



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Leaders' Questions	500
Questions on Promised Legislation	508
Protection of Life During Pregnancy (Amendment) Bill 2017: First Stage	512
Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017: First Stage.	514
Criminal Justice (Victims of Crime) Bill 2016: Second Stage (Resumed)	515
Topical Issue Matters.	528
Criminal Justice (Victims of Crime) Bill 2016: Second Stage (Resumed)	528
Criminal Justice (Victims of Crime) Bill 2016: Referral to Select Committee.	543
Mediation Bill 2017: Order for Second Stage	543
Mediation Bill 2017: Second Stage	543
Estimates for Public Services 2017: Message from Select Committee	546
Ceisteanna - Questions	546
Priority Questions.	546
State Properties	546
Public Procurement Regulations	559
National Planning Framework.	561
Budget Consultation Process	564
Other Questions	566
Budget Measures	566
Court Accommodation Provision	566
Public Sector Pay	568
Departmental Budgets	569
State Banking Sector	570
National Museum	572
Infrastructure and Capital Investment Programme	574
Public Sector Pensions.	576
Coastal Erosion	579
Public Sector Pay	581
Topical Issue Debate	583
Agriculture Scheme Payments.	583
Addiction Treatment Services	586
Occupational Therapy	588
Commercial Rates Valuation Process.	592
Residential Institutions Statutory Fund (Amendment) Bill 2016: Second Stage [Private Members]	594

DÁIL ÉIREANN

Déardaoin, 2 Márta 2017

Thursday, 2 March 2017

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

Paidir.

Prayer.

Leaders' Questions

Deputy Thomas Byrne: Teenagers face tremendous pressures as they grow up, in the form of the traditional pressures we all faced adapting to adulthood and exams and the modern day pressure of social media. One of the resources children traditionally had at school was guidance counselling. Mental health issues, self-harm and suicide attempts have all increased in recent years. Guidance counselling was introduced in schools around 1966, a signal time in second level education in this country, and it was made a legal requirement in the Education Act 1998. Guidance counsellors provided appropriate guidance and support to students at second level and since that time the relationship has been mutually beneficial, meaningful and, above all, confidential.

The previous Government made a decision to cut and cull guidance counselling in the infamous budget of 2012. This was a wrong and poorly thought-out decision which led in practice to a reduction of some 51% in the amount of guidance available. What is worse, it hit disadvantaged students and disadvantaged schools even more. In the confidence and supply agreement that Fianna Fáil entered into with Fine Gael we put this as a priority and we wanted the restoration of guidance counselling on an ex-quota basis. We saw the deficit and felt that it needed to be addressed. I had a meeting with the Minister about this and my colleague, Deputy Dara Calleary, had a meeting with the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe. My party leader also spoke to the Taoiseach about it because there has been a marked reluctance to deal with the issue, despite the fact that it was agreed between Fianna Fáil and Fine Gael in the confidence and supply agreement.

This week, the Department has issued a number of circulars relating to teaching posts, including provision relating to guidance counselling, but there is no provision for ex-quota guidance counselling. That has come as a shock to people in the profession but it has also come as a considerable shock to my party, in light of the high priority we have put on this and the number of communications we have had since we agreed this in the confidence and supply agreement. There is no attempt in the circulars to ring-fence guidance counselling and they

2 March 2017

simply reiterate the position of the 2012 circular that, “Schools should consider how best to align the resource allocation with the objectives of the guidance plan.” There is no requirement for a guidance counsellor to be ex-quota. Can the Minister clarify these latest circulars? Will guidance counsellors be employed on an ex-quota basis or will schools be entitled to have an *à la carte* approach to guidance counselling, contrary to what was agreed in the confidence and supply agreement between these two parties?

Minister for Education and Skills (Deputy Richard Bruton): I thank the Deputy for raising this very important issue, which goes to the very heart of making sure that resilience is built in the young people who come through our education system, in a world where there are increasing pressures on them. I assure the Deputy that I am absolutely committed to the agreement we have made to restore guidance counsellors. To date we have restored 400, with 300 this September and another 100 next September. The total restoration will amount to 600. We are fully committed to that. Not only that, we are also rolling out a well-being programme at junior cycle and committing significant resources to make that a reality. We are increasing the service from the National Educational Psychological Service to support schools in the implementation of policies across the schools to ensure that they provide an environment where young people feel safe, respected, valued and their resilience is built. We have specifically required in our disadvantage plan that disadvantaged schools have proper guidance support provided. We are fully committed to that.

We are also committed to ensuring that the resource of guidance counselling will be ring-fenced within schools and that it will deliver to targets. We will be monitoring the performance of schools in ensuring that adequate support in guidance is provided in every school. I have had a number of meetings about well-being and can say that there is huge energy within the schools, not only to restore guidance, but to build much deeper relationships with groups in the wider community to ensure that the environment within schools is the best possible for supporting young people who are vulnerable to pressures that would not have been in place when I was at school. We are committed to this. In addition, this year, we are providing for open hours so that there would be access to guidance support at a given time every week in every school, so that people could bring issues to someone who is professionally in a position to assist them. This is an area in which I share the Deputy’s commitment and we will roll out the service.

Deputy Thomas Byrne: Unfortunately, as both the Minister and I know, the issue here is the provision of guidance counselling on an ex-quota basis. The Minister’s circulars avoid that issue and say the contrary. We both know about the pressures from certain bodies within the educational sector which are opposed to the provision of guidance counselling on an ex-quota basis. They have got to the Department. There are some people who do not want guidance counselling to be provided on this basis in schools. They want to be able to use a resource for other subjects, which are important, but we have said that guidance counselling is a key issue and must be done ex-quota. The Minister’s circulars allow schools to not ring-fence guidance and to provide the hours for other items if they do not value guidance in the same way that he purports to value it. They are required to provide guidance, but they are not required in those circulars to provide guidance counsellors on an ex-quota basis. They are free to use those hours to teach other subjects.

What the Minister has done is in breach of the letter and spirit in terms of what he has said in this House, what has been said in the budget and what is written down in the confidence and supply agreement. Can the Minister confirm that he will re-issue those circulars and include those two words “ex-quota”? They bring a different meaning to the issue of guidance counsel-

ling and will mean a much different service in practice for those children and students who need it.

Deputy Richard Bruton: I assure the Deputy that I am at one with him on the need to provide a protected resource, but it has to be within a whole-school policy. The whole school has to be committed to supporting well-being. We have to have measures that show that the school has the proper culture, the proper policies, that it builds relationships with the pupils that are robust, and that the curricular content is adequately delivered across a range of subjects in the well-being area. All of those things have to work together. I am committed to having a protected resource of guidance against which we will be judging progress and I will ensure that all the guidance given to schools ensures that this resource is protected and that it delivers within a coherent programme. I am committed to honouring the commitment that we made between the two parties to restore this vital service and to use it effectively within schools.

Deputy Imelda Munster: On Monday, the workers at Bus Éireann will embark on an all-out strike in an attempt to protect their livelihoods and to protect our public transport network right across the State. They will do so in the face of the refusal by the Minister for Transport, Tourism and Sport, Deputy Shane Ross, to do his job. They will do so in the face of the determination of management and Government to burden workers with the financial responsibility for this crisis, which was created by Government policy and mismanagement. The Minister for Transport, Tourism and Sport and the Minister's Government are putting his privatisation agenda ahead of the needs of the citizens of this State. The plan is the same here as it is with his approach to other vital services such as health, housing and education. The steps are the same in every case - starve the service of investment, implement draconian cuts, foster disputes and inconvenience the public to the point of anger. The model of public ownership is then blamed and the workers are penalised in order to create a false justification for privatisation. The destruction of our public services is an inside job.

The Minister's Government and the Minister, Deputy Ross, are responsible for the shambles that exists in Bus Éireann. The Minister, Deputy Ross, has shown a complete lack of leadership on this issue. The Government is happy to sit on the sidelines and let the chaos unfold. The Taoiseach said this week that both he and the Cabinet fully support the Minister for Transport, Tourism and Sport, the same Minister who acts as if his job description had been written by H.G. Wells - the Minister, Deputy Shane Ross, the invisible man of Irish politics.

The Government's privatisation agenda is very clear, but the ordinary workers of Bus Éireann see right through it, as do the people living in rural Ireland. Bus Éireann workers will not allow the Government, the Minister, Deputy Ross, or company management to destroy their livelihoods, dismantle the services they worked so hard to provide and then blame them for the mess that the Government created. It is not an easy thing to vote for strike. Sinn Féin commends those workers on their brave decision. We understand the reasons for that decision. We understand the inflammatory proposals that were put before the workers and we stand fully behind them as they prepare to stand on a picket line next Monday.

The communities of rural Ireland know well by now that the Government is no friend of theirs. The Minister's plan to destroy our public transport network further underlines the great isolation being imposed on people living in rural communities by the decisions taken by his party over the past six years. They will now wonder how they will get to work, to hospital appointments or to visit family. The message to rural Ireland is very clear. The Government has abandoned rural Ireland.

2 March 2017

My question is very simple. Will the Minister demand, not ask, urge or suggest, but demand that the Minister, Deputy Ross, get involved in a practical way to see a resolution, or even that he allow his Department to get involved?

Deputy Richard Bruton: This Government is about rebuilding our public services. The reason we are able to do that is because, in the past 12 months alone, we have seen 65,000 extra people back at work. That has provided €1 billion in additional resources for this House to allocate to public services. We are doing that.

In less than two weeks, 800,000 people will get a social welfare increase for the first time in eight years. That includes carers, disabled people, unemployed people and sick people. That is rebuilding our public services. Some €1.5 billion has been reinvested into our health service. Some 250,000 more people are getting operations in our public hospitals now than there were four years ago because we are reinvesting. There are problems because we have had a lost decade in public services, but we are now rebuilding that service. In my area, 5,000 extra teachers and special needs assistants will, between this September and next, be going back into our schools to provide particularly for children with special needs or with disadvantage. We are rebuilding in areas where damage has been done.

When we come to the issue of the public transport service, last year we provided a 21% increase in the subvention to Bus Éireann and other public service obligation bodies. This year, there will be another 11%. That is a one third increase in the investment we are making in the delivery of public services. There is a problem with Expressway. This is an area where Dublin Bus has to go head to head with private competition. It is losing money heavily in that regard and this is an issue at the heart of this industrial dispute. The Deputy asked why the Minister does not intervene. There has been a very long history in Ireland of Ministers not politicising industrial disputes. We have very professional services in the Workplace Relations Commission that support the resolution of even the most intractable dispute. Those are the professional services that should be used. It is not by accident that we protect those services from political interference, because their very effectiveness depends on them not being undermined by politicians.

This is a difficult area, but on every front we are doing what people are saying needs to be done. We are increasing the subvention for public services, reconsidering the contract for social welfare customers and we are ensuring that the National Transport Authority will be available if a rural service needs to be restored. It will stand available to provide that on a new basis as a public service contract.

This dispute centres on an area where, under law, subvention cannot be given to Expressway, which is competing head-to-head with private sector providers. That is the law of the land, which the Minister is correctly observing. We need to try to find a resolution and I urge the parties to return to the very experienced people in the WRC to seek a resolution to this dispute and protect people who depend on services.

Deputy Imelda Munster: Our public transport subvention is the lowest in Europe. I am blue in the face listening to the Minister, Deputy Ross, and Government representatives saying that this is an industrial dispute. For the past five months, the Government has been asked repeatedly to engage with all of the stakeholders, including the NTA, the Department of Transport, Tourism and Sport, Bus Éireann management and the unions, but has repeatedly refused to do so. This was long before strike action was called. We are now four days out from an all-out

strike in our public transport network. The Government is still refusing to engage with stakeholders or demand that the Minister engage with the stakeholders involved to find a resolution to the crisis.

There are two clear Government policies that have become apparent over the past while. The first is the race to the bottom for workers' rights, pay and conditions. The second is the outsourcing and privatisation of our public transport network. How any Government in its right mind could stand over those two issues is beyond belief. Given that we are facing all-out strike action on Monday and disruption across the public transport network, will the Government demand that the Minister, Deputy Ross, appear from wherever he is hiding and become involved in the negotiations?

Deputy Richard Bruton: By no means are we involved in a race to the bottom. There has been an 11% increase in employment, which means that 200,000 people are back at work and 200,000 extra pay packages are going into family homes. Those pay packages are larger than they were in 2011. Not only have we more jobs, but also higher wages. That is because of the successful policy implemented by this and the previous Government. It was a policy which Sinn Féin opposed at every opportunity. The policy has been successful and is rebuilding wage levels, jobs and enterprises. We are ploughing that money back into public services.

As I said, we have increased the subvention for public transport by 33%. We are putting money back into delivering public services. In terms of this dispute, the WRC is the professional body that needs to bring the two parties together to try to find a resolution to the differences. That is the approach that will resolve this dispute.

Deputy Brendan Howlin: Today the Simon Community said it is unacceptable that 198,358 homes lie empty in Ireland, a number that will shock most people. In stark terms, that means that 13% of the total housing stock is vacant. According to answers to parliamentary questions received by my colleague, Deputy Jan O'Sullivan, the group established to compile a register of vacant units and set out actions to bring them into use is due to report at the end of the first quarter of this year. Work is progressing too slowly on this very important issue. There seems to be a lack of understanding of the urgency of these matters.

As the Minister knows, the previous Government put a record amount of money into housing, which the current Government has been able to increase, but it appears that there is a distinct lack of delivery. Projects have been announced but little progress seems to be happening on the ground. In November, the Minister, Deputy Coveney, promised work would begin on 350 units of modular housing by the end of 2016, but so far only 22 have been completed and they were all started by the last Government. Instead of building homes, it appears that local authorities are buying properties, which does nothing to increase supply.

Last August, the Labour Party proposed an eight point plan to tackle this specific issue of vacant houses. This morning the Simon Community launched its own ten point plan. Like the Labour Party, it calls for a vacant housing register that would see a real-time database with formal communication and data-sharing structures between relevant bodies. Like the Labour Party, it believes that more needs to be done on the vacant site levy. Sadly, Fianna Fáil and Fine Gael combined to vote down a Labour Party Bill that would have achieved that last year. Both my colleague, Deputy Jan O'Sullivan, and the Minister, Deputy Coveney, have called for more money to be allocated to the Housing Agency's vacant housing purchasing initiative. Will this happen? Will the Government allocate more money now or do we have to wait for the capital

review to be completed? Will the Government speed up the audit so that urgently needed accommodation can be provided from vacant units while so many people are in squalid conditions and looking for houses?

Deputy Richard Bruton: I assure the Deputy that the work on a register of vacant units is under way and at an advanced stage and the register will be available within weeks. This will mean that a much better database will be available. As Deputy Howlin noted, the Simon Community has found a very high vacancy rate. This was not unknown to those other than the Simon Community. The vacancy rate is 13% but it is only 6% in Dublin, so the area with the most acute pressure does not have the same high vacancy rate. The Government's programme is very clear and a series of initiatives have been taken, including the buying back of vacant properties by the Housing Agency. A target of 1,600 was set in that regard. Last year the city council brought back into use its 1,000 voids and there is a target of 3,500 for repair and hand over to local authority of HAP leases. Active work is ongoing in this area.

The Deputy raised the wider issue of whether there is enough activity on the ground. I think we are beginning to see it. This week the Minister published 90 schemes where 1,800 social units are under construction and 504 schemes that involve 8,500 social units are now in the pipeline. These will be advanced rapidly under the pressure the Minister is applying. The homeless HAP, which allows for an uplift in the rent supplement and has a target of accommodating an additional 1,200 homeless families, has been very successful. It exceeded its expectation last year and it is hoped it will do so again. The rapid building initiative is continuing. As noted by Deputy Howlin, 350 units are under construction and 650 will be added to the list this year. This is being pushed ahead.

The Minister is responding on every front and continues to be open to new initiatives. The initiatives that have been proposed by the Simon Community will be examined by the Minister to see if there are elements to them that could be implemented.

Deputy Brendan Howlin: I am not accusing the Government of not having a strategy. The problem is that we do not see the progress and this is causing alarm. It is as if the Government is pulling rubber levers to no effect. Nothing is happening on the ground. The Minister is right that we did much work to bring back voids and that was a successful initiative, but now we need the same approach to vacant houses. We cannot in good conscience allow a situation to stand where there are 27 vacant homes for every person in emergency accommodation. We need to identify those homes and ask why they are vacant. Can we bring them back? Can we incentivise those who own them or are in possession of them to bring them back? That is the sort of concrete measure that we need. Is the Minister of the view that the strategy is working fine and that everything is on course or do we need to up our game significantly to ensure that the crushing social issue of our time is properly addressed?

Deputy Richard Bruton: The Government firmly believes this issue must be addressed. The housing strategy, which is barely six months old, is a major priority. The Government has provided €5.5 billion in investment for housing and given a commitment to 47,000 social homes in the next five years. A range of initiatives is under way across the housing sector, including those to which the Deputy specifically alluded. The database will ask why houses are vacant to try to identify policy initiatives that could be taken. The Minister has provided an incentive to bring such houses back into use and has set a target of bringing 3,500 of them back into use specifically for social purposes. These proposals are being implemented.

The homeless housing assistance payment has been identified to give a 50% uplift in rent supplement, specifically to bring homeless people into rental accommodation and give them an opportunity to access the payment. This measure is working.

Deputy Brendan Howlin: It has nothing to do with supply.

Deputy Richard Bruton: While we would all like more houses to be built, it is encouraging to note that statistics on housing starts show they increased by 50% in 2015. There is clear evidence that the number of planning permissions has increased, as has the number of works commencing on site, both for social and private housing. However, we must accelerate progress in this area. No one in government denies that we have a very serious problem in housing and considerable effort has been focused on delivering action in this area against strict timelines. We are open to other proposals that could be implemented.

Deputy Clare Daly: The Tánaiste and Minister for Justice and Equality was no doubt highly impressed by the speed and efficiency with which Mr. Justice Charleton commenced the proceedings of the disclosure tribunal earlier this week. She probably hoped this would allow her to put the Garda controversies behind her but sadly that is not the case because the disclosures by Garda whistleblowers are only one aspect of the serious questions regarding An Garda Síochána. The Minister is aware of five other pending statutory inquiries into Garda negligence and malpractice. In 2002, we had the tragic death of Shane Tuohey after a night out. The Garda investigation into Mr. Tuohey's death was flawed and his family was targeted. Patrick Nugent, a 23 year old banqueting manager in Bunratty Castle, died horrifically after a function at which off duty gardaí were in attendance. The inquest into Mr. Nugent's death and internal Garda inquiries have led to further questions. Another case involves 24 year old John Kelly from Tallaght who drowned in Dublin's docklands after screaming for 30 minutes while gardaí stood back. Another case is that of James Clancy, a man in his 80s, who was killed after being dragged along a road by a truck. Documents subsequently went missing and the driver of the truck was never found. In all of these cases, the Tánaiste and Minister for Justice and Equality has refused to engage with Kevin Winters, the legal counsel for those who are seeking information on the terms of reference of the inquiries and wish to ensure they are compliant with Article 2 of the European Convention on Human Rights.

In the meantime, the Tánaiste has engaged with the Policing Authority, which is not an alternative to including victims in the process. More important, why has the Policing Authority, which has the power to demand the convening of such inquiries, not done so? The reason is that, despite all of the Tánaiste's bleatings about dealing with reform and Garda oversight, these issues have not been addressed. Unless she addresses the question as to who is guarding the gardaí, these problems will continue.

Members of the Policing Authority were hand-picked by the Government and the authority was structured in a manner that would ensure it was subservient to government. Its first test was the appointment of new assistant commissioners, for which there were 31 applicants. On the date the Oireachtas signed off on the terms of reference for the inquiry into allegations of misconduct by the Garda Commissioner, we found out that the very same Commissioner had nominated herself to be on the selection board for the assistant commissioner positions. Nobody on the Policing Authority or in government had any problem with this decision, about which we sought information and eventually received confirmation. We then learned that the position had suddenly changed between Monday and Tuesday of this week and the Garda Commissioner would no longer be on the selection board because she was a bit busy. She had, how-

ever, appointed her loyal sidekick, Dónall Ó Cualáin, an individual who is involved in a number of these cases, to the selection board. This is an absolute joke. How, in God's name, can the Commissioner continue to influence vital decisions regarding the future of An Garda Síochána when she is under serious investigation? What is the point of a Policing Authority that can and will do nothing to exercise its independence?

I have some other brief questions for the Tánaiste. Will the Minister, Deputy Bruton, ensure that the Tánaiste and Minister for Justice and Equality will engage immediately with the legal counsel of the people in the statutory inquiries? Will he accept that the position of the Garda Commissioner is untenable and that she should be asked to step down and will he move immediately to bring in the legislative reform necessary for proper democratic oversight and accountability of An Garda Síochána?

Deputy Richard Bruton: I thank Deputy Daly for her questions. We have an inquiry in place that is looking at the most serious issues involving Garda management. I do not propose to comment on the validity or otherwise of the allegations being made. Mr. Justice Charleton has been very clear that this inquiry is not about taking sides, rather it is about getting to the truth. On completion of his work, Mr. Justice Charleton will make recommendations based on what is drawn from these specific disclosures. That is as it should be. Let the cards fall where they may when that work is done.

It is important that in the last number of years we have been moving in this House, across all parties, to turn over stones that were left unturned in this country for many years. In the Garda area, we now have a much stronger Garda Síochána Ombudsman Commission, GSOC, whistleblowers' legislation and a Policing Authority that is independent, all of which is turning over stones. Deputy Daly is correct in that there are allegations emerging that nobody could be happy with but they are being investigated by, in one case, a tribunal and, in other cases, by a much strengthened Garda Síochána Ombudsman Commission. There is now whistleblowers' protection legislation to give people the protection to come forward with their concerns.

I cannot stand here as judge and jury in the case of these allegations. These are issues to be addressed, either by Mr. Justice Charleton in the tribunal or by GSOC. It is not for politicians to make those decisions. The Policing Authority has said that it will monitor the conduct of the tribunal in terms of the capacity of the Garda Commissioner to continue to do her job. It has also been very clear that the Garda Commissioner has not been found guilty of anything. She strenuously denies the allegations that are before the tribunal and she will have an opportunity in the tribunal to deal with those issues.

In regard to specific legislative changes in the future, we have to wait to see what emerges from the various investigations but the Government will act, as it has in the past, to introduce changes should they be found to be necessary. I cannot answer the Deputy's question on legal counsel because I am not briefed on the specific issues in regard to the request made to the Minister for Justice and Equality or on whether the Minister for Justice and Equality is the appropriate person from whom information would come in those cases. I will communicate with the Deputy on that question.

Deputy Clare Daly: I will await a response from the Minister to that question.

The Minister's utterances on reform and accountability are belied by the experience on the ground. We do not have proper oversight, and that is not only my view. Ms Justice Mary Ellen

Ring, the chairperson of GSOC, has demanded increased legislative powers supported by the justice committee precisely because we do not have proper oversight. We do not have an independent Policing Authority. A policing authority that sits still in the midst of the biggest crisis surrounding policing in our State and has no problem with the Garda Commissioner sitting on a selection board that will dictate the culture of the Force and senior appointments into the future is a big problem. The fact that we do not have these bodies is precisely why we have six inquiries going on. We will have six more, and six more again, unless the Government addresses the fundamental issue here. That could have been addressed four years ago when Deputy Wallace brought forward legislation for a proper oversight independent policing authority. What we recommended then was an independent board, greater scope around appointment of the Garda Commissioner, deputy Garda commissioner and assistant Garda commissioners, powers to remove same and a real role that would deliver proper and genuine accountability. The Government cannot keep running away. This legislation is long overdue. When are we going to see it?

Deputy Richard Bruton: To be fair, there has been a huge amount of legislation in this area, no doubt partly in response to issues that have been raised by Deputies Daly and Wallace and by others. There is change occurring. We did not have an independent Policing Authority before. The effectiveness of the authority can be seen already in terms of gardaí being publicly held to account for their work. We have much stronger GSOC legislation in place, but if there is a need to reinforce it, that will be done. We have protections in place for whistleblowers to encourage people to come forward with their issues, and the legislation is strongly designed to ensure those cases are taken seriously, handled independently and the person's privacy is protected.

We are on a journey of reform and I do not pretend the journey is finished. The work continues to evolve and I am sure the tribunal will have recommendations for the future. This House will have to listen to those recommendations and make a collective decision as to what changes should occur. That is the role of this House. However, we must allow the tribunal to do its work of identifying the sources of problems, if they exist, before coming back to the House within nine months, as we have asked it to do, so we can see what action needs to be taken on foot of these very serious allegations.

Questions on Promised Legislation

Deputy Thomas Byrne: The programme for Government and the confidence and supply arrangement include provision for the Government to take action on spiralling costs for families, including in respect of energy, child care, housing and insurance. The consumer price index suggests prices have not changed much. Indeed, if one did not dig deeper into the basic inflation rate figure, it would be very welcome. The reality, however, is that education and health care costs have risen and everybody knows there have been massive increases in fuel costs. This week in the Chamber we discussed the substantial rise in insurance costs. What action is the Government taking, not only to implement the requirements under the programme for Government and the confidence and supply agreement but also to make a real difference for families by ensuring they have a few more quid to spare for other essential items instead of all their money going simply to meet price increases?

Minister for Education and Skills (Deputy Richard Bruton): The Government has introduced significant changes in this regard. Just this week, we implemented a reduction in

prescription charges for persons aged over 70. Some months ago, we introduced rent caps to protect tenants living in areas with high rental costs. We have an action plan on insurance costs which the Minister of State, Deputy Eoghan Murphy, is pursuing and which will help to bring down the cost of insurance and make it more affordable. A freeze has been imposed on waste charges in the Dublin city area to protect people from proposed changes that would have imposed substantial difficulties. I will not stray into the area of water other than to say we have suspended charges. The Government's approach in this area has been consistent. We want to ensure not only that we are competitive internationally but also that there is value for money for consumers. The evidence is there that we are succeeding in this regard. Prices are being kept quite tight in this country compared with what is happening elsewhere. We are improving our competitiveness and taking targeted action in areas where Government can make an impact.

Deputy Imelda Munster: The programme for Government includes ambitious plans for the recruitment of additional nurses and midwives. In fact, that undertaking is mentioned in no fewer than five sections of the document. The Irish Nurses and Midwives Organisation, INMO, is scheduled to take industrial action next Tuesday and while talks are taking place at the Workplace Relations Commission, the proposed action has not been cancelled. We all know this situation has come about as a result of chronic underfunding, dire working conditions and serious issues surrounding pay. Together with the failure to recruit, we now have a crisis of staff retention, with personnel leaving in their droves. Many of us have spoken to nurses who rediscovered their grá for their profession after going abroad for work, where they were treated fairly and enjoyed a proper working environment, compared with the stressful, dire conditions they endured here. What does the Government propose to do to meet the targets set out in the programme for Government? What is the plan to begin the work of addressing the chronic shortage of nurses and midwives in our creaking health service?

Deputy Richard Bruton: We have invested €1.5 billion in our health services, €900 million of that in the past 12 months. This has involved the recruitment of 9,000 extra people in the public service, most of them across medical, nursing and related areas. Notwithstanding that investment, there are continuing pressures on the recruitment of nurses, especially in particular skill areas. The nurses are going to the WRC, which I welcome, but the Public Service Pay Commission will examine each sector and pressures within same so as to ensure that, as we negotiate a successor to the Lansdowne Road agreement, we address specific problems in public services. We are committed to a good environment for professional workers in our health service within available resources. The public pay commission, coupled with the reinvestment, is the approach that we are taking to deliver that.

Deputy Brendan Howlin: The Mahon tribunal completed its work this month five years ago after being established in 1997. One of its key recommendations was to criminalise the making of payments knowingly or recklessly to a third party who intended to use them as bribes. The corruption Bill that was promised from that would enhance the ability of the DPP to bring about prosecutions in that regard. Pre-legislative scrutiny was completed on the criminal justice (corruption) Bill in 2013 and we understand that final drafting has been under way since. When will the Bill be before the House?

Deputy Richard Bruton: I understand that it is on the priority list, but I will have to get details for the Deputy of what work is necessary to complete it.

Deputy Richard Boyd Barrett: In 2012, to a barrage of heckling and laughter from the Government's side, I warned during Leaders' Questions that tenement conditions were on the

way back to Dublin city. Those conditions have now manifested. Today, the Simon Communities-----

An Ceann Comhairle: Is this on the programme for Government or legislation?

Deputy Richard Boyd Barrett: Programme for Government commitments and legislation on dealing with the housing issue. Today, the Simon Communities have confirmed that none of this situation is necessary because Ireland has the housing stock to deal with the tenement conditions and obscene homelessness. The Minister, Deputy Simon Coveney, is looking into all of these matters, given his comments on compulsory purchases and using empty properties. On foot of the calls from Simon for emergency legislation, is the Government considering, or will it enact, emergency legislation to address this emergency? The Government stumbles on the words.

An Ceann Comhairle: Time is up, Deputy.

Deputy Richard Bruton: Deputy Howlin raised this question, but perhaps that was before Deputy Boyd Barrett was present. I outlined some of the initiatives that the Government was taking to bring homes back into use, including supporting properties in being repaired for social housing use, the purchase of unoccupied homes by the Housing Agency and the restoration of voids. A detailed survey of vacant homes is to be available within weeks. It will shed light on the reasons for vacancy, where the vacant homes are and whether they can be targeted to be returned to use. The evidence suggests that the rate could be as much as 25% in some parts of the west, but those homes might not be available in the pressure points in the cities.

Deputy Richard Boyd Barrett: There are 55,000 in the cities.

Deputy Richard Bruton: We need to see the proper data, but the Minister has a series of initiatives to address the issue. If there is scope for new initiatives, we will assess the views of the Simon Communities.

Deputy Thomas Pringle: Regarding the transfer of sentenced persons, the heads of the transfer of execution of sentences Bill were approved in 2013. We are four years on and a number of sentenced prisoners who wish to return to this jurisdiction to complete their sentences are unable to do so because of delays with the Bill. When is the Bill likely to be before the House?

Deputy Richard Bruton: I understand that the work is ongoing in the Department of Justice and Equality, but I do not have a specific date for its introduction.

Deputy John Brassil: Regarding the spring-summer 2017 legislative programme and the education (parent and student charter) Bill or any other relevant Bill, will the Minister correct the anomaly whereby a child in a family that qualifies for family income supplement, FIS, does not qualify for a third level grant? I was made aware of this situation by a couple that attended my clinic in Tralee on Monday. The family currently gets €209 a week in family income supplement. The couple have seven children and the eldest is going to college next year. They contacted SUSI about a grant and were told they did not qualify. Surely, if one Department of the State deems it appropriate to give €209 to help a family to survive in current circumstances, another arm of the State, namely, the Department of Education and Skills should consider it appropriate to provide a grant to educate a child. I urge the Minister to correct that anomaly immediately.

2 March 2017

An Ceann Comhairle: It might be more appropriate to raise the matter by way of parliamentary question.

Deputy Richard Bruton: Deputy Brendan Ryan brought a similar case to my notice and I am arranging for it to be investigated. It may be due to a gap in the legislation, which would require reform. I am sympathetic to the point Deputy Brassil made and we will examine it to see whether we can find a resolution. Perhaps he will give me the details of the case.

Deputy John Brassil: I will give the Minister the details of the case.

Deputy Richard Bruton: Yes.

Deputy Josepha Madigan: Could I ask the Minister about the Companies (Accounting) Bill? The Bill will amend the Companies Act 2014 and transpose the EU directive, which will have the effect of making financial disclosure easier for small or medium companies. It will also have a very impactful change on micro companies, which have a turnover of less than €700,000, a balance sheet of less than €300,000 and approximately ten employees. Firms need to know what their accounting requirements are in a clear and meaningful way. I would like to ask when the measure will be expedited.

Deputy Richard Bruton: I understand the Bill is due on Report Stage in the week commencing 21 March. It is priority.

An Ceann Comhairle: The Bill is on the way.

Deputy Jack Chambers: My question relates to the regulation of rickshaws. Before Christmas the Road Traffic Bill was progressed through the Dáil with a Sinn Féin amendment tabled by Deputy Imelda Munster. Unfortunately, Sinn Féin and the Government rejected the proposed Fianna Fáil amendments tabled by Deputy Troy, which provided a more wholesome regulation of rickshaws. The Minister, Deputy Ross, said he would commission a report from the National Transport Authority on the regulation of rickshaws. The CEO of Dublin City Council, Owen Keegan, said the Sinn Féin amendment will not provide the legislative certainty to regulate rickshaws. Is this a priority for the Government and could it progress legislation on the matter?

Deputy Richard Bruton: As the Deputy said, the Bill was passed by the House and the Minister will consider how the sector can be regulated. I do not have information on the progress that has been made but no doubt there are tricky issues to be addressed. I am sure the Minister will examine Fianna Fáil's proposals, and Owen Keegan's proposals, to try to find some practical resolution.

Deputy Eoin Ó Broin: The programme for Government commits the Government to develop a coherent policy framework and strategy for the community and voluntary sector. It also commits to increasing funding levels for the community and voluntary sector to move to multi-annual funding. The sector is funded by a range of Departments, including the Department of Housing, Planning, Community and Local Government, the Department of Health, the Department of Children and Youth Affairs and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. Which Minister and Department will take the lead in developing the strategy and the move to multi-annual funding? Could the Minister also confirm when the work will start and what role the Oireachtas will have? Will he give a commitment that the community and voluntary sector will be involved in the development of the strategy?

Deputy Richard Bruton: I am sure the Government is committed to involving the community and voluntary sector in the evolution of policy in the area. As the Deputy is aware, we do have cross-cutting initiatives in rural and regional development under the remit of the Minister, Deputy Heather Humphreys. Undoubtedly, where they touch on those issues I am sure she will play a co-ordinating role.

I do not have an answer to the question of whether there is a lead responsibility in this area. As the Deputy correctly pointed out, it does span a range of Departments.

Deputy Lisa Chambers: There is a clear commitment in A Programme for a Partnership Government to equality of access to higher education in terms of supporting an increase in the number of flexible courses and opportunities available. Last week the Castlebar campus of GMIT announced the cutting of four courses at the campus, which clearly represents a loss of opportunity and access to those particular courses. The courses relate to IT, business and heritage. The announcement came at the end of many months of rumours of financial difficulty at GMIT across its four campuses. My question to the Minister is how he plans to address the funding crisis currently being experienced in third level, especially in institutes of technology. The people of Mayo are extremely concerned at the apparent downgrading of the Castlebar campus.

