



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 23 Bealtaine 2017

Tuesday, 23 May 2017

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

Paidir.

Prayer.

Leaders' Questions

An Ceann Comhairle: Immediately following Leaders' Questions, we will have an opportunity for expressions of sympathy in response to the awful event in Manchester last evening.

Deputy Micheál Martin: I raise again with the Taoiseach the growing crisis in the mental health services. This is occurring for a combination of reasons, including the cutbacks of recent years and a major issue with retention and recruitment of nursing staff, psychologists and psychiatrists. There has clearly been a lack of strategic planning on the human resources side for some time. This is having a significant and damaging impact on people with mental health issues, particularly children. Across the country, it has never been as difficult to access mental health services. One example, which was brought to the Taoiseach's attention by Deputy James Browne, was that of people being treated on chairs in corridors in Waterford. In that case, it involved a young 16 year old in an adult ward. A case has been brought to my attention by another Deputy concerning the hinterlands of Dublin where a patient presented at an emergency department with a general practitioner's letter saying that he was suicidal. He was simply put on anti-depressants and discharged without admission.

There are bed shortages and staff shortages and the situation is becoming alarming, as illustrated by the news that the Linn Dara child and adolescent mental health service, CAMHS, inpatient unit, a children's mental health facility in Cherry Orchard, is closing 11 of its 22 beds from Friday next for the summer due to staff shortages. We have had correspondence, including emails, from parents of patients at Linn Dara who are under enormous pressure. Children who were admitted two weeks ago at high risk and in need of emergency admission are now being discharged early. Parents have asked us where are they to go next Friday. Why is the HSE saying that the facility will re-open in September? It does not add up that there will be shortages in June but they will be sorted in September.

While there are meant to be 100 child and adolescent beds, there are 63 at present and that will decrease to 52 with what is happening at Cherry Orchard. Deputies across the House are dealing with cases of children, relating in particular to CAMHS, who are on waiting lists for appointments to see psychologists, get access or get assessed. It is time for urgent intervention. That will necessitate using capacity other than public capacity.

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Will the Taoiseach intervene to keep the 11 beds in Linn Dara open? I ask him to do so. Will the Government show urgency regarding the retention of staff and the recruitment of additional staff? I do not like saying this but the service is essentially not holding together. It is falling apart at the seams and there are problems.

The Taoiseach: I thank the Deputy. I do not accept that it is falling apart at the seams. I had a meeting with Deputy Browne and the Minister of State, Deputy McEntee, just last week where we discussed all of this. Funding for mental health, as Deputy Martin knows, has gone up from €826 million last year to €853 million this year, 2017. Over 160 additional posts have been recruited for the HSE mental health area over January to March this year. Recruitment campaigns are carried out to fill further vacancies and they are under way. Sanction has been given and money provided to recruit 114 assistant psychologists to enhance the early intervention primary care counselling services for under 18s in particular and to relieve pressure on the specialist CAMH service. The development of a plan for a 7/7 mental health care improvement nationally has been progressed and is nearing completion. It has prioritised that all areas provide access to a weekend service for current service users and not have situations where nobody has access to a service if he or she needs it. A full mapping exercise is being carried out countrywide. The HSE, at present, is consulting with all of the personnel in the health sector area and assessing the resource implications to develop costed actions. In addition, of course, the construction of the new 120-bed hospital to replace the Central Mental Hospital in Dundrum after over a century, along with a new ten-bed forensic CAMHS unit and a new ten-bed mental health intellectual disability unit, has been advanced. The Minister expects to sign that contract very shortly. Award of the construction contract is due to happen quite quickly. It has been recently agreed that in addition, the contract will also include a new 30-bed intensive care rehabilitation unit.

These are all positive signs of progress in an area that was neglected for so many years and was, over 30 years, the Cinderella of many Health Service Executive Votes and Department of Health Votes. When former Deputy Dan Neville was in opposition on that side of the House, he raised this matter consistently. I am glad that the Minister of State, Deputy McEntee, is making valiant efforts to deal with this.

Funding for this area includes youth mental health, improvement of the CAMHS and the adult services, services for older people, out-of-hours services, enhanced service user and carer engagement, perinatal mental health, attention deficit hyperactivity disorder, ADHD, in adults and children, dual diagnosis of those with mental health and substance abuse issues, increased services to meet the needs of those with severe and enduring mental illness with complex presentations and improved specialist clinical responses through clinical programmes.

Deputy Martin raised a specific case in respect of 11 beds. I do not have the details of that here, but I will undertake to follow up on that for him. I know it is an issue of concern locally, and Deputy Browne might have referred to that. Believe me, the Minister of State, Deputy McEntee, is working very hard in this area. The improvements I have outlined are long overdue and it is hoped they will make a significant improvement for the health, in particular the mental health, of children and young adults.

Deputy Micheál Martin: I am surprised the Taoiseach is not aware of the Linn Dara situation because it is all over the media. Linn Dara was opened in 2015 with fanfare. It has 22 beds, 11 of which are to close on Friday, and the children are going to be sent home.

Deputy Pat Buckley: They voted against it. We asked for €37.5 million in funding and they voted against it.

Deputy Micheál Martin: Will the Deputy please keep quiet? Where are those children going to go? That is the question I asked the Taoiseach. No one has an answer. These are children who were admitted in an emergency and they are at high risk. Every Deputy knows this. I have a list of CAMHS cases in my office and I have no doubt other Deputies do also. These are children in severe need of assessment, intervention, treatment and admission but it is simply not happening for them. The anxiety, stress and strain on the parents is unbelievable and unacceptable. It is inhumane.

An Ceann Comhairle: The time is up.

Deputy Micheál Martin: What I asked the Taoiseach earlier is whether the Government will intervene to prevent the closure of the 11 beds in Linn Dara. It is next Friday we are talking about and nobody has come up with any alternative for the parents concerned other than those parents taking their children back home, which is not a solution.

Deputy Pat Buckley: We proposed 24-7 intervention services and they voted against that too.

An Ceann Comhairle: Thank you, Deputy.

Deputy Micheál Martin: Sending them to an adult facility is not a solution either. Surely it is within the remit and capacity of the Health Service Executive and the Department of Health to intervene to make sure that service does not close on Friday.

An Ceann Comhairle: The Deputy is over time.

Deputy Pat Buckley: He is well over time.

Deputy Micheál Martin: I am suspicious as to whether it can magically reopen in September, as per the HSE's comments to the news media this morning. That does not quite add up.

The Taoiseach: Let me clear up a few things for Deputy Martin. First, intensive efforts are under way to maintain the services at Linn Dara CAMHS unit at Cherry Orchard, Ballyfermot. The Minister of State, Deputy McEntee, is in regular and very close contact with the HSE in regard to the particular difficulties of providing adequate staffing, and meetings are under way this very afternoon. Clearly, however, there are staffing difficulties at this facility. At present, the unit is reliant on providing cover through methods such as staff working additional hours, overtime and agency staff. However, the core issue facing Linn Dara at present relates specifically to staff recruitment difficulties for mental health professionals. I pointed out to the Deputy that 160 have been recruited from January to March this year and an additional 114 assistant psychologists have been approved and are now under recruitment.

Let me clear this up for Deputy Martin. The problem facing Linn Dara does not relate to funding availability or the restructuring of any of the CAMHS services.

Deputy Pat Buckley: Will the Taoiseach support it?

The Taoiseach: Let me assure people that any discharges from Linn Dara are clinical decisions and are planned discharges. No individual will be discharged to close beds. Let us be

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clear about that. The HSE is actively engaged in a recruitment process for Linn Dara and is meeting this afternoon. It is exploring every option to ensure this excellent service remains fully operational.

Deputy Micheál Martin: Where are they going to go?

The Taoiseach: As I said, there has been an increase in moneys and the number of staff this year. Further approval has been given and no child is being sent out of Linn Dara because of either funding difficulties-----

Deputy Micheál Martin: They will be.

The Taoiseach: They are planned discharges. No individual-----

Deputy Micheál Martin: They are not planned. I can show the Taoiseach the email.

The Taoiseach: No individual will be discharged to close beds. It is not a question of money-----

Deputy James Lawless: Staff shortages.

The Taoiseach: It is a question of staffing difficulties. Anybody discharged is a planned, clinical discharge.

Deputy Micheál Martin: No, it is not planned.

Deputy Gerry Adams: The imminent closure of 11 child and adolescent mental health service beds at Linn Dara brings acute mental health provision for those under 18 years to 52 beds, which is just over half of what A Vision for Change recommended over ten years ago. Incidentally, Fianna Fáil abstained on a Sinn Féin motion to provide 24-7 mental health services. On Friday, along with my colleague, an Teachta Munster, I visited the department of psychiatry acute inpatient unit in Drogheda. This is a world-class, state-of-the-art facility. I commend everyone, including the Minister of State, Deputy McEntee, on bringing it to fruition. The purpose of this unit is to assist citizens from counties Louth and Meath who present with acute mental health problems. They receive treatment and therapy for a short time - usually about two weeks. They are then discharged to the community mental health staff for follow-up care. In Drogheda, the Singleton House facility provides individual patient treatment but there is no day hospital for ongoing treatment and recovery.

A Vision for Change places a strong emphasis on community-based psychiatric services but in north Louth, these are practically non-existent. In Dundalk, the picture is particularly grim. In north Louth, all HSE mental health provision is delivered from a 60-year old building at the Ladywell centre in Louth County Hospital, Dundalk, which the Taoiseach should visit. Against all the odds the mental health providers do great work, but because of issues of damp and lack of suitable space, much of the Ladywell centre is unsuitable. That means there is no child and adolescent mental health provision and no psychiatry of old age in north Louth. After considerable lobbying, additional staff members were allocated to the area, which I welcome, but there is no accommodation for them in Dundalk. Therefore they cannot even be in the place that needs them. Instead patients travel to Ardee or Drogheda, which is totally unacceptable.

There is a long-standing promise of a primary care centre with a facility for community mental health for Dundalk. However, that promise is worthless. There is no start date, no

definition and no real commitment. Sometimes this promise is used as an excuse to refuse to upgrade the Ladywell centre. They are stuck in this decrepit building that is not fit for purpose. They are told it cannot be upgraded because a primary care centre is due. There is no definition of when that might be. The choice is quite simple. The Government should deliver the primary care centre for Dundalk as soon as possible or it must upgrade the building at the Ladywell centre.

Louth and Meath have the lowest *per capita* mental health spend in the State.

An Ceann Comhairle: I thank the Deputy.

Deputy Gerry Adams: Tá mé críochnaithe anois. As I am sure the Taoiseach knows, there are areas in Dundalk that are highly deprived. I ask the Taoiseach to intervene on two counts. Will he intervene to ensure that citizens in north Louth get the facilities they deserve? Will he intervene to prevent the closure of the 11 child and adolescent mental health beds at the Linn Dara facility?

The Taoiseach: I have already referred to the Linn Dara situation where a meeting is taking place this afternoon. Sanction has been given for the recruitment of personnel already from January to March this year, including a further 114 assistant clinical psychologists. The difficulty with the Linn Dara facility is not funding but is a question of staffing difficulties. Serious efforts are being made today on a continuing basis to deal with that matter. I hope it can be dealt with conclusively and positively. It is not a case of the usual claim of a shortage of money. Some 1,100 new posts have been provided for mental health and sanctioned and filled between 2012 and 2016. There was additional substantial funding of more than €115 million. Budget 2017 provided further additional funding for mental health, which means that the HSE funding for this key care programme will increase from €826 million in 2016 to more than €850 million this year.

In budget 2017, an additional €35 million was allocated for services to be initiated in 2017. The Deputy is talking about north Louth, which, no more than any other part of the country, still has inadequate services. The range of what I have outlined, which is of particular to the Minister of State, Deputy McEntee, is evidence of the Government's continuing commitment to dealing with this.

The Deputy mentioned A Vision for Change. A review of the 2001 Act is under way. As I mentioned to the Deputy last week, some points made by Deputy Browne are being taken into account. In line with A Programme for a Partnership Government, the Department recently commenced a policy review of A Vision for Change. This began with the evidence-based expert review of international best practice and existing service development. The latter was completed in February of this year and it will inform the next stage of a policy review process and that will take into account the review of the Mental Health Act.

The Minister of State, Deputy McEntee, chairs a task force that comprises a diverse group of 18 people from a number of different mental health sectors - public, private, community and voluntary. The task force has a balance of age, gender and diversity and is an action-focused group which has been meeting monthly over the past year. As part of the Minister of State's commitment to ensuring that the voices of children and young people are at the very heart of the work of the task force, a series of consultations with young people themselves has now commenced. The task force and the public consultation process organised by the Minister of State

are very active. The detail of what the Deputy referred to in north Louth is a matter on which I can follow up. The overall picture is one of increasing funding and approval, sanction and recruitment of qualified staff to provide the best level of service for children and young people on a 7/7 basis so that nobody is left without attention when they need it.

Deputy Gerry Adams: I will repeat what I said, namely, that there is no child or adolescent mental health provision and no psychiatry of old age in north Louth. Is that acceptable? It cannot be acceptable. There is no adequate facility. There is a decrepit building which cannot even accommodate the extra staff that were brought into the area.

The Taoiseach mentioned A Vision for Change. It contained a recommendation to the effect that the proportion of the total health budget allocated to mental health should be progressively increased to 8.24%. Even that would be below international standards but it has never been realised. The lack of capital investment in mental health services in County Louth has resulted in completely inadequate facilities. How can a parent bring a child with depression 60 km from Carlingford to Drogheda for an appointment on, for example, public transport, which the Government is also cutting back? Why should an older person with perhaps a lifelong history of mental health difficulties be expected to travel 50 km from Omeath to services in Ardee? How can mental health providers be expected to do their job if they cannot even get a desk in Dundalk? When will an appropriate building be provided for mental health services in north Louth so that citizens can access essential and life-saving services?

The Taoiseach: Nothing is acceptable to Deputy Adams no matter how good or adequate it might be. What is acceptable, however, is the fact that the budget has increased from €826 million to €853 million for this year. What is acceptable is that 1,100 posts have been filled since 2011. What is acceptable is that 160 additional posts have been recruited and filled between January and March of this year and that recruitment campaigns are currently under way and being followed through diligently. What is acceptable is that sanction has been given for an additional 114 assistant psychologists to enhance early intervention primary care counselling services for those under 18 years of age in particular. What is acceptable is the development of a plan to improve 7/7 mental health care nationally. That has been progressed and is nearing completion. What is acceptable is that this has been prioritised in all areas and should be in a position to provide access to a weekend service for current service users, including those in north Louth and many other areas throughout the country. What is acceptable is that a full mapping exercise has been carried out. The HSE is consulting all health sector personnel and assessing the resource implications in order to develop costed actions.

I will follow up in respect of the particular issue Deputy Adams mentioned in north Louth but, overall, this was a Cinderella sector of society where there was not a voice to carry it forward. It is evident that this matter is now, and will continue to be, a central priority of the Government. The Minister of State, Deputy McEntee, is doing very diligent work in this area and it is proving to be progressive. It is not yet there, by any means, in terms of it being a world-class standard but it is a very significant improvement indeed on what was left lying in isolation for so many years.

Deputy Mattie McGrath: South Tipperary General Hospital has been operating continuously on a full capacity protocol for the last 16 months. According to the hospital manager, they have been unable to de-escalate the protocol given the persistent and chronically high numbers of patients on trolleys. I thank and praise the front-line staff of doctors and nurses and everyone else there.

There are recent and totally unexpected ward closures in the area. Some 18 step-down and rehab beds will be going this Friday in the wonderful geriatric unit at St. Patrick's Hospital in Cashel. The Sacred Heart unit at Dungarvan Community Hospital, which also is an excellent facility, will lose 11 rehab beds, three long-term beds and three step-down beds. This is just increasing the concerns of the staff and families of the patients in those facilities in the county and in west Waterford.

One measure that has been successful in addressing the problems of chronic overcrowding and long delays in our accident and emergency departments has been the introduction of ultrasound diagnostics in local primary care centres. In January 2017 the community healthcare organisation, CHO, area 5 implemented a short-term initiative whereby GPs could directly refer adult medical card and GP visit card holders for X-ray and ultrasound services to a number of identified providers. They are operating successfully in Limerick, Cork and Kerry but there is something wrong that we cannot do it in County Tipperary. This was supposed to be a short-term emergency measure, designed to relieve pressure on hospitals in the immediate post-Christmas period.

The Mary Street Medical Centre in Clonmel is an excellent health care facility and primary care centre that been attempting to implement the use of ultrasound diagnostics to help patients receive treatment faster. In February of this year, after a lot of hard work, examinations and visits from HSE senior personnel, it was awarded a contract by the HSE to carry out such diagnostics. Astonishingly, this contract was only for the duration of 14 days and was subsequently withdrawn after just ten days. It must have been the shortest contract in the history of the HSE. This is despite the fact that it carried out 35 scans in the seven working days making earlier diagnosis possible, which benefitted patients, and prevented referrals to the overcrowded accident and emergency department in South Tipperary General Hospital. Patients and doctors alike praised the service but the HSE has refused to extend the contract, in spite of the detailed analysis of the success of the measure.

One patient who was helped by this ultrasound service was a lady who was diagnosed with a tumour in her womb but who thankfully has since had surgery to treat it. If she had to experience the 12-month delay for ultrasound in the public system, this lady's outcome would have undoubtedly been far worse. This lady is a General Medical Services patient and would otherwise have had to pay for a scan, which she probably could not afford.

I hate waving things at the Taoiseach on his long good-bye, and I wish him well, but there was a lovely picture of the Taoiseach on billboards all over the State where he said he would end the scandal of patients on trolleys. Is the Taoiseach able to sleep at night when he thinks of this? I ask the Taoiseach to direct the Minister for Health, Deputy Harris - if he will not do it himself - to continue this wonderful service or to at least give it a three-month trial to see how successful it is. There were 35 patients done in 11 days. The Minister is not here. Tá sé as láthair. He is on the road working hard, but he should be here dealing with these issues.

Deputy Micheál Martin: Ar an mbóthar.

Deputy Mattie McGrath: I know that, ar an mbóthar. Ag lorg vótaí. I wish him well in that also, but will the Taoiseach ask the Minister to bring some bit of sanity to this? I am getting comments from the side now and I have no earpiece like the Taoiseach. When the Minister for Social Protection, Deputy Varadkar, was in the Department of Health he did not do a whole lot there either.

