former Minister, Senator James Reilly, did that. He took away a capacity that got operations carried out for citizens. Money was allocated and the individual got the hip, cataract or whatever operation was required. The Government buried that at a time when there was increasing pressure on the public sector. The Government was warned time and again about the lists getting worse but the former Ministers, Senator Reilly and Deputy Varadkar, were in denial about that and, in particular, the length of time on waiting lists. That is a key metric here. The time was down to six and three months for the vast majority of disciplines and procedures, but now the new target is 18 months and 12 months in some cases.

On the scoliosis situation, the Taoiseach says 44 surgeries were outsourced. All of them should be done, whatever it takes. The Taoiseach knows about the nursing crisis; he has known about it for three years. We pointed out in the Dáil that the recruitment of theatre nurses was the greatest crisis in nursing recruitment over the last three years, but nothing has been done to incentivise the recruitment and, critically, the retention of theatre nurses. That exacerbated the situation that already existed due to closing down the treatment purchase fund from 2011 and the stress and strain on capacity in the public system up to recent times. There is also the issue of clinical prioritisation. The growth of C contracts, for example, will put greater strain on public sector capacity to carry out surgery as well. These issues must be examined.

However, it is urgent that the money not be drip-fed to the treatment purchase fund but fast-tracked and accelerated so there are early significant amounts of money going to the purchase of operations for people such as those we saw last night. It is unacceptable, as the Minister and everybody say. Those people should not be waiting any longer in their current chronic pain. There is a way to deal with it - go out, find the capacity and have the operations carried out for those people. That is the immediate first step, after which there are wider issues to be dealt with.

The Taoiseach: That is exactly what the Minister is going to do. The fact is that when this came to light a number of years ago due to the length of the waiting list and the numbers on the list, a new theatre was provided but it still has not opened. There is money in the budget to recruit 1,000 nurses this year. There are talks today between the Department, the HSE and the Irish Nurses and Midwives Organisation, INMO, about this. I heard somebody with con-

siderable experience in the medical profession say this morning that the NTPF was a waste of money. I agree that it has a role to play here. Clearly, the 133 spinal fusions carried out last year and the 44 in the private sector speak for themselves.

Deputy Micheál Martin: It did the job. Some people did not like it that it did the job.

The Taoiseach: The counting of the list has been the same since 2002. In fairness, when Deputy Martin introduced that list in 2002 it was best international practice. The counting of the list has not changed to any extent. There is no intention to hide anything in terms of numbers. Some of the people have already had an initial treatment and will be called back. They were never counted in the past. They are counted now. That is fair enough but it does not do anything for those who suffer with the difficulties and challenges of scoliosis. The Minister will be talking to the chief executive of Crumlin hospital, the HSE and the NTPF today and the focus will be on scoliosis, as the Deputy quite correctly requests, in order that no children will be left in their current difficulties and pain. It is not acceptable. We have all said that and everybody understands it. The problem is how to get the theatre, paid for by the taxpayer, open to provide relief and comfort to the children with this problem.

Deputy Gerry Adams: I am not impressed by the Taoiseach's reply. Last night, the "RTE Investigates" programme showed that tens of thousands of patients waiting for operations and procedures are not even included in the official waiting list numbers published by the National Treatment Purchase Fund. I commend the programme makers. It appears that over 80,000 patients have been excluded from the official figures. In addition, 81,000 others are on waiting lists, some in great difficulties. The total is twice the capacity of Croke Park. God knows how many more are waiting to see consultants. The Minister for Health was aware of the scandal. How could he not have known? All of us here have made representations on behalf of citizens who are on waiting lists. We are not talking about a small number of patients. We are talking about the lives and well-being of more than 80,000 citizens, some of whom, including children, are, as we saw on last night's programme, languishing in tremendous pain.

This is just another example of a health service that is in a state of perpetual crisis. I disagree completely with the Taoiseach. It is not just about misleading the public about waiting lists, it is about the 587 people who are on trolleys today, cancelled surgeries, thousands of hospital beds removed and a two-tier system in which health workers, particularly nurses, are not properly treated, and where patients suffer. The plight of patients, especially children with scoliosis, and the bravery and anguish of their families, captured so graphically on last night's programme, has further eroded confidence in the Government, our general politics, our political system and our health service.

There is a complete lack of accountability. The Minister is not accountable. The Taoiseach, while he has Fianna Fáil's support, is not accountable. We should dispense with the pretence that anyone present will get any real answers from the Taoiseach today - not me, not the patients, not their families, not the people working in the health service. Instead, I propose a single, integrated hospital waiting list management system. We published this as part of our Better for Health policy. In December 2015, we presented it to the Taoiseach and the Minister at the time. It is a plan for a public health service. While we do not pretend it is an easy fix, we show it can be done. On the issue of management of waiting lists, we have proposed a new system called "Comhliosta". This would replace the current system and be responsible for generating maximum waiting times based on a single, integrated hospital waiting list system.

7 February 2017

The Sinn Féin health spokesperson, Deputy O'Reilly, wrote to the Minister for Health, Deputy Harris, on 17 August last requesting a meeting to discuss the proposal. She is still waiting for him to reply. The Minister may well grin.

Deputy Simon Harris: I am not grinning.

Deputy Gerry Adams: Yes, the Minister is grinning.

Deputy Simon Harris: I have spoken to Deputy O'Reilly.

Deputy Gerry Adams: All I ask is that the Minister consider the proposal, take it away, read it and come back with a reply.

The Taoiseach: One of the first things the Minister did on his appointment was to ask the House and everybody involved to debate a ten-year programme for the health system that would remove the political imperative from much of it. Last week, I spoke to Deputy Shortall and she asked me for another meeting, which we will hold in the next week or ten days.

The list system is nothing new. It has been in place since 2002 and the counting of the list has always been the same. It is nothing new under this or any previous Minister in the 15 years since it was established. A total of 70% of patients are seen within eight months. The Deputy's proposal for a single list may have merit. His spokesperson is on the committee dealing with a ten-year programme for the health system. It deserves some consideration. However, what we need is a system that does not change from month to month or year to year.

We have had a counting system since 2002 without changing it. The other elements, the pre-admittance and people who have had a procedure and who need to be called back for a second one, have never been counted as part of those lists, although they have been published on a monthly basis. The new orthopaedic unit was completed in 2015. While it is in use, it has not added to capacity in Crumlin because of rolling closures. In that sense, two international nurses commenced in Crumlin in January. Two more are due to commence in March and a further 16 have been offered posts which allows the registration process to commence which can take four months. The adaptation programme used to be six weeks but has been reduced to two days, which is progress.

Every opportunity in recruitment and retention is followed through diligently, including working with the HSE and the international recruitment drive to support additional capacity at the hospital. As of 31 January, there were 193 patients awaiting spinal procedures in Crumlin, of which 143 were for new spinal fusions. On average there are additional 250 patients every year, 200 additional patients to Crumlin and 50 to Temple Street. The children's hospital group has confirmed there were 133 spinal fusions for scoliosis conducted in 2016, of which 44 were carried out by the private sector.

Deputy Gerry Adams: The idea for a committee to look at a ten-year health plan did not come from the Minister but from an Teachta Róisín Shortall. Both Deputies O'Reilly and Buckley, on behalf of Sinn Féin, play a full part in that committee. The waiting list figures were kept away from that committee, however.

I asked the Taoiseach to consider the proposition for a single integrated hospital waiting list system. I even sent him a copy of our initiative again today. It is not an accident that our health service is in perpetual crisis. The fact is neither the Taoiseach's Government nor its predecessor

in Fianna Fáil are committed to a public health service. The Taoiseach is ideologically against that proposition. He does not believe citizens have an entitlement to a wraparound health service from the cradle to the grave as well as one which is of the highest possible standards.

Instead, the Taoiseach's ideological position favours the two-tier system and the privatisation of those sectors which can make profit. Last month, the chief executive of the National Treatment Purchase Fund, NTPF, said the private sector is the most efficient and clinically effective way of having patients seen quickly. No one who saw last night's television programme could call it efficient or clinically effective. From 9 January 2017, the NTPF claimed key targets for the HSE's 2016 waiting list action plan had been achieved. That is the boast. That is the reason for the manipulated figures.

Will the Taoiseach take our proposition - some of us will raise it next week - and come back with a considered response to it?

The Taoiseach: That can be done in the context of the ten-year proposal being examined by the all-party Oireachtas committee. Deputy Adams is to be commended on putting forward a proposition like that.

However, it is important that the system used in which the lists are counted should not change. They have been counted in the same way since 2002 when the NTPF system was first introduced.

The Deputy is completely and utterly way off the mark when he says the Government's intention is to introduce a private health system. The Government's absolute priority is a public health system which delivers for patients when they need treatment and as close to them as possible. Despite what the Deputy thinks, that is a fact of life.

Deputy Gerry Adams: The Taoiseach also wants to keep the recovery going.

Deputy Patrick O'Donovan: The Deputy could use the service himself some time.

The Taoiseach: Two new consultant paediatric orthopaedic posts were approved for 2016 for Crumlin. This has increased the work rate to a current total of more than three whole-time equivalent posts, an increase since the end of 2015. One person has taken up a post providing some less complex spinal surgery along with other orthopaedic work. The second post was filled by a surgeon who was already working full-time in Crumlin and will now be working full-time on paediatric surgery. This creates a vacancy for the children's hospital group in Crumlin and Tallaght. They are now discussing how that post should best be structured. When that vacancy is filled, it is envisaged that at the end of this year there will be six people in posts of particular specialty in this case. The increase in consultant manpower is intended to enhance the overall service for children. It will be further discussed by the Minister with the chief executive today.

Deputy Brendan Howlin: Individual harrowing tales set before us last night by the "RTE Investigates" programme revealed a deep malaise at the heart of our national health service. The idea that Governments going back to 2002 were misled about the state of our waiting list is troubling. I echo the call made by my colleague, Deputy Alan Kelly, who wanted and is calling for an independent probe into how these lists are compiled and published. The critical issue is what we do into the future. The work being done by the Committee on the Future of Healthcare is absolutely critical now. I urge its members to ensure three things. First, they should finalise

the report as quickly as possible so we can begin implementation. Second, ensure the recommendations are not focused on short-term fixes but on long-term proposals that will expand capacity and increase outputs. Third, ensure whatever is recommended is accompanied by a clear implementation plan and detailed costings in order that the recommendations can be achieved.

Against this backdrop, we also learned from media reports over the weekend that the cost of the national children's hospital has spiralled by almost 50%. As we know, when the planning application for this facility was lodged in 2015 we were told the cost would be €650 million. Less than two years later, and after much continued controversy about the location of the hospital, we now have a successful bidder but with a significantly higher cost. That is without taking into account the more than €200 million cost of the fitting out of the hospital. Some serious questions arise. Why have costs escalated to such an extent in less than two years? Where will this extra money come from?

Such additional expenditure comes against a backdrop of other health pressures. Will the cost of the new Central Mental Hospital in north Dublin, which is a similar project, be on budget? What about the cost of the new maternity hospital, the planning permission for which we still have not seen lodged yet? When will we have answers to these very clear control issues in health care costs? Where will the Taoiseach find the additional €300 million base cost or €500 million, including the fit out cost, for the national children's hospital?

The Taoiseach: The Deputy mentioned three points. First, the committee should finalise the report at an early time. I support that. Second, the recommendations should be focused on the long term as distinct from the short term. I support that. The third point the Deputy made was there should be a clear implementation plan to deal with it. If we can have an all-party agreement from an Oireachtas committee on a ten-year fix on issues that will remove politics from that, then so much the better. The Minister will be very happy to follow that. The three recommendations the Deputy made are helpful.

In regard to the national children's hospital, which the Deputy was involved with in the beginning, the project was turned down at the Mater where significant moneys had been spent on excavating the underground car park. The move now to the current site is one I support. We expect that to be under way very quickly. The original cost was €450 million, which was estimated when the Deputy was Minister. That rose to €650 million and we now have speculation that it is somewhere under €1 billion. It is true to say there are few firms that actually have the competence to build a hospital as complicated and as major as this. It is also true that during the recession, many construction firms tendered under price and many of them went bust as a consequence. I am not suggesting that is the reason for the inflation now but there is an element of construction inflation here. It may well be that in order for the health services to get Government on board they will say they could build for a particular amount. In any event, once we get on that treadmill, things can rise. My understanding is that planning permission has been issued.

The group involved is appointing a committee of experienced personnel to constantly monitor what will be a fixed contract. It should be remembered that this will serve 25% of the people of this island - the children - for the next 50 years. We have been talking about an incapacity to open surgical theatres that were designed specifically for that purpose.

Deputy Brendan Howlin: That is shocking.

The Taoiseach: This is a building that will not be finished until 2021. Last year's estimate in respect of the cost of the project was €650 million. It will be four years hence before the facility will be completed. My understanding is that a very significant experienced committee will meet and carefully monitor that fixed price contract. We hope it will serve the children of the island of Ireland for the next 50 years.

Deputy Brendan Howlin: I had hoped that the days when vitally important infrastructure was left lying idle were in the past, but apparently not. Is that not shocking? Why is that happening? Who is accountable for it? We have major infrastructural projects to be built in this country. Will the Taoiseach agree to the suggestion by my colleague, Deputy Burton, that the additional costings should be referred to the Oireachtas Committee on Budgetary Oversight or the Committee of Public Accounts, whichever the Taoiseach deems more appropriate, in order that we might obtain answers to our questions before we embark on building more major infrastructure that we need? Separately, will the Taoiseach agree to an independent probe into how our waiting lists are compiled and reported?

The Taoiseach: The Government will have to receive and assess the formal business case being put by the group in respect of the hospital. The point the Deputy made is not irrelevant by any means. I had a meeting with a senior medical person yesterday who told me that on many occasions there are cancellations of complex operations in hospitals. This means that a consultant and his or her team are ready to carry out an operation, however complex it might be, and they discover that it has suddenly been cancelled because a bed is not available. Who is responsible for this? The waste of public money, not to mind the stress on the patient involved, speaks for itself.

Deputy Brendan Howlin: We need the answer to that question.

Deputy Darragh O'Brien: The Taoiseach is responsible.

The Taoiseach: Deputy Howlin is right in what he said. It is a question of having a policy position set out by Government and money - serious money - provided through that in order to deal with very specialist operations.

Deputy Brendan Howlin: Somebody has to be accountable.

The Taoiseach: To find that an operation can be suddenly cancelled means that seriously competent medical-----

Deputy Ruth Coppinger: There are too many people coming into casualty the night before. It is very simple.

The Taoiseach: -----professionals become completely frustrated when they find they have to wait for half a day due to a cancellation as a result of a bed not being made available in the first instance. There are many people who have serious complaints and who are in hospital but who are not receiving any further treatment. These individuals could possibly be moved to different locations - thereby freeing up beds - and they would still, despite their difficulties, have the same quality of life. When we consider Our Lady of Lourdes Hospital in Drogheda or the hospital in Galway and see the major operations taking place in terms of construction, clearly, we need a ten-year strategy. However, we must also get agreement on what has to be done during those ten years and that will not be an easy task.

Deputy Michael Lowry: My question relates to health issues, particularly as they relate to Tipperary. Last night's programme was disturbing and distressing and it reflected poorly on the health care system and its inability to respond to serious urgent care needs. I am delighted with the response from the Taoiseach and that this matter will now be treated as urgent. However, the message in last night's television programme has been conveyed consistently to the HSE by the consultants and doctors of the patients who featured in it. I guarantee that every patient had representations made on his or her behalf by probably every Member of this House at some stage and that our recommendations have been ignored. It takes a television programme to get action. Where is the response from the HSE to representations made by elected representatives? The issue I wish to raise with the Taoiseach is the principal health care issue in County Tipperary. It revolves around the disgraceful situation at South Tipperary General Hospital, which has a grossly inadequate number of acute beds to manage the crisis in acute services. It routinely has 140% occupancy, whereas the desired occupancy rate for hospitals of its size is approximately 85%. Therefore, when there is a surge in demand, there is no flexibility in the system, as a result of which we regularly have the highest trolley count in the country. In South Tipperary General Hospital there are only 150 acute beds per 100,000 of population. This contrasts with the national average of 230 beds per 100,000. That speaks for itself. We have a problem in Clonmel. It is like a battle zone. On any day one goes into the hospital there, one will see the walking wounded. It is completely overcrowded with trolleys literally coming out the door. There are mixed wards of male and female patients where there is no dignity in the patient care. There is intolerable pressure on the management and staff of the hospital. They have been seeking help and looking for support. The Minister visited the hospital, and we came to the conclusion that an interim solution is required, namely, a modular-type complement of beds, and that South Tipperary General Hospital should be included under the capital programme review. Many people are criticising the Minister. My view is he is accessible, approachable, sincere and knowledgeable. However, he needs the support of Government because this is a national crisis and it needs a collective response from Government to address it.

The Taoiseach: It is a national situation and requires a whole-of-Government response, which it will get. In the case of South Tipperary General Hospital, Clonmel, and Our Lady's Hospital, Cashel, the Minister has recognised that addressing the capacity issues there must be a priority. My understanding is that a tender is due in the coming weeks requesting proposals for temporary accommodation in Tipperary. The HSE has been asked to maximise the use of the Cashel campus and is considering every option to support South Tipperary General Hospital with both community and primary care services, as referred to by the Deputy. I am also advised that the HSE is working towards providing extra capacity through the fit-out of additional space on the first floor of the hospital to alleviate pressure on the emergency department. This extra capacity is expected to be available from early May of this year and I understand it could be used to accommodate up to 11 beds.

Also as part of the winter initiative, South Tipperary General Hospital has been identified, as the Deputy is aware, as one of the nine focus sites experiencing the greatest challenge in terms of emergency department pressures. Consequently, under the initiative, additional measures have been put in place to support the hospital to respond to increases in demand for emergency care over the busy winter period. These actions include improvement in early discharging and increased access to community intervention teams and to diagnostics. The winter initiative has allowed for a further additional three home care packages per week at the hospital until the end of February this year.

The winter initiative also recognises that there are specific capacity challenges at South Tipperary General Hospital. As such, additional options are being considered, including the use of the national framework for alternative accommodation on hospital sites, to which the Deputy referred, to provide additional capacity through a temporary inpatient solution at that site. The site in Cashel, which includes Our Lady's Hospital, provides mainly primary care services. There is a small residential facility on the site, together with other services, including day and outreach services. The residential unit, which includes elderly mental health and intellectual disability beds, is currently fully occupied. The development of the campus as a centre for non-acute health care services arose from the decision by the former South Eastern Health Board to centralise acute hospital services for the south Tipperary area on one site in Clonmel. This took place, as the Deputy is aware, in 2007. The Cashel primary care team is based on the campus. A range of services are provided on and from the site, including physiotherapy, occupational therapy, public health nursing, social work and disability services, as well as home help co-ordination and community mental health nursing. Among other services facilitated are the south Tipperary community intervention team, a nurse-led service supporting early discharge and the avoidance of hospital admission. An ambulance station is also located on the campus.

Deputy Michael Lowry: Many people in County Tipperary cannot understand why major surgery is cancelled in Clonmel with early discharges because of lack of beds, not enough step-down or convalescent beds, insufficient home care packages and reductions in home help hours. People are baffled and bewildered because while this is happening in Clonmel, there is a magnificent building up the road in Cashel, which was refurbished at a cost of €20 million in 2007. Three of its floors, which could take between 30 and 35 beds, are empty. They are in excellent condition. I ask that Cashel be reopened and developed as a primary, community care centre. It is a premium facility lying idle. It is shameful and mind-boggling that the Health Service Executive, HSE, is not using the building to its maximum potential at a time when the other problems exist in Clonmel. Will the Taoiseach and the Minister for Health give priority to reopening Cashel and making it available to deliver health care services to the people of Tipperary?

The Taoiseach: The Minister was surprised at the scale of what he saw in that building when he went to Cashel. He has given the HSE an instruction to come up with a list of proposals for better and more use of what is there. I expect he will have that report shortly. Given the scale of investment the Deputy mentions, much more could be done with it than is currently planned. He has instructed the HSE to revise that.

Order of Business

Deputy Clare Daly: Today's business shall be No. 16, Criminal Law (Sexual Offences) Bill 2015 [*Seanad*] - Report and Final Stages resumed; and No. 5, Courts (No. 2) Bill 2016 - Order for Second Stage and Second Stage. Private Members' Business shall be No. 26, Pensions (Amendment) (No. 2) Bill 2017 selected by Fianna Fáil.

Wednesday's business shall be No. 16, Criminal Law (Sexual Offences) Bill 2015 [*Seanad*] - Report and Final Stages, resumed if not previously concluded; No. 5, Courts (No. 2) Bill 2016 - Second Stage resumed; and No. 6, Bail (Amendment) Bill 2016 - Order for Second Stage and Second Stage. Private Members' Business shall be No. 27, Media Ownership Bill 2017 selected by the Social Democrats-Green Party Group.

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Thursday's business shall be No. 17, statements on the recent US executive order on immigration; No. 10, motion re psychoactive drugs back from Committee, without debate; and No. 28, National Famine Commemoration Day Bill 2017 - Second Stage. Second Stage of No. 29, Consumer Insurance Contracts Bill 2017 will be debated in the evening slot.

I refer Members to the first revised report of the Business Committee dated 2 February 2017. In respect of today's business, it is proposed that Second Stage of the Pensions (Amendment) (No. 2) Bill 2017 shall be brought to a conclusion, if not previously concluded, at 10.00 p.m.

In respect of Wednesday's business, it is proposed that Second Stage of the Media Ownership Bill 2017 shall be brought to a conclusion, if not previously concluded, after two hours.

In respect of Thursday's business, there are five proposals. It is proposed that:

(1) The Dáil shall sit at 9.30 a.m. to take statements on the recent US executive order on immigration, which shall be brought to a conclusion after three hours. The speech of a Minister or Minister of State and the main spokespersons for parties or groups, or a Member nominated in their stead shall be not more than 15 minutes each. A second round of 60 minutes in total for members of the Government, Fianna Fáil and Sinn Féin is to be divided proportionally on a 40:40:20 basis, respectively, and all Members may share time. If the statements conclude before 12.30 p.m., the House shall suspend until 12.30 p.m. and Leaders' Questions shall commence at 12.30 p.m.;

(2) The Dáil shall sit later than 7.48 p.m. and shall adjourn on the conclusion of proceedings on the Consumer Insurance Contracts Bill 2017;

(3) The motion re psychoactive drugs, back from Committee, shall be taken without debate;

(4) The Order of the Dáil of 31 January 2017 that Second Stage of the National Famine Commemoration Day Bill 2017 be taken in Private Members' time, shall be discharged and Second Stage of the Bill shall be taken today in Government time and shall be brought to a conclusion after 130 minutes. The speech of a Government proposer and the main spokespersons for parties or groups, or a Member nominated in their stead, shall not exceed 15 minutes each. There shall be a ten-minute response from the Government proposer and all Members may share time; and

(5) Questions to the Minister for Jobs, Enterprise and Innovation shall take place at 4.10 p.m. or on the conclusion of the proceedings on the National Famine Commemoration Day Bill 2017, whichever is the earlier.

An Ceann Comhairle: There are three proposals to be put to the House. Is the proposal for dealing with today's business agreed to?

Deputy Micheál Martin: It is not agreed. My party's whip has e-mailed the Business Committee to express our view that in light of the revelations in last night's "RTE Investigates" programme, we require an opportunity to have a fuller and more comprehensive debate about the capacity of the health service in the context of this year's health service plan to meet the needs that clearly arise. I refer in particular to the need to deliver operations and surgeries on a timely basis to young children with scoliosis and people with gynaecological conditions who have been waiting for far too long. It was revealed in last night's programme that this is hap-

pening across the board. It would be very useful for all Deputies to be able to participate in a fuller and more comprehensive debate. Many Deputies on all sides of the House have come across different priority cases in their own areas and in hospitals in their own constituencies and geographic regions. It is important for the Dáil to be flexible and adaptable. We should have the capacity to respond to issues of genuine and urgent public concern. In the aftermath of last night's programme, there is no doubt that people want precise answers that set out what will happen in 2017 to ensure the kinds of harrowing experiences that were revealed by patients during the programme are brought to an end. These issues need to be prioritised and dealt with adequately. We need to be reassured that the 2017 health service plan gives the Government and the HSE the capacity to do just that. The commitments we were given in the past in relation to some of the areas that were highlighted last night did not come to pass and were not realised.

An Ceann Comhairle: Approval has been given to the selection of this matter for debate in the context of Topical Issues later this afternoon. If Members are in agreement, we can convene a meeting of the Business Committee this afternoon to consider Deputy Martin's request.

Deputy Mary Lou McDonald: I think such a debate is necessary. I understand that this matter will be discussed during Topical Issues. In light of the depth of the crisis in the health service, I have absolutely no doubt that Members will wish to have an opportunity to contribute to that debate. It struck me during Leaders' Questions, as I listened to figures and statistics rolling so easily off the Taoiseach's tongue, that there seems to be a serious disconnect regarding what it means for real people in the real world to live on these lists.

An Ceann Comhairle: We cannot get into a debate. We are talking about the Order of Business.

Deputy Mary Lou McDonald: In the last Dáil, I raised the specific issue of children with scoliosis on the Order of Business on several occasions.

An Ceann Comhairle: We are not going to have a debate.

Deputy Mary Lou McDonald: Promises were made, but they meant nothing. I join Deputy Martin in insisting on a debate.

An Ceann Comhairle: Fair enough.

Deputy Mary Lou McDonald: We need to get answers this time.

An Ceann Comhairle: Is the House amenable to the suggestion that the Business Committee should convene this afternoon and arrange for time to be provided for this matter to be addressed?

Deputy Gerry Adams: Yes.

Deputy Anne Rabbitte: Absolutely.

The Taoiseach: I think that is in order, a Cheann Comhairle. This matter will be considered during two of this afternoon's Topical Issues slots so that should allow a number of questions that need to be answered to be answered.

Deputy Micheál Martin: That will be a very limited debate.

The Taoiseach: Of course I have no objection at all to the Business Committee determining

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that an appropriate debate on the health area should take place.

Deputy Brendan Howlin: I do not think set-piece speeches will advance our knowledge of these matters. I put it to the Business Committee that there should be some sort of interaction in the course of the proposed debate so that we can pose questions and get responses to those questions.

An Ceann Comhairle: Subject to that caveat, is the proposal for dealing with today's business agreed to? Agreed. Is the proposal for dealing with Wednesday's business agreed to? Agreed. Is the proposal for dealing with Thursday's business agreed to?

Deputy Ruth Coppinger: I have a question about that. We requested a debate. It seems a bit pointless to have statements. There was a discussion about motions being taken. I do not know what happened to that but it would seem that Deputies from either Fine Gael or Fianna Fáil would not agree to a motion that was going to condemn the executive order.

Deputy Micheál Martin: That is outrageous.

Deputy Darragh O'Brien: It is not true. On a point of order-----

An Ceann Comhairle: Let the Deputy finish her point.

Deputy Ruth Coppinger: The Business Committee, when it meets later, should discuss whether motions are going to be taken on Thursday. Otherwise, we will engage in a theoretical debate, with nothing being sent out from this Parliament in terms of what has happened.

Deputy Darragh O'Brien: Deputy Coppinger has knowingly misled the House. Motions were-----

Deputy Ruth Coppinger: I just asked a question.

Deputy Darragh O'Brien: No. Deputy Coppinger basically accused Fianna Fáil and other parties of not agreeing to a motion. We circulated a motion to everyone, signed by Sinn Féin and other Members, which specifically condemns the executive order. Perhaps Deputy Coppinger should get up to speed with her e-mails and what is being circulated rather than making accusations that are not true.

Deputy Ruth Coppinger: To correct this, the Whips committee had agreed a motion. Deputy Darragh O'Brien is wrong.

Deputy Regina Doherty: That is not true.

An Ceann Comhairle: Will Deputy Coppinger resume her seat, please? A number of motions were produced and circulated to the Business Committee. Members were asked to take the motions away to see if it might be possible to reach agreement. Manifestly, it was not possible to reach agreement, and that is why we are having statements rather than a motion. We will consider the matter this afternoon.

Deputy Darragh O'Brien: The exact reason for what is happening is that the AAA-PBP failed to give a commitment to the effect that it would not seek to amend any agreed motion.

Deputy Ruth Coppinger: No, we did not. I want to correct that because it is important. The Anti-Austerity Alliance-People Before Profit group agreed a motion. Then, for some rea-

son, that motion was not agreed by you lot.

Deputy Micheál Martin: That sums it up. We are all just “you lot”.

Deputy Regina Doherty: I do not mean to be smart but, genuinely, we have to be respectful. I know Deputy Coppinger was not there last week. What we agreed unanimously was that we would attempt, as a House, to come to an agreement on a choice of words. It was agreed that they would not be Deputy Coppinger’s words, my words, Deputy Micheál Martin’s words, Deputy Darragh O’Brien’s words or the Labour Party’s words but our words. We all agreed-----

Deputy Ruth Coppinger: Not my words. It was the Green Party’s words. The Deputy should be accurate.

Deputy Regina Doherty: If she does not mind, the Deputy might listen for once. It would really be useful if she could hear what people say back to her. We all agreed that if we could not agree, we would have statements. Deputy Coppinger might have missed that part of the meeting but we all agreed that we would have a motion if it was unanimous. We could not agree on a unanimous statement and, therefore-----

Deputy Ruth Coppinger: Who is “we”?

Deputy Regina Doherty: The Business Committee, which runs the business of the House. The Deputy knows the Business Committee, the meetings of which she attends every Thursday.

An Ceann Comhairle: Is the proposal for dealing with Thursday’s business agreed to? Agreed. I call Deputy Micheál Martin on promised legislation.

Deputy Micheál Martin: An article in last weekend’s edition of the *Sunday Independent* emphasises a number of pressures on the State’s income and expenditure. The Minister for Public Expenditure and Reform is referenced on numerous occasions in the article, so it is getting to that time of the year again. What is interesting is that the report issued by his Department refers to public service pay pressures, the deep housing crisis and various other issues, such as the Brexit challenge, but it does not mention the pressure on people with disabilities. There are 600,000 people in Ireland with disabilities and they are extremely worried about the challenges that are arising in respect of public expenditure ceilings. To take respite care as an example, if one talks to the parents of children with autism, respite has ceased, certainly in my region, where there is no respite care whatsoever. The policies in place are reducing the services to people with disabilities. We need some assurance that the programme for Government commitment in regard to disabilities will be adhered to and prioritised in the context of Government spending.

The Taoiseach: The Minister brought a memo to Cabinet this morning. I ask him to address that matter for Deputy Micheál Martin.

Minister for Public Expenditure and Reform (Deputy Paschal Donohoe): The memo to which the article refers contains more than a reference to me; it is from me. The memo lays out the spending review that the Government will be implementing across this year. This is the kind of spending review that is a normal part of how a government should do business, but it did not take place in the period leading up to the crisis or in the period during which the crisis occurred. The objective will be to identify how one third of Government expenditure is used against the objectives for which that expenditure is set aside. The objective is that over a three-

year period, all Government expenditure will be reviewed.

Deputy Gerry Adams: I wish to ask the Taoiseach again about the Government's commitment to recognise Traveller ethnicity. Will the Taoiseach update us on the position? A recent report of the ESRI highlighted the many areas of inequality and disadvantage confronting the Traveller community. Crucially, the report supports ethnicity. Each time I have raised this with the Taoiseach, he has said work is being done on the issue. He committed to meeting the NGO groups involved and to bringing a report to the Dáil before the end of January. It is now February. When will the Taoiseach make his report to the Dáil? When will he formally recognise the ethnicity of the Traveller community?

The Taoiseach: Last night I had a useful engagement with the representatives of the Traveller groupings at the cabinet sub-committee. As Deputy Adams is aware, the Minister of State at the Department of Justice and Equality, Deputy Stanton, has done a good deal of work on the question. There are a number of matters that I want to follow up on arising from last night's meeting. I expect the Minister of State, Deputy Stanton, to bring a memo to Government in the coming weeks.

Deputy Brendan Howlin: In November of last year I tabled the Health and Social Care Professionals (Amendment) Bill 2016. The Bill was designed to tackle the issue of rogue crisis pregnancy agencies. The Bill passed Second Stage and I was assured that it would be a priority piece of work for the Government. At this stage, three months later, I have received no further detailed report of its progress. However, the Bills tracker, circulated by committee chairpersons last week, advised that consideration of this Bill on Committee Stage has been "deferred for the present". The Government gave a commitment when the Bill was passed that it would be enacted and prioritised. When might we see progress on this important legislation?

The Taoiseach: I was not aware of that. I will come back to Deputy Howlin.

Deputy Ruth Coppinger: In the programme for Government, the Taoiseach initiated the Citizens' Assembly. How long will it be allowed to run? When will this Dáil be allowed to legislate on this issue?

I am asking because of two events that took place over the weekend. First, it emerged that the Citizens' Assembly is only going to be shown fewer than 3% of the 13,500 submissions made. That is an absolutely farcical situation. People were exhorted to make their views known and to give their opinions to the assembly. The assembly members will be shown a random sample. I am unsure who selects the random sample or how it will be decided that a submission is fit to be shown to them. Second, Marie Stopes UK and the British Pregnancy Advisory Service have issued statements to the effect that they now have to turn Irish women away from their services and refer them elsewhere because of the pressure on their services and the numbers. They can no longer do the dirty work of this country. This is a serious issue for women who will not be able to access abortion in Britain.

The Taoiseach: The Citizens' Assembly will run until the end of the year, but the first matter it is dealing with is its reflections and recommendations on the assessment of the eighth amendment to the Constitution.

Deputy Ruth Coppinger: The end of the year. Is that correct?

The Taoiseach: As I understand it, all 13,000 submissions are online and available for any-

one to view. The chairperson of the Citizens' Assembly has spoken clearly about the method of having people speak to the assembly without any favouritism on either side of the debate. The assembly will report to the House before the end of June. We will see what the recommendations or proposals or outcome of their deliberations will be at that stage.

An Ceann Comhairle: A further 16 Deputies are offering, so Members can appreciate the difficulty on time. Deputy Healy-Rae is next.

Deputy Danny Healy-Rae: Under the programme for Government many things have been promised to help rural Ireland. Little has happened yet. The other evening I was standing at O'Brien's shop in Glenflesk on the side of the N22. The number 40 Expressway bus passed on the way to Killarney and Tralee.

An Ceann Comhairle: What has this got to do with the programme for Government?

Deputy Danny Healy-Rae: It is about rural Ireland, transport and getting in and out of rural Ireland. We have no business here at all if we cannot affect those people.

An Ceann Comhairle: While it is really pressing, I do not think-----

Deputy Danny Healy-Rae: It is very important. The bus was packed full. I am calling on the Taoiseach and the Minister for Transport, Tourism and Sport to get into meaningful talks with Bus Éireann and others to ensure the Expressway routes continue to operate and provide people in rural Kerry with transport back and forth from the county. I call on them to take action now to prevent the strike that is looming. I do not think it is below their station to get into talks with Bus Éireann to ensure the people of Kerry and rural Ireland have proper transport.

An Ceann Comhairle: I call the Taoiseach. I thought he was going to be asked to drive the bus there for a while.

The Taoiseach: I hope the bus was driving safely on the correct side and within the speed limit-----

Deputy Danny Healy-Rae: We want to keep it going.

The Taoiseach: -----and giving good comfort to the passengers. I hope the management and unions can come together before the mentioned strike date of 20 February-----

Deputy Kevin O'Keeffe: And the Minister.

The Taoiseach: -----and work out a system whereby the difficulties can be discussed and negotiated through the machinery of the State, the Workplace Relations Commission or the Labour Court.

Deputy Danny Healy-Rae: The Government needs to be involved.

Deputy Catherine Connolly: Maidir leis an scéim DEIS, tá athbhreithniú i gceist anois. Tá sé ag dul ar aghaidh le bliain nó b'fhéidir bliain go leith. Cá bhfuil an t-athbhreithniú sin? Chuir mé ceist roimh an Nollaig agus bhí sé geallta go mbeadh an t-athbhreithniú sin foilsithe an mhí seo caite. Ní sé foilsithe go fóill. Cá bhfuil sé?

The Taoiseach: An é sin an scéim DEIS do na scoileanna atá an Teachta ag caint faoi?

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Deputy Catherine Connolly: An t-athbhreithniú. Sin é go díreach.

The Taoiseach: Thug an Rialtas cead don Aire Oideachais agus Scileanna é sin a fhoilsiú agus cuirfidh sé cóip chuig an Teachta go luath.

Deputy Darragh O'Brien: As of this year, 136 countries recognise the state of Palestine, including eight EU states. In December 2014, both the Dáil and Seanad of the previous Oireachtas passed motions to recognise the state of Palestine formally alongside a two-state solution based on 1967 borders, with east Jerusalem as the capital. On page 144 of A Programme for a Partnership Government, it is stated that the Government will honour our commitment to recognise the state of Palestine as part of a lasting settlement of the conflict. Particularly in light of the fact that, over the past three weeks, over 6,000 illegal settlements have been approved by the Israeli authorities and that, furthermore, the Knesset voted yesterday to retrospectively make these illegal settlements legal in its eyes, when does the Taoiseach and his Government intend to move formally to recognise the state of Palestine?

The Taoiseach: As the Deputy mentioned, the programme for Government does say that the Government is committed to recognising the state of Palestine as part of a lasting settlement of the conflict. The Minister for Foreign Affairs and Trade has kept under continuous review whether the immediate recognition by Ireland of the state of Palestine prior to its real achievement on the ground could be a helpful step or not-----

Deputy Gerry Adams: Yes it would.

The Taoiseach: -----towards the goal of resolving the conflict. The Minister has made it clear that he will recommend early recognition by Ireland if it would be helpful. I do not agree-----

Deputy Darragh O'Brien: Is the Government going to stand by and do nothing?

Deputy Mary Lou McDonald: We passed a joint motion on it.

The Taoiseach: I do not agree with the decision of the Israeli Government to validate retrospectively-----

Deputy Pearse Doherty: The Dáil has spoken on this issue.