Deputy Richard Bruton: The Deputy raised a range of issues. There is very good progress on equality of access. More people with a disability and more people from socially disadvantaged backgrounds are getting into our higher education system but we need to do more in that area. In terms of funding higher level, for the first time this year we committed to €36 million. A funding slope upwards is committed to by the Department of Public Expenditure and Reform. We are also putting in place a working group between the Minister for Public Expenditure and Reform and me to bring forward proposals for an employer-Exchequer funding mechanism so there are a number of initiatives. In respect of the institutes of technology and Galway-Mayo Institute of Technology, I recognise that we need to ensure a strong future for the Castlebar campus and work is being done to devise a strong plan for that campus so that it can develop in the future.

Deputy Martin Ferris: Regarding the serious concerns within the Irish Greyhound Owners and Breeders Federation, when will adequate and independent testing for doping and adequate sanction for those found guilty of same be introduced? When will the implementation of the Indecon report take place? When can we expect the Greyhound Industry Bill to come before the House?

Deputy Richard Bruton: I understand that this Bill will go to parliamentary legislative scrutiny this month. I presume those issues will be addressed in the Bill.

Protection of Life During Pregnancy (Amendment) Bill 2017: First Stage

Deputy Bríd Smith: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Protection of Life During Pregnancy Act 2013.

This is a very simple Bill that seeks to amend the Protection of Life During Pregnancy Act

2013. The one sentence contained in our Bill states that:

Section 22 of the Protection of Life During Pregnancy Act 2013 is amended by the substitution of the following for subsection (2):

“(2) A person who is guilty of an offence under this section shall be liable to a fine of not more than €1.00.”.

The reason I have included this is because I strongly believe and I think there is widespread evidence that most people in this country are not aware that a 14 year sentence is contained in the 2013 legislation and can be applied to a woman or a medical practitioner who assists her in respect of obtaining an abortion in this country. That legislation also covers accessing the abortion pill. There is increasing evidence that the abortion pill is being used on a daily basis by women across this State. According to the evidence relating to Internet use, about three women per day access the abortion pill. Northern Ireland has similar legislation except that the sentence is not 14 years but a life sentence. That is the maximum sentence you can receive. Three women in Northern Ireland have been charged with accessing the abortion pill, one of whom was a mother of a 14 year old girl who found herself pregnant. The woman accessed the pill for her daughter while the other two were charged for self-aborting.

My amendment Bill seeks to do something that is fundamental to justice and equality in this State. This is to say that women should not be equated to criminals and be subject to the fear of a 14 year sentence because they tried to gain control over their fertility and lives. Whatever Deputies' views on abortion are, the criminalisation and sentencing of women to a sentence of this magnitude is totally unconscionable and unacceptable. Even after we get the result from the Citizens' Assembly and the potential for a referendum, whatever that may be, this sentence still remains on the Statute Book and can be used against women for asserting their right to something they can procure outside this State but not within it. It is a very simple Bill that tries to change that sentence to a fine of €1. One might ask why am I bothering with a fine of €1. The reason I had to include a sort of peppercorn fine was that on the two different occasions we drafted a Bill to decriminalise the procuring of an abortion and to get rid of the 14 year sentence, the parliamentary legal advice was that one could not do this as it was unconstitutional as a result of the eighth amendment. Instead, we are reducing the penalty from a sentence of 14 years to a peppercorn fine of €1.

I hope everybody in this Chamber will consider this a serious alternative to draconian legislation which is punitive on women and on women's right. International Women's Day is coming up and we could at least make a gesture to take this extremely seriously and look at alternatives. On Tuesday next, I hope to move the Second Stage of this Bill should the Deputies here allow the First Stage to go through.

People Before Profit and other groups in this Chamber believe further delaying a referendum on repealing the eighth amendment is causing much hardship to women, particularly those who face a fatal foetal abnormality and those with crisis pregnancies who leave the State or procure the abortion pill. We need to have that referendum. Even if a referendum is held, there is a 14 year sentence for procuring an abortion in this State and women and their medical practitioners may well fall foul of future legislation.

The purpose simply is to reduce the penalty to a €1 fine. Hopefully, we will debate this on Tuesday next. As I said, what really triggered the urgency behind this is that in Northern

Ireland, 80 or 90 miles up the road, three women have faced the courts because they have used the abortion pill, which is increasingly the choice women are making because it is simple and safe and if one obtains it early, it is the best way of dealing with a crisis pregnancy. I very much fear this sentence imposes a fear factor on women in this country and that it is a chill factor on medical practitioners. Reducing it to a €1 fine would be fair, decent and humane.

An Leas-Cheann Comhairle: Is the Bill opposed?

Minister for Education and Skills (Deputy Richard Bruton): No.

Question put and agreed to.

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

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

Question put and agreed to.

Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017: First Stage

Deputy Jim O'Callaghan: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Civil Liability Act 1961 to provide for the effects in civil law of the principle that a person should be precluded from benefitting from committing any homicide and the principle that no cause of action arises from one's own wrongful act, to amend the Succession Act 1965 and to provide for related matters.

This Bill seeks to ensure that a person who is convicted of murder, attempted murder or manslaughter of another person shall be precluded from taking any share in the estate of that deceased person. At present, under the Succession Act 1965, there is a general prohibition preventing persons who are guilty of murder or manslaughter from succeeding to an estate. However, it does not go far enough and it does not cover situations pertaining to joint tenancies.

Unfortunately, we have had experience in this country of persons, in particular, husbands, who have been found guilty of the murder or manslaughter of their wives. Under the joint tenancy, which they have with their wives, those husbands are entitled to inherit the estate after they have served their sentence and they can enjoy the benefits of that. There is no barrier on them inheriting the estate. Under the proposals contained in this legislation, there would be a mechanism whereby families of those deceased persons would go to court to make an application to prevent the person convicted of the offence against their family member from inheriting.

There have been two prominent cases in this regard over the past 20 years or so - one in 1998 and one approximately five or six years ago. The courts recognise that there are limited statutory rules in place in respect of this matter and for that reason, it is appropriate that this legislation should be introduced.

It is also important to point out that under the legislation there are certain exemptions given in respect of those who are convicted of manslaughter.

2 March 2017

The court can exercise discretion not to grant an order as provided for in the legislation if it believes there are good grounds for so doing. One of those grounds would be that the person who has been convicted of manslaughter is in a position of *in loco parentis* or is a parent of young children and the court believes it appropriate that they be entitled to inherit the property and remain so.

It is important to point out that the Bill also applies in circumstances where a person has not been convicted before our criminal courts of murder, manslaughter or attempted murder. However, it does allow a party to bring an application before the courts on the basis of the civil burden of proof, namely, on the balance of probabilities, and if a court believes that an individual has been responsible for the unlawful killing of an individual, the provisions in the legislation can be invoked. Clearly any such finding would involve no criminal culpability on the part of the person against whom the order was made but it recognises that there are certain circumstances when civil orders can be made, notwithstanding the fact that no criminal conviction has been found. In determining those applications, the court will be applying the burden of proof based on the civil standard, which is the balance of probabilities.

The manner by which this legislation is being introduced is that it provides for an amendment of the Civil Liability Act. That Act provides significant statutory detail in respect of the liability of wrongdoers. The proposal in respect of my legislation is that it would insert a new section after Part 3, which would be entitled Part 3A, with section 46(a) being the first of them.

This is not an original piece of work by me because it is based on a Law Reform Commission report published in the middle of 2015. The Law Reform Commission recommended that the law should be changed in order that individuals would not be in a position to benefit from joint tenancies in circumstances where they had been found guilty of criminal offences involving the death of the other individual. I ask for leave for the Bill to be introduced.

An Leas-Cheann Comhairle: Is the Bill being opposed?

Minister for Education and Skills (Deputy Richard Bruton): No.

Question put and agreed to.

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

Deputy Jim O'Callaghan: I move: "That the Bill be taken in Private Members' time".

Question put and agreed to.

Criminal Justice (Victims of Crime) Bill 2016: Second Stage (Resumed)

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

Deputy Jonathan O'Brien: I welcome the introduction of this Bill. As the Minister of State is aware, we have an obligation to transpose the victims directive into law and in order to do that we will be introducing three items of legislation, one of which is before the House now. Legislation on domestic violence currently before the Seanad is relevant to this also and,

in time, that Bill will be dealt with in this House.

The deadline for the transposition of the victims directive was November 2015. While we have not managed to transpose it yet, it is fair to say that a number of steps have been taken in preparation for that, some of which I will outline. We had the directive by the Office of the Director of Public Prosecutions to establish a new communications and victim liaison unit and to implement rights under the victims directive pending the transposition of the directive into Irish law. We also had the establishment of the protective services bureau and the Garda victim service office. We are very quick in opposition to highlight cuts to services so it is important to put on the record that this area has seen increased funding allocated by the Victims of Crime Office to victim support services. We have also seen training and other initiatives being undertaken in preparation for the transposition of this directive into Irish law.

On the issue of training, new recruits in Templemore are required to take a module in training on empathy. If they fail this, they are not allowed to pass out and they must do this module again. One question to which I have not been able to get an answer, and perhaps the Minister of State can come back to me later today or whenever he can get the answer, is whether this module is being rolled out throughout the force. I know it is being implemented for new recruits, but we have serving members of An Garda Síochána who have been there for a number of years. When they did their training in Templemore, the issue of victims' rights may not have been as important or prevalent as it is today. I do not know how much training has been undertaken by officers who have been there for many years in preparation for the directive being transposed. Perhaps this is something we can look at. I know it is an operational issue for An Garda Síochána.

I have an excellent paper produced by the Irish Human Rights and Equality Commission, IHREC, which I read last night. It highlights some of the potential - I will not say flaws - inadequacies of the Bill which, in its opinion, need to be addressed as the legislation progresses through the House to ensure the directive is transposed correctly into Irish law. I will touch on a number of points raised.

Section 2 of the Bill includes the definition of the victim, and Deputy O'Callaghan raised an issue in this regard yesterday. The definition as proposed in the Bill is "a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an offence". Section 2 also states the term extends to a family member where the death of a victim is caused directly by an offence. While we all welcome the definition, we need to be very careful it is not too restrictive. Recital 19 of the directive states a victim should enjoy that status regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the relationship between the offender and the victim. The IHREC states that to ensure the directive is transposed correctly, we should look at expanding the definition of a victim to ensure there is no doubt an individual may be considered a victim regardless of whether an offender has been identified, apprehended, prosecuted or convicted and regardless of the relationship between the offender and the victim. This is something we need to look at on Committee Stage.

The commission also discusses section 14(2)(d) of the Bill, which lists the personal characteristics of the victim which must be taken into account at the time of the assessment. The IHREC welcomes this approach but it makes some observations on section 14(2)(e) of the Bill, which relates to instances where a crime appears to have been committed with a bias or discriminatory motive. Section 14(2)(e) directly cross-references the list of personal characteristics set

out in section 14(2)(d). The IHREC recommends, and asks us as law-makers to examine, an amendment to section 14(2)(e) to clarify the basis of hate crime is not limited to the personal characteristics listed in section 14(2)(d) and may also include other characteristics.

The next section highlighted by the IHREC is section 16, which outlines the special measures which must be implemented in respect of a victim during interviews in the course of an investigation. The section includes provisions to ensure interviews are carried out in suitable premises by persons specially trained for the purposes. In the case of multiple interviews the section states the same officer should carry out the interviews where possible. In cases of sexual violence, gender-based violence or violence in a close relationship, that is domestic violence, it should be a right for the victim to be interviewed by a person of the same sex as the victim. While the Bill appears to transpose the directive's strict requirements in this regard, it states that such special measures may be implemented in respect of a victim. This should be amended, and "may" should be replaced with "shall" to remove any doubt.

The report also discusses restorative justice. When the Joint Committee on Justice and Equality held its prelegislative scrutiny of the Bill, it contained a section on restorative justice but it has been dropped from the published Bill. I am not sure why this has happened and I ask for clarification from the Minister. Restorative justice is a very important part of the process for victims. Victims want to know why somebody committed a crime against them but questions such as this cannot be addressed through the criminal justice system. We identify offenders, we apprehend them, we prosecute them and, if convicted, send them to jail or impose another penalty. That is often not enough for victims as they want to know why they were victims of a crime and that can be very difficult, especially in cases of sexual violence. They want to know whether they were targeted, if they were being followed by somebody or whether somebody was watching their home before burgling it but these questions are not answered in the course of a criminal investigation. This is where restorative justice comes in. Restorative justice exists within the State but not on a statutory footing and we should look at it. Various models of restorative justice are used throughout the world and research suggests it is very successful. There is research that suggests that, in certain types of offences, restorative justice is not successful, one being sexual and domestic violence, but restorative justice increases the rights of, and answers at least some questions for, victims of all other offences. It is important to address this on Committee Stage. If it was important enough to have a section at the time of prelegislative scrutiny, I am not sure why it has been dropped from the Bill.

In recent years there have been positive developments in victim-sensitive processes in the criminal justice area and this legislation will enhance that. Despite this, however, significant challenges remain, some relating to the under-reporting of crimes and we need to address this. Unfortunately, all the figures show that there is under-reporting of crime, particularly in cases of hate crime. There may be many reasons for this, one of which is the fact that we do not have specific legislation on hate crime. We have to address that and I know the Minister has said she will bring forward something on this issue in due course. One reason given for the under-reporting of hate crime is the perception that the offender will not be detected or the victim may not be believed. We should do everything to encourage victims of crime to report the crime because that is how we can deal with victims' rights and how we can support them. We will also be able to get data on the people engaged in hate crime or domestic violence, where there are also difficulties in reporting for many reasons such as fear, intimidation, uncertainty, the unknown and a feeling they may not be believed in situations where it is their word against that of the perpetrator. It is difficult to say how many cases of hate crime there have been because

of its significant under-reporting.

Another area we will address on Committee Stage is the case for a central point of contact for victims and for continuity of support for a person who reports a crime so that, for example, a liaison officer assigned to a victim remains the same throughout the process. This goes beyond the sentencing of an offender. Under the directive, victims will also have rights to information on release dates and on whether somebody has escaped from prison and these things are addressed in the Bill. However, expanding the definition of a victim and restorative justice are issues for us. The latter has an important role in the transposition of the directive into Irish law and I would like it to be addressed on Committee Stage. We will support the legislation, however, and look forward to its passage.

It is important to pass legislation but it is also important to ensure the resources and the necessary supports are put in place afterwards. We could formulate an implementation plan, which is not catered for in the legislation at the moment. Given the fact that we are so far behind schedule in transposing the directive into law, and that a number of initiatives have been taken in the lead-up to the legislation, it is important the process is monitored in the interests of victims and an implementation plan will enable us to do that.

Deputy Brendan Howlin: I welcome the Minister of State at the Department of Justice and Equality, Deputy David Stanton, to the debate. It will not have the same applause and attention as the announcement last night and I congratulate the Minister of State on that initiative, which was very important.

This legislation is important too. The Bill is welcome but it is belated. It originates in the EU directive that dates back to October 2012. All member states were required to transpose the victims' directive into law by 16 November 2015. As of December last, infringement proceedings had been brought against 11 member states, including Ireland, for failure to communicate on their implementation of the directive.

I do not blame the Minister for Justice and Equality or, indeed, her Department. Every Minister for Justice produces a considerable portion of legislation and, indeed, a significant chunk of the entire legislative programme of Government. The difficulty seems to be in distinguishing between what is important and what is urgent. Long-standing legislative commitments can be displaced by the need to respond immediately to current developments. That is a pattern in every Department and it is unfortunate that issues sometimes get side-tracked and do not make the progress they need to make. Bills get re-prioritised and, as I know, some Bills go backwards in the priority list. A former colleague introduced a Coroners (Amendment) Act 2005, which was accepted by the then Minister for Justice, Equality and Law Reform, Senator Michael McDowell, now a distinguished Senator, and became law. His officials were slower to agree to its implementation than the then Minister because they said they were already working on comprehensive legislative reform on the coroners' side but we did not see a coroners Bill until two years later. Ten years after that we are still waiting for a comprehensive code. In fact, the coroners Bill is not even on the legislative programme any more.

Deputy David Stanton: It is coming.

Deputy Brendan Howlin: It is coming as well, is it? It is ten years on.

I have no doubt that budgetary restraints of the past few years have impacted, but I wonder if the Minister of State thinks any institutional changes are needed to improve the flow of leg-

islation, particularly through the justice area. It is an area on which I was spokesperson many years ago, and it is an area of great demand. The volume of work coming from the Law Reform Commission together with the work being done on codification and consolidation of criminal law, all really important and welcome work, adds to the pressures on the legislative capacity of a Department. On that general issue, I would welcome hearing from the Minister of State or the Tánaiste about whether there is a restructuring, an additional support mechanism or a different way of ensuring that legislation does not get bogged down in Parliaments over more than a decade.

As I indicated, I very much welcome this legislation. It aims to implement the victims' directive and it broadly mirrors that directive, although there are, as I said and others have highlighted, some omissions we need to address. I say broadly, and will be touching on some other points later. We have the benefit of a review of the Bill by the Irish Human Rights and Equality Commission. Many of its observations are not to do with its drafting, but rather to do with the way that the Bill is to be implemented. I am thinking of the commission's observations about the need to encourage and support the reporting of crime. That is something we have to reflect on. Specifically, it refers to the reporting of hate crimes and providing assistance to victims of hate crimes. That is a category of crime that we are only now beginning to properly focus on. The commission also says that victims of sexual violence should be interviewed by a person of the same sex. That is a very simple requirement that one would think would be a matter of course in any event. More generally, it emphasises that training is essential for the professionals who are in regular contact with the victims of crime.

There is little or no point in legislating to the highest standards, as we try to do, if there is no effort to properly implement the laws that we pass. In particular, a crime victims' charter is effective only to the extent that it is actually put into practice. We are not great at that. I looked at much of the legislation that we pass ourselves. We spend enormous effort and time crafting good legislation, but making sure that it is implemented in the correct way, that the resources are there, that the training is there and that the cultural shift is put in place in some instances is a much more daunting task.

It is also depressing, if true, that this survey was only published following an instruction from the Policing Authority to senior Garda management to do so. I refer to the figures published in An Garda Síochána's own public attitudes survey. If a public attitude survey is done, it is important we actually see it. The survey involved 6,000 respondents and it showed that more than 40% of those who reported a crime to the gardaí were dissatisfied with the handling of that crime. If that is the case, it is a very worrying statistic. The Garda Assistant Commissioner, Michael O'Sullivan, agreed that some Garda members had, by their manner, alienated members of the public. He insisted that the problem could and would be addressed through training and changing the mindset. We have all spent much time focusing on the delivery of policing in this country and we have all come across minor examples of where a different way of behaving would have had a different result. I know of individual instances where issues were aggravated by a basic lack of courtesy at times and, at others, a lack of a little empathy for people who were victims of crime.

On the Irish Human Rights and Equality Commission's 12 specific recommendations which were put before us, the Minister of State could usefully respond in detail to each of those as we advance, probably more properly on Committee Stage. It makes practical proposals about measures to encourage the reporting of crime and to ensure support services are available to victims who do not make formal complaints, about minimum common inter-agency standards to facili-

tate consistency of practice, about the necessary resources and guidance to bodies, and so on. In addition, the Victims' Rights Alliance has been in contact and has made useful observations to all of us about this Bill. Two aspects of its submission strike me and I hope the Minister of State is in a position to respond positively to those two observations. I have amendments prepared which I will table to deal with them, if necessary. It points out that Article 8(2) of the directive provides, as the previous speaker said, that the gardaí shall facilitate the referral of victims to victim support services. However, section 6(8) of the Bill merely provides that a member of An Garda Síochána "may, where a victim consents, arrange for the victim to be referred to a service which provides support for victims". There are cases where a lawyer will say that the word "may" in an Act actually means "shall" and *vice versa* but I do not think this is one of them. The Bill diverges from the directive for no clear or apparent reason, by making referral discretionary rather than mandatory. The Bill would be improved, and I hope the Minister of State will agree, if it was aligned more properly and accurately with the directive in that regard. Specifically, the phrase "may, where a victim consents" should be replaced with "shall, where a victim consents or so requests".

The second point raised by the Victims' Rights Alliance is that it seems to me that there is a gap between the directive's provision about restorative justice and what the Bill contains. As the previous speaker said, the Bill is silent on restorative justice. It was in the pre-legislative scrutiny, so what happened to it? I recognise that we do not have a statutory framework for restorative justice in this jurisdiction and it is important to say the whole concept has been given a bad name on this island, given the way in which the concept of restorative justice was hijacked by some paramilitaries in Northern Ireland and by their political champions. The IRA and Sinn Féin, in particular, at a time when they were boycotting normal or formal policing, were responsible for what could only be described as a grotesque charade that masqueraded as restorative justice. This sometimes involved - we know the individual cases - hauling the victim of the most serious cases, including very serious sexual abuse cases, to face the perpetrators of the crimes against them. We have heard some of the evidence or testimony in public, and one can imagine how damaging it could be when people, victims of crime, were brought to dark back rooms and, in that menacing environment, were asked to face the people they knew had perpetrated the crime against them. That is not any concept of restorative justice that any of us could decently accept. The great majority of political parties and right-thinking citizens want nothing to do with that concept. Nonetheless we had an ad-hoc, non-statutory restorative justice programme operating on a pilot basis in this jurisdiction. It was run by the Probation Service and involved parties meeting in a supervised setting to discuss the effects of crime on a victim. From my understanding of it, that pilot programme was quite successful.

The EU directive does presume some sort of restorative justice system. Article 4(1)(j) asserts that victims must be informed, on first contact with the gardaí, of the available restorative justice services. Article 12 provides that "Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services." That is obviously a critical point. It would be a cruelty indeed if the notion of restorative justice was actually to further traumatise the victim and to exacerbate the damage done. That would be wholly and entirely unacceptable. We need to think very carefully about how this system could work, but it is one that has worked well in other jurisdictions.

The Department's own strategic review of penal policy was, as the Minister is aware, published in 2014. It acknowledged that the victim's directive promotes the appropriate use of

2 March 2017

restorative justice services, which is in line with the existing delivery of such services in this State. That is what it says. In addition, sections 26 and 28 of the Children Act, 2001 invite victims to be involved in a conference convened by a probation and welfare officer. That in and of itself is a form of restorative justice.

In this light, it seems to me mistaken that the right to access information on restorative justice and the right to safeguards on the use of restorative justice are not included in the Bill. Perhaps, in his summation of Second Stage, the Minister might explain why that is the case and whether there is to be a separate set of proposals coming in or other legislative measures to deal with this area. He might say whether it is not advanced, prepared or developed enough or if it is a resource issue. Whatever it is, it is an area in which many in this House have had an interest over time and I would be interested in hearing the official Departmental perspective on it. The failure to include restorative justice safeguards would seem to me to be a breach of our obligations under the victims' directive, as victims are engaged in these services regardless of a lack of statutory provision for such a scheme. I hope the Minister will respond on these points, specifically to see if we can craft amendments, either from the Opposition benches or from the Government, on these points before we get to Committee Stage.

A final point, raised by the Irish Human Rights and Equality Commission, IHREC, is a practical one. It relates to the need for a workable complaint mechanism involving a single contact point for victims to register a complaint about their treatment in the criminal justice system. A single contact point. This, IHREC points out, would assist in securing greater transparency, greater consistency and foreseeability of treatment in respect of victims of crime. I would be slow to recommend the establishment of victims of crime ombudsman. That does exist in some jurisdictions. It is effective elsewhere but I think we have a plethora now, particularly in the justice area. I would again be interested in hearing the views of the Minister in respect of where we could site such a contact point. Perhaps a one-stop shop could be developed under the auspices of GSOC or some other existing institution that might be expanded to include this one-stop contact point envisaged by the Human Rights and Equality Commission. Its point on this is very fair. It would also deal with consistency of treatment, which is really very important for us. We must learn consistently from the experiences of individual victims of crime.

I am advised that the success of the Federal Ombudsman for Victims of Crime in Canada, for example, illustrates the effectiveness of a formal model of this kind. Without such support victims may be left with no option other than to bring their complaint to a court, which is of no benefit to either the victim or the State if there is an alternative way of dealing with it.

These are the points I wanted to raise. I welcome the Bill and its arrival in the House. I look forward to hearing what the Minister has to say at the conclusion of Second Stage. With regard to the points I have raised, I will table amendments to address what I regard as either lacunae in the Bill as published or improvements that could be made.

Deputy Ruth Coppinger: The Criminal Justice (Victims of Crime) Bill 2016 is to be welcomed because it marks a shift in culture in our legal system. Ireland has a very adversarial system where the focus is on the prosecution and defence of the accused. Victims have often been considered as merely witnesses to a crime and not victims who are also witnesses. The experience they face by reporting crimes and being witnesses in court has not been a major consideration of the legal system in the past. There are welcome changes in the Bill. Victims, for example, will now be given information on first contact with the authorities, they will have a right to information on why a prosecution was not advanced by the Director of Public Prosecu-

tions or the gardaí. We saw this issue arising in, for example, the O'Higgins commission in respect of the way some of the victims were treated in those case studies in the Cavan - Monaghan district. They were kept completely out of the loop as to what was going on. In one case the woman's husband received a phone call when she herself did not. I think it is absolutely critical that is done.

The Bill also provides for protection measures, if required, to protect victims when an alleged offence is being investigated. There will be victim personal statements, which can be considered by a judge at sentencing. Victims can be also accompanied by another person, including a legal representative or somebody else, at an interview. This will be of major practical assistance to victims coming forward when reporting a crime is difficult for them. There also will be changes to court procedure such as giving evidence by video link or exclusion of the public during sensitive evidence. Victims will also have access to interpretation and translation as a right, which is very important giving the growing diversity of population we have. In our courts there are also meant to be separate waiting areas for victims. This is recognised in the Bill.

The Victims' Rights Alliance conducted a survey. It showed that 72% of victims feel re-victimised by the justice system. Many are unwilling to come forward due to the traumatic experience they feel they have had to relive. It is essential that the gardaí and the courts are able to minimise the difficulties that victims face when coming forward to report a crime. The area of intimate partner violence is one that requires particular attention in the debate we will have on this Bill. We know that in most incidents of serious physical and sexual violence from a partner the victim does not come forward and the crime is never reported. Most victims do not prosecute the crime. For example, Safe Ireland told the Joint Committee on Justice and Equality during pre-legislative scrutiny on the Bill that 79%, an incredibly high figure, do not tell anybody else about a serious physical or sexual violence when it is carried out by a partner. One in three women experience serious psychological violence from a partner, which is 500,000 women in Ireland according to the Safe Ireland report. The Sexual Abuse and Violence in Ireland, SAVI, report showed that 10% of women and 3% of men have been victims of rape.

According to the Rotunda Hospital, one in eight pregnant women face abuse and 25% of all violent crime involves men attacking a partner. One in seven women and one in 17 men face domestic abuse. Women are seven times more likely to be the victims of sexual violence. These statistics show that in Irish society, as is the case in other countries, sexist and misogynistic attitudes exist which lead to serious crime, but also that there are flaws in the legal system.

The prevalence of intimate partner violence is not reflected in prosecutions in court. Many of the provisions of the Bill will, therefore, be welcome for the victims of domestic violence. The welcome provisions include the ability to have a person accompanying one during the reporting process, the ability to give evidence by video link and the ability of the court to have members of the public step out when sensitive evidence is being given. There is a need for other changes in the law to assist victims, such as greater access to emergency barring orders, which cannot currently be granted outside court sitting times. Violence does not take place solely during court sitting times, and a facility must be set up to deal with that fact.

Women's Aid has demanded that barring orders be accessible to non-married and non-cohabiting couples. Violence is carried out by boyfriends, girlfriends or past partners, but a barring order cannot be granted unless people are in married or cohabiting relationships, which is a serious flaw in the legislation.

2 March 2017

Section 20 makes some provision for a restriction on asking questions in court about a victim's private life, an important provision that requires particular attention. We have a victim blaming culture in our society, whereby victims of sexual assault, in particular, are questioned about what they were wearing and where they were, and judged as to whether they led a person on. We should be very clear that the cause of rape and sexual assault are rapists and not their victims. This matter deserves more attention when we are drafting amendments.

The right of an accused person to have people giving evidence in a trial be cross-examined is another area that needs to be examined. The Victims' Rights Alliance made the point to the Joint Committee on Justice and Equality that an accused person does not have an unlimited right to cross-examine a witness and that the rights of victims also have to be considered. Somebody has to be able to put up a defence and have a witness cross-examined, but not on irrelevant information such as previous sexual partners or personal life, neither of which should have any bearing on a legal case. I would like section 20 to be considered by the Select Committee on Justice and Equality on Committee Stage to make sure the defence no longer has the right or ability to cross-examine a witness on his or her private life.

In the sexual offences Bill that has been passed by both Houses, a definition of consent was included which was very important. There is a need to increase awareness of sexual consent and tackle any backwards views that exist in society around us. Legislation on its own is pointless and ineffective unless it is backed up with resources. There has to be a discussion on how we can give victims much more ability to prosecute and have a better life in general.

The experience of victims is not just about legal rights and procedures with the Garda or the courts, important as they are. It also happens in the context of resources being made available. Domestic violence is a recurrent reason for women in my constituency contacting me about housing problems. Those facing violence in the home are unable to leave due to the serious housing crisis. Rents are too high and it is impossible for a single person to rent a home, in particular if that person has children and is unable to work full-time.

Council waiting lists are very long and it is not possible for a person leaving an abusive partner to secure a home through his or her local authority. In 2015, 5,917 people were turned away from women's refuges, a rise of over 1,000 on the previous year. Every day 16 women are unable to access refuges. There is a 20-week waiting list for a hearing for a safety order, and something has to be done to tackle that. Free legal aid fees rose from €50 to €130, which is a serious deterrent for the poorest in our society being able to get proper legal advice regarding their situation.

There is a shocking lack of support services for child victims in this country. The ISPCC outlined that it provides therapeutic services to 500 children. However, waiting times for child psychologists are at least six months to a year. When a child is in distress that is simply unacceptable. The Children's Rights Alliance told the Joint Committee on Justice and Equality that there is no free counselling for child victims in murder cases, for example. Children At Risk in Ireland, CARI, outlined that there are long waiting lists for child victims of sexual abuse. Those aged under 14 years have only one State service, based in Galway. Services offered to those aged over 14 depend on geography and where the victim lives. Like any legal reform, there is a need for resources to make these legal reforms more than just an abstract change that produces nothing in reality.

I am concerned that the requirement in the directive that people who have contact with vic-

tims receive training is not included in the Bill. It is a serious problem if the first contact with the Garda, the Judiciary or other services involves people who have not been trained properly. We have all heard anecdotal evidence from people with whom we deal who are unhappy with the manner of their first and other encounters. We have an opportunity to underpin training requirements in the Bill, something that the Minister should consider.

Deputy Thomas P. Broughan: I commend and congratulate the Minister of State, Deputy David Stanton, on the historic announcement yesterday regarding the recognition of ethnicity for our Traveller community. I note that, as the Taoiseach stressed in his speech, it does not have implications in terms of constitutional rights, other rights to resources and so on. I hope that the spirit of what was achieved yesterday will ensure that the necessary resources in terms of housing, education, training and so on are provided. That would be the measure of the announcement. The career of the Minister of State encompasses the same period as mine. It is good to see a very positive step forward.

I would also like to thank the Oireachtas library and research service for its excellent briefing on this Bill and my colleagues who helped me. I am delighted to have the opportunity to speak briefly on the Bill. It is long overdue and is required in order to transpose EU Directive 2012/29/EU. It will replace Council Framework Decision 2001/220/JHA and amend the Criminal Evidence Act 1998, the Criminal Justice Act 1993 and the Courts Service Act 1998.

The Bill is approximately 16 months overdue. It is interesting to note that 11 member states have been reprimanded for lengthy delays in moving on the required legislation. Victims will finally now have legally enforceable rights, which is the core of what we are discussing today. Maria McDonald of the Victims' Rights Alliance said:

[F]or the first time victims will have rights and for the first time they will be able to go to court to protect those rights. We've had a Victim's Charter in this country since 2010 but it [had] no legal force. This [now] has legal force.

I also recall the former General Secretary of the Association of Garda Sergeants and Inspectors and former presidential candidate, Mr. Derek Nally, who deserves a mention for all the work he, his friends and colleagues, including many other members of An Garda Síochána, undertook to provide for victims of crime. He founded the Federation for Victim Assistance in 2005 along with Ms Mairead Fernane. Many other organisations have long done, and continue to do, great support and advocacy work for victims including One in Four, the Rape Crisis Centre, Women's Aid and Support after Homicide. The Victims of Crime Office has received small increases in funding over the past couple of years with an additional €250,000 announced in budget 2017, which is welcome, but approximately 50 organisations are to receive funding from the total that is available, meaning it is spread thinly. Likewise, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, COSC, also received additional modest increases in funding.

Part 2 of this comprehensive Bill relates to information. This was a key concern for Deputies over the years. It is hoped that this will begin to address the worrying inconsistencies and failings of the system and An Garda Síochána in providing timely information to victims. The 2014 report by the Garda Inspectorate raised the kind of issues that we would have heard repeatedly over the years, including victims finding it difficult to contact the investigating garda due to changing shifts. Victims would ring a Garda station to find the investigating garda was not available and no one else was able to help them. Calls were not returned and appointments

were not kept. People were not aware of the PULSE number that was allocated to an alleged crime. On many occasions there was no follow-up contact and victims sometimes learned of the outcome of their case in the courts section of the local newspaper. These are the kind of information concerns that we all would have had to grapple with down through the years. It certainly seems, therefore, common sense that information about where to get support, the status of an investigation or court case, reasons not to prosecute and outcomes of court cases would naturally be offered and provided to victims of crime. As I stated, unfortunately the performance in the past has varied greatly throughout the country and victims have often felt desperately frustrated.