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This is a disgrace. This was a service that had a proven ability to deliver and to alleviate the crisis. It is a wonderful health centre that had made the investment. Will the Taoiseach please ask the Minister to give this a reasonable chance of examination and exploration to give the patients in Tipperary the same chance they have in Cork, Kerry, Limerick and elsewhere?

The Taoiseach: Sometimes I find it hard to pick up all of Deputy McGrath's words but I think I heard him say that he wanted some insanity brought into this-----

Deputy Mattie McGrath: What was that?

The Taoiseach: I think I heard him say he wanted some insanity brought to the situation. That seems to be what he said.

Deputy Mattie McGrath: The Taoiseach gets my meaning.

The Taoiseach: If I heard him correctly, the Deputy said that the situation requires that insanity be brought to bear.

Deputy Mattie McGrath: I said no such thing.

The Taoiseach: Perhaps the sound is a bit off.

Deputy Mattie McGrath: The Taoiseach is hearing things.

The Taoiseach: In any event, the Deputy's comments about primary care centres are in the context of a full programme of primary care centres being provided throughout the country. The theory is that people will be able to go to primary care centres to have medical needs which do not require treatment in accident and emergency departments dealt with and that this will help to reduce overcrowding in accident and emergency departments. When primary care centres are up and running they are required to be staffed and to have GPs available. There is little point in building them if they are going to be closed at 5 p.m.. The theory is that a person should be able to go to a primary care centre on a 24-hour basis, as is the case in so many other countries. This issue forms part of the discussions which the Minister for Health is having with the GPs in terms of their contracts and the types of facilities that they require in primary care centres.

According to the HSE TrolleyGAR system this morning, there were 331 patients on trolleys in acute hospitals nationally. While this causes distress to patients, their families and to front-line services, the recent data indicates that the national situation is improving, with approximately 5% fewer patients waiting on trolleys at the end of April this year as compared with the same period last year. Notwithstanding this improvement, these figures are still too high and the Department is working assiduously with the HSE to identify measures to reduce overcrowding in our hospitals and to provide key improvement measures that will continue to reduce trolley numbers and improve patient experience. Several hospitals were under pressure this morning, including the Mater Hospital, Beaumont Hospital, St. Luke's General Hospital, Kilkenny, Letterkenny General Hospital and University Hospital Waterford. Lessons have been learned over the last number of years. The winter initiative introduced in an effort to reduce emergency department overcrowding, in respect of which an additional €40 million was provided, brought about an improvement. Lessons have been learned from that and will be implemented into the future. A range of practical measures were included in that initiative, including the provision of 90 additional beds, aids and appliances for approximately 5,000 patients, 1,000 additional home

care packages and 615 additional transitional care bed approvals.

In regard to the particular issue raised by Deputy Mattie McGrath, I will ask the Minister to follow up on the matter for him.

Deputy Mattie McGrath: I thank the Taoiseach for his response. If I did mention the word “insanity”, I did not mean to do so. However, what is going on in the HSE is definitely bordering on insanity. It is proposed to close two facilities, one in Cashel, which is north of Clonmel, and another in Dungarvan, which is south of Clonmel. Both are excellent care facilities. The Taoiseach’s spiel of announcements is all waffle. We know from the National Association of General Practitioners conference held at the weekend that local GP services nationwide are at crisis point and on the verge of collapse. FEMPI cuts of up to 38% and the massive number of GPs emigrating are having an impact.

On the Taoiseach’s point that the primary care centres will have to be open 24-7, the facility I am speaking about was not allowed to do that when it had a contract, albeit it was only a 14-day contract. That contract was withdrawn after eight days despite the huge success of the facility in terms of reducing pressure on the local accident and emergency service. If that was not an insane decision, then I do not know what it was. According to expert analysis, the facility provided expert treatment services. Having recruited additional GPs and staff who were told on a Friday evening that they were to start work the following Monday, the contract was withdrawn. That is a waste of money and resources.

The Mary Street Medical Centre is a wonderful facility. Other facilities in Clonmel have invested hugely in equipment to enable them to provide diagnostic services. These services could help to reduce overcrowding in accident and emergency departments, provide people with quicker access to results, thereby reducing long-term damage to people’s health, result in huge savings to the State and also reduce stress on families. The HSE is confused. Will the Taoiseach ask the Minister to allow this centre a three-month trial of operation? There are similar services in Limerick, Cork and Kerry and they are operating successfully. What is wrong with Tipperary? It is the biggest inland town in the country with, consistently, the highest number of people on trolleys at South Tipperary General Hospital, better known as St. Joseph’s hospital. The Mary Street Medical Centre can provide this service. We need to allow the people in the primary care centres to do their work without having one hand tied behind their backs. These people want to do the work and they are able to do it. They are professionals who have invested and they have all the staff required to carry out the service.

The Taoiseach: There is nothing wrong with Tipperary or its people but I am sure they are a little disappointed after Sunday.

Deputy Mattie McGrath: A little.

The Taoiseach: They will try to come back at the Reds the next time.

Deputy Finian McGrath: Deputy Mattie McGrath did not turn up.

The Taoiseach: We are at the job a long time. I will ensure that the Minister for Health, Deputy Harris, comes back to the Deputy about the particular issue he raised. When facilities are provided, either by the taxpayer or through PPPs, they are provided for a particular purpose. It is up to management to make them work in the best interests of all the people by giving the best level of service. I take the Deputy’s point.

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Deputy Mattie McGrath: The priorities are backwards.

The Taoiseach: If all the facilities are there, they should be made to work in the interests of people. I will ensure that the matter is followed up with the Minister for Health.

Deputy Seamus Healy: The HSE is deliberately and flagrantly breaking the law by denying children with disabilities their statutory entitlements to assessments of needs. The Disability Act 2005 provides for an assessment of the health and education needs of person with disabilities and provides for services to meet those needs. Section 9(5) provides that the executive shall cause an assessment of applicants to be commenced within three months of the date of receipt of an application. The background information and supporting documentation refer to the need for services to be provided early in life in order to ameliorate a disability. The Act provides that the assessments must be started within three months of the application and that the HSE must complete the assessment within three months. That is a legal requirement on the HSE as set out in the legislation. Unfortunately, that is not the situation that obtains nationwide. The legal entitlement of children with a disability is being breached routinely by the HSE. Children are not being assessed within the three-month period and there are huge delays in assessment. The service is broken and there must be an immediate solution to the problem.

The current situation for children in terms of assessment of needs is totally unacceptable and I will give a few examples. A child was referred for assessment on 8 September 2016 but a letter from the HSE states that the child is currently scheduled for assessment in September 2018. Another was referred for assessment on 19 January 2017 but the HSE letter indicates that the waiting time for assessment is approximately 24 months. A third child was referred in January 2017 and was told by the HSE that the assessment would commence in April 2019, a full 27 months away. This is simply not good enough. That child is now over three years old and will be over five years old in two years' time.

Early intervention is absolutely crucial in order to ensure that children with disabilities are properly looked after and have services provided for them. Vulnerable children with disabilities are being mistreated by the HSE and are being denied their legal rights. Does the Taoiseach condone the routine breach of the law by a State agency, namely, the HSE? What does he propose to do about it? Will he instruct the HSE to abide by the law and ensure that every child is assessed in accordance with the law?

The Taoiseach: This is an important subject. The Government has prioritised disability by appointing Deputy Finian McGrath as Minister of State at the Department of Health to sit at the Cabinet table and articulate the concerns and anxieties relating to this area on a regular basis. Disability funding has increased over the past year and early intervention services and services for school-age children with disabilities need to be improved and organised more effectively. This process is well under way and the HSE is engaged in reconfiguring its therapy resources into geographically-based teams for children aged from birth to 18. The objective of the new model of assessment and intervention is to provide a single, clear referral pathway for all children, irrespective of the disability they have, where they live or the school they attend, as evidence shows that is an important element of progress.

Some €8 million in additional funding was invested in 2014-2015 in order to provide 200 additional posts to support the implementation of that model. A further €4 million in additional funding was allocated in respect of 75 therapy posts in 2016 and it is expected that as this re-configuration of services takes place it will have a significant impact on the HSE's ability to

meet the needs of children and young people in a much more efficient, effective and equitable manner.

In 2013, 260 front-line primary care staff positions were approved. That included 52 occupational therapists and 52 speech and language therapists. The aim is for that recruitment to continue which will lead to a reduction in waiting lists and times. A further €4 million was provided in that regard in 2014.

Since the June 2007 commencement of Part 2 of the Disability Act 2005, the HSE has endeavoured to meet its legislative requirements as specifically referred to by Deputy Healy. The number of applications for assessment under the Act has increased each year since it was introduced. It is anticipated that in excess of 6,000 applications will be received this year. It can take a significant period to determine accurately the nature of a disability which a child might have. Although there has been continual investment in this area, there are significant challenges in meeting the statutory timeframes which apply to the assessment of needs process. The Minister of State at the Department of Health, Deputy McGrath, is dealing with the delay in assessments. He is trying to resolve those delays by direct consultation. There is an ongoing recruitment campaign to combat the issue of staff shortage. The Minister of State is working with the HSE to deal with this in order that the requirements of the Act can be met by the HSE and there are no delays beyond the period for assessment and determination of a disability.

Deputy Seamus Healy: The Taoiseach has not answered the question. The HSE, which is a State agency, is breaking the law. I asked the Taoiseach if he condones that and if he will ensure that does not happen in the future. Unfortunately, since this Government has come to power and Deputy Finian McGrath has taken responsibility for the issue, the position has disimproved. We have gone from a situation where there was reasonable compliance with the law to one where we now have a waiting time of two years for the commencement of an assessment. The situation is being ignored. It has been raised in this House by several Deputies through parliamentary questions and as a Topical Issue matter. It has been ignored. The Taoiseach's answer indicates that it is still being ignored. The current situation is that where an assessment of need has not been completed, there are consequent delays in the provision of children's services such as speech and language therapy and the appointment of special needs assistants and resource teachers. The inaction of the HSE is unacceptable, deplorable and illegal. Does the Taoiseach condone that illegality and what he will do to ensure the HSE abides by the law?

The Taoiseach: It is not acceptable for any State agency to be outside the legal requirements of what it has to do. The Minister of State at the Department of Health, Deputy McGrath, who has special responsibility for disability issues, sits at the Cabinet table, has a substantial budget and is working assiduously to deal with this issue. If there are 6,000 assessments to be carried out this year, more than 100 must take place each week. Many of these assessments are quite complex and take a period of time to assess accurately.

Deputy Seamus Healy: I am concerned with assessments that have not been commenced. People have been waiting two years.

The Taoiseach: As the Deputy knows, parents have every right to know the nature and scale of the disability that their child or children may have to deal with. The Act itself-----

Deputy Seamus Healy: They are being left in limbo.

An Ceann Comhairle: Will Deputy Healy please allow the Taoiseach to finish?

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The Taoiseach: There has been much collaboration between the health and education sectors on the issue of children's disability. That is facilitated by the cross-sectoral team and the implementation of the Disability Act. That team comprises representatives of the Department of Health, the Department of Education and Skills, the Department of Children and Youth Affairs, the HSE executive, the National Council for Special Education and the National Educational Psychological Service. As Deputy Healy is aware, a detailed report was compiled by Mr. Eamon Stack, chairman of the National Council for Special Education, which sets out a progressive way of dealing with the issue. While waiting lists are unacceptable and should not exist, the Minister of State is at the forefront of dealing with the delays. In the near future, it is hoped the law in terms of assessment for children will be fully complied with, unlike the current situation where children have to wait for longer than they should.

Manchester Arena Bombing: Expressions of Sympathy

An Ceann Comhairle: Before I call upon party and group leaders for expressions of sympathy on the tragic events in Manchester last evening I want to express my own deep revulsion and sadness at these events. Last night's bombing, which was in effect a barbaric attack on children, was an assault on civilization as we know it. There is no hierarchy to suffering, horror and despair, but the fact that so many young people were killed and injured in this dreadful attack made it all the more appalling. These were young people enjoying their night out, just as our own children do. All our thoughts are with the people of Manchester and the families of the dead and injured, and we extend our solidarity to our colleagues in Westminster. I have this morning communicated that solidarity to my colleague, Mr. John Bercow. I say to the Members here that tonight, we in Ireland will hold our own children even closer.

The Taoiseach: This is very distressing. On behalf of the Government and, while the President is away, all of the people of Ireland I would like to extend our deepest sympathy to the people of Great Britain on the dreadful attack which took place in Manchester last night. The atrocity is made all the more appalling by its deliberate targeting of young people and families, the targeting of innocence and enjoyment, as they began to make their way home from the Manchester Arena. For those who have had the opportunity, and indeed privilege, of bringing their children to a concert like this, the excitement goes on for months beforehand. It is a huge adventure for young people and young children. We think of parents who bring their children to a concert venue and leave them outside to go in and participate in the adventure. To think that some of them last night never came back and never will come back is appalling. What was potentially a night of absolute enjoyment was transformed into a nightmare in which at least 22 people have lost their lives and so many others have been injured. These are reminders of the depravity of the views of a few. These beliefs have no place in our society.

I spoke with the Tánaiste and the Garda Commissioner early this morning about the situation. I was due to speak to the Prime Minister about other matters earlier this morning but we have rescheduled that conversation for later on this evening. Our embassy had its lines open all night in London and the Minister for Foreign Affairs and Trade, Deputy Flanagan, and Ambassador Dan Mulhall have been available to offer any assistance that is appropriate. COBRA, the security briefing committee, met this morning with the Prime Minister chairing it.

Our security levels here are monitored very carefully by the Tánaiste, the Garda Commissioner and the Garda authorities. That level remains at moderate, which means an attack is

possible but not likely. The situation for people around the country is that we have a very detailed level of shared information with other countries. The reason that this level has not been increased in Ireland is that we do not have any evidence of it being beyond the moderate stage. That is not the situation in Great Britain, where evidence of planned attacks exists. The Prime Minister speaks for the British Government in that respect. Last night's attack is a reminder that no one is immune from those whose hatred of our values drives such evil acts. I assure the public that all the necessary measures are being taken by our authorities here to counteract such deadly threats. The Garda authorities will continue to work very closely with our UK and EU counterparts and other countries in responding to the threat of international terrorism and violence inspired by extremists. There can never be any justification for the brutal inhumanity displayed in Manchester last night. The number of children caught up in these events makes it particularly hard to bear for all of those involved. Our thoughts and prayers are obviously with the victims and their families and all of those who are affected by this atrocity.

People in our country are heartbroken by this. The city of Manchester has such exceptionally close ties with this country for so many reasons over so many years. We support them absolutely. Listening this morning to the Mayor of Manchester, and the Mayor of Liverpool whose children were at this concert last night, gives us a sense of how a predetermined atrocity can impact in so many ways and cause such devastation for families. I will speak to Prime Minister May later this evening in respect of any details of which we should be aware and any assistance our Government, people and agencies can offer the British people at this time.

Deputy Micheál Martin: Ar mo shon féin agus ar son Fhianna Fáil, ba mhaith liom comhbhrón a dhéanamh le clanna na ndaoine a fuair bás san ionsaí sceimhle uafásach a tharla i Manchester aréir. Bhí sé dochreidte. Tá sé an-deacair ar fad dúinn go léir é seo a chreidiúint.

Our thoughts and prayers are with the families of those who lost their lives and those who were injured in last night's attack in Manchester. It was a barbaric attack on innocents, on children out enjoying themselves at a wonderful concert. Young people, children and their parents were targeted in an act of inhumanity, cowardice and hatred. We pay tribute to the emergency services workers who, as always in situations like this, rushed to assist and rescue those in trouble. The Manchester police chief, Ian Hopkins, said it was the most horrific attack ever faced by Manchester police as he confirmed that children were among the deceased.

We speak today in solidarity with the people of Manchester and Great Britain. Our family ties are close and historic. We join them today in empathy, and also with resilience, to honour the common values and decency that will continue to sustain our open and democratic societies. We should never forget that those who perpetrate these acts of terror do so to change us. Their acts are designed to make us more like the perpetrators, to make us turn on ourselves and to undermine our own sense of basic, open and democratic values. As civilised societies, it is important that we never become victims to that design and intent. We must remain resilient to protect all that we hold dear in our societies. Those who have been responsible for this act cannot and must not succeed. We have to work together with other nations across Europe and with our neighbour Great Britain to make sure we can rid our society of this evil.

Deputy Gerry Adams: Go raibh maith agat a Cheann Comhairle. Ba mhaith liom mo chomhbhrón ó chroí a dhéanamh le clanna na ndaoine a maraíodh san eachtra uafásach i Manchester aréir. Ar dheis Dé go raibh a n-anamacha dílse. Chuir sé déistin orm nuair a chuala mé faoin imeacht. Caithfidh achan duine againn seasamh go láidir in aghaidh an ionsaithe seo.

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On behalf of Sinn Féin and on my own behalf, I extend sincerest and heartfelt sympathy and solidarity to the families and friends of those killed in the bomb attack in Manchester last night. Some 22 people, including children and young people, have been killed and dozens more injured in a harrowing attack on people going about their evening, enjoying a concert and having a big night out. As the Taoiseach said, the excitement of going to a concert, especially for young people, starts months and months in advance.

What happened is shocking and reprehensible. My thoughts and prayers are with the victims and their families at this desperately sad time. I pay tribute to the emergency workers and all those who have been doing all they can to help in the aftermath of this atrocity, including local hotels, taxi drivers, and those who opened their doors to ensure people were safe last night. The one uplifting feature of atrocities like this and other tragic, terrible incidents is the instinctive way in which ordinary people respond with courage and generosity. They and the emergency services deserve praise and recognition for their actions.

Deputy Sean Sherlock: On behalf of the Irish Labour Party, I wish to express our deepest sympathy to those affected by the Manchester attack, which was appalling. It is probably no accident that the attack planned for maximum carnage, targeted young women and girls mostly and occurred in the midst of a general election. It is an attack on our democratic values and, in particular, on the innocence of youth.

I wish to echo the words of the Manchester Mayor, Andy Burnham, who said today:

These were children, young people and their families that those responsible chose to terrorise and kill. This was an evil act.

I offer our deepest sympathies to the victims, their families and the people of Manchester. Ireland has always had strong links with Manchester. Today, more than ever, we stand alongside the community there as they mourn the needless loss of so many young lives. It is in this spirit that the Lord Mayor of Dublin, Brendan Carr, has opened a book of condolences, as have his counterparts in many municipal authorities throughout the country.

I wish to pay tribute to the emergency workers and all the local people in Manchester who have been doing all they can to help in the aftermath of this atrocity. The strength and spirit shown by the community there is the best response to despicable acts of terror.