Deputy Mary Lou McDonald: The Dáil has spoken.

The Taoiseach: -----a significant number of dwellings.

Deputy Pearse Doherty: The Government needs to follow up.

Deputy Darragh O'Brien: The Government is either in or out. Are we committed to it or not?

The Taoiseach: Let me remind the Deputy again that the programme for Government says the Government is committed to recognising the state of Palestine as part of a lasting settlement-----

Deputy Darragh O'Brien: If the Government will not do it, the Opposition will. We have a cross-party motion here and we will move it if the Government will not do it.

The Taoiseach: -----of the conflict. As part of that, would the recognition of Palestine now help towards resolving this conflict-----

Deputy Gerry Adams: Yes.

The Taoiseach: -----within the two-state solution, which we all support?

Deputy Mary Lou McDonald: Yes.

Deputy Gerry Adams: Yes.

Deputy Darragh O'Brien: Six thousand illegal settlements. If we do not do it there will be nothing left to recognise.

An Ceann Comhairle: Ciúnas. I call Deputy Eoin Ó Broin.

Deputy Eoin Ó Broin: In the programme for Government, there is a commitment to strengthen the social inclusion and community activation programme, SICAP, as well as to re-activate increased funding to rapid area projects throughout local authorities. My constituency, like many others, has seen projects funded through these streams - Traveller projects, youth projects, addiction projects and women's projects - have their funding cut in recent years by as much as 50%. Can the Taoiseach outline what measures will be undertaken by the Government to strengthen SICAP? Will the Government commit to a review of the flawed tendering process that community groups go through when applying for this funding?

The Taoiseach: I will get back to Deputy Ó Broin on that issue. The entire review of the structure is now commencing by the Ministers for Finance and for Public Expenditure and Reform.

Deputy Fiona O'Loughlin: My question to the Taoiseach relates to page 86 of the programme for Government with regard to the 3,137 primary schools in the State. There is a very clear commitment to reduce the pupil-teacher ratio in junior and senior infant classes. We all know that the research shows a huge and very positive impact on children in their further education, staying in education and in their job prospects when the pupil-teacher ratio is reduced. There is another impact in the retention numbers for teachers. I was in two primary schools in the Curragh last week where excellent teachers are working in very difficult conditions, which I have already raised with the Minister for Defence. We have teaching principals, one of whom has three classes - fourth, fifth and sixth. They are both losing teachers this year. If the pupil-teacher ratio were reduced, this would have a positive impact and these schools could retain teachers.

The Taoiseach: I will ask the Minister for Education and Skills to respond to the Deputy on that.

Minister for Education and Skills (Deputy Richard Bruton): I thank the Deputy for her question. The pupil-teacher ratio was reduced from September 2016 so it has been reduced for this current year. In this year's budget we addressed other issues, namely, the expansion of the new resource teaching allocation for children with special educational needs. The question was also asked by Deputy Connolly around disadvantaged schools. Each year we look at the moneys available and allocate them to education priorities. I assure Deputy O'Loughlin that class size, disadvantage, special educational needs, guidance counselling and the issues we have discussed many times in committee remain high priorities.

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Deputy Peter Burke: I ask the Taoiseach for an update on the Companies Accounting Bill 2016. This is very urgent legislation and, considering the backdrop of Brexit, there are a substantial number of businesses looking to avail of the financial reporting standard, FRS 105, which is a small provision for smaller entities. It is very urgent and needs to go through the House.

The Taoiseach: The Bill is awaiting Report Stage in this House. It is an important Bill and obviously it is a case of finding the time for it.

Deputy John Curran: A number of weeks ago I asked the Taoiseach about the report by Mr. Justice O'Neill regarding the protected disclosures made by members of An Garda Síochána to the Minister for Justice and Equality. At the time the Taoiseach indicated there was ongoing dialogue between the Minister for Justice and Equality, her Department and the Attorney General. Media reports indicate that it may have been discussed at Cabinet today. Will the Taoiseach indicate when the report and its recommendations will be published, and when and how he will act on those recommendations?

The Taoiseach: I can confirm for Deputy Curran that the matter was discussed at Cabinet today. The Cabinet gave approval to the Minister for Justice and Equality to initiate a commission of investigation into the outcome of the information sent in by the personnel involved. The report will be published in redacted form because it has to be published in redacted form. The Minister is making a statement about that now. A judge has been appointed to conduct the investigation.

Deputy Pat The Cope Gallagher: My question relates to promised legislation and a sea fisheries (amendment) Bill. A necessity for this Bill has arisen due to a recent High Court decision concerning the agreement reached between Seán Lemass and Captain O'Neill in 1966, commonly known as the Voisinage agreement. To give this agreement a legal basis, and without being parochial about it, it does affect a number of small vessels in my constituency, it is important that it be enacted as quickly as possible. It is my understanding that there would be approval across the floor of the House.

The Taoiseach: This matter was cleared by Cabinet a couple of weeks ago. I am not sure what the reason is for the delay but I will have the Minister for Agriculture, Food and the Marine check it for the Deputy. It did come before Government and it was cleared. I will find out what is the delay in publishing the Bill.

Deputy Declan Breathnach: On page 102 of A Programme for a Partnership Government there is a commitment to delivering our national defence and security policy and to implementing the Schengen Information System II - the sharing IT system - to improve interoperability internationally to enhance the policing of the entry points of the State, in particular to support the Garda in detecting and preventing crime, especially by dangerous criminals entering this country. Against the background of Brexit, will the Taoiseach give an assurance that there will be a timescale for the implementation of this project and a definite timeline in that regard?

The Taoiseach: That type of work is going on all the time between the Defence Forces and the Garda in terms of safeguarding the security of our State and the observation of particular persons. I will send the Deputy an updated account of where we are in this regard.

Deputy Martin Kenny: I have raised the issue of mental health services provision on several occasions. Given that A Vision for Change has come to an end, what is the proposed next

step? Will an alternative programme be put in place? A report issued today by the National Suicide Research Foundation shows that in the seven years from 2007 to 2015, the number of men reporting self-harming behaviour in County Leitrim increased by 133%, with an increase of 117% for women. The figures are similar in many areas across the country. The child and adolescent mental health services, CAMHS, in particular, have been starved of resources, despite the many young teenagers presenting in urgent need of assistance. The “RTE Investigates” programme last night dealt specifically with waiting lists but, at the same time, mental health services throughout the State are in disarray. What will be done to address this problem?

The Taoiseach: The Minister of State at the Department of Health, Deputy McEntee, has spoken about these issues recently. In line with the programme for Government, the Department of Health recently commenced a review of A Vision for Change, beginning with an evidence-based expert review that will focus on the progress made on implementing the programme and will advise on the development of future mental health policy. The Government is committed to increasing the mental health budget annually, which includes a substantial additional allocation of €115 million and the provision of more than 1,100 posts between 2012 to 2016. Budget 2017 included provision for additional moneys for mental health which will see Health Service Executive funding for this key care programme increasing from approximately €826 million in 2016 to €851 million this year, or €853 million when adjusted for funding movement across the HSE.

An Ceann Comhairle: That concludes questions on promised legislation. I apologise to the eight Deputies whose questions were not reached.

Pensions (Amendment) (No. 3) Bill 2017: First Stage

Deputy Willie Penrose: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Pensions Act 1990, and to provide for related matters.

The purpose of this Bill is to enable the Legislature to deal effectively with a recent phenomenon that is gathering pace whereby companies are winding down their defined benefit pension schemes. Such serious action is mostly unwarranted and highlights the need for the pension rights of workers to be resolutely defended and protected. It is clearly wrong that shareholders can profit from a corporate restructuring while employees are effectively thrown under the bus and have their pension entitlements reduced. Their rights are being trampled into the ground and this malaise will continue to spread unless arrested by legislation. There are more than 700 defined benefit pension schemes in the State, covering more than 100,000 working people. Those workers thought they had made provision for their retirement and many must be seriously alarmed at the nature and extent of the precedent that has been set. It is, moreover, a dangerous precedent from a public policy perspective because it deters workers from saving for their retirement, something which is being universally encouraged at a political level. The prospect that workers’ lifetime savings might be drastically reduced at some future point militates against that. The net result will be to force more people into reliance on public provision.

The pensions regulation regime in the UK has diverged from ours in many respects. In the UK, the law prevents solvent companies from walking away from their obligations to their employees’ occupational pension scheme. At present, accounting standard FRS 102 requires

an employer to recognise its liabilities to a pension scheme in its financial statement. Removing those liabilities from an employer's accounts can have a transformative effect. However, an employer's obligation to its pension scheme is not governed by statute law in Ireland but by the terms of the pension trust deeds, which the employer itself will have drawn up. As a result, there is rarely a binding obligation. In fact, most defined benefit trust deeds allow the employer to wind up the pension scheme and cease contributions, while ignoring any deficit in the funding of the scheme and the resulting inability to pay out the benefits originally promised.

The Bill I am bringing forward seeks to amend the Pensions Act 1990 by adding to employers' obligations in respect of funding issues, including when a defined benefit scheme is being wound up or when the employer has not become insolvent, or both. There is no point in the Government talking about a universal pension provision scheme if people see those who have saved for retirement all their working lives having their pension pots slashed in the unilateral fashion we have recently seen. There are currently three pensions (amendment) Bills before the House. I propose that Deputy O'Dea, Brady and I work together with representatives of the Irish Congress of Trade Unions to formulate a policy that will evoke a positive response. Deputy O'Dea has already indicated he is willing to pursue such an approach.

An Ceann Comhairle: Is the Bill opposed?

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

Question put and agreed to.

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

Deputy Willie Penrose: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Bernard J. Durkan - delays in development at the Town Centre, Naas, County Kildare; (2) Deputy John Curran - the lack of dental services for children in Clondalkin; (3) Deputy Robert Troy - the rejection of the business case for a maternity scanning service at the Midland Regional Hospital, Mullingar; (4) Deputy Michael D'Arcy - IDA Ireland's intentions to provide a property for FDI investment in Wexford town; (5) Deputy David Cullinane - the withdrawal of the appeal in the recent consultants' contracts case; (6) Deputy Willie Penrose - the current local configuration of MABS companies and citizen information services offices; (7) Deputy James Lawless - the cost of the new children's hospital; (8) Deputy Frank O'Rourke - demand for orthognathic surgery at St. James's Hospital; (9) Deputy Dessie Ellis - the continued rise in the cost of car insurance; (10) Deputy Catherine Connolly - the ambulance service at Merlin Park University Hospital, Galway; (11) Deputies Aengus Ó Snodaigh and Louise O'Reilly - a report on transport guarantees presented to the board of Our Lady's Children's Hospital, Crumlin; (12) Deputy Kathleen Funchion - the provision of home support for a family (details supplied) in south Kilkenny; (13) Deputy Martin Kenny - the closure of the Home

from Home facility in Enniscrone, County Sligo; (14) Deputy Imelda Munster - funding for preservation works at St. Laurence's Gate in Drogheda town; (15) Deputies Fergus O'Dowd, Billy Kelleher, Bobby Aylward, Mick Barry, Niall Collins, John Lahart and Margaret Murphy O'Mahony - issues raised in the "RTE Investigates" programme "Living on the List"; (16) Deputy Clare Daly - the need to extend the Pitchford inquiry; (17) Deputy Sean Fleming - the death of a person (details supplied) in Kilkenny city; (18) Deputy Thomas Byrne - safety concerns in respect of the N2 road; (19) Deputy Mick Wallace - the freedom of Dublin city granted to former US President Barack Obama; (20) Deputy Michael Fitzmaurice - funds from outside the country buying land for forestry; (21) Deputy Bríd Smith - a report published on child poverty figures in one-parent families; (22) Deputy Fiona O'Loughlin - the assignation of DEIS status to schools in Kildare; (23) Deputy John Brady - the planned downgrade of Irish Rail services across the State; (24) Deputy Declan Breathnach - the availability of the cross-border health care directive and the National Treatment Purchase Fund; (25) Deputy Brendan Griffin - the need for a new primary school in Waterville, County Kerry; and (26) Deputy Mary Lou McDonald - unresolved issues related to Magdalen laundries and residents of the An Grianán facility.

The matters raised by Deputies Fergus O'Dowd, Billy Kelleher, Margaret Murphy O'Mahony, John Lahart, Bobby Aylward, Mick Barry and Niall Collins, all on the same issue, Kathleen Funchion, and Willie Penrose have been selected for discussion.

Ceisteanna - Questions

Cabinet Committee Meetings

1. **Deputy Gerry Adams** asked the Taoiseach the number of meetings of the Cabinet committee on regional and rural affairs that have been held since 1 December 2016. [3069/17]

2. **Deputy Brendan Howlin** asked the Taoiseach when the Cabinet committee on regional and rural affairs last met; and when it is planned to meet next. [4272/17]

3. **Deputy Micheál Martin** asked the Taoiseach when the Cabinet committee on regional and rural affairs last met. [4539/17]

The Taoiseach: I propose to take Questions Nos. 1 to 3, inclusive, together.

The Cabinet committee on regional and rural affairs meets on a regular basis, providing a whole-of-Government approach to growth in the rural economy, as well as supporting quality of life and local service delivery in the regions.

This includes supporting the development and implementation of the recently published Action Plan for Rural Development.

The committee last met on 12 December 2016 and is due to meet again later this month.

Deputy Gerry Adams: We are not allowed to know how much input the Cabinet committee had into the Government's rural development plan, but there is really nothing in the plan that is new. Much like the promises we have had regarding health services, the document is long

on rhetoric but without any real substance. The publication of the rural development plan coincides with the closure of post offices, Garda stations and public bus services. The allocation of €60 million over three years for 600 towns and villages is only window-dressing when we consider the significant structural and funding issues facing rural Ireland. The announcement, once again, of an Atlantic economic corridor is pointless unless there is a strategy to implement it, backed up by proper funding. If the Government is serious about addressing the imbalance of investment between urban and rural areas, there must be a substantial regional and rural strategy supported by substantial investment.

Does the Taoiseach accept that tillage farmers are facing a significant threat to their future? The Government's insistence that the low-cost loan fund in this year's budget will address the crisis ignores the nature of the threat because it does not deal with the cashflow problems facing grain farmers. If he has not already done so, will the Taoiseach commit to raising the matter with the European Commission and, in particular, the Commissioner for Agriculture and Rural Development, Mr. Phil Hogan? Will the Government seek financial support from the emergency funds, as France has done? If the French did it, why should we not do the same?

The Taoiseach: I hope the Deputy read the Action Plan for Rural Development, which provides an opportunity, as part of a comprehensive programme, for every part of rural Ireland to achieve progress. As the Deputy knows, there will be €1.2 billion in direct payments to farmers under the Common Agricultural Policy and €4 billion under the Rural Development Programme 2014-2020, including €250 million under the Leader programmes to support local communities. An allocation of €60 million is being given over the next three years to rejuvenate more than 600 rural towns and villages through the town and village renewal scheme, CLÁR and the built heritage investment scheme. In addition, €80 million is being allocated for flood relief measures up to 2019, increasing to €100 million per annum by 2021.

Deputy Brendan Howlin: All those measures are already enacted.

The Taoiseach: That is not the case. Work is under way down in Craughwell, which I hope the Deputy will visit.

Deputy Brendan Howlin: I am looking forward to it.

The Taoiseach: There is €150 million in funding under regional property programmes sponsored by IDA Ireland to increase foreign direct investment, a €50 million investment by Enterprise Ireland to support collaborative approaches to job creation in the regions and €37.5 million to implement the social inclusion and community activation programme. It is not all new funding but all of the programmes are being drawn together.

In respect of the question the Deputy asked about farmers, new taxation measures to assist the farming sector include an increase in the earned income tax credit for self-employed farmers, the roll-out of new income averaging step-out for farmers, the extension of farm restructuring capital gains tax relief to the end of 2019 and the investigation of taxation measures which might support farmers through periods of income volatility.

Deputy Brendan Howlin: What we have heard from the Taoiseach is simply a rehash of a series of announcements already made in respect of the capital plan and so on.

The Taoiseach: Come on. It is all mentioned there.

Deputy Brendan Howlin: I have read every page of it. The only new funding announced is €60 million for 600 towns over three years, that is, €33,000 per year per town. That might be used to buy a few additional lamp posts-----

Deputy Joan Burton: Or hanging baskets.

Deputy Brendan Howlin: -----but it will not make any significant difference.

The Taoiseach says I should read the action plan. I have read it. I am interested in, for example, action No. 183, which relates to the continued delivery of Inland Fisheries Ireland's Something Fishy national schools programme to inform and educate students on fish, water and angling. Will that rejuvenate rural Ireland?

In much more concrete terms, the issue of Brexit will have a huge impact on rural Ireland. I was briefed by the ESRI last week. Dublin may gain a slight overall advantage according to the ESRI's assessment, but Brexit will have an enormously negative impact on some regions in Ireland. In that context, the regional action plans for jobs, which were carefully constructed during my party's time in government, are no longer fit for purpose because all the metrics have changed. Would the Taoiseach consider re-examining how we will have a regional and spatial joined-up strategy to ensure that we might abate the damage that is certain to be visited upon rural Ireland in the coming period?

The Taoiseach: In respect of action No. 183, I do not mean this in any disrespectful fashion-----

Deputy Brendan Howlin: Something Fishy.

The Taoiseach: -----if one has ever seen the sense of amazement and wonder of children in dabbling for fish in rivers or lakes, one will know that the wonders of nature are a source of constant amazement to them. It is a learning experience that they carry with them throughout their lives, involving respect for nature, the importance of clean water and how nature thrives and does not thrive in places like that.

Deputy Brendan Howlin: That is rural to the Taoiseach.

The Taoiseach: It is only a very small issue but, as Deputy Howlin will understand, in the rivers of Wexford or wherever, fishing was always an important pastime, particularly for young lads who would be wanting to catch the big trout or perch.

Deputy Gerry Adams: It must be caught in Bellewstown.

The Taoiseach: In respect of the serious point Deputy Howlin raises, none of the 20 towns mentioned under the spatial programme that used be there previously realised the potential envisaged in respect of them. The Minister for Housing, Planning, Community and Local Government, Deputy Coveney, is not only working with the Minister for Public Expenditure and Reform, Deputy Donohoe, in respect of the capital review programme, he is also looking ahead to 2040 in the context of both the local and regional authorities but without naming town against town. The latter became a political issue on the previous occasion. Here is an opportunity for all of them to send in their statutory programmes regarding how they see their areas and regions developing in the next 30 years and in light of the fact that the population is due to increase by 1 million during that time, to indicate where those people will live, where they will work, what transport they will use and what issues will need to be dealt with. Public consulta-

tion is already under way in that regard..

Deputy Micheál Martin: During the general election campaign Fine Gael Deputies and some Labour Deputies also felt the full force of the anger of regional and rural communities as a result of five years of policies which people identified as neglecting rural Ireland and, in particular, on foot of their witnessing the loss of public services and the suffering endured by business owners throughout the country. The only response to date has been cosmetic. It has been the addition of the word “Rural” to a Minister’s title and the announcement that a plan was on the way. The plan has been published and one would have to wonder why it took so long. It is a rehash or pulling together of all existing policies. As Deputy Breathnach informs me, even the schools programme has been in place for quite a number of years. Deputy Ó Cuív quite rightly described it as a reheated dinner. It is a long list of what is already happening, which the Government has put between two covers and labelled “Action Plan”.

It is extraordinary that there is not a mention of the blood-stock sector in the plan for rural Ireland. There are thousands of jobs in the equine sector - trainers, breeders, race courses, from small players up to big players. There is not a mention of the sector, yet it is sustainable, it is organic and it is in located in rural Ireland. On fisheries, Deputy Howlin is correct about Brexit. In the maritime communities of rural Ireland, there is a real crisis coming in the context of Brexit because of so many fish species being caught in British waters. That is a serious issue. The most incredible omission is that the plan contains no new commitment to a guaranteed level of access to or quality of public services. How can the Government realistically claim to have a vision for rural Ireland if it cannot say what level of education, policing, health or other services should be available? That is the overall metric that is required from this plan and it is non-existent.

The Taoiseach: In respect of policing, the commitment is to increase the Garda force to 15,000. For the first time in many years, there is an increase in the number of gardaí on the streets.

Deputy Micheál Martin: We are talking about rural Ireland in the plan.

The Taoiseach: That applies to rural Ireland as well. We have set out the policy in respect of increasing the number of teachers. The advantages for small towns and villages throughout the rural Ireland are dealt with under different incentive schemes arising from the CEDRA report, which was published a number of years ago and which has now evolved into this. The plan draws together many of the schemes that are there already but it is an important document in the context of having a strategy that can be both planned against and monitored to see that it is being implemented.

Another element in the plan is the creative Ireland report, which was so strongly evidenced during the 1916 centenary commemorative events. It is an important decision to have art as part of public policy. Deputy Micheál Martin supports the focus not only on science, technology, engineering or mathematics but also on the artistic, imaginative and creative opportunity to which the people have given so much expression.

The horse racing sector is a fundamentally important part that is referred to specifically in the agriculture portfolio as part of the Minister’s brief.

Deputy Micheál Martin: It is not in the plan for rural Ireland.

The Taoiseach: I think there is a reference to it. I will have a look at it. I think there is a reference.

Deputy Joan Burton: In the commentary by various organisations and groups about the impact of Brexit, it has been noted that the area that runs along the spine of Ireland from Longford and Westmeath to Waterford is particularly at risk of negative impacts from Brexit. Having been involved, along with my colleague, Deputy Howlin, in making provision for additional resources for both IDA Ireland and Enterprise Ireland, what I am concerned and extremely disappointed about, in the context of the document, is that the Government does not seem to have had the time to look at the requirements for a change of focus in both of those organisations. Such a change is particularly important if they are to assist in producing anything like the number of jobs outlined in the ambitions relating to the programme. The Government also does not appear to have had time to engage in a specific examination of the very real problems that exist in the context of accessing credit, especially relatively small-scale loans for starter and owner-operated businesses in rural towns and villages. The Government will not create jobs unless it encourages many new small businesses to start up operations. The Government will not get many large businesses transferring operations to the 300 towns it has identified. In the context of Brexit, there appears to be no alternative strategy to help small businesses in the areas to which I refer to get up on their feet. In order to do so, they will need access to credit.

The Taoiseach: The Minister for Agriculture, Food and the Marine, Deputy Creed, has made available €150 million in low-interest, long-term credit to those in the farming community. There is an increase in the micro loans that have been arranged for the credit unions and the facilities for that are increasing. Deputy Burton will be aware, as she played an important part in it, that there has been a reduction in unemployment from 15% to 7%, which speaks for itself.

Deputy Joan Burton: I was talking about areas such as Waterford.

The Taoiseach: There is also the change the Deputy introduced in the Intreo offices of the Department of Social Protection where people now have specific case officers to work with them in terms of an enhanced rural social employment scheme or that type of operation.

Deputy Joan Burton: I was not talking about that.

The Taoiseach: The enterprise offices at local level are all very busy. They have been well funded and opportunities are increasing every day. I note that the number of planning permission applications is rising and the commencement of construction of rural houses, which I have not seen for years, is under way again. These are signs of people having confidence in their locality and investing. Obviously, we want that to continue. The area from Longford down through the midlands is part of the lakelands district, which is a specific focus of Tourism Ireland and the hospitality sector. It has great potential to increase tourist numbers and the number of people passing through. The development of blueways and greenways continues and there is evidence that a huge local benefit can result from such development.

Constitutional Amendments

4. **Deputy Brendan Howlin** asked the Taoiseach his plans to hold constitutional referenda during 2017. [3241/17]

5. **Deputy Gerry Adams** asked the Taoiseach his plans in respect of holding constitutional referenda during 2017. [4069/17]

6. **Deputy Richard Boyd Barrett** asked the Taoiseach his plans for constitutional referenda during 2017. [5815/17]

The Taoiseach: I propose to take Questions Nos. 4 to 6, inclusive, together.

Under the programme for partnership Government, the Government is committed to holding constitutional referenda on the following matters: Article 41.2.1, regarding a “woman’s life within the home”; Article 40.6.1, on the offence of blasphemy; Ireland’s participation in the Unified Patent Court; and giving the office of Ceannt Comhairle constitutional standing.

Three of these proposals arise from the Constitutional Convention, which sat from January 2013 to February 2014. The Government has responded to all of the convention’s reports. A recommendation of particular importance relates to amending the Constitution to give citizens resident outside the State the right to vote in presidential elections. This is under detailed consideration by the Government.

In addition, the programme for partnership Government committed the Government to establish a Citizens’ Assembly with a mandate to look at a limited number of key issues, including the eighth amendment, fixed-term parliaments and the manner in which referenda are held. In July 2016, the Houses of the Oireachtas approved the establishment of the assembly. The assembly is chaired by a Supreme Court judge, Ms Justice Mary Laffoy. It operates independently of the Government and will report direct to the Houses of the Oireachtas. The assembly has begun consideration of its first topic, the eighth amendment.

The programme for partnership Government also states that on foot of the recommendation of the banking inquiry, the Government will seek a review of the powers of Oireachtas committees in conducting inquiries and, based on this review, will consider whether there should be a constitutional referendum to strengthen committees’ powers.

As regards timing, no decision has been made on this as yet. As I have previously said in the House, before any referendum would be scheduled I would bring a proposal to Government and hold discussions with Opposition leaders.

Deputy Brendan Howlin: Does the Taoiseach envisage a referendum being held during 2017? In particular, is it envisaged that a referendum on the outcome of the Citizens’ Assembly’s report on the eighth amendment would be held this year? Does he have an update on when the assembly’s first report is due? Has the Taoiseach discussed with his Brexit team and the Attorney General whether, in any circumstances that are envisaged, the outcome of the Brexit negotiations at European level would require a constitutional referendum in this State? Will he brief the House on the likelihood of that? Finally, the Taoiseach mentioned the programme for Government’s commitment to hold a referendum on a woman’s life within the home. Will that proposal be advanced within the next 18 months or so?

The Taoiseach: As I said to the Deputy previously, the Government has not considered holding any referendum in 2017 as yet.

Deputy Brendan Howlin: Does the Taoiseach envisage it?

The Taoiseach: The four matters that were approved by the Government for the holding of

referenda were from the previous convention. The Citizens' Assembly will present its report before the end of June. I do not know what the report will contain in terms of recommendations or proposals. That is a matter for the assembly and the sole member, Ms Justice Laffoy. They operate independently of the Government and will report directly to the Houses of the Oireachtas.

I do not envisage that there will be any transfer of power from the sovereign Irish State to the European Union, so I do not envisage that there will be a need for a constitutional referendum.

Deputy Brendan Howlin: There will be no new institutions or no new bodies.

The Taoiseach: I do not expect that there will be a need for a constitutional referendum from that perspective. Clearly, the negotiations have not started yet but from my understanding I do not expect it to be the case.

Deputy Gerry Adams: The Constitutional Convention made 38 recommendations and referenda were held on two. There is no clarity in the Taoiseach's reply today as to whether there will be a referendum this year. I wish to tease that out a little. The Taoiseach said that the issue of citizens living outside the State is under detailed consideration by the Government. What does "detailed consideration" mean?

Deputy Brendan Howlin: It is better than consideration.

Deputy Gerry Adams: It is quite straightforward. Most other states give their citizens who are not resident in the state the right to vote. Given that the Taoiseach is due to visit the USA and that he will be raising the concerns about the status of citizens of this State who are exiled there, it would be nice if he could tell them that the Government is prepared to uphold their right to vote at home in presidential elections. Given the consequences of Brexit, it is a fact that citizens from the North have the right to Irish citizenship and, as a consequence, European citizenship. Whatever happens with regard to the Taoiseach's failure to uphold the rights of the people who voted to remain within the European Union and given his failure thus far to argue for a special designated status for the North within the European Union, surely it would be useful if he acted on the recommendation of the Constitutional Convention and gave us a sense of when the detailed consideration by the Government of this proposition will be concluded.

The Taoiseach: The phrase, "detailed consideration" means being examined properly. It is not as simple as saying we will give everybody who is an Irish citizen the right to vote in presidential elections. Potentially, a very substantial number of people worldwide could claim Irish citizenship. Do we extend the Irish Nationality and Citizenship Acts to a second or third generation who could claim Irish citizenship?

Deputy Gerry Adams: Passport holders.

The Taoiseach: We must examine it in a practical effective way, which would allow people outside this jurisdiction the opportunity and right to vote in a presidential election. When I say it is receiving detailed consideration I mean that it is being examined from a number of points of view to see what is possible. I would like to be in a position to be able to deal with this, because it has been a commitment for a long time. The Deputy is well aware that it is not as simple as saying that everybody who is a citizen, who is entitled to be a citizen or who could claim citizenship will be entitled to vote in a presidential election. Detailed consideration therefore means proper and minute examination, and I will report to the House in due course.

Deputy Richard Boyd Barrett: People Before Profit and the Anti-Austerity Alliance put forward a Bill proposing an immediate referendum on repealing the eighth amendment. The Government and Fianna Fáil voted it down last year on the basis that they would allow the Citizens' Assembly to examine the issue. Our view was that delaying a referendum and batting this issue to the Citizens' Assembly was a completely wrong-headed, misguided decision at best and at worst a cynical delaying tactic that puts the lives and safety of many women at risk. At the weekend, we heard there had been 13,500 submissions to this small group of people. While I do not doubt their sincerity, they are a small, unrepresentative group of 100 people dealing with a deluge of submissions which they said were totally unhelpful and useless. For the most part, they were from the anti-abortion movement, which swamped the Citizens' Assembly with its perspective.

This is where the Taoiseach's decision has led us. It is breathing life back into the anti-choice movement and allowing it to try to interfere with the deliberations on the issue. It is happening because the Taoiseach has abdicated responsibility for what should be a democratic decision made by all the people in the country in favour of 100 people. It is delaying the issue and consequently endangering the lives, health and safety of women, 3,000 of whom have travelled abroad for abortions since June. Is it not time to commit to having the referendum? If the Citizens' Assembly recommends having a referendum, is the Taoiseach prepared to hold the referendum in June or later in 2017?

The Taoiseach: The Deputy has got ahead of himself. I presume his view is that of the Anti-Austerity Alliance. I do not share his view. He said the Citizen's Assembly was a cynical delaying tactic. It is no such thing. It does not involve an unrepresentative group, as the Deputy suggested. The people who serve on the Citizens' Assembly were carefully and independently chosen by age, gender and region and they are contributing very valuable information to it. The fact that more than 13,000 people decided to send their views for public assimilation and analysis speaks of the importance of the matter.

Deputy Richard Boyd Barrett: The Citizens' Assembly members said it was useless.

The Taoiseach: The Deputy asked me to commit to a referendum before the end of June. We will not have the report from the Citizens' Assembly until the end of June. As the Deputy knows, any referendum requires a long lead-in time in order for people to understand the issues at stake, which must be answered by a yes or no question.

Deputy Richard Boyd Barrett: More delay.

Deputy Micheál Martin: A constant problem in the previous Dáil was how the Government failed to consult widely about the schedule of referendums and abandoned the policy of preparing detailed reports well in advance of the formal proposal being debated. In the referendums on Oireachtas inquiries and the abolition of the Seanad, the lack of a White Paper was exposed during the campaigns. In any future referendums, will the Government give an assurance that, with the exception of unforeseen emergencies, it will bring a referendum proposal to the House only when there is enough time to debate it and it is accompanied by a detailed White Paper? Will he ensure the Referendum Commission is given ample time to explain to people what is involved in a particular referendum?

When the Citizens' Assembly finishes its work there will remain significant steps before we can take a vote. Given that the Citizens' Assembly has already indicated it will recommend a

change, every specific recommendation involves some form of legislation. Will the Taoiseach give an assurance that the Government will not attempt to present a proposal and then try to limit discussion? There are already discussions under way at the Business Committee as to whether a special Oireachtas committee should be established or whether the Oireachtas Committee on Health should be tasked with reviewing the recommendations of the Citizens' Assembly. A special committee would be more prudent, given the sensitivities and complexities of what is involved. It could give its exclusive focus to whatever recommendations emanate from the Citizens' Assembly.

The Taoiseach: I share the view that it should be a special committee. In respect of any referendum, the Referendum Commission will have adequate resources and time to do its job. In the event of a referendum being held, proper background documentation, such as a White Paper, will be prepared. I will ensure there will be ample opportunity for discussion on whatever the subject might be.

Cabinet Committee Meetings

7. **Deputy Micheál Martin** asked the Taoiseach when the Cabinet committee on the economy, trade and jobs last met. [4118/17]

8. **Deputy Gerry Adams** asked the Taoiseach when the next meeting of the Cabinet committee on the economy, trade and jobs is due to be held. [5742/17]

The Taoiseach: I propose to take Questions Nos. 7 and 8 together.

The Cabinet committee on the economy, trade and jobs last met on Thursday, 26 January 2017. The next Cabinet committee will take place in the coming weeks.

Deputy Micheál Martin: I thank the Taoiseach for his very comprehensive and precise reply. The Taoiseach will agree that the economy faces direct and long-lasting challenges, particularly due to Brexit. The Economic and Social Research Institute, ESRI, has forecast that a hard Brexit will cost us tens of thousands of jobs, especially in the regions, which we discussed earlier, and that it will undermine certain sectors of our economy and hit the public finances.

It is clear we face a hard Brexit. The Taoiseach and the Prime Minister spoke of a seamless and frictionless Border. They are meaningless terms. The emerging model of Brexit, as articulated by the Prime Minister, is one that includes a hard Border. This is as bad as it gets for Ireland. While the Taoiseach has spoken about a common travel area, the issue is how we mitigate the economic damage which will be caused by the UK's exit from the Single Market and customs union. This is the central question that faces Ireland. There has been a pat answer focusing on the common travel area. The core issue is trade and how we will limit the damage which Brexit will cause.

Will the Taoiseach tell us when he intends to outline proposals on how we will help businesses and communities that will be hit by Brexit? I accept that the Taoiseach wants to limit the impact. Would he agree that no neutral outcome is possible and that we must prepare for a hard Brexit, and not try to wish it away with phraseology, language, goodwill and the *bonhomie* that exists when meetings are held? There is a need to convey to people the gravity of what is involved over the next decade as a result of the UK's leaving the EU. Our economic model as

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we have known it for nearly 50 years will have fundamentally changed as a result of Brexit. Will the Taoiseach outline the Government's proposals to limit it?

The Taoiseach: Next Tuesday, I will bring a memo to the Government. On Wednesday, I expect to make a statement on Brexit. I will follow it with the second all-island forum on the Friday. I have said very clearly that I do not want the Border to be as it was. I have very deliberately and clearly told this to the Prime Minister. The situation arose due to a vote by the UK electorate. We should take note of a matter I discussed with the Prime Minister here and since, given that the position is as yet unclear arising from the Prime Minister's statement at Lancaster House. She said:

I do not want Britain to be part of the common commercial policy and I do not want us to be bound by the common external tariff.

These are the elements of the customs union that prevent us from striking our own comprehensive trade agreements with other countries. But I do want us to have a customs agreement with the EU.

[Here is the important point] Whether that means we must reach a completely new customs agreement, become an associate member of the customs union in some way, or remain a signatory to some elements of it, I hold no preconceived position. I have an open mind on how we do it. It is not the means that matter, but the ends.

And those ends are clear: I want to remove as many barriers to trade as possible.

Until this issue becomes clear, it is difficult to assess what the outcome might be. I do not want to see personnel with caps enforcing Border controls outside Dundalk or Newry. I have said it would carry very negative consequences for the country. When the Prime Minister writes her letter to the European Commission on Article 50, I expect this element will be sorted out.

Deputy Gerry Adams: We all acknowledge that the biggest threat to the economy at this time is Brexit and its consequences. Will the Taoiseach tell us what consideration, detailed or otherwise, was given to the proposition that the North be accorded a special designated status within the European Union? It might be useful to understand the thought processes and procedures which the Government went through in this regard.

It is not enough for the Taoiseach to join the British Prime Minister in these meaningless soundbites - just stuff and nonsense - about a seamless and friction-free Border. He said it again today when he said there would be no return to the borders of the past. That is absolute nonsense.

The Taoiseach: It is not absolute nonsense.

Deputy Gerry Adams: There can be no soft Border. We said this from day one. There will be a hard economic Border, which is unfortunate. The only way to deal with that is to ensure the land frontier between the European Union and the British state is not on the island of Ireland. That is the way to avoid it. The impact on the Good Friday Agreement, Border communities, jobs and wages as well as on the economy of this island will be significant.

May I put it to our friends in People Before Profit that they should have considered all of this before joining with UKIP, the hard right in Britain and the DUP in supporting Brexit?

Deputy Eamon Ryan: There must be an election on somewhere.

Deputy Gerry Adams: Can I also raise again with the Taoiseach the concerns which have arisen about the future of our fishing industry following Brexit? The British fishing industry wants to exclude all foreign boats, which includes us, from its fisheries zone after Brexit. That will directly impact on at least 36% of fish caught by this State's meagre fishing fleet. It means other fishing fleets will increase their activities. What measures is the Taoiseach proposing to protect our fishing industry?

The Taoiseach: I have made the case on many occasions that we have a particular set of circumstances in Northern Ireland which are special and unique. It is the only peace process in Europe which is supported by Europe. We have the PEACE and INTERREG funds and we want to be able to continue to build on them.

When one crosses into the Six Counties, or Northern Ireland, there is no visible Border and we do not want to see that anymore. Deputy Adams's question wants to deal with what was originally the constitutional claim on the Six Counties.

Deputy Gerry Adams: I want the Taoiseach to tell me what consideration was given to the proposal.

The Taoiseach: He wants a situation where one has de facto a united Ireland by having all traces of any Border removed out beyond Fair Head.

Deputy Gerry Adams: I would like to think we all would like that.

The Taoiseach: That is what I gather from what he asked me.

Deputy Gerry Adams: Does the Taoiseach not want that?

The Taoiseach: Of course I do. I have answered that question before.

Deputy Gerry Adams: Will the Taoiseach then tell me what consideration he gave to the proposal?