Victims' satisfaction on how gardaí are engaging with them often differs depending on the type of crime involved with those who are victims of heinous crimes such as domestic violence and sexual assault sadly reporting lower levels of satisfaction than those who are victims of burglaries for example. When discussing the Criminal Law (Sexual Offences) Bill recently, our colleague, Deputy Shortall, called for the provision in that Bill for those under 18 years of age to give evidence from behind a screen to be extended to everyone. I welcome such provisions in section 14 of the Bill before us today. This allows for the identification of special protection needs and special measures to be extended to certain victims. Given the clear evidence of serious intimidation of witnesses and victims in the past, section 19, which provides for the exclusion of the public at the discretion of the court, is also a valuable step forward.

Most important, we now have a statutory definition of the word "victim" and a Bill that gives rights to victims, including rights to information, support and protection. For these reasons, I welcome the Bill. A victim is defined as "a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an offence" and it will also extend to a family member should the victim have died because of the offence, except where the family member concerned may be implicated in the cause of death. The Irish Human Rights and Equality Commission, IHREC, in its review of the legislation recommended that the definition of victim should be expanded to be fully in line with the directive so that "an individual may be considered a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the relationship between the offender and the victim".

Over the years, I have been contacted by many victims of crime who felt let down badly by the system. They faced problems with lack of information, communication with the investigating garda and feedback. Long periods of time have often ensued between forensic and other investigations by An Garda Síochána and any information on the conclusion of the investigation. Constituents have also raised grave concerns around the decisions of the DPP, particularly when the decision was not to prosecute. All of these demonstrate why the Bill is so badly needed but they also reinforce the need for improved training and resources. It is interesting that training and the additional resources it is hoped that the Minister of State will provide were raised repeatedly in the earlier debate. Perhaps this could be addressed in the amendments on Committee Stage.

I welcome section 27 which provides for the right to make a victim impact statement by amending section 5 of the Criminal Justice Act 1993. Victims' voices are the most important in appropriately dealing with crimes and deciding on outcomes. Section 6(1) provides for the information to be given to victims upon first contact with An Garda Síochána or GSOC. Section 6(1)(e) notes that it will include information on "the role of the victim in the criminal justice process". As we know, Ireland has an adversarial criminal justice process meaning that

the main role of the victim was historically regarded as prosecution's witness because the State takes the case if a decision is made to prosecute. Section 6(3)(a) states that information should be provided "as soon as practicable" but the Minister might consider changing the wording on Committee Stage to something such as "without unnecessary delay", as was recommended by the Rape Crisis Network Ireland in its observations on the Bill.

Another important point is one made by IHREC about the various agencies victims will be liaising with throughout the process. IHREC recommends that there should be a minimum standard set regarding the manner and timeframe around communication with victims to ensure consistency across agencies. In recent years, we have noticed the lengthy periods during which crimes are investigated and go through the court process. I was reviewing statistics on the criminal courts in other jurisdictions such as the Ministry of Justice's statistics bulletin for England and Wales. It appears to be a much faster process in many cases than our system. I am obviously moving beyond the territory of this Bill, but this is something that frustrates victims greatly. Justice delayed is justice denied. This year, we will often read about decisions made on crimes that took place in 2015 or earlier. It seems to be an endemic feature of our legal system that justice is so slow and cumbersome and we need to address it. Many people have noted that civil law jurisdictions, in particular, seem to have a much faster process of carrying out an investigation and proceeding through their court systems. These are bigger questions about how to proceed in the future. It is often said, for example, that we did not really change our legal system at all in 1916 or 1922 and that all of those who were in the British system before 1916 just morphed into the Free State system afterwards, with all its old English traditions. Whereas the English court system may have been greatly modernised in many respects, our own system still has a lot of cumbersome and slow features, which frustrates victims. I know that goes beyond this Bill, but perhaps we need to deal with it.

Section 7(2)(c) provides for information to be given to victims if a decision is reached "not to proceed with, or to discontinue, the investigation" and section 2(d)(ii) provides for the victim's right to review such a decision.

The concept of reviewing a decision by the Director of Public Prosecutions addresses another element of the dissatisfaction frequently felt by victims.

The Garda Síochána Ombudsman Commission, GSOC, is another agency which may be involved and may run the investigation given that victims may contact GSOC first. Following the wide-ranging debate in the House last week on the establishment of a tribunal of inquiry into protected disclosures, we must review and strengthen the independent and investigative roles of GSOC, the Garda Inspectorate and the Policing Authority.

While the Bill states no funding is required, increased resources will need to be made available to all agencies involved in the proper execution of the rights bestowed on victims by the Bill. There is no point inserting in legislation phrases that sound great and in that connection I refer again to the step forward we made in the House last night. Victims' rights must be backed up with necessary supports, including upgrading information technology infrastructure for the Garda and Courts Service. Many complaints have been made regarding the flow of information between the PULSE system, the Road Safety Authority and the national vehicle driver file in respect of fatal road traffic accidents. Substantial resources are required in this area. In October 2016, the Victims Rights Alliance and Irish Council for Civil Liberties, ICCL, began the process of identifying additional training that will be required for lawyers for the implementation of this directive. I welcome news that the European Commission is funding this project, which

will also include other jurisdictions in the European Union.

Why will legally enforceable rights only be applied to criminal proceedings that begin after commencement of the Bill? Given the length of time involved in many criminal proceedings, surely most aspects of the Bill could be applied immediately upon commencement.

The Rape Crisis Network Ireland recommends that a victims ombudsman's office be established to ensure all the Bill's provisions are adhered to. A previous speaker referred to the plethora of bodies we have in the justice area. Perhaps the victims ombudsman function could be performed by one or other of the existing agencies.

The Irish Human Rights and Equality Commission, IHREC, cited a worrying statistic which highlights that Ireland is letting down victims of crime, particularly those most at risk of repeat victimisation. Deputy Ruth Coppinger raised this issue in connection with serious sexual assault cases, domestic violence in all its forms and people who have left home because their lives have been threatened. Most Deputies have encountered cases involving homeless women who fear for their lives because they have violent partners. IHREC's submission on the Bill states that "Ireland is not currently fulfilling the minimum requirement to provide shelters or appropriate interim accommodation 'for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation', with reports in 2016 of 4,831 unmet requests for emergency accommodation." This issue is also within the remit of the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, whom I have repeatedly asked to declare a housing emergency along the lines of the banking emergency and take whatever steps are necessary to address this statistic. Even in recent weeks, I have been contacted by people who are desperately seeking emergency accommodation, in part on the grounds set out by the IHREC. Legislation on repeat victimisation needs to be strengthened and the issue of emergency accommodation needs to be addressed.

I also note the submission made by the Irish Penal Reform Trust on the importance of restorative justice. I echo the disappointment expressed by previous speakers regarding the omission from the Bill of head 28, which would have placed adult restorative justice practices on a statutory footing. I ask the Minister to explain the reasons for the exclusion of this head. The National Commission on Restorative Justice defines restorative justice as "a victim-sensitive response to criminal offending, which, through engagement with those affected by crime, aims to make amends for the harm that has been caused to victims and communities and which facilitates offender rehabilitation and integration into society." The Irish Penal Reform Trust's submission references the Le Chéile annual report of 2013, *Building Bridges*, which showed an average 22% increase in victim empathy levels after restorative justice interventions and noted that 100% of victims and offenders felt "their voices were heard throughout the process". We must develop a process of restorative justice and I ask the Minister to consider this before Committee Stage.

Paragraph 12 of the directive includes the statement that "the rights set out in this Directive are without prejudice to the rights of the offender. The term 'offender' refers to a person who has been convicted of a crime." It is important to note that offenders, while imprisoned, may also be victims of crime and may constitute vulnerable persons. As such, they would also have rights under the Bill.

I pay tribute to the organisations that have worked hard over the years on behalf of victims. I commend the great work of the civil society group Promoting Awareness, Responsibility and

Care on our Roads, PARC, which is led by Ms Susan Gray. PARC produced and disseminated an excellent information guide entitled Finding Your Way, which is shared on An Garda Síochána's website. This free information guide for families of victims of fatal and serious road traffic collisions recently received the "highly commended" accolade at the National Adult Literacy Agency, NALA, plain English awards 2016. The Garda Commissioner, Nóirín O'Sullivan, instructed Garda family liaison officers to distribute Finding Your Way to families bereaved as a result of road traffic collisions. The guide sets out the rights available to families and is exactly the type of tailored, crime specific information the directive requires to be provided to victims of crime.

I generally welcome the Bill. However, my colleagues, Deputies Clare Daly and Mick Wallace, will try to make improvements on Committee Stage when they address some of the points I have raised.

Debate adjourned.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Martin Kenny - payment delays under the GLAS and AEOS schemes; (2) Deputy Brendan Griffin - the need for progress on cystic fibrosis drugs, Orkambi and Kalydeco; (3) Deputy Carol Nolan - the *ex gratia* scheme of compensation for school sex abuse survivors; (4) Deputy Thomas Pringle - the south Donegal CAMHS consultant psychiatrist post; (5) Deputy Bernard J. Durkan - funding to the Moat Club, Naas, County Kildare; (6) Deputies Brian Stanley and Bríd Smith - threatened industrial action at Bus Éireann; (7) Deputy David Cullinane - implementation of the Herity report into cardiac services at University Hospital Waterford; (8) Deputy Noel Rock - the appointment of two clinical nurses for the Finglas addiction support team; (9) Deputy Fiona O'Loughlin - employees' concerns at the Bord na Móna plant in Kilberry; (10) Deputy Declan Breathnach - the regulation of mobile telephone service providers; (11) Deputies Mattie McGrath and Kathleen Funchion - the closure of the Clonmel to Dublin Bus Éireann route; (12) Deputy Donnchadh Ó Laoghaire - the site of the last Magdalen laundry on Sean McDermott Street, Dublin; (13) Deputy Eoin Ó Broin - the need for occupational therapists in the Health Service Executive community health organisation area 7; (14) Deputy Mick Wallace - the reported meeting with Cerberus on 31 March 2014; (15) Deputy Eugene Murphy - safety concerns with the N5 national primary route; and (16) Deputy Robert Troy - the revaluation process and commercial rates.

The matters raised by Deputies Martin Kenny, Noel Rock, Eoin Ó Broin and Robert Troy have been selected for discussion.

Criminal Justice (Victims of Crime) Bill 2016: Second Stage (Resumed)

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

Deputy Mattie McGrath: I am pleased to speak on the long-awaited Criminal Justice (Victims of Crime) Bill 2016. With many Bills coming through the Houses in recent times, I know

it is not easy for Ministers. The victim must be at the centre of all programmes, whether they involve rehabilitation or restorative justice, because many victims have been sidelined.

Reference was made to the failure to reform the courts system when we got our country back from the British. The courts system is archaic and outdated. I was down at the courts on Tuesday morning. With respect to my learned colleague, Deputy Jim O'Callaghan, to see barristers and judges in their fine robes and head gear is intimidating. The Minister should visit the courts or send her officials down to them to listen to proceedings. I was in courtroom No. 6 and we could not hear what was being said because the court was packed, with people standing everywhere. The crowd thinned out a little later. It was impossible to hear what was being said. Justice delayed is justice denied and justice unheard is not justice at all. It is difficult to hear what the learned men and women, the justices, the clerks and so on are saying. While these people do important work in terms of serving the justice system of the State, they are in a little bubble of their own. In saying that I am not being critical of judges, but of the audio system in the courts. It needs to be upgraded to the type of system we have in this House to allow what the judges and so on are saying to be heard. I recently accompanied people to the courts in respect of a civil case. We had to rely on the interpretation of lawyers in regard to what was happening because we could not hear what was said in the court. This is a problem in most courthouses, including in my area in Tipperary. There are also judges who speak in a low voice. I cannot say that is true of myself, or that I cannot be heard. There are people who speak so low one cannot understand what they are saying, particularly people who are nervous, frightened and apprehensive during an appearance before the court which might be their first experience in that regard. That needs to be looked at too.

The main purpose of the Bill is to transpose into Irish law an EU directive establishing minimum standards on the rights, support and protection of victims of crime. The adage, prevention is better than cure, is true. We all learned that from parents and grandparents. I agree that the best thing we can do for victims of crime is prevent the reoccurrence of crime. In this regard, we need to put in place a sufficiently robust Garda Force that does not fall below the recommended minimum of 13,000. The lack of Garda visibility, vehicles and equipment has been a huge problem since the recession. Gardaí have been left high and dry. This time two years ago I met a garda in a Garda station shortly after a storm. He did not have a working mobile phone or a computer on which to access PULSE. When I met him again he told me that he went home early that day because owing to a lack of resources there was nothing for him to do in the station. Many rural Garda stations have been closed. Without the necessary and up to date equipment and tools of the trade, including access to PULSE, gardaí in the stations that remain open will not be able to do their job. Many Garda stations do not even have the facilities to make a cup of tea. The health and safety interests of An Garda Síochána are not being looked after.

The Department of Justice and Equality has outlined the main rights that will flow from this Bill. We have a lot of legislation in this area. I look forward to this Bill progressing through the Houses and to engaging further on it with the Minister on Committee Stage. We regularly pass legislation with great gusto only to find at a later date that it has not been enacted or implemented. There is a failure to get our house in order and our ducks in a row in terms of having legislation enacted and implemented. It has been mentioned by others that the legislative process is too slow and that is affecting the speedy enactment of legislation. It was suggested that following First Stage of a Bill some aspects of it could be implemented or that that idea at least be explored. I am a huge believer in restorative justice. The restorative justice programme in Nenagh, north Tipperary, which operated on a pilot basis, worked very well and it needs to be

expanded.

The right to receive comprehensive information on the criminal justice system and the role of An Garda Síochána within it, and the range of services and entitlements victims may access following on from their first contact with the Garda Síochána is a huge grey area. This is particularly important in the case of people traumatised by a crime, particularly sexual or domestic crime. Often this will be their first contact with An Garda Síochána and they are out of chartered waters and they are devastated and feel violated by the crime committed, particularly if it occurred in the home. The first point of contact with the Garda Síochána will be very important for them. One can wait a long time in rural Ireland to meet a garda, particularly in a non-emergency situation. It is important that a victim is given the number and name of the garda handling a case and that he or she has an opportunity to build up a relationship with that garda. However, when it comes to further contact and feedback this is often very difficult because of rostering arrangements, particularly in rural areas, because gardaí are regularly deployed to urban centres to augment shortages there. This means that if a victim contacts a Garda station the garda on duty may not know the details of a situation and he or she either has to repeat them again or wait until another time to see the relevant garda. In this regard, a victim may often be told that the garda will be on duty on, say, Monday night at 8 p.m. but then a situation arises, for example, he or she is required to be in court or is attending an incident, and the victim has to call back another time. There is no joined up thinking or appreciation of the isolation and devastation caused to victims of crime when it comes to their dealings with the State. Their first engagement is often the most vital. How they are dealt with on that occasion will either put them off further engagement or assure them they are people who will defend and support them and deal sensitively with their issues. We also need balance in terms of male and female garda numbers, so that each can swap and take over from each other where the need arises.

I too recall the work of the late Derek Nally. While there are a number of listening and support services in place they are operating on a shoestring. Many of them are run by volunteers, who I acknowledge are trained volunteers and Garda vetted, which is very important. Above all, they are qualified to listen. They may not be qualified to take appropriate actions but they are qualified to refer people to the relevant professionals. As we all know, to be ag éisteacht - to listen, is very important. Many of the people I meet - I am sure the same applies to the Minister of State, Deputy Stanton, and others - are often better for my having listened to their story. When people are listened to and engaged with they feel more confident and they often then do not need any further help. This type of support is very important, as is the support of An Garda Síochána. As I said many of these support services are voluntary, volunteer-led and they need to be properly resourced. These groups and organisations are not sufficiently supported or recognised for what they do. I acknowledge that in many cases they cannot be recognised because their services are anonymous. There is one such service in my own village in Tipperary which provides a listening ear for older people. It is an exemplary service. I salute the volunteers who provide that service on a weekly basis. They are very understanding. As I said, these services are held behind closed doors and the staff are sufficiently trained to refer people in need of care to the right professionals. They have a very good relationship with their clients and the groups to whom they refer them. We need more supports for these services.

Another issue addressed in this Bill is the right of receipt of a written acknowledgement of the making of a complaint by a victim. One would think there would be no requirement for this to be included in this legislation. It is vital that victims are provided with a written acknowledgement of their complaint. I have had experience in this regard. I once sought the assistance

of a garda at a 24-hour Garda station. I was told I had not made contact with the station even though I had done so twice and that annoyed me. I sought my telephone records from Eircom at the time and they showed that I had not made any calls to the Garda station, including on the day I first made contact with the station. Despite that this was a 24-hour Garda station, the record showed no record of a call back from the station. This happened during a time when we did not have access to mobile phones and when calls were always made from a home telephone. The records showed no telephone calls to or from my house over three days. Thankfully, two or three days later, unsolicited, the proper records arrived. While most of the information was the same they also showed a list of calls made on the three days in question. As I said, the first set showed no record of any calls having been made on the days in question. There was fun and games going on. This is not the type of game that should be upheld by the justice system. It is obvious the records were inferred with. Thankfully, as I said, the second set of records proved that I had made telephone contact with the Garda station. We all know that calls to Garda stations are recorded and have been recorded for some decades now. This is done separate from the people on either end of the call.

The written acknowledgement is very important for a victim, even if it is only so he or she can keep it in their wallet, pocket and so on. It is evidence that he or she made a complaint. The victim also has a right to be provided with information concerning the progress of the investigation and any court proceedings. As things stand, arrangements in this regard are abysmal. In saying that, I am not criticising the Garda Síochána but the system. The whole process takes far too long and one has no idea what needs to be sent to the DPP or when to send it. In my own case, 13 statements were provided but only five actually went to the DPP's office. The other eight, incidentally, were supporting my side of the argument. That is disgusting and it should not happen. Under the current system, victims have no idea what the DPP has received or not received and the whole process is conducted under a cloud of secrecy.

The Bill includes measures for ensuring victims are updated about court proceedings. I have already said that courtrooms should be made more comfortable and more receptive to the needs of people who are, for examples, victims of domestic violence or sexual abuse. Indeed, I have argued on previous occasions that the proceedings in such cases should be held in another location. That location should constitute a court of law, certainly, with full access for the media and the public, but the current environment is too formal and lends itself too easily to a situation where the victim of a crime may be intimidated by the perpetrator or persons associated with the perpetrator. The Bill will provide for the right of victims to be informed of any decision not to institute a prosecution in regard to an offence committed against them and the right to request a review of that decision. As it stands, people are not given any information on the progress of a complaint and have to telephone or write to the DPP's office or ask their solicitor to find out. Where a decision is taken not to prosecute, no explanation is given of the rationale for that decision and there is no opportunity for the victim to ask questions. He or she will not be told what information was sent, or not sent, by the Garda to the DPP's office, or which, if any, information was rejected. That is a huge grey area and this Bill goes some way to address it.

The right to receive information on the temporary release or escape from custody of an offender who is serving sentence for an offence committed against the victim is a very important right. In fact, it is bizarre that such information is not already provided as a matter of course. I have spoken to people who encountered on the street the person who perpetrated a crime against them. It was very traumatic for them. For too long the well-being and concerns of the victim, the person who was violated, have not been afforded sufficient attention. We must en-

sure the welfare of victims is placed front and centre of the proceedings.

The Bill includes a provision on the right of victims to receive information in clear and concise language and to have access to interpretation and translation services where such are necessary. This is vital to ensure victims understand what is happening and can make themselves understood in their dealings with the criminal justice process. Solicitors usually do their best for their clients but often use legal jargon which ordinary people do not understand. Information should not just be rattled off and the victim left to take it or leave it. It is important that people understand exactly what is happening when it comes to matters of such import to their lives and well-being.

The Bill further provides that each victim will be individually assessed so that any special measure necessary to protect him or her from secondary and repeat victimisation are implemented. I alluded to this already. There should be no opportunity for intimidation of the victim, subtle or otherwise. The growth of social media and advances in technology have brought many new ways of contacting people and invading their privacy. Special measures during investigations may include advice on personal safety, including safety orders and-or barring orders, applications to remand the alleged offender in custody or seek conditions on the granting of bail, and requests that interviews be carried out in appropriate premises by specially trained persons and, in the case of sexual or gender-based violence, by a person of the same sex as the victim. I mentioned already that we now have many excellent female officers in the Garda Síochána. These types of measures should be standard practice and we must work to develop the progress that has already been made.

Provision is made in the Bill for the extension of the right to give evidence - by live television link or from behind a screen - to all victims who would benefit from such measures. This is particularly welcome. We should not oblige victims to be in the same room or otherwise physically close to the perpetrator of a crime against them, particularly where that crime is an especially heinous one. We will have to wait for the enactment of the legislation but we must up our game in this regard in the meantime.

There is a need for a broader awareness by the State and its agencies of the needs of vulnerable persons, including refugees, victims of domestic violence and the elderly. We should bear in mind, for example, the needs of those refugees who will be coming to Ireland from Syria and elsewhere in the coming months and years. Local authorities are not training their staff to deal with people in those types of traumatic and devastating circumstances. They have neither the resources nor the accommodation to cope with their needs. Cuan Saor in Clonmel is a women and children refuge centre which does Trojan work on a shoestring budget. It receives very little support from the State and is largely reliant on fund-raising by the public. The staff often have to take in women and children in the dead of night who have had to be removed from their homes by the Garda. My Vulnerable Persons Bill seeks specifically to protect older people from financial abuse. There is huge evidence of that type of thing going on, where vulnerable elderly people trust somebody, often a family member, to do their business transactions for them only to have that trust abused. The situation has got much worse since the onset of the recession. It is shocking that people who are seen as a soft touch are being abused in this way. Unfortunately, my Bill seems to be stuck at the bottom of the pile and I cannot get it progressed.

I very much welcome the provision in the Bill before us this afternoon to extend the right of victims to provide a victim impact statement. Other welcome measures are those which seek to ensure the particular vulnerability of child victims is recognised. Where a specific need to

protect the victim is identified, the Bill provides that a court may exclude the public from proceedings and restrict questioning regarding the victim's private life. Family law cases are often held *in camera*, which is important, and these measures provide further protections for children and their families.

Overall, I welcome the Bill, but I want to know when it will be enacted once it has completed its passage through the Dáil and Seanad. We need to come into the 21st century in our dealings with victims of domestic violence and sexual offences, in particular, and take measures to manage the intrusiveness of the media. I conclude by highlighting that there is a problem with the holding of inquests, which is a matter for separate legislation. Inquests should be taken out of the courtroom setting completely, particularly in the case of the traumatised family of suicide victims. Some years ago a family I knew lost a young man who took his own life by going under a train. The train driver had to come in to the inquest to give his testimony and it was very traumatic for the young man's mother and other family members. The local media reported the proceedings line by line, with all the nitty-gritty, the awfulness of what happened and the devastating consequences. Those types of inquests should be conducted in hotels or other locations with a more comfortable ambience. The court setting is totally unsuitable. As I said, there should, in addition, be some restrictions on court reporting of such cases.

Deputy Róisín Shortall: This Bill represents a welcome step towards finally transposing the victims directive into Irish law. Establishing minimum standards regarding the rights of victims and their entitlement to protection and support is an important element of the State's obligations to the victims of crime. I am grateful that several issues which were raised during the course of the debate on the sexual offences legislation have been provided for in this Bill.

The establishment of a communications and victim liaison unit within the DPP is a welcome development. There are several questions around the role of the DPP to which we do not receive satisfactory answers. It is often impossible for victims and others to understand why the DPP's office has not proceeded with a prosecution. While recognising the clear need to ensure an obvious separation of powers, accountability is important and there is a concern about a lack of accountability on the part of the DPP.

When examining the details of the Grace case during the week, I noted that the Garda had carried out a number of investigations down the years. It referred cases to the DPP on five different occasions, but prosecution was not recommended any of those times. In light of what we know at this point, an explanation is needed and the question of whether there is a pattern or a reluctance to prosecute in particular cases needs to be researched. Without going into the detail of specific cases, some kind of explanation should be given where, for example, there have been shortcomings in the law or the preparation of cases. The public needs to know why, in what appears to be a large number of cases, the DPP does not recommend prosecutions. Glaringly, no action has been taken on some recommendations and reports from tribunals that have been referred to the DPP. This applies to the Garda as well. There is a lack of accountability. In the absence of any kind of explanation, even at a global level, one cannot help but wonder whether there is something wrong.

I welcome the proposal on a protective services bureau within the Garda. It represents the sort of victim-centric approach that is needed in our justice system. When I raised the matter of individual assessments with the Tánaiste last month, I was pleased to hear that the Garda had put in place the IT infrastructure to facilitate the bureau. All that we can do at this point is hope that the infrastructure is adequately resourced and proper training is provided. Creating the

infrastructure is one thing, but ensuring that it is it widely available and officers are trained to operate it are critical factors. As with many aspects of the legislation, the actions are welcome but dependent on adequate resources being provided.

All too often, victims find themselves adrift in the unfamiliar waters of criminal proceedings or facing into undue bureaucracy. For this reason, any step that can be taken and any resource that can be put in place to mitigate against that would be welcome. However, transposition of the directive only represents the minimum protections required. The Bill can represent a significant opportunity for us to progress the area of victims' rights. In addition to passing the legislation, it is important that we avail of the opportunity to put victims front and centre in the response to crime. With that in mind, we should be ambitious and strive to achieve the greatest possible level of protection. I hope that the Tánaiste will be open to amendments that reflect some of the criticisms and strong points that have been made by groups, such as the Irish Human Rights and Equality Commission, IHREC, and Rape Crisis Network Ireland.

The victims' directive requires member states to ensure that access to victim support services is facilitated at the earliest point following a crime. This access is not dependent on a victim making a formal complaint or a formal investigation being launched. Victims are entitled to this status regardless of whether an offender is identified, apprehended, prosecuted or convicted and irrespective of the relationship between the offender and the victim. Other Deputies have referred to how there is sometimes a problem with a lack of protection for common law couples. It is certainly not the same type of protection that is provided to married couples.

The IHREC has recommended that the definition of "victim" used within the Bill be expanded to reflect this language. Doing so would place beyond doubt that, to be considered a victim, the offender does not need to be identified, apprehended or prosecuted. While victims should be encouraged and facilitated to make reports wherever possible, the reality is that many crimes go unreported. Given the evidence of this in terms of sexual and other serious crimes, steps must be taken to ensure that access to support services for victims is in place before a formal complaint is made.

Anecdotally, it would appear that such under-reporting is also highly prevalent in cases of hate crime. While the directive does not require specific hate crime legislation, the deficiencies in the reporting and prosecution of hate crime can make it difficult for victims to come forward and often leads to secondary victimisation. While the Bill acknowledges instances of crimes committed with a bias or discriminatory motive, it does not include specific protections for victims of hate crimes.

Section 16 will provide for the special measures that I mentioned to be placed on a statutory footing. However, will the Tánaiste outline why she chose to limit the application of these measures? Under the Bill's current wording, they "may" be implemented. Given that the Bill contains exemptions from providing for these measures in certain circumstances, would it not be more appropriate to state that these measures "shall be" provided where appropriate? The current wording is sufficiently qualified in terms of certain circumstances, so it would be preferable to use the term "shall be".

Under section 4(1), certain special measures will only be available to victims engaged in cases where criminal proceedings have commenced after the legislation comes into force. I understand that the trial judge may apply these measures to be implemented even when no individual assessment of the victim's specific protection needs has taken place. If so, then it seems

unnecessary to limit who can access these measures based on the date criminal proceedings were instituted. I endorse Deputy Broughan's point about Ireland seemingly having a slow-moving justice system. In other jurisdictions, perpetrators of crime are made amenable more quickly. Given the implications of that for the victims and affected communities, it is difficult to understand why our system moves so slowly. For this reason, making it so that this legislation is only effective going forward would be a missed opportunity.

When an assessment takes place, there does not seem to be a requirement for it to be provided to the trial judge. Rape Crisis Network Ireland has suggested that there should be a specific obligation on the prosecutor to give the judge a copy of every report that comes into his or her possession. While this may not require a statutory footing, those are the sort of administrative and operational aspects that are vital for the functioning of the directive. As recommended by the European Commission, it is crucial that the commencement of this legislation be accompanied by appropriate non-legislative measures, and a far wider public awareness of people's rights under this law. The victims' directive requires the establishment of processes to guarantee access by victims to information on their case. The process must be transparent and not overly bureaucratic. Under section 7 the onus is placed on the victim to make a request for information from the relevant body. However, depending on the stage of the matter, that could be the Garda, the DPP, GSOC, or a number of other agencies. In practice, that could lead to victims being passed from one agency to another, or facing an uphill battle against bureaucracy. For that reason, would the Minister consider establishing a central point of contact or single liaison for victims? Even if this was on a non-statutory basis, it would be a positive to streamline the information request process wherever possible and could ensure that a minimum standard and timeframe of reply would be kept to following the request.

The list of information to which victims should have access should also be extended to include information on the bail conditions of the accused and the protections in place to protect victims from breaches of bail condition or intimidation. We have all come across situations where a victim has come forward to make a complaint or has reported a crime, very often putting himself or herself in considerable danger, and the expectation is that when proceedings start it will only be a matter of time before the perpetrator is brought to book, yet he or she can go outside and see the perpetrator walking around the neighbourhood or, worse, approaching the house or engaging in practices that are very intimidating. That is hugely disturbing and worrying for the victim concerned. For that reason there must be a much greater level of information exchange and the victim must be informed of the conditions of bail.

On that front also an issue arises in this country in terms of anti-social behaviour, some of which can be of a most serious nature. We are all familiar with it as it happens in many housing estates. Such a crime is extremely difficult to address adequately. Inherent in anti-social behaviour and crime is intimidation and threatening behaviour, in particular the threat of violence against an individual or his or her child. When attempts are made to deal with that at community level, the Garda tells people they must come forward and give evidence. People take huge risks in coming forward to give evidence and report crimes. In spite of the Garda being aware of it and the possibility that several charges have been made against a perpetrator, and a strong awareness locally of the threatening activity of the perpetrator, decisions are taken at court level in terms of granting bail. That is a significant disincentive for victims of serious anti-social activity to come forward. It is a huge disincentive and discouragement to residents' groups who are trying to work with the Garda and local authorities to tackle serious anti-social behaviour, and an enormous disincentive to people to take that courageous step and report a

crime. There is a real issue about the need to inform and train judges and the legal profession generally in terms of the impact of some elements of community crime on vulnerable communities and individuals. On a regular basis there is evidence of a complete lack of appreciation of what it means to release somebody on bail into the community the person has been targeting and in many ways devastating over a long period. There is a lack of appreciation of that on the part of the Judiciary in particular and that is an issue that must be addressed.

Fundamentally, we must ensure that a minimum standard of support and uniformity of treatment is in place for all victims. The current wording of the Bill does not specify the importance of referrals to services which are suitable for the victim's specific characteristics and situation. The Rape Crisis Network has recommended that the Bill be amended to reflect more closely the wording of the directive. Doing so would address the concern that rural dwellers will be disadvantaged due to the limited catchment areas of some of the voluntary agencies that support the provision of victims' services throughout the country. That, again, raises the question of resources. When it comes to support services and many social services there is a geographic lottery and for that reason it would be very helpful if there was a centralised approach in terms of referral and then access to regionalised support services. Such support services and social services generally must be adequately resourced. One can have all the legislation one likes but if the support services are not in place then people will simply not come forward and in many ways they will continue to suffer in silence. While the legislation is welcome it is only as good as the funding and support services that are provided in order to underpin it.

The Bill is most welcome. The points I have raised on the operation of the Bill, *per se*, are technical points. The goal of the Bill and many of its provisions are to be warmly welcomed. It has the potential to have a significant impact on the lives of victims and how they experience the criminal justice system. However, it is important that we get it right and ensure the strongest possible model is commenced. In that regard I trust the Minister will be open to amendments from this side of the House on Committee Stage.

Deputy Hildegarde Naughton: I very much welcome this legislation. There have been some positive developments in the area of victims of crime in recent years such as the establishment of the Victims of Crime Office, which was set up in 2008, and the development of a victims charter. However, the developments are not legislatively based and are therefore less effective in protecting victims. As Maria McDonald of the Victims' Rights Alliance stated:

For the first time victims will have rights and for the first time they will be able to go to court to protect those rights. We've had a victim's charter in this country since 2010 but it has no legal force. This has legal force.

I would like to raise one issue that has also been raised by other Members. The impact analysis indicates that this legislation has no additional cost to the Exchequer. While that may be true on the face of it, I wonder whether sufficient consideration has been given to the additional cost of training staff in many State agencies such as the Garda and the Office of the Director of Public Prosecutions. If victims are to be supported as they should be they will need proper advice, referral and support. To do that in an efficient and effective manner staff working in the State agencies involved will have to have sufficiently trained. I know the Minister is cognisant of that and has increased funding to both the Victims of Crime Office and Cosc. I would just request that this issue be kept under review to ensure that we have sufficient resources to effectively implement the spirit and letter of this legislation. The legislation is a very positive step forward for victims of crime in this jurisdiction and I very much welcome it.

2 March 2017

Deputy Fiona O'Loughlin: For far too long in this country the victims of crime have been ignored and they certainly have not been supported appropriately. Crime has many victims and causes huge psychological and emotional trauma and anguish, as well as the other more obvious physical, and in many cases, financial effects. Victims have to go to court to bear witness to look for justice not just for themselves but for the community in which they live. They then become witnesses, often feel that they are the ones on trial during cross examination and have to relive their difficult and often traumatic experiences. Our victims deserve and need support, dignity and appropriate protection. This is especially true for victims of sensitive crimes such as rape and domestic violence as well as for children themselves.

This Bill introduces for the first time statutory rights for victims of crime. Those three essential rights are the right to information, the right to protection and the right to support. One of the interesting features of the Bill relates to a visit I paid not too long ago to Dolphin House where I saw the archaic situation facing services relating to our family courts in Dublin. One of the things that struck me was the lack of privacy for victims and the fact that they were in the same small packed space in halls as those accused of perpetrating crimes against them. I found this quite appalling. I can only imagine the difficulty this visited on those people who were, in the main, women. I am glad to see the provision that there must be a separate waiting area for victims as opposed to those accused of crime.

I compliment on Rape Crisis Network Ireland on its comprehensive submission, which contained many recommendations. In particular, the recommendation that there be a victim ombudsman certainly has merit. There is also a lot of merit in the 14th recommendation, which involves having pre-recorded submissions in certain instances.