Deputy Richard Boyd Barrett: On behalf of Solidarity-People Before Profit, I wish to extend our great sympathies and condolences to the families, parents, sisters, brothers, relatives and friends of the 22 people who have been murdered in this callous, horrific and brutal way. I wish the very best to the other 59 people who were injured and I hope they make a full recovery. I understand that two of the young victims have been identified already: an eight year old girl, Saffie Roussos, and an 18 year old student, Georgina Callander. For their parents and families and for the families of the others whose lives have been extinguished by this brutal act, nothing will ever resolve the pain and suffering they have to endure today.

Any attack that deliberately targets children and families who are out simply having fun can be described as nothing other than barbaric and senseless and must be condemned utterly.

I also pay tribute to the people of Manchester, especially those who opened their homes last night to let in people fleeing the scene, the taxi drivers who drove people for free and those running the hotels that took people in and allowed them to stay the night. In the face of an hor-

rific act like this, it is important to echo the sentiment of the Manchester Trades Union Council, which said that the people of Manchester - it applies equally to the people of the world - have to respond to horrific acts like this with solidarity and love. We should never allow ourselves to be caught up in the logic of hate that could carry out such an act.

It is a twisted logic that imagines the horrors visited on equally innocent people in Syria, Yemen, Afghanistan and Iraq, which we must also remember, can somehow justify doing similar things to innocent children and people in Manchester. We must stand against any action by state actors or terror groups that would target innocent children and people because they imagine it serves some sort of political cause - it never can.

Deputy Clare Daly: We can understand the pain, panic and heartache on the streets of Manchester because we share so many cultural and social habits with the people of that city. It is almost a part of Ireland itself, which means we get it. It brings the trauma of what happened home. There are so many parents here in Ireland who would have dropped off their young teenage girls to the 3Arena in Dublin on Sunday to see Ariana Grande. To think that those people might not have come home is beyond shocking. It is horrific. My daughter would have been there had she not been doing her leaving certificate. However, it is no less horrific than the pain and torture felt by parents in Yemen, Syria and Iraq who have also lost children. Young lives have been ended and young lives have been traumatised for ever.

I do not agree that this is an attack on our values. It is a response to violence. Violence begets violence. In standing shoulder to shoulder with the parents and young people of Manchester, on behalf of Independents 4 Change I must state that the best thing we can do is support peace and neutrality as a way forward for the world. We want no part in what has gone on. That is the best we can do in the most horrendous of circumstances.

Deputy Michael Healy-Rae: On behalf of our Whip, Deputy Mattie McGrath, and the Rural Independent Group, I express our deepest sympathy with the families and those who have been affected by the awful attack in Manchester last night, which left 22 innocent people dead and at least 59 others seriously injured. This was a cold, calculated attack on some of the youngest people in society. It makes me sick to my stomach to see what should have been a wonderful occasion for young people and their parents attacked by extremists in such a horrific manner. We must do more to protect our young people in our country, across Europe and all over the globe. People at the concert last night were as young as eight years of age and some of the fatalities have been identified and confirmed as being as young as eight and 18 years of age. Just hours beforehand, they were filled with joy to see their pop idol. In particular, I remember Saffie Rose, whose image I recently saw. She was eight years of age. A lovely, beautiful little girl, she could have been anyone's child or grandchild. She was from Leyland, which is near Preston. A lovely little girl who was out for a special night and now she is lost.

It is time that we in Ireland wake up to the fact that we are not exempt from such acts of terror. We must ensure that we not only have security at organised public events, such as concerts and matches, but that armed gardaí and members of the Defence Forces are also present. We must move away from the days when the only check carried out on those going to a concert was for alcohol in a handbag or bag. Members of the public have called me today and told me that they now fear going to such organised events. A constituent who is to go to the upcoming Coldplay concert at Croke Park told me shortly before I came into the Chamber that he is seriously considering not going because he is worried about his safety. It is not good enough that

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82,000 of our citizens looking to enjoy an event and a night out could be subjected to such acts of terror. We must protect these people.

I call on the Government to ensure that members of our armed forces are on hand at organised public events where large numbers of people are congregated in order to deal with situations that may arise or to prevent an incident such as that which occurred last night from happening. It is my honest belief that we are currently not prepared for attacks of this nature. It is simply not good enough. It is the responsibility of Government and the Members of the House to ensure we do everything necessary to ensure the safety and peace of mind of our citizens especially when attending such public events in mass numbers. Our thoughts, prayers and sincere sympathies are with the people affected by such an horrific event.

I thank the Ceann Comhairle for allowing us to pay our respects. It is very thoughtful, right and proper. I also thank the Taoiseach.

Deputy Catherine Murphy: On behalf of the Social Democrats, I express our deep sympathy to the families of those who have lost their lives and send our well wishes to those who have been injured or impacted by this act of terror. We express our solidarity with the people of Great Britain and Manchester, in particular. The attack was on young people, all of whom would have looked forward to the event. Most would have gotten their tickets months ago. As the concert got nearer, it is easy to visualise the excitement of youngsters planning what they would wear, who they would go to the concert with and how they would get to and from the concert. What is not easy to comprehend or visualise is the mindset of those who carried out this outrage. At the same time as those youngsters were excitedly planning their big night out, evil preparation was taking place, the intent of which was to produce the greatest level of carnage to maximise the worldwide impact and create fear and division. Atrocities like this leave a deep scar on families and communities. This one is of such enormity it is difficult to process. It deserves nothing less than full condemnation for the vile act it is.

Deputy Eamon Ryan: As with everyone here, our hearts go out to the families in Manchester and their shattered lives. The sense is it was an evil and calculated act. It was calculated in the way it deliberately targeted the most innocent and vulnerable to try to provoke the strongest response. Sometimes when humanity shows us its most evil, in its most hard to comprehend ways, it sees in return the best in human nature. Our hearts and minds are with the ambulance drivers who queued along the streets of Manchester last night to go to the scene. Our hearts and thoughts are with the taxi drivers who brought the other young people home. In Britain's recent history, its strongest identity in response to bombing is in the spirit of the Blitz. This attack has all the hallmarks of an ISIS attack. We met the Coptic Pope recently. It is remarkably similar to the attack in the Coptic cathedral in Egypt. The same numbers of people were killed and the same mechanism was used. There was the same targeting of young, innocent children. All we can hope for is that, in response, the British people turn away from what the bombers are looking for, which is to instil hatred and division, and instead are inspired with a sense that violence can never win. We stand for peace and we achieve it through solidarity, tolerance and democratic systems. Meanwhile, our heart bleeds for those shattered families in Manchester today.

An Ceann Comhairle: Seasfaimid anois ar feadh nóiméid i gcuimhne orthu siúd a cailleadh agus a d'fhulaing i Manchester.

Members rose.

Dáil Éireann
Order of Business

Deputy Mattie McGrath: Tuesday's business shall be No. 4, motion re draft Commission of Investigation (National Asset Management Agency) Order 2017, and No. 13, Civil Liability (Amendment) Bill 2017 [*Seanad*] - Second Stage (resumed). Private Members' business shall be No. 29, Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014 - Report and Final Stages, selected by Sinn Féin.

Wednesday's business shall be No. 14, Criminal Justice Bill 2016 - changed from Bail (Amendment) Bill 2016 - Order for Report, Report and Final Stages; No. 13, Civil Liability (Amendment) Bill 2017 [*Seanad*] - Second Stage (resumed); No. 30, Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016 - changed from Prohibition of the Exploration and Extraction of Onshore Petroleum Bill 2016 - Report and Final Stages; and No. 1, Heritage Bill 2016 [*Seanad*] - Second Stage. Private Members' business shall be No. 108, motion re Caranua, selected by Independents 4 Change.

Thursday's business shall be No. 5, motion re framework agreement between the EU and Mongolia, back from committee, to be taken without debate; and No. 2, Financial Services and Pensions Ombudsman Bill 2017 - Order for Second Stage and Second Stage. Second Stage of No. 32, Pension Fund (Prohibition of Levies) Bill 2016, will be debated in the evening slot.

With regard to the announcement of proposed arrangements for this week's business, I refer to the report of the Business Committee dated 15 May 2017. In relation to Tuesday's business, it is proposed that:

(1) The Dáil shall adjourn on the conclusion of the proceedings on the Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014 but in any case not later than 11 p.m.;

(2) The motion re draft Commission of Investigation (National Asset Management Agency) Order 2017 shall conclude within 80 minutes. Speeches, which shall be confined to a single round for a Minister or Minister of State and the main spokespersons for parties or groups, or a Member nominated in their stead, shall not exceed ten minutes each, and all members may share time; and

(3) Report and Final Stages of the Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014 shall be taken.

In relation to Wednesday's business, it is proposed that Report and Final Stages of the Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016 - changed from Prohibition of the Exploration and Extraction of Onshore Petroleum Bill 2016 - be taken in Government time.

In relation to Thursday's business, it is proposed that the motion re framework agreement between the EU and Mongolia, back from committee, shall be taken without debate after Questions on Promised Legislation and the weekly divisions shall take place on conclusion of the motion.

An Ceann Comhairle: I have three proposals to put to the House. Is the proposal for dealing with Tuesday's business agreed to? Agreed. Is the proposal for dealing with Wednesday's business agreed to? Agreed. Is the proposal for dealing with Thursday's business agreed to?

Agreed.

Deputy Micheál Martin: The programme for Government features a commitment to improve “the lives of people with disabilities through better access, supports and independence”. While this is a very admirable aim on which everyone will be in agreement, the reality is much different from the aspiration set out in the programme for Government. Many people with very serious special needs who are in need of residential or respite care have no chance of accessing such care. As a result of difficulties that may arise, people with special needs are being taken out of their accommodation and, in some instances that I am aware of, placed in mental health facilities. These are totally inappropriate placements. The position is unacceptable for families who are having undue pressure and anxiety placed on them.

It is May and no appreciable progress has been made in the provision of residential and respite care and accommodation for people with special needs. In other instances, money is being spent where existing facilities are being wound down, for example, in County Kerry, yet there is nowhere for people to go. In other places, there are no services available. Will the Taoiseach indicate whether the Minister of State, Deputy Finian McGrath, who I had hoped would be present, could come to the House at some stage to facilitate a debate on this matter and try to establish some connection between reality and aspiration?

The Taoiseach: I do not object to Deputy Martin’s request. It would be good if, at an appropriate time, Members had an opportunity to contribute to a debate on disabilities and hear directly from the Minister of State, Deputy McGrath, regarding the efforts and improvements being made in this area. I will be happy to facilitate Deputy Martin.

Deputy Carol Nolan: Ba mhaith lion ceist a chur faoin UN Convention on the Rights of Persons with Disabilities, which was signed by the State in 2007. More than 150 states have now ratified the convention. That this State has not done so is nothing short of a national disgrace. The primary purpose of the Disability (Miscellaneous Provisions) Bill 2016 is to provide for ratification of the UN convention. There is a concern that the Department of Justice and Equality is dragging its heels and unnecessarily delaying the process by failing to bring forward amendments for Committee Stage.

This is an issue of basic and fundamental rights. Joanne O’Riordan, who champions the rights of disabled citizens, summed up their desire as follows:

I want to be a contributor and ... to be treated like a full equal member of my community ... I will not allow this Government or any other people to treat me like a second class citizen.

Ms O’Riordan is correct. It is evident that the Government has failed her and many more disabled citizens. While I understand the need to put in place the necessary legislation to facilitate full compliance with the UN convention, this process has been going on for ten years. When will the Disability (Miscellaneous Provisions) Bill 2016 be passed and when can we expect the State to ratify the UN convention?

The Taoiseach: The Deputy makes the point that this is a matter of rights. While it is a matter of rights, it is also a matter of procedures and follow through. We could have ratified the convention without being able to fulfil what it means. In this country, we have always taken the view that we deal with the legislation, put it through and implement it and then ratify conventions so that we can stand over them and say we ratified a convention because the necessary

legislation was in place.

I have answered questions in the House about this issue for a number of years. A suite of legislation had to be passed. Believe me, the Minister of State, Deputy McGrath, has raised this matter at Cabinet on a number of occasions and we are coming close to reaching a conclusion. That is the story. I will have the Minister of State respond to the House on this matter. It is not a case of dragging heels but getting the legislation through properly - the last piece of it is quite sensitive - and then ratifying the UN convention in order that we can stand over it.

Deputy Joan Burton: In its latest country report on Ireland in which it makes country-specific recommendations, the European Commission adopted an ultra-conservative position in respect of Ireland, so much so that its recommendations will cut the fiscal space for Ireland by €7 billion over the next three years. This means the country will have less capacity to spend on vitally needed infrastructure. Last week, the Dáil passed a motion that the sale of a part interest in Allied Irish Banks should be postponed until such time as the proceeds from such a sale can be committed to capital spending.

In another part of its report, the Commission points out the severe infrastructure shortcomings in Ireland, specifically in transport, water services and housing. What has the Government been doing that it has allowed the Commission, supported by the Department of Finance as I understand it, to spancel Ireland's potential for infrastructural growth at the same time that the Government is using AIB's proceeds to pay down debt?

The Taoiseach: Deputy Burton is well aware from her time as a Minister of what happens here. These are recommendations from the European Commission. Obviously, the Government takes these things into account but as we speak, the Ministers for Finance and Public Expenditure and Reform are meeting in Brussels with the European Investment Bank about the very issue of infrastructure in order that a proposition can be put forward by which funding and a stream of income resulting from major pieces of infrastructure can be put forward. Elements of that would be, for instance, the metro for Dublin or, for instance, the major motorway required from Cork to Limerick, in respect of which a stream of income would come to fund loans for those propositions and more to follow.

Deputy Burton is well aware that there is a €42 billion programme for infrastructural investment here. The review of the capital programme out to 2021 is currently under way.

The AIB situation has been referred to by the Minister for Finance on many occasions, a Cheann Comhairle. That is a paper exercise. When the testing of the 25% share sale is gone through, that will be used for debt reduction.

The Commission is entitled to make its views known, as it has. It has made its views known on Apple and it has made its views known on other things, but the Government would be very careful to manage prudently our economic affairs in the interests of our people-----

An Ceann Comhairle: I thank the Taoiseach.

The Taoiseach: -----leaving us room to have infrastructure development. Deputy Burton does not want a situation in which we have an oversupply of money going into it, where construction inflation results and where developers reap the rewards. We need to have a balance between what we put in and the output that we get.

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An Ceann Comhairle: We are running over time.

The Taoiseach: Gabh mo leithscéal.

Deputy Mick Barry: We have just discussed the Manchester tragedy. More than one Deputy rightly praised the work of the men and women who provided the emergency services. Members can agree these are people who get up early in the morning, to use a phrase that is doing the rounds.

An Ceann Comhairle: Are we discussing promised legislation?

Deputy Mick Barry: We are indeed. Yesterday, the Minister for Social Protection stated that the men and women who provide similar services in this country should have their right to strike restricted or even banned. Today, a man who bankrupted the country walked free. Yesterday, the men and women who are the backbone of the country were threatened with having their rights restricted.

Given that plans to introduce such legislation would undoubtedly bring about a powerful response from the trade union movement, is the Taoiseach seriously considering going down this road?

The Taoiseach: I do not want to comment on court announcements made in respect of any particular case.

Deputy Mattie McGrath: Hear, hear.

The Taoiseach: The judgment will be given tomorrow, the jury has not been discharged and I do not wish to make any comment, or cannot make any comment, on that.

Obviously, in terms of party politics, there are contests that take place at different times for positions of responsibility. The Government has a programme here, and we refer to that programme, which is set out and agreed, for support both from inside Government and from outside Government. One of the issues that has arisen in respect of the Garda, for instance, is for it to have access to the Workplace Relations Commission, WRC, and the Labour Court. The legislation that is being drafted for that will take into account some serious matters that need to be considered, one of which is what the Deputy refers to, but that is an element of what Government is doing here and willing to do in respect of giving the members of the Garda full representation and hearing at the WRC and the Labour Court. There are consequences and there are issues that need to be dealt with, and they must be addressed in some detail when the Bill comes before the House.

Deputy Mattie McGrath: The House is debating the Civil Liability (Amendment) Bill 2017. It seeks open disclosure by the HSE. That is the basic premise of the Bill, yet up to 500 families have major concerns about their daughters and Gardasil. They are bright, smart and normal people. We have mentioned the savage atrocity across the water, but these girls' lives have been devastated. While I am not saying it definitely is proven, there must be some disclosure by the HSE, not prevarication or a complete refusal to have any investigation into the possible severe impacts of this vaccine on young women and their families. The effects are devastating. I know some of the families. Their daughters were normal and healthy teenagers who were active in all walks of life but now they are turning over in bed and cannot even go to school. It has had a significant impact and there are 500 families. We have had too many health

scandals. There must be open disclosure by the HSE, the Department of Health and the drug companies. They must allow for an independent investigation.

The Taoiseach: That Bill is currently going through the House and is due for a Second Stage debate here tomorrow. I am sure that Deputies from all over the House and different parties will have their opportunity to have their say in detail about this.

Deputy Catherine Connolly: The Taoiseach was busy last week but I raised a matter with him then and the previous week. Last week, he said that he would revert to me within the day. It relates to Caranua and whether the Minister for Education and Skills - perhaps he will answer, given that he has not reverted to me - has given permission for Caranua to move into new premises and to sign a lease for extraordinary rent and whether he gave permission for the previous rent, which seems to have been paid to the Office of Public Works.

The Taoiseach: This is being taken on Private Members' tomorrow evening, as Deputy Connolly is aware. Caranua is an independent statutory body that provides a range of approved services in the areas of health and personal social services, education and housing services for applicants. It began accepting applications from former residents in January 2014. It has expended some €60 million in support of 4,000 individuals.

Deputy Catherine Connolly: A Cheann Comhairle, I asked a specific question and did not waste any time.

The Taoiseach: Yes. The Minister, Deputy Bruton, announced a consultation on-----

Deputy Catherine Connolly: Permission was not given.

The Taoiseach: -----proposed draft terms of reference for a review of eligibility for Caranua.

Deputy Catherine Connolly: Was permission given?

The Taoiseach: Maybe the Minister might like to respond to the particular question that Deputy Connolly raised.

Minister for Education and Skills (Deputy Richard Bruton): Caranua has its own independent board and does not require permission from me to arrange its accommodation.