The Taoiseach: The Deputy should not misinterpret me now. We do not have a Border when one crosses from Dundalk to Newry. We do not want to see any future signs of that. I disagree with the Deputy when he claims these are meaningless soundbites. The important element is what is not clarified by the British Government yet in respect of the future relationship of the UK with Europe. Is it to be, as the British Prime Minister said, a completely new customs agreement, associate membership in some way or a signatory to some elements of it? There is no preconceived position.

Until such time as that becomes clear, it determines, as Deputy Adams well knows, the nature of the agreement and relationship between the United Kingdom and the European Union from where we will negotiate.

Deputy Gerry Adams: What about our relationship?

The Taoiseach: We had before a situation where people said it could not be done or could not happen. It has to happen. This situation arose because of the vote of the electorate of the United Kingdom and we have to deal with the outcome of that. The outcome is that I do not want to see a Border where there was one before.

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Deputy Joan Burton: Will the Taoiseach agree that a special status is needed for the island of Ireland, both North and South, with regard to the Brexit negotiations? As the country most affected by the proposed Brexit, it is inconceivable that our interests will be amalgamated with those of 27 other states.

The Taoiseach has already told the Dáil that he will be among 27 other Heads of State at the final meeting, which will go on through the night, judging from previous meetings. While he will probably be allowed one senior diplomat in the vicinity, the Taoiseach will be the decision-maker. It is not adequate that Ireland does not have separate representations for its serious issues. There is a Franco-German alliance, as well as a series of other alliances, among the other 26 member states. That is *realpolitik*. The Taoiseach is well-respected and well-known among the 26 other countries. However, there is an old saying in diplomacy, “Countries do not have friends, they have interests.” Our primary interests are the hundreds of thousands of jobs in the Republic and the significant number of jobs in Northern Ireland.

Based on the Belfast Agreement, I propose the Republic of Ireland and Northern Ireland - the island of Ireland - should be a specific strand of the Brexit discussions between the European Union and the UK. Otherwise, we are simply part of the 27 versus the UK. Notwithstanding the Taoiseach’s frictionless and seamless relationship with the British Prime Minister, Theresa May, we are in grave peril and jeopardy.

The Taoiseach: All the economic indicators point out that Ireland would be most adversely affected by a hard Brexit. The Barnier task force, which has been doing quite a deal of work, is well aware of the priority attached to Northern Ireland and the peace process, as indeed is the British Government and the British Prime Minister. I have said what our priorities are on many occasions already.

It must be remembered the Netherlands, Denmark and Spain have serious economic interests with the United Kingdom also. They are concerned with issues such as people living in one country or another. We have a common travel area which covers not just travel but rights of residence and the right to work.

From the contact we have had with all the Ministers across the different Councils, everyone appreciates there is only one peace process supported by Europe in the European Union, the one dealing with Northern Ireland. This is a particularly special and unique case with a particular set of circumstances. We want to be able to build on that. When we look at what we have to do with the capital review programme and the longer-term vision for the country on an all-island basis, we will continue to support infrastructure, where possible, in Northern Ireland.

I will be one of the 27 Heads of State but it has changed since Deputy Burton’s time. There are no officials in the meeting with the Minister or myself. I am one of 27.

Deputy Joan Burton: I meant in the general halls outside of the meeting.

The Taoiseach: That is why I will go to Poland tomorrow to speak to the Polish Prime Minister. I was in Malta last Friday speaking to the Maltese Prime Minister. I will visit each of the Heads of Government to explain just how critical this issue is for us. As I said to Deputy Micheál Martin earlier, it is hoped the letter to the Commission will clarify the remaining piece of this jigsaw in respect of the customs union.

Deputy Richard Boyd Barrett: Does the Taoiseach think it is ironic that Deputy Adams

should attack People Before Profit in the name of jobs in the North when Sinn Féin, Fine Gael, the DUP and the Tories took specific action in supporting the Stormont House Agreement which condoned and set out the plan to axe 20,000 jobs in the public sector in the North? It was an austerity deal, an almost carbon copy of the one the EU-led troika inflicted on workers here and which was such a disaster. Sinn Féin also signed an agreement which will result in more job losses because it aims to privatise assets in the North and has agreed to social welfare cuts. Incredibly, when the North is in desperate need of revenues for its public services, jobs and infrastructure, it proposes to cut the corporate tax rate to 12.5% which will result in less taxes being paid and less money available for investment in jobs.

Is that not deeply ironic? I suppose Deputy Adams is worried about the growth of People Before Profit in the North.

An Ceann Comhairle: I thank the Deputy.

Deputy Richard Boyd Barrett: I will leave it at that.

The Taoiseach: There was a very strongly worded attack on the Sinn Féin Party.

Deputy Gerry Adams: It is also unproved.

The Taoiseach: I am quite sure Deputy Adams will continue the discussion with Deputy Boyd Barrett in due course about the matter.

Deputy Gerry Adams: On the hustings.

The Taoiseach: It is not for me to intervene.

Priority Questions

Mobile Telephony Services

35. **Deputy James Lawless** asked the Minister for Communications, Climate Action and Environment the details of the programme for Government commitments relating to improving mobile phone coverage; the timeframe for actions in this area; and if he will make a statement on the matter. [6089/17]

Deputy James Lawless: The question I am putting to the Minister is on the subject of solar energy. What steps have been taken to support the development of same? Will the Minister make a statement on the matter?

An Ceann Comhairle: The question that was submitted is not on solar energy, it is on mobile phone coverage.

Deputy James Lawless: The Minister can make a statement on mobile phone coverage. It is imperative to all parts of the country.

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): The programme for Government included a commitment to establish a mobile phone and broadband task force to identify immediate solutions to broadband and mobile phone coverage

deficits and to investigate how better services could be provided to consumers prior to the full build and roll-out of the network planned under the national broadband plan State intervention.

The task force, which I co-chaired with my colleague, the Minister, Deputy Humphreys, was established in July 2016 and published its report in December. The report is available on both Departments' websites. In producing this report, the task force worked with Government Departments; local authorities; the Commission for Communications Regulation, ComReg; State agencies; the telecoms industry; and other key stakeholders. The membership of the group included my Department; the Department of Arts, Heritage, Regional, Rural, and Gaeltacht Affairs; the Department of Housing, Planning, Community and Local Government; the Department of Transport, Tourism and Sport; the Office of Public Works; NewERA; Transport Infrastructure Ireland; Teagasc; Trinity College CTVR; the County and City Management Association; Irish Rural Link; the Irish Countrywomen's Association; businesses based in rural Ireland; the National Competition and Consumer Protection Commission; and an independent planning adviser. ComReg participated on the task force as an observer in order to provide advice and guidance in its capacity as the independent regulator of the telecommunications market. The task force met approximately 20 times with a number of helpful initiatives emerging in the areas of planning, local authority engagement, and consumer information and engagement.

The report of the task force contains 40 actions which will alleviate some of the telecommunications deficits across Ireland and the implementation programme on mobile phone and broadband access identifies 19 of the 40 actions as areas where immediate and direct action can be taken by Government Departments and State agencies to ensure accelerated benefits to consumers. The work of the task force will also assist local authorities in preparing for the roll-out of the new national broadband plan network once the contract or contracts are in place. Each of the actions contained in the report and implementation programme has its own timeframe for delivery, which is set out in the report.

In order to maintain the momentum created by the task force, an implementation group is being established to drive and monitor the implementation of the actions. The implementation group will be led by my Department and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. The implementation group will formally report every 90 days to both the Minister, Deputy Humphreys, and me, who will in turn jointly brief Cabinet on the progress. I will be receiving regular updates from my officials in between these formal reporting periods. The implementation group will carry out a fundamental review of progress made after 12 months and will also be mandated to recommend further actions that would result in improved service for consumers.

Deputy James Lawless: I am aware of the actions in the task force and I am aware that 2018 is the date by which those actions are due to be completed. It is my and my party's view that the timeline is too late and that we need to identify the areas of coverage far in advance of that and to do so immediately. We are 20 years into having mobile phones as common currency and yet we still do not know what areas have comprehensive coverage and which do not. It is a basic commodity. We talk about the roll-out of broadband and the roll-out of 4G services and more recent technologies but we do not even have mobile phone coverage yet in many parts of the island. Until we understand where the gaps are, how can we begin to tackle it? People experience dropped calls and patchy coverage. People are almost offended by some of the campaigns telling them about the 4G services they can start to enjoy when they cannot even get 3G. They cannot even get 1G in terms of calls. In north-west Kildare in my constituency, which is not a million miles from Dublin, it is a problem the way it is in the west, south west and other

parts of the country. We need to bring forward this review. We need to look at the coverage maps. We need to do it in 2017 and sooner rather than later.

Deputy Denis Naughten: The task force is implementing the recommendations. It is proceeding with them now; it is not waiting until 2018. We have started to implement a number of those recommendations even in advance of the publication of the task force report. We have appointed liaison officers in each local authority across the country to work with the telecoms industry to assist it in the roll-out of infrastructure across the country. That has already happened. I signed a ministerial order in October to allow ComReg to release the 3.5 GHz spectrum. It will be auctioned off in the first half of this year and will improve mobile phone coverage. Part of the problem we have with mobile phone coverage at the moment is that the allocation of licences is based on populations rather than geographic coverage. It is something I am looking at for the release of the 700 MHz spectrum. I have already given RTE an allocation for funding in the current year to allow it to begin the process of decommissioning its broadcasting equipment on the 700 MHz spectrum so we will hopefully be one of the first countries in Europe to release that spectrum. I would like to see that spectrum being released on a geographic rather than a population coverage basis.

Deputy James Lawless: That spectrum is needed and it is a welcome development. I am proposing an independent audit. It is what is needed to give that objective view of where coverage is needed and where it suffers at present. We are projecting up to 85% by 2017-18 in terms of the four current primary mobile operators but we are not there yet. That still leaves parts of the country unserved.

I am hearing all the right things. The measures being proposed are very needed and welcome but we have not seen them in action yet. I understand the Minister said that certain actions are already being implemented. They need to be brought forward. The Government, as a whole, has shown a disregard for rural Ireland. The Minister is from rural Ireland so perhaps it does not apply in this case but it certainly applies to the rest of Cabinet. The Government needs to address the issues of rural Ireland immediately as a priority, including mobile phone coverage.

Deputy Denis Naughten: Deputy Lawless and I are singing from the same hymn sheet. The reason for the establishment of the mobile phone and broadband task force was that I was deeply frustrated by the announcement by my Department, before I became Minister, that there was further delay in the roll-out of the national broadband plan. I looked at it and asked what we could do in practical terms. I had it included in the programme for Government that this task force would be established within the first 100 days. In advance of the task force being established, I met each of the telecoms operators in the country and asked them to come forward with the problems and bottlenecks they were having with rolling out their networks. Over the past four years, €1.7 million was being spent every day by the telecoms operators in the country. I want to see that investment ramped up. What this task force and the actions in it will do is facilitate that happening. We have already started to implement them. I am getting regular reports from the team working on this and I intend to see significant movement and improvement, not only in mobile phone coverage or wireless broadband coverage but on fixed line broadband coverage in 2017.

National Broadband Plan Implementation

36. **Deputy Brian Stanley** asked the Minister for Communications, Climate Action and Environment the timeframe for the procurement process and delivery of the national broadband plan; and if he foresees any problems that may inhibit or create difficulty in the successful roll-out of the broadband network to the intervention areas. [6091/17]

Deputy Brian Stanley: I welcome the Minister on his first day back. It is good to see him back on his feet again. Hopefully he will make a full recovery. He has been through a difficult time.

This question is about the national broadband plan. There is major concern about it. The roll-out of the plan is badly needed in all areas. I was in County Roscommon yesterday, which is one of the counties in which the roll-out of broadband services is needed. It is also urgently needed in County Laois. People in rural parts of the county cannot do business due to the lack of it. We want to see its speedy roll-out.

An Leas-Cheann Comhairle: The Minister has two minutes to reply and perhaps he would keep an eye on the clock.

Deputy Denis Naughten: Grand.

The national broadband plan aims to deliver high-speed broadband services to households, schools and businesses throughout Ireland. The programme for Government commits to the delivery of the national broadband plan as a priority. This is being achieved through a combination of commercial investment by the telecommunications sector and by State intervention.

Currently, approximately 1.4 million premises in Ireland can get high-speed broadband of a minimum of 30 Mbps from commercial service providers and investment by the telecoms sector is continuing to expand this footprint.

My Department is actively monitoring the commercial deployment plans in the blue areas on the high-speed broadband map on our website, www.dccae.gov.ie, to ensure that all premises can get access to services. Direct feedback from consumers is important and if customers in these areas cannot access high-speed broadband services, they should inform my Department by emailing us at broadband@dccae.gov.ie. My Department is also actively monitoring developments of the commercial operators that might have an impact on the intervention area.

The formal procurement process to select a company or companies which will roll out a new high-speed broadband network within the State intervention area is being intensively managed to ensure an outcome that delivers a future-proofed network for at least 25 years. Intensive dialogue with bidders is continuing and to date, we have had more than 500 hours of competitive dialogue. The three bidders have indicated that they are proposing a predominantly fibre-to-the-home solution. This provides for a future-proofed solution for the 25 years of the contract and beyond. A fibre-to-the-home solution means speeds not just of 30 Mbps but much higher, potentially up to 1,000 Mbps.

My Department will shortly update the high-speed broadband map and finalise this intervention area to give certainty to the procurement process, taking into account industry investments that have not yet materialised in the blue areas, together with new industry investments within the proposed State intervention area, along with concrete and credible commitments by

industry for further new investments within the intervention area.

The timeframe for the procurement continues to be dependent on a range of factors, including the complexities that may be encountered by the procurement team and bidders during the procurement process.

I advise the Deputy that no one will be left behind.

An Leas-Cheann Comhairle: The Minister will have two more opportunities to respond.

Deputy Denis Naughten: The roll-out of the national broadband plan will happen in every county together.

Deputy Brian Stanley: I thank the Minister for his reply. The concern is that there has been slippage in the timeline for the procurement process. It was supposed to happen during the term of the previous Government in the Thirty-first Dáil. It is not the Minister's fault that it did not happen but his party came into office and this was to happen in the first six months of the Government's term of office. It was delayed, and postponed until this year and it is now delayed until further on in the year. People in the industry say it will be well into next year before the procurement is sorted out. That is of major concern because broadband connectivity is essential for businesses and jobs in rural Ireland. In saying rural Ireland, I am also referring to small towns and villages such as Ballyfin, Ballinakill, Rathdowney, Mountrath and Borris-in-Ossory and in south Kildare, places like Monasterevin, Kildangan and Kilberry. Those areas are in bad need of broadband services. The concern is that there will be not only a delay in the procurement but also in the roll-out of the broadband. Can the Minister give a timeline for that?

Deputy Denis Naughten: This is a very complex contract. The contract paperwork runs to approximately 2,000 pages. I am in regular contact with the team that is managing this to make sure there is no delay within the competency of the Department, but the three bidders have sought additional time for this process. The last thing I want to see happen is that we would award a contract and spend the next five years in court deciding who will carry out the work while rural Ireland is left without high-speed broadband.

I am doing a number of things. First, I am intensively monitoring this process to make sure there is no delay on our side and I am encouraging and putting as much pressure as possible on the bidders to turn around their aspect of it as quickly as possible within the confines of the procurement process in which we are involved. Second, we are trying to facilitate the private telecommunications companies in rolling out their network and plans. They are spending approximately €1.7 million on average a day at present. I want to facilitate them in rolling that out quicker with respect to mobile, wireless and fixed-line broadband services.

Deputy Brian Stanley: I mentioned the issue of quality and I am glad to hear the Minister is monitoring it. It needs to be monitored and rolled out very quickly. The issue of broadband quality is essential. We need high-speed broadband that will require fibre-to-the-home because of modern demands in terms of business and students' needs. That is what the industry has told us.

A further concern is that one of the three preferred bidders is trying to capture part of the market before the contract is awarded. One of the Minister's ministerial colleagues raised concerns about this. Eir seems to be creating a situation where doughnut areas are being created around certain towns and centres where there is broadband connectivity and it is also cherry-

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picking where it will serve in terms of the rural areas. If one of the providers is cherry-picking places in the yellow area, that will make it very difficult competitively for the other bidders to roll out the scheme. I am not sure what the Minister can do about that but this matter must be examined and the Minister must intervene.

My other question relates to the timeline. Once the procurement process is done, we need a date for its completion and a timeline for roll-out of quality broadband. I ask the Minister to intervene with regard to the issue that has arisen in the past six months and revert to Members on it because it is of serious concern. The three bidders are big boys and girls and they are able to fight their own corner but their concern is that if they engage in cherry-picking, inevitably they will distort the process and make it difficult for others to go into the market. Some areas will be left behind regardless of whether the Minister and I like it.

An Leas-Cheann Comhairle: The Deputy has exceeded his time. The Minister has one minute to reply. We have to have some control with regard to time.

Deputy Denis Naughten: On the concerns the Deputy has raised regarding the potential for cherry-picking and the “doughnutting” effect he spoke about-----

Deputy Brian Stanley: Doughnut areas are being created around the towns.

Deputy Denis Naughten: I live in rural Ireland. My constituency and native county have the worse broadband coverage in the country. I am very conscious of all of these issues. My Department is conscious of all of these issues. This is a matter on which we are actively engaged on an ongoing basis.

On the issue of quality, the Deputy made the point that families need fibre-to-the-home now. Anecdotal evidence I got from some rural families that were offered fibre-to-the-home indicates they have said it is too expensive and that they have 4G, which is sufficient to meet their needs. The reality is that families currently do not need fibre-to-the-home. Some businesses may need it but what we are putting in place is a network for the next 25 years. I have no doubt, and it may be in five or ten years’ time, that fibre-to-the-home is required but we are making sure that this network is future-proofed. What we are doing in the short term, however, is providing a basic level of service that meets families’ needs, whether it is to do with downloading information from the Internet or accessing Netflix or video content, to ensure they have the capacity to do that. The mobile phone and broadband task force will deal with some of those problems in the short term.

Deputy Brian Stanley: There was also the issue of doughnut areas being created around towns.

An Leas-Cheann Comhairle: I advise the Minister and Members that there are 13 minutes allowed for two questions. We have used up almost 19 minutes. Other Members will want to come in. I ask them to assist me and keep an eye on the clock because I do not want to be intervening.

Climate Change Policy

37. **Deputy James Lawless** asked the Minister for Communications, Climate Action and Environment when his Department will initiate the national dialogue on climate change; the

amount of funding that has been allocated to the dialogue; and if he will make a statement on the matter. [6090/17]

Deputy James Lawless: I will be brief. I did not realise it was the Minister's first day back. I also welcome him back to action. It is good to see him back on his feet, as they say.

A Programme for a Partnership Government includes a commitment to establish a national dialogue on climate change. This dialogue does not appear to have started. It is targeted for 2017. We are now into February 2017 and there is no sign of it. It is to include a forum for all stakeholders, communities, commercial bodies, non-governmental organisations, NGOs, and businesses and the farming community. There is no sign of it yet. My concern is that it will become a blockage to progress in the area. Will the Minister make a statement on its current position, including the funding that has been allocated?

(Deputy Denis Naughten): I thank Deputies Stanley and Lawless for their kind comments.

The programme for Government includes a commitment to establish a national dialogue on climate change. This builds on the commitment in the energy White Paper to establish a national energy forum to maximise and maintain consensus on the broad policy measures set out in the White Paper required to ensure the transition to a low-carbon energy future.

It is my intention that the national dialogue on climate change will encompass not only the role envisaged for the national energy forum but also a wider focus to include the examination of key infrastructural, land use, security of supply and economic issues that need to be addressed in the long-term transition to a low-carbon, climate resilient future.

It is important the national dialogue on climate change reflects the views of all stakeholders, including communities, non-governmental organisations, business and the wider Departments and State agencies. The briefing document on Ireland's first national mitigation plan, which I published on 1 February, and the formal consultation on the draft plan, which will commence in mid-March, are integral parts of the dialogue. I also intend to initiate a further consultation later this year on Ireland's national adaptation framework, which will also form part of the dialogue, to address our national response in dealing with the impact of climate change.

I will announce full details of the national dialogue on climate change shortly. The initial allocation of €350,000 has been made in 2017 towards the dialogue.

I can understand why Deputy Lawless says we are in February and there is no sign of the national dialogue but I must smile to myself because Deputies Stanley and Sherlock, who have been around this House an awful lot longer, would be able to explain that 2017 could be 31 December 2017. That date would still comply with the commitment set out in the programme for Government. However, it is not my intention to establish the national dialogue only on 31 December. We have had a number of priority issues within the Department. It was important to get these documents published in advance of commencing the dialogue, but it is my intention to try to move forward with the dialogue as quickly as possible and try to facilitate as much constructive debate across this country as possible.

Deputy James Lawless: As they say, past performance is no indicator of future performance. Just because it was done in a certain way for years and years does not mean it was the right way to do it. If we can do things more quickly, sooner and more effectively, let us do so rather than kick them to touch. We have had consultations and task forces. Now is the time for

action on the national dialogue. It is an important step.

My primary concern is perhaps not so much the dialogue as the possibility that it will become a block to action coming at the end of it. The dialogue is much needed, but the sooner the dialogue starts and finishes, the sooner the much-needed action kicks in. We are well behind on our 2020 targets. In March of last year, the Environmental Protection Agency, EPA, produced a report predicting that Ireland's emissions would be between 6% to 11% below the 2005 levels, which indicates that we have actually stepped backwards in this area. Given the global context, President Trump's various remarks and his immediate steps to row back Mr. Obama's climate change programme, it is even more a priority that Ireland meets its own obligations and takes immediate steps towards that.

Regarding the energy mix, the REFIT programme is still stalled, we have not seen action on solar energy and we have an overemphasis on wind energy. I find it difficult to see at this stage how the 2020 targets will be met, or will the country end up paying fines for lack of compliance? These are two nightmare scenarios we would rather avoid. I ask the Minister to bring forward the dialogue post haste.

Deputy Denis Naughten: The fact the dialogue has not commenced is not a block to action. We have published the final consultation on the renewable heat incentive scheme. It will be up and running this year. We have published a discussion document on the mitigation plan. The formal consultation on that will begin in March. We are now working on the adaptation plan. We will also consider the replacement for the renewable energy feed in tariff, REFIT, scheme and publish proposals on that.

What was important was to put these documents out into the public domain and start the discussion in order that there is a context to the debate on the national dialogue. The plan for the national dialogue is that it will be much more far-seeing and far-reaching. We will focus on 2050 rather than 2020. Regarding our 2020 targets, a renewable energy progress report was published by the European Commission on 1 February. The report at this stage projects that by 2020, Ireland will be at 15.5% of its 16% target, which is a shortfall of 0.5%. I am not happy with that, but the trajectory is not as bad as the impression that has been given, and we have far harder challenges to meet in 2030.

Deputy James Lawless: I ask the Minister to give in his concluding remarks the details of the framework. What funding has been allocated to it and how is its roll-out envisaged? Will it be a series of workshops around the country or a convening of all the great and the good at some forum? How exactly will it work?

Regarding the meeting of our targets, and I appreciate the Minister said we are projected to be 0.5% away from where we need to be, I attended the European Forum for Renewable Energy Sources, EUFORES, conference a few months ago and was frankly embarrassed to see on a screen Ireland at the bottom of the table in terms of meeting our climate change targets. It is an emergency. There are many other challenges facing the country, not least President Trump, Brexit, etc., but climate change must be up there with them. As a nation looking to long-term sustainability and taking the long-term view, it is paramount that we make progress in this area. I ask the Minister to address this as well.

An Leas-Cheann Comhairle: I thank the Deputy for observing the time.

Deputy Denis Naughten: First, €350,000 is allocated for this year in that regard. If the

Deputy has any suggestions or thoughts as to how we can engage with communities throughout the country, I am quite happy to hear them. Suggestions have been put to me about the public participation networks and how they could be involved in the national dialogue. I also want to see schoolchildren involved in it because the reality is that action or inaction now will have implications for young people today in getting employment in the future and having to deal with the consequences if we fail to deliver the targets for 2050. Therefore, it is important that young people also be engaged with this.

Based on the European Commission projection, we will fall short of our targets, but I want to try to see if we can hit that 2020 target and start working towards our 2030 target. It is important to point out that we are leading the world in having test sites for renewable wave and tidal energy. We are leading in some areas. In fact, the European Commission today published a very complimentary report on our management of waste.

Waste Disposal Charges

38. **Deputy Brian Stanley** asked the Minister for Communications, Climate Action and Environment his plans for the implementation of pay-by-weight bin charges; and the protections that will be in place for low-income households. [6092/17]

Deputy Brian Stanley: I ask the Minister to comment on pay by weight for household refuse disposal, in particular the protections available for low-income households.

(Deputy Denis Naughten): The charges applied by waste management companies are a matter for those companies and their customers, subject to compliance with the applicable contract, consumer and environmental legislation. Matters relating to consumer legislation fall under the remit of the Competition and Consumer Protection Commission.

My Department is undertaking a review of pricing structures for household waste collection. This includes the roll-out of pay-by-kilogramme charges which were scheduled during the summer of 2016. The review is also looking at the possible future pricing structures to incentivise the prevention and segregation of household waste. The review will consider more than one form of incentivised pricing structure. This approach will facilitate the service providers in offering all households a range of options to manage and control their waste costs. As with any new initiative, clear and effective communication with households is critical, and it is my intention that a comprehensive awareness and education campaign be rolled out in advance of the introduction of any potential new incentivised pricing system.

All sectors, including businesses, farming and households, need to engage positively in the move towards a resource efficient world. A throwaway culture is no longer sustainable. We will all need to change the way we work, travel, heat our homes, produce our goods and services, prepare our food and dispose of our waste. Incentivised pricing for domestic waste aims to encourage householders to prevent, reduce and segregate their waste to reduce our impact on the environment and our reliance on landfill waste disposal. Encouraging householders to reduce and recycle waste will be an important initiative in terms of helping to address the landfill capacity emergencies which occurred in 2016 as well as meeting our targets and obligations under current and future EU legislation.

Deputy Brian Stanley: In December, there were suggestions in the media that the Minis-

ter was considering scrapping pay-by-weight waste disposal. He has clarified that it has been delayed but will be introduced in mid-2017. Is that correct? In 2016, people entered into agreements with companies at the start of the year and paid up for the year but some of those companies changed the rules halfway through and wanted to move people to pay by weight. There is confusion about what will happen. I believe these matters are better dealt with by local authorities which should be in the driving seat.

The volume of waste is a huge problem and fly tipping has become an epidemic. It is not acceptable for anybody to dump rubbish out of the back of a car or van or any other vehicle. These are normally fairly new vehicles, not bangers. Those are the issues in respect of the timeline and its cost.

Deputy Denis Naughten: Deputy Stanley is right that the local authorities have a crucial role to play in this respect. That is why the waste management planning lead authorities and the enforcement regional lead authorities engage directly with the local authorities about waste.

The Deputy is correct about illegal dumping. That is very frustrating. We have made a specific additional allocation. I will make an announcement later this month dealing specifically with illegal dumping which is taking place throughout the country. The Deputy is right to say it is not necessarily low income households who do this. This irresponsible dumping, no matter who is doing it, is totally unacceptable. I am trying, working with the local authorities and the waste contractors, to put a range of incentivised pricing structures in place. Some will meet the needs of families, some those of older people but there will be a suite of pricing options available.

Deputy Brian Stanley: If I hear the Minister correctly he says he will give more money to the local authorities to help them deal with the problem. In parts of Laois where people used to dump rubbish in ditches and drains they are now dumping it on the hard shoulders. There was a black sack in the middle of the road near Ballybrittas after Christmas.

The best way to help households is to stop the production chain. Pay by weight is a problem for low income households, particularly those who have heavy waste, those where there are young children, disabled people or large families. That has to be factored into any new pricing structure. It is too late if we start with the householder because the packaging has already been produced. We need to deal with the manufacturer, the wholesaler and the retailer in order not to have to bring home packaging. I had to argue with a shopkeeper recently when I bought a pair of shoes. The shopkeeper told me I had to take the box. I did not want the box. All I wanted was the pair of shoes and laces to tie them. I almost had to have an argument to get the shopkeeper to hold on to the box. That is what we need to stop.

Deputy Denis Naughten: Deputy Stanley is perfectly correct about that. We have to work on preventions, and one of the initiatives I want to focus on this year is food waste. There is huge potential to reduce the volumes of food waste.

The Deputy is right about unnecessary packaging. That is the objective of the circular economy. My Department is working with other Departments in the context of the procurement process to consider the whole-of-life cost of a product rather than the point of purchase.

On the broader question of the type of pricing structures, I am very conscious of the issues and that we need to make sure there are pricing schemes in place. This is not a question of tax but of putting a system in place to encourage every household, whether an individual or a large

family, to reduce the amount of waste it produces. We hope to have a system to facilitate that.

National Broadband Plan

39. **Deputy Sean Sherlock** asked the Minister for Communications, Climate Action and Environment the timeframe and detailed plans for the way in which he will revise the current universal service obligation for telephony services from basic copper telephony to ensure high-speed broadband connectivity is available as an enforceable right to every person and his or her premises throughout the country; and if he will make a statement on the matter. [5827/17]

Deputy Sean Sherlock: I wish the Minister well. It is good to see him back on his feet and at his desk.

My question relates to the universal service obligation. Does the Minister have a timeframe and what are his detailed plans for revising the current universal service obligation for telephony services from basic copper telephony to ensure high-speed broadband connectivity and to ensure it is available as an enforceable right?

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I thank Deputy Sherlock for his good wishes. The national broadband plan aims to deliver high-speed broadband services to every household, school and business in Ireland. This is being achieved through a combination of commercial investment by the telecommunications sector, and for those areas that will not be covered by commercial operators, the State has committed to intervene and subsidise a network build in order that nobody, no matter how isolated, is left behind. A formal procurement process is in train to select a company or companies which will roll out a new high-speed broadband network within the State intervention area. The procurement process is being intensively managed to ensure an outcome that delivers a future-proofed network that serves homes and businesses across Ireland for at least 25 years. The timeframe for the procurement continues to be dependent on a range of factors including the complexities that may be encountered by the procurement team and bidders during the procurement process.

There is no universal service obligation, USO, for high-speed broadband provision or mobile voice services in Ireland. The current EU and national regulatory framework for telecommunications relates solely to voice telephony and functional Internet access, which is 28.8 kilobits per second, kbps, and is provided for under the current EU regulatory framework governing telecoms. In September 2016, the European Commission published an ambitious proposal for the regulation of the European telecoms sector, which aims to incentivise and encourage increased investment in high-speed broadband networks. Negotiations on the review of the EU regulatory framework give Ireland an opportunity to seek inclusion of a USO in respect of high-speed broadband connectivity.

In that regard, I have raised at EU level the issue of a USO for high-speed broadband. I am seeking inclusion of a specific provision in the new framework that would allow member states to apply a USO for high-speed broadband where such networks are available.

My Department is also in discussion with the Commission for Communications Regulation, ComReg, as to whether a USO may be a viable instrument in instances where a high-speed broadband network is available but individual premises cannot access such services at an af-

fordable price.

Deputy Sean Sherlock: Is the Minister saying that the Government's position is that it is without ambiguity seeking a USO for all premises and citizens? How many people in the Minister's Department are working on the national broadband plan? The Minister speaks of people being left behind, and across the political landscape we all acknowledge those people, but when will nobody be left behind? What is the reasonable expectation of people who do not have adequate coverage for the roll-out and 100% penetration?

Deputy Denis Naughten: We are seeking a USO because we feel it is probably the most effective way to deal with isolated cases in the blue area relating to the national broadband plan. There are places in Dublin 1 and Dublin 2 that cannot get high-speed broadband. We believe that the only way to enable them to do so is through a USO. We are trying to deal with issues, including those relating to local authorities, as they arise. The issues are not necessarily all on the side of the telecommunications company. The numbers on the national broadband plan vary at different times depending on the volumes of work that exist. We bring in specific contractors. We have seconded staff from some of the other agencies as well to work with us on this. The number varies from time to time. The Deputy asked when people will get broadband. The roll-out of fibre to homes in rural areas has already started. Some of my constituents have told me they have been contacted by some telecommunications operators to offer them fibre broadband with speeds of up to 1 Gbit. That has already started. We intend to fast-track the commercial roll-out in conjunction with the broadband and mobile phone coverage task force to ensure as many households as possible can access a minimum level of service to meet their current needs while fibre broadband is being rolled out to their homes.

Deputy Sean Sherlock: I would be very grateful if the Minister could revert to me with an indicative timeframe. It is also important that we know exactly how many staff are working on this important infrastructural project in the Department of Communications, Climate Action and Environment. Is the Minister planning for a scenario in which litigation is taken by one or more of the potential bidders for the national broadband plan? Is the Department making plans for such a potential scenario as we speak?

Deputy Denis Naughten: My priority and that of the officials in my Department is to roll out as much mobile, wireless, fixed-line or fibre broadband as we can as quickly as possible. We are facilitating the commercial operators in doing that. We are pushing the national broadband plan as far as we can. We are working closely with the three preferred bidders and the European Commission on the communications and competition sides. They are fully conscious of all the issues involved here. We have received our own internal legal advice on this matter. We are conscious of the need to be careful in everything we do in this regard. There is always a risk that one of the unsuccessful bidders could take legal action in the future. We are trying to ensure any case that arises in the future does not hold up the roll-out of the network. We are also seeking to ensure we will be able to defend any such case. This is a very complex process. The contract runs to 2,000 pages. Therefore, I cannot give a definitive timeline at the moment.

An Leas-Cheann Comhairle: Before we move on to Other Questions, I believe I speak on behalf of all Members of the House in welcoming the Minister, Deputy Denis Naughten, back to Leinster House and in saying that he is looking well after his recent accident. We wish him well.

Deputy Denis Naughten: I thank the Leas-Cheann Comhairle.

An Leas-Cheann Comhairle: I remind Deputies that we are running approximately 15 minutes late. I am anxious to accommodate all Members.

Other Questions

North-South Interconnector

40. **Deputy Niamh Smyth** asked the Minister for Communications, Climate Action and Environment the amount the capital phase of the North-South interconnector project will cost the State; and if he will make a statement on the matter. [5421/17]

558. **Deputy Niamh Smyth** asked the Minister for Communications, Climate Action and Environment the amount the capital phase of the North-South interconnector project will cost the State; and if he will make a statement on the matter. [5393/17]

Deputy Niamh Smyth: I welcome the Minister back to the House. It is great to see him here. I wish him a speedy recovery.

Deputy Denis Naughten: I thank Deputy Niamh Smyth.

Deputy Niamh Smyth: These questions relate to An Bord Pleanála's recent decision to grant permission for EirGrid's contentious pylons on the east of the island. This decision will affect counties Cavan, Monaghan and Meath. Some of my colleagues from County Meath are present. There is huge opposition to this proposal in the area. Will the Minister make a statement on the overall cost of the project to the State?

Deputy Denis Naughten: I propose to take Questions Nos. 40 and 558 together.

EirGrid estimates that the cost of constructing the proposed North-South interconnector will be €286 million, with €180 million of this cost being incurred in Ireland and the remaining €106 million being incurred in Northern Ireland.

The proposed interconnector is a critical piece of energy infrastructure that will benefit all the people on the island of Ireland. Last November, the Northern Ireland Minister for the Economy, Simon Hamilton, and I confirmed our joint commitment to the ongoing development of the single electricity market. The new market arrangements will be in place in 2018 and will yield benefits for electricity market customers in the North and in the South. The UK White Paper on Brexit, which was published last Thursday, noted that the UK is considering all options for its future relationship with the EU with regard to energy. The UK is particularly keen to avoid disruption to the single electricity market operating across the island of Ireland.

The North-South interconnector, which will further support the single electricity market and reduce costs for consumers, has received planning permission in Ireland and is in the planning process in Northern Ireland. This vital project, which will ensure the security of supply in Northern Ireland, is a further example of the interdependence of our energy systems. The interconnector will enhance competitiveness, bolster security of supply and remove a key barrier to the efficient operation of the electricity system across the island of Ireland.

It is envisaged that it will lead to initial savings of €20 million per annum, increasing to

between €40 million and €60 million each year by 2030, shared between Ireland and Northern Ireland. Such cost savings will ensure there are benefits for every home and business in the State and will improve the competitiveness of businesses and the household disposable incomes of citizens. On this basis, I believe the proposed investment in our electricity infrastructure is a sound one.

The costs of developing the North-South interconnector are not borne by the Irish Exchequer. The project will be funded in the same way as other electricity and gas grid investments are paid for. These costs are approved by the regulator and charged by EirGrid, ESB Networks and Gas Networks Ireland to energy supply companies. The energy supply companies generally include these costs in customer bills.

Deputy Niamh Smyth: Given that the overall cost of the North-South interconnector is €286 million, I suggest that it would be prudent for the Minister and the Government to put the capital phase of this project on hold until we know what impact Brexit will have on its financing and its viability. Given that the project is being presented as a key part of the EU electricity grid, what implications will the departure of the UK from the Union have for it? We are reading various contradictory reports on the possible reintroduction of a hard Border. It is looking very much like we will have a hard Border. There are questions surrounding the transfer of goods and services to the UK and through the UK to other European countries. The potential for associated tariffs is unclear. I suggest that this, when coupled with the concerns of those who are opposed to the project, means the Minister should put the interconnector on hold at this stage. I remind the House that €286 million is a phenomenal amount of State funds. There is huge opposition to this project at present. I thank the Minister for agreeing to meet representatives of anti-pylon groups in counties Monaghan, Cavan and Meath tomorrow. The bottom line is that people really want to see this project being developed underground. Brexit is the most recent issue to affect this proposal, which has been under consideration for ten years and which needs to be put on hold now.