The State and all of us must encourage everybody who is a victim of crime to report it. It is sometimes not a very easy thing to do but there is an onus on every victim to do that because that supports other potential victims down the line. It is certainly not easy for people to waive their anonymity but I applaud those who do so to help others. The case of Anna Inicka is one we have all read about. The letter she wrote to Members of the Dáil described in harrowing detail how victims of crime can be utterly failed by the health and justice systems in this country. Anna wants and deserves an inquiry into the events surrounding how she was treated by State agencies following the brutal physical and sexual assault she experienced in 2006. There was no sexual assault examination despite the recording of an allegation of sexual assault in hospital. No interpreter was provided to take her statement nor was one provided later when the accused was in court on the assault charge. No effort was made to keep her informed about the progress of the case. The DPP decided that no prosecution would take place. In her case, she alleges negligence and reckless disregard of basic requirements in dealing with her complaints of rape and sexual and physical assault. This vulnerable woman was failed at every turn and her case raises serious issues about how we treat the victims of crime.

The State has already missed a November 2015 deadline to put into law the European Union's victims' directive, which sets out the minimum standards of protection a victim of crime should receive so this Bill urgently needs to be discussed and improved to ensure no more victims of crime endure this type of treatment by the State. It is important that a victim should not be treated by the courts as just another witness. A victim should receive support and protection to enable them to participate in legal proceedings without feeling further victimised by the system. Victims of crime deserve to be treated with dignity and respect, to be provided with information about the progress of any investigation or court proceedings and to be able to avail of interpretation services when they need them. Two of the most important rights this Bill

gives victims is the right to be informed about any decision not to institute a prosecution of the offence and the right to request a review.

Deputy Mick Wallace: We discussed this Bill during a meeting of the Oireachtas Committee on Justice and Equality this week. It is blatantly obvious that this is a massive area with so much at play. There are so many issues to deal with. I looked at the comments from the Irish Human Rights and Equality Commission. The commission said that services to victims should not be dependent on the victim making a formal complaint or an offender being prosecuted or convicted. The commission reported that there were 4,831 un-met requests for emergency accommodation for victims in 2016 alone. There is one women's refuge in Wexford with four family bedrooms serving a population of 150,000. The refuge receives on a regular basis women presenting with serious physical injuries resulting from assault along with traumatised children. In 2014, the Wexford refuge turned away 338 women and 259 children. In 2016, it accommodated 35 women and 45 children but turned away 244 women and 353 children. The vast majority of women who contact the women's refuge in Wexford are victims of domestic violence. In other words, they are victims of a crime but support services receive nothing in the way of State support. As the figures show, this refuge is only able to deal with a fraction of the demand placed upon it by the most vulnerable in our society. I have no doubt that it is not just a problem in Wexford. When Wexford Women's Refuge submitted for a second time a comprehensive funding application through the capital assistance scheme to buy a property that would be converted into a facility with 12 self-contained rooms, the application disappeared - vanished off the face of the planet. That is over a year ago and the refuge's application is still in a state of paralysis. That will give you some indication of what we really think of victims of crime in this country.

Another major issue is faced by victims of domestic violence, namely, the interpretation of what constitutes a victim of any crime. The Bill states that a victim is a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence. In respect of harm being directly caused by a criminal offence, is an offence simply the reporting of a crime, does a charge have to be brought in respect of the reporting of a crime or does there have to be a conviction in respect of the reporting of a crime? I can understand that it is very hard for the State to record a crime if it is never reported. We have a big challenge then. We need to improve the level of reporting of crime. If you never hear about it, you certainly do not know it happened unless the entire country is bugged.

Looking at some of the statistics, according to the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, less than 25% of women who suffer severely physically abuse report the incident to An Garda Síochána. Twenty-nine per cent of women who have suffered domestic abuse in some form or other report the incident to the Garda. A

3 o'clock Cosc study shows 213,000 women have been the victims of domestic abuse in Ireland alone but, based on its own figures, 150,000 of these women did not report the incident to the Garda. These 150,000 women are still victims of crime but, because they did not report the offence to the Garda, they will not be entitled to the supports, services and protection that goes with being a victim. That is 150,000 victims who are not victims. The Irish Human Rights and Equality Commission has recommended expanding the definition of "victim" to ensure that a person may be considered a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted, and that makes sense.

We need to encourage more victims, especially those vulnerable to the risk of repeat and secondary victimisation, to report the crime to the Garda but in order to do so, we also need to

2 March 2017

build trust in the Garda and transparency in how it operates. The Garda Inspectorate's report showed a massaging downwards of crime figures and a massaging upwards of detection rates. The Garda Commissioner rejected this assertion but it must be wondered how she got away with rejecting the Garda Inspectorate report. The massaging of figures was reconfirmed by both GSOC and the CSO in their respective 2014 reports. The CSO went so far as to suspend publishing of crime statistics for a full year because of the unreliability of the figures. That Commissioner is still in place. Sadly, too many Members in here still seem to think that she is fit for office.

The conclusions of the O'Higgins report reconfirmed serious issues detailed in the Garda Inspectorate report of 2015. These issues include poor investigation techniques and detection rates, the absence of proper record or note taking, the absence of proper supervision and training, the appalling treatment of victims of crime, and the massaging of figures and PULSE records by gardaí. I am painting a sad picture but I am not making it up. It is a difficult situation for so many people. I am sorry, but we will not get people coming forward in a positive healthy fashion without reservation until we have total confidence in the police force. The present Commissioner was prepared at the O'Higgins commission to send her legal team back in with false statements about Sergeant Maurice McCabe with regard to a meeting in Mullingar and was prepared to stand over it. According to the O'Higgins report, this was done in a fairly blatant manner. How, in God's name, will we expect people to come forward in trust with a police force that operates in the manner it does?

Sometimes we expect too much of the police force in general. I like to think that the majority of Members disagreed with closing so many local Garda stations, but I remember when there was a garda in the nearest village to me at home and everyone in the place knew him. If one was robbed, one went to him because we trusted him and we had faith in him. We expected to be served well by him, and we were. It made such a difference knowing the garda. He was part of the community and reporting a crime to him would be as natural as day. Domestic violence is clearly a different area and there were always challenges there. As a State, we have serious problems around openness in many matters around that but the disappearance of the local garda and the local Garda station has not helped. I wish this Government or the next would rethink it. While in the case of some stations it did not make any sense to have them open because there was not enough going on, there are many stations that should be open but which have been closed.

If we are to introduce better measures in this area of helping the victims of crime, we will have to provide more resources to the Garda as well. It is not only about IT. There are extra resources going to them at present but these are generally IT-based. More needs to be done. There are a lot of gardaí interested in doing their job properly irrespective of the fact that the hierarchy is rotten. There are many good gardaí in this country and they are not being well served by the system. They will need more resources if we are to have the sort of police service that we would like.

Deputy Clare Daly: The fact that we have the Bill is welcome, as are many of its provisions, but in the limited time available I will concentrate on the number of significant omissions and gaps in the Bill, which is supposed to transpose the Victims Directive into Irish law but excludes some of its most crucial ingredients. Other Members have made points around the issue of special measures for victims, the issue of restorative justice, the definition of a victim of crime and complaints by victims. The Bill is lacking on all of those fronts in that it does not fully transpose the directive and leaves us open to infringement proceedings by the EU Com-

mission.

Yesterday we were privileged to have an excellent presentation at the Joint Committee on Justice and Equality by Ms Maria McDonald of the Victims Rights Alliance. Ms McDonald cited the shocking figure that 72% of the victims of crime feel re-victimised by the criminal justice system. It is particularly shocking when compared to the fact that 49% of them feel re-victimised by the accused. Therefore, victims are more oppressed by the State and its criminal justice system than the offender. We have seen countless examples of the harm being done to victims of crime in the litany of reports, such as Guerin, O'Higgins, the 2014 Garda Inspectorate report and the Victims Rights Alliance report on the implementation and enforcement of the directive. All of them categorically state the wrongs done to victims, particularly around issues such as the failure by gardaí to record crimes, the failure to provide information to victims, and cases of victims finding out about the outcome of a case involving them, either through the media or through the grapevine. They show the appalling treatment of those who have already been victimised.

The O'Higgins report was stark about victims being let down by the Garda. It is interesting that the Minister, at the time of its publication, referred to the findings being unacceptable as it was disheartening and that those concerned must take all measures open to them to ensure that these shortcomings are not repeated. However, they are being repeated. We would all be naive to think that the necessary reform outlined in the report has been delivered because it has not. I raised earlier, at Leaders' Questions, a number of the cases of those who have been the victims of appalling crime and have been re-victimised by the treatment they got when they turned to the Garda to get help in having those crimes investigated. If we do not deal with the issue of the urgent need for Garda reform we will not get the appropriate treatment for victims that they deserve.

In terms of the Bill's provisions the issue around not including restorative justice, from the point of view that the victims should be informed on first contact with the Garda of the available restorative justice services, should be addressed. Article 12 of the directive provides that where restorative justice services are available safeguards must be put in place to protect against repeat victimisation to ensure that victims have access to safe and competent restorative justice systems and to ensure that they are put forward in the best interests of the victim. All of this should have been provided for in the Bill because this is a most important provision, not only in terms of empowering the victim to confront his or her perpetrator in the appropriate surroundings but because it can have a profound effect on the offender as well in making that person understand the damage of the offence that he or she has caused. If we get that right and implement it properly we will have fewer victims, which is the point we want to reach.

The point made that these services are not available on a nationwide or on a statutory basis is not a good enough excuse because we know that members of the Judiciary have put forward recommendations. In fairness, a very unsuitable one was cited at the justice committee yesterday where a judge asked a victim in a child sex abuse case to engage in the restorative justice system with the perpetrator who had not accepted the facts of the case, rejected the guilty verdict and clearly was somebody who had not acknowledged the damage he had done. Asking the victim to engage in that process was incredibly wrong, inappropriate and harmful. That is not the goal of restorative justice. The way the process is set up is very important but we need to put more resources into that.

The other area is the problematic definition of the victim that has been highlighted by other

Deputies. The Irish Human Rights and Equality Commission has made the point that the Bill should be amended to broaden the definition of a victim. We agree with that. Doing so would ensure that the services for victims provided for in it would not be dependent on the victim making a formal complaint or an offender being prosecuted or convicted. This is in line with the victims directive, which requires states to ensure that access to support services is facilitated at the earliest point following a crime and that access is not dependent on a formal complaint. The tight definition in this Bill is a significant failing which will have to be addressed at a later stage.

That is particularly pertinent in the area of domestic violence. We know from the 2014 Garda Inspectorate report the litany of the manner in which victims had been treated. They include gardaí being called out and saying, “There’s two of them in it” or “Just don’t annoy him and he will not come back”. A really shocking example was where gardaí answered an emergency call to a home where a woman was being threatened by her husband and one of the gardaí said to the woman, “We’ve enough to be doing. The next time we won’t call back”. Later that day, the husband returned home, stabbed his wife in front of their child who was also injured protecting his mother. Both victims were taken to hospital, and it took three days to get a statement from that woman. Broadening this Bill to take in victims like that woman and her child would have a profound effect on gardaí in cases like hers. It would highlight and intensify their obligations and would work to ensure that such catastrophic errors would not be repeated. It is vitally important that we would examine that. We know that victims of domestic and sexual violence in particular are very hesitant to make a complaint. The inspectorate, in its many reports, provided several examples of where an investigating garda was directed by a district officer to put pressure on victims to make up their minds about whether they wanted to make a complaint, which is inappropriate. If victims had access to support and services to protect them, that would protect them from pressure from gardaí and would support them in their decision as to whether they wanted to complain formally. The victims directive refers to indirect victims of crime, for example, children who witness domestic violence. They should have the same access to support services.

On the other areas, Garda training and increased funding is absolutely necessary if it is to be meaningful. More funding and more resources are necessary. The evidence given yesterday at the committee was that clicking on the link of the victims support services on the Garda website brings one to a defunct commission of victims of crime service. That is wholly unacceptable in this day and age. We know that 64% of victims said they were not informed by the Garda about victim support services. Therefore the issue of resourcing must be addressed.

The area of training for the Judiciary is critical. Article 25 of the directive provides that officials likely to come into contact with victims should get specialist and general training appropriate to their level of contact with victims of crime to enable them to deal with the situation appropriately. I am aware there are plans to develop training for lawyers and so on but that must be extended to the Judiciary itself.

The other gap is section 16, which deals with special measures for very vulnerable victims. The section states that these may be used but the directive states that they shall be used. These supports include a victim to be interviewed by someone of the same sex in a sexual violence case and so on. There are many good reasons those should be mandatory and limited only by overall considerations.

The final point is to support the call made by the Rape Crisis Network and the Victims’ Rights Alliance for the establishment of a victims ombudsman as a central point of contact for

dealing with complaints. As it stands, the Bill provides for information to be given on how to complain to the Garda, the Garda Síochána Ombudsman Commission, GSOC, and the Director of Public Prosecutions, DPP, but those organisations would not be fit for purpose in this regard and an ombudsman office would be far preferable.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I listened with interest to what Deputies had to say about the Bill over the past two hours. I thank everyone who contributed to the debate and I am pleased to see the Bill has wide support.

I will respond briefly to a few of the issues raised by Deputies this afternoon but I know the Tánaiste is open to proposals which will improve the Bill and the rights and protections for victims where it is possible. All of the points raised in the debate will be considered.

On the definition of “victim”, some suggestions were made by Deputies in the debate, and in submissions to the Tánaiste on the Bill, that the definition of “victim” should be expanded, clarified or qualified in various ways to ensure that victims can avail of the rights under the Bill without a specific offence or offender being identified. The definition of “victim” is the cornerstone of this Bill and of the EU directive and was very carefully considered in the context of both.

A wide range of rights flow from the definition. These include rights arising before a formal complaint has been made, during a trial and after an offender has been convicted. The decision was made to include in the Bill a single broad and inclusive definition of “victim” mirroring that in the directive to ensure it is appropriate to every circumstance. Deputies will note that individual sections of the Bill make clear that the victim’s rights arise as soon as they make contact about an alleged offence and no proof of harm is required. This approach also ensures that the Bill will be interpreted in line with the directive now and in light of any future rulings of the European Court of Justice.

Restorative justice was mentioned by Deputies and concerns were raised about the omission of restorative justice provisions in the Bill as published. I can assure Deputies that the Tánaiste and I intend to make provision for the rights of victims who participate in restorative justice practices in this Bill. Some legal issues have arisen around the most appropriate text for the provision, given the non-statutory nature of restorative justice practices available. The issue is being considered, in consultation with the Office of the Attorney General and appropriate amendments will be brought forward during the progress of the Bill. I thank Deputies for raising concerns about it.

It is something of a new departure for our criminal law to focus on the needs of the victims of crime, but it is not unique. As the Tánaiste noted yesterday, the Bill marks the single biggest step towards providing statutory rights to victims but there is a range of other legislative measures which will also enhance victims’ rights. The Criminal Law (Sexual Offences) Act 2017, enacted earlier this month, provides additional protections for victims of sexual violence and the Domestic Violence Bill 2017, which commenced in the Seanad yesterday, provides for a range of additional supports and protections for victims of domestic violence.

This Bill will provide victims of crime with information and support to help them through what is inevitably a very difficult time. As colleagues here have recognised, it is an important step forward in supporting victims of crime and protecting victims, in so far as possible, from further victimisation. I urge Deputies to support the Bill’s passage through the House and on

2 March 2017

Committee Stage.

Another point was raised in the debate about implementation. A consultation group that was put together has been working very closely with the Tánaiste on this issue and that group will continue to work throughout the implementation process. I commend the Bill to the House.

Question put and agreed to.

Criminal Justice (Victims of Crime) Bill 2016: Referral to Select Committee

Minister of State at the Department of Justice and Equality (Deputy David Stanton):

I move:

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

Question put and agreed to.

Mediation Bill 2017: Order for Second Stage

Bill entitled an Act to facilitate the settlement of civil disputes by mediation, to specify the principles applicable to mediation, to specify arrangements for mediation as an alternative to the institution of civil proceedings or to the continuation of civil proceedings that have been instituted; to provide for codes of conduct to which mediators may subscribe; to provide for the recognition of a body as the Mediation Council of Ireland for the purposes of this Act and to require that Council to make reports to the Minister for Justice and Equality as regards mediation in the State; to provide, by means of a scheme, an opportunity for parties to family law proceedings or proceedings under section 67A(3) or 117 of the Succession Act 1965 to attend mediation information sessions; 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.

Mediation Bill 2017: Second Stage

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

I am very pleased to have this opportunity to introduce the Mediation Bill 2017 and I look forward to the discussion in the House on its early enactment. The general objective of the Bill is to promote mediation as a viable, effective and efficient alternative to court proceedings, thereby reducing legal costs, speeding up the resolution of disputes and relieving the stress and acrimony which, as we know, often accompanies court proceedings. The Bill also forms part of the Government’s overall strategy to tackle the issue of legal costs.

The mediation service is very important. More than 20 years ago, when I was chair of the

National Women's Council, we had a fledgling mediation service under Maura Wall Murphy and the Government of the day intended to abolish it. I intervened and ensured it was allowed to continue and we have seen its progress over the years. It gives me particular personal satisfaction to bring forward the Bill today. I saw the potential of mediation 20 years ago and I see it today. It has a vital role to play in reducing stress levels for people involved in various disputes and in providing a speedier, more efficient and less costly alternative to going to court.

Support for the development of mediation as an alternative to court proceedings has been building in recent years. In its 2010 report entitled *Alternative Dispute Resolution: Mediation and Conciliation*, that great body, the Law Reform Commission, once again reviewed the development and effectiveness of alternative dispute resolution mechanisms and recommended the enactment of legislation. The Bill takes on board much of what the Law Reform Commission had to say at the time. Meanwhile, revised rules of the Superior Courts, which facilitate and encourage the referral of disputes to a process of mediation or conciliation, have come into operation.

This matter has been discussed by the Joint Committee on Justice, Defence and Equality and no doubt members of the committee will have comments to make on the various consultations done by the committee. Many of them have been taken on board.

Mediation is defined in the Bill as a facilitative voluntary process in which the parties to a dispute, with the assistance of a mediator, attempt to reach a mutually acceptable agreement to resolve their dispute. I emphasise use of the word "voluntary" in this context. Mediation is, and must remain, a voluntary process although, of course, the court can recommend it and court proceedings can be put aside when people take part in the mediation. Moreover, while the Bill seeks to promote mediation as an effective and viable means of resolving disputes, it is inappropriate for certain types of disputes, such as claims against the State for alleged infringements of fundamental rights or proceedings concerning children under the Child Care Acts. The Bill outlines the areas where we feel it is not appropriate for mediation to be used.

I have no doubt Deputy Jim O'Callaghan will be interested in the next aspect, and I look forward to hearing his practical experience on it, and this is with regard to the obligation it puts on solicitors and barristers with regard to mediation. Put simply, the Bill requires solicitors to advise their clients to consider the use of mediation. I have no doubt many solicitors and barristers already do this and anecdotal evidence certainly suggests this is so. The Bill also requires them to provide their clients with information on available mediation services before embarking on court proceedings. It makes this provision for solicitors and it will apply to barristers if and when in future they are permitted to issue proceedings directly on behalf of clients.

The Bill also requires that solicitors make a statutory declaration that the obligations placed on them by the legislation are discharged. We also make provision in the Bill for the development of a mediation council. This is not part of the general scheme of the Bill, but the legislation contains an enabling provision so such a council could be established. As we know, various bodies are involved in mediation. If they come together and, at a future date, the then Minister with responsibility for justice is satisfied that body can do the work of regulation in this area and develop an appropriate council, the Bill contains an enabling provision for this to happen.

We want the main provisions of the Bill to come into operation at the earliest possible opportunity but specific orders will be required at a later stage. We have various definitions in section 2. I have already spoken about the fact that the Bill will not apply to disputes arising

in certain areas such as those covered by the Workplace Relations Commission, matters under tax and customs legislation, child care, domestic violence, judicial review and proceedings against the State in respect of alleged infringements of fundamental rights. Nothing in the Bill is intended to replace a mediation or other dispute resolution process in any other statute or in any contract or agreement. The Bill also contains a number of standard provisions on expenses.

Section 6 makes it clear that participation in mediation must be voluntary and it is for the parties themselves to determine the outcome of the mediation. The approach includes qualifications for mediation, an outline of how the process will be used, the role of the mediator, the actions the mediator must take prior to the commencement of mediation and how the mediator must behave during mediation sessions. A mediator may, exceptionally and at the request of all parties, make proposals for the resolution and the Law Reform Commission stated this could happen, but generally speaking it will be for the parties to the dispute to agree the resolution.

For the first time we will have a code of practice in statute for mediators. Everyone will agree this is important. This may be prepared and published by the Minister. If another body comes into existence at a later time that body can draw up regulations and the Minister can approve them.

Confidentiality is very important in mediation. All communications by the mediator with the parties and all notes and records relating to mediation will be confidential and cannot be used in other proceedings. However, there are some exceptions. There is also a section dealing with enforceability.

With regard to section 12, I have already spoken about the possibility of a mediation council, which would be known as the mediation council of Ireland, having a role. The section also provides that there can only be one mediation council in existence at one time and the council must be sufficiently representative of mediation interests and must also meet the minimum requirements provided for in the schedule to the Act. There is also the possibility of revocation. If such a mediation council comes into existence, it could make reports to the Dáil or Minister to outline its work.

Section 14 is a key provision which imposes obligations on a practising solicitor regarding mediation. It specifies the advice and information regarding mediation which a solicitor must provide to his or her client prior to the initiation of court proceedings. The section further provides the originating document to commence proceedings must be accompanied by a statutory declaration. This will be outlined in court and a statutory declaration will be written and signed. We must be absolutely clear that those who could benefit from mediation will be told this by a solicitor or, in future, by a barrister.

Section 16 empowers a court to invite parties in civil proceedings which have already commenced to consider using mediation to resolve their dispute. Under this provision a court may, on its own initiative or following an application by a party to the dispute, invite the parties to consider using mediation to settle the dispute. This is a very important section. If the section is used a report will be made to the court.

Sections 18 to 22 deal with the technical way mediation will be approached and fees and costs of mediation are also dealt with. The Bill also makes a technical amendment to the Civil Liability and Courts Act 2004 whereby mediation could be used for personal injuries actions on occasion.

Part 5 is about the provision of mediation information sessions in certain circumstances. The Law Reform Commission underlined the potential benefits of mediation in family law proceedings as an alternative to adversarial court proceedings and recommended that parties be required to attend information sessions in advance of the commencement of such proceedings during which the benefits and advantages of mediation could be explained, and section 23 gives effect to this. The Minister may, for the purpose of ensuring the availability of such sessions at a reasonable cost and in suitable locations, prepare and publish a scheme for the delivery of such sessions, or approve a scheme for the delivery of such sessions by another person or body. The Legal Aid Board is, for example, already involved in the provision of a free family mediation service, the benefits of which are widely acknowledged.

This Bill is intended to promote mediation as a viable, effective and efficient alternative to court proceedings. I believe that enactment of the Bill will speed up resolution of disputes, reduce legal costs associated with such disputes and reduce or avoid the stress involved in adversarial court proceedings for many people. It is an extremely worthwhile Bill and I hope it will get widespread support across the House. It offers great potential for people in the circumstances which I have outlined and is a very positive alternative to court proceedings for certain situations. It will not be universal and I have described the variety of areas to which it will not apply, but there is potential to help many people who would otherwise face costly adversarial court procedures. Many people have trained in this area and it is well established. I look forward to the mediation council for which the Bill allows. I commend the Bill to the House.

Debate adjourned.

Estimates for Public Services 2017: Message from Select Committee

Acting Chairman (Deputy John Lahart): The Select Committee on Health has completed its consideration of the following Revised Estimate for Public Services for the service of the year ending 31 December 2017 - Vote No. 38.

Ceisteanna - Questions

Priority Questions

State Properties

1. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform the number of properties currently owned by the State or under a long-term lease to the State that are currently vacant; the attempts that are being made to fill them; and if he will make a statement on the matter. [10593/17]

Deputy Dara Calleary: I want to get a sense from the Minister of the policy around properties, particularly commercial properties, leased by the State or owned by the State and empty. What work is under way to tidy the situation up? I do not want a list of every vacant property

2 March 2017

in the State but a sense of the policy, bearing in mind the need to get value for our property portfolio.

Minister of State at the Department of Public Expenditure and Reform (Deputy Seán Canney): I am sorry the Deputy does not want a full list because that is what I have provided. The Commissioners of Public Works own 92 properties that are currently vacant and these are listed below. The majority of these properties are former Garda stations that were closed as part of the policing plans of An Garda Síochána in 2012 and 2013. The future use of the former Garda stations will be determined once the review of closed Garda stations, currently being undertaken as part of A Programme for a Partnership Government, has concluded.

The OPW has a clearly defined policy relating to vacant State properties that are identified as surplus to requirements. The policy with regard to non-operational, or vacant, State properties and sites, including former Garda stations, is: to identify if the property is required or suitable for alternative State use by Departments or the wider public sector; if there is no other State use identified for a property, the OPW will then consider disposing of the property on the open market if and when conditions prevail, in order to generate revenue for the Exchequer; and if no State requirement is identified or if a decision is taken not to dispose of a particular property the OPW may consider community involvement subject to detailed written submission, which would indicate that the community or voluntary group has the means to insure, maintain and manage the property and that there are no ongoing costs for the Exchequer.

The Commissioners of Public Works have engaged with key local authority stakeholders and other State bodies to ensure that property is not disposed of when it might be deemed suitable for alternative State use. Full details of both owned and leased properties are as follows:

List of vacant State owned or leased properties currently vacant and the plans for each of them.

<i>Tramore Rd Waterford</i>	<i>Former custom store</i>	<i>Waterford</i>	<i>Leased property – early surrender of lease to be explored with landlord.</i>
<i>Bawnboy</i>	<i>Former Garda station</i>	<i>Cavan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballyconnell</i>	<i>Customs Post</i>	<i>Cavan</i>	<i>Future use under consideration.</i>

<i>Redhills</i>	<i>Former Garda station</i>	<i>Cavan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Stradone</i>	<i>Former Garda station</i>	<i>Cavan</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Broadford</i>	<i>Former Garda station</i>	<i>Clare</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Doonbeg</i>	<i>Former Garda station</i>	<i>Clare</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Inagh</i>	<i>Former Garda station</i>	<i>Clare</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Adrigole</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballinaspittle</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Ballyfeard</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballygurteen</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>13 Woodville, Blarney</i>	<i>Garda Residence</i>	<i>Cork</i>	<i>Being prepared for disposal.</i>
<i>Buttevant</i>	<i>Garda Residence</i>	<i>Cork</i>	<i>Being prepared for disposal.</i>
<i>No. 4 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 5 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 7 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 8 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 9 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 10 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>No. 11 Crosshaven CoastGuard Cottage</i>	<i>CoastGuard Cottage</i>	<i>Cork</i>	<i>Auction Q2 2017.</i>
<i>Clonakilty</i>	<i>Agricultural College & Office</i>	<i>Cork</i>	<i>Alternative State use being examined.</i>
<i>Glenville</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Goleen</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Knocknagree</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Rathduff</i>	<i>Former Garda station</i>	<i>Cork</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>McCurtain Street</i>	<i>Former Garda station</i>	<i>Cork City</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>St Lukes Former GS, Ballyhooley Rd, Cork</i>	<i>Former Garda station</i>	<i>Cork City</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Buncrana</i>	<i>Former Garda station</i>	<i>Donegal</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Castlefin</i>	<i>Garda Residence</i>	<i>Donegal</i>	<i>Being prepared for disposal.</i>
<i>Malin</i>	<i>Former Garda station</i>	<i>Donegal</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Na Brocacha / Cloghan</i>	<i>Former Garda station</i>	<i>Donegal</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>91A George's Street, Dun Laoghaire</i>	<i>Building</i>	<i>Dublin</i>	<i>Being retained for strategic purpose.</i>
<i>Debtors' Prison, Halston Street.</i>	<i>Building</i>	<i>Dublin</i>	<i>Future use under consideration. Alternative State usage being actively considered.</i>
<i>10/11 Castle Street</i>	<i>Building</i>	<i>Dublin</i>	<i>Being retained for strategic purpose.</i>
<i>Ballymoe</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Corrandulla</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Kilchreest</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Kilcolgan</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Kilconly</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Kiltullagh</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Leenane</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Maam</i>	<i>Former Garda station</i>	<i>Galway</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Tynagh</i>	<i>Former Garda station & Garda Res</i>	<i>Galway</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Abbeydorney</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballylongford</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Brosna</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Camp</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Castleisland</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Douglas</i>	<i>Former National School</i>	<i>Kerry</i>	<i>Being prepared for disposal.</i>
<i>Moyvane</i>	<i>Former Garda station</i>	<i>Kerry</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Rathangan</i>	<i>Former Garda station</i>	<i>Kildare</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Castlecomer</i>	<i>Former Garda station</i>	<i>Kilkenny</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Drumkeerin</i>	<i>Former Garda station & Garda Res</i>	<i>Leitrim</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Glenfarne</i>	<i>Former Garda station</i>	<i>Leitrim</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Keshcarrigan</i>	<i>Former Garda station</i>	<i>Leitrim</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Castletown Conyers</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Edward Street</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Property swap with Limerick City and County Council under consideration.</i>
<i>Galbally</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Kilfnane</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Mary Street</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Property swap with Limerick City and County Council under consideration.</i>
<i>Mayorstone Park</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Property swap with Limerick City and County Council under consideration.</i>

<i>Shanagolden</i>	<i>Former Garda station</i>	<i>Limerick</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballinalee</i>	<i>Former Garda station</i>	<i>Longford</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballina</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Being prepared for disposal. Not subject to the Policing Authority Review.</i>
<i>Ballyglass</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Bellacorrick</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Blacksod</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Lahardane</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Hollymount</i>	<i>Former Garda station</i>	<i>Mayo</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Navan</i>	<i>Government Buildings</i>	<i>Meath</i>	<i>Future use under consideration.</i>
<i>Enfield</i>	<i>Former ESB building</i>	<i>Meath</i>	<i>Future use under consideration.</i>
<i>Clones</i>	<i>Customs Building</i>	<i>Monaghan</i>	<i>Future use under consideration.</i>
<i>Clontibret</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Corrinshigagh</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Innisshannon</i>	<i>Customs Hut</i>	<i>Monaghan</i>	<i>Future use under consideration.</i>
<i>Newbliss</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Smithborough</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>Shantonagh</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Tynagh</i>	<i>Former Garda station</i>	<i>Monaghan</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballintubber</i>	<i>Former Garda station</i>	<i>Roscommon</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ballyforan</i>	<i>Former Garda station</i>	<i>Roscommon</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Knockcroghery</i>	<i>Former Garda station</i>	<i>Roscommon</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Tarmonbarry</i>	<i>Former Garda station</i>	<i>Roscommon</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

<i>New Inn (Tipperary)</i>	<i>Former Garda station</i>	<i>Tipperary</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>No. 3 The Mall, Templemore</i>	<i>Garda Residence</i>	<i>Tipperary</i>	<i>Future use under consideration.</i>
<i>No. 4 The Mall, Templemore</i>	<i>Garda Residence</i>	<i>Tipperary</i>	<i>Future use under consideration.</i>
<i>No. 5 The Mall, Templemore</i>	<i>Garda Residence</i>	<i>Tipperary</i>	<i>Future use under consideration.</i>
<i>No. 9 Church Ave, Templemore</i>	<i>Garda Residence</i>	<i>Tipperary</i>	<i>Future use under consideration.</i>
<i>No. 10 Church Ave, Templemore</i>	<i>Garda Residence</i>	<i>Tipperary</i>	<i>Future use under consideration.</i>
<i>Ballyduff</i>	<i>Former Garda station</i>	<i>Waterford</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>
<i>Ardmore</i>	<i>Building</i>	<i>Waterford</i>	<i>Future use under consideration.</i>
<i>Hollywood</i>	<i>Former Garda station</i>	<i>Wicklow</i>	<i>Future use to be considered on conclusion of the review of closed Garda stations being overseen by the Policing Authority.</i>

Deputy Dara Calleary: The Minister of State might be getting a bit confused. Only one Member of this House has a specific interest in Garda stations at the moment, and that is the Minister for Transport, Tourism and Sport, Deputy Ross. The State has been paying rent since January on the Miesian Plaza on Lower Baggot Street. A 25-year lease was agreed but staff are not due to move in until the middle of the year after it has been fitted out. I want to know how much the State is paying in rent, for office buildings in particular. It is hard to understand why we do not have enough office space in Dublin owned by Government and which, with a bit of reorganisation, could be reused.

The Minister said previously that €44 million in annual rent was saved and that a national asset database was being put together to allow Departments to use any spare space. At what stage is the database and when will it be made public?

Deputy Seán Canney: Those questions were not in the original question and they involve

much detail. I made a presentation to the finance committee last week but the Deputy is looking for a considerable amount of information. We will get that information for him as I do not have it to hand at the moment.

Deputy Dara Calleary: I am looking for a sense of what the plan is. Are there areas in the State where empty properties are leased to the State, including to State agencies? Is there a need for property on the part of State agencies in those areas? What work is being done in the Department to root out a waste of money such as this and what is being done to regularise the situation?

Deputy Seán Canney: The Office of Public Works continually reviews its options regarding State properties and a review is ongoing of the properties we own and lease. Over the past number of years leases on properties have been given up to save money for the Exchequer and I will get the exact details of that for the Deputy. The overall aim is not to have vacant properties but there will be gaps when people relocate. We will endeavour to minimise those gaps. A fit-out is being done of the Miesian Plaza to make it ready for the staff who will be going there.

Public Procurement Regulations

2. **Deputy David Cullinane** asked the Minister for Public Expenditure and Reform to outline the details of the review of public procurement oversight his Department has undertaken in view of the significant disclosures of material non-compliance with procurement rules involving contracts worth €500,000 or more that have been reported by the Comptroller and Auditor General in his annual report 2015; and if he will make a statement on the matter. [10495/17]

Deputy David Cullinane: I am inquiring as to whether the Department has carried out any review of public procurement rules. I have done some research into this issue and as a member of the Committee of Public Accounts, I can tell the Minister that non-compliance with public procurement rules comes up repeatedly. The Comptroller and Auditor General has reported on this consistently as a difficulty, particularly in the health area. Is the Minister aware of the levels of non-compliance?