Deputy Mary Butler: Page 64 of the programme for Government refers to driving down costs to provide new treatments, drugs, etc. and asserts that the Government will examine opportunities to leverage purchasing power. As the Taoiseach may be aware, time is running out for the 21 alpha-1 patients who are receiving Respreeza on a compassionate basis from CSL Behring. The patients, some of whom started the trial ten years ago, were receiving the drug on a month-to-month basis. Last week, they were informed that it would only be available to them on a week-to-week basis with no guarantee for the future.

I appeal to the Taoiseach to ensure that this life-saving drug is made available without delay. He oversaw the provision of Orkambi for cystic fibrosis sufferers. Twenty-one people are on this trial and a further 40 are awaiting it. Ensuring that this is handled would be a great use of his time in the next few weeks.

The Taoiseach: This is an important issue for the patients and the families involved. It is not just a question of general legislation. I will have the Minister respond directly to the Deputy.

Deputy Mary Butler: I thank the Taoiseach.

Deputy Eoin Ó Broin: The legislative programme includes a rates Bill, which is due to be published shortly. Currently, rate revaluations are taking place in south Dublin, Kildare and elsewhere. Some small employers have been hit with rate increases of between 50% and 100%. These are businesses that weathered the storm of recession and are just about to consider hiring new staff or restoring wage cuts that were undertaking during the recession. Instead, they are being hit with large and unjustified rate increases.

The rates system is unfair, contains significant anomalies and is bad for employers, workers and local economies. Will the Government use the opportunity of the rates Bill to provide a comprehensive overhaul of a system that is not fit for purpose?

The Taoiseach: Deputy Ó Broin raises an important point. Obviously, others have had reductions, but we do not hear about those too often. The heads of this Bill were cleared in April by Government. There has been quite a deal of discussion between the Attorney General's office and the Department. I expect that when the Bill comes before the House and is cleared for discussion, that the intent will be to have a comprehensive response to a situation that I know causes difficulties where increases in rates occur.

Deputy Danny Healy-Rae: House building is one of the Government's main objectives. However, many young couples and individuals are being denied the ability to build their own houses because of the planning guidelines that the Department insists local authorities use. These young people have the money to build their own houses, they have the sites and they have the need. However, the guidelines are preventing many from obtaining planning permission. The Department of Housing, Planning, Community and Local Government put in place another stumbling block in 2012 whereby people who wish to build houses for themselves cannot access national secondary routes. I want the Minister to address those issues, which are depriving many people of the opportunity to build.

The Taoiseach: It is not a matter of legislation. There has been a substantial increase in the number of planning permissions applied for and granted, and these apply in all cases. Clearly, local authorities and the transport authority have an issue in respect of more exits on national routes. We have had occasions in the past where roads have lost their national secondary or primary status because of the incidence of new exits - traditionally through section 4 notices - given that there is a matter of road safety involved where that happens. That is a matter for discussion between local authorities and the transport authority.

In respect of the planning guidelines, obviously, any couple or individual applying for planning permission in the Deputy's county or anywhere else goes through a preplanning discussion with their local authority. It is not national guidelines that are imposed in the vast majority of cases. This can be seen in the rate of increase in the number of planning applications applied for and approvals granted, which is substantial.

Deputy Danny Healy-Rae: They are being denied preplanning.

Deputy John Curran: Most Ministers and their Departments have at this stage made submissions with regard to the mid-term capital review. In that context, I requested from the Minister for Transport, Tourism and Sport details of his submission. I was concerned because the submission was made in the absence of a public transport policy review, which has not taken place. I ask the Taoiseach to ensure that those submissions made in respect of the mid-term

capital review are published and that we have a full debate in the House on the review.

The Taoiseach: The Minister for Public Expenditure and Reform is in Brussels today. I am sure he will have no objection to a discussion on the mid-term capital review, in respect of which work is under way.

Deputy John Curran: Will he publish the submissions from the Departments?

The Taoiseach: I think these are publicly available in any event but I do not expect the Minister will have any objection to that.

Deputy John Curran: That was the purpose of the question. I had asked this of the Minister for Transport, Tourism and Sport directly but they are not currently available. Somebody on the other side of the House is going to have to take that step to make them available. However, it is no use making one submission available; it is the entirety of the programme that we wish to see.

The Taoiseach: Given that these are matters of public issue in any event, I do not see any reason for secrecy about priorities that are deemed important by Ministers. I will have that matter taken up with the Minister for Public Expenditure and Reform.

Deputy Fiona O'Loughlin: In the past eight weeks, four women have died at the hands of men known to them and nine children have been left motherless as a result. Data published by the relevant European Union agency shows that the incidence of domestic abuse in Ireland is 7% above the European average. A concern highlighted by Women's Aid - and by Justine McCarthy at the weekend - is that the statistics we have from the Garda are unreliable and that domestic violence incidents are not being classified appropriately. According to Garda figures, there were 6,000 incidents in 2016. However, according to Women's Aid, the figure is 20,769, so there is surely something wrong. When should we expect the Domestic Violence Bill to be enacted? Does the Taoiseach feel it goes far enough? Are we examining the discrepancy between the figures?

The Taoiseach: The Deputy raises two issues. One is in respect of the Bill, which is on Committee Stage in the Seanad. While it has not yet come to the Dáil, it will do so in due course. Obviously, Members will have an opportunity to voice their opinions on it.

The second point the Deputy raises relates to the statistics that are produced. In the context of statistics involving the Garda Síochána, there is an analysis going on in respect of another element of the statistics, which I expect will be quite detailed, and that can be followed through with regard to these statistics also. Unfortunately, domestic violence is an issue in Ireland. It causes havoc for families and family relationships, with a particularly dramatic and traumatic impact on children.

Deputy Michael Collins: Tillage farmers along the south-west coast suffered huge grain crop losses last harvest due to shockingly bad weather. It was the third year in a row that they experienced such losses. In mid-January, the Dáil voted to direct the Minister for Agriculture, Food and the Marine to provide a rescue package for grain farmers but, as yet, these hard-pressed farmers have not received any financial aid. Will the Taoiseach tell us if this is going to happen and when?

The Taoiseach: That is not a matter for legislation; it is a matter for decision by the Minister

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for Agriculture, Food and the Marine. I will have him respond to Deputy Collins. He is well aware of the details of the matter.

Deputy Michael Collins: Supporting tillage farmers is not a matter for promised legislation.

Deputy Martin Kenny: The programme for Government contains reference to the farmers charter 2015-2020 from the Department of Agriculture, Food and the Marine. This charter guarantees that farmers will receive their payments within a proper and orderly timeframe. Last week, the Minister of State in that Department announced that he is conducting a review of all land which was the subject of burning in recent weeks, much of it in the Taoiseach's constituency and in mine. A lot of mountain land was involved and hill farmers have been particularly badly affected. There is a suggestion that the review will look at the basic payments to which these farmers are entitled in order to withdraw them or to impose penalties. Many of these farmers spent the past couple of weeks trying to put out the fires and they fought very hard to try to deal with this situation. They are the victims of these fires yet we find that the Department is proposing to penalise them for it. Will the Taoiseach guarantee that the farmers whose land, much of which contained forestry, was the subject of these burnings will not be penalised for what has happened to them. In most cases the fires were caused by others, not the farmers in question.

The Taoiseach: I agree that farmers went out of their way to attempt to deal with the consequences of these fires. I deplore the actions of those who started these fires in the first instance. They were obviously unable to contain what happened afterwards and this resulted in massive destruction to property, assets and value, and also in terms of the impact on wildlife and nature in so many ways. For those who have been victimised by these acts of arson, if that is what they were, we cannot expect them to have the State suddenly say, "You are responsible for this yourself". If the land is blackened and the trees burned and if people's assets are decimated, I think it is an issue that needs to be looked at with some degree of compassion and consideration. It is a valid point and we will consider it very carefully.

Deputy Anne Rabbitte: In last October's budget, the affordable child care scheme was announced to much fanfare. Regrettably, however, the relevant legislation has still not been introduced. Is it in the Taoiseach's power to fast-track that legislation? There are 23,000 employees in 4,500 crèches across the country who are waiting for this legislation to be brought forward. They were promised it and they are awaiting the money. Perhaps the Taoiseach could help.

The Taoiseach: The intention was that the scheme would be operational and effective from September of this year. The heads of the Bill and the general scheme were approved by the Government on 20 January 2017. The joint Oireachtas committee met on 8 February for pre-legislative scrutiny and its report was received on 23 February. On 22 February, the Department of Children and Youth Affairs received formal notification from the Office of the Parliamentary Counsel that a draftsman was assigned specifically to work on the affordable childcare scheme Bill. The Office of the Parliamentary Counsel and the Department of Children and Youth Affairs started work together on the drafting of the Bill in March and this work is ongoing. No date is yet confirmed for when the drafting of the Bill will be complete. Nonetheless, the Government is conscious of the position and wants to make arrangements so that payments under the scheme will become effective in September. This is quite a complicated Bill and the timeline is tight, but it is hoped it can be met.

Deputy James Lawless: The programme for Government refers to a digital strategy for schools and commits to introducing new technology into classrooms. Last year, the Minister for Education and Skills, Deputy Bruton, announced a €200 million spend over five years within schools. While this money is very welcome, without guidance, follow-through and professional implementation, I fear the money may not be utilised in the optimum way. We know that school boards of management and management teams struggle with the challenges of new technology in the classroom, including cyberbullying, inappropriate images and digital usage across the schools. I am concerned that while the money has been committed, we are not seeing the appropriate support system in place, including technical guidance for boards of management to deal with difficult situations and making the right decisions on how to utilise technology within their schools.

The Taoiseach: The intention here is clear. I will have the Minister, Deputy Bruton, respond directly to the Deputy.

An Ceann Comhairle: That concludes the Order of Business. I apologise to the six Deputies who were not reached.

Foal Levy Bill 2017: First Stage

Deputy Clare Daly: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Irish Horseracing Industry Act 1994 and the Horse and Greyhound Racing (Betting Charges and Levies) Act 1999; to amend the provisions that apply to the levying of the foal levy; and to establish a foal levy committee to be known as the Levy Committee.

I thank the Ceann Comhairle for his indulgence following our mess-up on Thursday when we were supposed to move this Bill. It was entirely our responsibility. I thank the Ceann Comhairle very much for facilitating us today.

The horse racing industry is obviously a serious business in Ireland. People refer to it as the sport of kings, but while ownership and breeding is in some ways the sport of kings, the reality is that 91% of the 7,000 breeders in Ireland, representing the backbone of that industry, are small owners and breeders who own four mares or fewer. The current foal levy operated by Horse Racing Ireland unfairly and ridiculously discriminates against those people in favour of the big boys. The system was introduced in 2000 without any consultation.

The Bill before the House today proposes to change the utterly bizarre manner in which the foal levy is currently calculated. For every mare covered currently owners are charged on the basis, not of the sum they pay, but on the advertised fee. Where would you get it? It is as if somebody advertised their services to extend a house or paint a kitchen and an individual managed to negotiate with them a reduced amount but yet had to pay VAT on what was advertised not what was actually paid. It is a ridiculous system. Despite many efforts by small owners to have this changed, they have not been successful.

The Bill proposes to replace the current foal levy system with a simple 1% levy on the sale price of all registered thoroughbred horses sold in Ireland. It would raise, if not the same amount of money, perhaps a little bit more money for Horse Racing Ireland. It would end the

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discrimination against the small breeders and actually mean that those with the most money at the top would end up paying a little bit more.

The Bill was motivated by a court case taken by the owner and breeder, Gerry Callanan, who challenged the issue in the court in Naas and was granted permission by the Circuit Court to take a case to the Supreme Court to clarify the legislation. As a small breeder and owner, he does not really have the means to do that himself. In many ways, why should the Supreme Court adjudicate on this when a simple change in the statutory instrument by the Minister for Agriculture, Food and the Marine could sort the issues out? The judge certainly felt there were issues to be dealt with.

As a result of the failure of the Minister to change the statutory instrument and as a result of the strenuous efforts of Horse Racing Ireland to frustrate the small owners' efforts in the courts, I have no choice but to lay the Bill before the House to try to correct the anomaly.

The Bill also proposes a change in the membership of the foal levy committee to make it more representative of the interests of all owners and breeders and not just the big ones. We propose that the membership of the committee would include representatives of all large and small horse-breeding operations. We hope that the mix of interests on the board would mean that the funds would be distributed more equitably because currently the Irish Thoroughbred Breeders' Association holds three out of the seven seats on Horseracing Ireland's foal levy committee.

It is no surprise that the funds raised through the foal levy goes to the Irish Thoroughbred Breeders' Association, Irish Thoroughbred Marketing and the Irish Equine Centre. However, the Irish Thoroughbred Breeders' Association only represents 700 of the 7,000 breeders. In other words they are all paying the money to keep this organisation, in which they have no involvement, afloat.

We are proposing a more equitable manner of doing it. I believe there is some urgency in introducing the legislation because Horse Racing Ireland, in particular, has adopted a pretty heavy-handed approach recently, with a number of breeders being threatened that if they do not pay up in full despite the lack of legal clarity in this matter, being before the courts, they will be banned from horse racing in Ireland and the UK for the next two years.

I have repeatedly attempted to address the issue with both Horse Racing Ireland and the Minister to no avail, and am left with no choice but to introduce this legislation in the hope of sorting out an appalling anomaly and injustice.

An Ceann Comhairle: Is the Bill opposed?

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

Question put and agreed to.

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

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

Question put and agreed to.

Dáil Éireann
Ceisteanna - Questions

Cabinet Committee Meetings

1. **Deputy Joan Burton** asked the Taoiseach when the next meeting of the Cabinet committee on infrastructure, environment and climate action will take place. [23019/17]

2. **Deputy Brendan Howlin** asked the Taoiseach when the Cabinet committee on infrastructure, environment and climate action last met; and when it will meet again. [23088/17]

3. **Deputy Gerry Adams** asked the Taoiseach when the Cabinet committee on infrastructure, environment and climate action last met; and when it will meet again. [23089/17]

4. **Deputy Richard Boyd Barrett** asked the Taoiseach when the Cabinet committee on infrastructure, environment and climate action last met; and when it will meet again. [24333/17]

5. **Deputy Micheál Martin** asked the Taoiseach the number of times the Cabinet committee on infrastructure, environment and climate action has met since June 2016. [24366/17]

6. **Deputy Micheál Martin** asked the Taoiseach his Department's role in Ireland's infrastructure planning; and if there is an official involved in this from his Department. [24676/17]

The Taoiseach: I propose to take Questions Nos. 1 to 6, inclusive, together.

The Cabinet committee on infrastructure, environment and climate action has met on five occasions since it was reconstituted in June 2016. The last meeting of the Cabinet committee took place on 15 May 2017. The next meeting of the Cabinet committee will be scheduled shortly.

My Department provides the secretariat to the Cabinet committee on infrastructure, environment and climate action and chairs the associated senior officials' group. The Cabinet committee oversees the development and delivery of key infrastructure and associated policy, including oversight of relevant commitments in A Programme for a Partnership Government. In addition, the committee addresses the climate change challenge in terms of domestic policy and in relation to Ireland's EU and international obligations.

Deputy Joan Burton: I appreciate that the Taoiseach is currently in a handover position in respect of his Government. Nonetheless he has always been extremely diligent regarding all the Cabinet committees he has chaired. The review of the capital programme is under way. There is an unallocated €2.65 billion extra to be committed. That has been the understanding up to now. As I said earlier, the European Commission in the country-specific recommendations took an ultra conservative line regarding Ireland and basically dismissed our hopes of an expanded capital programme by reducing the fiscal space by €7 billion over the next three years, which is a significant amount. In addition last week the Dáil passed the motion on AIB saying that any proceeds raised should go to capital investment.

It appears that the Department of Finance has co-operated with the European Commission in making essentially a political choice that the fiscal space, particularly regarding the capital programme, over the next three years should be reduced. This is a major economic decision which will influence-----

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An Ceann Comhairle: I thank the Deputy. We have limited time.

Deputy Joan Burton: -----the investment in infrastructure, public transport particularly-----

An Ceann Comhairle: We need to get an answer now, Deputy.

Deputy Joan Burton: -----in housing and in all the other areas like education and health that require capital finance.

An Ceann Comhairle: As a number of people are offering on this, we need to stick to the time limits.

The Taoiseach: As the Deputy rightly points out, under the mid-term review, the Government will confirm the allocation of the additional €5.14 billion committed for capital investment. Following commitments made in the budget for 2017 and the increase in funding for housing, there is approximately €2.65 billion in uncommitted additional capital through to 2021. Submissions from the Departments are being received by the Department of Public Expenditure and Reform. Public consultation was undertaken in April to inform the view of the capital plan. The Department of Public Expenditure and Reform will assess the submissions received from Departments and make recommendations to Government in the third quarter of 2017 to inform the Government's final decision on revised capital allocations to be announced in the context of the budget for 2018, which will obviously take place in October.

The review of the plan will take place in two stages. Phase 1 will be a focused review of priorities, aimed primarily at advising Government in the context of budget 2018 on how the additional capital funding committed by Government should be allocated over the remainder of the plan. Phase 2 will assess and report on the framework required to underpin longer-term analysis of Ireland's infrastructural planning needs. In my address to the Institute of International and European Affairs, Ireland at the Heart of a Changing European Union, I reaffirmed that the national planning framework for spatial planning due to be finalised later this year will be complemented with a longer-term ten-year capital plan.

Deputy Carol Nolan: Does the Taoiseach accept that the Planning and Development (Amendment) Bill, which commenced Report Stage in the Dáil last week, has failed to legislate for a key recommendation of the Mahon report into planning corruption?

The Taoiseach: Could Deputy Nolan repeat the question please?

Deputy Carol Nolan: Does the Taoiseach accept that the Planning and Development (Amendment) Bill 2016, which commenced Report Stage in the Dáil last week, has failed to legislate for a key recommendation of the Mahon tribunal report into planning corruption?

The Taoiseach: Which element of the Mahon tribunal is Deputy Nolan talking about?

Deputy Carol Nolan: There are several issues. There is another issue in terms of the short-fall of almost €400 million in the available funding in the next four years and what the Minister, Deputy Coveney, said was needed.

The Taoiseach: In respect of the capital expenditure programme, the six-year capital plan published in 2015 set out an Exchequer capital spend of €27 billion. Including the wider semi-State sector and public private partnerships, the total State-backed capital investment is €42 billion. That will support more than 45,000 construction-related jobs. A Programme for

a Partnership Government committed to additional capital investment to be allocated in areas such as transport, housing, broadband, health, education, flood defences etc. on the basis of the outcome of the mid-term review of the capital plan. In the summer economic statement of 2016, the Government committed to an additional €5.14 billion in Exchequer capital funding over the period 2017 to 2021. Clearly, the programme for capital investment is very extensive at €42 billion, including all of the different elements of the sector.