Deputy Denis Naughten: I have heard what the Deputy has said, but I am a bit surprised that she is questioning whether we need the interconnector. I look forward to meeting representatives of the groups tomorrow morning. Having listened to many of them already, it seems to me that there is agreement across the board that an interconnector is needed, even if the question of how it should be connected might remain an issue for debate. The Deputy has asked a valid question about the implications of Brexit. The governance framework for the all-island single electricity market is based on legislation adopted by the Oireachtas and the UK Parliament. It is not based on EU law. The existing energy-trading and interconnection arrangements between Ireland and the UK, which ensure the continuity of mutually dependent energy arrangements, are based on co-operation and agreement between Ireland and the UK and do not depend on Brexit or on whether Ireland is inside or outside the EU. Norway is currently in the process of building an interconnector with the UK. Of course, Norway is outside the EU.

Deputy Niamh Smyth: There is no disputing the need for this. However, why do we not look at the Brexit situation as an opportunity? Two weeks ago, we attended a public meeting with over 300 people who are living in fear of what this will mean for their homes, their lives and their children, who may propose now to live in the area. We will see a mass exodus of young people from the area if this continues, however. I am asking the Minister to see this as an opportunity to either underground the project or to put it on hold.

An Leas-Cheann Comhairle: I call Deputy Cassells and we will then hear from Deputy

Thomas Byrne. I point out to Deputy Kelly that this is not favouritism. As two questions are being taken together, there is double the time available. Deputy Kelly will have some 18 minutes for his upcoming questions.

Deputy Shane Cassells: The Minister is right that it is a matter of how we provide the connection which is in question. This is my third time to discuss the matter in the Chamber with him. All I want to know is whether he accepts the figures that have been put forward by NEPP in respect of how much it would cost to move the project underground, which has been a huge point of debate. Does he accept the figures that have been put forward and that suggest it is viable? Does he also accept that, in the ten years since this project was first proposed, the logistics of providing this are not a threat to security of supply but are very much in line with current practice in continental Europe?

Deputy Thomas Byrne: First, to say this is not related to Brexit or the EU is totally misleading and disingenuous. As the Minister knows, this is a project of common interest, as designated by the European Commission, so it clearly has strong European ties and links, regardless of the legislation.

Second, the Minister and EirGrid, as the semi-State body, must have regard to the fact it is now clear that a majority of Dáil Éireann does not support this project in the way it is envisaged. How can the Minister decide to stand over this when he knows the Dáil does not support it? Fianna Fáil has been extremely clear in its assertion that the underground option should be taken. I understand Sinn Féin takes the same position, as does the Minister's colleague, the Minister of State, Deputy Regina Doherty. Clearly, there is no political support, so how can it proceed? At the very least, the Minister needs to obtain another proper, independent international study of this project in order to examine the merits of putting it underground.

Deputy Denis Naughten: I am told the only feasible way to underground a circuit with 1,500 MW capacity over a distance of 138 km is to use a specialised high-voltage direct current with conversation equipment at either end, not AC technology. For a DC link to act reliably with a synchronous network, it would be necessary to develop new and complex control systems that have not been tried before in order to replicate the functionality of an AC interconnector. I am told that it is not the same as undergrounding in regard to some other projects. The example that has been given in the past is the Aachen to Liège project, where there was undergrounding, but over a much shorter distance and with a lower capacity. If we take the cost of that project based on the bigger scale that is required here, the DC undergrounding cable option as applied there would cost in the region of €992 million, which is significantly higher than what is projected here. The argument is made by EirGrid, based on its research, that the underground option would be three times more expensive.

Deputy Thomas Byrne: It has gone back up again.

Deputy Denis Naughten: I am meeting representatives from NEPP in the morning and I will listen to what they have to say.

Deputy Thomas Byrne: We appreciate that.

Deputy Niamh Smyth: There is also the Monaghan group.

Deputy Denis Naughten: I am quite willing to hear what people have to say. However, it is important for people to understand that a legal case has already been lodged with the courts

and a planning process is ongoing. I have to be conscious of both of those issues.

Air Quality

41. **Deputy Alan Kelly** asked the Minister for Communications, Climate Action and Environment the progress he has made on the national clean air strategy. [5696/17]

75. **Deputy Alan Kelly** asked the Minister for Communications, Climate Action and Environment his plans to fully implement the nationwide ban on smoky coal; and if this will be in place for the 2018 heating season. [5695/17]

574. **Deputy Alan Kelly** asked the Minister for Communications, Climate Action and Environment the status of his Department's national clean air strategy. [5412/17]

575. **Deputy Alan Kelly** asked the Minister for Communications, Climate Action and Environment the date on which the nationwide smoky coal ban will come into effect. [5414/17]

Deputy Alan Kelly: I welcome the Minister back to the House. I want to know the progress on the national clean air strategy, which is an issue close to my heart. For the information of Deputies, more people die due to the quality of air in this country than die in road accidents. It is a huge issue, and one on which we have made major progress. I would like the Minister to give us good news in regard to the current position.

Deputy Denis Naughten: I propose to take Questions Nos. 41, 75, 574 and 575 together.

The ban on the marketing, sale and distribution of bituminous coal - the smoky coal ban, as it is commonly known - was first introduced in Dublin in 1990 and subsequently extended to the major cities. Following a more recent public consultation process in 2012, it was extended and now applies to 26 urban areas nationwide. The ban has proved very effective in reducing particulate matter and sulphur dioxide levels, and has had the effect of significantly improving public health. Research indicates, for example, that the ban has resulted in over 350 fewer annual deaths in Dublin alone.

An all-island research study commenced in 2014 into policy options to deal with the problem of airborne pollution from residential fuel combustion, in particular, smoky coal. The study, undertaken under the auspices of the North-South Ministerial Council, was finalised in December 2015 and subsequently presented to Ministers. The report supports the extension of the ban areas in the Republic and smoke control areas in the North. While I would like to see a joint approach by authorities to the introduction of an all-island ban on smoky coal, it is, of course, also a matter for authorities in the North to consider.

Notwithstanding the timing of decisions in the North and the position taken there, I am committed to extending a ban nationwide in this jurisdiction. The process necessarily involves discussion and consultation with a wide number of stakeholders, including the European Commission, relevant Government Departments and agencies, the residential fuel industry and the general public. Preliminary discussions on issues that may arise in connection with the proposed nationwide ban have already taken place with some of these stakeholders.

My Department is currently developing a national clean air strategy which will provide the strategic framework for a set of cross-Government policies and actions to reduce harmful emis-

sions, and consequential health impacts, by improving our air quality. The strategy will also address a wide range of other national policies that are relevant to air quality, such as transport, energy and agriculture. Residential home heating is a key source of air pollution, in particular heating generated from solid fuel and smoky coal. As such, there is a pre-existing commitment to extend the smoky coal ban nationwide by 2018. This issue will be addressed in the strategy and a consultation process on the strategy will commence shortly. I expect the strategy to be published by the end of this year and that it will, *inter alia*, confirm the timeline for a nationwide extension of the ban on smoky coal.

Deputy Alan Kelly: I have good time for the Minister but, to be honest, that is not an answer. In fact, the Minister did not answer the question at all. We have lost 15 months on this. The Minister knows it is an issue that is close to my heart and that I introduced the clean air strategy, but, 15 months on, nothing has happened. The smoky coal ban which was to be in place for the 2017-18 season has now been pushed back.

Children in Enniscorthy have a much higher risk of getting cancer than children in Dublin, as has been proven by research from UCC to which the Minister did not refer. We all know this is necessary. The officials who did all of this work have been left in the Customs House and have not transferred across to the Minister's Department. Has that caused the delay?

5 o'clock I know what I am talking about because I drove this strategy, which is very close to my heart. Too many people suffer respiratory illnesses and there are 470,000 people with asthma in this country, which is the fourth highest rate in the world. This is a necessary strategy. The ban on coal in Dublin worked and saved thousands of lives. We cannot afford to have the children of Enniscorthy, and of other towns in parts of the country where there is no ban, go through another year without a ban. I ask the Minister to introduce a ban and also to put forward a clean air strategy across transportation and the other sectors. While we know this will take time, the issue in regard to smoky coal does not have to take any more time.

Deputy Denis Naughten: I acknowledge the work Deputy Kelly has done in this area. Part of the problem is that, effectively, we had no Government in place for the first half of last year. Since I became Minister for Communications, Climate Action and Environment this has been one of my priorities, especially now because the Department has responsibility not only for environmental issues but for climate change and energy issues as well. The clean air strategy dovetails into the policies covering these three divisions of my Department.

Deputy Kelly is right to ask whether the strategy will be in place by 2018. The intention is to have it in place by 2018 in respect of the ban on coal. The clean air strategy is going for public consultation within the coming weeks. I look forward to the engagement of Deputy Kelly in this regard. I have been engaging with the Environmental Protection Agency to determine how we can improve monitoring in this area. I have held several meetings with other bodies, such as the Asthma Society of Ireland.

Deputy Kelly is right. The reality is that four people per day in Ireland are dying directly as a result of poor air quality. This is having a great impact on admissions to our accident and emergency departments and congestion within the health system. That is why we have introduced the warmth and well-being pilot scheme. That is why I made an announcement in Ballymahon some weeks ago to deal specifically with the problem, especially in the midlands, where in approximately one home in four, the major source of heating is solid fuel. The idea is to look at how we can make a transition away from that. I am determined not only to implement the clean air strategy and to put in place the ban on coal but to make a transition from dirty fuels

to clearer fuels to deal with this issue.

Deputy Alan Kelly: I do not doubt the sincerity of the Minister. I am raising this issue because people feel let down. They have come to me as the former Minister with responsibility in this area. The strategy was to be announced by the middle of last year, if not before. The Minister has committed to a smoky coal ban by 2018 on the record of the Dáil. Since notification must be made one year in advance to those selling the product, the process has to commence now. Otherwise, it will not be until 2019. The announcement is required one year in advance. Sellers have to get through their stock. It is already out there. I presume the Minister will announce his plan in the coming days because otherwise, it will be impossible for it to be in place in 2018.

The clean air strategy covers a range of different sectoral issues, including transport, agriculture, peatlands and so on. These are major issues and addressing them will take time, but this issue need not. Unfortunately, the problem affects children and adults throughout the country. I can visualise children playing on pitches. I referenced the town of Enniscorthy because it was one of the worst in the UCC study. Children in such places are going to get sick. Some will get very unwell. Unfortunately, people may die because this is postponed for another year.

I appeal to the Minister to do this. Everything was put in place. I do not accept the explanation about people not transferring from one Department to another when there was a change of ministerial responsibility. That is not a good enough excuse for the situation these families have been left in.

Deputy Denis Naughten: I have never given the issue of staff transferring as a reason. The staff are answerable to me and I am working closely with them on the matter.

Deputy Alan Kelly: They are based in the Custom House.

Deputy Denis Naughten: I have been working closely with them since I became Minister for Communications, Climate Action and Environment at the end of July.

It does not only apply to Enniscorthy. Enniscorthy has been flagged because we have an air monitoring station there. In fact, we have a poor network for monitoring air quality in the country. That is part of the problem. This was one of the issues I discussed with the Environmental Protection Agency last week.

The fact is that one child in five in the country suffers from asthma. Anyone who has seen a child gasping for breath knows how serious this issue is. That is why I want to see it prioritised. One of the first speeches I gave as Minister was to an Energy Ireland conference. I made the point that for me the issue of clear air and air quality is crucial. Deputy Kelly is right to say the coal ban is a crucial part of this.

I am keen to demonstrate my commitment. The renewable heat incentive scheme discussion document was published some weeks ago. I have specifically included in the document provisions relating to dealing with issues of particulate matter and nitrogen oxides. The provisions probably would not have been part of the document had the environment division not come to our Department. I am committed to seeing progress made.

Deputy Alan Kelly: I look forward to the Minister's announcement. It will have to be in the coming days to meet those timelines.

Media Mergers

An Leas-Cheann Comhairle: Deputy Richard Boyd Barrett has requested permission to have his question take by Deputy Bríd Smith. Permission has been given.

44. **Deputy Richard Boyd Barrett** asked the Minister for Communications, Climate Action and Environment to outline his views on the future of media plurality here in view of the existing proposals with regard to the sale of a company (details supplied); and if he will make a statement on the matter. [5811/17]

Deputy Bríd Smith: I welcome the Minister back to the House. I hope he is feeling better. I assume his accident is the reason he is standing all the time. It is an awful thing to be knocked off the bike. Anyway, the Minister is in one piece.

I am sorry the Minister has missed the debates in the committee in the past week or so. The debates have been hot and heavy over our concern with the Broadcasting Authority of Ireland, BAI, and the proposed merger between Celtic Media Group and Independent News and Media. What is the Minister's position on this merger in terms of the plurality of regional media in the country?

Deputy Denis Naughten: Following approval by the Competition and Consumer Protection Commission, notification of the proposed merger referenced in the question was received by me as Minister on 21 November 2016. I had 30 working days from the notification deadline of 24 November 2016 to conduct an initial assessment, or phase one assessment, of the case on media plurality grounds.

The examination was guided by the relevant criteria laid out in the legislation and by the guidelines on media mergers. The document is available on my Department's website. The examination process laid out in the legislation and the guidelines considered several important criteria or measures, including diversity of ownership in the relevant media sector and in the wider media market, editorial management, governance structures and the financial standings of the parties to the proposed merger.

Following the examination, I had three options under the legislation: to allow the merger to proceed; to allow the merger to proceed with conditions; or to ask the Broadcasting Authority of Ireland to conduct a more in-depth examination, or phase two examination, of the proposed merger.

On completion of the phase one examination, I decided on 10 January 2017 to ask the Broadcasting Authority of Ireland to conduct a full media merger examination of the proposed transaction. Following the BAI examination of the proposed merger, the authority will provide me with a report detailing recommendations on the matter within 80 working days from the date of my request. Furthermore, in accordance with the legislation, I have established an advisory panel to provide an opinion to the BAI on the application of the relevant criteria in the legislation to the media merger in question. Following receipt of the BAI's report and recommendations, I must make a decision to allow the merger to proceed, to allow a decision to proceed with conditions or to refuse to grant my consent.

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Additional information not given on the floor of the House

As part of the BAI full media merger examination and in accordance with the legislation, the authority has called for public submissions on the proposed merger. I invite any person who is interested in the proposed merger to write to the BAI and express his or her views. The deadline for submissions is 20 working days from the date of my request.

Once the BAI has made its recommendation to me and has provided me with its report, I have a further 20 working days within which I must make a final determination to allow the proposed acquisition to proceed, to allow the proposed acquisition to proceed with conditions or to refuse to allow the proposed acquisition to proceed.

Therefore, it would not be appropriate for me to comment on the case while the examination is ongoing.

Deputy Bríd Smith: I was going to ask the Minister if he had appointed the advisory panel. Can the Minister tell the House who he has appointed to the advisory panel?

The discussion on media plurality was really interesting despite the fact that there was some conflict, in particular, about the presence of Deputy Lowry on the committee. I seldom have seen the Deputy attending the committee but he was in attendance. Some of us, including academics who gave witness, expressed the view that he had a conflict of interest by being there.

This is really about the cross-ownership and control of vested interests in various communications companies, including Communicorp and Independent News and Media. Now possibly, Celtic Media Group will be subject to ownership to a large degree by Denis O'Brien. We believe there may be an excessive degree of influence and control on print broadcasting and online media in the country. We need to be serious in dealing with our recommendations. We have a difficulty at the moment with the question of whether the committee will issue a recommendation because of the varying views. It would be helpful if the Minister could tell us who he has chosen for the advisory panel.

Deputy Denis Naughten: I will set out the answer to that question. The names of the members of the advisory panel are as follows: John Horgan, former Press Ombudsman and a media academic at Dublin City University; Marie McGonagle, a retired academic from NUI Galway and Peggy Valcke, a Belgian media plurality and competition expert. Mr. John Horgan has agreed to be the chairperson of that panel. I know that the committee has commenced hearings. There is a function and role with regard to the BAI process for the committee to participate in this. I look forward to the response from the committee on this issue. What I have to do in this process is laid out in law in black and white. I am waiting for the BAI to come back with its report. The decision will then lie with me on that. I have answered questions in the House in the past on the issue of media plurality and I am conscious of all of the issues that have been raised.

Deputy Bríd Smith: I thank the Minister for all of his answers. I am not advising the Minister but I do hope that he reads the submissions, particularly from the academics, because the stark reality of the takeover of media in this country is quite shocking. For example, between 2005 and 2016, there were 90 takeovers. This is the first takeover to actually be scrutinised. That is very serious. That is probably a consequence of the legislation that was passed quite recently, but it goes to show how these things can creep up and have quite a serious impact and serious consequences. Albeit the appeal this morning was to save the jobs in regional media, there are some on the committee who believe that while we should attempt to save the jobs, if

necessary by some sort of public intervention, we should not compromise the role of media in maintaining local democracy, its plurality and its social and political role in Irish life.

An Leas-Cheann Comhairle: I am trying to accommodate as many Members as possible. The Minister has one minute.

Deputy Denis Naughten: It is the first merger to be scrutinised. The reason for that is the legislation is very new. I am the first Minister to do that. The State will not be subsidising any media outlet or newspaper in this country. However, there is a broader issue with regard to how we encourage quality journalism. It is an issue I have addressed in the past and with which I am actively engaged at the moment. I believe it is important that we have responsible media outlets and that we can trust the output that comes from those outlets, particularly now in an era of social media and instant messaging. There is a broad area there of which I am very conscious.

Finally, I do not want it to be raised that I did not-----

An Leas-Cheann Comhairle: I am trying to accommodate-----

Deputy Denis Naughten: A further merger has come before me. That is the BBC-ITV joint venture, BritBox. That was notified to the Department on the last day of January.

Deputy Bríd Smith: I do not think the journalists are the problem.

An Leas-Cheann Comhairle: We are finished, Deputy.

Deputy Bríd Smith: The quality of journalism is not the problem.

Mobile Telephony Services

45. **Deputy Martin Heydon** asked the Minister for Communications, Climate Action and Environment the status of the work by his Department to improve mobile phone coverage in County Kildare and nationwide; and if he will make a statement on the matter. [5801/17]

Deputy Martin Heydon: We have discussed many times the gaps in the provision of broadband around the country and particularly outside the larger urban conurbations. Similarly, we have huge gaps in mobile phone coverage. That is an issue and I think the Minister will agree it seems as though it is getting worse in certain areas. I seek a statement from the Minister on the matter because it is a prevalent issue for me in south County Kildare.

Deputy Denis Naughten: I thank Deputy Heydon and am critically aware of the frustration currently being experienced across Ireland, where mobile networks are not always delivering the services people expect. Any customer, including those in County Kildare, who experiences service difficulties should raise the matter with the service provider in the first instance. If this fails to resolve matters, customers can and should refer a complaint to the Commission for Communications Regulation, ComReg, which will investigate the service provider's compliance with its contractual obligations. Mobile operators have invested significantly in rolling out improved services, following ComReg's multi-band spectrum auction. At least one operator now has in excess of 90% 4G population coverage. The rate of demand for data services has, however, increased by 500% in the last four years and this presents a continuing challenge for mobile operators, regulators and policy makers both in Ireland and internationally.

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Recognising this challenge, I specifically included in the programme for Government a commitment to a mobile phone and broadband task force. In July 2016, I established the task force together with the Minister, Deputy Humphreys, which has identified immediate solutions to broadband and mobile phone coverage deficits and investigating how better services could be provided to consumers prior to the full build and roll-out of the network planned under the national broadband plan, NBP, State intervention. The report was published in December and is available on both Departments' websites.

In producing this report, the task force worked with Departments, local authorities, ComReg, State agencies, the telecoms industry and other key stakeholders.

The report contains 40 actions that will alleviate some of the telecommunications deficits across Ireland and the implementation programme on mobile phone and broadband access identifies 19 of these actions as areas where immediate and direct action by Departments and State agencies can ensure accelerated benefits to consumers. Included in the actions is a commitment made by ComReg to produce a mobile phone coverage map and another action for the regulator to carry out a mobile handset sensitivity testing programme. Both actions will be of great value to consumers, including those in County Kildare.

Additional information not given on the floor of the House

The work of the task force will also assist local authorities in preparing for the roll-out of the new NBP network once contracts are in place.

In addition, I recently signed regulations allowing ComReg to proceed with an early 2017 allocation of spectrum in the 3.6 GHz radio spectrum band. This will provide an 86% increase in total spectrum available for mobile and fixed wireless services.

In my Department's Estimates for 2017, I have secured an €8 million provision for RTE to allow it to free up the 700 MHz spectrum band. ComReg in turn will make plans to allocate this spectrum to provide for significantly enhanced mobile coverage. The 700 MHz band is particularly suited to rural environments where the signal can travel long distances.

These initiatives should assist in enhancing the quality of mobile phone and data services across Ireland and particularly in rural Ireland.

In parallel, the national broadband plan aims to deliver high-speed services to every city, town, village and individual premises in Ireland, through private investment and a State intervention in areas where commercial investment have not been fully demonstrated.

The management of radio spectrum is a statutory function of ComReg, which is the independent regulator of the telecommunications sector. Licences issued by ComReg impose terms and conditions on mobile network operators, including minimum population coverage obligations. ComReg monitors compliance in this regard by means of biannual drive tests. However, given ComReg's independence, I have no statutory function in the matter of auditing mobile coverage.

Deputy Martin Heydon: I thank the Minister and I am glad to hear that progress has been made. We are all aware of areas near our homes or even in our homes where coverage is poor, calls drop out or are unable to be made and areas that we have to avoid. The progress the Minister has outlined for the key measures identified in the report is critical. I am particularly focused

on the ones that are easy fixes and easily implemented. Three stand out for me. The Minister mentioned ComReg assessing the extent of black spots. That coverage map, similar to what we have for broadband, on which we identify where the black spots are, makes it easier for us to then engage with the providers to see where the black spots are. The operators will report quarterly to the Minister and I hope that starts immediately. By having that map, we can then work down and drill into the detail.

Similarly, recommendation 17, which is about ComReg developing a licensing scheme allowing for the use of external mobile phone repeaters, really needs to be progressed. I am aware of many buildings within which there is an impediment to mobile phone coverage either in business or residential areas. The licensing of phone repeaters has great merit in being pursued as soon as possible.

Deputy Denis Naughten: ComReg hopes to be in a position by the end of this year to have significant progress made with regard to that mapping. We have received a commitment from the mobile operators that they will provide us with the data on their coverage black spots across the country.

The Deputy is right about the repeaters. They will help to boost the signal in many parts of the country. What we are trying to do is assist the existing commercial telecoms companies in rolling out their networks. At the moment, they are spending on average about €1.7 million every single day and they have been doing that for the last four years. What we are trying to do is facilitate them in fast-tracking that investment in order that it will improve mobile phone coverage, wireless broadband coverage and both fixed line and fibre to the home for broadband.

Last October, I released the 3.6 GHz spectrum. That will be auctioned off in the next couple of months, which will assist in improving the quality of mobile coverage across the country.

Deputy Martin Heydon: As for the cost of some of these implementations, this obviously is a perfect example of the State engaging with the private sector and trying to encourage it along. Is there a budget within the Minister's remit to help to implement some of these measures? I know there is a 700 MHz band with RTE on which we need to expand. Is the Minister confident that the private operators are going to work with the Minister to address these issues? Does the Minister get a sense from the private operators that they accept that the issue has deteriorated and that mobile phone coverage has become an issue, particularly in rural parts of Ireland and in south County Kildare?

Deputy Denis Naughten: The quality of service is something I raised specifically with ComReg when I became Minister. It has not received the scale of complaints that it should have received based on what I was receiving as complaints in my own constituency. That is why I would actively encourage people to first contact their operator. If they are not satisfied with the response, they should contact ComReg about it and make a formal complaint, because that is important in order for us to progress these issues. On the 700 MHz spectrum band, I have allocated €8 million in 2017 to allow RTE to commence the process of decommissioning the broadcast equipment that is on that spectrum. RTE will complete the work in 2018, which will release that spectrum to allow it to be auctioned off. It would be my preference that it would be auctioned on the basis of geographic coverage rather than population coverage.

Wildlife Protection

46. **Deputy Eamon Ryan** asked the Minister for Communications, Climate Action and Environment the reason for awarding the ObSERVE programme; the way in which its aim of surveying cetaceans such as whales, dolphins, and porpoises and sea birds offshore aligns with the programme's aim of supporting the sustainable development of the oil and gas industry; and the basis on which this programme was awarded a nomination for the Civil Service Excellence and Innovation Awards 2016. [5791/17]

Deputy Eamon Ryan: Is it the Government's intention to save the whale in the North Atlantic or to save the oil and gas industry? The Department has commissioned the ObSERVE programme with significant funding of €2.7 million to monitor the presence of whales, dolphins and sea birds in the area. Is that done with the intention of excluding areas from exploration or from seismic testing, which is known to have an effect on such wildlife populations? Or is it to help and support the oil and gas exploration industry, which in my mind we should be exiting and divesting from rather than investing in long term and is what I fear behind this programme?

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Seán Kyne): My Department, in partnership with the Department of Arts, Heritage, Rural, Regional and Gaeltacht Affairs, has devised a programme of targeted acoustic sound and aerial surveys of protected cetaceans - whales, dolphins and porpoises - and seabirds in the Irish offshore. This programme, which was nominated for a Civil Service Excellence and Innovation Award for its pioneering approach to the sustainable development of the Irish offshore oil and gas industry through its description of animal occurrence, distribution, density and abundance, has been given the title of ObSERVE. This is the first time in the EU that the authorities responsible for oil and gas exploration and for nature conservation have teamed up to find answers to complex issues of mutual concern. The quality and quantity of the data acquired from the ObSERVE project has surpassed expectations and Ireland's international reputation has been considerably enhanced due to the foresight, concept and proactive nature of this project. The Energy White Paper, Ireland's Transition to a Low Carbon Energy Future 2015-2030, sets out a vision and a framework to guide Irish energy policy and the actions that Government intends to take in the energy sector from now up to 2030, aimed at transforming Ireland's fossil-fuel based energy sector into a clean, low carbon system by 2050. The White Paper identifies the long-term strategic importance of diversifying Ireland's energy generation portfolio and largely decarbonising the energy sector by 2050. The White Paper recognises that oil and natural gas will remain significant elements of Ireland's energy supply in the transition period and in this context, the development of Ireland's indigenous oil and gas resources has the potential to deliver significant and sustained benefits to Irish society and the economy. It is important to ensure that while petroleum activities are being undertaken that they are done in a way that is protective of the environment.

Deputy Eamon Ryan: I take it from the Minister of State's answer that this measure is about developing the oil and gas exploration industry. There is a certain irony for those interested in the whole protection of nature that the very industry causing such damage, changing the North Atlantic, altering the feeding patterns and causing immediate harm to these creatures due to the exploration work, is now being wrapped in the description of it being a beneficial step forward. If he does find that there are certain areas where there are very large populations or specifically sensitive important feeding operations etc. for whales, dolphins or sea birds will the Minister of State exclude those areas from any future exploration? What is the purpose of this

programme? Is it just to provide a baseline to help the oil and gas exploration industry do an environmental impact assessment or is it actually an attempt to reduce or stop the environmental impact assessment caused by those companies? Will it mean the Minister will say to certain companies, sorry but they cannot go into that area of the North Atlantic because it is sensitive and important for these other reasons?

Deputy Seán Kyne: Clearly, Ireland has an interest in developing its oil and gas resources. We are making the move towards renewable and sustainable energy but at the same time, during the transition phase, we are exploring and continuing to harness the resources of oil and gas. In that regard, all applications that come before me have reams and reams of scientific data on environmental impact assessments, screening and all measures and data surrounding the marine life present. The ObSERVE programme measures, protects and quantifies the amount of sea life there and ensures that any and all measures are put in place to protect them, when I get the numbers. Considering his background I would have thought the Deputy would support this measure. This programme has won international recognition for the State in the approach we are taking to reach oil and gas.

Deputy Eamon Ryan: I am concerned for several reasons. First of all we must leave four fifths of the fossil fuels underground. I am concerned that the only investments being made by the Department of Communications, Climate Action and Environment are in fossil fuel scholarships rather than clean energy scholarships and that it is measuring nature so that those industries can go out and help to destroy nature. The Minister of State has still not answered the key question I have asked on three occasions. Will he answer it on the third time? On the basis of the ObSERVE programme, if there are certain areas where there are very large populations or where it is important for that natural world, will he exclude those areas from any future gas and oil exploration? Or is this just to measure what is there so when we ruin it with further exploration we will know what has gone?

Deputy Seán Kyne: It is not the intention to ruin any areas. All data that will be collected, that would be part of an environmental impact statement, are assessed by specialist consultants before coming to me for signing off on exploration licences. Deputy Ryan made reference to scholarships. This is an ongoing and longstanding programme and I know the Deputy was a Minister in the Department at the time. The 2017 scholarships which have been accepted onto the relevant MSc degree courses are in geoscience, petroleum engineering and environmental science and are starting in late 2017. We must recognise that there is a wide range of uses for oil and it is not just for running our cars. While over 75% of them are obviously around gasoline or aviation and jet fuel, there is a wide range of other resources that are utilised from oil including the medical device sector, a range of projects from aspirin, glue, trash bags, footballs, umbrellas, bandages, nail polish, pins, balloons and toothpaste.

An Leas-Cheann Comhairle: I thank the Minister of State.

Deputy Seán Kyne: There is a wide range of uses from oil as a resource-----

Deputy Finian McGrath: Nail polish is very important.

An Leas-Cheann Comhairle: The final question-----

Deputy Seán Kyne: -----but clearly the protection of the environment and the protection of marine resources are included very much in the environmental impact statements, in which there are huge volumes of data.

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An Leas-Cheann Comhairle: We have only three and a half minutes remaining for questions.

Deputy Seán Kyne: The Deputy would have seen them himself when he was the Minister when they would have come to him for signing off.

Deputy Finian McGrath: It is a big issue in Kilkenny.

An Leas-Cheann Comhairle: I remind Ministers that they, every bit as much as Deputies, must comply with the times. It has not happened today. I invite Deputy Mick Barry and remind the House that we have three and a half minutes for the response and one supplementary question. Two minutes is time enough for the Minister's reply.

Climate Change Policy

47. **Deputy Mick Barry** asked the Minister for Communications, Climate Action and Environment if his Department has estimated the potential impact on the environment of the promised withdrawal by President Trump from the Paris Agreement; and if he will make a statement on the matter. [5800/17]

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): The United Nations Framework Convention on Climate Change, UNFCCC, held its 21st Conference of the Parties, COP 21, in Paris in 2015. The major outcome of COP 21 was the agreement by over 180 countries to restrict the impact of emissions on global warming and to limit the temperature rise to 2° Celsius above pre-industrial levels, with an ambition of 1.5° Celsius. The Paris Agreement aims to increase the ability of countries to deal with the impacts of climate change through resilience and adaptation and to foster climate resilience and low greenhouse gas emissions development in a manner that does not threaten food production. It also aims to make finance flows consistent with the pathway towards low greenhouse gas emissions and climate-resilient development. The Paris Agreement will achieve its goals through a range of climate action plans, known as nationally determined contributions, NDCs, to be carried out by all parties and which will ultimately tackle 95% of the world's emissions. These NDCs are required to be ambitious and to increase in ambition over time in order to achieve the peaking of global greenhouse gas emissions as soon as possible and to undertake rapid reductions thereafter.

The policy implications of the overall goals of the Paris Agreement will be evaluated by the Intergovernmental Panel on Climate Change, IPCC, in a special report to be published next year. This report will assist the UNFCCC in establishing a system for measuring the effectiveness of the NDCs submitted by the parties. A facilitative dialogue in 2018, informed by the IPCC report, will evaluate the overall contribution of the NDCs to the goals of the Paris Agreement. Beginning in 2023, a five-yearly global stocktake of the efforts made by the parties to combat climate change will measure their effectiveness and drive the ambition of future NDCs. The reality is that the European Union has been leading the agenda on this, and many other countries have followed suit. We intend, within the EU, to continue to play a leadership role in this area.

Additional information not given on the floor of the House.

The entry into force of the Paris Agreement required that 55% of parties, representing 55% of global emissions, complete their ratification processes. On 4 November 2016, those thresholds had been passed, triggering its entry into force. The agreement has now been ratified by 128 parties, including Ireland and the EU, with significant additional contributions to be made through the stated commitments by some of the larger parties, namely, China, India and the United States, all of whom have also ratified.

The Paris Agreement depends on the efforts of all parties to carry out ambitious climate action through their NDCs to achieve its objectives. The withdrawal of any party to the agreement would undoubtedly increase the already significant challenges facing the global community in taking appropriate action on climate change. However, I look forward to continued and positive collaboration, as required, with colleagues at EU level and beyond, as we work to advance the climate change agenda both nationally and globally.

Deputy Mick Barry: Since taking power, Mr. Trump has given the go-ahead to the Keystone XL and Dakota pipelines, forbidden scientists from the United States Environmental Protection Agency, EPA, from speaking to the media and is insisting they must submit their work to the White House for review before it is published, and removed all reference to climate change from the White House website. His choice of Secretary of State is multimillionaire Rex Tillerson, former CEO of ExxonMobil. He has chosen for the EPA to be led by Scott Pruitt, who deems global warming a hoax. One third of Republican Members of Congress flat-out deny climate change is real. In total, these climate change deniers have received \$73 billion in contributions from oil, gas and coal companies over the course of their careers. Does the Minister agree the environmental policies of this Administration and its El Presidente constitute a real and present danger to the future of our planet?

Deputy Denis Naughten: There are many countries across the world which do not come up to the mark on environmental matters. I have been criticised as Minister for the role I have taken on these issues. However, there is a determination within Europe, including in Ireland, to lead from the front on this, provide an example to countries across the globe and assist the least developed countries with both finance and technology to drive the agenda of reducing global emissions. At COP22, I had a meeting with counterparts from New Zealand, Argentina and Uruguay at which we discussed how our four countries can work together to develop agriculture in an efficient manner and share our knowledge with developing countries, particularly sub-Saharan African countries, in order that they too can utilise technology to reduce emissions globally.

Written Answers are published on the Oireachtas website.

Topical Issue Debate

Hospital Waiting Lists

Deputy Fergus O'Dowd: I thank the Ceann Comhairle for allowing us to raise this issue, which represents a decisive moment for this Dáil and for the health services. How can we accept what we saw on the "RTE Investigates" programme last night? The anger and hurt of the families who featured is repeated in thousands of homes throughout the country. We must take

decisive action to address these issues. In that context, I welcome the Minister's commitment to increased financing. However, the reality is that in Ireland, there are three waiting lists in the health service. In Britain, by contrast, there is only one list. In that country, people are assigned to it when their consultant says they require a treatment or procedure, and they go off it once they receive that treatment. That is not what happens in this country, however, and it is unacceptable. As we now know, we have 23,000 people on a pre-admit list, with no monitoring of that list whatsoever.

Deputy Billy Kelleher: I have no monopoly on empathy with the families whose plight was highlighted on the "RTE Investigates" programme last night. Collectively, we in this House have an obligation to address the issues with meaningful policies that will impact on people's lives immediately. We need, first, clarity on the issue of the waiting lists, in terms of who knew what, why people were on different lists and whether there was intentional reasoning to keep the list numbers down. The policies of the past six years in terms of shrinking the public hospital system via bed closures and not funding the National Treatment Purchase Fund were only ever going to lead to more people waiting for longer on waiting lists across the acute and elective hospital systems. Will the Minister commit to expanding the role of the National Treatment Purchase Fund by ensuring there is adequate funding in place, more so than just the €15 million we sought last year? Funding must be front-loaded to deal with this chronic problem immediately.

Deputy Margaret Murphy O'Mahony: I thank the Minister, Deputy Harris, for coming into the Chamber to respond to this matter. Like the whole nation, I was very moved by last night's programme. I was not, however, shocked by what I saw, because my constituency office is full of files with details of people waiting for operations. The Minister told RTE:

It is principally about the management of resources. It is about the HSE, who are in charge of operations. They are the ones responsible for delivering our health service.

The Minister further stated that where people do not live up to their responsibilities to implement important plans, they will be removed from their roles. Will he tell us who exactly is not living up to his or her responsibilities in this matter? Is it the director general of the HSE? Who does the Minister believe should be removed from their roles given that we have children waiting 18 months and longer whose conditions are deteriorating by the day and who are suffering because they cannot get the treatment they need and deserve?

Deputy John Lahart: A Programme for a Partnership Government refers to the Government's efforts to ensure safe, timely care, as close to patients' homes as possible, and undertakes to reduce emergency department overcrowding and address hospital responsiveness to increased demand. As we saw in the programme that aired last night, the Government is struggling to do that. One of the most striking aspects of the report was the remark by a surgeon that if a particular patient is marked as a routine case, he or she will never be seen. Will the Minister give the House an assurance that the Government will use the National Treatment Purchase Fund to address waiting lists in the short to medium term? Will he give specific figures for how much he proposes to invest into the scheme to ease the plight of the people whose stories were so eloquently told on the "RTE Investigates" documentary?

Deputy Mick Barry: We found out last night that there are two secret waiting lists in the health service. The HSE fiddled the figures and, in so doing, made the official lists look not as bad as they really are. Who benefited from that fiddling? The HSE did and so, too, did the

Department of Health. In addition, successive Ministers for Health benefited from the fiddling of the figures, including the current Minister, Deputy Harris. Did the Minister have any idea these secret lists existed and, if not, why not?

Deputy Bobby Aylward: I first raised the issue of waiting times for scoliosis patients with the Minister's predecessor in September 2015. Since then, I have raised the matter consistently as the situation worsened to unprecedented levels. The co-founder of one advocacy group, who was featured in last night's RTE programme, told me, "There are children in Ireland who are being left on waiting lists for so long that doctors are travelling abroad to study their condition because their scoliosis has developed to an extent that is not seen in other countries." Doctors are coming from as far away as Africa to examine Irish children whose scoliosis has developed beyond what is seen elsewhere. That tells its own story.

In a response I received to a parliamentary question last week, the Minister stated that the children's hospital group has begun a process of engagement with advocacy groups on developing a partnership approach to the design and planning of services for children with scoliosis. Therefore, the Minister stated, an independent clinical review of scoliosis services is not required at this time. In light of last night's programme, will he now undertake to initiate such a review?