Minister of State at the Department of Public Expenditure and Reform (Deputy Eoghan Murphy): Public procurement is governed by EU and national rules. The aim of these rules is to promote an open, competitive and non-discriminatory public procurement regime which delivers best value for money. It is a basic principle of public procurement that competitive tendering should be used other than in justifiably exceptional circumstances.

Under Department of Finance Circular 40/02, Accounting Officers of Government Departments and offices are required to complete and submit an annual report, signed off by the Accounting Officer, to the Comptroller and Auditor General in regard to contracts in excess of €25,000, exclusive of VAT, that were awarded without a competitive process. The circular states that contracts awarded or purchases made without a competitive process should be subject to an internal review by an internal audit unit, or by a senior officer independent of the procurement process. The Accounting Officer, in his or her annual report to the Comptroller and Auditor General, sets out the reason for not using a competitive process for each contract. Current procurement rules recognise that there can be legitimate reasons for awarding contracts without the use of a competitive process, for example, in extreme emergencies or unforeseeable circumstances. Therefore, such procurements may not constitute breaches of the public

procurement rules.

The Corporate Governance Standard for the Civil Service and the Code of Practice for the Governance of State Bodies also identify procurement as one of a number of activities requiring special attention in promoting good corporate governance. It is the responsibility of Departments and State bodies to satisfy themselves that they adhere to the requirements for public procurement.

The Office of Government Procurement provides guidance notes, documentation and a customer service function to support public bodies undertaking procurement directly themselves. In addition, template, tender and contract documents have been developed in conjunction with the Chief State Solicitor's office and the Office of the Attorney General to assist contracting authorities involved in carrying out routine, non-bespoke and low to medium risk procurements. These are available on the national public procurement website *www.etenders.gov.ie*.

Public bodies are subject to examination by the Comptroller and Auditor General regarding their adherence to EU and national rules on public procurement. The Comptroller and Auditor General works with the Committee of Public Accounts in reviewing those accounts on an annual basis.

Deputy David Cullinane: There are extraordinary circumstances in which Departments may not comply with rules and the circumstances are set out. We have many reports by the Comptroller and Auditor General which flag up a lack of compliance with the rules. These are flagrant breaches of the rules. All those documents from the Comptroller and Auditor General should be examined. It seems that all a Department has to do is flag non-compliance. There are no sanctions or penalties and, as a consequence, there is no change. Unless they are forced to change, we will continue to be told there is nothing they can do. The Comptroller and Auditor General also found that the levels of non-compliance in the HSE were so high that the problem was systemic, after carrying out an audit in 2015 where 30% of the samples were found to be non-compliant with procurement rules. It was systemic not just in the HSE, but right across the system. There is a real problem here and we will see more of this unless we have rules in place that involve some level of sanction.

Deputy Eoghan Murphy: It is important to understand that the reason we know about these instances of non-competitive processes taking place is because they are completed by the Accounting Officers themselves under this Circular 40/02. That is how we come to see exactly what has happened in this space. We need to recognise that while we should always hope to see competitive processes, EU directives allow for non-competitive processes in circumstances where special equipment has to be procured, and one could understand how that might happen for defence. There might be an extreme emergency and that has come up with regard to emergency fit-out for special accommodation centres, where a change of supplier might oblige a contracting authority to acquire supplies with different technical characteristics. That can come out as well. There might be an opportunity where there could be a bargain purchase available. It is worth noting, despite the cases listed by Deputy Cullinane now and in previous debates, that we have the lowest level of non-competitive procurement in the EU at less than 1% of the €12 billion of procurement undertaken by the State.

Deputy David Cullinane: Reading from the Comptroller and Auditor General's most recent reports, he states that it should be noted that the level of non-compliant procurement may be higher due to under-reporting. He went on to state that the HSE, for example, does not have

adequate systems to capture instances of non-complaint procurement and accepts that it is unreported at this level. He also found that all testing of HSE procurement in 2015 involved testing of procurement in five locations. Some 30% of the samples were found to be non-compliant and in 2014, 47% were found to be non-compliant. He went on to conclude that non-compliance with procurement requirements in the HSE is systemic. Not only that, there were many organisations for which he cited similar problems. The Minister of State correctly says that we are only aware of this because of the Accounting Officers informing us of non-compliance. The problem is that nothing changes because there is no sanction. There are a number of issues here. There is no sanction and there are potentially levels of under-reporting as well. All I ask for is a review. Can we review what is happening here and see if we can get changes? In the health service alone, it amounts to €1.6 billion of the €14 billion spent on health in terms of the purchase of goods and services.

Deputy Eoghan Murphy: This is constantly being reviewed by the Office of Government Procurement, which is a new office. Its role in this area is to bring about the standards for compliance and the standards to be set for a competitive or non-competitive tender, and to liaise with the contracting authority, which might be a State agency or might be a local authority, about best practice. I spoke earlier about the work that has been done there with the Comptroller and Auditor General's office and the Chief State Solicitor's Office to try to achieve that. As the Deputy will know from his role in the Committee of Public Accounts, it is the responsibility of the Accounting Officer under section 19 of the Comptroller and Auditor General (Amendment) Act 1993 to answer for those financial management aspects. There is an internal audit function within the Department that will look at where a non-competitive process has taken place. It is then declared by the Accounting Officer under Circular 40/02. The Minister and the Accounting Officer are then responsible to the Committee of Public Accounts insofar as the Comptroller and Auditor General's external audit of that Department has taken place. That is the mechanism whereby this is reviewed and where accountability is held. The role of the Office of Government Procurement in all this is to bring about these reforms and better standards so that we can see what has been happening to date and we can drive further reform and improvement into the future.

National Planning Framework

3. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform if the national planning framework and the mid-term capital review will be integrated in terms of approach, objectives and goals; and if he will make a statement on the matter. [10849/17]

Deputy Dara Calleary: The Minister is currently conducting a mid-term capital review and the Minister, Deputy Coveney, when he is not causing trouble elsewhere, is conducting the national planning framework. He is engaged in a relatively wide regional consultation that is provoking all sorts of interesting proposals. Meanwhile, the Minister is pursuing the capital review. What plans are there to integrate the two? The capital review should presumably reflect the finality of the national planning framework in some shape or form in order for the national planning framework to be effective on this occasion, which is a hope we all share.

Minister for Public Expenditure and Reform (Deputy Paschal Donohoe): There is a very close alignment between the new national planning framework and the current review of the capital plan which will be strongly reflected in the Government's capital investment

plans arising from the review and decision-making on spatial planning. Indeed, the Taoiseach, in his recent address to the Institute of European Affairs entitled, Ireland at the Heart of a Changing European Union, reaffirmed that the new national planning framework will be complemented with a long-term, ten year capital plan.

As the Deputy is aware, the review of the capital plan will be undertaken in two separate phases. The first phase will comprise a focused review of priorities aimed primarily at advising Government, in the context of Estimates for 2018, on how the additional funding of €5 billion committed by Government for capital investment will be allocated for the period to 2021. This will examine priority areas for investment, consistent with the objectives of the existing capital plan.

Separately, responding to the direction that the Taoiseach has articulated this area, the review will assess and report on the framework required to underpin a far longer term approach to capital investment and investment in infrastructure. This is intended to comprise a fundamental review of public capital infrastructure into the future, taking full account of the finalised national planning framework. It is understood that the first draft of this new approach should be available in April, in time to inform the outcome of the first phase of the review of the capital plan.

In making their submissions to my Department, Departments have been specifically asked to take into account the emerging position with regard to the draft new national planning framework and to seek to identify any crucial long-term needs that can be anticipated at this stage, in advance of the publication of the framework. It is envisaged that any suggested new spending contained within submissions will be assessed at programme level against a number of criteria, including specifically alignment with the emerging national planning framework.

Deputy Dara Calleary: I thank the Minister for his response. He spoke about the €5 billion additionally allocated from 2018 to 2021. How much of that is already allocated, for example, for housing? Will that particular allocation reflect the priorities in the 2016 to 2021 capital plan announced in 2015? It is already very outdated in some of its ambitions. For example, it has a broadband speed plan which is already slow compared to current technology.

Second, those areas will be excluded from the growth areas that will be identified as part of the planning framework. What future is there for those in terms of capital expenditure? Are we going to focus all our efforts on connecting the growth centres, excluding all other areas? Will we then allow a situation where we have such an imbalance of population and service and all of the pressure that comes with that not just in this city, but in Cork, Galway and some of the cities that have already been chosen? How are we going to ensure that imbalance does not happen? How are we going to ensure that we get some sort of permanent, sustainable development around the entire island as opposed to just in these growth centres?

Deputy Paschal Donohoe: In respect of the first of the Deputy's two questions, out of the €5 billion of additional resources, approximately €2.2 billion to €2.3 billion was allocated to the Minister, Deputy Coveney, for the public housing programme he announced before Christmas. Approximately €2.4 billion to €2.5 billion is currently unallocated and that will be dealt with in advance of 2021.

On the Deputy's second question, the process I have outlined will allow a review of existing commitments. If there is any situation in which existing commitments have been overtaken

by the development of technologies, I am certain that will be dealt with in the review process I have outlined.

On the Deputy's third question, which was on growth areas, the whole purpose of having a national planning framework is to ensure that we have an effective allocation of investment across the entire country. We are talking about the allocation of additional funding. The reason we will be using the national planning framework is to make sure that it is not primarily growing areas such as Dublin that receive all the funding. The very reason this work is being done is to try to avoid the very imbalance the Deputy is raising with me.

Deputy Dara Calleary: I fear that we are just falling into this capital review and that we are ignoring potential sources of funding outside the traditional sources. The policy on public private partnerships is very conservative and not reflective of modern market trends. I am still at a loss to understand the Government's response to European Investment Bank, EIB, funds. I do not want to know that it has opened an office in Dublin. That is grand. It is very well for a bank to open but it needs people to come to it looking for money. We have heard consistently from the EIB that it has funds available at record low interest rates but it is not getting the projects. What is the Minister doing to try to promote projects and to promote EIB funding being used for the capital plan review? What will he do, in terms of the review of the capital plan, to encourage new forms of spending, including PPPs and other off-balance sheet measures?

President Juncker announced in September that he would be willing to discuss capital. We have discussed reviewing capital rules around expenditure. I know Deputy Eamon Ryan has raised the issue with the Select Committee on Budgetary Oversight. What is the Minister doing to try to take that opportunity?

Deputy Paschal Donohoe: Let us be clear about the scale of the investment of the EIB in Ireland. My understanding is that it has now made funding available to every university in our country and it has made funding available to develop projects like Luas cross-city and the Grangegorman campus of the Dublin Institute of Technology. It has put investment in place to support needed projects in our county.

Deputy Eamon Ryan: It has put nothing into energy.

Deputy Paschal Donohoe: On the Deputy's question on the role of public private partnerships, I am very willing to engage in a discussion on the role of PPPs but let us be clear that a public private partnership builds up a liability that is then contingent on the State balance sheet. It is funding and a loan that at some point will need to be repaid. If the Deputy needs evidence of the challenge that can pose, he should look at the accumulated bill of payments that we already have in respect of PPPs that we have delivered. It is between €4 billion and €5 billion. These are repayments on PPPs that the State now has to deliver.

Part of the capital review I am undertaking includes the need to look again at the role of PPPs and, indeed, deal with Deputies' issues such as the one Deputy Ryan has raised. I am pleased to hear that Fianna Fáil has an open mind on this issue. I would hope, therefore, that this open mind would continue to support, for example, tolling to ensure that income streams are delivered to allow the PPP opportunities that Deputy Calleary has raised to be realised. I am well aware of the benefits and the challenges in respect of PPPs.

Budget Consultation Process

4. **Deputy Eamon Ryan** asked the Minister for Public Expenditure and Reform the role his Department has in the establishment of an Oireachtas budget office to support the Committee on Budgetary Oversight; the appropriate public service grade that should be head of such an office; and the reason for the delay in the hiring of necessary staff. [10846/17]

Deputy Eamon Ryan: It is vital that this Dáil is involved at every stage of the budget process, reviewing capital plans. We agreed this less than a year ago. The Minister of State, Deputy Stanton, at the time said that we should look at what the OECD is saying and bring in the best analysis. The OECD said clearly that we need a budget oversight capability, budget office and economics office within the Parliament to assist in this review process. We agreed to that eight or nine months ago, but nothing has happened since. What is the Minister's Department doing? What is its role? What grade does the Minister think should be head of this office? When will it happen? Why has it taken nine months not to do something that is critical, in my mind, for analysis in the whole economic area?

Deputy Paschal Donohoe: Of course it is not true to say that nothing has happened. That is actually wrong.

Deputy Eamon Ryan: The Minister does not have the staff.

Deputy Paschal Donohoe: The Government is very supportive of the Oireachtas having an enhanced input into discussions on budgetary priorities.

It is for this reason that the programme for Government contains a commitment to establish a parliamentary budget office following on from the recommendations of very report to which Deputy Ryan referred. The Houses of the Oireachtas Commission met with officials from my Department in December last year to discuss the matter of staffing generally. I know that at this meeting the commission agreed to furnish a staffing review to my Department to allow informed consideration of all future staffing requests, including that of the head of the parliamentary budget office.

The Oireachtas submitted this review to my Department on 17 February 2017 and sanction for the head of the parliamentary budget office has now been issued.

Deputy Eamon Ryan: What is the grade for the head of that office? My understanding of those talks was that there was a difference between the Oireachtas and the Minister's Department. His Department was insisting the post be at principal officer, PO, level and the Oireachtas wished it to be at assistant secretary level. That was the reason there was not agreement. My understanding from talking to people here is that argument has been going on since last November before the meeting in December, which may have been called to resolve the differences.

Is it true that the Minister's Department felt that the post should be at principal officer level? Does the Minister think that is appropriate? Will that be the level advertised or will the post be advertised at assistant secretary level? I believe it should be at assistant secretary level because we need someone with real experience, clout and stature to lead that important role.

Deputy Paschal Donohoe: My Department generally has differences with every Government Department it deals with; that is what it is there for. It is there to make sure that there is consistency in respect of staffing and spending decisions. The view of my Department was that

2 March 2017

the appropriate level for this role was principal officer. The very reason for that was that the equivalent position within the Irish Fiscal Advisory Council is also at principal officer level. That was the rationale behind the decision we made. We have met with the Oireachtas commission in respect of this on a number of occasions and we have recognised the potential role of this office.

My Department has now issued sanction for this post to be at assistant secretary general level because this is an organisation that I want to see set up and done well. This is not a code for me or my Department's saying that every additional staffing request or grading request made will be agreed to. I have a responsibility to make sure that we handle pay and staffing matters in a consistent manner across all Departments. Upon consideration of the issue, I have agreed that the post be at that level and that is the level at which it will be advertised.

Deputy Eamon Ryan: I fully agree with the Minister that it should not be code for a free-for-all in terms of every Department getting whatever level it wants, but this is a "Yes, Minister" code to stymie a process that now, for a second year running, has stopped the reform that we all sought to bring in.

We all know the budget process starts now. It will take us several months to carry out an interview process. We will not have the office in place until at least early summer, perhaps the end of June. It effectively means that for a second year running we are not able to do what we set out to do, which was to really get stuck into the budget process.

4 o'clock How is it, and I hate to say it, that nothing has been done? I do not know whether the blame lies here with the Oireachtas or with the Minister's Department, but it was agreed that it was critical that this be in the programme for Government. It was written very well in the programme for Government. There was no disagreement on it.

There was widespread support and the Committee on Budgetary Oversight held plenty of hearings. We went into detail on this and brought in English authorities from a similar office. We did all the work and the process stalled. Nothing happened for six months.

The Minister said things are happening. We are only now advertising the post, following a delay of six months which means we will not be involved in the 2018 budget, be properly set up in time for the review of the capital plan and not involved, as we should be, in pay talks and the complex budgetary issues we are facing. Would the Minister not agree that, no matter whether it is the fault of the Department or Oireachtas, the delay of six months is disgraceful?

Deputy Paschal Donohoe: I am sure buried somewhere in Deputy Ryan's statement is an acknowledgement of the fact that I have agreed to this post being at the level that was requested. It was appropriate that the matter went through scrutiny and debate. The reason for that was that when the organisation is established, I will then be asked by the House why it is costing a certain amount and has a particular grade of office within it. I have made the decision because of the support I have for the establishment of the institution. The post will be advertised very soon, I am sure, at the level that will allow the organisation to do its work.

Dáil Éireann
Other Questions

Budget Measures

5. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the role he envisages for reform in 2017 and thereafter in the context of the need to ensure the smooth operation of the economy in competitive mode. [10622/17]

Deputy Bernard J. Durkan: This question relates to the extent to which the Minister foresees an ongoing role for reform in the budgetary process and the benefits to accrue.

Deputy Paschal Donohoe: We are well aware of the importance of a well-functioning public service and how crucial it is to the smooth operation of the economy. Public service reform was a central element of the response to the challenges of recent years and remains an essential part of building for the future. Since the first public service reform plan was published in 2011, a comprehensive programme of reform has been implemented and this continues to be a priority. The benefits of this reform approach are clear. Between 2009 and 2014, the Exchequer pay bill was reduced by over 20% and staff numbers by 10%.

The performance of the public sector has major implications for the management of the State's finances, economic development and employment creation. It is essential that targeted recruitment and investment in public services is done in tandem with further public service reform measures, not least as current and future demographic trends will continue to place demands on public service delivery.

The most recent public service reform plan for 2014 to 2016 put citizens ever more to the centre of what we do in terms of service delivery and transparency, openness and accountability. In addition, reform is continuing to deliver savings across a range of specific areas such as shared services and procurement reform. The use of new digital methods to improve online delivery of services and reduce costs continues to be vital.

If we are to build on this progress in 2017 and beyond, we must consider a new phase of public service reform. I have invited the Oireachtas to have an input into process and build on the progress we made in recent years.

The Deputy's question on budgetary reform is listed as Parliamentary Question No. 8. The question I have just answered relates to his question on public service reform, which I have listed as Parliamentary Question No. 5.

Court Accommodation Provision

6. **Deputy Brian Stanley** asked the Minister for Public Expenditure and Reform the progress that has been made by the OPW on securing a site for a new courthouse in Portlaoise. [10490/17]

Deputy Brian Stanley: My question relates to the OPW and the securing of a new site for a badly needed courthouse in Portlaoise. The Courts Service was centralised in various counties over recent years. All court cases in Laois are currently being held in Portlaoise, which has

2 March 2017

resulted in a very busy building. What progress is being made on the matter?

Deputy Seán Canney: The Office of Public Works has no direct role in the purchase of sites for the Courts Service. On request, the OPW provides professional advice to other Departments and offices, including the Courts Service. At the request of the Courts Service, the OPW is currently examining potential sites for a new courthouse in Portlaoise. The purchase of a site and provision of accommodation is ultimately a decision for that organisation.

Deputy Brian Stanley: I am aware that the OPW will not carry out the work, but it is involved. It is its job to find a suitable site. The Department of Justice and Equality passed us back to the Department of Public Expenditure and Reform. I originally tabled the question to the Minister for Justice and Equality.

The current courthouse on the main street is totally unsuitable. There are no parking areas and prison vans are parked on each side of Church Street on sitting days. There are no holding cells, which means that prisoners are held in vans on the street for long periods of time. That causes all kinds of problems for the Garda, public and everybody else.

There is a distinct lack of privacy in the building for clients to consult with solicitors or barristers, which means that a lot of communication takes place in crowded hallways. Family law courts are held in the same building and areas as other cases, which means that a person who is seeking access to children or dealing with a family law case is in the same area as hardened criminals. A number of sites have been proposed.

Deputy Seán Canney: I agree that the Courts Service wants to build a new and modern courthouse with all of the necessary facilities in Portlaoise. It has tried to acquire a site for a number of years. The two potential sites that have been identified are being assessed by the OPW on behalf of the Courts Service. Progress with regard to the development of the court building will depend on funding.

Deputy Brian Stanley: I am glad to hear that some progress is being made. There is a site beside the Midlands Prison which local public representatives have highlighted for years. It is adjacent to the Midlands Prison and Portlaoise Prison, which would mean that prisoners would not have to be brought in convoys to and from the prison for court sittings. Other sites can be identified. There have been violent incidents outside the court building on the main street on sitting days, in addition to the other problems I have outlined.

The site at the Midlands Prison should be considered. The county council has also put forward options to the OPW. The management, staff and councillors at a local level want this matter progressed. I was asked to raise the matter with the Minister of State at the last joint policing committee. There is goodwill locally. I ask that the senior officials in the Department grab the bull by the horns, ensure that the matter is brought to a conclusion and locate a site. We can then ensure that the required capital funding is in place.

Deputy Seán Canney: The Deputy referred to the county council. The Courts Service has had discussions with Laois County Council about the possibility of acquiring a site in Portlaoise and carrying out a joint venture. We cannot discuss the identity of any site at this stage, but all options are being considered.

Public Sector Pay

7. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform the status of equalising pay for new entrants and existing public sector workers; the steps being taken towards the equalising of pay; and if he will make a statement on the matter. [10594/17]

Deputy Dara Calleary: Many pay issues have been resolved in the past number of weeks beneath the surface, of which doctors are the most recent group in terms of their allowances. The ongoing issue of the new entrants is still up in the air and is the cause of some contention. Is any work under way inside or outside of the public sector pay commission to address or engage with this issue?

Deputy Paschal Donohoe: The answer to the Deputy's question is "Yes", in terms of the public sector pay commission and its terms of reference. The Deputy referred to new entrants, an issue which was also recognised in the supply and confidence agreement between the Government and Fianna Fáil. It is considering the matter and will issue its observations in the coming months.

On the broader issue and the background to it, the 10% reduction in starting pay for certain new entrants was introduced in January 2011 as part of the national recovery plan to reduce paid by the then Government. The issue of addressing the difference in incremental salary scales between those public servants who entered public service employment since 2011 and those who entered before that date was addressed with the relevant union interests under the provisions of the Haddington Road agreement. From 1 November 2013, pre-2011 and post-2011 pay scales were merged into a single consolidated scale applicable to each grade. Generally, the third point of the 1 November 2013 pay scale is equivalent to the first point of the pre-2011 scale. All the relevant details are available on my Department's website. I will furnish to the Deputy any details he may want in that regard.

Any further adjustment for any group of public servants, including new entrants, can be examined under the framework of the Lansdowne Road agreement but must be considered in the context of the total cost of the agreement and the total cost of the outstanding FEMPI restoration post-Lansdowne Road, which is €1.4 billion.

Acting within these constraints, the agreement has provided the flexibility to address particular sectoral issues such as the restoration of supervision and substitution payments and those of new entrants to the education sector as well as some of the other matters to which the Deputy referred.

Deputy Dara Calleary: What would the total cost be of - to use the phrase - equalising pay for those post-2011 entrants? It is difficult for people to share the same staff room or for members of An Garda Síochána to share the same beat while on a lower pay scale yet subject to the same demands and risks. There are various challenges in terms of the public service pay bill, but this issue is one of fairness and, in many cases, of camaraderie within the service. This is causing hardship to those on lower pay but it is also causing undue tension in workplaces throughout the country. Has the Minister put a cost on this aspect, which is in addition to the €1.4 billion?

Deputy Paschal Donohoe: It is important to be clear about one of the reasons for the difference in costs and wages. Under the agreement that we now have, the norm for many of the

2 March 2017

more recent entrants is that, until they get to a much later part of their career, they will be two salary points behind those who joined pre-2011. This means that the entire cost of equalising pay scales will be significant. At the moment, in the context of discussions that we will have under the auspices of aiming to conclude a replacement to the Lansdowne Road agreement, we are working through what the cost could be. I can give the Deputy an illustrative figure, which relates to the example he raised. For the Department of Education and Skills, the cost per annum in respect of teachers alone would be €70 million. That is just for teachers.

Deputy Dara Calleary: In the context of the talks, will the Minister give us the most up-to-date timescale that he has with regard to the finalisation of Kevin Duffy's work and his anticipated timescale for talks this year on a Lansdowne Road successor to get under way?

Deputy Paschal Donohoe: The timeframe that has been set and agreed by Mr. Duffy and the Public Pay Commission is that their work will report across the second quarter, which refers to April, May and June. I hope that they meet that timeline. When they publish their report, the Government and representatives of public service employees will then need a period of time to digest the report and comment on it because I anticipate that it will be a significant piece of work. My current target is to be commencing negotiations with trade union representatives well before the summer. I am under no illusion but that these will be difficult negotiations and discussions for both sides. Everyone in the House should be clear about that. The reason they will be difficult refers to the figures I shared with the Deputy a moment ago. The total cost of the FEMPI wage restoration that has not occurred is €1.4 billion per annum. Therefore, all the negotiations that need to take place will be challenging. However, I will approach them in good faith as I know the other interlocutors will too. I remain convinced of the need for a collective agreement and the events of recent months have shown to me even more clearly why such an approach is needed.

Departmental Budgets

8. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the extent to which spending remains on target and within budget for 2017, with particular reference to any sectors which might have the potential to lead to an overspend by year's end; if any adjustments are likely to be made in high pressure areas; and if he will make a statement on the matter. [10621/17]

Acting Chairman (Deputy Declan Breathnach): Is Deputy Durkan satisfied that Question No. 8 has, in effect, already been answered by the Minister?

Deputy Bernard J. Durkan: This question refers to the extent to which monitoring takes place with regard to the budget for the current year and the degree to which any identification has been made of possible overspends under various headings and how they might best be handled.

Deputy Paschal Donohoe: I indicated my answer to this question in reply to an earlier question. To address some of the additional points raised, the expenditure figures for each Department are tracked constantly by my Department. We have now allocated how we expect the expenditure ceilings to be realised per quarter for 2017. We have laid out what the Revised Estimates Volume profile for each Department will be for the year. It is roughly equal for the first, second and third quarters, during which it is expected that there will be between €13 bil-

lion and €13.1 billion to be invested and spent. For the final three months of the year, the fourth quarter, we expect the figure to rise to €14.26 billion. It is expected that capital expenditure will increase towards the end of the year which is why the figure increases at that point. The figures are regularly checked and are assessed with all my ministerial and Cabinet colleagues. We have completed the work in laying out how we expect expenditure to materialise across 2017. As always, we are not expecting any Department to overspend in terms of that expenditure ceiling.

Deputy Bernard J. Durkan: I thank the Minister for the comprehensive reply. Has any Department edged closer to the red line than others? Have some Departments been better at keeping in mind their obligations to stay within budget? Given the nature and importance of the Minister's job in the overall budgeting context, to what extent is it possible to ensure that any corrective measures that are required can be made?

Deputy Paschal Donohoe: All my colleagues are well aware of the need to stay within the figures I have outlined to the Deputy. It is fair to say that certain Departments are under more policy pressure than others. I spend a considerable amount of time working the Minister for Health, Deputy Simon Harris, who has to manage an array of different matters relating to his Department. All of my colleagues are aware of the legal requirement to be inside the figures to which I have referred. This is why I have ongoing contact with most of my colleagues in government to ensure that any issues they raise with me are dealt with inside the framework to which I have already referred.

Deputy Bernard J. Durkan: Of the various elements of the public sector that incurred quite a considerable level of expenditure restrictions and wage cuts during the more severe days of the economic recession, can fairness and equity be applied in return for the sacrifices made by each and all areas in the public sector during that period without placing any other at a disadvantage?

Deputy Paschal Donohoe: We always do our best to be fair to all the different interests that are raised with us. If we consider the question Deputy Calleary put to me a moment ago, the amount of funding for wages that was removed during the period of crisis from our civil and public servants, at €1.4 billion, is exceptionally large. The needs being articulated to me on behalf of civil and public servants are that they want this figure to be fully restored and view pay restoration as fair. However, what I need to do is balance their needs against an agenda of fairness in service delivery. We use a single source of money, namely, the revenue we raise through taxes and State borrowings, to pay public service salaries and cover the service and investment needs which Deputy Durkan and other Deputies frequently raise with me. My aim in government is to balance these competing needs.

State Banking Sector

9. **Deputy Mick Wallace** asked the Minister for Public Expenditure and Reform if he had discussions with the Minister for Finance with regard to using a proportion of the capital from the sale of a bank's (details supplied) shares for public investment here, as recommended by TASC in its report *A Time for Ambition* with regard to the promised new capital investment plan; and if he will make a statement on the matter. [10624/17]

Deputy Mick Wallace: The Minister will probably have heard of the TASC report, *A Time for Ambition*, which addresses the promised new capital investment plan. Has the Minister dis-

2 March 2017

cussed with the Minister for Finance the possibility of using the proceeds from a potential sale of State shares in Allied Irish Banks to invest in infrastructure, rather than paying down loans?

Deputy Paschal Donohoe: The Minister for Finance is taking the lead role in respect of the State's shareholding in the banking system. I am aware of the report to which the Deputy refers, which I have read and considered. Notwithstanding the proposal contained in the report, under EU fiscal rules, the proceeds of any such sale may not be used to fund increased expenditure, irrespective of whether such expenditure is classified as current or capital.

The Department of Finance's shareholder management unit has the responsibility to protect the State's investment in the bank in question following its return to profitability, consistent with an approach that supports the sustainable recovery in the economy. While the unit's ultimate role is to return the bank to private ownership, the State will exit its investment in the bank in a measured fashion and in a manner than maximises the return to the taxpayer.

Regarding the accounting treatment of any proceeds from such a transaction, the position is that the sale of such financial assets does not result in a beneficial impact to the general Government balance under EUROSTAT rules. This is because it is classified as a financial transaction, whereby it is essentially the exchange of one form of asset, such as shares, for another kind, such as cash. Consequently, the sale of any shareholding in a bank would not count as general Government revenue and would not create any scope for increased spending on the basis of the proceeds realised. Therefore, there will no increased capacity for spending following any sale of bank shares.

However, while not improving the deficit, cash proceeds arising from the sale of bank shares would result in a reduced requirement for Exchequer borrowing, which ultimately results in lower debt. A lower debt level is not only beneficial in terms of the fiscal sustainability of the State, but would also lead to reduced interest payments in future years.

It is crucial that increases in funding for public investment are based on sustainable economic growth. The Government is well aware of the challenges that arose in the past when one-off amounts of money were used to fund ongoing commitments to the State.

Deputy Mick Wallace: I would prefer if the Government did not sell its share in Allied Irish Banks. It would be great if AIB became a State bank. We heard a great deal in 2011 about establishing a State investment bank when the private banks let us down and we ended up bailing them out because they were useless.

The Minister referred to European Union rules. The European Commission recently stated that Ireland is not spending enough on infrastructure and noted that our investment rate was one of the lowest in Europe. In 2008, we spent 5.2% of gross domestic product, GDP, on investment in infrastructure. By 2016, the investment rate in infrastructure had declined to 1.7% and it is set to reach 2% by 2021, which is far below the European average. Other countries break EU rules when it suits them and the EU has shown flexibility towards France, Italy and Austria in the past 18 months. Given that we need money to invest in infrastructure, especially housing, is there not a case for seeking a special dispensation from the EU to use money such as the proceeds from the sale of State shares in the banks to invest in infrastructure?

Deputy Paschal Donohoe: The Minister for Finance is making a case with regard to how we can maximise capital expenditure. Under the capital plan, which we discussed earlier, the Government plans to increase capital investment in the years ahead. Capital investment in-

creased this year by more than €300 million or 14% compared to 2016. It is planned to increase it further every year until 2021-2022 when it is expected to exceed 3.5% of national income. My experience of increasing capital investment indicates that it is important to have planning permission and agreement to allow moneys to be spent and this takes time. On the issue of using the proceeds from a potential share disposal to fund additional expenditure, this is not possible under the current rules.

Deputy Mick Wallace: While I realise Rome was not built in a day, it was started and we should start the process here. The Minister argues that it takes time to secure planning permission and get all our ducks in a row but there does not appear to be much in the way of planning in place. Is there a genuine plan to spend serious money?

Deputy Paschal Donohoe: The building of Rome has started. The national capital framework is being reviewed and public consultation on the framework will commence next week. I aim to conclude the review by the end of the year and we will use it to clarify the position regarding any projects whose planning status is uncertain.

National Museum

10. **Deputy Thomas P. Broughan** asked the Minister for Public Expenditure and Reform the outcome of the presentation to the Joint Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs on 25 January 2017 regarding the arrangements and costs involved in locating Seanad Éireann in the ceramics room of the National Museum of Ireland; the consultation taking place with staff of the National Museum on the matter; and if he will make a statement on the matter. [3743/17]

Deputy Thomas P. Broughan: I have been raising the wholly inappropriate move of Seanad Éireann to the ceramics room of the National Museum of Ireland since last July, when I was contacted by a number of concerned constituents, including Dr. Mark Clinton of An Taisce. I contacted the Ceann Comhairle, the Taoiseach and Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs on the issue and proposed possible alternative locations, including the Round Room of the Mansion House, Dublin Castle and public buildings in other cities, possibly in Cork or Galway. I also proposed using the large former committee room in Kildare House, where the Committee of Public Accounts, on which both Deputy Durkan and I sat, used to meet. Why is €1.5 million being spent disrupting a great national institution which oversees artefacts from 10,000 years of human habitation on this island for the sake of the Seanad?

Deputy Seán Canney: I would love to bring the Seanad to Galway. The Deputy asked about a meeting which was to be held on 25 January last. I am advised that the meeting did not take place. An inherent element of the advancement of the work of the Office of Public Works is its active, continuous engagement with the management and staff of the National Museum of Ireland. The Deputy referred to a number of alternative locations. The relocation of the Seanad would require the relocation of staff, including security and audiovisual services. After a prolonged search it was agreed by everybody that temporary relocation to the ceramics room in the National Museum of Ireland was appropriate. The Office of Public Works has been actively engaged with the management and staff of the museum to assist with the process of its preparation of the detailed plans and tender documents required to advance these works. Any and all of the works proposed will ensure the integrity of the museum will be retained and respected at all times. The outcome of the investigative works that are now being undertaken will inform

the detailed design and specifications of the works required and, accordingly, will facilitate the detailed cost estimate.

I take this opportunity to advise the Deputy that a lot of the work being done in the museum will be permanent work of benefit to it into the future. Disabled access is being provided and the fabric of the building is being enhanced and this will be of benefit to the museum into the future when the Seanad relocates to Leinster House. A large element of the cost relates to IT services, mechanical and electrical, and the installation of a lift for disabled access.