Deputy Carol Nolan: There is also an issue-----

An Ceann Comhairle: No, I am sorry. I call Deputy Boyd Barrett.

Deputy Richard Boyd Barrett: I wish to ask about the local infrastructure housing activation fund, LIHAF. Cherrywood in my constituency will be a virtual new town of 8,000 residences. A total of €15 million will be given to Hines, the private developers that got most of the site at a very substantial discount from NAMA and which stands to make a hell of a lot of money. Average house prices in Dún Laoghaire are about half a million euro if not €600,000. The developers will make an awful lot of money. They got a discount from NAMA to get the land; they are getting a discount on the development levies and they are getting €15 million from the infrastructure fund for the public to effectively build the infrastructure to make the site ready for development. Out of that we are only getting 10% back in social housing. Will the Government please ask for more than 10%, given the huge State subsidy that is effectively being given to the private property developers who have the site? If we got a reasonable percentage of that land - well above 10%, which was originally NAMA land and should never have been sold - we could solve the housing crisis in Dún Laoghaire-Rathdown. Will the Government put conditions on that money to demand that we get considerably more than 10% back in social housing in Cherrywood and other similar developments?

The Taoiseach: I note Deputy Boyd Barrett did not set out the percentage sought. One does not want every development to be-----

Deputy Richard Boyd Barrett: I would like 100%.

The Taoiseach: The Deputy cannot have that. Is Deputy Boyd Barrett saying we should put all 8,000 social housing residences on one site?

Deputy Richard Boyd Barrett: We can have social and affordable.

The Taoiseach: He does not believe that.

Deputy Richard Boyd Barrett: We will get 90% of private housing.

The Taoiseach: Social and affordable housing is different to social housing.

Deputy Richard Boyd Barrett: A 50:50 ratio would do.

The Taoiseach: Is Deputy Boyd Barrett suggesting that 8,000 social houses should be put together on one site in Dún Laoghaire or anywhere else?

Deputy Richard Boyd Barrett: It could be 50:50 social and affordable.

The Taoiseach: Deputy Boyd Barrett knows that is not the way it should be, and that one needs a mix of housing types spanning social, affordable, private and so on. There are more development sites for social housing in Dún Laoghaire than the Cherrywood site.

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Deputy Richard Boyd Barrett: The Cherrywood development could solve the housing crisis in the area.

An Ceann Comhairle: Deputy Boyd Barrett should please allow the Taoiseach to reply without interruption.

The Taoiseach: I think the essence of the Deputy's question is whether we can change the balance of the extent of social housing on the site.

Deputy Richard Boyd Barrett: Yes.

The Taoiseach: I assume the Cherrywood development has already been designed and agreed to achieve a mix of 8,000 residences of various types in an area where there is a massive demand and there has been a lack of supply of housing for some time.

Deputy Richard Boyd Barrett: The people who are demanding housing cannot afford half a million euro.

The Taoiseach: The mix of social housing was not decided by the Government. Deputy Boyd Barrett wants more social housing but others might want less and some might want 100%.

Deputy Richard Boyd Barrett: Nobody wants less.

The Taoiseach: I will bring Deputy Boyd Barrett's query to the attention of the Minister for Housing, Planning, Community and Local Government.

Deputy Micheál Martin: It is fair to say that the work of Government seems to be even more sidelined now that the election campaign is under way for the new Fine Gael leader.

The Taoiseach: Not at all.

Deputy Micheál Martin: The current contest is very interesting and revealing, perhaps more so than the party might have wished. It is interesting that the Minister for Social Protection was using his regular weekend media briefing to promote his views on what he modestly called a dramatic infrastructure plan. Many outside observers saw the reports and wondered whether he was simply announcing the much heralded infrastructure plan, which is apparently ready to go and has been discussed by the Cabinet committee on infrastructure. Can the Taoiseach confirm that the committee has been looking at the revised capital plan and infrastructure plan? The Taoiseach informed the House earlier this year of the membership of the Cabinet committee on infrastructure and it is surprising that the Minister for Social Protection is not on the list. I do not think he is a member of it. This suggests that one of his colleagues, or choir-boys as Deputy Kate O'Connell would label them, has been helping him and has supplied him with the specifics in order that he could put them into his election plans. The Minister has said he is a visionary thinker so that must clearly be a misunderstanding of mine. I do not think the Minister would go so far as to claim credit for the work of the infrastructure committee, work for which he has no responsibility. Could the Taoiseach indicate to me whether he has put in place measures to protect the work of Government from the internal party campaign?

Does the Taoiseach accept the Government's limit on public private partnerships is too low in terms of the contribution they could make to both housing and infrastructure in general?

The Taoiseach: I think Deputy Martin has some experience of that himself. It is always dif-

difficult to get PPPs that work effectively and that can be streamlined to a point where they deliver well. The bundles of secondary schools, of which the Deputy had some experience himself in his time as Minister, have evolved to a very presentable, effective way of delivering high-class building in a short time. As far as I am aware, they have all been under budget and on time. Some of the schools I have been in are enormous and provide every conceivable facility for people to do their job.

The role of the committee is to drive the development and the delivery of key infrastructure and associated policy, including the role of NewERA in support of sustainable economic development, job creation and better quality of life. It plays a role in overseeing Ireland's transition to a low-carbon economy, including co-ordination of international negotiations, obligations on energy and climate change and provides oversight of relevant commitments in A Programme for a Partnership Government. As I indicated previously, there is a €42 billion programme involving 45,000 construction jobs. I was talking to some of the developers and operators recently and I was informed that construction on the Gort to Tuam motorway scheme and the New Ross bypass are under way. I think the Gort to Tuam motorway is ahead of time and will make a major impact.

Deputy Micheál Martin: When can we expect to see the new plan?

The Taoiseach: The new-----

Deputy Micheál Martin: I refer to the revised infrastructure plan on which we all made submissions.

The Taoiseach: It has not come before Cabinet yet but I think it will shortly.

Deputy Micheál Martin: Is that a different plan to the one we heard announced?

Deputy Joan Burton: Is that the capital review plan?

The Taoiseach: The €42 billion plan is the one that is under review at the moment, in respect of the €5 billion to be allocated, but the expanded version of that dealing with PPPs and other sectors brings it to €42 billion between now and the mid-2020s.

Deputy Eamon Ryan: In my mind there was not much of a plan; it is a bit rich that the man who killed the metro would claim he is going to be the great one who will bring it back.

I wish to ask the Taoiseach a separate question regarding the national climate dialogue on climate change. Last night's debate on RTE's "Claire Byrne Live" showed the environmental community's deep frustration that we have not had a proper dialogue on climate. We seem to be stuck in a completely outdated "is it real or is it not" debate within our national media rather than the really important debate that is needed on the solutions to the problem. We do not need me and Deputy Michael Fitzmaurice at loggerheads with each other; we need to work together to get solutions. I understand that the committee for the national climate dialogue has been selected and notified but will the Taoiseach indicate when it will first meet? Would the Taoiseach see a way to bring in media such as RTE and some of the newspapers in order that they can partake in such a system? How will it connect with the Citizens' Assembly? We must make submissions for September on how the Citizens' Assembly might consider this issue. In this process, could we ratchet up a gear our national understanding of what we need to do and what the solutions might be? Perhaps the

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Taoiseach will give us some more detail on when the committee will be announced and when the chairman will be selected.

The Taoiseach: Deputy Ryan will be aware of the public consultation that took place on the draft national mitigation plan, and which closed on 26 April with 124 submissions received. A number of important issues were raised regarding the adequacy of the current policy responses and the clarity of national sector plans in meeting Ireland's national and European targets. The Departments are working with the Department of Communications, Climate Action and Environment to review the submissions with a view to strengthening the draft plan ahead of its presentation to Government next month. The Minister, Deputy Naughten, is establishing the advisory group - and Deputies are aware of this - to guide the activities of the national dialogue during its initial two-year phase. That membership will be drawn from public, private and NGO bodies. The first meeting of the advisory group is to take place in June this year. The group will be supported by a secretariat within the Environmental Protection Agency, which will also manage the administration of the dialogue. Regional gatherings will take place, to begin in the autumn of 2017, and it is also proposed that the dialogue will include the national climate change action and awareness programme in schools and communities. This includes the Green-Schools scheme, expert lectures, and climate expos and events around the climate implications of spatial choices. The advisory group meets in June and there will be an opportunity to set out a comprehensive and worthwhile strategy and to take into account the points made by Deputy Ryan.

Brexit Issues

7. **Deputy Joan Burton** asked the Taoiseach the number of times the Cabinet committee on Brexit has met since June 2016. [23018/17]

8. **Deputy Brendan Howlin** asked the Taoiseach when the Cabinet committee on Brexit last met; and his plans to publish a paper on economic and trade issues related to Brexit. [23087/17]

9. **Deputy Gerry Adams** asked the Taoiseach the number of times the Cabinet committee on Brexit has met since January 2017. [23090/17]

The Taoiseach: I propose to take Questions Nos. 7 to 9, inclusive, together.

The Cabinet committee on Brexit met three times in 2017, namely, on 26 January, 8 March and 26 April. It has met a total of eight times since its first meeting in September 2016. In addition, Michel Barnier, the EU negotiator, attended a meeting with a number of members of the committee on 11 May.

On 2 May, the Government published a comprehensive document on Ireland and the negotiations on the UK's withdrawal from the European Union under Article 50 of the Treaty on European Union. This document sets out the approach of the Government to the forthcoming negotiations, following the successful campaign to have key Irish issues recognised in the EU negotiating position.

Following on from this publication, work is under way to prepare a further paper on economic implications of the Brexit challenge. This will draw on the work to date across Departments, which will be developed to mitigate emerging sectoral challenges. The paper will build

on ongoing cross-Government research, analysis and consultations and will reflect the core economic themes of the speech I gave to the Institute of International and European Affairs on 15 February. It will include issues such as sustainable fiscal policies to ensure capacity to absorb and respond to economic shocks, not simply from Brexit. There will be plans for policies to make Irish enterprise more diverse and resilient, to diversify trade and investment patterns and to strengthen competitiveness. It will prioritise policy measures and dedicate resources to protect jobs and businesses in the sectors and regions most affected by Brexit. It will realise economic opportunities arising from Brexit and will help businesses adjust to any new logistical or trade barriers arising. The paper will make a strong case at EU level that Ireland will require support that recognises where Brexit represents a serious disturbance to the Irish economy.

Deputy Joan Burton: I first acknowledge that the Taoiseach deserves to be congratulated for actually getting the EU - in its various position papers and outlines - to acknowledge the critical issue of Ireland. When will the Taoiseach publish the Brexit paper on economics and trade? In this Chamber we have talked a lot about Northern Ireland in the context of Brexit, and for very understandable reasons. An issue that does not get much attention, however, is the hundreds of thousands of jobs in the Republic of Ireland that may be adversely affected by a hard Brexit. The Taoiseach's friends, the Conservative Party in England, at this very moment is campaigning in the English broadsheets and tabloids and in other media such as radio and social media for a hard Brexit, for leaving the Single Market and for leaving the customs union. It will cause devastation in many sectors of Ireland's economy over the next three to ten years. The Taoiseach said some nice things about what he might do. The Labour Party has proposed a trade adjustment fund of €250 million. Does the Taoiseach have concrete proposals for addressing the economic and trade issues on Brexit?

There is also the slow seepage out of information that there will be ghost custom posts, maybe 20 km north and south of the Border, with all the implications we understand for Donegal, Derry and the north west of the North of Ireland. It is extraordinary that the Government is so silent on this matter given that Teagasc has recently stated the duties on beef, for example in a WTO situation, will run as high as more than 60%.

Deputy Carol Nolan: The EU's 27 Ministers agreed on Monday the negotiating directives for the Brexit negotiations, which are now expected to begin in the week of 19 June. The directives agreed that the priorities in the first phase of negotiations would be the status of the EU's citizens in the UK and the 1.2 million Britons on the continent, the so-called Brexit bill for the UK and the issue of a hard Border on this island.

We already know from David Davis's comments last week that Britain does not accept the priorities as set out by the EU. Of particular concern is the section which, again, references the desire "to avoid a hard border" on this island, "while respecting EU law." Despite assurances by the Taoiseach in this Chamber that there would be no customs posts, this is the economic reality we now face as EU law will require it. It was confirmed last week by representatives of Revenue at the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. Revenue told the committee that more than 2 million HGV journeys take place between the North and South each year and that at least 8% of these journeys will need to be checked, including some by physical inspection. This means that at least 160,000 HGV vehicles will be subject to customs checks. The Revenue representative also stated there would be roaming border patrols to police and monitor those checks. That is a hard border. The impact on the two economies on this island will be enormous. Currently, island-wide trade generates more than €3 billion annually. Thousands of jobs depend on this trade. This is one reason why

Sinn Féin argued for the North to be designated a special status within the EU. At the same meeting of the joint committee, Seanadóir Rose Conway-Walsh asked John Callinan from the Department of the Taoiseach if the Government has ever raised the issue of designated special status with the EU. The answer was “No”.

Deputy Micheál Martin: Yesterday, the General Affairs Council agreed the more detailed negotiating directives, which follow on from the guidelines agreed at last month’s summit. I do not believe there was anything surprising in these guidelines and it contains the reassurance concerning the European Union’s citizenship right of Irish citizens in Northern Ireland, which we have advocated for here and in Brussels since early in the process last year. What is of concern is the continued recurrence of the idea that any action will be constrained by regard to existing EU legal order and legislation. It is important that the Taoiseach clarifies his understanding of what is meant by the comment that anything that emerges from these negotiations will have to be within existing EU legal order and legislation. I know that Commissioner Barnier’s position on this is different, but we are lacking some clarity in the matter.

I would also ask the Taoiseach to clarify whether there will be any flexibility around investment in much-needed infrastructure. While the Taoiseach discussed that issue in terms of the preceding question, there is a case to be made that we need to be Brexit ready in terms of a range of infrastructure that could be modernised and upgraded to enhance the productive capacity of the economy. The Taoiseach might indicate whether there will be any flexibility available or what he thinks will be possible in this regard. He might also outline whether he has commissioned any legal or economic studies of the status of a Border special economic zone or on state aids for disrupted industries and regions?

The Taoiseach: Deputies Burton, Nolan and Martin have raised a number of issues. The priorities, as outlined by Mr. Barnier during his visit to Ireland, follow what we had set out ourselves. I am glad that people recognised that. I thank all concerned for acknowledging that these issues formed part of the European Parliament’s documents and the European Council decision. As pointed out by Deputy Martin, these have been approved by the General Affairs Council and will form the basis for the negotiations. The first three issues are the principles and modalities for whatever the liabilities are in respect of the UK, the Border issue, and the question of citizens’ rights and reciprocal rights. No one underestimates the scale of what might happen. The impact of Brexit on the Irish economy will be significant, particularly if it is not handled in a proper, orderly and responsible way. We share the view, as does everybody else, regarding the need to maintain the closest possible trading relationship between the UK and the EU, but it will be difficult to retain it the same as it is now because if the UK sheds the Single Market, the status in respect of trade will be changed.

Let us be clear about it, Ireland’s economic interests lie in a strong and well-functioning European Union with continued and unfettered access to the Single Market. It is where our people have continually said they want to be, as voted for in a referendum in the past. This issue is of immense importance to all our small and medium enterprises and companies that export. There will be a great deal of trading on this issue. Nobody is clear on where the road ahead will lead. If there was to be an end to the divorce proceedings in two years and no deal, what would be the outcome of that? The British Government might say that no deal is better than a bad deal, but no deal would be catastrophic in many respects for Ireland. I hope that the conclusions to the negotiations in respect of the first three priorities will bear fruit in order that we can get on to these details.

We are developing an economic paper, to which Deputy Martin referred. A number of issues have already been brought to light. We are working to improve the business environment and are examining new trade and investment strategies, with an intensified programme of trade missions. Enterprise Ireland is working with firms to help support product and service innovation; additional staff have been recruited; a €150 million loan was provided in budget 2017 for low-cost loans to farmers; and the national planning framework 2040 will be delivered this year, complemented by a ten-year national capital plan. I agree that we need to be Brexit ready. This means we must build the roadway to the north west to Derry. While there are some legal complications in that regard, we need to get on with our end of it.

Deputy Micheál Martin: The funding for it was cut.

The Taoiseach: It will be important that we make a case to Europe for assistance in that regard. The reason, in part, the Ministers for Finance and Public Expenditure and Reform are in Brussels today is to discuss a range of possibilities under the European Investment Fund. If we can get the Northern Ireland Executive functioning, the North-South Ministerial Council and cross-Border agencies and organisations can begin to work in that regard. All the scenarios are being examined.

On the issue raised by Deputy Nolan, we have said that we do not want a return to the type of Border that existed in the past. Taking the scenario that there will be no tariffs on any goods travelling between the Republic and Northern Ireland or between the Republic and Great Britain or *vice versa*, as is currently the case, there will still be two different jurisdictions, one of which, the Republic of Ireland, will still be part of the European Union while the Six Counties will be part of the United Kingdom. Clearly, there are differences of opinion as to what Scotland and Wales want in that they want to be part of the Single Market. I have always taken the view that the reason Europe now recognises Ireland's priorities is because it also understands the particular, special and unique circumstances that apply in Ireland, which is the reason for the peace process, the internal Border and why we cannot return to a hard Border which brought with it sectarian violence and so on. What we do in the scenario where there are no tariffs but two jurisdictions is one of the issues that, along with many other possibilities never thought of before, are being considered. The position will not become clear until such time as we reach the point where there has been substantial progress on the first three issues, namely, the principles and modalities in terms of whatever liabilities might apply, the Border situation, and rights and reciprocal rights.

In terms of what we, as a people, have acquired and what the British, as a people, have acquired since 1922 in the common travel area, we are confident we can retain all of that in a bilateral sense between ourselves and Great Britain. As Deputy Martin has often pointed out, when people voted for the Good Friday Agreement, they voted on the expectation of continuing to have European citizenship. All the people in Northern Ireland entitled to Irish citizenship are also entitled to European citizenship. A great deal of activity will take place on these issues.

When I discussed this with European leaders, it was agreed that whatever we would do would be in compliance with European legislation and the European legal system because that is where we are staying. While there may be differences in comment from some members of the British Government, we have called for a recognition of our priorities and the particular and unique circumstances that apply in Ireland, but the outcome will have to be in compliance with European legislation and we will see that that happens.