Deputy Niall Collins: On behalf of Ms Megan Halvey Ryan and her family, I appeal directly to the Minister here in the Chamber to intervene in her case, which was highlighted last night. Megan is 13 and suffers from scoliosis. The curvatures measured 83° on her top curve and 65° on her lower curve. She has a very high degree of rib rotation which means her internal organs are being squashed. Her consultant says she needs surgery immediately and she is still on the waiting list.

Megan cannot attend school. She has problems eating and breathing and this is due to her rib configuration because of the condition. She has poor quality of life. She is on medication to get through the day and to sleep at night.

Two years have passed since Megan's diagnosis and she has been on the waiting list in Crumlin for 18 months. Can the Minister arrange for her to receive the care and the procedure which she needs as soon as possible? Her consultant has requested it from the private sector and the Minister has the wherewithal to arrange it.

Minister for Health (Deputy Simon Harris): I thank the Deputies for raising this important matter and for giving me the opportunity to address Dáil Éireann this afternoon.

One thing the programme last night showed is that I am far from the first Minister for Health to try to address the issue of waiting lists. I recognise it is an issue of great concern to all parties and none in this House and I continue to believe that improving our health service requires an all-party collective effort. However, what the programme last night really brought home is the genuine pain and suffering of patients who are waiting far too long for treatment and the impact this has on their lives and on the lives of their families.

I said I was ashamed. That was not just a word; I meant it. It is simply wrong. How can anyone watching that programme not be ashamed? It is not good enough for me to just be sorry or for me to say we feel ashamed. What are we going to do about it? That is why I began unapologetically targeting resources at the specialties with particularly long waiting lists, such as scoliosis and orthopaedics, and at treating those patients waiting the longest - something that

did not always happen.

More than 50 additional children and teenagers with scoliosis were treated with funding made available from the winter initiative but I recognise that this has not been enough for children such as Megan, Kira and Darragh. However, the additional investment achieved progress for those children and young people waiting over 18 months, which is obviously a completely inexcusable length of time for children with this condition to continue to wait. We also made progress on the overall waiting list of over 18 months. This was done in 2016 with limited additional funding and in a limited timeframe. Now, we must do more and I will make sure we do more.

I have just come from a meeting with the CEO of Crumlin children's hospital and the CEO of the Children's Hospital Group and the director of nursing. I am pleased to inform the House that from April, the new theatre built for the purpose of scoliosis will open. This will see 194 spinal procedures carried out in Crumlin - significantly more than last year - and will see significant reductions in waiting lists for scoliosis and waiting times for scoliosis patients. At the end of this month, I will receive from the HSE and the Children's Hospital Group an action plan for scoliosis and I will engage with all parties and none in this House and with advocacy groups in respect of that. In addition, by June we will have an additional orthopaedic post filled within Crumlin.

Therefore, we are responding to what we saw last night, which was unacceptable and needs to be addressed. Everybody in this House highlighted the many issues in the programme last night that need to be addressed. The issue of scoliosis in our children and the length of time they are waiting is not acceptable. That theatre will open in April as a result of the nurse recruitment, an extra orthopaedic post will be in place by June and we will see at least 194 procedures carried out.

In addition, we will have a priority initiative on scoliosis as part of the HSE 2017 waiting list action plan with the aim of every child being treated within the clinical timeframe and if that means outsourcing, that is what we will do as well. We will eliminate the day-case waiting list of over 18 months by the end of June through the NTPF. This will see more than 2,000 patients begin to receive their treatment from March.

The HSE action plan, which I will receive at the end of this month, will work in conjunction with the NTPF to utilise capacity within the private sector and maximise capacity and co-ordination within and between hospital groups to treat the patients waiting the longest. This will be supported by a further €10 million fund for the NTPF.

I expect the action plan combining these measures to be complete by the end of this month and for patients to begin to be treated under it by March.

These measures are to support us moving towards a position where no patient waits for any procedure or any hospital appointment longer than 15 months by the end of October, which still is too long but constitutes progress.

I have also today directed separately that the NTPF will audit the practices in the hospitals highlighted by the individual cases featured in the programme last night. It is important that lessons are learnt and that the NTPF carries out its audit function to see exactly how each of those cases was dealt with in each of the hospitals. The NTPF is already undertaking a review of best international practice on waiting list data publication models and I look forward to that

work being concluded.

Let me be clear. When people ask about these waiting lists, this is the waiting list model that has been in place since 2002 under six Ministers for Health and five successive Governments. It did not alter and it did not change. Perhaps I say things are “unacceptable” too much but I say it because I mean it and we will work to fix this.

An Ceann Comhairle: The Deputies have one minute each.

Deputy Fergus O’Dowd: I welcome the changes the Minister has made. I welcome the proposals on scoliosis. I wait to hear his proposals on the waiting list at Cork University Hospital. I wait to hear his proposals on eye operations, such as for cataracts. I know of a lady aged 90 who is being told she must wait two years before she will get her operation. That is unforgivable and is not acceptable. I accept the Minister’s commitment.

While time is short, I note that notwithstanding everything else, Ireland was among the 35 countries that were assessed by the Health Consumer Powerhouse index survey of EU health and was placed 21 out of 35. It has the longest waiting lists in Europe. That is why I say this is a decisive moment. I welcome the Minister’s decisive action but he needs to ensure the HSE is accountable and it is not. The HSE is not doing its job. It is getting away with this triple list, which does not make sense. We seek a single list including every patient.

Deputy Billy Kelleher: The Minister must get rid of any preordained views he may have on health and the outcomes of the debate on the broader health services. He must invest in the National Treatment Purchase Fund in the short and medium term while we try to expand the capacity in the public hospital system but, more importantly, he must address an issue that is now arising in the public hospital system. Hospital managers and CEOs of hospitals are head-hunting for private patients. Private patients undoubtedly are being put ahead of public patients in public hospitals to fulfil their stretched budgets. That is an issue the Minister must examine thoroughly. I have major concerns that those who have private health insurance and who should be treated in a private facility are now in public hospitals because there is a fee per bed in this regard. That is simply inexcusable. It is wrong morally, ethically and for every other reason. Public hospitals, by and large, should be used for public patients and only if private patients cannot be treated in a private hospital should they be treated in a public hospital. I ask the Minister to visit that issue.

Deputy Margaret Murphy O’Mahony: I note the Minister did not answer some of my questions.

Deputy Simon Harris: I will.

Deputy Margaret Murphy O’Mahony: I presume the Minister will do so at his next opportunity.

I also humbly suggest that if smaller hospitals were funded, it would help relieve the bigger hospitals’ waiting lists. There is a great hospital in my constituency, Bantry General Hospital, and when it was being properly funded it took the pressure off the bigger hospitals in Cork. It helped with endoscopies, with rehabilitation and endocrinology and were it properly funded again, it would ease the lists in the bigger city.

Deputy John Lahart: I thank the Minister for his reply and his efforts in this regard. It is

not only about spinal issues and I would not like to see the Minister's replies limited to that. I am familiar with, and raised with the Minister, the issue of tonsillectomy queues of young children waiting for ages.

One of my colleagues adverted to the necessity for clinical judgment to be in play here. I wonder how many cases that a consultant takes on privately are routine or acute. In other words, I mean where a consultant would sit by and watch acute patients suffer in the public system while dealing and treating with routine cases in the private system.

When will operating theatres be open at weekends? A spinal surgeon who was featured in the documentary last night is willing to work at weekends but finds it extremely difficult to make that happen in Tallaght hospital. That is merely one of the issues.

A final question to ask of the Minister, because we are so restricted in time, concerns the major investment hospitals such as Tallaght need. In respect of these three waiting lists, were the results of the documentary last night news to the Minister?

Deputy Bobby Aylward: The Minister did not respond about the independent clinical review. That was sought by the advocacy group and by professional people. Would having that independent review not help? I welcome that the new facility in Crumlin will be commissioned shortly, but I understand that another theatre will be closed when it comes on stream. Will closing that be an advantage? I am told by the advocacy group that one facility will replace the other, although the new one is welcomed. Hiring theatre nurses is the most important aspect of this matter. The facility is already in place but will there be nurses and back-up teams for it? That is very important. How many theatre nurses will be hired by July this year? That is the date the Minister has given for opening this theatre facility.

Deputy Mick Barry: The Minister read from a prepared script and did not answer the questions. Did the Minister know about these secret waiting lists? If he did not, why not? How much of the delay in access to treatment for public patients is due to private patients being taken ahead of them? Is it the case that if one cannot pay one suffers, even if one is a child and that if one can pay one can go ahead even if one has less medical need? How can any health service and Minister for Health stand over that? Given that, is it not time for a well resourced, single tier health service in this country? Does the Minister not believe that the time has come for an Irish national health service?

Deputy Niall Collins: I will focus my comments on the case of Megan Halvey Ryan. Other Members have raised broader issues. Can the Minister give me a commitment as to when Megan Halvey Ryan will receive the procedure she needs? Will it be done through the public or private sector or through the NTPF system? Many of the people who participated in the "RTE Investigates" programme last night subsequently received their treatments and procedures. That is not the case with Megan Halvey Ryan, whom I know as she is from Limerick. I am making the case for her to the Minister now and I would appreciate if the Minister would reply today or write to me as soon as possible to let me know exactly when she will receive her much needed procedure.

Deputy Simon Harris: I will respond first to Deputy Niall Collins. I will ask the CEO of the children's hospital group to revert to the Deputy directly about Megan's situation, because she would be better placed than me to do so. I will arrange for that to happen.

I agree with Deputy Murphy O'Mahony about utilising our smaller hospitals. That is the

reason I said earlier that part of the HSE's plan for this year must be about hospital groups. Where some of our larger, level four hospitals are busy there is no reason that there cannot be more elective procedures carried out in the others. I expect that to be a feature of the HSE's waiting list action plan, which we will publish at the end of the month.

With regard to issues such as cataract procedures, raised by Deputy O'Dowd, these are part of the more than 2,000 day case procedures that will be carried out with €5 million of funding from the NTPF. That will start in March. The Deputy is correct with regard to CUMH. I spoke about this yesterday on the Claire Byrne programme. I am concerned about what has happened in CUMH and I have asked the new clinical director of maternity services to report to me on that matter.

I intend to publish an action plan for scoliosis and I will take what Deputy Aylward said on board in that context. The plan for scoliosis will take on board the concerns of the advocacy groups and will dramatically reduce waiting times and waiting lists for scoliosis treatment for children and teenagers in this country. That is what we all wish to do and I will make sure we do it. If that involves outsourcing, we will do that also.

I have asked the NTPF to audit the practices in each of the hospitals featured in the "RTE Investigates" programme. I have asked it to use its audit function and check exactly how the waiting list procedure was dealt with and if everything was done correctly. We saw one case where there was a clinical note and the child did not go on a waiting list for a period of eight months. What happened there is not acceptable. I look forward to the results of the NTPF audit, which today I directed it to undertake.

Deputy Murphy O'Mahony spoke about performance and accountability. I believe managers must be accountable. I am the Minister for Health, so I set policy and provide funding. Then I expect our managers to get on with doing the job. I have written to the director general to ask how each of the managers across the health service measure up in respect of performance and accountability not just on the financial side, which they are good at measuring, but also with regard to access to services.

To respond to Deputy Mick Barry about the lists, this is the same way the NTPF has calculated the list since it was set up in 2002 by the then Minister. There is nothing new here. Did I know, and did many Members of the House who have been talking about health for a long time know, that when people have their procedures and an appointment for a procedure they do not appear on the waiting list? I did. Did I know the size of that? I did not. Did I know there was a specific other list? I did not. However, I am concerned about the people who do not have appointments for hospitals and who clinically need procedures and about getting that done as quickly as possible. We are going to make serious inroads and, in response to Deputy Lahart, I did not mean to talk about scoliosis alone. Across a range of issues we will utilise the NTPF and the capacity in our public hospitals. We will hold our managers to account. I hope we will work in a cross-party way to address these serious issues.

An Ceann Comhairle: I should point out to Deputies that, on foot of the proposal made by Deputy Martin and others this morning, the Business Committee is proposing to hold a special debate on Thursday morning on these matters which will be more extensive.

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Autism Support Services

Deputy Kathleen Funchion: I thank the Minister of State for giving me the opportunity to raise this matter. I am speaking on behalf of the Maher family in south Kilkenny. Their son has autism and for the duration of his life the family has fought for any services they have received for him, be they educational or health. The family has always had to fight long and hard battles to get anything for him. I commend them. I have much respect and admiration for them because they have had a very hard battle.

Their son is now 16 years old and when I say the family is at a crisis point I do not do so lightly. This is not something I would have considered raising as a Topical Issue if it were not important to do so. Their son is no longer in school. When this matter came to a head the family was promised 36 hours of home support by the HSE. A behavioural therapist visited their home and it was a very positive intervention. They were very happy with it and felt it would result in many improvements for their son, with a positive knock-on effect on the rest of the family. However, without explanation or consultation, the hours were cut to ten and the behavioural therapist was not seen again in the home. The hours were increased to 15 two weeks ago, but that is still less than half the number the family were promised. The boy is unable to be in school which is detrimental not only from an educational point of view but also from a social point of view and all that is associated with being a teenager in school. He has already been denied that, so it is rather disgraceful that it is proposed to deny him the home support hours.

I have the family's permission to raise this matter. The boy's father is a paramedic and he has had to take indefinite leave from his job to help his wife in the home each day. This will have a negative impact on the family from a financial perspective. They will end up needing a great deal more support down the line if no intervention is made now. They need the 36 hours of home support. It is not a huge amount to seek, given everything else they have gone through. The hours were agreed and decided, so obviously they were considered necessary. The family also needs the behavioural therapist to come to the home to carry out his work, as agreed.

I ask the Minister to intervene and ensure the family gets this support. I also ask him to meet with the family to hear directly from them about their experiences. They represent not only themselves but many families in Carlow-Kilkenny who have had difficulties.

6 o'clock There appears to be a difficulty with services for people with autism in the constituency. The family will be delighted to travel to Dublin to meet the Minister of State. I ask him to facilitate that visit and also to intervene and ensure they get the 36 hours of home support and the behavioural therapist visits they badly need for their son.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Deputy Funchion for raising the important issue of home support hours for people with disabilities. I will take this opportunity to outline the current situation with this matter.

I assure the Deputy of the Government's commitment to providing services and supports to people with disabilities which will empower them to live independent lives, provide 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. The commitment is outlined in A Programme for a Partnership Government. It is guided by two principles: equality of opportunity and improving the quality of life for people with disabilities.

One way the HSE is working to improving the quality of life for people with disabilities is

through the provision of home support hours. In the HSE's National Service Plan 2016, the priority was to provide 2.6 million home support hours to more than 7,300 people with a disability. The actual number of home support hours provided in 2016 was higher, at 2.9 million hours. This reflects the responsive nature of the service and takes account of the fluctuation of assessed need over time, as the needs of individual people change. This is particularly relevant in the Deputy's case.

This year the Health Service Executive is committed to maximising the provision of health and personal social services, including home support services, within available resources. In its National Service Plan 2017, the HSE expects to deliver 2.75 million home support hours to more than 7,400 people with a disability. This is an increase of 150,000 hours more than the last year's target. The goal is to help as many people as we can. This is a positive development, which I hope we can build on in years to come.

The Deputy has raised the matter of an individual case and the home support hours which are being provided to that person. I am reluctant to speak in any great detail about the specifics of any one case. This is especially true when it comes to speaking on the floor of the Dáil. However, given that the Deputy has permission from the family, it is fine by me. I have made inquiries about the case and I understand the HSE is engaging closely with the family involved.

Due to the specific nature of the needs of the person in question, it was agreed to introduce home supports on a gradual basis. Initially, the person is receiving home support at a ratio of two staff working with the person with a disability for ten hours. Given that there are two staff involved, this equates to 20 hours of home support. The hope is to increase this gradually to 15 hours, or 30 hours when we take the two staff into account. The HSE has informed me that the family is aware that the service will be closely monitored and reviewed by relevant professionals, in consultation with the individual, his parents and a family advocate. I will meet the family and will arrange it through the Deputy any time over the next few weeks. Parents of autistic children and teenagers have to be a major priority in the delivery of services.

Deputy Kathleen Funchion: I thank the Minister of State and I welcome the fact he will meet the family. It is a positive development. I would have a different understanding on the HSE's engaging closely with the family and the service being provided on a gradual basis. The ten hours of home support is in place for a year. How gradual is it? Will they have to wait another year for the hours to increase? I take exception to the issue of the two staff. There is possibly a need for two staff and I have no difficulty with it. However, the family should not be classed as having 20 hours because two staff are there. The two people are in the home for only ten or 15 hours and it is an unfair calculation on the part of the HSE.

I welcome that the Minister of State is willing to meet the family and maybe we can discuss it further at that stage. Although I would be reluctant to raise something like this as a Topical Issue matter, it is important and sometimes it is the best way to highlight the situation on behalf of the family and many others in my constituency who suffer as a result of a lack of support services for children, particularly teenagers who have autism. It can be very difficult when a person reaches the teenage years and is in that in-between stage between child and adult. I will follow it up with the Minister of State.

Deputy Finian McGrath: I will take up with the HSE again directly the issues the Deputy raised. They are very important. I will ensure the Carlow-Kilkenny disability services will continue to engage with the family on an ongoing basis regarding their son. An inter-agency

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and interdisciplinary case review was held on 25 January when health professionals recommended that, given the person's situation, it would be appropriate to introduce home community support for him on a phased basis. The home support services started on 30 January, one week ago. Further meetings will take place as determined by the individual's needs and will involve relevant inter-agency and professionals, the family and their advocate. The HSE has also advised the family that it is available to collaborate with the relevant professionals in the Department of Education and Skills. This is important.

I was directly involved in the negotiations regarding the HSE social care plan and I saw the gap there. The Deputy probably noticed that in the plan, funding for personal assistant, PA, hours has increased for 2017. In 2017, we expect to deliver 1.4 million PA hours to 2,357 adults with physical or sensory disabilities. This is an increase of 100,000 hours compared with 2016. When dealing with individuals and huge sums of money, we must ensure the service is delivered, in this case, to the particular young person with the intellectual disability. These are issues I want to hear about from the Deputy and the family at our meeting in the coming weeks.

An Ceann Comhairle: The Minister of State's response suggested two staff were working with the person for ten hours. Were those two people working simultaneously with the person for the ten hours?

Deputy Finian McGrath: Yes.

An Ceann Comhairle: The question could be interpreted as giving people to believe there were 20 hours of support. Therefore, I would be concerned at the nature of the response. I am sure it is not yours.

Deputy Finian McGrath: I take the Ceann Comhairle's views on board. I already told the Deputy I would raise the issue with the HSE. I take the Ceann Comhairle's point. It is an important issue.

An Ceann Comhairle: Thank you. It is much appreciated.

Money Advice and Budgeting Service Administration

Deputy Willie Penrose: I sincerely thank the Ceann Comhairle for selecting this important issue for discussion. I wish to share time with Deputy Martin Kenny, who also has a keen interest in the issue. In 2009, when the Citizens Information Board took over responsibility for the Money Advice & Budgeting Service, MABS, offices from the Department of Social Protection, unequivocal commitments were given that MABS would be a separate and distinct service within the Citizens Information Board. MABS companies were to remain independent with their own voluntary boards of management providing crucial local services.

The proposed restructuring of the local confederation of MABS towards a regional set-up, which would involve six to eight regional offices being established, would be a retrograde step and should be rejected outright. There are 51 MABS companies with 43 Citizens Information services all operating efficiently and effectively at the coalface, dealing with individuals and families who come with the full spectrum of problems and difficulties, especially mortgage issues.

I do not accept the excuse put forward for restructuring, namely, the difficulty of managing

the 94 boards. The Citizens Information Board employs 74 staff and regularly uses consultants when required. I recall that originally only four staff were dealing with MABS when it was established by the Department of Social Welfare, as the Ceann Comhairle will probably recall himself. I have no doubt the employees and voluntary boards of management are prepared to play a constructive role in addressing any issues the Minister or Citizens Information Board has about their operations. However, nobody has spoken directly to them in this regard. Last week, the Minister of State told Deputy Martin Kenny there would be no change in the provision of front-line services.

Why are six to eight regional companies being established and how much will they cost? It would be interesting to cost them against the voluntary boards whose members come from various voluntary, State and semi-State organisations, bringing great experience. Some of them are retired and giving their time and effort voluntarily. What would be the management cost of the new regional companies and who would supervise the allocation process? The essence of MABS is about direct access at local levels to the communities it serves. Managing remotely has its own difficulties, hurdles and perspectives.

Deputy Martin Kenny: I thank the Deputy and I appreciate the time he has given to me. Tomorrow, a group is coming from the MABS organisations throughout the country to do a presentation on this in the audio-visual room. There are 51 boards, each of which is independent and managed by local people from the Society of St. Vincent de Paul, the Garda Síochána, the Department of Social Protection and various agencies and organisations in the communities where they exist. They have local knowledge and input and they give their time freely to manage the organisations. The system works perfectly and without a hitch, and has done since the establishment of the MABS organisations.

The MABS companies have an excellent model for value for money. They spend 80% of their funds on the salaries of the people who provide the front-line services. The other 20% goes to rent the offices and pay overheads. It is absolutely perfect and it works well with no issues. The situation is that a group in the Citizens Information Board, CIB, wants to regionalise the set-up of existing services, assigning them to eight different regions, and employ a manager to run each agency in each region. I fear it is intended to privatise the service, like Seetec which provides services through JobPath and which has turned into a total disaster for the public. We do not want to let this service go down that road.

The Minister needs to issue a policy directive to the CIB under section 9 of the Citizens Information Act 2007 not to regionalise these boards. It was done before in 2009 by a previous Minister and it can be done again. This issue can be resolved. There is a perfect system working well, providing a good service and which is not broken. There is no reason to change it. The only reason seems to be that some people in the Civil Service have decided they would like to have regional organisations and structures, set up boards and get money for running up and down the country for different meetings. The reality is that the system is working and we do not want it changed. People are getting an excellent service. The only problem is that there are not enough advisers from the Money Advice & Budgeting Service, MABS, on the ground. That is what needs to change. It is not about putting more money into providing managers to run a system which is not broken.

I know the Minister of State will have a reply from someone in the Civil Service, telling him to read out the answer. We are not interested in that answer. We are interested in a bit of common sense being applied. Even after being in the Government for only nine months, the

Minister of State still has a bit of common sense left which I hope can be magnified today and a solution can be provided.

An Ceann Comhairle: The Minister of State has a great amount of common sense.

Deputy Willie Penrose: We better not tell that to the other Minister, Deputy Shane Ross.

Deputy Finian McGrath: We can leave Lord Ross out of it.

I thank Deputies Penrose and Martin Kenny for their words. I hope we have a bit of common sense when we deal with this particular issue. I am taking this matter for the Minister for Social Protection, Deputy Varadkar, who apologises that he cannot be here.

The CIB, which receives Exchequer funding from the Department of Social Protection, is responsible for supporting the provision of information, advice, including money and budgeting advice, and advocacy on a wide range of public and social services. The CIB delivers on its legislative remit through direct provision of information services and by supporting a network of delivery partners including the local Citizens Information Service, CIS, and MABS.

One of the strategic priorities for the CIB, as articulated in its strategic plan 2015 to 2018, is “to revise the structures of CIS and MABS to better serve the citizen by improving management structures and governance, managing of resources and the delivery of high quality services”. The existing network comprises 93 independent local companies, 42 CIS companies and 51 MABS companies, each with its own legal responsibility to provide services within their defined catchment area. These 93 companies have 93 individual boards, with an average of 9.2 people serving on each board. This results in a governance structure of more than 800 people for an organisation of approximately 2,800 people. Maintaining this company structure across each of these local boards consumes valuable administrative resources within the network that could otherwise be directed towards service delivery to citizens.

Small services have similar structures to larger services, with each service performing its own company administration, financial administration and reporting, including reporting to the CIB. Consolidation of board structures would reduce duplication, deliver administrative efficiencies and free up resources for more front-line activities. In turn, this would improve the service-user experience, allow for the development of specialist roles as required and achieve an improved consistency in service delivery across the network. A more streamlined service delivery partner model would also assist CIB in the fulfilment of its statutory obligations, help to promote awareness of the wide range of services and supports available to citizens on behalf of Government. In so doing, it would further raise the profile of both MABS and the CIS.

The CIB’s role in the development, operational management and oversight of the current network of individual companies requires significant administrative effort. Its many responsibilities include oversight of accounts and operations of all service delivery partner companies in keeping with good accounting practices and the implementation of recommendations from the Office of the Comptroller and Auditor General; compliance with the code of practice for the governance of State bodies; ensuring optimal access for citizens countrywide to the full range of CIS and MABS services; and the delivery of consistency of services in terms of quality and timeliness on a nationwide basis.

Since the circulation to all CIS and MABS services in September 2014 of a feasibility study commissioned by the board of the CIB on a proposed restructure of these services, there has

been extensive and continued consultation with all stakeholders about what the future structural model would look like. To progress this work further, the board of the CIB recently established a restructuring sub-committee, which comprises several CIB board members, a number of staff of the CIB, and representatives of CIS and MABS services.

Deputy Willie Penrose: I thank the Minister of State for his reply. I have spoken to several personnel involved and all they have heard are these global assertions and utterances that the current situation and structures need to be reformed from a governance viewpoint. Where is the empirical evidence to sustain this? I note the review group is all made up of the CIB. That is like going to law with the devil and the court is held in hell. It is the CIB which wants to emasculate the existing structure. The Minister of State does not need to tell me about the 2,800 staff. They are not costing a tosser as they are free. This is all nonsense.

When we were in government, we made a bags of doing away with town councils. I accept there were some councils where one got elected with only 40 or 50 votes. However, we rushed to regionalise town councils which represented 4,000 people and in the process destroyed local government. I admit we did not keep our eye on that ball. This is the same. I have my eye on this ball, however, and I am not going to allow the same mistake happen. Once bitten, twice shy. I am very shy about this matter. It is a nonsense. I know those involved in the services in Longford and Westmeath and one could not get them for love or money. They are providing a service for nothing.

Section 9 of the Citizens Information Act 2007 gives the Minister a bit of power. It is great to have a little bit of power sometimes because it allows the Minister to tell bureaucrats to back off. I am a great believer in that. The Minister should just tell the mandarins and bureaucrats to settle down. This service is operating well and the structures should be left intact. The Minister should speak to the people involved directly. They will be prepared to accommodate change which is positive and for the benefit of the end users, such as those in mortgage difficulties and in the Abhaile programme. The Minister cannot travel down this road. We have travelled them enough already.

Deputy Finian McGrath: I take Deputy Penrose's point about the town councils. It was a bad decision at the time.

The restructuring sub-committee is expected to report its findings on the optimal regional structure for CIS and MABS companies to the board of the CIB shortly. It is important to remember that the planned restructuring of services is at local company board level only.

I will bring the Deputies' concerns about section 9 of the Citizens Information Act 2007 and the restructuring of the organisations to the attention of the Minister for Social Protection.

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

An Ceann Comhairle: Amendment No. 22 has not yet been moved but has already been discussed. Is Deputy Coppinger moving the amendment?

Deputy Ruth Coppinger: I move amendment No. 22:

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

“Review of supports and exit services for sex workers that report traffickers or organisers of prostitution to the Gardaí and/or them in prosecutions

27. The Minister for Justice and Equality is to report on the additional procedures and supports that should be available for the protection and assistance of sex workers who report traffickers, organisers of prostitution, and pimps and brothel-owners to the Gardaí, particularly in relation to Garda protection, regularisation of immigration status, financial compensation, access to employment, training and other exit services, within six months of the enactment of this Act.”.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 23 is in the name of Deputies Clare Daly, Wallace and Connolly. It arises out of committee proceedings and was already discussed with amendment No. 17. None of the Deputies is present to move the amendment.

Amendment No. 23 not moved.

An Ceann Comhairle: Amendment No. 24 is in the name of Deputy Thomas Pringle. It arises out of committee proceedings and was already discussed with amendment No. 17.

Amendment No. 24 not moved.

An Ceann Comhairle: Amendment No. 25 arises out of committee proceedings. The amendment is in the name of Deputy Jonathan O’Brien.

Deputy Jim O’Callaghan: Deputy Jonathan O’Brien wanted to move that amendment.

An Ceann Comhairle: The Deputy is not here. Will another Deputy move the amendment?

Deputy Martin Kenny: I move amendment No. 25:

In page 20, to delete lines 25 to 32.

An Ceann Comhairle: Does anyone wish to speak on this amendment? Does the Tánaiste want to respond to the amendment?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): We are not accepting the amendment.

An Ceann Comhairle: Is the amendment being pressed?

Deputy Jim O’Callaghan: I want to speak to the amendment. The amendment in Deputy Jonathan O’Brien’s name is a proposal to amend the legislation by removing section 28, which criminalises incest on the part of females of or over 17 years of age. This was discussed briefly on Committee Stage when the matter was before the select committee. The law in respect of incest is archaic and there was a discrepancy between the penalties imposed upon men and those imposed upon women. Under the Punishment of Incest Act 1908, the law was created so that incest by a man would be punishable by three to seven years and incest by a woman would be punishable by three to seven years. There was harmony between the two. In 1993, section 12 of the Criminal Justice Act amended the law in respect of incest by men and it altered the penalty to one of up to 20 years. Subsequently in 1995, the Criminal Law (Incest Proceedings) Act amended the penalty again to increase it from up to 20 years to up to life imprisonment. As

matters stand, incest committed by a man is punishable by up to life imprisonment but incest committed by a woman is punishable by a term of three to seven years.

This issue came to some public prominence in January 2009 when we had a prosecution and conviction for incest which is highly unusual. In January 2009, a mother of six was convicted in Roscommon Circuit Court on ten counts of incest. At the time, the judge noted the only penalty available to the court to impose was a sentence of between three and seven years. That gave rise to some concern that there should be harmony between the two offences. However, my view is that a penalty of life imprisonment for incest in the context of the offences that already exist on our Statute Book is excessive. For example, if that case against the mother in Roscommon arose in the aftermath of the legislation before us being enacted, sections 16 and 17, which deal with sexual acts with children under the ages of 15 and 17, respectively, would apply. If the mother in question was prosecuted in respect of having sex with her son and if the son was under 17 years, she would now face the possibility of a term of imprisonment not exceeding 15 years. The imposition of a penalty of life imprisonment is anachronistic. The thing that slightly concerns me - I will wait to hear Deputy Jonathan O'Brien's view on it - is, if we agree to the amendment, the law will remain as it is at present so that men can be prosecuted and imprisoned for life in respect of incest and women can be prosecuted and imprisoned for three to seven years. My view is it would have been better if the penalty for both was three to seven years. It is a bit of a dilemma and I am interested to hear from the Tánaiste and Deputy Jonathan O'Brien.

Deputy Jonathan O'Brien: I apologise for being late. I thought there were four matters on the Topical Issue debate but there were only three.

The amendment was discussed on Committee Stage. I pulled out the transcript of the Committee Stage debate this afternoon to make sure I was correct in what I am about to say. We raised the issue with the Tánaiste on Committee Stage. She gave a commitment that she would look at it for Report Stage. She said, "It is an interesting issue and I will examine it. The gender anomaly was upheld as recently as 2012." The Tánaiste went on to explain the case in question, which we discussed on Committee Stage. My amendment would remove what the Tánaiste is proposing, which is that:

Any female person of or above the age of 17 years who with consent permits her grandfather, father, brother or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be) shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.

I understand very well that this is the current situation if one is male. If this amendment was accepted and if the Tánaiste's proposal in section 28 was withdrawn, incest would still be illegal on the Statute Book for any female person of or above 17 years. The penalty, as has been outlined by Deputy O'Callaghan, would revert to the penalty within the 1908 legislation, which is a term of three to seven years. This is not a case of removing the section and it suddenly becoming legal. It would still be illegal to have carnal knowledge of one's grandfather, father, brother or son. The question we are being asked by the Minister is to increase the sentence from three to seven years to up to life imprisonment.

Given that I raised the matter on Committee Stage and that we are now on Report Stage and the Tánaiste has not brought forward her own amendment, I do not believe she has demonstrated that it would be in the public interest to increase the sentence of three to seven years to up to

life imprisonment. The Minister has not articulated her position. The only rationale she gave on Committee Stage was when she said, "The male offence would still be life. That is my point. We were equating the offences." I understand that the Tánaiste is trying to equate the offences but she still has not demonstrated what public good would be served by increasing the sentence from three to seven years to up to life imprisonment. We are not talking about sex which is not consensual. Let us be very clear on that. There is adequate legislation to deal with somebody who is having sex without consent. We are talking about a female over the age of 17 years who, with consent, would still be committing an illegal act and would still be liable for a prison term of three to seven years as opposed to life imprisonment. Unless the Minister can demonstrate the rationale behind the increased prison sentence, it is my intention to press the amendment.

Deputy Frances Fitzgerald: I will go into some detail on this in order to be helpful. Sections 27 and 28 simply update and restate the existing provisions in the Punishment of Incest Act 1908 in so far as the offence of incest is committed by a male or female. We are trying to update the language and provisions of a very old Act. It will bring the penalty for incest by a female into line with that of a male. The Deputy's amendment would have the effect of bringing the sentence for a female to up to seven years and leaving that for a male at up to life. That inequality would remain if we went along with the Deputy's amendment.

I take the point Deputy O'Callaghan made and I will come back to that in terms of the overall approach to incest in this part of the Bill. There are two further distinctions between the offences, and the first relates to consent. The Deputy is suggesting that the entire section should be removed but, where the offence is committed by a male, it is not a defence that the female consented. The offence by a female does not provide for a similar provision. The reason for this is because the nature of the offence of incest by a female is different from that committed by a male. The offence by a female is committed where she permits a specified male relative to have carnal knowledge of her and relying on defence of consent on the part of the male would not arise. Incest by a male is committed where he has carnal knowledge of a specified female relative. In this case, it must be specified that consent by the female is not a defence. In fact, the female party to the act, by consenting, is liable for the offence under section 28. If there is no consent on either party, the offence is not one of incest but it is one of rape under the Criminal Law (Rape)(Amendment) Act.

I have already referred to, and the Deputy has quoted from it, the Supreme Court judgment regarding this where the Supreme Court upheld the gender distinctions, so I will not go into the detail of that again. The Chief Justice noted previous case law which held that the Oireachtas is entitled, on public policy grounds, to protect underage females from the risk of pregnancy - this was the Chief Justice and the Supreme Court saying this - as the female carries a greater burden from the act, emotionally, physically and psychologically, should she become pregnant. Similar policy grounds were also the basis for the distinction in section 2 of the 1908 Act. That is in regard to consent.

If we do what Deputy O'Brien is suggesting in his amendment, namely, delete this section, the consequence of that is that we would retain the existing provisions under the Act along with the difference in penalties. We would not go back to equating the penalties but to having a life sentence for a male and a seven-year sentence for a female.

I want to make some general points about this issue. The amendments I am tabling close an anomaly relating to the penalty which applies depending on whether the offender is a male or a female. What I am suggesting changes that. The fact is the offence of incest specifically recog-

nises the harms and exploitation associated with intrafamilial sexual abuse and, as we know, it can extend beyond the victims to the entire family unit, and there have been some prosecutions. The purpose of the provision is to equalise the penalties between offences committed by males and those committed by females, as well as taking the opportunity to modernise some of the language in the Act.

However, I would make the general point that in so far as Deputies have expressed concerns about the framing of offences, as Deputies O'Callaghan and O'Brien have done, this is an area of law that we could look at again if Deputies consider that appropriate. I have looked at it. It is a very complex legal area and I do not believe that I can do it in this Bill. It would be an issue for other sexual offences legislation. If we were to reform this, that would require a good deal of consultation and discussion on the change in the penalties that I am advised we would have to consider. This was done in England, for example, and the whole issue of incest was completely taken out of sexual offences legislation and a separate Bill was brought forward. Quite an amount of work would need to be done on that. What I am doing here is equating penalties, dealing with the consent issues and describing why they are slightly different for males and females, and I am not going further than that.

I would ask Deputies to consider not pressing amendment on the basis that this is a very complex area and that I cannot go further than this in the legislation and in the amendments I am proposing, which are doing what I have set out.

Deputy Jonathan O'Brien: I agree completely that this is a very complex area. That is why I would have preferred if the Minister did not insert this particular section and she had dealt with the issue in its entirety, as she suggested, in new legislation. While I do not doubt her sincerity in dealing with incest in separate legislation, the reality is, if this legislation passes, we will be increasing the penalty. I want to be clear on this. The section she proposes to insert - she referred to the Supreme Court case which dealt with females under the age of 17 - deals with females over the age of 17. To refer to the Supreme Court case to justify the insertion of this section is wrong at a minimum and misleading at best. We are referring to women over the age of 17. The Minister still has not demonstrated to me the public good that would be served by increasing a sentence ranging from a maximum of seven years to a minimum of three years to a life sentence. The only rationale she has given is that she wants to equate the sentences that would apply to the male and the female. The Minister should do what she suggested she wanted to do and that is deal with this issue in separate legislation. Let us make no mistake about this, we are not saying that if this section is removed, there will be no penalty. The penalty of a sentence of three to seven years will still be in place. I will be pressing my amendment because I do not believe the Minister has demonstrated what public good would be served by increasing that sentence to life in prison. If the Minister wants to deal with this as a separate issue, let us deal with it as a separate issue in separate legislation.

Deputy Frances Fitzgerald: The Deputy's amendment proposes the removal of the section.

Deputy Jonathan O'Brien: That would mean we would revert to the 1908 Act.

Deputy Frances Fitzgerald: Yes, but that would not achieve what the Deputy has spoken about. The penalty would be left as a life sentence for the male. On the point Deputy made, his amendment would not result in making that change. I would just make that point.

Deputy Jonathan O'Brien: I would change it for the female.

Deputy Frances Fitzgerald: However, it would not change it for the male and we would revert to the earlier Act. I am just pointing that out.