Deputy Thomas P. Broughan: Why are we going through all of this? I have had many experiences of the Office of Public Works and often times I have not been impressed with its performance. The Secretary General of the Oireachtas, Mr. Peter Finnegan, detailed in a letter to me last year the reason the move was necessary. As I said, committee room 1, where we met with our officials is on the same campus. Many Members are located in the Agriculture House campus. What is the reason for this move? Is it related to the grandeur of the Seanad Chamber or to the Seanad as an institution? I was among those who supported the proposal to abolish the Seanad and to increase the membership of the Dáil because of the fundamental role we play and because I believe the people are the second House anyway.

Approximately €1.5 million has been spent already. I understand the OPW has dug pits without planning permission. What is proposed is a change of use of the building. Has planning permission been sought for it? The works were supposed to be under way by now and completed in the autumn. This process is a complete mess. This is cloak and dagger stuff about a great national institution. Why did we go down this road?

I understand An Taisce has made a complaint to Dublin City Council about this move. This is not exempted development. Why are we doing this? Why not just relocate the institution to Kildare House where the staff involved are located, the cost of which would be considerably lower?

Deputy Seán Canney: The decision to relocate to the National Museum of Ireland was made by the Houses of the Oireachtas and not the Office of Public Works. The OPW is only the facilitator of the works. The works currently under way are investigative works which will inform the design in terms of what needs to be done and what permits or consents are needed in that regard. As I said, a large element of the expenditure relates to the audio-visual services required and the installation of a lift, which will be of benefit to the museum into the future.

In regard to the location, every aspect and proposal was examined in detail. The Houses of the Oireachtas agreed that this was the best location to move to.

Deputy Thomas P. Broughan: Deputy Durkan and I were members of the Committee of Public Accounts when a proposal was put forward to fix the floor and roof of the Seanad Chamber. At that stage, the proposal was to move the Seanad to the Natural History Museum where there appeared to be more space and so on.

This seems very disruptive for the institution concerned, which we have all had experience of as children. We all recall visiting it for the first time and how evocative it was in teaching us about who we are and the great history of our people and country. The staff of the museum are being discommoded. I accept the Seanad could not have been relocated to the National Library and so on. A great deal of money is being spent on this project by the Department of Public Expenditure and Reform. As I said, to date €1.5 million has been spent on it. Is the final cost

likely to be several million euro? If so, this is a costly escapade and one that is totally unnecessary. I am sure Senators would agree that it is possible to do one's work in any reasonable size space. There are a number of such spaces around this House, including in Kildare House. I do not see why we are going down this road.

Deputy Bernard J. Durkan: Was any thought given to the Seanad relocating to the old parliament building at the Bank of Ireland? I do not wish to be overly grand about this but it would have been a nice correlation.

Deputy Thomas P. Broughan: The House of Lords.

Deputy Seán Canney: I do not have to hand all of the options considered. The necessity to move has been well documented. If the existing building is left as it is and there is ever a fire in it we will have no building. The requirements of a move have been decided by the Houses of the Oireachtas and not the Office of Public Works. The OPW is meeting those requirements as requested.

The Houses of the Oireachtas was involved at all stages in deciding the new location for the Seanad. No more than other issues that are raised, a decision has been made and we have to get on with the work. That is what the Office of Public Works is doing at this stage.

Infrastructure and Capital Investment Programme

11. **Deputy Mick Wallace** asked the Minister for Public Expenditure and Reform if he has read TASC's report: A Time for Ambition, which calls for a significant increase in public investment from 1.84% of GDP to 2.8% per annum with regard to the announcement of a new ten year capital plan; his plans to open a public consultation process with regard to formulating the new plan; and if he will make a statement on the matter. [10623/17]

Deputy Mick Wallace: The Minister said earlier that investment in infrastructure in 2017 would be 14% higher than in the previous year. According to my mathematics if investment currently stands at 1.7% a 14% increase on that will leave us at well under 2% in terms of investment whereas the European average is approximately 2.9%. If we are not going to challenge the EU rules, will we be paying expensively for the money we are going to invest?

Deputy Paschal Donohoe: I am aware of the report which supports the broad consensus on the need for increased public investment. The current capital plan sets a baseline from which this Government intends to increase investment in critical infrastructure into the future.

As outlined in the 2017 Estimates, gross voted capital expenditure will increase to €4.5 billion in 2017. This represents an increase of almost €400 million in comparison to the 2016 outturn. By 2021, it is envisaged that gross voted capital expenditure will reach €7.3 billion, an increase of over 100% in comparison to its level in 2014. Based on Department of Finance Gross National Product forecasts Ireland's Exchequer public investment will reach 2.7% of GNP by that point.

In addition, as outlined in the capital plan, the wider State sector, including our ports, airports, energy network etc., plans to invest €14.5 billion in capital projects over the period 2016-2021. This amounts to approximately €2.4 billion invested per year and brings total State-backed investment in 2017 to 3.1% of GNP, rising to 3.7% of GNP by 2021, which is the figure

2 March 2017

I referred to earlier. This will be allocated to identified priorities on the basis of the outcome of the review of the capital plan currently under way.

The first phase will refer to decisions to be made in the context of budget 2018 and the second phase, which will commence before the end of 2017, will assess and report on the framework required for a much longer term analysis of our needs. As I said earlier, public consultation in this regard will begin next week.

Deputy Mick Wallace: We are starting at an incredibly low base so the percentage increases will leave us playing catch-up. The Central Bank has said that Government investment has declined by two-thirds since 2008. One of the ways we have been sourcing money because of EU fiscal rules is the public private partnership, PPP, model. Research in Britain shows that public private partnerships cost, on average, between 13% and 19%. How mad is that when money can be got for 1%? I know that the EU fiscal rules do not allow us to borrow money at 1% and invest it in infrastructure but they should. On what basis can the EU say to a country like Ireland that is playing catch-up in terms of infrastructure investment that it cannot borrow money at 1%? Why will it not allow for flexibility under the fiscal rules so that we can borrow money at 1% to invest in infrastructure? It is a no-brainer and a win-win all around investment in infrastructure whereas paying a PPP between 13% and 19% is not. After all, the bill must be paid some time. Just because it is stretched over 30 years does not mean it is cheap.

Deputy Paschal Donohoe: It is my strong awareness that the bill needs to be paid some time that led me to take such care with the use of public private partnerships and undertake to review the role they can play in infrastructure funding. In all of the enthusiasm around the use of PPPs, we must bear in mind that there remains a liability the Exchequer must meet. The fact it is not inputted directly on the State balance sheet does not change the reality that for existing PPPs, we now have bullet payments of hundreds of millions of euro we must meet each year.

Regarding the Deputy's point on the reduction in capital expenditure, that was done during the crash for two reasons. First, we went through a period in which the demand for infrastructure was much lower than had been predicted. There simply was not the need for new buses, trains and new forms of public transport because the existing facilities were not being used in the way we had anticipated. The second reason for the reduction was that we did not wish to impose further cuts on current expenditure in areas such as social welfare. If we had reduced those spending programmes even further during that period, the Deputy would have criticised us for so doing.

Deputy Mick Wallace: I knew that final line was coming 30 seconds ago. The Minister is correct that I would not have advocated further reducing current expenditure. What I am advocating is that we challenge the EU fiscal rules in order to borrow money at 1% for investment in infrastructure. I am delighted to hear the Minister is having reservations about PPPs and I agree wholeheartedly with him on that point. The Think-tank for Action on Social Change, TASC, has argued that using the moneys raised by selling the State's shares in AIB would not break EU fiscal rules. I would not support a proposal to sell those shares but the point is that using that money for investment purposes would not, according to TASC, amount to a breach of the rules. The Minister is saying that when we were in trouble there was reduced demand for this, that and the other. However, there was always demand for things like housing and for the health centres which are only now being built. The demand was there but we were not concentrating on it because, the argument was made, we had other problems. Joseph Stiglitz would have argued that the best way out of the recession at that time, instead of imposing austerity which impacted

most on the less well-off in society, was to have put money into the system, investment in infrastructure being one of the best ways of doing that. If we had done so, we would have got out of the recession in a healthier fashion.

Acting Chairman (Deputy Eugene Murphy): The next question is in the name of Deputy Bríd Smith.

Deputy Paschal Donohoe: Acting Chairman, surely I should have an opportunity to respond?

Acting Chairman (Deputy Eugene Murphy): The time is up, Minister.

Deputy Paschal Donohoe: I did not use up my time. Issues have been put to me by Deputy Wallace and I should have a chance to respond.

Acting Chairman (Deputy Eugene Murphy): We must move on to the next question.

Deputy Paschal Donohoe: If the Chair allows Deputy Wallace to go over time in putting his questions, do I not have the right to respond?

Acting Chairman (Deputy Eugene Murphy): No, the rules state there are six minutes for questions and answers. I must insist, Minister, that we move on.

Deputy Paschal Donohoe: I should be allowed to reply.

Acting Chairman (Deputy Eugene Murphy): I will allow the Minister 15 seconds.

Deputy Paschal Donohoe: I thank the Acting Chairman. I am glad to hear Deputy Wallace agree with me on a point. Who says the new politics have achieved nothing? The Deputy has acknowledged I am correct in saying that if we had reduced current expenditure even more, he would have criticised us for it. To clarify, however, I did not say I was against PPPs. That seems clear given that we are availing of a large number of them at this time. I simply said we must take great care in regard to their use in the future.

Public Sector Pensions

12. **Deputy Bríd Smith** asked the Minister for Public Expenditure and Reform if, as well as committing to retain the link between the public sector pay and pensions, he will reverse the public sector pension reductions and levies inflicted during the recession; and if he will make a statement on the matter. [10502/17]

Deputy Bríd Smith: I expect I will receive some of the same predictive text from the Minister that Deputy Wallace was subjected to in terms of what I am about to say or what I would or would not say. My question relates to the injustice done to public sector pensioners when their payments were slashed in the years of austerity. Will the Minister confirm there is no threat to break the link between public sector pay and pensions? Will he further indicate how he proposes to adhere to the timescale for reversing the cuts to public sector pensions?

Deputy Paschal Donohoe: I was not aware I had texted the Deputy.

Deputy Bríd Smith: I was not talking about texting but to the verbal text coming out of

my mouth. I expect the Minister will say something predictable about what I said, as he did in regard to Deputy Wallace's contribution.

Acting Chairman (Deputy Eugene Murphy): Both the Minister and the Deputy are wasting time.

(Deputy Paschal Donohoe): Hardly, Acting Chairman. We are having an exchange across the House. I am sure there will be as much predictability in what I am about to say as there was in what the Deputy just said.

The public service pension reduction, PSPR, which was introduced on 1 January 2011, is the only measure that has decreased the value of public service pensions in payment since 2008. PSPR applies as a progressively structured imposition on public service pensions under terms set out in the Financial Emergency Measures in the Public Interest, FEMPI, Act 2010, as amended. As such, it has been and remains an important element of the pay and pension measures under the financial emergency legislation which have been critical to the stabilisation of the public finances.

The PSPR burden on pensioners, which was increased for higher-income pensioners from July 2013 under the Financial Emergency Measures in the Public Interest Act 2013, is now being significantly alleviated under the 2015 Act. This substantial part-reversal of PSPR is proceeding in three stages over the period 2016 to 2018. When complete on 1 January 2018, it will mean most public service pensioners are no longer affected by PSPR. All public service pensions with pre-PSPR values of up to €34,132 will be fully exempt from PSPR from then on, while those pensioners not fully removed from the reach of PSPR will, in the majority of cases, benefit by €1,680 per year. The cost of this very substantial PSPR amelioration under the Financial Emergency Measures in the Public Interest Act 2015 is estimated at some €90 million on a full-year basis from 2018.

In the past, the occupational pensions received by public service pensioners were generally adjusted in line with changes in the wages or salary of the pensioner's grade at retirement. Sometimes referred to as "pay parity", this non-statutory linkage lapsed in 2010 when pensions were left unchanged notwithstanding salary cuts at the beginning of that year affecting all public servants. This pension protection, albeit tempered from 2011 in some cases by the imposition of the PSPR, has worked to the benefit of pensioners, as indeed have the "grace periods" in respect of new-award pensions which accompanied the public service salary cuts in 2010 and 2013.

In light of these developments, the issue of how to adjust the post-award value of public service pensions through appropriate pay or other linkages will be considered by Government in due course.

Deputy Bríd Smith: May I take it from the Minister's reply, without putting words in his mouth, that public sector pensioners should be assured there will be no attempt to destroy the link between public sector pay and pensions and that restoration of pension remuneration will be completed in full by January 2018? The Taoiseach and leader of the Minister's party may well be one of those pensioners in the near future, but he will be one of the lucky ones on more than €100,000 per year. However, some 100,000 public sector pensioners are in receipt of less than €25,000 annually. We must emphasise that reality in order to counter the notion that is abroad that these people are massively privileged. In fact, they have paid into and earned their

pensions by right and those pensions are not exactly gold-plated. Will the Minister confirm he is on track to reverse the cuts that were imposed?

Deputy Paschal Donohoe: The Deputy has attributed much to me that I did not say. What I did say is that future policy in regard to the linkages between public service pensions and pay will be dealt with by the Government in the context of negotiations we will have later this year. It is in recognition of the circumstances faced by the majority of pensioners that we implemented a faster reduction of the levy on pensions than we did in respect of the levy on salaries and wages. That was done in acknowledgment that pensioners do not have the opportunity to make up lost moneys by way of other incomes. I agree with the Deputy that while higher levels of public pensions do attract a degree of public focus and scrutiny, the reality is that large numbers of people who worked in the public service for many decades are in receipt of a pension many layers lower than that.

Deputy Bríd Smith: To clarify, is the Minister still leaving open the possibility of breaking the link between public sector pay and pensions? Is he engaging here in another kite-flying exercise or is he attempting to leave the door open to the possibility of breaking the link as some type of bargaining chip in pay negotiations with the unions in the next phase of the Lansdowne Road agreement talks?

Deputy Paschal Donohoe: I am engaged in neither kite-flying nor seeking to have a bargaining chip in advance of future negotiations. I have outlined the process for dealing with this issue. In recent years, the link between pensions and pay was broken. That was done to ensure that pensioners could be treated differently in recognition of their no longer working. The levy on pensions is on track to being reduced at a faster rate than the levy on wages. All other matters relating to future pension and pay policy will be dealt with in the way that I have described.

Acting Chairman (Deputy Eugene Murphy): Is Deputy Broughan happy that Question No. 13 was discussed with Question No. 10?

Deputy Thomas P. Broughan: I will ask a tiny addendum. What is the projected cost and is planning permission for the works needed?

Deputy Seán Canney: I am advised that the cost will be in excess of €1 million. The exact figure will not be determined until all of the investigative works have been conducted. I am unsure about the issue of planning permission, but I will revert to the Deputy with the answer.

Deputy Thomas P. Broughan: In case I do not get another chance, I will raise a related matter with the Minister. When the obituaries of this Parliament and Government were being written a couple of weeks ago, many journalists mentioned that the budget oversight office had not been established yet. This matter has been raised at recent meetings of the budget committee. The Minister told me that funding was in place to invigilate the Ceramics Room and so on. Will he ensure that the office will be established by this Dáil as soon as possible?

Deputy Paschal Donohoe: I am unsure as to whether that is a question on ceramics or the public budgeting office. Is the Deputy asking me whether-----

Deputy Thomas P. Broughan: The budget office.

Deputy Paschal Donohoe: -----we aim to set up that office?

Deputy Thomas P. Broughan: The Minister stated that he had funding in place for the

2 March 2017

committee to establish the office, which would be like the Comptroller and Auditor General's office, but in reverse. Does he have that funding?

Deputy Paschal Donohoe: Yes.

Deputy Thomas P. Broughan: When will it be established?

Deputy Paschal Donohoe: I answered questions on this earlier, but the Deputy was not present.

Deputy Thomas P. Broughan: Okay.

Deputy Paschal Donohoe: We have reached agreement on the level of staffing and the office's head's post will be advertised soon. The body will be set up by the Oireachtas with my support.

Question No. 13 replied to with Written Answers.

Coastal Erosion

14. **Deputy Clare Daly** asked the Minister for Public Expenditure and Reform if his attention has been drawn to the problems of coastal erosion on the Portrane coastline, that damage to the dunes is endangering local homes and that public money was not availed of to implement protection measures recommended in the Portrane coastal erosion management study; the steps his Department will take to ensure that protection measures are carried out without further delay; and if he will make a statement on the matter. [10505/17]

Deputy Clare Daly: The Minister of State is aware of this issue. Residents were grateful for his visit to the area in the past week or so. With every passing storm and change in the weather, homes are further threatened. Residents need to see remediation. What can the OPW do to ensure that the works are undertaken?

Deputy Seán Canney: The management of coastal protection in the area indicated is a matter for Fingal County Council in the first instance. The council must assess the problem and, if it is considered that specific measures and works are required, it is open to the council to apply for funding under the OPW's minor flood mitigation works and coastal protection scheme. Any application received will be assessed under the eligibility criteria, which include a requirement that measures be cost beneficial, and have regard to the overall availability of funding.

Fingal County Council applied for and was approved funding of €57,800 under the scheme in 2012 to carry out a coastal erosion risk management study of the Portrane to Rush area. The funding was drawn down in 2013 following the conclusion of that study.

As I outlined in my reply of 8 December, following the severe storms of 2013 and 2014 and on foot of a submission made by the local authority, total funding of €200,000 was provided by the OPW to Fingal County Council under Government decision S180/20/10/1272 of 11 February 2014 for the repair of damaged coastal protection infrastructure. Part of this funding was for a dunes repair project at Burrow beach, Portrane. This project was not proceeded with by Fingal County Council at the time and the council indicated that it would form part of a separate application under the minor works scheme. I have been advised that my office is not in receipt

of any application under the minor flood mitigation works and coastal protection scheme for Portrane.

As the Deputy mentioned, I visited Portrane on 21 February to view the effects of coastal erosion in the area. I met local Deputies and representatives, residents and property owners and was impressed by the level of engagement locally and with council officials in exploring options to address the problem. I am satisfied that Fingal County Council is giving serious and urgent consideration to finding an appropriate and sustainable solution to the problem at Portrane in advance of submitting an application to the OPW for funding. Any application that is received from the council will be considered promptly and in line with the scheme's eligibility criteria.

Deputy Clare Daly: I do not share the Minister of State's confidence. I have correspondence with me from one of his predecessors, Mr. Brian Hayes, MEP, who similarly visited the region and was told that moneys were available and had been expended on a study. Two or three years later and the weather conditions and erosion have worsened, but Fingal County Council is proposing another study even though the moneys that were available were not drawn down. This is leaving the residents in a vulnerable situation.

The Minister of State's answer is the same one that he gave me in early December, in that the council has not yet applied for anything. At its latest council meeting, it stated that the measures recommended by the previous study, which the OPW had paid for, would not be implemented and it would undertake another study. That is not good enough. A solution must be delivered urgently. What intervention can be made to call the council to account or can it be worked with more closely so that something is done instead of there being another study?

Deputy Mick Wallace: I find this subject interesting. I live five minutes from a place called Bannow Island, where there is considerable coastal erosion. I have contacted Wexford County Council about it a couple of times. The council claims that it cannot get any money to deal with the matter. Since Fingal County Council has money available to it but is not applying for it, would the OPW give it to Wexford County Council instead if I could get that council to apply for it?

Deputy Seán Canney: I will start by answering that question. If Wexford County Council proposes a scheme, it will be considered as long as it meets the cost benefit criteria.

Regarding Portrane, when I met the residents and other locals, frustration was expressed that no work was being done. I understand that, on the following day or the day after that, Fingal County Council met locals and councillors to set up a liaison group to devise proposals.

Funding is available from the OPW, but local authorities need to make applications that satisfy the criteria. We are discussing minor works schemes. We spent €3 million on them last year. A minor works scheme can cost up to €500,000. There are avenues for funding.

When I met people in Portrane, I told them that the OPW would provide whatever help or advice that the local authority required, as we would for any local authority, with a view to finding a solution.

Deputy Clare Daly: The residents have been patient beyond belief with this situation. We are seeking vigilance and intervention by the OPW. It is mad that coastal protection measures that were assessed and recommended in a study two years ago, when we had a different liaison

2 March 2017

group and residents gave of their time to protect their homes, are not being implemented and the council now wants to undertake another study. Something is wrong with that. There is a high level of engagement, but the council needs to do more and be more attentive. If the OPW can do anything, it would be appreciated. This situation is urgent. We will lose homes. The weather is worsening. It is sad to hear the same reply that was given by someone three Ministers of State ago. The situation on the ground is the same but the weather is worse. This cannot continue indefinitely. If those who are charged with responsibility at local authority level are not delivering, they should be called to account and the OPW should intervene.

5 o'clock **Deputy Seán Canney:** I share the Deputy's frustration. I was challenged on that matter and was asked whether I was only there to visit. Deputy Brendan Ryan raised the issue with me in the Dáil three weeks ago and following the discussion I gave him a commitment that I would go out there, which I did the following week. In going there at that stage I was demonstrating our commitment to assist in any way we could, but the bottom line is that Fingal County Council must make an application. On the day, I looked at proposals that were on the table, with residents, who are now engaging with the local authority. I implore local representatives to remain vigilant. They should notify me or my office if there is anything they want me to do. If I can do it, I will do it but we cannot do anything until we get the application. In the meantime, as I said previously, we can offer advice.

Public Sector Pay

15. **Deputy Bríd Smith** asked the Minister for Public Expenditure and Reform his plans to certify in 2017 that the financial emergency still exists in order to retain the FEMPI legislation; and if he will make a statement on the matter. [10501/17]

Deputy Bríd Smith: I was wondering if the Minister is going anywhere nice for St. Patrick's Day and if, when he is away, he will be doing some public expenditure exercises. Will he be thinking about the public sector worker who have been hurt very badly by the FEMPI legislation, and whether he will renew that legislation in June? After all, when we get back after the St. Patrick's Day break there are only about two months including the Easter break for the Minister to make a decision on whether the financial emergency legislation will be reinstated.

Acting Chairman (Deputy Eugene Murphy): Time is limited. The Minister does not have to answer the question about St. Patrick's Day but he should attempt to answer the question about FEMPI. The Minister should be brief.

Deputy Paschal Donohoe: You allowed time to Deputy Smith to put her point, Acting Chairman. When I am abroad I will be representing the country on St. Patrick's Day.

Deputy Bríd Smith: Where is the Minister off to?

Deputy Paschal Donohoe: I will be doing my best to represent the interests of citizens. I will be in Japan and Korea, but it does not matter where I am, I am always aware of the commitments I have. I am also aware of the commitments I have to those who work in public services and who have undergone tremendous changes in their circumstances to allow the economy and country to get to this point.

A legal commitment is laid out as part of a process in regard to the FEMPI Act which

requires its renewal - or not - to be laid before the Oireachtas by the end of June each year. In doing so I must have “regard to the overall economic conditions in the State and national competitiveness” and the “revenues of the State and State commitments in respect of public service pay and pensions”. My last review was informed by the instability in the international economy, the still fragile nature of our economic recovery, the level of our debt, the need to borrow and the obligation to comply with the Stability and Growth Pact. To date, none of those factors have lessened appreciably, while the risks of international economic instability have, if anything, increased.

Acting Chairman (Deputy Eugene Murphy): The Deputy should be very brief as we are eating into the time for Topical Issues.

Deputy Bríd Smith: I think the Minister is a bit out on his own on this one because all of the other Ministers, including the Minister for Finance, the Minister for Education and Skills and the Minister for Health have declared there is no more financial emergency, that we are in recovery and that the money is there to be spent. The possible future leader of Fine Gael, Deputy Simon Coveney, in particular keeps telling us there is no shortage of money to deal with the housing crisis. The Minister, Deputy Donohoe, seems to be the only Minister who believes we are still in a financial emergency and, therefore, he wants to hold onto the FEMPI legislation. If he is the only one who believes it then perhaps he should stay in Korea or Japan because he is on his own in this Parliament in believing it. All the other Ministers say the emergency is over.

Deputy Paschal Donohoe: The Deputy and her group appear to be displaying what I can only call an unhealthy degree of interest in the potential leadership of this party. My interest is in representing the interests of those who work in the public services while balancing that against the other service needs of the country. Far be it from me to be out on my own: every day Deputy Bríd Smith comes to the House she points to the different levels of emergency in regard to the delivery of public services. She points every day to the needs we have in housing, hospitals, schools and our ability to recruit and retain those who work in public services. That is the point she makes every day. What I need to do is balance the level of need against the wage needs of those in the public service. All of my Cabinet colleagues are aware that we must maintain order in terms of how we structure public pay. I look forward to coming back from my work representing the country abroad and continuing to point out the inconsistency in the Deputy’s argument in terms of coming into the House seeking more investment in services and at the same time-----

Deputy Bríd Smith: So the Minister still believes we are in a financial emergency and he will retain the FEMPI legislation.

Acting Chairman (Deputy Eugene Murphy): Deputy Smith should allow the Minister to speak without interruption.

Deputy Paschal Donohoe: -----asking me not to maintain the kind of order we have in terms of public wages to allow services to improve.

Deputy Bríd Smith: I got the answer I wanted. The Minister will reinstate the FEMPI legislation.

Acting Chairman (Deputy Eugene Murphy): Deputy Bríd Smith should please address the Chair. There should be no shouting across at people when they are trying to answer a question.

2 March 2017

Written Answers are published on the Oireachtas website.

Topical Issue Debate

Agriculture Scheme Payments

Deputy Martin Kenny: As I am sure the House and the Minister are aware, we have a serious problem in the agricultural sector with regard to the significant number of farmers who are waiting to get GLAS payments. The first tranche or 85% of payments were due to be paid before the end of 2016 and most farmers expected that would happen. The payments only started to flow in the final days of December 2016. Since then a number of farmers have received their payments but until recently in excess of 10,000 farmers had not received their payments. I understand the number has reduced to approximately 6,500 farmers who have not received the 85% payment.

All kinds of reasons and excuses have been put forward by the Department when contacted which range from technical hitches and difficulties with IT systems but in many cases no excuse at all has been given. The trend I and other Deputies have observed is that when a representation is made on behalf of an individual and the herd number and circumstances are given, in a couple of days or weeks someone from the Department gets in touch to say the issue has been resolved but the farmer did not have to do anything, which tells us that there was nothing on the farmer's side causing the problem. Whatever the problem is, it lies in the Department. The blame has been placed on the Minister and the Department and it would be useful if he would acknowledge that an issue arises with the IT system in the Department that is causing the problem. We are being told that if an issue arises on the system indicating that a farmer will not be paid then the physical application must be accessed and someone must examine it line by line to find out what is wrong. In the context of thousands of applications that seems an absurd system. On behalf of the many farmers who have still not been paid I demand that the Minister pay the money to all of the farmers and if there are problems they can be sorted out later. If some deduction or penalty is required to be made that can be taken from the remaining 15% of the payment. There is no reason to withhold the payment from farmers, many of whom are in dire straits. I have come across farmers who have had to sell sheep to make ends meet, sheep they need to keep on the land to meet the requirements of the GLAS payment. It is totally counter-productive for the Department and the Minister to sit on their hands and not to sort out the issue. It is time the farmers were paid their money. They are in dire straits and many of them are in debt. Bank managers are phoning them to find out where they can get their next payment and they do not understand that there is a technical hitch somewhere in the Department preventing farmers from getting their money. I know a response will have been prepared for the Minister of State by somebody in the Department outlining an excuse, but it is past time for excuses. It is time to make sure that farmers are paid all their money within the coming days, not weeks or months.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle): Before I read the reply, first, nobody is sitting on their hands and, second, I understand the scheme better than anyone because I was involved when it was being designed. One thing I will say is that if a scheme is expanded to the level that GLAS has been expanded in order to encompass so many people and if one considers the options and tries to ensure that

everybody is compliant, it will inevitably lead to some complications. I reassure the Deputy that nobody is sitting on their hands

I welcome the opportunity to outline the current position regarding the 2016 payments under GLAS and the previous model, the agri-environment options scheme, AEOS. These agri-environment schemes deliver important environmental benefits by supporting farmers to undertake actions that will enhance Ireland's agriculture sustainability credentials into the future. A maximum annual payment of €5,000 is available GLAS, with provision for payment of up to €7,000 - known as GLAS+ - where, in a limited number of cases, farmers are required to give exceptional environmental commitments. Applications under the first two tranches of GLAS resulted in almost 38,000 farmers being approved for the scheme in its first year of implementation. This represented an unprecedented level of interest in the first year of any agri-environment scheme. Just under 14,000 applications were received under GLAS 3, which closed in mid-December last. Approvals have now issued in respect of over 90% of these applications, with the remainder currently being examined by the Department with a view to issuing further approvals where appropriate. This will bring overall participation in GLAS to well over the targeted participation level of 50,000 farmers.

In respect of 2016, just over 8,600 participants in AEOS were due payments. AEOS 2 participants completed their five-year contracts on 31 December 2016. Under the EU regulations governing this scheme and all other area-based payment schemes, a full check, including cross-checks with the land parcel identification system, must take place before final payment can issue. As all AEOS 2 participants will be receiving their final payments under the scheme, rechecks on payments made for all scheme years must be completed before final payment can be processed. This is the same procedure as applied to AEOS 1 participants finishing in that scheme.

To date, AEOS payments for 2016 amounting to over €21 million have issued. The remaining 2,000 cases are currently being checked and payments will continue to issue on an ongoing weekly basis as these cases are cleared. The 2016 payments represent the first full year of payment under GLAS. At the end of December 2016, there were approximately 37,500 active participants in GLAS, of whom 27,400 received payments valued at over €97 million. This represented 85% of their 2016 payments. Payment can only issue where all the required validation checks have been successfully passed. As issues with outstanding GLAS cases are resolved, they are being paid in weekly payment runs. Further payments are issuing on a weekly basis, with payments valued at over €110 million now issued and over 84% of participants now paid. There are approximately 5,900 cases awaiting payment. Further payments are issuing on a weekly basis.

GLAS has a range of over 30 actions available for selection by participants and each of them must be verified under EU regulations. As a result, there are different reasons why payment may not have issued. Given their complexity, many of these issues require review on a case-by-case basis. In cases where it has been identified that additional information is required from the farmer, this information is being requested. The Minister and the Department are well aware of the need to process all 2016 payments without delay and are ensuring that all resources required on both the IT and administrative side are directed towards resolving the outstanding queries on these cases.

Deputy Martin Kenny: All of us are conscious that payment can only be issued where all required validation checks have been successfully passed. To my mind, that is 100% of

2 March 2017

the payment. The issue here is that these farmers are waiting for the first tranche, namely, that 85%. Neither the farmers nor I can understand why they cannot receive that money. If there is an issue with checks, that can then be dealt with in on the remaining 15%. There is no need to hold up these farmers' money in these circumstances. While I understand that the Department has a job to do and that we are under EU scrutiny and have all these hurdles to jump, ultimately, it is the farmers' money. They entered into a contract with the Government to get it. Under the latter, a period was set for them to receive their money and the Government is in breach of that provision.

I appeal to the Minister of State to not just tell us that the Department must carry out more checks and validation, that each one must be checked and that farmers must come back with more information. In the vast majority of cases, the farmer has nothing further to do. All that seems to happen is that a check is run through the Department and that when the latter has time to do so, it pays the money. Pay the money now and do the checks later. In the odd case where there may be an issue, it can be taken out of the 15%. The reality is that the Department holds all the cards when it comes to this situation because it has all the other schemes it holds on to as well and there can be cross-compliance with all of them. There is no reason the GLAS money cannot be paid immediately, particularly as farmers need it. The Minister of State is a farmer and he is aware of the circumstances in which many in the farming community find themselves. They are in debt. If they are in debt, pressure is being put on them and the Department is holding up their money, the Government needs to act now to pay that money to the farmers.

Deputy Andrew Doyle: Would that it were the case that we could just pay the money. Under EU regulations, we cannot do so. In the first instance, approximately 54% of the payment is EU rural development fund money. There are six schemes under the rural development programme - GLAS A and C, the beef data and genomics programme, the sheep welfare scheme, the targeted agricultural modernisation schemes and the knowledge transfer programme with locally-led environment schemes to come - across 12 regional offices. In respect of tier 1, 2 and 3 of GLAS and the various options, they were designed to broaden the appeal of it and get as many people as possible involved. However, the minute one does that and de-simplifies the position, one creates a problem.

Ireland is second only to Finland in terms of the speed with which it makes payments. I cannot say so definitively but I would be surprised if Finland has as many schemes and as many complicated schemes as Ireland. There is no doubt that we are on target to draw down all of our rural development programme money. I have seen a couple of cases down through the years where people were paid and that money was then recalled. It is not an issue with which one needs to deal on too regular a basis. In respect of the final check relating to digitisation, we saw how the EU looked for €180 million back. That is why we had the hold up on digitisation and identification in respect of over 90,000 parcels last year. We got that figure down to €60 million, which the Department absorbed rather than pass it on to individual farmers.

It is not that simple a matter to deal with. I wish it was because I know plenty of people who are waiting for their money. However, they can be reassured that everything is being done. I am constantly in touch with people who are upstairs. An entire office is dedicated to this issue and is going through it. If the Deputy was over there and saw the officials working as assiduously, efficiently and diligently as they can, he would see it in a different light.

Addiction Treatment Services

Deputy Noel Rock: I am grateful to be given the opportunity to speak on this issue, which is a concern for many people in the Finglas area. The Finglas Addiction Support Team, FAST, works tremendously hard in partnership with participants, their families and communities to create a more inclusive society in Finglas and to ensure participants become active citizens in the context of their own well-being and that of their local community. I had the pleasure of meeting the FAST team at its centre last year and getting the chance to talk to those involved. It gave me a great insight into the work it does on a daily basis to help people in the Finglas area who are struggling with drug or alcohol addiction.

In April 2013, the Dublin North Addiction Service commenced a cross-task force pilot initiative. This initiative, known as the community alcohol response and engagement, CARE, pilot project was rolled out on a phased basis across three task forces - Finglas, Ballymun and the regional task force - between September 2014 and June 2015. Under the CARE initiative, FAST made an application in 2014 for the funding for the appointment of two clinical nurses for the centre. These appointments would go a long way in helping the centre achieve its goals and its vision for those who benefit from the great work from this centre and in general, the Finglas area.