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National Economic and Social Council

10. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the National Economic and Social Council and the work programme under way. [23086/17]

11. **Deputy Gerry Adams** asked the Taoiseach when the intended reforms of the National Economic and Social Council will become effective. [23091/17]

12. **Deputy Joan Burton** asked the Taoiseach if he will report on the National Economic and Social Council and the work programme under way. [24016/17]

13. **Deputy Eamon Ryan** asked the Taoiseach when the next meeting of the National Economic and Social Council will take place. [24358/17]

14. **Deputy Seán Haughey** asked the Taoiseach the status of his commitment in his Department's statement of strategy regarding a better society and the work being done with the National Economic and Social Council with regard to having an input into the development of economic and social policy. [24361/17]

The Taoiseach: I propose to take Questions Nos. 10 to 14, inclusive, together.

I have appointed a new National Economic and Social Council, NESC. The new council will meet on 24 May and I expect that it will discuss its work programme and working methods at that meeting. It is a matter for the council to agree its own working arrangements.

The council's remit is to analyse and report on strategic issues for Ireland's economic, social, environmental and sustainable development. I am keen that the council considers longer-term issues such as housing, broadband, climate change, pensions and long-term funding models in education and health. The NESC, with its track record of engagement and consistent and high quality work on contentious issues, has an important role to play. As the Deputies will be aware, the NESC secretariat continues its work on issues relevant to the programme for Government, including jobless households, social dimensions of the crisis, consumer prices, labour market activation and the funding of higher education.

The new council has a reduced membership of three members each from the nominating sectors, seven independents and six public servants. This is in line with the views of the outgoing members around the need for smaller, more focused plenary sessions and a strong representation from the Government side. I will circulate membership of the council for the benefit of Members which includes people from the business and employer sector, the ICTU, the farming and agriculture sector, the community and voluntary sector, the environmental sector, public servants and independent experts.

An Leas-Cheann Comhairle: The first supplementary question will be from Deputy Burton, on behalf of Deputy Howlin.

Deputy Joan Burton: Now that the members of the new council have finally been appointed, has it been given instructions on what the priorities are for examinations and studies? The council might be an appropriate body to do some work on Brexit, particularly on the political, social and economic sensitivities arising from the prospect of parallel or shadow customs and border facilities and the race by the Taoiseach's counterparts in the UK, the Conservative Party, for a hard Brexit. It is odd that there is no indication from the Taoiseach of what the group is

likely to prioritise. There are other issues, such as employment, and the council has done work in the past on jobless households. There are issues around health and with regard to both ageing and young populations.

There may be implications for the economy from changes in America's approach to trade relationships, including with Ireland, and from tax issues between Ireland and the European Commission such as the fallout from the Apple case. These are vital issues but Brexit is the overriding one and I am surprised that, given all the public service brains which will gather in one room tomorrow, the Taoiseach will not commission them to have a serious look at Brexit, particularly in respect of the Border.

An Leas-Cheann Comhairle: If we stick rigidly to the time, the Taoiseach may have time to reply. There are seven minutes left.

Deputy Carol Nolan: The role of the National Economic and Social Council is to analyse and report to the Taoiseach on strategic issues in respect of the State's economic, social, environmental and sustainable development. It is an important body bringing together representatives from across society, including business and employers' organisations, trade unions, farming bodies and the community and voluntary sector. The Taoiseach last appointed the council in 2011 and its five-year term has now expired. The Taoiseach indicated some months ago that his Department was assessing the arrangements around the appointment of a new council, its structure and its future role and work programme. Can the Taoiseach update the Dáil on the current work of his Department in this regard?

The issue of Brexit and its numerous implications for our economy and communities are issues on which the NESC should report regularly. Given our ageing population and the economic and social implications of the crisis in health provision, housing and infrastructure, there is a lot for the NESC to be focusing on. The Government seems to be taking an unusually long time to decide whom it should appoint and what it should do with the NESC. In this respect the Government also appears to be having similar problems in respect of nine semi-State bodies which, according to recent reports, have chief executives who have remained in their posts beyond their seven-year term limit. The 2016 code of practice for the governance of State bodies states that it is the normal policy to limit semi-State chief executives to single-term contracts of between five and seven years. Is the failure to stick with this code of practice evidence of the paralysis that has gripped Government since last year's election?

Deputy Eamon Ryan: I am glad the council has been reconvened and will meet tomorrow and I am also glad that it is smaller. I propose that it address the way we make a just transition to a low-carbon economy. Deputy Micheál Martin raised the issue of peat workers in Littleton who are losing their jobs and there is an opportunity here to use our partnership model to bring people together in order to manage the change to a low-carbon economy with a just transition.

It is appropriate to have a slimmer National Economic and Social Council but it should also be flexible. We should bring in international economic and social advice, as well as input from local communities and experts in specific areas, to any commission to achieve a just transition. It should not be the old structure with the same reliable operators, good as they are in representing particular interests. It should be a more flexible council which allows people to come in and go out and invites people from right down at the granular level of local communities to take part, with different people coming in for different issues.

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The National Economic and Social Council should look at the economic and social justice aspects of low-carbon transition because it is clear that under the current system the Departments of Public Expenditure and Reform, Finance, and Jobs, Enterprise and Innovation do not have the faintest idea what to do, nor the economic analysis nor the capability to assess the transition we need to make. The National Economic and Social Council could be a good home for this analysis. It needs to be quick and there would need to be an immediate response, for example, to the workers in Tipperary so that they are not left adrift. A more flexible and innovative council could address these strategic but specific cases and I hope the Taoiseach puts this forward as an idea for the work of the council tomorrow.

Deputy Micheál Martin: Six years ago the Government effectively abandoned the idea of taking policy consultations seriously. In retrospect, the evidence suggests that the mounting failures of Government to plan for a major crisis could have been avoided if there had been genuine political engagement, with policy debate and analysis. In the past, the NESC played a crucial role in providing a foundation for policy development by holding high level discussions, finding agreed baseline facts and identifying potential solutions. A defining problem of the past three years in particular has been the absence of a serious policy basis underpinning Government strategy. As a result, we have seen disjointed announcements defined more by repackaging current activity than actually doing something about a problem. The recent announcements on housing exemplify this, with the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, announcing a help-to-buy scheme while the Minister for Social Protection, Deputy Leo Varadkar, says he will get rid of it, all in the space of nine months. A disjointed incoherence has been evident in such announcements.

The mounting crisis in housing was at first ignored by Government and a growing series of housing strategies has delivered more ministerial announcements than houses. A recurring theme has been the Taoiseach telling us how seriously he takes the NESC but then ignoring it at crucial stages of policy review and development. We get the sense that there is a lot of ad hockery. If there had been a proper policy basis underlying the strategy and continuous engagement with that, especially from Government, the crises could have been averted. It is clear that the Government took its eye off the ball on housing in 2011, 2012 and 2013. It states that it never saw the level of homelessness getting to the level to which it got but Focus Ireland and the Simon Community had alerted people in 2012 and 2013 to the fact that it was going to get worse. There did not appear to be a policy basis in the Government's response and we are still in serious trouble with housing and homelessness. The Government is not catching up with it and the situation is becoming worse, as we all know from having met and engaged with people on the ground.

An Leas-Cheann Comhairle: The Taoiseach has no time left, but we will give him a few minutes.

The Taoiseach: I had better make a comment but I will keep it short. Deputy Burton mentioned shadow borders. I understand the Commissioner, at the meeting last week, was talking about hypothetical situations. There was agreement at the meeting that the political outcomes would be impossible to quantify until the negotiations got started. The political imperative is that there should be no return to what was there. In that context, and as I discussed with Deputy Nolan on the earlier group of questions, we need to examine issues such as dealing with two different jurisdictions even if there are no tariffs. As already stated, the Commissioner was referring to hypothetical situations.

I agree with Deputy Eamon Ryan that the NESC should be more flexible and adaptable. The approach should suggest that. That is the message we will give to the group, although it is within its remit to determine its own working arrangements. In view of the current situation, I agree that it should be more flexible and adaptable.

Deputy Nolan's question is somewhat premature, particularly in view of the fact that the meeting will take place tomorrow. All of the groups are represented with the exception of farming and agriculture. Nominees to represent the latter are yet to be confirmed. It is up to those groups to make the nominations. As the Deputy will appreciate, there are some very good people involved in this process. They are going to consider the question of housing, broadband, climate change, long-term funding models in education and health, pensions and any other issues that need to be dealt with. The council will look at the issues of jobless households, the social dimensions of the crisis, consumer prices, labour market activation and the funding of higher education.

Deputy Micheál Martin made some interesting observations. Nobody foresaw Brexit six years ago. It was not even on the horizon. Until 11 o'clock on the night before the referendum, those in favour of a leave vote believed it was never going to happen. That it did was an indictment of the failure to have proper political involvement in the context of explaining to people what Brexit was about. There were so many different-----

Deputy Micheál Martin: My question was not in respect of Brexit.

The Taoiseach: I am aware of that. The Deputy said that nobody foresaw the economic crisis. One could not have foreseen Brexit. When Fine Gael was in opposition during the years 2002 to 2007, Deputy Bruton repeatedly spoke about the housing bubble and stated that it was going to burst. What was he told? That things would get boomier and boomier.

Deputy Micheál Martin: He proposed that we reduce taxes in that regard.

The Taoiseach: A person sat in this chair and said that we did not need any more tax receipts from housing. Deputy Micheál Martin knows that the whole thing stagnated for nine months as a result of that. We now have to deal with the repercussions.

Deputy Micheál Martin: Deputy Richard Bruton proposed a cut in stamp duty which would have fuelled the boom.

The Taoiseach: I understand that. There is a massive effort to provide supply of houses. I hope that, at its meeting tomorrow, the NESC shows an adaptive approach and deals with these issues.

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 Niamh Smyth - plans to reform the pensions system; (2) Deputy David Cullinane - development on the north quays in Waterford; (3) Deputy Éamon Ó Cuív - eligibility status of farmland affected by wildfires; (4) Deputy Mary Butler - the financial situation of St. Carthage's rest home, Lismore, County Waterford; (5) Deputy Bobby Aylward - the need for the Minister for Health to grant an extension on the two week HIQA closure order to allow staff

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of the Camphill Community, Callan, County Kilkenny sufficient time to ensure that all HIQA requirements are met; (6) Deputy Maureen O'Sullivan - concerns regarding the proposed new national drugs strategy; (7) Deputy Fergus O'Dowd - to ask the Minister for Transport, Tourism and Sport, Deputy Ross, to outline the total cost to the state if the M1 slip toll in Drogheda was to be removed; to ask the Minister to meet with Transport Infrastructure Ireland, TII, to discuss the possibility of the Drogheda M1 slip tolls being removed to secure future investment in the town of Drogheda and to eliminate unnecessary and chaotic traffic build-up to both the north and south of Drogheda due to the significant number of Drogheda residents who avoid the toll booths; to ask the Minister to seriously consider proposals to remove toll charges for residents of Drogheda in light of its proximity to the Border and the significant risk to commerce due to the upcoming withdrawal of the UK from the EU; and if the Minister will make a statement on the matter; (8) Deputy Dessie Ellis - to discuss the pay-by-weight bin charges system and the increase in charges for some customers, thereby breaking the agreement between the Government and waste management companies; (9) Deputy Jackie Cahill - will the Minister for Agriculture, Food and the Marine comment on the banks using the agriculture cash flow loan support scheme for stocking loans to farmers in 2017; (10) Deputy Dara Calleary - the urgent need for the HSE to release funding to the so-called section 39 organisations in order to fund pay increases due under the Lansdowne Road agreement given that employees in these organisations were subject to pay cuts under FEMPI provisions; (11) Deputies Fiona O'Loughlin and Martin Heydon - the shortage of second level school places for children with special needs in the Newbridge area; (12) Deputies Aengus Ó Snodaigh, Joan Collins, James Lawless, Gino Kenny, Brid Smith, John Curran and Pat Buckley - the closure of Linn Dara child and adolescent mental health service beds at Cherry Orchard Hospital, Dublin 10; (13) Deputies Danny Healy-Rae and Mattie McGrath - delays in processing various farm payments; (14) Deputy Michael Healy-Rae - the security of concert arenas and stadiums in Ireland; (15) Deputies Clare Daly, Mick Wallace - US military aircraft landing at Shannon; (16) Deputy Robert Troy - the future of An Post; (17) Deputy Mick Barry - the announcement yesterday by the Minister for Social Protection, Deputy Varadkar, of his intention to curtail the right to strike for certain workers should he become Taoiseach; (18) Deputy Eamon Scanlon - redeployment of public service jobs to the north west; (19) Deputy Richard Boyd Barrett - the sale of Clonkeen college grounds; (20) Deputy Donnchadh Ó Laoghaire - accommodation needs of schools in south Cork; (21) Deputy Aindrias Moynihan - the naming of the N40 in Cork; (22) Deputy Martin Ferris - the predation of fish stocks by seals; and (23) Deputies Michael Moynihan, Niall Collins and Kevin O'Keeffe - construction of the M20 motorway from Cork to Limerick.

The matters raised by Deputies Niamh Smyth, Michael Moynihan, Niall Collins and Kevin O'Keeffe, Richard Boyd Barrett and Donnchadh Ó Laoghaire have been selected for discussion.

Ceisteanna - Questions (Resumed)

Priority Questions

Garda Inspectorate Reports

39. **Deputy Jim O'Callaghan** asked the Tánaiste and Minister for Justice and Equality the status of the implementation of the recommendations of the 2015 Garda Inspectorate report Changing Policing In Ireland; and if she will make a statement on the matter. [24668/17]

Deputy Jim O'Callaghan: Before I put my question to the Tánaiste, I wish to express my revulsion, and that of all Members of Fianna Fáil, at the attack in Manchester. Deputy Micheál Martin mentioned this matter earlier today. It was a terrible and cowardly attack on young people who were out enjoying themselves yesterday evening. As justice spokesperson for the largest Opposition party, it is important that I express my revulsion in respect of this attack.

My question concerns the status of the implementation of the 2015 Garda Inspectorate report Changing Policing in Ireland and whether the Tánaiste is satisfied about the manner in which the report and, in particular, its recommendations are being implemented.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): Before the questions on justice matters are dealt with, I wish to add to what was said earlier regarding yesterday evening's dreadful events in Manchester. Twenty-two people were killed and many others injured. It is shocking that they became victims simply because they were going about their lives in Manchester on a Monday evening. None of us can understand the mind of a person who would target an event at which so many young people were in attendance and enjoying their leisure. That type and level of hatred surpasses understanding. I pay tribute to the police and other emergency services in Manchester for the great work they are doing in dealing with such an appalling event. We must remember that the Garda Síochána, supported by the Defence Forces, is our first line of defence in counteracting evil of this kind. While the threat level here has not been changed in the aftermath of last night's events, I assure the House that the Garda will continue to work closely with its national and international partners to play its full part in keeping us safe from such atrocities. I have no doubt that all Members of the House support the Garda in its vital work.

As Deputy O'Callaghan is aware, there is an extensive programme of reform under way which contemplates all aspects of the administration and operation of the Garda Síochána. This follows the Government's approval of the five year reform and high level workforce plan for the Garda Síochána which combines the Government's response to the Garda Inspectorate report Changing Policing in Ireland and the commitments in A Programme for a Partnership Government aimed at increasing the visibility, effectiveness and responsiveness of the Garda Síochána. In support of this plan, I secured funding in budget 2017 to increase the number of gardaí. Deputy O'Callaghan is familiar with the figures in this regard so I will not repeat them.

Robust independent oversight is essential to ensuring that the reform programme is relentlessly pursued over the next five years. I have referred the 240 agreed recommendations to the Policing Authority to monitor and assess their implementation by the Garda Síochána and to

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report to me on progress in that regard. Deputy O'Callaghan has seen the first progress report. I have recently received the second progress report and am considering its contents and what action is required on foot of it. I will publish it shortly and each future progress report in due course.

A number of reform initiatives have already been completed under the modernisation and renewal programme. This is to be welcomed. The initiatives include: the establishment of the drugs and organised crime bureau; upgrades to PULSE to improve victim services; the establishment of victim support offices; risk management structures at national and divisional level, including the establishment of a risk management governance committee; the protective services strategy has been developed and a national protected services bureau established; improvements to property exhibit management have been implemented; and electronic vetting and freedom of information obligations have been implemented.

Additional information not given on the floor of the House

Across the Garda organisation, there are initiatives planned, or in train, aimed at implementing the remaining recommendations.

Priority areas include further civilianisation. It is crucial that we ensure that gardaí are engaged in policing, which is the work they are trained for, and are not carrying out administrative and technical roles that can be done by civilian professionals. The Government has set a medium term target of 20% civilians to be achieved by 2021 to facilitate the redeployment of gardaí to front-line policing duties and also to address critical capacity and skills gaps in the An Garda Síochána in regard to human resources, HR, finance, information and communications technology, ICT, and corporate supports generally. As noted by the Policing Authority in its first progress report, this work will require sustained persistence by Garda management and all stakeholders to ensure that this target is achieved.

Other priority areas include initiatives aimed at the more effective deployment of resources, more effective supervision of front-line personnel and cultural change, including the roll-out of the divisional model of policing to support the more flexible and effective deployment of resources - four pilot schemes in this regard are in train and will be evaluated later this year. These involve: the roll-out of divisional protected services bureaus on a phased basis starting in three divisions with effect from the end of this month; the commencement of the performance appraisal framework in the third quarter with training under way at present; the cultural audit to provide a baseline against which cultural change in the Garda Síochána can be measured in the future will get under way shortly; and the Garda Síochána has selected a company to carry out this work after a tender process. The results of the audit will be published.

I highlight these projects to give a flavour of the important reforms that are in train within the Garda Síochána. There are also a number of important initiatives under way under the auspices of the Garda Inspectorate and my Department. In line with the recommendations of Changing Policing in Ireland, I have requested that the Garda Inspectorate examine possibilities for opening up entry routes into all levels of the Garda Síochána and report back to me later this year. This could include fast-track entry for policing professionals from other jurisdictions at the lower ranks and the targeted intake of experienced, skilled police officers and other experienced managers at the senior ranks. In addition, the Changing Policing in Ireland report recommended that the forensic functions of the Garda technical bureau be divested to Forensic Science Ireland. A working group chaired by my Department has been established to move this

task forward and manage the transition to a merged body. The intention is for the group to prepare a plan for the merger by the end of 2017 and to oversee its implementation in 2018 to 2019.