It is a very complex area of law dealing with very complex family situations. I would be concerned that there would be unknown or unintended consequences in amending this area of law in the manner suggested. I would ask the Deputy to take on board what I have said with respect to what they have done in the UK where they have dealt with this legislation. We would need to consult on it and examine the area as opposed to taking the route the Deputy has suggested. I give a commitment that we would look at this area and seek consultation on it. I would ask the Deputy not to press this amendment.

Deputy Jim O'Callaghan: Just to be clear in order that there are not any surprises, I agree with Deputy O'Brien. In terms of changing the law, the law is being changed if Deputy O'Brien's amendment is defeated. It is being changed if section 28 is introduced. The law at present provides that there is life imprisonment for a male who is convicted of incest but the sentence is three to seven years for a woman who is convicted of incest. That is the law today and it will continue to be law if the Deputy's amendment is passed.

I note what the Minister said. It is a complicated area and I have given it some thought. On first principles, I believe imposing a potential sentence of life imprisonment on a female for incest is excessive. Back in Edwardian times the penalty was three to seven years and the penalty for men was three to seven years. There was a reason in 2009 why the woman in Roscommon was prosecuted for incest. It was because there were other areas of the law that were not available. As I mentioned at the outset, sections 16 and 17 are broader sections that cover offences which were not covered previously. If a mother was inappropriately having sex with her son who was under 17 years of age, that is something that can be prosecuted and penalised for up to 15 years at present. My inclination is to support Deputy O'Brien's amendment.

Amendment put.

An Ceann Comhairle: In accordance with Standing Order 72, as the required number of tellers have not been appointed for the Níl side, I declare the amendment carried.

Amendment declared carried.

An Ceann Comhairle: Amendment No. 26 arises out of Committee Stage proceedings.

Deputy Frances Fitzgerald: I move amendment No. 26:

In page 22, between lines 21 and 22, to insert the following:

“Amendment of section 1 of Act of 1992

33. Section 1(4) of the Act of 1992 is amended in paragraph (a) by the substitution of “(except sections 14A, 15, 16(1)(b), 18 and 19A)” for “(except sections 15, 16(1)(b) and 18)”.”.

This amendment amends the interpretation section of the Criminal Evidence Act 1992 so that the new provisions contained in the Bill relating to the use of screens and the regulation of the disclosure of counselling records will only apply to criminal proceedings that are initi-

ated after the commencement of those provisions. This is to ensure that rules do not change in respect of ongoing proceedings as to do so may result in successful legal challenge. However, the provisions being introduced in the Bill will prohibit the wearing of wigs and gowns in proceedings involving children and the prohibition on the cross-examination of victims of sexual offences by an accused will apply to proceedings at the time of commencement. It is a straightforward amendment.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 27 in the names of Deputies Shortall and Catherine Murphy arises out of Committee Stage proceedings.

Deputy Róisín Shortall: I move amendment No. 27:

In page 23, line 12, to delete “under the age of 18 years”.

This section provides for persons under the age of 18 to give evidence from behind a screen and in a very difficult case and traumatic circumstances for a young person it is important that he or she be given the opportunity to do that and not have to face the perpetrator of the crime. Rape Crisis Network Ireland has made the case strongly that it would make sense to allow this provision for anybody, without an age limit.

The Bill acknowledges the need to consider the public interest in encouraging the reporting of sexual offences in section 38. Given the trauma associated with sexual offences and the difficulties which victims often face in coming forward, it is important that the courts make it as easy as possible for victims to give evidence. Removing the age limitations from this section would allow all those who wish to give evidence from behind a screen to do so rather than only those younger than 18 years.

The existing amendment makes provision for the court to remove this entitlement if it believes it is in the interest of justice to do so. I appeal strongly to the Tánaiste to accept this amendment, which allows for the extension of the arrangement to give evidence behind a screen to all persons in those circumstances.

Deputy Frances Fitzgerald: Amendment No. 27 removes the age restriction from the proposed section 14A to the Criminal Evidence Act 1992, which allows for evidence to be given from behind a screen by a person under the age of 18 years. In this case the provision will apply to complainants and witnesses under that age recognising the special protection that should be afforded to children. A similar provision is to be introduced into the Criminal Justice (Victims of Crime) Bill 2016 which, although not age restricted, will apply to adults and will be limited to victims of crime. I do not believe it would be appropriate to extend the provision to all adult witnesses and nor does the victims’ directive, a European Union directive. That Bill will address several matters relating to criminal evidence and victims generally. This issue will be included in the forthcoming Criminal Justice (Victims of Crime) Bill 2016 and the issues raised by the Deputy would be appropriately addressed in that context. That Bill has been published and will come before the House in this term.

Deputy Róisín Shortall: It is unfortunate that the Tánaiste is not availing of the opportunity to extend this arrangement to all persons. In sexual offences cases the issues are very sensitive. It is very difficult for people to come forward and we know that people are slow to come forward so that when they do, they should be afforded every protection. I urge the Tánaiste to

rethink her decision.

Deputy Frances Fitzgerald: The Deputy should accept that this will be dealt with in all its complexity in the Criminal Justice (Victims of Crime) Bill 2016, which will be here this term. That is the appropriate place to deal with her suggestion. We are doing it here for children, those younger than 18 years, and there are issues that arise in respect of witnesses. I take the Deputy's point about victims and giving them as much protection as we can. The Criminal Justice (Victims of Crime) Bill 2016 will do that and change the balance in much of the criminal justice law.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 28 in the name of the Minister arises out of Committee proceedings. Amendments Nos. 28 to 51, inclusive, are related. Amendment No. 50 is a physical alternative to amendment No. 49. Amendments Nos. 28 to 51, inclusive, may be discussed together, by agreement.

Deputy Frances Fitzgerald: I move amendment No. 28:

In page 26, between lines 19 and 20, to insert the following:

“(5) Where no disclosure application has been made by the accused in respect of a counselling record under subsection (3) and the prosecutor believes that it is in the interests of justice that the record should be disclosed, the prosecutor may make a disclosure application in writing to the court.

(6) Where the prosecutor intends to make a disclosure application under subsection (5), he or she shall, not later than the beginning of such period as may be prescribed in rules of court, notify the person who has possession or control of the relevant record, the complainant, the accused and any other person to whom the prosecutor believes the counselling record relates of his or her intention to make the application.”.

This amendment inserts two new subsections to section 38 of the Bill, which makes provision for the regulation of the disclosure of counselling records by providing for pre-trial hearings whereby the relevance of a record to an issue at trial can be determined by a judge. Currently under the proposed section the hearing will occur where an accused makes an application for the disclosure of the records in question. The amendments I am now proposing will also allow for the prosecutor to make the application for the disclosure of the records. This, however, will arise only where the accused, whether by omission or for any other reason, fails to make the application for disclosure and the prosecutor has in his or her possession, or has knowledge of, records which he or she believes should in the interests of justice be disclosed. It is effectively a safety mechanism to ensure that the integrity of the criminal process is maintained. Some renumbering is needed as a result and the other amendments are technical amendments to that effect.

Deputy Róisín Shortall: My amendment No. 50 would ensure that complainants have access to legal advice on the issue of disclosure of counselling notes and records before signing a waiver of their right to non-disclosure. The traumatic circumstances of being involved in a sexual offences case make it very difficult to present in court. If in the context of the case a request is made to make counselling records available it is important that people are made fully aware of the implications of doing that.

For that reason, I think provision should be made for independent legal advice to be given to the person concerned. I encourage the Tánaiste to accept this amendment.

Deputy Ruth Coppinger: I do not think the Tánaiste has adequately explained why amendment No. 28 has been introduced. I am not sure why we should be allowing the prosecution in a sexual assault case to access somebody's counselling records. I would like to hear a bit more about that. The Tánaiste's amendment will allow the prosecution in sexual offences cases to apply for the disclosure of counselling records even if the defence has not looked for them. We have tabled amendment No. 1 to amendment No. 28 to provide that, if what the
7 o'clock Tánaiste is proposing goes ahead, there should be a review of the operation of this measure "not later than two years after the commencement of this section". Such a review would look at the impact this aspect of the legislation is having on people involved in rape or sexual assault cases. This would enable us to ensure it is operating as intended and is not leading to the disclosure of counselling records becoming the norm, which could deter victims from coming forward. I think the Tánaiste should agree to review this, at least. It seems to be setting a precedent that I am not sure we want to set.

Deputy Jonathan O'Brien: A number of non-governmental organisations and groups have raised concerns about section 38 of the Bill, which regulates the disclosure of the content of third-party counselling or therapy records in sexual offences trials. The Tánaiste said during the Seanad debate on this Bill that she expects to be in a position to address some of those concerns. One concern relates to the use of counselling records to question the competence of a potential witness. I suggest that our amendment No. 51, which proposes that "records relating to therapy or counselling shall form no part, partial or otherwise, of any assessment regarding a relevant record likely to be relevant to an issue at trial or to the competence of a complainant or witness to testify", would remove any doubt in that regard.

Deputy Jim O'Callaghan: I support amendment No. 28, which has been proposed by the Tánaiste. It is important to recall what the function of a prosecutor in a criminal trial is. The function of a prosecutor here, unlike in America, should not be to adamantly pursue a guilty conviction. His or her function should be to put the evidence fairly before the jury so that it can determine whether the accused is innocent or guilty. My reading of the amendment that has been proposed by the Tánaiste is that it provides that if a prosecutor in a case becomes aware of a record that should be disclosed to the other side in the interests of justice, then it should be disclosed. The alternative is for there to be no statutory requirement for such disclosure. If the prosecution is aware of any evidence that might be to the benefit of the accused in the trial if it were available to the accused, it is important for the prosecution to make that evidence available to the other side and the matter should then be put before the jury.

I have given a great deal of consideration to amendment No. 50 in the name of Deputy Shortall. I am slightly concerned about her proposal that the individual has to be "offered a reasonable opportunity to obtain independent legal advice on the issue of disclosure rights". On balance, I think such a provision would probably confuse the matter. It would ensure that when an individual is asked to sign something with regard to disclosure, a mechanism will have to be put in place to give him or her an opportunity to avail of and receive independent legal advice. If it is the case that he or she signs something under duress, or he or she is pressurised into doing so, he or she should be able to say afterwards that this happened. Ultimately, it is important in any criminal prosecution for all relevant evidence put forward by the complainant relating to the guilt or innocence of the accused to be before the trial. The consequences of these matters for both parties - the complainant and the accused - can be extremely severe.

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Deputy Frances Fitzgerald: I remind Deputy Coppinger that the prosecution receives these records as part of the criminal investigation when it is making a decision on whether prosecution should take place. The concern that an accused may seek to delay a trial by not making an application is something that needs to be considered as well.

One of the concerns I have with Deputy Shortall's amendment No. 50 relates to its potential to undermine the independent rights of individuals in these cases to make their own decisions on whether records relating to them can be disclosed. The application process is being introduced to ensure relevant records only are disclosed. Obviously, this should not undermine each individual's right to allow disclosure outside that process or to give rise to legal argument on whether a statutory requirement has been met. I recognise that amendment No. 50 merely seeks to afford the opportunity to obtain advice. I am also aware that there is concern that victims might be pressurised to waive consent. A number of processes and procedures will need to be put in place prior to the commencement of section 38. In that context, I have asked for consideration to be given to the information that is to be provided to victims with respect to the disclosure of counselling records. This information should include information on the right of a victim to seek legal advice prior to waiving his or her consent. I can build that into the processes and procedures prior to the commencement of section 38.

The second aspect of amendment No. 50 concerns child complainants. I fully agree that child complainants warrant the fullest protection possible. I am satisfied that the provisions contained in subsection (8) of the Bill offer adequate protection without the need for the further provision that has been proposed. As Deputy O'Callaghan has suggested, this further provision would bring some unnecessary confusion to the process. I remind the House that I introduced an amendment to subsection (8) on Committee Stage to require the court to take account of "the likelihood that disclosing, or requiring the disclosure of, the record will cause harm to the complainant". This will apply to all complainants and not just to children, although the fact that a complainant is a child will be of relevance in determining the likelihood of harm.

Amendment No. 51, in the name of Deputy Jonathan O'Brien, seeks to remove counselling records from any assessment under the new provision. The purpose of section 38 is to regulate the disclosure of counselling records and to determine their relevance to the issue at trial. This process will be undertaken by a judge as part of a pre-trial process. The entire removal of counselling records from the process could give rise to a real risk of an unfair trial and could be open to legal and constitutional challenge.

I think I have made the main points I wanted to make on the various amendments. I hope the Deputies can support the amendments in my name. They will ensure that if an individual fails to make an application for disclosure, and the prosecutor is aware that there are records which are likely to be relevant to the issue at trial, the prosecutor may make an application for a pre-trial hearing. The disclosure or otherwise of the records, and the conditions attached to any such disclosure, will remain a matter for the court. I think I have dealt with Deputy Shortall's point by suggesting a way of approaching it.

I am also proposing amendment No. 42, which proposes to replace the word "trial" with the words "criminal proceedings for which the record has been disclosed" in subsection 12(b) of this section. The purpose of this amendment is to ensure any records used at a trial would also be available for any additional criminal proceedings for which the record was initially disclosed; for instance, if the case were to be appealed.

Finally, I would like to make a technical point with regard to Deputy Coppinger's amendment. She has not included the subsequent changes that are needed. This would have an impact on the ability to commence the section. It is a technical point.

Deputy Jonathan O'Brien: Could the Minister outline the safeguards that are being provided to ensure any counselling or therapy records that are released will not be used to question the competence of a complainant or a witness who is testifying?

Deputy Ruth Coppinger: I would like to have further information, although we have limited time to discuss this. When somebody who has potentially been, or who claims they have been, the victim of rape or a sexual assault goes to see a therapist or a counsellor, I would have thought that was a completely private discussion where somebody gives their most personal thoughts and feelings. Yet, it is proposed that the prosecution could potentially use what is said to a therapist or a counsellor against that person. I can foresee many situations where that might happen. If the victim knew the person they were accusing of rape or sexual assault, and said things about that person, I could foresee many things that might then be used against the victim. I am surprised this is being proposed and agreed by different organisations, which is why I asked for a review. The Minister said there is some technicality with the amendment but perhaps it is one she could just agree to.

Deputy Frances Fitzgerald: In response to Deputy Jonathan O'Brien, the issue of competence to testify was removed on Committee Stage and is gone.

In regard to Deputy Coppinger's point, there has been a lot of discussion about this whole issue of counselling records. The reality of what has been happening in recent times is that there has been no regulation in this regard. Records have been requested but, because it is unregulated, there has been huge concern in regard to private records. People go to a counsellor assuming that the discussion is private and that they will not end up in the situation the Deputy described. People working in the area have put a lot of work into this issue and want to see greater regulation and protection for victims, which is why we are coming forward with this legislation in order to regulate the issue. It is a protection for those appearing in court and a protection around counselling records. It is a regulation of this area which is not there at present and which most of the groups working with victims have been quite concerned about. What we are always trying to do, obviously, is to get a fair balance between privacy and a person's right to a fair trial. There are always competing rights which must be balanced. We are trying to deal with this issue of the availability of counselling records in a way that is fair.

Deputy Ruth Coppinger: I move amendment No. 1 to amendment No. 28:

To insert the following new subsection after subsection (6):

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

Amendment to amendment put and declared lost.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 29:

In page 26, line 20, to delete “(5) The” and substitute “(7) The”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 30:

In page 26, line 23, to delete “(6) The” and substitute “(8) The”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 31:

In page 26, line 27, to delete “(7) The” and substitute “(9) The”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 32:

In page 26, line 30, to delete “subsection (6)” and substitute “subsection (8)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 33:

In page 26, line 31, to delete “(8) In” and substitute “(10) In”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 34:

In page 26, line 31, to delete “subsection (6)” and substitute “subsection (8)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 35:

In page 26, line 33, to delete “subsection (9)” and substitute “subsection (11)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 36:

In page 27, line 7, to delete “(9)(a) Subject” and substitute “(11)(a) Subject”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 37:

In page 27, line 7, to delete “subsection (10)” and substitute “subsection (12)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 38:

In page 27, line 8, to delete “subsection (6)” and substitute “subsection (8)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 39:

In page 27, line 14, to delete “(10)(a) Where” and substitute “(12)(a) Where”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 40:

In page 27, line 14, to delete “subsection (9)” and substitute “subsection (11)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 41:

In page 27, line 20, to delete “subsection (9)” and substitute “subsection (11)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 42:

In page 27, line 37, to delete “trial” and substitute “criminal proceedings for which the record has been disclosed”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 43:

In page 27, line 38, to delete “(11) The” and substitute “(13) The”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 44:

In page 27, line 40, to delete “subsection (10)” and substitute “subsection (12)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 45:

In page 28, line 1, to delete “(12)(a) Subject” and substitute “(14)(a) Subject”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 46:

In page 28, line 7, to delete “(13) For” and substitute “(15) For”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 47:

In page 28, line 7, to delete “subsection (6)” and substitute “subsection (8)”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 48:

In page 28, line 11, to delete “(14) In” and substitute “(16) In”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 49:

In page 28, line 16, to delete “(15) This” and substitute “(17) This”.

Amendment agreed to.

An Leas-Cheann Comhairle: As amendment No. 49 has been agreed, amendment No. 50 cannot be moved .

Amendments Nos. 50 to 52, inclusive, not moved.

Deputy Róisín Shortall: I move amendment No. 53:

In page 30, between lines 13 and 14, to insert the following

“Non-consent to sexual activity

44. An individual is to be taken not to have consented to sexual activity where-

(a) the defendant intentionally deceived the complainant as to the nature or purpose of sexual activity,

(b) the defendant intentionally induced the complainant to consent to sexual activity by impersonating a person known personally to the complainant,

(c) the complainant submits to sexual activity as a result of violence or threats of violence towards the complainant or towards a third party,

(d) the complainant was, and the defendant was not, unlawfully detained at the time of the relevant act,

(e) the complainant submits to sexual activity as a result of threats of serious harm or serious detriment of any type to the complainant or a third party,

(f) the complainant was asleep or otherwise unconscious at the time of the relevant act,

(g) the complainant was too affected by alcohol or drugs to freely agree to sexual activity,

(h) agreement is expressed by a third party not the complainant,

(i) the complainant having originally consented to engage in sexual activity expresses by words or conduct a lack of agreement to continue to engage in the activity,

(j) the complainant submits to sexual activity because of the abuse of a position of authority or trust.”.

Amendment put and declared lost.

Amendment No. 54 not moved.

Deputy Frances Fitzgerald: I move amendment No. 55:

In page 33, between lines 6 and 7, to insert the following:

“Amendment of Act of 1990

47. The Act of 1990 is amended by the substitution of the following section for section 9:

“9. (1) A person consents to a sexual act if he or she freely and voluntarily agrees to engage in that act.

(2) A person does not consent to a sexual act if-

(a) he or she permits the act to take place or submits to it because of the application of force to him or her or to some other person, or because of the threat of the application of force to him or her or to some other person, or because of a well-founded fear that force may be applied to him or her or to some other person,

(b) he or she is asleep or unconscious,

(c) he or she is incapable of consenting because of the effect of alcohol or some other drug,

(d) he or she is suffering from a physical disability which prevents him or her from communicating whether he or she agrees to the act,

(e) he or she is mistaken as to the nature and purpose of the act,

(f) he or she is mistaken as to the identity of any other person involved in the act,

(g) he or she is being unlawfully detained at the time at which the act takes place,

(h) the only expression or indication of consent or agreement to the act comes from somebody other than the person himself or herself.

(3) This section does not limit the circumstances in which it may be established that a person did not consent to a sexual act.

(4) Consent to a sexual act may be withdrawn at any time before the act begins, or in the case of a continuing act, while the act is taking place.

(5) Any failure or omission on the part of a person to offer resistance to an act does not of itself constitute consent to that act.

(6) In this section-

‘sexual act’ means-

(a) an act consisting of-

(i) sexual intercourse, or

(ii) buggery,

(b) an act described in section 3(1) or 4(1) of this Act, or

(c) an act which if done without consent would constitute a sexual assault;

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‘sexual intercourse’ shall be construed in accordance with section 1(2) of the Principal Act.”.”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 56.

Deputy Frances Fitzgerald: I move amendment No. 56:

In page 34, to delete lines 1 to 22 and substitute the following:

“Amendment of Act of 2001

49. The Act of 2001 is amended-

(a) in section 29, by the insertion of the following subsection:

“(6) In addition to the conditions referred to in subsection (1)(b), a sentence involving post-release supervision imposed after the commencement of this subsection shall include a condition requiring the sex offender to attend all appointments with the probation officer whose supervision he or she is under and to comply with the lawful instructions of that officer.”,

(b) by the insertion of the following section after section 30:

“Power of court to amend conditions or include new conditions

30A. (1) In any case where a court has imposed on a sex offender, for an offence committed after the commencement of this section, a sentence involving post-release supervision, the court may, on the application of a probation officer not more than one month before the date of the offender’s intended release from prison or any time during the supervision period, amend any condition for securing that supervision referred to in section 29(1)(b) or additional condition referred to under section 30 or include one or more further conditions pursuant to either of the aforesaid sections.

(2) In any case where a court has imposed on a sex offender, for an offence committed before the commencement of this section, a sentence involving post-release supervision, the court may, on the application of a probation officer not more than one month before the date of the offender’s intended release from prison or any time during the supervision period, amend any condition or include one or more further conditions pursuant to section 29(1)(b) where such conditions are necessary for securing that supervision.

(3) Subsection (2) shall apply in respect of post-release supervision orders extant at the time of the commencement of this section.

(4) Any condition referred to in subsection (1) or (2), whether an amended condition or a new condition, shall have the same effect as a condition included in a sentence involving post-release supervision.

(5) In this section “the date of the sex offender’s release from prison” means the date on which the sentence of imprisonment imposed on the sex offender expires, or as the case may be, his or her remission from the sentence begins.”,

(c) in the Schedule to the Act of 2001-

(i) in paragraph 16 by-

(I) the insertion of the following subparagraph after subparagraph (b):

“(ba) section 4A (child prostitution and child pornography);”

(II) the insertion of the following subparagraph after subparagraph (c):

“(ca) section 5A (participation of child in pornographic performance);”

and

(ii) the insertion of the following paragraph after paragraph 17:

“17A. An offence under the following provisions of the *Criminal Law (Sexual Offences) Act 2017*:

(a) *section 3* (obtaining, providing etc. a child for purpose of sexual exploitation);

(b) *section 4* (invitation etc. to sexual touching);

(c) *section 5* (sexual activity in presence of child);

(d) *section 6* (causing child to watch sexual activity);

(e) *section 7* (meeting child for purpose of sexual exploitation);

(f) *section 8* (use of information and communication technology to facilitate sexual exploitation of child);

(g) *section 21* (sexual act with protected person);

(h) *section 22* (offence against relevant person by person in authority).”

This is intended to address the attachment of conditions to the post-release supervision of sex offenders under the Sex Offenders Act 2001. Under Part 5 of the Sex Offenders Act, a court can impose on a sex offender a sentence involving post-release supervision. This is imposed at the time an offender is being sentenced but will only take effect from the release of the offender from whatever prison sentence has been imposed. The supervision on release is undertaken by the Probation Service and the offender is required to comply with such conditions as are specified to secure the supervision. Failure to comply with a condition is a criminal offence punishable by imprisonment for a maximum term of 12 months.

We have recently been made aware that, in some very few cases, an order is made without conditions being imposed. This means that if an offender does not co-operate with a supervising probation officer, no offence is committed and, in effect, a breach of the order cannot be sought. This amendment will amend the relevant section to provide that a sentence involving post-release supervision shall automatically include a condition requiring the sex offender to attend all appointments with his or her probation officer, whose supervision he or she is under, and to comply with the lawful instructions of that officer.

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Effectively, all orders for post-release supervision will contain automatic and inhering conditions as set out in paragraph (a) of this amendment. Paragraph (b) allows a probation officer to apply to the court one month prior to the release of the offender to amend any of the conditions imposed in regard to post-release supervision. This recognises that, depending on the length of the prison sentence, the type of conditions which are necessary to secure the post-release supervision of the offender may have changed from the time of the original sentence, as the offender's needs may have changed over that time. I hope I have the support of the House in this regard.

Amendment agreed to.

Bill reported with amendment.

Amendment No. 57 not moved.

Deputy Ruth Coppinger: I move amendment No. 58:

In page 38, after line 12, to insert the following:

“PART 9

CHANGING SEXIST AND ANTI-LGBTQ ATTITUDES

56. The Minister for Justice and Equality is to report on measures that could be taken by the State to combat sexist and anti-LGBTQ attitudes in society, including: a review of sex education in schools and colleges; classes on consent, respect for women and LGBTQ people and the damaging effects and exploitative nature of the sex industry; and public awareness campaigns on consent and to discourage men from buying sex, within six months of the enactment of this Act.”.

The purpose of the amendment is to tie in with the stated intention of the Minister in introducing criminalisation of the purchase of sex. We are proposing that measures need to be taken in society to combat sexist and anti-LGBTQ attitudes in society. We are proposing a review of sex education in schools and colleges. Classes on consent are in place at third level but not at second level. There needs to be a discussion about respect for women and LGBTQ people and the damaging effects and exploitative nature of the sex industry. We also need to discourage men from buying sex. In effect, we need a public awareness campaign on consent, and for this to take place within six months of the Act being enacted.

After the Minister put forward her proposal, we proposed other amendments relating to exit strategies. We need to put in place real supports, including financial, language, addiction and welfare supports as well as many other supports, to allow people who want to get out of sex work to do so. If such supports are not in place, the number of vulnerable people involved in prostitution will not reduce. That is the reality.

The amendment also targets demand. There is demand for the purchase of sex. It is created by our culture and society. Basically, our society prioritises the needs of men - 99% of the purchasers of sex are male - and subordinates the needs and desires of women. LGBTQ people are involved in prostitution as well. Of course vulnerable men are involved in sex work too, as are transgender people.

The amendment would seem like common sense if the Minister were serious about bring-

ing about a change in behaviour in society in respect of sex work and prostitution. If that is the goal, these measures are essential.

Amendment No. 59 also calls for a full review of the rights of victims. The provision is found in others aspects of the Bill relating to sexual offences. Free counselling and independent legal advice are among the supports needed for those affected.

Deputy Frances Fitzgerald: The Deputy is proposing to use criminal law relating to sexual offences to pursue a wide range of issues, from equality matters for members of the LGBTQ community to sex education in schools. It is not within the remit of my Department to deal with issues around the purchase of sex. Of course the new offence of criminalising the purchase of sexual services is dealt with. We have already introduced an amendment to deal with a review.

Several of the matters raised by Deputy Coppinger are relevant to ongoing campaigns. Awareness raising campaigns are run by my Department and the National Office for the Prevention of Sexual, Domestic and Gender-based Violence. Recently, that office launched a national awareness-raising campaign, “What would you do?”, as part of the second national strategy. Considerable funding is going into the campaign and it is under ongoing review. The campaigns are aimed at raising awareness of domestic and sexual violence. Moreover, they are aimed at bringing about change in long-established societal behaviours and attitudes. The idea is to activate people with the aim of decreasing and preventing this violence. Such education and awareness will be underpinned by legislative provisions, including the provisions of this Bill as well as the Domestic Violence Bill, which I published last week.

Deputy Coppinger’s amendment is outside the scope of the Bill. Clearly, that is not to show any ambivalence in standing up to domestic, sexual or gender-based violence. I cannot accept the amendment. It is not within my remit to report on a review of sex education in schools and colleges. That is one function the amendment seeks to provide for. Clearly, everyone in the House is agreed with the basic proposition that we should take every possible action to deal with sexual and gender-based violence and to withstand all forms of it. I believe this can be done by a variety of actions, activities and processes as well as strong legislation that we are committed to introducing. It is a broad amendment and, unfortunately, I am not in a position to accept it.

Deputy Ruth Coppinger: It is within the scope available to the Minister. She is the Minister for Justice and Equality. We tabled the amendment because the Minister is bringing in a law aimed at tackling prostitution and the sex industry through criminalising the purchase of sex. However, the Minister is not taking other measures to attempt to reduce the demand for the purchase of sex. We believe it is within the scope of this law. This is the only legislation being brought in to change the laws on prostitution and sex work. However, without this amendment, no attempt is being made to influence change in society. Simply bringing in a law is not going to solve the problem. If this is to be a serious attempt to protect people and to decrease the numbers involved in sex work, the Minister should undertake the measures I have proposed. There should be a discussion about consent, respect and the nature of mutually respectful relationships and so on in the schools and workplaces of our society. I would have thought it was within the scope of the Bill.

Amendment put and declared lost.

Deputy Ruth Coppinger: I move amendment No. 59:

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In page 38, after line 12, to insert the following:

“PART 9

VICTIMS’ RIGHTS

56. The Minister for Justice and Equality is to report to the Dáil on progress in developing a Victims’ Rights’ Bill and on additional measures necessary to fully support and protect victims’ rights, including guaranteed access to free counselling services and free, independent legal advice within three months of the enactment of this Act.”.

Amendment put and declared lost.

Bill, as amended, received for final consideration.

Question put: “That the Bill do now pass.”

| <i>The Dáil divided: Tá, 94; Staon, 3; Níl, 6.</i> | | |
|--|-------------------------|-----------------------------|
| <i>Tá</i> | <i>Staon</i> | <i>Níl</i> |
| <i>Adams, Gerry.</i> | <i>Barry, Mick.</i> | <i>Connolly, Catherine.</i> |
| <i>Aylward, Bobby.</i> | <i>Coppinger, Ruth.</i> | <i>Daly, Clare.</i> |
| <i>Bailey, Maria.</i> | <i>Murphy, Paul.</i> | <i>Healy, Seamus.</i> |
| <i>Barrett, Seán.</i> | | <i>Martin, Catherine.</i> |
| <i>Brady, John.</i> | | <i>Ryan, Eamon.</i> |
| <i>Brassil, John.</i> | | <i>Wallace, Mick.</i> |
| <i>Breen, Pat.</i> | | |
| <i>Brophy, Colm.</i> | | |
| <i>Broughan, Thomas P.</i> | | |
| <i>Browne, James.</i> | | |
| <i>Bruton, Richard.</i> | | |
| <i>Buckley, Pat.</i> | | |
| <i>Burke, Peter.</i> | | |
| <i>Butler, Mary.</i> | | |
| <i>Byrne, Catherine.</i> | | |
| <i>Cahill, Jackie.</i> | | |
| <i>Calleary, Dara.</i> | | |
| <i>Canney, Seán.</i> | | |
| <i>Cannon, Ciarán.</i> | | |
| <i>Carey, Joe.</i> | | |
| <i>Chambers, Jack.</i> | | |
| <i>Chambers, Lisa.</i> | | |
| <i>Collins, Michael.</i> | | |
| <i>Collins, Niall.</i> | | |
| <i>Corcoran Kennedy, Marcella.</i> | | |
| <i>Coveney, Simon.</i> | | |
| <i>Cowen, Barry.</i> | | |

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|-----------------------------------|--|--|
| <i>Creed, Michael.</i> | | |
| <i>Curran, John.</i> | | |
| <i>D'Arcy, Michael.</i> | | |
| <i>Daly, Jim.</i> | | |
| <i>Deering, Pat.</i> | | |
| <i>Doherty, Pearse.</i> | | |
| <i>Doherty, Regina.</i> | | |
| <i>Donnelly, Stephen S.</i> | | |
| <i>Donohoe, Paschal.</i> | | |
| <i>Doyle, Andrew.</i> | | |
| <i>Farrell, Alan.</i> | | |
| <i>Ferris, Martin.</i> | | |
| <i>Fitzgerald, Frances.</i> | | |
| <i>Funchion, Kathleen.</i> | | |
| <i>Grealish, Noel.</i> | | |
| <i>Griffin, Brendan.</i> | | |
| <i>Harris, Simon.</i> | | |
| <i>Harty, Michael.</i> | | |
| <i>Heydon, Martin.</i> | | |
| <i>Humphreys, Heather.</i> | | |
| <i>Kehoe, Paul.</i> | | |
| <i>Kelleher, Billy.</i> | | |
| <i>Kenny, Martin.</i> | | |
| <i>Kyne, Seán.</i> | | |
| <i>Lahart, John.</i> | | |
| <i>Lawless, James.</i> | | |
| <i>MacSharry, Marc.</i> | | |
| <i>McGrath, Finian.</i> | | |
| <i>McLoughlin, Tony.</i> | | |
| <i>Madigan, Josepha.</i> | | |
| <i>Martin, Micheál.</i> | | |
| <i>Mitchell O'Connor, Mary.</i> | | |
| <i>Mitchell, Denise.</i> | | |
| <i>Munster, Imelda.</i> | | |
| <i>Murphy O'Mahony, Margaret.</i> | | |
| <i>Murphy, Eoghan.</i> | | |
| <i>Murphy, Eugene.</i> | | |
| <i>Naughten, Denis.</i> | | |
| <i>Naughton, Hildegard.</i> | | |
| <i>Neville, Tom.</i> | | |
| <i>Noonan, Michael.</i> | | |
| <i>Ó Broin, Eoin.</i> | | |

| | | |
|-------------------------------|--|--|
| <i>Ó Caoláin, Caoimhghín.</i> | | |
| <i>Ó Cuív, Éamon.</i> | | |
| <i>Ó 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'Dea, Willie.</i> | | |
| <i>O'Donovan, Patrick.</i> | | |
| <i>O'Dowd, Fergus.</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>Penrose, Willie.</i> | | |
| <i>Pringle, Thomas.</i> | | |
| <i>Quinlivan, Maurice.</i> | | |
| <i>Rabbitte, Anne.</i> | | |
| <i>Rock, Noel.</i> | | |
| <i>Scanlon, Eamon.</i> | | |
| <i>Stanley, Brian.</i> | | |
| <i>Stanton, David.</i> | | |
| <i>Varadkar, Leo.</i> | | |
| <i>Zappone, Katherine.</i> | | |

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

Question declared carried.

Courts (No. 2) Bill 2016: Order for Second Stage

Bill entitled an Act to amend the Courts (No. 3) Act 1986 in respect of the issue of summonses in relation to offences; to provide for the issuing of summonses under that Act in respect of certain offences alleged to have been committed by members of the Garda Síochána; and to provide for related matters.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: "That Second Stage be taken now."

Question put and agreed to.

Courts (No. 2) Bill 2016: Second Stage

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

I am pleased to have this opportunity to introduce the Courts (No. 2) Bill 2016. The purpose of the Bill is to provide part of the legislative framework necessary for the introduction of what is termed “the third payment option” in relation to road traffic offences in respect of which a fixed charge notice may be served under Part 3 of the Road Traffic Act 2010.

This short Bill of just four sections is centred around the amendment, for technical reasons, of section 1 of the Courts (No. 3) Act 1986. It will allow for the integrated printing of a summons and the related fixed charge notice for serving on persons alleged to have committed certain road traffic offences. This will ensure those who commit such offences can be brought fully to account. The Courts (No. 2) Bill 2016 is a joint initiative between myself as Minister for Justice and Equality and the Minister for Transport, Tourism and Sport, Deputy Ross. The intention would be that, when enacted, its reforming measures will be made operative by the Minister, Deputy Ross, through his commencement of section 44 of the Road Traffic Act 2010, that being the section which provides the legislative basis to bring these reforms into practical effect. This Courts (No. 2) Bill will, therefore, provide the legal nuts and bolts for the desired reform while section 44 of the Road Traffic Act of 2010 will trigger that reform into operation. The designated date for this to happen, including having the relevant IT supports in place, is 1 June 2017.

The reform objective behind the very technical provisions of today’s Bill is to resolve an unintended legal loophole which has emerged over time. At present, under the Road Traffic Act 2002, a person who does not pay a fixed charge notice within the 56 days set down in law is served with a summons. At that point the person has no further payment option and must attend court. However, persons regularly appear in court and state that they did not receive the original fixed charge notice and many such cases are dismissed by the courts. In these cases neither the fixed charge nor the penalty points end up being applied. This can even happen in cases where a person might not be taking issue with the alleged infringement concerned. As the law stands at the moment, a fixed charge notice offence affords two payment options before a summons is issued requiring a person to attend court. These are a first period of 28 days, during which the person may pay the fixed amount, followed by a second consecutive period of 28 days, during which the person may pay the fixed amount plus 50%.

The key objective proposed under the Courts (No. 2) Bill is to provide the essential technical and administrative measures to enable the introduction of a third payment option, which is a payment of the fixed amount plus 100%, while upholding any penalty points concerned without necessitating further court or Garda time. This third option will be made available up to seven days before the date on which an offender will otherwise have been summonsed to appear before the court. If a person takes up this option, proceedings in respect of the alleged offence will be discontinued and the person need not attend court.

This is a short but highly technical Bill of four sections whose rationale is set out in greater technical detail for Members’ attention in the relevant explanatory and financial memorandum.

Section 1 provides for the definition of the term “Act of 1986” as meaning the Courts (No. 3) Act 1986, that being the Act which sets out in primary law the provisions relating to the issue

of District Court summonses in relation to offences.

Section 2 amends section 1 of the 1986 Act in the form of six amendments as set out in paragraphs (a) to (f). Paragraph (a) adds a new section 1(2A) to the Act of 1986 which provides that the issue of a summons under section 1(2) of the Act of 1986 shall be deemed to have been effected by the transmission by the appropriate court office by electronic means of all the information necessary to create the summons document in an automatic manner, that is, using electronic means. A lot of work has been done by the courts office to ensure we can do this. Paragraph (b) adds a new section in a way which is intended to allow for the automated processing of batches of summonses or applications for summonses. Paragraph (c) provides for the insertion of a clause into section 1 of the Act to include a reference to a summons the issue of which is deemed to have been effected under the new section 1(2A) to which I referred.