I fully appreciate that the Department and the HSE have an obligation to remain within their respective allocated budgets. However, it has now been three years since FAST made the application for these positions. Every year it receives the same response that these posts will be kept under review for Estimates for the following year's budget and every year they are kept waiting.

Having studied the three-year strategic plan for FAST from 2014 to 2016, some of the findings relating to the profile of the Finglas community are concerning and as a public representative for Finglas I feel the Government can be doing more to ensure services such as FAST are funded adequately.

I hope I can be in a position to go back to residents and service providers in the area and say that the Government is working for areas such as Finglas and for its residents. However, the Government needs to be aware of the barriers that are in place to tackle the issues that are occurring in disadvantaged areas, such as Finglas, which are faced with drug use, violence and incidents of suicide. While, indeed, these incidents are not limited to Finglas and affect many communities in the north Dublin area, the fact is that FAST as a service is based in Finglas, FAST needs these resources and FAST is not getting these resources.

The funding by the Department through the HSE for the appointment of these positions would go a long way to helping people in this area. It would also be a positive message from the Government that it has not forgotten about those living in these areas, and to the hard working service providers who work day in, day out and who are trying to enact positive changes within these communities.

While I appreciate that the Minister of State is working within limited budgetary constraints, I ask her and the Department to reflect on the fact that this request has been there since 2014 and has been deferred consistently year on year, and yet the need is no less great now than it was then.

Minister of State at the Department of Health (Deputy Catherine Byrne): The Health

2 March 2017

Service Executive has provided the Department with an update regarding the funding for the appointment of two clinical nurses for the Finglas Addiction Support Team through the Community Alcohol Response and Engagement, CARE, initiative.

I am pleased to inform the Deputy that the general manager for social inclusion and addiction in the Dublin north city has approved this programme. It is seen as a vital issue in combating a community alcohol response. The two clinical nurse specialists will operate covering Finglas-Cabra, Ballymun and the regional task force area of Swords, Balbriggan and Howth.

Finglas Addiction Support Team will work in partnership with Ballymun action project and also the community care programme in Swords. This inter-agency approach will be a part of a clinical governance structure led by the Health Service Executive's director of nursing.

This Government is committed to tackling alcohol misuse in Ireland and the widespread harm and pain it causes. Alcohol is causing significant damage across the population, in workplaces and to children, and carries a substantial burden to all in society.

The Health Service Executive provides services to prevent and treat addiction to alcohol. Those who present for alcohol addiction treatment are offered a range of interventions namely, initial assessment, comprehensive assessment, the Minnesota programme, brief intervention, individual counselling, self-help, peer support or a combination of these. The delivery of these services is based on the four-tier model of treatment intervention and services are designed to respond to the individual's specific identified needs.

This care model implies that clients should be offered the least intensive intervention appropriate to their need when they present for treatment initially. Interventions range from community and family based supports, to primary care services through to specialist support services in either the community or residential settings.

Inter-agency working between the HSE, drug task forces and multiple other community, statutory and voluntary agencies form the basis of this delivery as the target is to provide services where possible in a community environment.

Counselling and rehabilitation services provide care to those presenting with an addiction through one-to-one counselling and onward referral to other statutory and voluntary groups where appropriate. The HSE also provides funding to a number of voluntary service providers which treat drug and alcohol addictions.

The Dublin North City and County Addiction Service commenced a cross task force pilot initiative in April 2013. This initiative, known as the Community Alcohol Response and Engagement, CARE, pilot project was rolled out on a phased basis across three task forces - Finglas, Ballymun and the regional task force - between September 2014 and June 2015. A review of this pilot project was published in September 2015.

CARE aims to provide a comprehensive treatment service for adults over 18 years presenting with a full range of alcohol related problems, to include brief intervention, information and education, one-to-one key working and motivational group programmes.

It is essential to have a public health policy response which seeks to reduce the number of people engaged in the harmful use of alcohol. The Public Health (Alcohol) Bill contains a package of measures aimed at reducing alcohol consumption in Ireland to 9.1 litres per person per

annum - the OECD average in 2012 - by 2020, and to reduce the harm associated with alcohol.

The Bill, along with other measures, will bring about a cultural shift in how we view and consume alcohol. As a consequence, we will see an improvement in both the physical and mental health well-being in the population. The Bill commenced Committee Stage in the Seanad on 26 October 2016, and will resume in this session of the Oireachtas.

Acting Chairman (Deputy Eugene Murphy): Bang on time. I thank the Minister of State. There are two minutes to conclude for Deputy Rock.

Deputy Noel Rock: First, it is rather impressive that the Minister of State managed to land it bang on time. She must have rehearsed the timeline for that speech.

Acting Chairman (Deputy Eugene Murphy): The Deputy got a positive answer.

Deputy Noel Rock: I thank the Minister of State for her sustained and consistent commitment to this work. Since she was appointed as a junior Minister she has given this sustained focus. It also speaks positively for the Government's priorities that she has done so.

In terms of the answer itself, it is very positive. I would be glad to report that back to FAST.

I would appreciate if the Minister of State might be able to follow up in the future with a few practicalities in relation to the recruitment dates and when this service will be on-stream. That would be helpful and beneficial.

Specifically on FAST, the reply addresses my question. Also in the broader sense we can see a lot of the work the Minister of State and the Department are doing and that they are working with different agencies to achieve. I am grateful for that.

I very much welcome the answer and I thank the Minister of State.

Deputy Catherine Byrne: I certainly will follow up on the recruitment dates and any other information the Deputy thinks might be necessary to move staff into place. I will do that as soon as tomorrow.

Acting Chairman (Deputy Eugene Murphy): Gabhaim buíochas leis an Aire Stát agus leis an Teachta. I can see they are two very happy Deputies.

Deputy Martin Kenny: Deputy Rock is elated.

Acting Chairman (Deputy Eugene Murphy): I hope Deputy Ó Broin has as much happiness.

Deputy Eoin Ó Broin: I am not so sure I can sustain this level of happiness.

Deputy Catherine Byrne: We will see.

Occupational Therapy

Deputy Eoin Ó Broin: I hope the Minister of State pleases me as much as she did her party colleague.

2 March 2017

Deputy Catherine Byrne: I do not know about pleasing.

Deputy Eoin Ó Broin: There are 130 families in my constituency in the South Dublin County Council area who urgently need adaptations to their local authority properties. These are tenants who, either because of physical disabilities or because of accident and injury, desperately need stair lifts, walk-in showers or home extensions. They need these through the local authority disability and mobility adaptations grant scheme. The problem is their grants cannot be processed because the HSE, in the relevant community care area, does not have the necessary occupational therapy staff to provide the reports.

What is particularly galling for those in my constituency in Clondalkin and Lucan is that across the Naas Road in the neighbouring HSE community care area, which is also in the same local authority, the HSE has the staff to progress the adaptations. A resident of Clondalkin today cannot have his or her application progressed whereas a resident in Tallaght can have his or hers progressed. That is causing a particular problem.

This is not a new issue. This difficulty has been ongoing since 2015. I was on South Dublin County Council at the time and we raised it with the HSE locally. We raised it with the local authority management. There had been ongoing negotiations between the HSE and the heads of service in South Dublin County Council to try and get this issue resolved.

In some cases, we are talking about families who have not been able to have their application progressed for as many as 24 months. One woman, for example, has a stair lift that is no longer functioning and is in urgent need of that repair, and she has not been able to progress that application for almost two years. Another family have had shower works completed upstairs but urgently need a stair lift to allow the family member access those adaptations. However, they cannot have that progressed. Not only had I raised the issue when I was on the council but I had asked my party colleague, Deputy Mary Lou McDonald, to raise it with the Minister in the previous Government as far back as 2015.

More recently, South Dublin County Council, to try to progress the matter, offered to pay half the cost of these occupational therapy, OT, reports on an interim basis until such time as the Health Service Executive, HSE, was able to recruit staff. While the HSE has given some indication that it might be willing to deal with that, the reality is that the 130 families who desperately need these adaptations still have not got their cases progressed.

Does the Minister believe it is acceptable that, depending on where they live, a family can have an urgent adaptation grant progressed, that is, somebody in Tallaght, while somebody literally across the road in Clondalkin cannot? Does she not accept that, effectively, this is a geographical discrimination that does not just affect constituents in Dublin Mid-West but in other HSE service areas?

The most important question is what the Minister and the Department intend to do. How will they ensure that the relevant HSE community care organisation, area 7, has the staff it needs to progress these cases as a matter of urgency? What assurances can the Minister of State give to the families, some of whom will be watching these proceedings this evening, that she is doing everything in her power to ensure they will not have to wait any longer before the OT reports are available and their applications can be progressed?

Acting Chairman (Deputy Eugene Murphy): We hope the Minister has some good news.

Deputy Catherine Byrne: I will try my best. I am taking this Topical Issue on behalf of the Minister of State, Deputy Finian McGrath, who unfortunately cannot be here this evening.

A Programme for a Partnership Government commits to a decisive shift within the health service towards primary care in order to deliver better care close to home in communities across the country. Community occupational therapy is a key component of a multidisciplinary primary care service and can play a significant part in supporting people to remain living in their own homes and communities.

Occupational therapy has, as one of its core values, the principle of enabling people to remain in their own homes and communities. For this reason, services are often provided in the client's own home and advice and assistance is given in regard to minor house adaptations to allow the client greater independence and support in their own homes.

With regard to the particular issue raised by the Deputy, the Minister of State, Deputy Finian McGrath, has been advised by the HSE that the provision of occupational therapy housing adaptation reports to councils in community healthcare organisation, CHO, area 7 is not standard. Currently, reports are provided in Dublin south west and Dublin south city but not in Dublin west or in Kildare-west Wicklow.

To review the effectiveness of the service provided, I understand a review over a six-month period was undertaken by the HSE in Dublin south west. The results showed that only 44.4% of reports written by occupational therapists were submitted by clients to their local council and only seven, or 4.5%, of the 154 clients reviewed had work completed. Another finding was that where works were completed, they were not uniformly following the specifications of the reports. The HSE believed that this level of activity proved unsustainable, given the poor outcomes for clients.

To address the large increase in demand for the occupational therapy input and taking account of therapist resources, a recent meeting between personnel from primary care in CHO area 7 and the housing, social and community development units of South Dublin County Council had a successful outcome. Agreement was reached that the HSE will provide the staff resources to address the outstanding 126 reports with funded support from South Dublin County Council. Furthermore, the HSE and South Dublin County Council are in discussions to agree a more streamlined process in the future to ensure assessments are completed in respect of applicants who are most likely to proceed with the works.

The Deputy may be interested to know that an occupational therapy service improvement group has been established by the HSE. This joint primary care and social care project will include a detailed analysis of waiting times and resource deployment across the country. The group's objective is to complete its work by March 2017. It will seek to make the services more responsive to people's needs and also to put in place a standardised approach to the delivery of occupational therapy services across the country.

The group will agree revised models for primary care occupational therapy services to include development and agreement of care pathways, workforce planning and an implementation plan. These are priority actions in the HSE primary care operational plan for 2017. I will address some of the other issues the Deputy raised when I respond again.

Deputy Eoin Ó Broin: I thank the Minister of State for the response. I have had all of that information for over a month, both in replies to parliamentary questions and from the HSE lo-

cally, so there is nothing new in what she said to me here today. It is very disappointing that the HSE has asked the Minister of State to present the results of the survey in the way in which it did. Not all surveys will be submitted to the local authority because the occupational therapist report is to determine whether somebody has an adaptation grant need. In some cases the occupational therapist's report will say they do not, therefore, a report will not be submitted where it is not supporting the requirement.

The other point I would make, and the Minister will know this well from her own local authority area, is that the waiting time once someone gets on the list for the adaptation grant can be two years. That is not the direct responsibility of the Minister of State, Deputy Byrne, in her current role but the reason is because the local authority adaptation grants have been slashed in the past six years, something which the Minister of State would have supported in her support for Fine Gael's budgets over that period. There will be a small take-up within six months of receiving the OT's report but the idea that those two statistics suggest that this is not an appropriate use of HSE staff time is appalling when we consider the level of disability and limited mobility these people have in their own homes.

I presume the Minister of State will not be able to reply to my last question other than repeating what she has said but she said that resources will be provided. When will they be provided? When will the 130 families who urgently need occupational therapy reports have the occupational therapist in their house assessing the level of need? When will they have the reports that can be submitted to the council? Every month in which there is a delay in that resource being provided means a further delay before they start to join the queue of the local authority for the funding to provide the grant. Telling me something that I, and these families, knew months ago is of no use to me. I would like to know when the resources will be provided, when these families will get the reports and when will they finally get the adaptations they so urgently need.

Deputy Catherine Byrne: I cannot remember the question the Deputy asked at the start but my answer would be "No". He spoke about the difference between people living in Tallaght and Clondalkin in terms of the length of time it takes for them to be assessed by occupational therapists. I will not disagree with the Deputy because I am dealing with that problem in my own constituency where people have to wait a long time. As the Deputy said, that is because there are not enough staff members to quickly process the applications.

I do not have an answer to the question as to when the 130 reports from the occupational therapists will be seen to but the Deputy should have no doubt that I will come back to him on that because I also want to know the answer. The reply from the Minister of State, who unfortunately could not be present, indicates clearly that the occupational therapy service improvement group has been established by the HSE. It is all very well establishing a group and to have a paper on that but the people the Deputy, me and every Deputy in this House look after want to be assured that if somebody is in need of a chair lift, an adaptation to their bathroom or anything else that it will be done in a speedy manner.

The Deputy is right to a certain extent but he is not always right. A good deal of money has been put into providing adaptations to people's bathrooms but the difficulty is that when people submit the applications sometimes they have not completed the forms properly. I know from talking to people in South Dublin County Council and Dublin City Council that there is a need for people to include all the information sought to make sure they can be dealt with.

I will give the Deputy a typical example. Two weeks ago, a lady from Inchicore, where

I live, came to see me. She applied for a grant for her bathroom to be adapted. She is an old age pensioner who lives on her own. By last Monday she had confirmation from Dublin City Council that her application was approved and that the work would go ahead. I am not saying that is happening everywhere and I would not disagree with what the Deputy said but I will make sure that the Minister of State or I will come back to the Deputy with the specific answer to the question he asked.

Commercial Rates Valuation Process

Deputy Robert Troy: I thank the Ceann Comhairle for selecting this issue for debate. The revaluation process has finished in counties Longford and Westmeath and caused huge anxiety and stress to many businesses. I acknowledge the good work done by various chambers of commerce, including those in Longford, Mullingar and Athlone, and town teams which organised public information evenings following the revaluation process and arranged for officials from the Valuation Office to visit and speak to concerned businesses.

Recently, the Commissioner of Valuation revalued properties owned by public utility companies such as Electric Ireland, An Post and Eir for the purpose of paying commercial rates in each local authority area. It beggars belief that the local rates of these semi-State companies will be substantially reduced on the basis of the commissioner's decision to revalue their properties, while, at the same time, a yawning €21 million deficit is being left in the budgets of local authorities. It is clear that the current system of valuation discriminates against small businesses. I will share with the House correspondence I received from Moate Action Group on the implementation of the Valuation Act 2001. It states the town has suffered badly since the beginning of the recession and lists closures which have taken place, including of seven shops, a bank, a restaurant, two solicitor practices, a post office, a bookies, a major hardware store and a steelworks plant. On the positive side, three premises have opened, including a bike shop, a barbers and a computer shop.

Moate Action Group was established to fight back against the recession, but it finds it dispiriting that the work it has done in the past two years is being hampered by Government diktat from Dublin. It also states the fight for rural regeneration is not easy and that the previous general election should have been a wake-up call for the Government and rural Deputies. The town renewal scheme is welcome, but the rate revision has the potential to forestall any recovery. A local businessman recently asked me why there was a focus on rates. The issue does not affect only Moate. The rates bill for a GP surgery in Longford increased from €750 to €1,500. The rates bills of a drapery store in Granard increased from €2,766 to €4,620. The rates bill of another smaller shop increased from €500 to €1,270. The rates bill of a pub in Ballymore increased from €800 to €4,200. The rates bill of a shop in Castletown Geoghegan increased from €800 to €2,600. I could go on and identify more shops throughout the constituency. This came out the very same week the action plan for rural Ireland was launched. People ask me how we can speak about an action plan for rural Ireland when these exorbitant costs are being placed on businesses which have been fighting so hard for the past six or seven years to try to stay afloat.

I acknowledge the line in the revitalising rural Ireland plan that there is specific action being taken to determine the feasibility of enabling local authorities to introduce rates and alleviation schemes to support rural development policy. I have asked the Department to develop proposals in this regard for inclusion in the general scheme of the rates Bill. The programme

2 March 2017

for Government states with regard to commercial rates that the Government will implement the Valuation Act which was designed to speed up the cumbersome revaluation process, that it will closely monitor its effectiveness and introduce further measures if it does not see sufficient improvement. When can we expect to see these improvements? I acknowledge that the Government has committed to reassessing how rates are charged to businesses, but in the meantime they are being crippled. While the process of revaluation is ongoing, will the Government introduce an ability to pay clause in order that some businesses can come forward with verified documentary evidence such as certified accounts or tax returns because they simply do not have the money to pay? All I am looking for is a reprieve for these businesses while the Government follows through on its commitment in the programme for Government and that given at the recent launch in Ballymahon.

Deputy Catherine Byrne: On behalf of the Tánaiste and Minister for Justice and Equality, I thank the Deputy for raising this issue. I should point out that the Valuation Office came within the aegis of the Department of Justice and Equality with effect from 1 January 2016. Under the Valuation Acts 2001 to 2015, the Commissioner of Valuation who is independent in carrying out his functions has sole responsibility for the maintenance of valuation lists for all commercial properties in the State which are used by all local authorities in the calculation of rates. The Minister for Justice and Equality has no role in that regard.

Under Irish law, there is a distinct separation of functions between the valuation of rateable property and the setting and collection of commercial rates. The amount in rates payable by a ratepayer in any year is a product of the valuation set by the Commissioner of Valuation, multiplied by the annual rate of valuation decided annually by the elected members of each local authority. Having a modern valuation base which reflects contemporary market conditions is important for the levying of commercial rates on a fair and equitable basis across all economic sectors. This has been the policy of successive Governments for many years and is the express purpose of the national revaluation programme being rolled out by the Valuation Office on an accelerated basis under the direction of the Commissioner for Valuation. This is the first revaluation of all rating authority areas in more than 150 years. The revaluation provisions in the Valuation Acts 2001 to 2015 provide for the revaluation of all rateable property within a rating authority area so as to reflect changes in value due to economic factors, differential movements in property values or other external factors such as infrastructural changes in the vicinity of a property and changes in the local business environment.

As the Deputy will be aware, a revaluation is a revenue neutral exercise from a local authority perspective. I am advised that the general outcome of the revaluations conducted to date has been that approximately 60% of ratepayers have had their liability for rates reduced following a revaluation and that approximately 40% have had an increase, a pattern which is expected to be replicated elsewhere as the programme advances. The current phase of the national revaluation programme is known as REVAL 2017 and covers the revaluation of all rateable properties in counties Longford, Leitrim, Roscommon, Westmeath, Offaly, Kildare, Sligo, Carlow and Kilkenny, where a revaluation is being undertaken for the first time since the 19th century. The current phase also includes the second revaluation of the South Dublin County Council area. The revaluation in all of these counties will be completed in September and become effective for rating purposes from 2018 onwards. The next phase of the programme covering a further batch of local authority areas yet to be decided will begin immediately thereafter.

The Valuation Acts expressly require the Valuation Office to produce valuations that are correct, equitable and uniform. An extensive system of redress is available to ratepayers dissatis-

fied with a proposed valuation. A dissatisfied person can make representations to the Valuation Office within 40 days of the date of issue of the proposed valuation certificate. The Valuation Office will consider the representations and may or may not change the proposed valuation, depending on the circumstances of each individual property. Ratepayers who are still dissatisfied can lodge a formal appeal to the Valuation Tribunal, an independent statutory body established to hear appeals against decisions of the Commissioner of Valuation.

Deputy Robert Troy: To be fair, the Minister of State is right as an appeals process is under way. She stated 60% of ratepayers had not seen an increase, but 40% did. Some saw an increase of anything up to 400% and they simply do not have the money to pay as their businesses are struggling. I listed a selection of examples of such businesses stretched across the constituency of Longford-Westmeath. The programme for Government includes a commitment that the process will be accelerated. I acknowledge that it has been, but the programme also includes a commitment that its effectiveness will be monitored. As I stated, 40% of businesses have seen substantial increases in their commercial rates bill and they simply cannot afford to pay. A commitment was given by the Government at the recent launch of the revitalising rural Ireland plan in Ballymahon. Will the Minister of State commit to examine the introduction of a new fairer and more equitable system? Will she tell me when will it be introduced? When will we have new legislation in place? The Minister has been on a local authority, as I have, and she knows that they are restricted by national legislation in what they can do. We need new national legislation that will bring in a fairer, more equitable system that takes account of a person's ability to pay, the turnover and profitability of a business etc. When will new legislation be brought before the Dáil so that all Members can have an opportunity to have an input into it?

I understand that it is not proper to the Minister of State's Department but will she ask the relevant Minister to look at introducing an ability to pay clause in the current legislation as a temporary measure? I am not asking for a free-for-all but a clause for those who show, by documentary evidence such as certified accounts or tax returns, that they do not have the ability to pay. We want to keep rural Ireland open and one of its biggest problems currently is the high cost of commercial rates.

Deputy Catherine Byrne: I do not have the specific answers to the Deputy's questions but I will inform the Minister in question and ask him to get back to the Deputy. This is the first national re-evaluation to take place in over 150 years so it is important that the process is completed as soon as possible. A number of small businesses in my constituency have seen rates go up by €3,000 or €4,000 and I understand the points the Deputy is making. I will make sure he gets an answer in the next couple of days.

Residential Institutions Statutory Fund (Amendment) Bill 2016: Second Stage [Private Members]

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

It is quite poignant that we are moving this legislation on the afternoon when we discussed the victims' rights Bill and the transcribing of that legislation into Irish law. We are talking about victims, people who underwent traumatic, violent, sexual and mental abuse inside our State institutions. The experience of that abuse contributed in many cases to lifelong damage to the mental health and general well-being of the survivors, some of whom are in the Visitors Gallery tonight. As a consequence of the terrible wrong done to them, the religious congrega-

tions who ran the institutions were directed to give €110 million to a fund for survivors, meaning they get off very lightly considering the damage that was done. To expect those victims to go cap in hand and beg to access that money, which in no way compensated for the damage that was done to them but was supposed to alleviate the problems arising from what they experienced, is simply not good enough.

This Bill is before the House because of the experiences survivors of the abuse have had in the course of the application process, as well as the limitations of the schemes. When this fund was brought into place many of us, and many survivor groups, expressed deep concern about the way it was set up and about the board and we felt it was not an efficient way to meet the needs of survivors. Instead of being survivor-focused and survivor-led, it became a process in which there were bureaucratic blocks on people trying to access services. Unfortunately, the process made already traumatised people feel they were begging or being judged for something to which they were entitled. We were told to give the Bill the benefit of the doubt and urged to see how it operated. A review was to be built into it and if it was not going well the problems could always be dealt with at that point but the review was never initiated. For two years we asked the Minister's predecessors, Ruairí Quinn and Deputy Jan O'Sullivan, for its terms of reference and were told they would be available soon, but strangely enough, in the week this Bill was selected, the terms of reference were finally published on the Department's website. Having read them, I wonder what the Department was waiting for because they do not display monumental amounts of work or effort and the only conclusion is that the Department has not got a clue about what is going on with survivors at the moment. The terms of reference mention consulting stakeholders and looking at eligibility criteria but none of the survivor groups, or the residents, has any confidence in the review. They do not address many of the concerns that were raised, or the ones I raised with the Minister towards the end of last year. Nor do they address the concerns of the Caranua appeals officer, who has had direct experience of how the scheme is being run.

Fianna Fáil's amendment suggests that we put this off again for another eight months but this is insulting to the applicants who have already been left hanging by Caranua. The opinion of the survivors has already been sought and the work already done, not just in the work that has been put into this Bill, which was produced with the input of survivors, but by people such as Fiona Fox, who has worked with many survivors and commissioned detailed reports. She has done excellent work with Senator Lynn Ruane for presentations to the education committee on the functioning of Caranua and she will also be appearing before the Committee of Public Accounts. Above all, in 2015 the appeals officer gave his adjudication on the administration of the fund.

The answers to the question of how to help survivors are already there. The adjudicator reported a 110% increase in the number of appeals and said that many appellants had raised issues about the manner in which their applications had been processed by Caranua. He highlighted the fact that the booklet and application form raised expectations about what people could apply for, which were not matched by the experience of people who made an application. He said many people complained about frustratingly long delays in getting a written answer from Caranua and refusing applications, which meant people could not launch an appeal, and that others went through lengthy procedures which required them to get several quotations for home improvements etc., only to be told several months later that their application did not meet the necessary criteria. Why put them through all that? His report highlighted what we need to do and, in effect, he did the review for us. His concerns reflected survivors' experiences, which

reflect what I put into the Bill. The time it takes to process applications and to forward decision letters, the lack of clarity in the guidelines, the decision to prioritise first-time applicants and the lengthy procedures causing further delays are absolutely insulting. I also highlighted the difficulty people have had in accessing or engaging with Caranua advisers on the need to expand the range of services. I am sure the Minister will tell us we do not need this legislation as we have to wait for the review but the review, and Fianna Fáil's amendment, do not take into account any of those things. All they do is serve to kick the can down the road and drag out further the genuine concerns of the survivor groups.

What is needed is a simple scheme that is clear, quick, easy to access and easy to use. It needs limited bureaucracy as many victims have a poor education because of their abuse and find bureaucracy daunting and difficult to negotiate. The lack of respect and dignity which has been shown to them has revictimised and retraumatised many of them but the problem with Caranua was there from the start. The provisions to help victims had been put into categories of health, education, housing and training and people were asked to queue up to access these services.

It has been a demeaning experience for many of them. The testimony is there and it is heartbreaking to read when one considers what has already been done to these people. Most of the groups will say that there was no meaningful consultation with them about the devising of those categories. They fall well short of the needs of the victims. We have to look at the issue of the age profile. People in their 60s or 70s do not need education and training. The distribution of the funds reflects this. Many have sought assistance in housing, particularly to deal with mortgage and rent problems. What is the point in giving people a cooker if they cannot afford to put a roof over their heads and meet payments? We cannot have a one fit for all solution. We have to take into account people's different experiences.

Many survivors would make the point that the traumatic experiences that they underwent had a knock-on effect on their own children. They were not able to provide as best they could for their own children. They are right to have their own children included. These children were not unaffected by the abuse that happened to their parents. It should be up to the victims to decide what the best supports that they need are. Many of these people want to contribute to assisting their children and feel that would be a more beneficial use of funds.

We have to reiterate, loud and clear, that Caranua is not a charity. It is one of a series of State initiatives designed to acknowledge and compensate for the harm done to people who experienced abuse as children in educational institutions and facilities in this State. This fund is owed to these people. It is their fund. The customer charter talks about treating people courteously and giving clear information, feedback and so on but that has not been people's experience. Caranua calls them "customers". They are not customers. A customer is somebody who buys a good or service from a shop or a business. These are people who were illegally incarcerated by the State and were victimised and abused during that incarceration, such that the Taoiseach had to apologise to them. They represent and are the victims of systemic failure of the State. They need to be heard in this situation. The general approach adopted by the State to victims is reprehensible. We saw it in the Harding Clark report on symphysiotomy. We see it in what is going on in the courts, with victims of the Magdalen laundries being pursued, the women who had their children forcibly removed from them and so on. It is reprehensible. This type of approach will come back to haunt us and it is the type of approach that is here before us in the administration of the scheme as it now stands.

2 March 2017

Our Bill is simple, straightforward, based on the experience of the people who need to access that fund and it has done the job of the Minister's review for him. It essentially comprises six amendments to the 2012 legislation. They are all practical and all based on victim and survivor experiences. They reflect and address the concerns that those people have.

The first is an amendment to section 3 of the 2012 Act, which seeks to address the question of eligibility. It seeks to widen eligibility to those who missed out previously. We know that the 2015 report of the appeals officer also recommends this change, when he said that the circumstances of such individuals can be equally as harrowing as those of applicants who were eligible. As I mentioned in my previous report, it is particularly harsh and unfair to deny, without exception, all persons who have not received awards the opportunity to benefit from this fund. That is an anomaly which must be addressed. People who did not previously get a settlement should be included if they were the victims of abuse in these institutions.

The second amendment is to section 8 of the 2012 Act, to broaden services to include costs associated with the funerals of a spouse, other services that would improve living conditions, to allow survivors to pay for education courses for their children and so on. The appeals officer recommends that the scheme be amended to provide for this. It also deletes the impediment to apply for funds to be put towards mortgage or rent. As I said, it is ridiculous to provide the funds to buy a cooker and not assistance to keep a roof over a person's head. Most appeals last year were in that area. I know there has been a certain relaxing for funerals, but it is not enough. There is no harm in including it here.

The third amendment is to section 9. It is to include a clause that takes into account the age of victims when considering applications. One of the problems here is the delays. Some people are experiencing deteriorating health. They are getting older. Their age needs to be a factor in a speedy processing of their application. This amendment also lifts the limits and the capping that have been put in place.

The fourth and fifth amendments to section 20 and section 22 are designed to speed up contact and replies to survivors when decisions have been made and when a decision on an appeal is made. Delays and poor communication have been a huge complaint from people. I have many examples. People are being dragged through the process at enormous length and being left in the dark about where their application is. Those delays have been consistently highlighted by the appeals officer in his annual report and they are a source of enormous stress. That is a ready amendment.

The last amendment is to remove the surplus of the fund which goes to the children's hospital. I have no problem with the children's hospital being funded. I have a huge problem with any surplus, which is money owed and belonging to survivors of this, being given to a project that should be funded by the taxpayer.

This is simple. I have no doubt that the Minister is going to tell me that the review is there and to wait for it. We were told that when we raised the concerns when this legislation was initially passed, almost five years ago. The review has been delayed. The work has been done by others. The needs of the people are obvious. They are the ones best placed to say what this scheme should be. It is insulting and demeaning to expect them to wait any longer, given their age and what they have been subjected to by this State, when we can move this legislation forward. It can provide immediate assistance to allow them to access their money for the abuse that they suffered at the hands of a negligent State which owes them an apology and a hell of a

lot more than the paltry scheme before them.

Minister for Education and Skills (Deputy Richard Bruton): I thank Deputy Clare Daly for tabling this Bill. To prepare myself for this debate, I went back to when this was debated in the Dáil in June 2009. It is a very sad indictment of both the State and society that led to the events described in the Ryan report that led to the establishment of this fund. It is worth recalling that the Dáil then acknowledged the pain and suffering endured by the former residents of institutions. The commission's report vindicated their claims of abuse and acknowledged that crimes were committed by members of the religious congregations and others against children placed in their care. It restated the sincere apology of the House to the victims of childhood abuse for the failure to intervene, detect their pain and come to their rescue. It acknowledged that the State has an obligation to ensure that children and young people in the care of the State receive the highest possible quality of care, and to provide services to protect them as much as possible from all forms of harm.

There was no doubt that the Ryan report and the lid it took off such appalling conduct in institutions was a real turning point for Irish history. It opened up the weaknesses of administration. The Department of Education and Skills is singled out within that report for some of its failures. There were huge failures with regard to its duty of care and its obligation to discharge its responsibilities. It did not have an effective inspection system. Even cases that were revealed were not properly pursued. There was resistance to the growing volume of criticism that arose. There was a failure to act on reviews that came to its attention.

The House has little comfort in this report either. The House rarely, if ever, had the plight of children in the industrial schools system brought to its attention, and even when it was it was about administrative issues rather than the core issues that were at the heart of this report. There is no doubt that it was an important decision to establish Caranua, which was a trust to spend for the benefit of the 15,000 people who were sexually or physically abused, or who suffered various forms of psychological or other abuse, and received settlements and to put in place an independent board to devote that money to the needs of those people.

I am very conscious that Deputy Daly's Bill is brought forward with the very best of intentions. On the basis of the applications to date, where I think a little more than 4,000 cases have been dealt with and, at this stage, 55% of the money has already been expended, I would have to express a concern that there is an expectation that as others apply from within the group for which it was established, the full amount of the money will be expended on the basis of present trends.

There is a risk in doing as the Deputy is proposing at the core of her Bill, which is to extend substantially the group for whom this money would be used. I have sought information from my Department as to what the potential extent of going beyond those who received redress on account of abuse would be. My Department is not able to tell me the scale of that. Many thousands of additional people would become eligible to apply to the scheme. There is a real concern that this might create real problems in honouring the commitments made to those for whom this scheme was established and who are likely to utilise the full amount of the scheme. Essentially this scheme was established by the Oireachtas for their support. That is why it is important we have a review that establishes the extent to which the resources in the fund will be fully met by those who have applied, or are likely to apply, under the terms of the scheme. That is only fair in the context of the basis on which this was established, which was for very well-established cases of those who brought stories of abuse, who were heard by the redress

board, whose case was established and who received a settlement. This fund is now there to meet their specific needs.

I have met some of the survivors myself and I am very conscious of the concerns they have about the administration of the fund. There is no doubt that people have experienced a lot of problems. The best efforts of Caranua to ensure the fund is administered in a fair way have caused problems for people. There is no doubt about that and I heard those cases at first hand. Some of those were perhaps misunderstandings and some were due to changes in the coverage that were not properly communicated.

As the Deputy points out, at a certain stage the board introduced limits because of its concern that there would be equity of treatment for those who had already applied and those who had not yet applied. Those limits were introduced in an effort to ensure moneys would be deployed fairly, but as the Deputy has said, that has caused problems and difficulties. It is appropriate that this review would look into the nature of those difficulties and whether better rules can be developed to ensure the money is allocated in a way that is easy to understand and to apply.

There are a number of elements in the proposals that the Deputy has put forward. Many of those can certainly be considered in the context of the review including the possible extension towards funeral costs of spouses of former residents and the possible extension to educational services of children of former residents. There will, however, be a need to establish the scale of the funds and whether it is able to meet the likely demands upon it. That is an important element of the review. The review could not have taken place until there was a reasonable level of participation already recorded in the scheme. As I said, more than 55% of the money has already been disbursed at this stage to just over 4,000 of those who are eligible to apply. There is a potential base of substantially more than that who have yet to apply. I understand there are more than 1,000 applications already on hand that have yet to be dealt with and there is an expectation that there are many more potential applicants remaining. That work will be ongoing.