All of these initiatives, if implemented in full, will address many of the problems within the Garda Síochána. While we all wish that reform could be delivered immediately, it must be recognised that real reform requires behavioural change on the part of every individual at all levels in the organisation and will take time and perseverance by Garda management. Independent oversight is essential to monitor and assess implementation and to identify any blockages in order that solutions can be found. With the establishment of the Policing Authority, we now have a body that has the capacity to ensure that a focus is created and maintained on this work. The Government is committed to supporting the Authority in its work.

Deputy Jim O’Callaghan: A week ago, the Government announced the full membership of the Commission on the Future of Policing in Ireland chaired by Ms Kathleen O’Toole. We welcome the individuals who have been nominated to serve on that commission. The commission is a sensible idea and will benefit policing in Ireland. For once, we will have an opportunity to look at policing without having to do so through the microcosm of a crisis or particular past event. It is very important that we do not lose sight of the excellent work which has been done in the past. There is sometimes a tendency in Ireland to call upon a body to conduct a review in order to give the appearance that we are doing something. A huge amount of excellent work was done by the Garda Inspectorate and is detailed in its 2015 report, *Changing Policing in Ireland*. The most important aspect of any report is not its drafting but the way in which it is followed-up to ensure that its recommendations are implemented. The Tánaiste mentioned a number of recommendations contained in the report. We need to be satisfied that they will be implemented. Many of the recommendations are the responsibility of the Garda Commissioner. We must ensure that there is another entity within the Garda or Government that will ensure that these recommendations are being implemented. Unless we have that, there is no point in having many reports.

Deputy Frances Fitzgerald: I thank the Deputy for his support for the commission. I agree that having the opportunity outside of a crisis situation to consider the wide range of issues in regard to the Garda Síochána is very important. As Deputy O’Callaghan said, an important consideration in establishing the Commission on the Future of Policing in Ireland was that it would not impede any reforms already in train or planned.

I agree with the Deputy on monitoring. A very important point is that I have no doubt that the Policing Authority will robustly monitor the implementation of recommendations. I will be publishing the second report shortly. That largely concerns monitoring the implementation of the recommendations.

It must be remembered that the modernisation programme involves a five-year plan. The Garda is not going to be in a position to implement all of these recommendations overnight. It is important that it is evident that recommendations are being taken seriously, implemented and moved forward, including key recommendations such as civilianisation, the Garda Reserve, and the continuation of the recruitment process.

Deputy Jim O’Callaghan: I look forward to reviewing the second progress report when the Minister has an opportunity to publish it. I do not suggest it should be possible to implement recommendations overnight but it is important to keep a constant and vigilant eye upon the recommendations contained within the reports. If we do not, we will get into a cycle of

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producing one report after another. Valid criticism can be made of the non-implementation of the recommendations contained within Changing Policing in Ireland and yet we are off again on another commission to look at policing into the future. I support it because it is important to have a prospective view of what is best for policing in Ireland into the future but we cannot ignore or forget that there are many excellent recommendations in the Changing Policing in Ireland report. My concern is that many of them will not be directly implemented because unless somebody is charged with actual responsibility for implementing these recommendations, they sometimes can be lost or forgotten about and we move on to the next report and the good recommendations in this one can be omitted.

Deputy Frances Fitzgerald: I do not believe we should keep saying that the recommendations have not been implemented. While there clearly are many recommendations in the report - 242 in total - we must recognise, as the Deputy suggests, the recommendations that have been implemented and be clear about those and equally be vigilant about those which have not and we should query any possible slowness of response in recommending and implementing the key proposals. I assure the Deputy that I expect the Policing Authority will be robust and vigorous in highlighting the recommendations that are moving ahead, as well as identifying areas where further urgency is needed.

There are some general issues around recruitment in the public service at present. There are difficulties in recruitment across the public service. That will have an impact on civilians and we also must be cognisant of that.

Inquiries into Garda Activities

40. **Deputy Jonathan O'Brien** asked the Tánaiste and Minister for Justice and Equality the number of inquiries and tribunals into An Garda Síochána that have concluded or are still ongoing from 2012; if she will provide a summary of their interim findings and conclusions; and if she will make a statement on the matter. [24776/17]

Deputy Frances Fitzgerald: The Deputy will recall that counsel for the independent review mechanism examined 320 cases of allegations of wrongdoing or failure in An Garda Síochána. There were many different recommendations. The recommendation of counsel in five of those cases was that I should establish inquiries to inquire into certain aspects of the handling of the cases, some of which are very well known.

On Monday 15 May 2017, I established, by order, under section 42 of the Garda Síochána Act 2005, the five statutory inquiries. I can go into further detail on that if required.

On 16 February 2017, I appointed a tribunal of inquiry. Mr. Justice Peter Charleton is getting on with that work and the first interim report was published on the website of the Charleton inquiry recently.

The Deputy will be familiar with the MacLochlainn commission of investigation, which was established in August 2014. It was an investigation into the fatal shooting of Mr. Ronan MacLochlainn by members of the Garda Síochána in the course of an attempted armed robbery in Wicklow in May 1998. It has not yet reported because there is an application in the High Court relating to it.

The O'Higgins commission of investigation was established in February 2015 to investigate and report on certain matters relative to the Cavan-Monaghan division of the Garda Síochána. I can go into detail on that if required.

The Fennelly report was also carried out, as was an investigation into the circumstances surrounding the taking into care of the children of two Roma families that led to the establishment of a special inquiry under section 42 of the Garda Síochána Act by the then Ombudsman for Children, Ms Emily Logan. That report was published in July 2014. A number of recommendations came out of that report. It found that there was some justification for the decision in one case, given the information initially provided by the Coombe hospital, but it was critical of other aspects of the decision.

Deputy Jonathan O'Brien: Even in the Minister's response, we only got as far as 2014 in terms of the number of inquiries and tribunals. We have had recent scandals and internal investigations into Garda mismanagement and internal activities, including on breath tests, fixed charge notice penalties and Templemore. The commission has been established and Sinn Féin also welcomes it. It is proper that the commission takes a look at policing and security within this State and makes recommendations. However, we have had a litany of recommendations over the years through Garda Inspectorate reports, as Deputy O'Callaghan has mentioned. When we discussed this issue with the Minister, she gave a commitment that the work that the commission is going to undertake over the next 18 months would not impact on any reforms which need to take place. That should also include any proposals in terms of legislation being brought forward not only by the Minister's office but also by Opposition Deputies. It is important that we do not use the commission as an excuse or as a reason not to bring forward radical reforms within An Garda Síochána. Deputies O'Callaghan and Wallace and I have a number of legislative measures which we believe, were all-party cooperation in place, would leave us in a far better place than we are in today.

Deputy Frances Fitzgerald: I am certainly very open to working with the Opposition on any Bills that might be put forward. On the Policing Authority, I built into the legislation that there would be a review by the end of this year. I look forward to that review, and in the meantime, if Bills come forward from the Opposition I will certainly examine those. We are working on the Parole Bill brought forward by Deputy O'Callaghan tomorrow, and this morning I brought a memo to Cabinet concerning the issue of maternal inquests in order that we can move ahead with Deputy Clare Daly's suggestions in that regard. I am certainly open to working with the Opposition on the ongoing reform programme because I agree that we have to move ahead. The Policing Authority will do that and the modernisation programme and monitoring will ensure that those recommendations are taken forward. We can discuss them here and in the Committee on Justice and Equality. A second report from the Policing Authority will provide food for thought on the progress, and we can certainly make sure that such monitoring continues. It is a five-year programme and will not happen overnight.

Deputy Jonathan O'Brien: One advantage of the commission is that we do not have to wait 18 months for recommendations. While not wishing to interfere with the work of the commission, it is quite obvious that a number of immediate concerns need to be addressed by the commission and I hope they will be addressed in a timely fashion. If we are to restore public confidence in our policing services, then it is imperative that we do not wait 18 months for a report to be produced. There should be some sort of initial report conducted by the commission that could identify some clear areas where we could see immediate improvement. That would help in a small way to improve public confidence in our policing service.

Deputy Frances Fitzgerald: I was determined, in establishing the commission, that there would be the possibility on an ongoing basis for immediate proposals and rolling recommendations for implementation, and depending on how the work is organised, I have no doubt that this will be possible. I am meeting Ms Kathleen O'Toole, who has agreed to chair the commission, this evening. She is in Dublin to begin the work and I will certainly convey the views of the House to her on that point. It came up in my discussions with the spokespersons for justice from the Opposition that if, having examined the overall situation, it was possible to have immediate recommendations - perhaps within a short period in some cases - we certainly would be open to taking those on board and implementing them as quickly as possible.

Garda Misconduct Allegations

41. **Deputy Jim O'Callaghan** asked the Tánaiste and Minister for Justice and Equality her views on the recent television programme on the murder of a person (details supplied); and if she will make a statement on the matter. [24669/17]

Deputy Jim O'Callaghan: On 20 April last, RTE broadcast a programme about the circumstances and events leading up to the murder of Garda Tony Golden and the serious maiming of Siobhán Phillips, which took place in October 2015. The programme raised many issues of significant concern, and I wonder if the Tánaiste could make a statement on the matter and how she proposes the issues can be dealt with.

Deputy Frances Fitzgerald: I am, of course, aware of the recent television programme referred to; indeed, it was discussed in the House previously. The events at Omeath in October 2015, which resulted in the death of Garda Tony Golden, were a tragedy. While it is self-evidently important that any issues of concern related to these tragic events are fully investigated, it is essential to remember that the various allegations being made are just that – allegations. Whatever the nature of allegations that may be made, we must have the utmost sensitivity for those who have suffered so much as a result of these tragic events. I think, particularly, of Garda Tony Golden's family, whom I have met, and of Siobhán Phillips who suffered terrible injuries. Nor should we forget the grief of Adrian Mackin's family. We need to be sensitive as to how we deal with and the language we use in discussing cases of personal tragedy such as this. We must remember the context and the effect on all involved. The truth or otherwise of those allegations has not been established and there are ongoing processes, set out in law, to do that. It would be prudent, therefore, not to pre-judge those processes, as I am sure the Deputy would agree.

Many of the concerns set out in respect of this case were raised previously with me and I did take action on every occasion. I brought them quickly to the attention of and pursued them with the Garda authorities in the context of their ongoing investigation into and review of these events and related matters. I expect to receive a final report from the Garda authorities addressing these matters when the investigation and review are complete. The Garda Síochána Ombudsman Commission recently announced its decision to initiate a public interest investigation. It has indicated that this public interest investigation will take place alongside an ongoing GSOC investigation of complaints relating to these events that were made previously. I welcome the actions being taken by GSOC in accordance with its independent powers under the law. These investigations must be allowed to take their course so the truth or otherwise of certain allegations made can be established independently. Without seeking to pre-judge the is-

sues involved, it would obviously be of great importance to learn anything that can be learned from these tragic events and to take action in that light. The GSOC investigation should be of considerable assistance in this regard.

While there has been public comment on decisions made in respect of charges brought against Mr. Mackin, as Deputy O’Callaghan will appreciate decisions in respect of the prosecution of offences are matters for the Director of Public Prosecutions who by law is fully independent in discharging these functions. That independence is a cornerstone of our criminal justice system; it has served the State well and it should be respected fully. In these circumstances it would evidently not be appropriate to comment on the details.

Deputy Jim O’Callaghan: I recognise and commend the courage of Garda Tony Golden, who gave his life in service of the community. In October 2015 he was fulfilling his duties in accompanying Siobhán Phillips to the house to assist her in regaining her possessions. He paid the ultimate price that a member of An Garda Síochána can pay and deserves to be commended for his bravery. However, it is also important that we seek answers in respect of what actually occurred that day. It is the most serious crime for a member of An Garda Síochána to be murdered in this brutal way. It is also an exceptionally serious crime from the point of view of Siobhán Phillips and her family.

It is worrying that the detail of the programme seemed to suggest that the Garda was well aware of the nature of serious offences with which Crevan Mackin had been charged. When he was released back into the community in Omeath, the local police force was not informed of his presence or the threat that he posed. That is the crucial issue. Why was Garda Golden not given information that the force had in respect of an individual who was back in his community and was a threat to individuals concerned?

I acknowledge the Tánaiste’s point that these are matters for investigation by GSOC while prosecutions are matters for the DPP. However, when a member of An Garda Síochána dies, we have a responsibility to ensure that the truth comes out. We need to be able to pursue avenues to make sure that this type of situation cannot arise again.

Deputy Frances Fitzgerald: The Deputy has recalled the details of the case and the tragic circumstances that led to the death of Garda Tony Golden. As he says, gardaí take their lives in their hands every day of the week protecting the safety and security of individual citizens in our community. I acknowledge that what the Deputy said is so correct. When things go wrong in this tragic way, we do need to get to the truth. That is why I made the point that we cannot act on allegations. We need to hear the results of the GSOC investigation. There is a lot of information in the public arena. The Deputy has mentioned some of it. I cannot vouch for the truth of the details he has given on the floor of the House. It is for the investigation by the Garda and GSOC to determine that truth, looking at all of the circumstances to see what the lessons are and whether any further action should be taken.

Deputy Jim O’Callaghan: I welcome the fact that a public interest investigation is being commenced by GSOC. However, I have a concern that it may drift on and we may not get an ultimate report for a number of years. It is important that measures are now put in place within An Garda Síochána to ensure full communication between different branches and stations. If a very dangerous individual has been given bail and goes back into a local community, and if An Garda Síochána is aware of *prima facie* evidence against that individual, for example that he has access to weapons, that information needs to be brought to the attention of the local gardaí.

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It is too late for Tony Golden but similar situations may arise in the future. Information needs to be passed on to local gardaí so that no garda in the future is put in the situation into which Garda Golden was put.

Deputy Frances Fitzgerald: I can only agree that the exchange of vital information in respect of persons in communities does need to take place routinely within the Garda. If information is available in a divisional office and if a person is living in an area in which there is a local Garda station, of course the local gardaí should have that information.

This will be facilitated further the more we get to use IT solutions for passing on information. It is a question of making sure there is access, whether it be to PULSE or the investigations. Since last year, I think, we have an improved situation whereby we do not just have criminal incidents on PULSE, but also the actual progress of an investigation. This means that every garda should be able to make a call to find out the status of a particular case in terms of an investigation. Indeed, it is very helpful to members of the public for the Garda to give them the information as well. Obviously, it is about the proper communication systems between gardaí but it is also about making sure they have the resources to exchange information in a meaningful, fast and effective way and that they have access to those resources. That is why there has been investment of over €200 million into the IT systems. The Garda had been way behind and is still struggling to have the kind of modern communication technology that it needs and that is commonplace in every other police force.

Public Inquiries

42. **Deputy Bríd Smith** asked the Tánaiste and Minister for Justice and Equality if she will commission a public inquiry into the death of a person (details supplied); and if she will make a statement on the matter. [24681/17]

An Leas-Cheann Comhairle: The Ceann Comhairle has given permission to Deputy Gino Kenny to put this question.

Deputy Gino Kenny: The question is to ask the Tánaiste and Minister for Justice and Equality if she will commission a public inquiry into the death of Shane O'Farrell, and if she will make a statement on the matter.

Deputy Frances Fitzgerald: I think I have given the details of this very tragic and sad case to the House before.

The recommendation made under the independent review mechanism, IRM, which was completely independent of myself and my Department, was that I should take no further action. Counsel for the IRM pointed out that the appropriate forum for raising matters related to alleged Garda failings was the Garda Síochána Ombudsman Commission, GSOC, which was already investigating certain matters arising from the tragic death in this case. I should mention that my predecessor as Minister for Justice and Equality had referred aspects of this particular case to GSOC, which is an independent body. I stated in reply to a recent parliamentary question that the investigation had concluded and was being reviewed before it would be issued. We must now await GSOC's final determination. I should also mention that a civil action has been initiated against the State in respect of issues raised in the complaint.

We are all familiar with the detail of this appalling tragedy. When the Taoiseach and I met with the family of the young man the Taoiseach assured them that when the GSOC investigation is complete and the final report is to hand, the question of whether and, if so, what further action can be taken will be considered. That remains the position. It would appear that the report is now concluded but under some review, which would be the normal process in GSOC. After the review is complete I imagine the commissioners will examine any final detail, although I stress that it is an independent body. That is my understanding of where it is at present. The Taoiseach has said that we certainly can look at what further action might be taken. I think it is appropriate to wait for the final report.

Deputy Gino Kenny: I will cut straight to the chase. I do not understand it. This August will bring the sixth anniversary of Shane O'Farrell's untimely and, in my opinion, preventable, death. That is the opinion of many others as well. The O'Farrell family have been seeking justice and solace. Not only have the police, the prosecutor and the Director of Public Prosecutions failed the family but the Minister has failed them badly as well.

Incredibly, the Garda Síochána Ombudsman Commission investigation has been going on since January 2012, that is to say, for five and a half years. It is appalling. The family and many other people, including people in this House, are calling for a public inquiry. No investigation takes five and a half years. The level of delay is appalling. This brings in the wider narrative of the crisis of confidence in the police service of this country. Many people have lost confidence in the force.

I put this to the Tánaiste last December. I cannot make it any clearer. I am calling on the Tánaiste to call for a public inquiry into this man's death.

Deputy Frances Fitzgerald: I have to make it very clear to Deputy Kenny that there are a number of considerations. One of the considerations is the finalisation of the GSOC report.

Deputy Gino Kenny: It has been five and a half years.

Deputy Frances Fitzgerald: There are often such situations. I do not like discussing individual cases on the floor of the Dáil. Nevertheless, there are various reasons a case might take extra time. For example, it might arise if new information is put before GSOC that adds to the information it has or it changes the inquiry somewhat. It may mean GSOC has to make further investigations and inquiries. The question of other cases arises. Deputy Kenny has quoted a particular timeframe. We have to look at when court cases have concluded. GSOC has to take that into account as well. There are reasons.

Everyone has the utmost sympathy for the family in this situation. There is absolutely no question about the appalling torment they have been through in respect of the circumstances of the death. The Taoiseach and I met the family. We listened to them and heard what they had to say. Once we have the report from GSOC, we can then consider what action, if any, will be taken at that point. It appears as if we are close to getting that report now. GSOC is independent but my understanding is that it is now reviewing the final part of the report.

Deputy Gino Kenny: I have lost all confidence in this process. I understand there must be due process but I have lost confidence, not only in the process but in the ability of the Tánaiste to investigate this.