Paragraph (d) provides for the insertion of paragraph (aa) into section 1(9) of the 1986 Act, which is intended to ensure that a summons which was created in an automatic manner shall be presumed to have been created on the basis of the information transmitted by the appropriate court office unless the contrary is shown. Paragraph (e) provides for the insertion of a clause into section 1(10) of the 1986 Act to include a reference to a summons the issue of which is deemed to have been effected under the new section 1(2A) to which I referred. Paragraph (f) provides for two defined terms to be inserted into section 1(14) of the 1986 Act, namely, a revised definition of the term “document” and the substitution of the definition of the term “true copy” in respect of a summons.

Section 3 makes specific provision in regard to a summons to be issued in circumstances where the person who is alleged to have committed a specified road traffic offence is a member of the Garda Síochána. At present, section 88(3) of the Courts of Justice Act 1924 and the relevant District Court rules include a provision that a summons against a person who is a member of the Garda Síochána shall be signed by a judge. Subsection (1) seeks to set aside this restriction for the purposes of this Bill. I intend to bring forward an amendment to section 3 on Committee Stage. This will centre on the retention of the provisions of the current section 3(1) (a) while putting aside those of section 3(1)(b) in its reference to section 29 of the Road Traffic Act 2010. Upon further reflection, in consultation with the Office of the Parliamentary Counsel and the Department of Transport, Tourism and Sport, the need emerged for a more detailed review to be undertaken of the issues arising out of the current section 3(1)(b) than the narrow context of this Bill would allow. It is therefore considered that the relevant matters should be given further dedicated consideration in their own right, including further consultation with the key stakeholders. It is considered that the retention of section 3(1)(b) as it stands, while well intentioned, could slow down the overall passage of the Bill while these further issues are considered. While still under preparation by my Department in conjunction with the Office of the Parliamentary Counsel, the proposed amendment to section 3 will, of course, be explained in more detail to Members on Committee Stage.

Section 4 deals with the Short Title of the Bill, its collective citation and construction with the Courts (Supplemental Provisions) Acts, and its commencement by means of ministerial order.

I commend the Bill to the House as a means of closing an undesirable loophole in the application of the Road Traffic Acts. It has the potential, if brought to enactment, to increase payment on foot of the relevant fixed charge notices, ensure the application of the relevant penalty points and reduce the number of cases that would otherwise go on to take up valuable court and

Garda time. It will provide further means of ensuring those who commit such offences on our roads are brought fully to account.

Deputy Jim O’Callaghan: Like the Criminal Law (Sexual Offences) Bill 2015 we debated earlier and the Bail (Amendment) Bill 2016 we will debate tomorrow, the Bill before us this evening, the Courts (No. 2) Bill 2016, is welcome. I commend the Tánaiste on the productivity of her Department in bringing legislation before the House. The same cannot be said for some of her Government colleagues. Perhaps she will tell them they need to become as industrious as she is when it comes to the advancement of legislation.

Fianna Fáil supports this Bill, the purpose of which is to provide essential technical and administrative measures to allow for the introduction of what the Tánaiste referred to as the third payment option. This will address the situation whereby persons responsible for road traffic offences do not incur fines or penalty points for technical reasons. Some of those reasons were highlighted recently in the media, with reports of cases being prosecuted in different districts around the country where individuals were able to come to court and say they never got a summons. Consequently, the judge is left with little option other than to strike out the proceedings on a technicality of the law as it exists at present. What this shows is the importance of enforcement of our laws. We spend a great deal of time in this House preparing detailed and complicated legislation which sets out procedures for when people’s behaviour will be criminalised. We also set out the mechanisms for the imposition of the penalties for such criminal behaviour, but sometimes that aspect of the legislation receives only a small amount of focus. However, if there is no effective enforcement of laws, those laws are undermined. Unfortunately, that has happened in respect of certain road traffic offences. People were able, as I indicated, to state in court that a summons was not received and, as such, they should not be held criminally liable. We must ensure the enforcement mechanisms we introduce are effective and that legislation facilitates easy enforcement by the prosecution services and An Garda Síochána. We must make sure that where the law is broken, there are consequences for those responsible. If that message is not established in our legal system, there will be no deterrent for individuals who wish to break the law. In fact, the person who admits liability and pays a penalty will be seen as gullible and foolish. That should not be the case. We must ensure the law applies across the board. If a crime is committed and a penalty deserves to be incurred, it is essential that the appropriate penalty is available to the courts.

As the Tánaiste indicated, the situation that pertains under the Road Traffic Act 2002 is unsatisfactory in that a person who does not pay a fixed charge notice within the 56 days set down is served with a summons. Individuals may pay within the first 28 days or within the second 28 days. If payment is not made within 56 days, however, a summons is issued, after which there is no further payment option and the accused must attend court. Unfortunately, as I outlined, people have appeared in court claiming they did not receive the original fixed charge notice and have had their cases dismissed. It is difficult to ascertain precisely how many cases have been dismissed on these grounds, but it seems to be in the region of 7,500 annually. We must ensure, too, that people who are prosecuted for minor summary offences have the opportunity to pay. Sometimes when people know their court date is approaching, they want to pay the charge. However, under the existing legislation, if the 56-day period has elapsed, they must present in court. Under the new procedure set out in the Bill before us this evening, such people will have to pay a 100% penalty after the 56-day period. Notwithstanding the imposition of that penalty, it offers a benefit to accused persons in that it will remove the necessity of having the case determined in a court of law. Individuals should be given that opportunity and, for this reason,

Fianna Fáil will support the Bill on Second Stage.

Deputy Jonathan O'Brien: Sinn Féin supports this Bill, which will positively impact on the efficiency of court administration and free up Garda resources for much-needed operational deployment. Under the current system, those alleged to have committed a relevant road traffic offence are issued with a fixed charge notice, which is issued and printed on behalf of An Garda Síochána and payment of which is made through An Post. The notice stipulates that the fine must be paid within 28 days and the relevant penalty points accepted. Where the fine is not paid within the initial 28-day period, the fixed charge notice provides for a further 28 days within which payment of the original fine plus 50% may be made.

8 o'clock
Failure to pay a fine within the 56-day period will result in the automatic issuing of a summons requiring the alleged offender to appear in court. This process does not require a member of the Garda to apply for the summons to be issued; the summons is triggered by the non-payment of the fixed charge fine. As Deputy O'Callaghan outlined, many individuals who have come before the courts have claimed they did not receive the original fixed charge notice and have thereby avoided penalty.

Debate adjourned.

Pensions (Amendment) (No. 2) Bill 2017: Second Stage [Private Members]

Deputy Willie O'Dea: I move: "That the Bill be now read a Second Time."

I wish to share my time with Deputies Darragh O'Brien and Mary Butler.

Even before 2008, defined benefit pension schemes were under pressure. Of course, this trend was accentuated by the crash in 2008 which is why, I suspect, in 2008 the pensions regulator suspended the minimum funding requirement. This was widely seen at the time as an attempt to allow defined benefit pension schemes which were struggling some breathing space to weather the storm. We had an election in 2011. I recall this was an issue during the campaign and the then Opposition parties, particularly the main Opposition party, promised to do something about it. They did not do anything for two years, but they did something about it in 2013 which, unfortunately, made matters much worse. They restored the minimum funding standard in 2013 and added a 15% reserve on top of it. In addition, they prised €2.5 billion out of pension funds by way of a levy. Even pension funds that were in difficulty had to pay this levy. One had a situation where some sponsoring company and its employees had built up a pension fund, it was not sufficient to discharge the accrued liabilities to the employees and nevertheless they had to pay a levy to the Government to further deplete their resources.

There are two aspects of the pensions system I want to deal with and there is a third dealt with in the Bill to which my colleague, Deputy Darragh O'Brien, will refer. The first one is a glaring anomaly whereby under Irish law a company which is perfectly solvent can allow its defined benefit pension scheme to run into deficit and then decide unilaterally to close it down to the detriment of those who have been paying into it, in many cases, for ten, 20, 30 or 40 years. I have come across persons who were coming quite near retirement when their scheme was arbitrarily shut down. The supreme irony of the situation, as I am sure Deputy Mary Butler will tell the House, is that if both the company and the pension scheme become insolvent, because the Government was forced to give a correct interpretation to the EU insolvency directive in the Waterford Glass case, the pensioners would get practically all they were due. In other words,

the more solvent the company the less chance the pensioners have of getting anything in the event of a closedown.

Somebody who has paid into a pension scheme for many years in the legitimate expectation that he or she would get a certain return is entitled to have a situation where, if the company sponsoring the scheme into which he or she has been paying is financially viable and in a position to pay up the accrued liabilities of the pension scheme, the company should be compelled to do so before it winds the scheme up. This has been the situation in the United Kingdom for more than 20 years. Section 75 of the UK Pensions Act 1995 provides that in such a situation where the company is solvent, the company is in a position to pay and it decides to close down the defined benefit pension scheme, the company is not allowed to close the scheme down until such time as it has made up the deficit.

Admittedly, there have been a number of studies, debates, reports, etc., on this legislation and, of course, it has been found to be imperfect. The main argument is that in some cases a company cannot afford to keep paying the pension and if the company is forced to pay down the crystallised debt, it could drive the company into insolvency to the detriment of everybody. I accept that as a legitimate argument and that is why what I propose is a much more nuanced scheme. I am proposing that the Pensions Authority must give its permission to wind up the scheme if the company is solvent. If the company can establish to the satisfaction of the Pensions Authority that the payment of the full amount would drive the company into insolvency, the Pensions Authority should be able, at its discretion, to allow the company to pay a lesser amount - the minimum would be 50%, but I am not inflexible on the amount. I am aware that the Labour Party and Sinn Féin have produced their own proposals on this matter. I have not studied them in any detail but I intend to do so. I do not have a monopoly on wisdom. I am sure the Bill has many defects and if there is anything better in the legislation from the Opposition parties, I would be quite happy to take any amendments they submit on board.

The second problem is that the liabilities of defined benefit pension schemes are grossly inflated because they are based on a fiction. When calculating liabilities, a company needs to have enough funding in the pension scheme to discharge its liabilities if the company were to be wound up tomorrow. This is totally artificial. It takes no account of the long-term nature of pension provision. It takes no account of the fact that companies do their accounts on a going-concern basis rather than on the presumption of wind-up. A proper ongoing funding model will have to be devised to deal with this situation.

In addition, when it comes to valuing the liabilities, there is an equally artificial situation. Not only is the company supposed to have enough to discharge liabilities if the company is wound up tomorrow but it must discharge them by purchasing annuities which are underpinned by the most expensive possible type of bonds, triple A rated bonds. The yield on triple A rated bonds has been very low during the period of the financial crisis - it has recovered somewhat now which makes the situation a little easier. It is high time that this was looked at and an alternative model devised. This is why I provide that the Pensions Authority would look at this situation and report back to the Joint Committee on Social Protection or to both Houses of the Oireachtas within six months with its suggestions in this regard. If somebody who is entitled to a pension of a certain amount on retirement because that is what he or she has signed up for must buy an annuity, a bond which is yielding a 1% return will cost twice as much as a bond which is yielding 2%. Therefore, the standard has been set inordinately high. It is time that some method of recalculating these liabilities was looked at. If that could be done - I firmly believe it can and there are moves to do so in other countries - not only would it make defined

benefit pension schemes, many of which are on the brink, viable but it might even turn the tide of closures.

Those are my two requests. There is another aspect to the Bill which my colleague, Deputy Darragh O'Brien, will deal with, but those are the two requests I have for the Minister. I ask the Minister to allow legislation which requires the Pensions Authority to come back to us with a feasible system based on reality of calculating liabilities in order that schemes will not be artificially in deficit, and to correct a blatant injustice, which has wiped out many honourable persons who contributed to pension schemes for years and were left with nothing and which has been allowed to fester for far too long. Those are not unreasonable requests. As I said, the Bill is not perfect and I am prepared to take on board amendments or any suggestions from the Opposition, the Government or whoever, but those two issues have to be dealt with as a matter of urgency. Owing to the difficulties with the British legislation, I have deliberately nuanced my party's approach in order that it will not be as onerous on the sponsoring employer. In other words, I am trying to find a balance between fairness and justice for the contributors and the danger that some might be tempted to wind up existing defined benefit pension schemes in view of the imminence of this legislation.

Deputy Darragh O'Brien: It gives me great pleasure to speak on this Bill and I commend Deputy O'Dea for bringing it forward. As he said, he has covered certain items in it. In the six minutes I have available before passing over to my colleague, Deputy Mary Butler, I wish to raise a number of items.

The Minister for Social Protection, Deputy Leo Varadkar, is very familiar with pensions because he had a hand in the undermining of pensions benefits in the past five years, particularly in his role as Minister for Transport, Tourism and Sport when he brought forward the State Airport (Shannon Group) Act 2014 and section 32 therein. It was the first time a Government legislated for the reduction of benefits in a private pension scheme, the Irish airlines superannuation scheme or the airport pension scheme. It was probably the most unjust of the injustices done to any pension scheme member, and I speak as somebody who worked in the pensions sector for 15 years before entering politics. Long standing service members lost 60% of their pension entitlement. Retired members, people of 70 or 80 years of age, lost six weeks of their annuity. It was all for selling the stake in Aer Lingus. The company was shown a roadmap of how to increase its pension deficit with a view to getting permission to wind down the scheme. That roadmap has been followed up to now. During debate on the Social Welfare Bill 2016, the Minister of State, Deputy Joe McHugh, was in the Minister's position as the Minister was not present for that part of the debate. One of the striking features of that Bill was the fact that it contained nothing about private sector pensions in real terms.

I am trying to think of any other Government - many mistakes were made on pensions - that did more to undermine pension provision than the previous one. Deputy Willie O'Dea has mentioned the more than €2.6 billion taken out of people's savings by way of the private pensions levy. Then there was the Social Welfare and Pensions Bill 2013 which was brought forward by the then Minister, Deputy Joan Burton. A number of the items included in the Bill before us now were amendments that were voted down on Committee Stage of previous social welfare Bills. That is the unfortunate position in which we find ourselves.

One element of this first occurred in the pensions section of the State airports Bill, whereby scheme members could be moved unilaterally out of their pension scheme without their permission. It does not matter what their benefits were, how long they stayed in the scheme or how

much they have paid into it. They can be moved unilaterally out of their scheme into an inferior arrangement, that is, from a defined benefit arrangement to an inferior defined contributions scheme. That happened to 15,000 people in the airport pension scheme. They were moved out without their permission. Section 2 of the Bill brought forward by Deputy Willie O'Dea provides for the right to appeal. If the majority of members disagree with such action, they would have the right to appeal. We would like to go a step further and provide that they could stop it, but at least an appeal would go to an independent authority. This is something that was proposed in an amendment on Committee Stage of a previous social welfare Bill and it was opposed by the previous Government.

In other countries that are more concerned about the preservation of people's pension rights, a company would not be allowed to wind down a scheme unless it met a 90% funding standard, that is, unless there was money available to pay out to the scheme members. Deputy Willie O'Dea has covered a number of items, particularly regarding how we calculate the liability. The current situation is nuts and it must change. It is absolutely crazy. My main concern about what has happened in the last four or five years is that we have given every employer with a defined benefit pension scheme a roadmap to wind down the scheme. This Bill would redress that somewhat and go some way towards fixing it. I would like us to go further and to go further with redress for people, such as the 15,000 workers in the airport who, for the sake of €342 million which the previous Government trousered through the sale of the State's stake in Aer Lingus, lost up to 60% of their pension benefit. We saw what happened to the workers in Waterford Crystal who had to go to the European court. My colleague will cover that issue.

This Bill is a start in undoing some of the actions taken over the last five years. I favour going further. My colleague, Deputy Willie O'Dea, has produced other legislation to provide for banning any private pension levy in future. It would prevent any future Government imposing such a levy. We intend to continue on this course of trying to protect workers' and pension scheme members' rights and trying to ensure that unscrupulous employers will not remove people's pension rights and the benefits they have built up over time. I ask the Minister to consider what the situation would be in the public service, and I include all the Members in that, if somebody approaching retirement and expecting a retirement pension of €40,000 is told within weeks of his or her retirement that the pension will be €12,000 per annum or less, even nothing in some instances.

Double insolvencies happen. Companies become insolvent and wind up. In those instances the scheme has to be wound down. The Bill provides that if a company is solvent it would have to get permission to wind down the scheme. I would like us to go further on this matter, but this is a start. I hope the Bill passes Second Stage and that colleagues across the House can work on strengthening this legislation, providing more protection and rowing back on some of the retrograde steps that were taken over the past five years.

Deputy Mary Butler: I welcome the Bill. It provides that workers in defined benefit schemes would be protected from their employers attempting to wind up the scheme. Tonight's debate is the first opportunity for the Dáil to discuss this important topic and find a legislative solution to a problem that is clearly evident. In the past few years we have seen many large, financially solvent companies wind up their pension schemes and jeopardise the future pension payments of their workers.

The first case that comes to mind is that of Waterford Crystal. The Waterford Crystal workers were in that position and had to take their case to the European Court of Justice to win

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their appeal. Simply put, the workers alleged their defined benefit pension entitlements were not protected in 2009 when their former employer, Waterford Crystal, became insolvent and their defined benefit pension scheme was wound up with a deficit of €110 million. Those circumstances culminated in the workers only receiving between 18% and 28% of their expected entitlements, which the European Court of Justice found did not amount to protection by the State. It is bad enough to lose one's job and be obliged to apply for jobseeker's benefit, but it adds insult to injury to find out that one's pension benefits are lost after paying into the fund for years - for up to 40 years for some Waterford Crystal workers.

The fight of the Waterford Crystal workers was long and protracted, with the European Court of Justice rejecting the Government's argument that the State contributory pension should be taken into account in assessing how much of the lost pensions should be made up following the insolvency of Waterford Crystal and its pensions fund in 2009. There is still a group of approximately 80 former employees of Waterford Crystal, who were employed on a contract rather than a full-time basis, yet to be paid under the terms of the pensions settlement negotiated between the Government and the Unite trade union. I appeal to the Minister to bring this process to finality and to end the pensions saga that has been ongoing since 2009 for the workers of Waterford Crystal.

I support the Bill. Employees need greater pension protection. I have spoken about the Waterford Crystal workers, but there are many more. The case of Independent News & Media was extensively reported before Christmas 2016. Independent News & Media pensioners lost approximately 40% of their entitlements in a 2013 restructuring plan under which the company undertook to put €5.6 million into the scheme for ten years. The recent decision taken by the management of Independent News & Media to wind up the defined benefit scheme means the members will suffer a further reduction of approximately 30% in their remaining pensions benefits. It has been reported, although it is denied by Independent News & Media, that the wind up of the defined benefit scheme will strengthen the balance sheet of Independent News & Media and will result in ongoing savings every year. However, the full extent of the savings will largely depend on any deal reached between Independent News & Media and the trustees of the defined benefit scheme.

There is a weakness in Irish legislation that allows healthy sponsors to walk away from defined benefit pension plans by shutting them down without creating a high priority debt on the employer. It is hard to credit that a financially solvent company would be allowed to wind up its pension scheme, thereby reducing the pension entitlements of its workers. Companies have an obligation to treat their employees fairly and equitably. The Bill aims to address the issue of solvent companies closing defined benefit pension schemes to the detriment of the scheme's workers. Profitable firms should not be allowed to walk away from a defined benefit scheme. I reiterate my support for the scheme.

Minister for Social Protection (Deputy Leo Varadkar): I welcome the opportunity to engage in a discussion of the problems in defined benefit pension schemes. The provisions contained in the Bill propose major changes to the Pensions Act. The changes would have significant and far-reaching consequences for the defined benefit pension sector in Ireland. I will speak first about the general issues affecting defined benefit schemes and then about the impact of the provisions contained in the Bill.

Defined benefit schemes have been facing substantial challenges in the past two decades due to volatility in the stock markets, increasing liabilities arising from the demographic pres-

tures of increasing life expectancy, low interest rates and regulatory requirements. The cost of providing benefits has increased at a rate that has not been covered by the investment returns earned by pension schemes. In addition, accountancy standards which make pension liabilities very apparent on a company's balance sheet contribute to the pressures under which defined benefit schemes are operating. During the financial crisis the decline of such schemes accelerated to the extent that the whole sector was at risk. At that stage, a series of legislative amendments were brought forward to alleviate the position. This followed much consideration of the matters dealt with in the Bill such as balancing returns between members, debt on the employer and pension protection funds.

There has never been a statutory obligation on employers under Irish law to contribute to a pension scheme, nor to accept liability for deficits therein. The Bill would turn a voluntary contribution into a mandatory obligation and would, therefore, be a major change. Most defined benefit pension schemes were established under a trust deed. The employer generally undertook to be bound by the rules of the scheme and meet certain liabilities and duties on a voluntary basis. In spite of the difficulties, many employers have made great efforts to support and deliver on the pension promise made to scheme members.

Many scheme trustees are working hard to ensure the ongoing viability of their schemes. This process is best managed through discussion and negotiation between trustees, employers and members, where efforts are made to reach agreement on the steps that must be taken to secure scheme viability. These steps generally include a mix of measures such as increased employer or member contributions, longer working through changes to the retirement age and amended benefits. This is the best approach to dealing with scheme difficulties. Further steps can and should be taken regarding the funding standard.

Following discussions between my officials, the Pensions Authority, the Society of Actuaries in Ireland and the Irish Association of Pension Funds, the Pensions Authority will shortly bring forward proposals to allow some additional flexibility for defined benefit schemes and to tackle some of the difficulties in the current operation of the standard. I intend to consult employer and union representatives on these proposals before making any change, as is appropriate.

I turn to the provisions contained in the Bill. As Members are aware, it can be very difficult to put forward legislative proposals which would have the desired effects without negative implications. The area of pensions is very technical and the issues are complex and not often amenable to easy solutions. While it may seem that a few simple changes could provide scheme members the level of security they desire, the unintended consequences can be far-reaching and destructive.

Section 2 proposes that an appeals mechanism be put in place to provide for appeals by scheme members where a pension scheme is being wound up, frozen or restructured by scheme trustees and any category of members is being treated in an inequitable manner. There are already regulatory safeguards in place for members where a wind-up or restructuring of a scheme is proposed. Trustees must have undertaken a comprehensive review of the scheme with a view to its long-term stability and sustainability. This includes asking the employer for contributions sufficient to ensure scheme funding. Trustees must notify, in writing, the scheme members and anyone receiving benefits under the scheme, as well as the trade union or representative group representing scheme members, before they make an application to the Pensions Authority to reduce benefits. The scheme members or their representatives are entitled to make written sub-

missions to the Pensions Authority which will consider submissions prior to making a direction. Groups representing the interests of pensioners and deferred scheme members have a right to appeal a direction by the Pensions Authority to the High Court on a point of law.

While the Bill seeks to introduce an appeals mechanism, it does not indicate what should happen if the appeal is successful. It aims to prevent schemes from being wound up where any category of members is being treated inequitably. However, this inequity is not defined in any way in the Bill. For example, if it is intended that all members should have equal priority, it would be a significant change from the current position where pensioners have higher protection than other categories. While I am sure this is not the intention of the proposers of the Bill, it could be a consequence. Rather than being protected as they are, the Bill could expose existing pensioners who are already retired to having their pensions cut substantially in the event of a wind up.

Having discussed it with the Attorney General, we are also concerned about its constitutionality under Article 43, given that it would be retrospective and could constitute an expropriation of vested rights and an infringement of property rights. The Bill makes no provision for making up any shortfall or paying contributions. In some cases, stopping a scheme from winding up or the “extend and pretend” solution would result in a far worse outcome for some scheme members, particularly younger ones who are still paying in. The scheme would have to continue with solvency potentially deteriorating and older members using up the assets before younger members retired. This would surely be the most inequitable of all outcomes, effectively turning a defined benefit scheme into a pyramid scheme, ironically as a result of proposals which have the avowed aim of ensuring equity.

Under legislation passed in 2013, changes were made to extend the categories of benefits which could be considered in a restructure of scheme benefits to include a portion of pensioner benefits. These changes were designed to spread the risk of scheme underfunding across all scheme members and beneficiaries. The change also recognised that all beneficiaries of a scheme, members and pensioners, needed to share the risks when a scheme was underfunded.

In section 3 the Bill further seeks to prevent the wind up of a defined benefit pension scheme when the value of the assets of the scheme is less than the amount of the liabilities until the deficit is eliminated. This would effectively put a debt on the sponsoring employer equal to the amount of the deficit. However, if the Pensions Authority was satisfied that the payment of the entire debt at the time of proposed wind up would present a serious risk to the solvency of the employer, the Bill might allow for the payment of up to 50% of the deficit and-or allow the company up to five years to pay the deficit.

I understand there is a real desire to protect scheme members and prevent employers who will not pay, as opposed to those who cannot pay, from walking away from the schemes they sponsor. Serious consideration was given in the past to imposing a statutory obligation on employers to secure a minimum level of funding before a scheme could be wound up. The advantage of placing a minimum obligation on the employer would be to protect the benefits of current and former schemes members. It might also prevent employers from walking away from defined benefit schemes and encourage employers to ensure schemes were well funded and managed. However, there are also strong arguments against the introduction of an employer obligation. Imposing an employer guarantee might be seen as unfair on employers who have voluntarily set up defined benefit pension schemes. The previously voluntary commitments under these schemes would become mandatory, whereas there would be no correspond-

ing obligation on employers who had set up defined contribution schemes or had not set up any pension scheme at all. To avoid debt, there is a danger that some employers with underfunded schemes might wind up the scheme in advance of completion of the legislative process which, by its nature, will take some time to put in place. Anti-avoidance structures would be necessary to prevent employers from restructuring to avoid their obligations. Account would have to be taken of single-employer schemes, multi-group schemes and those with multinational parent companies and how solvency could be measured in these complex circumstances.

The extra funding burden would accelerate the closure of defined benefit schemes in the private sector. The result of such a change, designed to protect the position of defined benefit pension members, would have the opposite effect. Few, if any, defined pension schemes would remain. While putting a debt on the employer might improve scheme security, in most cases, the pension liabilities and investment risk assumed would be too big for a company to support. It could jeopardise the viability of the businesses and jobs of those employed, given the employers' lack of capacity to absorb this extra liability. In such cases, people could lose their jobs long before becoming eligible for a pension. It could encourage imprudent investment behaviour by trustees, given that losses would have to be made good by the employer.

There is no readily available, reliably accurate and consistent measure of solvency and the Bill does not propose one. Furthermore, there is no connection between a company being solvent or having net revenues at a point in time and its ability to fund a scheme in the long term. Rather than implementing a solution by putting a debt on the employer with unknown consequences, the approach taken to date is to nurse and support schemes to gradually move to more appropriate funding levels in the short, medium and longer term using regulation and the benefits of a strengthening economy. Changes such as the pensions insolvency payments scheme, sovereign annuities, the introduction of a risk reserve and allowing for the restructuring of scheme benefits are all measures which have been introduced with this approach in mind. These have all been put in place in recent years.

Section 4 proposes that the Pensions Authority prepares a report on the feasibility of changing the minimum funding standard for defined benefit pension schemes and establishing a pension protection scheme within six months.

An Leas-Cheann Comhairle: I have to interrupt the Minister as he has exceeded his ten minutes.

Deputy Leo Varadkar: Perhaps the remainder of my speech might be included in the record.

An Leas-Cheann Comhairle: No, that only applies to parliamentary replies. However, the Minister's speech has been circulated.

Deputy John Brady is sharing time with Deputies Denise Mitchell and David Cullinane.

Deputy John Brady: I welcome Fianna Fáil's bringing forward of this Bill. It is timely that, having been in government for decades, it has now decided to actually do something to protect workers' pensions.

Deputy Darragh O'Brien: That is a real pity as we expected the Deputy to be constructive.

Deputy David Cullinane: The Deputy should have manners.

Deputy Darragh O'Brien: Deputy John Brady came in to debate our last Bill also and spouted nonsense.

Deputy John Brady: The concerns around defined benefit pension plans are nothing new. Fianna Fáil could have done this a long time ago when it had a majority Government and the power to do so.

Back in 2012, the OECD clearly identified the allowing of healthy sponsors to walk away from defined benefit pension plans and shutting them down as a weakness in Irish legislation. After all these years, a Sinn Féin Bill introduced last week spurred others to introduce a Bill on this matter only two days later, although late in the day. Last week, Sinn Féin introduced a Bill to directly address the issue of healthy companies making a conscious decision to wind down defined benefit schemes and walk away from their pension obligations. Our Bill would ensure no company with positive net revenues, or which has a parent company with positive net revenues, would be allowed to close a defined benefit scheme unless this scheme has reached a minimum 90% funding standard. This would have prevented what happened last November in Independent News & Media, INM. This would have sent a clear message to profitable companies that they will not be allowed to simply decide to renege on and walk away from their obligations to their employees.

The Government could have supported and introduced our Bill without, in the words of the Minister for Social Protection, Deputy Leo Varadkar, “threatening a company’s financial stability” or “rendering some employers insolvent”. We are only talking about companies which have positive net revenues. Only last month, the Minister made it clear he had no plans to bring forward legislation regarding defined benefit schemes but that issues in respect of these schemes are continually scrutinised by his Department, especially given the current environment. If this is true, what conclusion did his Department’s scrutiny come to on the back of the pension debacle at INM last November? That company announced its intention to shut down its defined benefit pension scheme, inflicting cumulative benefit cuts of up to 70% on some of its current and former employees. What was the Minister’s response? He stated, “My Department scrutinises issues around defined benefit schemes.” It simply does nothing. That is not good enough for workers in this State. The Government’s inaction sends a message to companies right across this State that they are free to consciously wind down defined benefit schemes and walk away from their pension obligations.

Certain companies have taken, and will take, advantage of this weakness in legislation which allows them to walk away. In recent days, I have been contacted by several employees from a profitable and well-known company which has announced to its employees its intention to move from a defined benefit to a defined contribution pension scheme. This will remove the defined benefit pension scheme and replace it. Despite all these issues, the Government chooses to sit on its hands.

This Fianna Fáil Bill is not without its faults. If we were to see a similar situation to that of Clerys in 2012, would this Bill protect that pension scheme? In that case, 460 employees of Clerys were left without their pensions. For the 500 active defined benefit schemes remaining and for the 120,000 members within them, steps must be taken. We have a responsibility, as legislators, to take action for the protection of pension schemes and for the protection of workers. For that reason, Sinn Féin will support this Bill. However, we will be looking at ways to improve it to ensure maximum protection for workers.

The Irish Congress of Trade Unions, ICTU, sent a call to all Opposition parties to work together on this matter. I am willing to sit down with Deputies Willie O’Dea and Willie Penrose and others to ensure heads of a Bill are prepared to strengthen this area to guarantee the pensions of all workers are protected across the State.

Deputy Denise Mitchell: Any action to protect the tens of thousands of workers in a defined benefit pension scheme is welcome. It has been far too long that workers’ financial security has been left so uncertain. We must aim to create firm legal protection for these workers and ensure legislation is not enacted for the sake of political action alone. Instead, it must provide absolute legal safeguards.

The procedures in the Bill aim to create an appeal system and a level of oversight for the closing of schemes. It also provides added functions to the Pensions Authority. We must guarantee these powers are effective. Any improvement on the present appalling situation where there is no legal protection or oversight needs to be examined. Without this protection, these pensions are solely the responsibility of scheme members and are the subject of many disadvantages, such as conflicts of interest. The Bill states it “shall be illegal for a solvent company to wind up a defined benefit pension scheme”. We must ensure this is enforced. I hope legal change occurs in this area as soon as possible.

Last week, Sinn Féin introduced its own Bill on defined benefit pensions. It is clear all Members see the problems faced by workers and we know they need legal protection. We acknowledge the will in the House to address this problem. We must also note the overall inequalities in the pension system in general. Hopefully, Members will support creating a fairer pension system in the future. With the present Bill, we believe this area of defined benefit pensions needs to be addressed through legal protection as soon as possible. Accordingly, we largely welcome the Bill.

Deputy David Cullinane: I commend Teachta Willie O’Dea for bringing this Bill to the floor of the Dáil and giving us an opportunity to address the important issues it covers. I am glad my party is supporting the Bill, despite the fact we see some flaws in it. In the same spirit, Sinn Féin has brought forward Bills, the thrust of which Fianna Fáil states it supports. However, as it sees the Bills need to be amended, it either votes them down or kicks them to touch rather than supporting them.

Perhaps they will take a lesson from us. We will support Bills by all parties if we believe the broad thrust of the Bill is well intentioned. Committee Stage is when we air our difficulties and highlight flaws in any legislation. In the spirit of generosity, I support the Bill that has been proposed and I commend the authors on it. Time and again, when it comes to workers’ rights and their entitlements, this House has been found wanting.

Like the bus that sometimes never comes, we did not see any Bills in respect of this issue for a long number of years and now three show up at the same time and we have not even seen the Minister’s Bill on which he says he is working. That is good because it shows there is an energy in the House and a commitment to at least addressing the issue. A range of different views have been expressed about how it should be addressed but obviously it is something that we need to commit to and resolve very quickly. The recent action by Independent News & Media to close its defined benefit scheme, cutting staff payments by over 70% even though the parent company is in profit, shows the type of ruthless behaviour we are dealing with here. The company will be paying out its dividends to shareholders. Two of the most famous of them,

who are tax exiles - one of whom has brought a case against this House - will receive their payment but they can take money from pensioners, which is unacceptable.

I also raise the issue of Waterford Crystal pensions. I am glad Teachta Mary Butler raised it. She has done some good work on this issue. She said we have to make sure that we do not add insult to injury, so I have to, in all conscience, remind the Deputy that it was Fianna Fáil that made sure those workers were dragged kicking and screaming through the courts. It was the former Fianna Fáil Government that did not face up to its responsibilities which led to Waterford Crystal workers having to take a court case to the European Court of Justice. The State and the Fianna Fáil Party fought them every single step of the way. I am glad the previous Government dealt with it and I am glad the European Court of Justice ruling found in their favour. I am also glad the vast majority of those workers were protected and have received their payments.

As Teachta Mary Butler did, I will raise the issue with the Minister of those people on contracts of service who had a number of unpensioned years. As the Minister knows, a number of meetings took place, one of which I attended with the Minister and union representatives. There was a willingness on the Minister's part to examine the issue but those workers have heard absolutely nothing yet. The Minister of State, Deputy John Halligan, was on local radio in December and said the issue was sorted and the workers would get their entitlements within a matter of weeks. Weeks have passed and they have heard nothing. I am asking the Minister if he can clarify this once and for all. Is he looking at this and will he resolve it? Will he make sure those workers get the entitlements they feel they deserve? The Minister is concerned about issues of precedence and I know he is looking at legal issues, but workers deserve to know whether this will happen. They have been kept in the dark and dragged along for months and years on this issue and they simply want a "Yes" or "No" answer. Will the Minister deal with this issue? I appeal to the Minister to give us the clarity in the House in order that we can give it to them. We are being contacted almost on a daily basis by workers who are worried and asking if this can be done.

We support the Bill put forward by Fianna Fáil. I read the Minister's speech. Any time a Bill is brought forward by the Opposition, it seems to be this Government's *modus operandi* to say it agrees something has to be done but does not agree with the substance of the Bill brought forward and that it has its own Bill. The Minister said:

I will in the near future bring forward my own proposals, carefully thought out and fully analysed to help alleviate some of the difficulties currently being experienced by defined benefit schemes and their tens of thousands of members.

Why not just take this Bill and analyse it? The Minister could take parts of the other Bills that have been proposed on First Stage, like the one by Teachta Brady. Why not do that? Why delay this even more? Is the Bill so flawed it cannot be amended? Is that what the Minister is saying?

Deputy Leo Varadkar: Yes.

Deputy David Cullinane: The Minister does not believe it can be amended, but any Bill can be rewritten. I do not think the Minister has given sufficient justification for saying he will oppose the Bill. With Sinn Féin, Fianna Fáil and some of the Independents, we have the numbers to get the Bill passed, which is new politics; therefore, the Minister will have to engage on the Bill. When he says he will bring forward his own proposals in the near future, what does

he mean by the near future? Is that weeks or months? When will it happen? When he says the proposals are carefully thought out, can he give us further clarity on exactly what are those proposals? How do they differ from those in this Bill? How will they make a difference to people who are affected by this issue?

The Minister should at least recognise there is good intent from this side of the House, from those of us in Sinn Féin, the author of the Bill and other speakers who are yet to speak. I hope, through the co-operation of everyone in the House and all parties, we can at some point get a Bill through that speaks to and deals with the real problems that many workers in defined benefit schemes have had to deal with over a long number of years. When the Minister gets a chance to respond, he might also address the Waterford Crystal pensions issue.

Deputy Willie Penrose: I am glad to have the opportunity to make a short contribution to the debate on this important area of pension law on behalf of the Labour Party. I applaud Deputy Willie O’Dea for introducing the Bill. Pension law is a complex area that needs significant and detailed examination, scrutiny and discussion in order to achieve change. Like everyone else in the House, I do not have a particular monopoly on wisdom or expertise in this area. My Bill was launched on 24 January but I do not care whose is first, second or third. We all have a collective responsibility to ensure that whatever is for the betterment of over 100,000 workers is achieved.

I have done some studying in this area in the past few months. It is an area that has not exercised me legally up to now. I looked at the Pensions Act 1990 and the subsequent amendments. I thought there were three main deficiencies in it. There was a lack of legal obligation on solvent employers to fund pension schemes. All the Bills are trying to achieve that, although they may be coming at it from different perspectives. This racket in which solvent employers can legally walk away from their liability to defined benefit pension schemes, as required under their employment contracts with current or former employees, by simply deciding to wind up a scheme at any time is incredible. They can just walk away. The incongruity of the whole thing, to which Deputy Willie O’Dea referred, must be addressed.

In recent times, we have had a number of very solvent employers with insolvent schemes as determined under the jackass method of determining liabilities and funding standards. In the current climate, with President Trump running crazy over there, inflation about to come back, money being made on bonds and issues like that, the €20 million or €50 million will be eaten away shortly and we will get back to normality, even in the current crazy system of evaluation. Leaving that aside, we have that scheme and unfortunately employees in that situation are left in the lurch. Perhaps they were entitled to €250 but they will end up with €60 or €70 if they are lucky.