The Deputy makes an interesting point as to whether the issue of the age of former residents should be brought into account. I think there is a reasonable case to examine that.

The objective of the time limit on decisions is reasonable but whether they can be completed within the 28 days in practice is unclear considering the need to process decisions and the information that needs to be collected. There is certainly an endeavour, which will be reinforced by the review, to improve the speed with which decisions are made. I know there have been frustrations with the length of time it has taken to deal with the various applications.

The Deputy has raised an issue about the present provision whereby sums in excess of the maximum amount would go to the children's hospital. It is not sums that would be left within the €110 million. There is no provision for moneys within the €110 million to be deployed for any purpose other than the support of applicable residents. That amount has been ring-fenced. I understand at this stage about €90 million has been fully subscribed and is available, but the provision in the Bill is not that money left over from the €110 million would be applied elsewhere. The provision is that, in the event of there being money over and above that amount, it would be deployed. The €110 million which was the commitment in the Bill, when it is reached, will be available for that purpose. It would take new legislation in the Dáil if any other purpose were to be found to deploy that money. The expectation within my Department is that those moneys will be fully committed to supporting those who are already eligible, that is the 15,000 for whom it was originally established.

The terms of reference for the review was the other issue. They have now been published. There is an opportunity for submissions to be made not later than 8 March, which is just next week. On foot of that we will proceed with the review. It is reasonable that we would revisit the legislation the Deputy has put forward after that review is completed. I would not like to consider extending to new applicants if, as the officials within my Department indicate, the money is likely to be fully exhausted for those who are eligible. If there was a very substantial expansion in the number of applicants it would be very difficult to proceed with the present regime. If we found that the money would not meet the needs of the new extended list of applicants, it would slow down the disbursement. There would have to be some assessment of the likely needs of those new applicants to ensure the money would be fairly expended on all those who are eligible. It is correct to have a detailed assessment of the extent to which the existing expenditure will be devoted to those who are already eligible.

I understand that people are extremely hurt by their experience and who feel that is continuing. I know it can be difficult at times as a result of the procedures within any institution regarding assessing applications and seeking the information that is required under the administrative procedures of any public body in order to ensure that money is devoted to the purpose for which it is intended. I understand that there is a real problem with the requirement for accountability that the expenditure of public money creates in the context of people who want a quick response to their needs. In the course of this review, we need to find a way to meet those demands more sensitively and quickly, while ensuring that there is fairness in the way in which the money is used so that everyone who has a legitimate case to put forward for support under the fund and its various headings can receive that support.

I thank the Deputy for her Bill. I recognise the purpose for which it has been introduced. However, I ask that some time be given to complete the review so that we will be in a position to decide, on the basis of solid information, whether we can extend coverage to new individuals or purposes within the fund. I hope that we can achieve a quicker and easier approach to administering the fund that reduces the frustration many people have experienced in dealing with Caranua, despite the very best efforts of those working within it who have tried to deal with individuals on an equitable basis.

Deputy Mick Wallace: I welcome Deputy Clare Daly's Bill, which is a simple and common-sense measure that clarifies the law in line with the recommendations made in reports and that will bring some relief to people who are fed up of having to deal with a cumbersome and bureaucratic entity that seems more interested in satisfying checklists than providing genuine care and assistance under its mandate. The appeals officer report for 2015 makes it very clear that a combination of a lack of clarity in the legislation - and from Caranua - as regards precisely what supports are available to survivors and a certain level of inflexibility, bad communication and nonsensical waiting times for decisions coming from Caranua all mean that the emerging needs of many former residents are not being met.

The role of Caranua is to manage a scheme of support for eligible survivors that addresses their current needs and improves their well-being. Instead, we have numerous reports of survivors being misled or not informed by Caranua as to the supports to which they are entitled. People have been asked to get multiple quotations for work, along with professional evidence of their medical clinic conditions and living circumstances, only to be told that they were wasting their time. They then have to wait, sometimes for months on end, for an official decision so that they can then proceed with an appeal.

2 March 2017

While around 5,000 applicants have had success in receiving assistance, the experience of many in the community is that the real function of Caranua is to act as an impediment in their path to avail of the assistance they were promised. The decisions of Caranua are often inconsistent and, as the appeals board has stated, sometimes illogical. In addition, there is the issue highlighted by the appeals officer, namely, the ineligibility of survivors who were not previously in receipt of a settlement to access the fund.

The appeals officer said that the circumstances of such individuals can be equally as harrowing as those of applicants who are eligible and, as he mentioned in his annual report for 2014, it can seem particularly harsh and unfair to deny, without exception, all persons who have not received awards the opportunity to benefit from the fund. Some stated in the course of their appeals that fellow survivors who had benefitted from the redress board can go on to secure further assistance by applying to Caranua, when they were denied assistance not just once but twice because of their particular circumstances. Deputy Clare Daly's Bill will address the illogical and unnecessarily punitive shortcomings of existing legislation.

The Bill also addresses the situation whereby applicants are left waiting, sometimes for months, for decisions and for notices of such decisions. Most importantly, the Bill provides for clarification of the purposes for which applicants can use the funds. This is critical because the literature builds up expectations about what is possible, which ultimately results in wasted time and stress for everyone involved.

The measures in the Bill are reasonable and based on the findings of the appeals officer reports. Many in the community of survivors would like to go much further and do away with Caranua entirely. These calls have been made publicly. Their dignity has been affronted by Caranua and emotional distress has been inflicted upon them by the manner in which the fund is being applied. They have called for Caranua to be dissolved and its functions taken over by a Department.

Deputy Clare Daly's Bill does not go anywhere as far as that. Rather, it provides for a number of reasonable changes to the current legislation that will mean that the work of Caranua should run more smoothly, that the fund would be used for things that are closer to the real-world practical needs of those it was set up to benefit and that much of the lost time and stress could be avoided in future. If the State is going to set up a bureaucratic entity to administer an expenses fund that is part of the redress for previous harm caused by it, is it too much to ask that it does not emulate the box-ticking maze of unclear terms and conditions, waiting times and general grinding alienation that is the hallmark of the neo-liberal mode of managerialism that successive Governments have used to destroy the notion of public services, be it social housing, education, social welfare and health services? I do not know whether the Minister has seen Ken Loach's film "I, Daniel Blake", but it is worth watching because it is a very good example of the problems bureaucracy can cause for people who are trying to access something to which they might be entitled.

Public services are supposed to be centres providing welfare, good education, health and elder care based on human need and governed by human rights. They are now often service-delivery operations with productivity targets. What can be counted and ticked off in a box is what matters. The appeals officers' reports describe a situation where there is routinely a severe lack of communication and joined-up thinking, and repeated instances of a failure by those working in Caranua to consider the needs of applicants in a holistic and caring manner.

These people suffered horrifically from the tyranny of church and State when they were at their most vulnerable. Children are the most vulnerable people in the world because they are completely dependent on their carers and minders. Now, many are in their old age, the second most vulnerable stage of life, and are only looking for what is theirs and what is owed to them by the church and State, but must deal with the tyranny of numbers.

We have a terrible history in the context of care in this country, particularly mental health care. For two centuries, we had barbaric conditions in psychiatric hospitals. It was a major business. More admissions to mental institutions meant more profit. There is a correlation with what is happening in America today, where prisons have been privatised and over 2.5 million people have been incarcerated. People running prisons are campaigning for governments to incarcerate more people in order that they can make more money. It makes for a very sad situation.

In the past, all that was needed to commit someone was a priest and the word of a male family member. In the 1950s, 20,000 people were labelled as mentally ill and were locked behind bars. Thankfully, this level of coercive detention has seen a dramatic decline in the past 30 years and we have closed almost all such institutions. It is unfortunate that 70% of those in prison face mental illness challenges. One would wonder whether we are using prisons to manage people rather than actually dealing with their problems. Today we do not have as many cell walls to restrain people but we have a mental health system that believes biochemistry is the defining factor in mental health issues. General practitioners, GPs, and psychiatrists prescribe powerful medications to people after asking them a series of questions on a checklist. They box tick and the person gets put in a box. These questions are about how the person is feeling and what his or her body is doing. There is no question about what is going on in the person's life or about his or her social situation or past. A checklist is met and a biochemical illness is diagnosed. The pharmaceutical industry says it has the answer and we must take its word as its trials are all done in-house now, with much secrecy surrounding the results. In Ireland, 250,000 people are on selective serotonin reuptake inhibitors, that is, powerful painkillers for the brain. Who needs cell walls when we have outsourced the asylum to people's minds in their own homes?

When a child or adolescent in south Wexford reports to the mental health services with an emergency situation, he or she will not be seen by anyone or receive any treatment if the child psychologist is not available. The child psychologist could be on holidays or the child might have presented out of hours. In those circumstances, no care of any kind can be given to the child until the boxes are ticked, no matter how well qualified the other people are. Sometimes these children are sent home and other times they are detained on a ward in the general hospital. When they do get assessed and are adjudged to have a mental illness, they get a drug prescription. Sometimes, if one of the ten acute care beds that are designated for children and adolescents in the south of Ireland is free, the child will be driven to Cork, which is the nearest place with such a bed for those living in Wexford. If they are judged not to have a mental illness, they are told they need psychology services, where there is a two-year waiting list. Quite plainly, the health service has no interest in talking to children and trying to help them feel they belong to this world. Instead we label them and load them up with drugs or put them on endless waiting lists when they cry for help.

Children are dependent and vulnerable. In years to come, when we look back at this current period, the biggest indictment of our time will be how we are failing the rights of children in terms of housing, basic needs, health care and mental health care. Supports are being ripped

away by a succession of neo-liberal Governments and the services that exist are run by managers who barely know what care means. Care and love cannot be measured but their performance targets can be. In the age of precarious work, their heads are always on the chopping block so they have to conform.

Deputy Ruth Coppinger: I welcome those in the Visitors Gallery who are intently involved and affected by this Bill, which I support fully and commend. I wish to make some general points about the history that has led us to this point. The reason we are here is that the Irish State since its foundation outsourced to the Catholic Church the care and education of all people and directly turned its back on the neglect and sexual, physical and emotional abuse that was taking place in these institutions. In 2009, we had the original Ryan report, which was a limited report. That the rule that there would be no prosecutions was written into the Ryan report in 2009 is an absolute outrage. It is bad enough that there has been no criminal investigation of those who ran these institutions and inflicted such cruelty and abuse on, in this case, thousands of children but in my opinion a further crime was committed when the redress scheme was set up. The redress scheme itself was an outrage.

The Minister stated that 15,000 people were anticipated to receive redress under the Caranua scheme and €110 million was committed by the institutions. On my calculations, breaking it down, this means that the Catholic Church was to pay €7,333 for each of those 15,000 people. That is an absolute outrage. People's lives were impaired. We all know and have met people whose lives and whose children's lives have been impacted by what happened. Then we discover from a recent article that not only has the Catholic Church not paid the €110 million in full after so many years but it also has not turned over the promised 61 properties, as only 48 properties have been given over to the State. These properties would be very useful during our housing crisis. They could earn money meaning people could possibly be compensated in the way that they deserve. Will the Minister comment on that observation because he did not say much in his introduction?

I looked at Caranua's website, which states that it wants to make a real difference to the lives of survivors of institutional abuse and it lists health, housing and educational needs. The whole thing is patronising and disgraceful. What business is it of ours or the Government's how people who were abused and get compensation spend their money? If they want to go to Las Vegas and blow it all on a night out, that is their business. It is none of our business. That we would tell people what to spend their money on and ask them for receipts is unbelievable. Will the Minister explain why the State considered this approach fit? I know this involved the previous Fianna Fáil Government as well and does not just relate to the last Government. It involves Fine Gael and Fianna Fáil. In essence, this involves the two big parties. Why was there any stipulation? If people are entitled to compensation, they are entitled to it. What they do with it after that is no concern of ours. The Minister in his introduction spoke of how the money is meant to be spent. People were damaged and abused. We should not be asking them how they will spend the money.

The Bill makes a serious attempt to correct the mistakes and limitations in the terms. It seeks to broaden the number of people who can receive payments, including payments for funeral expenses. It is quite incredible to discover that a person can only do up his or her house and cannot actually buy one and then that the survivor's age would be taken into account. On the timely processing of applications, many survivors of abuse are complaining about the length of time the process, including appeals, takes. The Bill also seeks to address the issue relating to survivors' children. It is incredible that the Government would set its face against this proposal.

In reality, all compensation should be paid directly to anyone who was in an institution. However, they are emotionally and physically scarred and many of them have gone on to develop serious alcohol or addiction problems and some have not been able to work fully. It is obvious that this would have impacted on their children. It only makes sense that it would affect the next generation and they should be entitled to spend the compensation in any way they see fit.

The Government's approach to the women and men who were impacted by what happened in these institutions follows a pattern. Several years ago we all saw the Taoiseach shed a tear in this House for those in the Magdalen laundries and we were told those tears were genuine. When we consider the way those in the Visitors Gallery have had to go cap in hand for every single piece of compensation to which they are entitled by right, it seems the Taoiseach had crocodile tears for those who survived the Magdalen laundries. This also links in with the survivors of the mother and baby institutions and the survivors of symphysiotomy, who have been demonised and trivialised in the most recent report.

While the Minister has only recently been appointed to the Department of Education and Skills, I wish to mention a couple of the institutions involved. When one examines and scrolls down through the religious organisations that have been listed, one counts several hundred of them. I could not believe it. The list reads like a who's who of the organisations that run Catholic schools. Just half a mile away from my house and next door to the school my daughter should be able to attend when she finishes primary school next year, the Le Chéile Trust has been appointed patron of Tyrrelstown secondary school. Incidentally, Tyrrelstown is the most ethnically diverse area in the country. In the first instance, why is Le Chéile, an amalgam of the religious congregations which abused people, allowed to continue to educate children and why has it been given control of secondary schools in the past three years?

In the past six months, in other words, under the Minister's watch, the Christian Brothers, one of the congregations whose members abused people, was given control of the secondary school in Castleknock. Why are these organisations being rewarded and allowed to educate children as if nothing happened? Most of the congregations have not made contributions to the redress scheme, yet they are being allowed to carry on regardless. Given the diversity of the areas concerned, it is clear that schools in these locations should be multi-denominational and non-denominational in nature. Nobody asked for a Catholic school. The congregations should not be allowed to continue to have a role in education given their failure to contribute to the redress scheme. I ask the Minister to respond.

I fully support the proposed scheme and the Minister should agree to implement it. It is incredible that the Fianna Fáil Party proposes to amend and water down the legislation given that it is responsible for the poor redress scheme that allowed the Catholic Church off the hook. I commend the Bill.

Deputy Thomas Byrne: I move amendment No. 1:

To delete all words after "That" and substitute the following:

"Dáil Éireann resolves that the Residential Institutions Statutory Fund (Amendment) Bill 2016 be deemed to be read a second time this day eight months, to allow for scrutiny between now and then by the Oireachtas Committee on Education and Skills and for the Committee to consider and hold hearings that have regard in particular to ensure that the proposed Bill:

2 March 2017

(a) takes account of recommendations of the Review of Eligibility for Caranua (Residential Institutions Statutory Fund) which is ongoing and is expected to be concluded in July 2017;

(b) does not give rise to any unintended consequences that create any adverse impact on the 15,000 former residents who qualify for support under the Residential Institutions Redress Scheme and the 4,000 former residents currently availing of approved services provided by Caranua; and

(c) identifies and corrects any potential legal issues arising from definitions of eligibility and approved services in the Bill.”.

I welcome those present in the Gallery and thank all those who contacted Deputies about Caranua. I also thank Deputy Clare Daly for presenting this good and important Bill.

Public representatives frequently get into arguments with State bodies and it is very easy to slag them off. However, they have a job to do, which is sometimes difficult and not always understood. For this reason, I am not one to slag off State bodies and while I have not slagged off Caranua, I have found it to be a strange organisation with which to interact. In my limited dealings with the organisation, I have found that, unlike many other public bodies, it does not give Members direct access. Even the Minister acknowledged the difficulties survivors face in dealing with Caranua. I am glad he has done so because it is rare for Ministers to acknowledge such difficulties. This is a significant development and if there is one positive element to emerge from the debate, it is the Minister’s acknowledgement of these difficulties. I sincerely hope that Caranua staff, who I assume are good people, are listening to this debate and will work out not only how to provide a service and deal with service users, but also how to deal humanely with people who have been grievously wronged by the State.

It bears repeating that the circumstances that forced the former Taoiseach, Mr. Bertie Ahern, to issue an apology in 1999 were outrageous and barely believable. Unfortunately, the State adopted a bad element of the British system and grossly expanded it. In the 1940s and 1950s, foreign observers who would normally have been sympathetic to Ireland described this system as a national disgrace. The horrific circumstances that led to the former Taoiseach’s apology informs this debate and clearly informed Deputy Clare Daly’s Bill.

While virtually all aspects of the Bill are good, Fianna Fáil has a legitimate concern about expanding the number of people eligible for support under the redress scheme. It is worrying that the Minister and Deputy Clare Daly are unable to provide figures on the number of people who would be eligible to seek assistance from Caranua and its fixed and declining pot, as it were. This issue must be carefully examined. This can be done under the procedures of the House and the Bill will go for pre-legislative scrutiny, irrespective of whether my amendment is passed. The amendment proposes that such scrutiny will be undertaken by November at the latest. In truth, even without the amendment, I expect the Joint Committee on Education and Skills will need time to deal with the Bill. As Deputy Carol Nolan, a member of the committee, will agree, we are still dealing with legislation presented to the committee in July 2016 and we would like to complete that legislation.

It is worth giving the Bill careful consideration because if we expand the number eligible for assistance by an unknown quantity, it will have a negative impact on other people. We must think this through to ensure the definition is appropriate, as I assume it is. The number of

people involved is unclear and must be studied carefully.

I like many of the other provisions. Deputy Clare Daly referred to the purposes for which grants or assistance can be provided and the Bill provides that age will be a ground for assessing applications. I agree with the sentiments the Deputy expressed on the purported aims of the legislation. The debate on Committee Stage will help to improve the Bill.

The requirement that all decisions be made within 28 days is not unreasonable, nor is it unreasonable to require in law that a State body process applications, which are generally relatively simple in scope, within a 28-day period. I look forward to working with Deputy Clare Daly when she appears before the committee. I undertake to do everything in my power on the committee to secure a slot for her Bill as soon as possible.

I assume Caranua is listening carefully this debate and the contributions of the Minister as well as of other Deputies who have essentially agreed with the Minister on the perception and reality of the service the organisation offers. I ask that it please change tack and consider a different approach to doing its work, as a State body, in the limited time available to it.

Deputy Carol Nolan: Cuirim fáilte roimh an mBille fíorthábhachtach seo agus gabhaim mo bhúiochas as ucht an deis chun labhairt faoi. I welcome everyone in the Gallery and commend Deputy Clare Daly on introducing this important Bill.

Sinn Féin has consistently highlighted the need for redress for all survivors of abuse in State institutions or by agents of the State. I commend in particular my colleagues, Deputies Mary Lou McDonald and Gerry Adams, on their tireless campaigning on behalf of the Magdalen women and survivors of symphysiotomy. The abuse of children while in the care of residential institutions is one of the darkest stains on the State's history. These survivors, many of whom are now elderly, were abused in the past and neglected for many years by the State before their suffering was acknowledged. The statutory fund established to provide for their needs is paltry in comparison with the damage and hurt inflicted on them.

There are serious concerns in respect of the limitations of the fund, both in terms of the services approved and eligibility for assistance under the scheme. As we know, there was significant debate at the time of the establishment of the fund as to whether survivors of institutions not covered under the Residential Institutions Redress Board would be eligible for assistance under this fund. That debate should never have happened. These people have been damaged and hurt and we need to face up to that and to, at least, give them redress and the respect they deserve.

Bethany House and the Magdalen laundries were not covered under the fund but there was a promise in the legislation that consideration would be given to widening the scheme and for a review after two years. The Minister has announced a public consultation process in respect of this review and my party will certainly be making a submission to it. Nevertheless, it is unacceptable that this basic promise was not kept. It is the height of disrespect that this review has not yet taken place. It needs to be done. For survivors that have been so let down by the State, it is inexcusable and it does nothing to restore even a small bit of trust in the State or faith in the scheme. I believe that the scheme should be widened to include survivors of other State residential institutions and those who may not have previously sought a claim but satisfy the other criteria. I see no reason to exclude categories of survivors where there has been clear abuse and neglect.

2 March 2017

In regard to the operation of the fund, I found the reports of the appeals officer very interesting. The latest report notes a 110% increase in the number of appeals received in respect of Caranua between 1 February 2015 and 31 January 2016. The number of appeals increased from 47 to 99. A significant proportion of the complaints relate to the manner in which the applications were processed by Caranua, including frustrations with the levels of bureaucracy and delays in getting a written decision from Caranua. Again, much of this frustration originates in the establishment of the scheme in the first place as many survivors felt that they were being put in a position of having to go before a board and beg for what is theirs by right. In one example, a woman was denied funding for bedding materials after a consultant orthopaedic surgeon recommended a particular type of bedding and mattress. She was denied that basic necessity. In another case, a man was refused travel expenses for a trip through which he hoped to conclusively establish his identity by means of DNA testing. While these appeals were upheld or referred back to Caranua for further consideration by the appeals officer, they clearly demonstrate the difficulties encountered by survivors in terms of this scheme.

Another issue that should be considered in terms of this scheme is the possibility of the establishment of an enhanced medical card for survivors of residential institutional abuse. As we know, many survivors are elderly and expenditure under the fund is significant. It would be appropriate, and it would give some degree of comfort to survivors to know that their medical needs were provided for into the future. This would, perhaps, continue past the lifetime of the residential institutions statutory fund and would be in the best long-term interests of this group of survivors. Arguably, it would also provide equity to this group of survivors and recognise the impact of childhood institutionalisation and abuse on them.

It is unfortunate that the survivors feel so let down by the operation of this fund and the fact that the promises made by the State to review it have not been kept. We must learn from the mistakes of the past. We must work to develop the appropriate means of supporting people who have been wronged by the State. These people have been wronged. We must acknowledge this wrong and put in place the right supports to help them in their lives. Unfortunately, there will be other scandals. The treatment of school sex abuse survivors by the current and previous Government has been shocking and the redress has been minimal. I look forward to working with colleagues, to hearing the views of survivors and, hopefully, to making this scheme simpler and more accessible to survivors. I am happy to support this Bill progressing to Committee Stage.

Deputy Donnchadh Ó Laoghaire: This is a strong Bill and Sinn Féin supports it. The fund was established for an important purpose. In many respects, it was the least the State could do in light of its responsibilities. Is dócha go raibh dualgas faoi leith ar an Stát aitheantas a thabhairt do na fir agus na mná sin agus don chruatan agus don fhulaingt a d'fhulaing siad; aitheantas a thabhairt do sin agus cúnamh a thabhairt do dhaoine agus iad ag éirí níos sine.

Before I speak to the specifics of the Bill I point out, as other contributors to this debate have done, that the State has a very poor legacy in terms of its record of care and child protection. We have seen evidence of this in the last week or so. The State initially absolved itself of responsibility for the care of vulnerable persons, including children, people with mental illness and other categories of people.

I want to use this opportunity to express my dismay at a statement on behalf of the Government which I recently came across. On 15 February, a representative from the Department of Justice and Equality stated to the committee, of the UN Convention on the Elimination of All

Forms of Discrimination against Women, in Geneva that the Taoiseach made an apology to the survivors of the Magdalen laundries and did so despite the fact that in the McAleese report there was no finding that the State had any liability. The Tánaiste and Minister for Justice and Equality, Deputy Fitzgerald, repeated this on the Dáil record in the not too distant past. Paragraph 2 of the McAleese report states:

This Report has established that approximately 10,000 women are known to have entered a Magdalene Laundry from the foundation of the State in 1922 until the closure of the last Laundry in 1996. Of the cases, 26.5% were referrals made or facilitated by the state.

This means that, whether the State accepts legal liability or not, it was directly responsible for over 2,000 of those cases. In my view, the State is not telling the truth and it is also being quite insulting to those women. The Quirke report recommended establishing a dedicated unit, with the purpose of establishing a permanent memorial dedicated to the women and children of the Magdalen laundries. This was agreed four years ago but it is yet to happen. I ask the Minister, Deputy Bruton, to raise that issue and to ensure that does happen.

As we speak, the State is dragging two women through the courts over their exclusion from the redress scheme in regard to the Magdalen laundries, despite the fact that they endured forced labour, simply because they slept in another campus, namely, An Grianan. That is wrong. The State should withdraw its challenge to the case they are making rather than drag these women through further hardship. There have been many strong points made in regard to this Bill. The purpose of the fund is vitally important but there are many instances of maladministration and of people being refused vitally important services such as counselling and, as mentioned earlier, funding for appropriate bedding and so on. The scheme and the fund need to be improved. I hope the Minister will take on board the points made by the proposers of this Bill and the other Deputies who have contributed to this debate and that the fund and Caranua will be expanded. This is about recognition to some extent but there is also a responsibility on the State to ensure that the hardships suffered by the people who lived in these institutions is not repeated and that their later lives can be more comfortable and secure. The State has a responsibility to ensure that happens.

Minister for Education and Skills (Deputy Richard Bruton): I thank all Deputies who contributed to this debate. The core issue that is causing concern, which I think is shared by Deputy Thomas Byrne of Fianna Fáil, is that if, as provided for in this Bill, we expand the scheme to people who did not apply to the redress board, we would be expanding it substantially to a new category of applicant. There is serious concern as to whether we can meet the needs of people who were designated to be eligible and for whom the legislation was introduced.

Deputy Coppinger raised a number of concerns as to why there should be any restriction on how this money is used and whether it should just be disbursed to those eligible without any restriction. It was decided by the Oireachtas in 2012 that there should be certain categories of recipient, with moneys allocated according to needs. The new scheme was to be different from the arrangement under the previous scheme in that it was designed to meet needs that arose and specified the different areas within which those needs would be categorised. That gave rise to a process of application and decision-making on how those applications were processed. There have been a substantial number of applications, running to several thousand each year. The latest figure I have is 13,000 applications to the board. While the number of appeals has doubled, it is 99 appeals against a total of 13,000 applications. The board worked with the appeals officer to respond to concerns raised and that work will continue.

2 March 2017

I agree with the approach set out by Deputy Thomas Byrne. We need to have clarity on the scale of demand that would be imposed upon the fund by the various extensions proposed by Deputy Daly. The review we have initiated is timely in that respect and will clarify many of those points on a professional basis. We will then be in a position to decide whether there should be extensions, on what basis they should be given, whether moneys should, as the Deputy suggests, go to spouses and children for certain needs, or whether funding should go to a whole range of new people who did not apply under the original scheme.

I thank Deputy Daly for sponsoring the Bill. We must ensure we do the very best possible for the people affected by these issues. At the same time, under any fair system for dealing with applications according to criteria set down by this House, there must be an element of evaluation of each application. I realise that can give and is giving rise to concerns, but I am confident that through this debate, the ongoing review and the work with the appeals officer, continual improvement can occur. To be fair to Caranua, it did revise its rules in 2016 to respond to issues that had arisen and in an effort to improve procedures. That has to be a continuing feature of the activities of Caranua as it works with people who, as every Deputy recognises, have been extremely damaged through the neglect of the State and of institutions to whose care they were committed at a very vulnerable stage in their lives. We must do our very best to support them while also respecting the need to ensure, in accordance with the decision of this House in 2012, we respond to needs on the basis of the case presented to Caranua and which is evaluated in as fair a way as possible. I hope we can continue to improve the service to those who need it.

Deputy Clare Daly: I am grateful we have had another opportunity in this House to acknowledge the pain and damage done to children in the care of the State and the church and the great wrong that was done to them. However, people have moved on from that in many ways. How we got here is a horrible part of our dark history which, sadly, is still playing out in many different aspects. What we are trying to do now is decide how we can remedy the wrong that was done. We cannot undo the damage that was caused to these people and which remains with them all through their lives, but we can help to make things a little better for them in the future.

One of the problems we face in doing so is that the system put in place to offer redress and allow people to access necessary supports has itself become an institution for re-traumatising and re-victimising people. If nothing else comes out of this debate, I ask the Minister to pay heed to the clear signal from every Member who spoke that this has to stop. What Caranua has been doing to people is unacceptable. For a publicly funded body to treat victims in this way is utterly appalling. That message must go out loud and clear.

In terms of the Bill itself, the Minister had only one objection and a bit of an excuse, neither of which stacks up. He dwelled, first, on his concern that if we enact the first provision in the Bill, to allow people who missed out on the original redress scheme to apply, we will be opening the floodgates. That does not make sense given the age profile of the groups involved and the numbers who did get redress, most of whom have not applied to this scheme. The notion that tens of thousands of others will present is absolutely not founded in reality. We are dealing with the small numbers of survivors who missed out on the original offer because they did not know about it or were out of the country. That said, if this is the Minister's only problem, let us take out that provision and allow the remaining proposals to proceed to Committee Stage. That particular provision is only one of six contained in the Bill. There is nothing to prevent us from implementing the other five provisions and thereby immediately serving to improve the

situation of the persons involved. I hope the Minister will consider that proposal in advance of the vote on the Bill next week. Even setting aside my certainty that it would not lead to the problems the Minister has suggested, it is a little disingenuous to focus on only one part of the Bill. We could always deal with the provision he considers problematic at a later stage. I ask Fianna Fáil Members to consider taking the same approach as their objection is the same as the Minister's.

The other half-objection or excuse the Minister raised was that the review is under way and should be given time to conclude. He also claimed the review could not have been done any earlier because there would not have been enough data to go on. That is simply wrong, as Deputy Nolan clearly showed. In fact, the legislation included a provision for a review to be undertaken well before now. That review should, under the legislation, have been conducted years ago. Every time I raised this issue with the Minister's predecessors, the former Deputy Ruairí Quinn and Deputy Jan O'Sullivan, the answer was not that more data were required but that the review would be done later that year or in the coming months, or the Department was looking at bringing forward the terms of reference. We began to think these would be the terms of reference of the century, containing monumental provisions. Instead we have got a one-page document with an awful lot of blurb. It certainly was not worth waiting for. In terms of asking for time, I must be blunt and point out that time is something some of the people accessing the scheme do not have. We must move with urgency and I appeal to colleagues to take that on board.

It is notable that Caranua has been loudly criticised from every side of the House in the debate. I received an e-mail this week from a man named Keith in which he stated:

I have pleaded for help from them [Caranua] from the outset and they have given me no help to date. They ignored me to the point where I nearly took my life. All I want is the help they said they'd give me in the booklet that I received in February 2016. It said I'd be treated with respect and dignity. I have not been. And then I get a letter in September 2016 that I'm being accepted but don't contact them, an adviser will be in touch in the next 18 to 20 weeks. That time has passed. I contacted them again to be told I'd be waiting for much, much longer, the same time again, that they were only on June's cases. I e-mailed them telling them my frustration. I feel I'm being abused all over again because of the treatment from Caranua. All I want is a normal, happy life with my past healed.

Sadly, Keith is not the only one to have met with this treatment. My office was contacted by a woman last year who had a similar story.

She sent us her correspondence from the start of May 2015. She was told that her case would be processed in September of that year. She waited patiently until January 2016 when she was told that she could not be given a timeframe. She wrote again in August 2016 when a different administrator told her that Caranua could not state when it would be dealt with. When my office asked it to give her a clear answer, we were told that the application would not be processed until mid-2017. These are the delays about which we are talking. It is an unacceptable run-around. One of the reasons given for the length of time being taken was that Caranua was dealing with first-time applicants, but Keith is a first-time applicant and his case has not been dealt with.

The decision to prioritise new applicants was taken without consultation with the survivor groups. Many applicants were unaware of it. They received a letter pointing out that they had

2 March 2017

already received significant support from Caranua since first applying and that it was delighted to have been able to respond to their needs and hoped they would continue to enjoy the benefits but that it considered their applications to be completed. Some 1,000 of these letters were sent. People were told by telephone that they had reached the cut-off point, that others were in front of them and that Caranua's quota had been reached. Caranua does not have discretion over which applications it processes.

The appeals officer's report questions this approach. He wrote:

While I can understand Caranua's desire to ensure that the Fund is distributed as widely as possible among eligible applicants, it is obliged to do this in a manner which is consistent with its statutory remit as provided for in the Residential Institutions Statutory Fund Act 2012. The essence of Caranua's statutory remit is to assess individual applications for approved services by reference to the provisions of the Act and published criteria and in the case of unsuccessful applicants, to inform them of the reasons why their application was unsuccessful and how they can go about lodging an appeal.

Caranua has failed appallingly and breached its statutory remit by using a prioritisation scheme that it had no legal right to introduce. Other Deputies have made strong points about the concerns expressed by the appeals officer and everyone else. I was glad to hear them being echoed by the Minister, who is new to his brief.

This situation cannot continue. We cannot undo the damage done to people, but if we are serious when we say we are sorry, we can correct the way in which they are now being treated. That could start tomorrow with a strong communiqué from the Department to the offices of Caranua to the effect that the way in which it has been treating people in forcing them to act like beggars and not giving them clear, accurate and consistent information is not on in this day and age, and that those who continue to do so will be held accountable. It is not public service but public disservice, to which no one should be exposed, least of all the people who deserve our help the most.

The Government and Fianna Fáil should have a think about this matter before the vote next week. Their objections can be addressed in progressing the Bill to Committee Stage. If they still believe the numbers issue presents a problem at that point, we can remove it and carry on with the rest of the Bill, but we need to proceed. It is not good enough to say the Government needs more time. It has had more than enough time. It has had more time than the Statute Book allows. It is the day of the people concerned. They need justice and some form of assistance for the damage that was done to them. I appeal to Deputies, the Minister in particular, to ensure Caranua will get the message loud and clear that some of its behaviour must stop afflicting the people concerned.

Amendment put.

Acting Chairman (Deputy Bernard J. Durkan): In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 9 March 2017.

The Dáil adjourned at 7.15 p.m. until 2 p.m. on Tuesday, 7 March 2017.