We also have the situation referred to by my colleagues involving Waterford Crystal. In that situation, there was a double insolvency because the company and the scheme were insolvent. The State, under the insolvency provisions, had to step in, directed by the court and under European law. Those people had some sort of a scheme. The Deputies are arguing about it being accelerated and finalised, and hopefully that will happen for all the workers, but at least the scheme is there. One should compare that to somebody in the other position. The incongruity of that situation deserves our legislative focus even if nothing else happened. We should forget about some of those smart schemes and the clever accountants and lawyers they have to make sure they are always ahead of the posse. That is the point. It is all possible because most defined benefit pension trustees and rules allow the employer to wind up pension schemes and

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cease contributions while just ignoring any deficit in the fund of the scheme and its inability to pay the profits. It is most unsatisfactory that an employer's liability - the funded deficit on wind up - is determined solely by the trustee rather than by legislation. The problem is that the trustees do not even get an opportunity to review the trust deed. The employer is always in the dominant position and that is the problem. The inequity is highlighted by the fact that nearly 100% of employees were not aware that the defined benefit clause of an employment contract was not a binding liability or an obligation on the employer. I have met a number of experienced employers and as far as I could gather they made no effort to bring the relevant clause of the trust deed to the attention of their employees. The fact companies reported the pension deficit as a liability in their audit and public financial statements only added to the employees' belief that their pensions were guaranteed.

My Bill on this area would make a useful contribution to this debate. The accounting standards require an employer to recognise its liabilities to a pension scheme in its financial statement, in other words, in its balance sheet. The way I constructed a proposal in this area was that the liabilities would be removed from the balance sheet, which would have a transformative effect on a company's accounts. Some of the accounts we considered lately - for example, those of the media companies that have been highlighted and companies in other industries - appeared to be much healthier than what was shown. I was shocked to hear of another company affected in this area in the south. I was getting rid of this facility in my Bill. In other words, if we take the step of removing those liabilities from the balance sheet, that would immediately become a crystallising event. It is a different way of doing it from what is proposed in Deputy Willie O'Dea's Bill but it is the same principle. The debt then would be recoverable as a contract debt. It would be removed from the balance sheet but if one was being a smart aleck in doing that, it would not make any difference in that an event has been triggered and it has crystallised the debt. It is important that is achieved in whatever way it can be achieved. The very fact it is not governed by statute law is something we have to be mindful of. There are a number of areas there on which we can work.

The other aspect is the lack of a legal obligation on employers to give notice to the trustees of a decision to wind up a defined benefit scheme. The trustees are being left in the dark. The Minister made a number of reasonable and valid points but it is time to call off this racket where workers and everybody else are being left in the dark. A company could advise the trustees that the scheme was wound up at a board meeting earlier in the day and that it was making no further contributions. In pursuing an employer through the courts, the trustees are currently at a huge disadvantage. If the employer acts in accordance with the trust deed, there is no legislation requiring any notice period but we would not need a notice period if either of those events was triggered.

There is also Deputy John Brady's Bill, which I briefly read. That would trigger the situation and no notice period would be needed. We would have sorted it out and would have circumvented people who are trying to circumvent their obligations. We would have neatly snookered them, and that is our job. It is no use having shareholders running off and smiling and 110,000 workers being left in the gap.

I know what the Minister said and he is probably in the right place on this. He has got legal advice but we could also put our collective heads together. I acknowledge the work done by Deputies Willie O'Dea and John Brady and I wrote a letter to them. The Minister has a pensions Bill coming forward and we have the draft heads of it. If we do not catch him in the swings, we will catch him at the roundabouts. I am going to convene a forum with Deputies

Willie O’Dea and John Brady and bring in the NUJ and all those affected by this. There are other companies in the south which have also been affected, and we can work this out in a collective way. I know the Minister will park this Bill but he will not park the pensions Bill that is coming forward and we will get an opportunity to contribute to the discussion on the heads of it. If the Minister brings forward a Bill, we will make our submissions at that point and impart our collective wisdom and in that way we will make an advance on this. We will send a signal to workers that this is not on. We do not want to land them into any difficulty. The Minister said the cure could be worse than the disease. I understand what he is saying, but there is a way around that. It is up to us to ensure that whatever legislation we introduce in this House is effective and meets its objective, which is to protect workers and ensure we do not see them skinned of moneys that they paid into schemes.

The Minister is trying to bring forward a universal pension scheme and I support him 100%. He is right on that and I hope that will be a good legacy of his but how can he encourage people to pay into schemes in that situation when they are looking at the publicity surrounding what is going on. I am referring to the scandal of people running away from their obligations and it is not the workers who are running away.

An Ceann Comhairle: Deputy Bríd Smith is sharing the next time slot with Deputy Mick Barry.

Deputy Bríd Smith: We, in People Before Profit, welcome the fact there is a Bill before the House to deal with the crisis for workers in pensions schemes and how the attack on those pension schemes has become like a corporate grab of workers’ money to be put into the coffers of the very wealthy, but there are major weaknesses in this Bill. We will seek to amend it in that, as it stands, it would do very little to stop the effective theft of the pensioners’ livelihoods. The Bill would allow schemes to be wound up only with the approval of the Pensions Authority in certain circumstances but what is needed is a very simple Bill whereby companies that are solvent and healthy would not be able to wind up their defined benefit schemes. That would be a much more appropriate response to what is a modern day global attack on the rights of pensioners and workers in general.

I have a list of global corporations extending to 15 pages that have moved in the past few years from having defined benefit to defined contribution pensions schemes. They are household names such as Xerox, Walt Disney, Motorola, The Journal-Register, Remington, Hewlett Packard and Boeing and there are many more that have moved from having defined benefit to defined contribution pension schemes. There is a graph with respect to Britain that clearly shows that the number of defined benefit schemes is decreasing while the number of defined contribution pension schemes is increasing. That move is transferring all the responsibility on to the worker. Defined benefit schemes are being presented in the modern world as a problem, an outdated luxury that firms can no longer afford and that companies can no longer put up with. The issue affecting us is not only a local one but a global one. Locally, by which I mean in this State, since 2008, 65,000 workers have been affected by the closure of defined benefit schemes. Some 2,500 schemes of this nature existed a decade ago and today there are only 700. The most recent illustration of this was prior to Christmas with what I would call the raid by Denis O’Brien’s Independent News & Media and his cohort of very wealthy people on the retirement earnings of those workers in INM whose pensions had been cut by 40%. Many of them were moved on to a defined contribution pension scheme and a new proposal was brought in to further cut it by 30%. The effect of this so-called commercially sensible proposal was that the workers, many of whom have worked there for more than 40 years and who would have ex-

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pected to get a pension of €30,000 to €40,000 a year, will now see their pension fall to €15,000 to €16,000 a year, despite having made significant contributions to their pension scheme. That is a direct swap from the pockets of pensioners and workers to the pockets of Denis O'Brien and the very wealthy in this country.

INM is an example of that, but we are also seeing that happen in Irish Life, a company that deals with individual and business pensions. If that company, which is a very healthy one in terms of its profits and share of the market, gets away with reducing the pensions of more than 1,000 workers by moving from having a defined benefit to a defined contribution pensions scheme, we will see a domino effect in the financial sector, which has already been affected. Aviva and Permanent TSB have done the same and Pfizer Ireland is about to do the same, as are the Grafton Group and Arnotts, and the list goes on. We are seeing an avalanche of attacks on the pensions and future of workers. The argument being made for this move is that workers are living longer.

I reject this argument. We should be celebrating the fact that workers are living longer instead of seeing it as a problem. What is really happening is that the attempt by the modern capitalist system to eat into the rights of workers is being escalated because it is not making the same profits from financial investments as it did in the past. We should reject it and move to a simple system, whereby if a company was financially healthy, its defined benefit scheme could not be cut. We should outlaw such actions and in so doing protect workers' rights and pensions.

Deputy Mick Barry: Hi Mick,

I am an employee of Pfizer, Ringaskiddy, for 22 years. The proposed changes to the pension that the company is trying to bring in would lead me to have a shortfall of approximately €286,338. I am 51 years old, and to maintain the current value I have on defined benefit, an outlay of €15,849 would be my cost per annum. I have managed to save for my kids' college fees and am privileged to do so. However, it was the company who afforded me this and with no discernible reason want to take it away. With 16 years left to retire, some €300 per week is the incurred cost to me as a result of the company's corporate greed.

Hi Mick,

When I joined Pfizer, Ringaskiddy, the company prided itself in taking care of our pension. The current position by the company has left me and others to reappraise our current outgoings. The real cost to me as an employee is €390 per week. The current profits the company enjoys as a result of Pfizer Ireland delivering quality products on time and at a competitive cost can only be quantified in the billions. Corporate greed at its best.

These are two text messages I received this afternoon from workers in Pfizer in Cork, a company that is trying to wind down and shut down its defined benefit scheme, a move which would adversely affect 1,000 workers. These two workers speak for hundreds of others. The second text message is entirely right when it speaks of "corporate greed at its best". Pfizer International made gross profits of more than \$40 billion in the 12 months to 31 March 2016. One product alone produced by the workers in the company, Viagra, makes the company a clear profit of €1 billion every year. The defined benefit scheme is a fundamental part of the terms and conditions of the workers who are taking industrial action which currently takes the form of an overtime ban to protect their terms and conditions. I support them 100% and anybody concerned about workers' rights will do so also.

In 1997 there were 2,315 defined benefit schemes for employees in the State. By the end of 2015, that figure was down to 503. Ironically, given the source of the Bill, much of the decline took place under the watch of the Fianna Fáil Party. However, we, in the Anti-Austerity Alliance, will vote for the Bill which would make it illegal for a solvent company to wind up a defined benefit scheme when underfunded without the consent of the Pensions Authority. That is positive. It would allow a member of a scheme to appeal if he or she believed the wind down to be inequitable. That is also positive. We should broaden the scope beyond mere inequity, but we could address this issue on Committee Stage.

I conclude by echoing the point made by Deputy Bríd Smith, which is entirely right. It is necessary to go further. What should be in place in the law of the land is that it is illegal - full stop - to wind down a solvent fund and rob workers in the way Pfizer and so many other companies are attempting to do.

Deputy Mattie McGrath: On behalf of the Rural Independent Group, I compliment Deputy Willie O’Dea on bringing forward the Pensions (Amendment) (No. 2) Bill 2017. I know that others, Deputy Willie Penrose included, brought forward a similar Bill recently.

We have seen huge efforts by unscrupulous big businesses to avoid supporting pension schemes for people who have rightly earned their benefits. Ar an gcéad dul síos, many small businesses and companies pay into such schemes, as do their employees. There is a good relationship and there are honest people involved. We cannot demonise all employers because many of them are and have been for decades supportive of schemes and engaged with their workers in the process, sometimes even without trade unions. Arrangements are in place which are time-honoured and we must salute these companies. Unfortunately, however, there are pressures, as well as significant greed, as seen in vulture companies. Any company that would try to engage in this kind of action to deny workers payback for their valued and gainful employment and the way in which they supported it to get to where it is is a vulture company. These rogue employers will be very hard to stop, but the State must have the resources, the creative accountants and legal people in the Office of the Attorney General and elsewhere to ensure the passage of the Bill. I hope the Minister, Deputy Leo Varadkar, will not oppose it, although I think he will. I do not know why he intends to do so, given the new politics. How many times must the Government be defeated to understand this is a new situation. We should encourage the introduction of Private Members’ Bills, especially when they are so necessary and there is such a void in legislation. We were talking about legislation such as the Pensions Act 1990 and its many weaknesses. We must work as a Legislature to deal where we can with issues such as this to have watertight legislation and rules companies cannot evade.

We know what happened in Waterford Glass, a wonderful company which is close to my heart and that of Deputy Mary Butler. I must declare an interest: I have a brother and a sister who worked for years in its Dungarvan plant. It was world-renowned, especially in the United States. It was gobbled up and taken over and greed again got in the way. We are aware of the efforts that had to be made by the trade unions and other movements and politicians at the time to try to cobble something together and the taxpayer had to pick up the tab. It was a costly experience. The Minister has not been in government the whole time since; I am just making the point that we are too slow in closing such loopholes, especially when they affect big business. I encourage big business and support the corporation tax rate and the attraction of big businesses, but they cannot be allowed to get away with what they should not get away with. These are just basic rules and guidelines and good business and proper management practices so as not to allow room for creative accountants and so-called smart-arse solicitors and barristers who think

they can pick at them. That is what happens with legislation. That is what they are paid to do and what they claim in their CVs they can do.

The Government needs to wake up. We need a public service with officials who receive proper advice and can see the loopholes. Legislation can be passed with the best will in the world, but there may be unintended consequences. We need to be quicker to react because every day of the week small business people with limited resources have to react in situations where they have no power over what big companies can do. They might be a husband and a wife who are running a business, two brothers or two sisters; it could be anybody. They have to deal with a lot of legislation. I even heard on Marian Finucane's radio programme on Sunday that it had been decided - I do not know from where this came, as I certainly did not see the legislation that passed through the House - to allow 20 days' paid leave to an employee in the Civil Service if his or her partner or spouse passed away. That is tragic and traumatic, but if such a provision were to be introduced in the private sector, small employers would not be able to afford or handle it. They have certain arrangements in place and look after their staff in such cases. They are very flexible and it works both ways for employees and employers. It is fine if the public purse pays but not otherwise. It affects everybody who is able to do it. That kind of onerous provision on small and medium enterprises, SMEs, is a step too far. I am not anti-worker or against someone grieving. Most of those companies are very helpful and understanding and want a good relationship, want their employees to have that relationship and allow them to grieve and have schemes in place to support them.

This legislation is long overdue. I note from the Minister's contribution that an employee may bring a challenge to the High Court but at what cost? Who will pay for that challenge? That is closing the gate when the horse has well bolted, got in the horsebox and gone home and is in the stable, a different stable, not the one he should be in. We must look into that as well.

The Minister cannot expect employees to fight the battle afterwards and go to court and whatever. We must have the resources of the State. The Minister must ensure he has the brightest and best to advise on this legislation. Straightaway when it is enacted they will be picking on it, like digging the first field of potatoes and the crows land, then the jackdaws and then the scarecrows and the whole lot will come along. These are the same. They are vultures in any language. We need to be there, ready, willing and able to tackle them and send them back to where they came from with their smartarse accountants and their slimy legal aides. I could call them something stronger but I will not.

There is no legal onus on the company to advise the trustees. That is an awful flaw. I am trustee of many companies limited by guarantee and have to take those responsibilities seriously. We have seen what went on in a few credit unions and how one or two bad apples can destroy the whole batch. The scandal of big business, ducking and diving, conniving and contriving to denude people of the rights they have accrued with these defined schemes is not acceptable. It is more distasteful when they are high-powered business people and we can see their hands over everything that moves in Éire, whether it is underground or overground, wind or water. The only thing they do not take charge of is foul wind. Next they will have that handicapped as well.

This Bill and Deputy Willie Penrose's Bill are very timely. Surely, instead of putting this to a vote and having the Government defeated once again, unless it is trying to break a record for the number of times a Government can be defeated in one term, the Minister could have a debate on an amalgam of the three, with the legal expertise the Minister can provide. He could

try to deal with the situation and not have any more injustices perpetrated on ordinary decent employees who made their life's commitment to those companies and not have creative accountants and smart alects laughing all the way to the bank.

Deputy Róisín Shortall: On behalf of the Social Democrats, I am happy to support the Bill before us. I hope it will be carried to allow it go forward to Committee Stage because this is an area that has been neglected by the present and the last Governments. It is hard to see any circumstances in which it is defensible that a profitable company that has entered into a contractual arrangement with its employees to maintain a defined benefit scheme should be allowed to renege on that commitment and walk away from the agreement with promises to its workers. This situation has obtained for some time and has come up on a regular basis, particularly in the context of the annual social welfare and the social welfare and pensions Bill. There have been various attempts to close this loophole, which the present Government resisted a few months ago and by the previous Government. I was looking at notes in my office. Deputy O'Dea will be familiar with the amendment to the then Social Welfare and Pensions Bill that several of us put our names to in 2014, stating a sovereign firm shall not be allowed to close a defined benefit pension scheme except where the scheme has reached a minimum of 90% funding standard. The then Tánaiste and Minister for Social Protection argued vehemently against the amendment and refused point blank to give it any serious consideration. It is somewhat ironic that the then Tánaiste's party comes along with Deputy Willie Penrose's Bill. I heard Deputy Willie Penrose making the case and he has received a lot of publicity for various press statements issued in his name saying he was going to sort out this problem. In 2014 when the Labour Party was in a position to do something about this it refused to accept that amendment. There is a big element of crocodile tears on Deputy Willie Penrose's part. Others, however, who put their names to that amendment still fight the good fight in respect of what many of us believe are the State's responsibilities to ensure that they uphold the rights of workers in companies where there is no excuse for them to renege on pension commitments other than the fact that there are funding difficulties in the pension scheme. The company may be solvent and doing well yet our Government seems to think it is perfectly acceptable for a company in those circumstances to walk away. Most right thinking people do not accept that is all right and think companies should not be allowed to do this.

Solvent companies in other jurisdictions, particularly in the United Kingdom, are not allowed to shirk their responsibilities and renege on their commitments in this way. The sky has not fallen in as a result of this in the United Kingdom and there is no reason we should not have the same kind of regime in this country and place the same obligations on profitable employers to uphold the commitments they have given.

The point was made that if Government moved to prevent companies walking away from their defined benefit commitments a flood of companies would do that and attempt to close down schemes. These matters must be dealt with properly and cleverly, and the Government by right, if it was of a mind to address this loophole in our pension law, would move to do that very speedily and avoid giving notice to companies and so encouraging them to wind up their schemes. It is possible to do it and that was done in the United Kingdom. There is no reason that should not be the case here.

The Government is standing idly by and allowing companies to do this to their workers, which is not only a serious injustice to workers who have paid into a defined benefit scheme for 25, 30 or 35 years, leaving them high and dry, but also has implications for State funds because many who lose their defined benefit pension have to claim a non-contributory pension from the

State. Once again, the State is picking up the tab for the failure of regulation of private sector companies and that should not be allowed because it is another form of bailout. Overall, the Minister has been exceptionally quiet on pension policy. In response to a recent parliamentary question of mine he referred only to State pension provision. My understanding has been that even though the Minister for Social Protection is supposed to have responsibility for pension policy, a kind of good cop, bad cop game has always been played between that Minister and the Minister for Finance, who decides when it comes to budget time on the kind of pension tax relief that is allowed and whether it is to continue. Perhaps this has changed.

We have an extremely unfair pension system in this country. We spend over €2 billion on tax relief to assist those who are in a position to put away substantial pension funds. Their handsome pension pots are being subsidised, in effect, by people who cannot afford to make pension provision for themselves. It is entirely unfair that 80% of pension tax relief is benefiting approximately 20% of pensioners. We were promised severe restrictions in this regard. Some restrictions have been introduced, but they are nothing like what was promised. The previous Government undertook to ensure nobody with a pension of more than €60,000 would be able to benefit from pension tax relief. Unfortunately, that has not been the case. Many people with pensions in excess of that figure are still benefiting from tax relief.

I welcome the Minister's thinking on the need for the State pension to become the mainstay of the pension regime. We need to move from the huge cross-subsidisation that exists at present, which ensures those who are better off in society, by and large, are subsidised by people on much lower incomes. The entirely unfair regime that is currently in place is yet another regrettable example of how private sector pensioners are being denied the kind of protection they should be receiving from the State. I am happy to support the Bill in that context.

Deputy Eamon Scanlon: I would like to share time with Deputies Eugene Murphy and Fiona O'Loughlin.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Eamon Scanlon: I congratulate Deputy Willie O'Dea on proposing this Bill, which will provide greater pension protection for employees and ensure solvent employers are not able to walk away from their obligations. In 2014, an OECD report highlighted the need for beneficiaries to receive greater protection when defined benefit schemes wind up. According to the OECD report:

Another weakness of Irish legislation is that it allows healthy sponsors to "walk away" from DB pension plans, shutting them down, without creating a high-priority debt on the employer, as is the case for instance in the United Kingdom. Under the UK's "debt upon employer obligation", the sponsor's debt (if the plan is underfunded) is determined by valuing the benefits on the basis that they are bought out in full via immediate annuities (for pensioners) or deferred annuities (for non-pensioners).

The Minister needs to get real on this issue. He has indicated during Dáil debates that he has no plans to introduce legislation, even though it is abundantly clear that legislation is required and has been for some time.

Many company employee schemes have been wrapped up by employers. I am sure other companies are licking their lips as they watch what is going on in cases like Waterford Crystal, Aer Lingus and Independent News & Media and wonder what is going to happen. That is why

legislation is needed. Defined benefit pension schemes have been in funding crisis for a number of years. Many schemes do not meet the required funding standard because of the worldwide market turmoil since 2007. It is reported that 30% of Irish schemes do not meet the funding standard. Other causes of this shortfall include increased life expectancy, the increased cost of buying annuities for pensioners and the rate of increase of final salaries. In essence, the projected assets do not meet the projected liabilities. As a result, many defined benefit schemes have been closed off to new members.

The Bill aims to address the issue of solvent companies closing defined benefit pension schemes to the detriment of scheme members. At present, Irish legislation does not require an employer that initiates the closure of a scheme to ensure it is brought to a level of full funding, as is the case in the United Kingdom. Under-funding is a debt which can be legally enforced. Our view is that profitable firms should not be allowed to walk away from defined benefit schemes. I hope this legislation is not too late. I congratulate Deputy Willie O’Dea on its introduction.

Deputy Eugene Murphy: I join Deputies Eamon Scanlon and Mary Butler and other Members of the House in commending Deputy Willie O’Dea on bringing this Bill before the House this evening. Anyone who knows Deputy Willie O’Dea will be aware that he has studied this issue well. He has done his work on it. We have all seen what has been happening to workers in recent times. I am sure workers who have made contributions are asking themselves why they are suffering. We are now seeing people who were fortunate enough to have had jobs all their lives having to sign on at the age of 65 until they reach the pension age of 67. Workers are the victims in these schemes. It is totally unacceptable that honourable workers have lost out on pension funds into which they have paid. The last Government did untold damage to such workers.

The closure of defined benefit pension schemes by large solvent companies must be addressed. We have seen a number of companies winding down defined benefit schemes to the detriment of their workers. This legislation seeks to ensure companies that are in a healthy state live up to their responsibilities. We accept that companies can get into difficulties. Many companies that are in a healthy state should not be allowed to avoid their responsibilities. My colleagues have mentioned Independent News & Media. Deputies Mary Butler and David Cullinane spoke about Waterford Crystal workers. Many people who have made major contributions to this country’s economy have suffered as a result of what has happened. Profitable companies must be prevented from winding up their defined benefit schemes.

I was disappointed to read through the document that was circulated by the Minister, Deputy Leo Varadkar, this evening. As Deputy John Brady said, the Minister’s document gives the impression that there is not much he can do. Every page of the document is very negative towards workers. I have to say it is not the stuff of a would-be Taoiseach. I hope the Minister does not mind when I say that. He more or less said he could not do anything about these problems. He contradicted himself in one respect. I suggest he acknowledged that there are problems in this regard when he said:

Further steps can and should be taken regarding the funding standard. Following discussions between my officials, the Pensions Authority, the Society of Actuaries in Ireland and the Irish Association of Pension Funds, the Pensions Authority will shortly bring forward proposals to allow some additional flexibility for defined benefit schemes and to tackle some of the difficulties with the current operation of the standard. I intend to consult employer and union representatives on these proposals before making any changes.

However, he concluded by telling the House with regret that he was unable to support the Bill.

It is quite clear from what has been said this evening by Deputies on all sides of the House that the Government will lose a vote on this Bill on Thursday if it does not reconsider its approach in this regard. This matter must be addressed because workers throughout this country are being treated most unfairly. I emphasise that companies that can live up to their responsibilities from a financial perspective should not be allowed to use the back door to evade those responsibilities. I fully commend Deputy Willie O’Dea on the introduction of this sensible and reasonable Bill. This is no more than what we should be doing for workers up and down this country who deserve these protections. We should not let them down.

Deputy Fiona O’Loughlin: It used to be said that death and taxes were the two certainties in life. It is very clear that there is now another certainty. Thankfully, people are growing older and living longer and healthier lives. There is no doubt that as a result, people need to put pension plans in place to ensure they have adequate finance in place when they are not working, when they are older or when they cannot work to ensure they can support themselves to a reasonable living standard. It is more important than ever for public and private pension schemes to be robust. It is very clear from what Deputy Willie O’Dea said that legislation needs to be brought forward to address the situation where a profitable company can close down a defined benefit pension scheme while the scheme is in deficit. This is to the detriment of existing and deferred pensioners, of whom there are 650,000 in the country at present. In the last Dáil, Fine Gael had a very poor record in regard to private pensions and the last Government passed legislation to allow the Government to raid the private pensions of citizens. Now, it is refusing to act to protect other private pensioners.

We have seen very profitable companies wind up defined benefit pension schemes, which has left workers with nothing. This situation is unacceptable and needs to be addressed and it can be addressed through the Bill Deputy Willie O’Dea has brought forward. The 2014 OECD report highlighted there was a greater need for protection for beneficiaries. The report stated: “Another weakness of Irish legislation is that it allows healthy sponsors to ‘walk away’ from DB pension plans, shutting them down, without creating a high-priority debt on the employer, as is the case for instance in the United Kingdom.” There is no doubt defined benefit pension schemes have been in a funding crisis for a number of years and some 30% of schemes in Ireland are reported not to meet the funding standard. It is our view that profitable firms should not be allowed to walk away from a defined benefit scheme.

A completely different set of priority rules will apply on the wind-up of a defined benefit scheme where the employer and the scheme are both insolvent, that is, where there is a double insolvency. In this scenario, all beneficiaries of the scheme are to receive 50% of their benefits, including post-retirement pension increases.

Minister of State at the Department of Finance (Deputy Eoghan Murphy): I thank Deputies for their contributions to the debate. It has been informative and helpful to have a detailed debate around the issues relating to defined benefit pension schemes, which have over 660,000 members in Ireland. The problems of defined benefit pension schemes involve different issues which interact and require diverse potential policy responses. Due to demographic, economic and financial factors, the cost of providing benefits has increased at a rate that has not been covered by the investment returns earned by pension schemes. Unfortunately, there are no simple solutions to these issues. These problems are not unique to Ireland. As we have seen

from BHS and Tata Steel in the United Kingdom, even the existence of debt on the employer and a pension protection fund have not prevented problems from happening. The key objective for all of us is the same, namely, to ensure that scheme members are protected in so far as is possible while maintaining the balance between the key stakeholders of the members, the sponsoring employer and the trustees.

I would like to reiterate some of the points made earlier by the Minister, Deputy Leo Varadkar. The imposition of both a pension protection fund and a debt on the employer was considered thoroughly a number of times in recent years due to the problems encountered with defined benefit schemes. There are clear advantages to such proposals, but there are also strong reasons they are not desirable. A pension protection fund may impose additional costs which lead to defined benefit scheme closures; it may lead to unintended consequences, for example, the under-funding of pensions in advance of liquidation; it may result in riskier investment strategies; it may increase pension benefits rather than wages in companies at risk; it may lead to the early retirement of directors taking substantial benefits; it may make stronger companies cross-subsidise the weakest; it may drive companies overseas to avoid paying; it may be prone to economic cycles - for example, in a downturn, it is exposed to significant demands which it may not be able to meet; and it may be administratively complex and costly.

A debt on the employer may threaten the company's financial stability and, in some circumstances, render employers insolvent; it may impact on the company's creditors; it may impact on company debt, investment and growth and the employers' ability to raise funds; it may give a competitive advantage to employers which never provided a pension and those with "risk-free" defined contribution schemes; it may prompt well-funded schemes to wind up to avoid future debt; it may need complex and costly structures to administer such arrangements; and it may result in increased and detailed State involvement in sponsoring employers' business decisions.

The changes that were made in recent years to the Pensions Act had the central objective of making the situation more sustainable and these changes have provided a level of stability. Rather than implementing a solution of putting a debt on the employer with unknown consequences, the approach taken to date is to support schemes to gradually move to a better funding position using regulation and the benefits of a strengthening economy. Changes such as the pensions insolvency payments scheme, sovereign annuities, the introduction of a risk reserve and allowing for the restructuring of scheme benefits are all measures which have been introduced with this approach in mind.

I understand the intention behind the Bill is to alleviate the issues that are continuing in defined benefit schemes. Nobody thinks it is right for sponsoring employers which have made commitments to walk away from their obligations. However, the position is not as black and white as that. There has to be fairness in the playing field between employers which have provided well for their staff over the years by contributing to a good pension scheme and those which have not. There has to be a balance between an employer being able to continue to operate and keep employees in jobs and living up to pension commitments made to those employees and former employees. In any legislation, there is a danger of unintended consequences, so any changes need to be carefully analysed and crafted, and followed by a thorough debate on proposed changes.

It is worth recalling some of the dangers and possible unintended consequences of the Bill. Rather than being protected as they are currently, the Bill could expose existing pensioners who are already retired to having their pensions cut substantially in the event of a wind-up. In some

cases, stopping a pension scheme from winding up or “extend and pretend” will result in a far worse outcome for some scheme members, particularly younger ones. The scheme would have to continue with solvency potentially deteriorating, and older members using up the assets before younger members retire. The extra funding burden would accelerate the closure of defined benefit schemes in the private sector. Therefore, the result of such a change, designed to protect the position of defined benefit pension members, would be the opposite of that intended. Few, if any, such defined pension schemes would remain. It could jeopardise the viability of the business and the jobs of those employed, given employers lack of capacity to absorb this extra cost. In such cases, people could lose their jobs long before becoming eligible for a pension. It could encourage imprudent investment behaviour by trustees and any losses would have to be made good by the employer.

Pension reforms impact not just on what is happening now but can have huge repercussions on outcomes for people for decades to come. The Minister will in the near future bring forward proposals to address certain aspects of the funding standard for defined benefit schemes. This will include looking at annuity costs in funding standard calculations, perhaps providing additional flexibility for schemes where funding proposals have gone off track, and taking account of employer commitments to support their defined benefit schemes. These will be carefully thought out and fully analysed to help support schemes and their members.

I assure Deputies that the Government is very conscious of the issues raised in the Bill. The over-riding priority for the State in this area is to ensure pensioners and members of pension schemes are protected and the future viability and sustainability of their schemes is ensured and made safer. I hope Deputies now understand why the Bill is being opposed and that the changes proposed would do more harm than good.

Deputy Dara Calleary: The Minister of State has just stated: “The over-riding priority for the State in this area is to ensure pensioners and members of pension schemes are protected and the future viability and sustainability of their schemes is ensured and made safer.” We all share that objective but the Government keeps long-fingering it, which is no comfort to those pensioners in schemes where the management is making decisions such as those made by INM, and also by Waterford Crystal way back, when the same dangers about which Deputy Mary Butler spoke were evident. Nothing was done then to change the law, or only very small changes were made, yet this is the same law that allowed INM and many other companies to do this.

The point about the INM case is that it helped to articulate what is happening in many smaller companies throughout the country and what has happened to many thousands of people, yet we still have not put the protections in place and we keep pushing it out for another six months. I do not know what it is about this Government’s attitude to Deputy Willie O’Dea’s legislation. We were here ten days ago discussing Deputy Willie O’Dea’s issues around the fair deal scheme and the Minister of State, Deputy Helen McEntee, wanted six months to deal with them. Tonight, the Minister, Deputy Leo Varadkar, has committed to having a report from the Pensions Board within six months. Many people do not have six months because decisions are going to be made about their futures.

This is increasingly a country where people do not want to get old because they no longer have the guarantees that were associated with a working life, with putting in the hours, with doing the days and the nights, and, at the end of it, having a pension to look forward to, which was paid at age 65 years. We have given that up in recent years and people no longer even have that guarantee. The worst possible thing has been happening. People have not been given the

chance to put the pot back together. This is the pot that they did nothing to destroy. People in their 60s are being told that nothing is available or that what is available is only minimal. They do not have the chance to put the pot back together, even though they did not destroy it in the first place. Then they end up coming to the State.

The Minister has spoken on many occasions about this as one of the greatest challenges facing the country, yet his Department keeps asking for more time. We do not have time. I regret that the Minister has decided to oppose the Bill. Deputy Willie O'Dea has been working on this for approximately 18 months. This is not something he has come to only lately. The Minister might disagree with Deputy Willie O'Dea's politics, but he cannot disagree with his technical knowledge and understanding of pensions and accountancy. It is regrettable that the Minister has decided to oppose the Bill rather than allow it to go to Committee Stage, where he could take the ideas of Deputy Willie Penrose on board. Deputy Willie Penrose has some good ideas and has done much good work. The Minister should try to come up with a shared ambition on Committee Stage around pension protection.

We are almost one year on from the general election and one year into new politics. I am sceptical about it and unsure whether it is delivering. However, it might start tonight. The House has said that we need to do something about pensions. The Government disagrees and suggests that it needs more time. The House is about to say that we want something done about pensions on behalf of the people who put us here, on behalf of the people who are being left without a pension or a scheme. The same people see those in management in these companies going off with big packages. I am not suggesting this Bill is the perfect article. Let us consider what happened in the United Kingdom with the Arcadia Group. That was one of the worst cases. We need to ensure the same thing does not happen here.

The Minister also has responsibility for another aspect of pensions. I am referring to women who have paid pension contributions over the years and who took time out of work to raise families or to go back into the home. These women have been left short in their pension as a result. They have been penalised for having taken time away from the workplace to rear a family. They were not penalised by the Minister but by his predecessor, the former Minister, Deputy Joan Burton, in one of the cruellest actions of the last Government. This is only now becoming apparent as women are coming to retirement age or pension age. They find they are being fleeced by the State for doing the job of the State on many occasions, either by caring for children or parents. We have all seen it. Any Deputy worth his or her salt has met it on a daily basis. We have to do something about it.

It is regrettable that the Minister is opposing the Bill. However, the will of the House to deal with pensions as a matter of urgency will prevail. This is the first time that new politics might deliver for the people outside the House. We should let the committee deal with the concerns expressed by the Minister as well as with the inputs from Deputies Willie Penrose and John Brady. The Minister should allow Deputy Willie O'Dea to work on this issue on an all-party basis with the roadmap he has laid out.

Deputy Willie O'Dea: I thank everyone who has contributed. I thank those supporting the Bill, including Deputies Róisín Shortall and John Brady. I thank Sinn Féin, AAA-PBP and, needless to say, my colleagues.

Deputy John Brady made a particular point. I tabled an amendment as long ago as 2014. I tabled it again in 2015. On each occasion the Government shot it down. The amendment was

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along the lines of what is contained in Deputy John Brady's Bill. I mean no disrespect. Having studied the situation in the United Kingdom closely, I decided to bring in a moderated version of the Bill because of the difficulties I saw with it. I did not know about them until I got time to study it. Having done that, I prepared the Bill.

I am aware that Deputy John Brady has prepared a Bill and that Deputy Willie Penrose has prepared another Bill. Fianna Fáil is taking Private Members' time tonight. We decided this was the issue we would raise during Private Members' time. It does not really matter to me which Bill comes first. If the Sinn Féin Bill or the Labour Party Bill had come first, we would have supported either of them equally because we support the principle. I am willing to work with my two Opposition colleagues in advance of the legislation the Minister intends to bring forward sometime in March. However, I do not have great expectations for that legislation, judging from the attitude of the Minister at Question Time last week, as well as tonight. I find his position somewhat strange in view of the fact that I remember the time when the entire country was discussing the situation at Independent News & Media. The Minister and I were in RTE on a television programme. The Minister proceeded to tell the nation that he was so concerned he would rush to the High Court the following morning and intervene through the Attorney General or whatever. I wonder what became of that intervention.

I appreciate the fact that the Minister recognises that something has to be done about the minimum funding standard. He is proposing to do precisely what I have suggested in section 4.

I must confess to being disappointed in respect of the other matter. We are not talking about something new. We are not reinventing the wheel. This type of legislation has been in existence in the United Kingdom for the past 21 years. When it was introduced in the United Kingdom in 1995, that country was in the teeth of a vicious recession. This was at the end of the Thatcher Government of the late 1980s and the early 1990s. There were problems with deficits. Schemes were under pressure. All the arguments were trotted out. The UK Government at the time, in its wisdom, decided that the best thing was to ensure the balance of advantage lay with protecting the member or the person who had paid into the scheme as opposed to being overly concerned about the employer. Numerous debates and discussions have taken place in the United Kingdom in recent years. Some have argued that section 75 protection, which we are seeking to give in this Bill, should be withdrawn. Arguments were made in favour of it by some – there are several arguments in favour of it. Counter arguments were made by others. The preponderance of opinion on all sides, including the Tory Government at the time, was that the balance of advantage should lie with the need to protect the workers.

The Minister's argument seems to be reduced to a simple position. He sets out the familiar arguments on both sides. Then he takes the side of the employers. He takes the side of the people who walk away. This means solvent employers can walk away from pension schemes that they have let run down to the detriment of their employees. It is simply a question of what people believe or what side they wish to take.

I have been surprised by some of the language used in the Minister's response. He has made reference to no readily available accurate consistent measure of solvency. Has the Minister ever heard of bankruptcy law? The courts are adjudicating every day of the week. Accountants are adjudicating. Liquidators are adjudicating on whether a company has become insolvent. The Minister made reference to there being no connection between a company being solvent or having net revenues at a given point in time and that company's ability to fund a scheme for the long term. Having worked for several years in the largest accountancy firm in the country,

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I am fully aware of the position. I can inform the House what it is: all that is meaningless jargon. I think it was Oscar Wilde who said that sometimes one excuse is more believable than several. I am disappointed with the Minister's response. We will be pushing the Bill to a vote on Thursday.

Question put.

An Ceann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 9 February 2017.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Communications, Climate Action and Environment has concluded its consideration of the Communications Regulation (Postal Services) (Amendment) Bill 2016 and has made no amendments thereto.

The Dáil adjourned at 9.50 p.m. until 12 noon on Wednesday, 8 February 2017.