It is clear that Shane O'Farrell would have been here today with his family were it not

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for the incompetence of the police service of this country. That goes without a doubt. What his family is seeking is simple. Shane cannot come back, unfortunately, but they are seeking justice. It is a simple thing the Tánaiste can propel. The old saying is that justice delayed is justice denied. Justice is being denied not only to Shane and his family but to the Members of this Parliament. It is disgraceful that five and a half years after the beginning of the GSOC investigation it is still in logjam.

The Tánaiste should give the family a public inquiry and allow the country to seek justice. It is up to the Tánaiste to say today clearly that she will give this family a public inquiry.

Deputy Frances Fitzgerald: I do not accept what Deputy Kenny says in respect of the action I have taken. I referred this to the independent review panel. That was an independent body and it has examined the matter. That body independently made a recommendation to the effect that GSOC was the relevant body and that it should take up the complaints made and investigate them. GSOC is already doing this.

We call continually in this House for independent bodies to deal with issues. Deputy Kenny cannot have it both ways. We set up an independent body. We should allow it to do its work. Sometimes there are reasons for the amount of time an investigation can take. GSOC is chaired by Ms Justice Mary Ellen Ring. No one would raise any doubts about her capacity to run GSOC or to deal with things in a timely way.

Deputy Gino Kenny: The family say it was stuck in GSOC.

An Leas-Cheann Comhairle: Please, there cannot be interruptions.

Deputy Frances Fitzgerald: Let us be clear. If we set up independent bodies, then let us allow them to do their work.

Deputy Gino Kenny: That is a fantasy and a joke.

Prisoner Transfers

43. **Deputy Thomas Pringle** asked the Tánaiste and Minister for Justice and Equality to outline the position regarding the progress being made in the drafting of the transfer of sentenced persons Bill; when she envisages its introduction; and if she will make a statement on the matter. [24733/17]

Deputy Thomas Pringle: This relates to the draft transfer of sentenced persons Bill, although that is not the Long Title. I understand the heads have been approved since 2013 but the Bill has yet to be published. What are the Minister's plans for the Bill?

Deputy Frances Fitzgerald: The Deputy will be aware that the current law on the transfer of prisoners is set out in the Transfer of Sentenced Persons Acts 1995 and 1997 and in the Transfer of Execution of Sentences Act 2005. These give effect to the Council of Europe Convention on the Transfer of Sentenced Persons made in Strasbourg on 21 March 1983 and its additional protocol.

Subsequent to these enactments an EU framework decision addressing prisoner transfers within the European Union has been adopted. A Bill to enable the transposition of this instru-

ment into Irish law is being drafted by the Office of the Parliamentary Counsel to the Government. One of the main effects of the framework decision is that it removes, in some well-defined circumstances, the requirement that a person must consent to the transfer.

When drafting of the Bill has been completed and subject to Government approval, the Bill will be published. This work is ongoing and I expect it will be later this year when we get to the point where we are in a position to publish the Bill.

Deputy Thomas Pringle: Is it the position now that the transfer of prisoners cannot take place while we are waiting for this legislation to come through? I know there are several people who are waiting to transfer to complete their sentences in this jurisdiction. The Bill is vital for those prisoners. Legislative delays are not acceptable given that by the end of this year the transfer of this EU decision into Irish law will have been four years in gestation. That is an exceptionally long time. I do not think it is fair to prisoners who are waiting for transfers to have this situation going on for so long. As I understand it, no transfers are taking place now because of this. Will the Tánaiste clarify whether that is the situation?

Deputy Frances Fitzgerald: I imagine the Deputy will be familiar with the O'Farrell, Rafferty and McDonald case. In July 2016, the Supreme Court made a determination in the case and dismissed the State's appeal. I will not go into the details because I do not have time. However, to answer Deputy Pringle's question, in September 2014, the High Court ordered the men to be released after finding that it could not retrospectively adapt, so as to achieve compatibility with Irish law, the warrants detaining the men here following their transfer from English prisons in 2006. My Department is considering the implications, legal and administrative, of the judgment of the Supreme Court. Pending the conclusion of these considerations, which may well indicate a need for legislative change, applications from prisoners abroad are currently on hold.

Deputy Thomas Pringle: That simply highlights the fact that applications are on hold. This is affecting people and their families. They may be prisoners who have committed offences and have to go through their custodial sentences, but they should be able to do that within a reasonable distance of their families. The prisons should be reasonably accessible for the families. Being in prison in England or somewhere else is the same thing as being in prison in Ireland. It still amounts to the denial of freedom. They should be in a position to complete those sentences here.

The review needs to happen quickly. While the judgment was only last year, surely the solution could be considered and devised in respect of the impacts and surely a remedy could be secured reasonably quickly. I do not think this should run on for years.

Deputy Frances Fitzgerald: I take the point that Deputy Pringle has made. I will try to ensure we are able to move ahead this year in respect of the legislation. To give the Deputy some other information, in 2016 one prisoner transferred in and ten prisoners transferred out of the State. The most recent published figures on such transfers, which are up to the end of 2016, show that a total of 154 prisoners have transferred here from other countries since the Transfer of Sentenced Persons Act came into operation on 1 November 1995 and 180 prisoners have been transferred to other jurisdictions under the Act.

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Other Questions

Compensation Schemes

44. **Deputy Seán Crowe** asked the Tánaiste and Minister for Justice and Equality if her attention has been drawn to the fact that a group (details supplied) has tried to secure funding for a small number of victims of the Dublin and Monaghan bombings that were referred by a general practitioner for a small number of counselling sessions; and the reason the Victims of Crime Office has refused this request to date in 2017. [24019/17]

An Leas-Cheann Comhairle: This question is in the name of Deputy Seán Crowe. Permission has been given for Deputy Jonathan O'Brien to substitute.

Deputy Jonathan O'Brien: Has the Tánaiste and Minister for Justice and Equality's attention been drawn to the fact that the Justice for the Forgotten group has tried to secure funding for a small number of victims of the Dublin-Monaghan bombings who were referred by a general practitioner and that this request has been denied by the Victims of Crime Office?

Deputy Frances Fitzgerald: Following inquiries in my Department and telephone contact with the group referred to in the details supplied, I wish to confirm that there are no outstanding claims for payments in my Department. The group received funding in each of the years 2014 to 2016, inclusive, from the Department of Foreign Affairs and Trade under the reconciliation fund administered by that Department. The applications for funding from the 2017 tranche of the fund are at an advanced stage of review in the Department of Foreign Affairs and Trade.

I refer to my answer to a question tabled by Deputy Finian McGrath concerning those matters. The position has not changed since my reply on that day which outlined the exact situation in terms of the remembrance commission, for example, and the €3.87 million in funding that was made available to individual victims of the conflict in Northern Ireland resident in this jurisdiction to acknowledge their suffering. A significant amount of funding was also made available directly to the Justice for the Forgotten group, which supports many of the victims. The exceptional payments element of the remembrance commission scheme provided for the possibility of payment for counselling expenses incurred prior to the establishment of the scheme in the circumstances that were outlined. Some ongoing counselling services were provided through Justice for the Forgotten.

The group was also awarded funding from the Department of Foreign Affairs and Trade under its reconciliation and anti-sectarianism funds to allow it to continue its important work.

While it is not possible to extend the nature of the schemes administered by it, I reiterate the assurances given previously that funding for certain ongoing medical needs of those who sustained injuries in the bombings has been and will continue to be provided through my Department's Victims of Crime Office. However, we have not been able to find any outstanding application. We have also made telephone contact with the group.

Deputy Jonathan O'Brien: As the Minister is aware, I am taking this on behalf of Deputy Crowe and I do not have the level of detail that he would have. The information which has been passed onto me is that there has been ongoing funding for physical injuries, including access to funding for hearing aids. However, the issue he has raised with me concerns cases

where people have been referred for counselling and psychological services by a GP but applications in this regard have not been granted. This is the information I have received. There is a recognition of ongoing funding for physical injuries. My information as of today is that individuals seeking counselling services have been denied funding to access those counselling services, even with a GP's referral letter. I am more than happy to ask Deputy Crowe to liaise directly with the Minister's office and to give her the details relating to some of the cases with which he is dealing.

Deputy Frances Fitzgerald: The medical needs are being provided for. The Victims of Crime Office in my Department continues to provide the funding for certain ongoing medical needs. The Deputy said that. The particular group received total funding of more than €1.2 million through the remembrance commission which was financed by my Department. That operated a scheme of payments to groups offering support services. A total of €1.2 million of the €1.5 million that we had at that time for victims was given to this group. It was substantial support. It got almost €900,000 from the Department of the Taoiseach in the period from 2000 to 2003, inclusive. When the term of the remembrance commission came to an end in October 2008, the funding under the scheme ended. Nevertheless, a decision was taken to grant further funding to the Justice for the Forgotten group and another €190,000 was given by the State so that it could continue to operate while seeking to put alternative funding in place. Beyond that extra €190,000, which was a sort of bridging payment, it was not possible for my Department to continue to fund the organisation. I have outlined the position relating to the Department of Foreign Affairs and Trade. If the Deputy's colleague wishes to submit any further details to my office, he should please do that.

Deputy Jonathan O'Brien: I appreciate that the Minister is giving the information as she has it, as I am doing. I will revert to Deputy Crowe and relay to him the Minister's response. If he knows of individual cases that have been denied counselling services, I will ask him to take it up directly with her office.

An Leas-Cheann Comhairle: Does the Tánaiste have anything further to add?

Deputy Frances Fitzgerald: It is clear that there has been substantial support for the victims in these particular circumstances. It was a huge part of the overall funding available to my office. If there are particular ongoing needs at this point, it may be possible to see if there is some appropriate funding mechanism. However, it was not possible for my Department to continue the funding beyond the point that I have outlined to the House.

Drug and Alcohol Testing

45. **Deputy Aindrias Moynihan** asked the Tánaiste and Minister for Justice and Equality the number of gardaí in each of the Cork divisions who have been trained and are in a position to test for drug driving; the number of tests that have been carried out in each Cork division; and the number of positive results that have been identified.. [23963/17]

Deputy Aindrias Moynihan: The priority here is that the Garda would have all the resources it needs, including training and equipment, to do the job to the best of its ability and that it would be in a position to do everything it can to make our roads safer. At more than 13,000 km and covering one seventh of the area of the Republic, Cork has the largest road network in the country. The Medical Bureau of Road Safety, MBRS, tells us that one in ten drivers killed

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in road accidents failed toxicology tests. We are trying to establish if the gardaí in Cork are in a position to test for drug driving effectively.

Deputy Frances Fitzgerald: I have requested the specific information from the Garda authorities. As soon as I have it, I will make it available to the Deputy.

While An Garda Síochána has been testing Irish drivers for drugs with the assistance of the Medical Bureau of Road Safety since 1999, my colleague, the Minister for Transport, Tourism and Sport, Deputy Shane Ross, commenced the drug driving provisions on 12 April. Therefore, this is a very new initiative. One of the key measures in the legislation provides for preliminary drug testing, which will enable the Garda to test motorists at the roadside. The new devices will be available in Garda stations. The MBRS found, for example, that 24% of the 3,020 specimens of blood and urine that it received in 2016 confirmed positive for drugs other than alcohol. This shows us why it is so important to have introduced this new legislation. It is interesting to note that 91% of the specimens were those of male drivers, most of whom were in the 17 to 44 age group. Cannabis, followed by benzodiazepines, was the most prevalent drug detected.

I believe that the measures the Deputy has asked me about will make a positive difference. I attended the ministerial committee on road safety on Monday. Professor Cusack also attended. He is now receiving the various specimens that are being taken and analysing them. This process is just beginning and under way. Representatives of the Garda were also in attendance and assured us that gardaí have been trained. As I stated, the samples are coming through.

I will have to get the detail of who has been trained in Cork for the Deputy. It is estimated that drug driving is a factor in approximately one in ten fatal crashes. Drug driving not only puts the driver at risk but also passengers and others who share the roads. The road safety figures have improved in the recent weeks and month and we have seen a welcome reduction in the number of fatalities and injuries this year so far.

The deferred reply under Standing Order 42A was forwarded to the Deputy.

Deputy Aindrias Moynihan: I thank the Minister for the detail on the issue of drug driving. I am particularly focused on the ability of the Garda to deal with the issue. Has it got the trained gardaí and equipment? That is the purpose of the question. Unfortunately, there is no indication of any numbers in the reply. We understood that 72 were initially trained, including 30 full-time trainers. Have any others been trained? Is the Garda training gardaí in the training college or will it continue to take gardaí off the beat to train them? This legislation did not drop out of the sky. There was an opportunity for it to be ready before it came in and to have numerous gardaí trained and ready for it. I understand it was expected that most of the traffic corps would be trained by the end of April. Has that happened? It is disappointing that the figures are not there. Can the Minister get them? We need them to establish if the Garda is in a position to deal with the issue.

Deputy Frances Fitzgerald: I reassure the Deputy, following the meeting I attended on Monday with senior gardaí involved in traffic management and testing, that it is operational. That is the first point to make. The tests are being done and the specimens are going through, as Professor Cusack outlined at the meeting I attended. That is important. It is operational. I may need to correct the figure for new Garda recruits who are working on the traffic units around the country but I believe 67 extra gardaí are there, in addition to the 10% increase in the numbers attached to the traffic corps. There is a substantial increase, unfortunately, in the detection of

drink-driving. It means people are being brought to task and before the courts. The information I have is that it is under way.

The other point, which is very important because it came up before, is that the tender for the new preliminary breath testing equipment is now live. It is hoped that all stages of that process will be completed by early 2018. The new equipment, which is available in the marketplace, both for alcohol and drugs, has the capacity to record the time, GPS location and the number of persons breath tested. It has the capacity to download the information automatically. If one considers the kind of information that came out on alcohol testing, it is a major improvement. I will revert to the Deputy with the exact figures.

Deputy Aindrias Moynihan: I ask her to so do. I am pleased to note the 67 extra gardaí. Are they brand new recruits or does it include trainers who are full-time on training? Are there 67 extra gardaí out there on the beat carrying out the tests? The Minister referred to the device and the tender for the equipment. Is she aware questions were raised about its ability to reliably test in cold temperatures under 5° Celsius, on winter nights and in poor weather? Is the Minister satisfied the equipment the Garda is being given is reliable and will give reliable tests and that members of the public will not be unnecessarily challenged on it? For example, will people who have prescription drugs such as codeine be safe to go through the new tests? I am keen to get the figures as soon as the Minister has them.

Deputy Frances Fitzgerald: The point the Deputy raised about the temperature was discussed with Professor Cusack. I knew the issue had been raised. A number of issues were raised on social media in this regard and we do not want to create any anxiety. I am informed by the Medical Bureau of Road Safety, which is the responsible authority for procurement, purchasing, approval and supply of the devices, that where the analyser cannot achieve 5° Celsius or where it exceeds 40° Celsius, a low temperature or high temperature message will be displayed and it will not be possible to do a test. This non-testing outside of the temperature range is a safeguard to ensure the test performs satisfactorily and is consistent. Professor Cusack was very confident about it.

The Deputy also raised a point on prescription drugs. The RSA is running public information campaigns and it emphasises it is against the law to drive under the influence of drugs, including prescribed drugs, where a motorist's driving is impaired to such an extent that he or she does not have proper control of the vehicle. There is a lot of information out there. People need to read it and to be very conscious of it and to discuss these issues with their general practitioner.

Domestic Violence

46. **Deputy Ruth Coppinger** asked the Tánaiste and Minister for Justice and Equality if she will remove the €130 minimum contribution for civil legal aid and €30 minimum contribution for legal advice, in view of the fact this is a barrier to access for vulnerable persons such as victims of domestic violence; and if she will make a statement on the matter. [24389/17]

Deputy Ruth Coppinger: Will the Minister remove the €130 fee for legal aid, which applies to people seeking barring orders to flee from domestic violence? It is undoubtedly a huge barrier to women seeking help. It was increased by the last Government from €50 to €130 in 2013. It is very difficult, particularly since women often experience financial abuse, as well as

physical abuse.

Deputy Frances Fitzgerald: The Legal Aid Board provides civil legal aid and advice to people who cannot afford to pay for a solicitor from their own resources. Applicants are required to meet both the merits test and the financial eligibility criteria. The vast majority of applicants granted legal aid and advice are required to pay some contribution. The majority of applicants for legal aid in connection with domestic violence relief pay the minimum contribution. There is quite a lot of discretion in place in terms of guidelines for the Legal Aid Board's decision makers with regard to applications for a waiver of contributions. The guidelines provide for a sympathetic approach to be taken to applications for a waiver in cases where the application is in connection with a domestic violence matter and the person's sole source of income is social welfare. This discretion enables the board to ensure that vulnerable persons seeking civil legal aid are in a position to access it. In 2016, fees totalling €38,700 were waived in respect of domestic violence cases.

The board has a policy role in the provision of civil legal aid and it has recently brought proposals to me on financial eligibility and other criteria. I have received that submission. In the submission, the board recommends some changes, including waiving fees for vulnerable applicants. I am very inclined to follow its advice on that because we have seen some horrific examples of domestic violence in our media in recent times. It is an horrific crime, which continues in this country. I want to ensure there are no financial barriers to women in that situation accessing legal aid. I will be examining those proposals shortly. There are other recommendations which I will have to consider but the board makes a proposal to waive the fees in those circumstances. That is also my position.

Deputy Ruth Coppinger: The Minister touched on the issue. An article by Justine McCarthy hinted at it on Sunday. There is collusion by society and the Dáil in the epidemic of violence against women. More women have been murdered in the past number of months than were murdered in the whole of last year. I particularly want to raise an issue about the Sonia Blount case in which the jury found the defendant guilty yesterday. What was most distressing is she was a young woman, a mother of a toddler, who had already escaped a serious, abusive relationship. She made the unfortunate mistake of having a few dates with somebody at work and ended up being stalked and harassed, incredibly, by this person and ultimately murdered. Will the Minister take action about a HSE-employed psychiatrist, Dr. Seán Ó Domhnaill, who testified in the case and went on a tirade of victim-blaming on behalf of the defendant? He actually wondered in court whether a residual part of Ms Blount actually liked Mr. Locke and knew she was going to meet him in that hotel room. It was an absolutely disgusting display by somebody who is getting paid by the State colluding in an epidemic of male violence against women and blaming the victim.

Deputy Frances Fitzgerald: I am very reluctant to discuss individual court details and evidence given by professionals in courts on the floor of the Dáil. I have not seen any collusion in the approach to domestic violence taken in this House. I recently launched the second strategy on domestic violence and considerable work is being done by all the stakeholders and front-line services involved in this area. The Government is providing increasing support. I accept, however, that there will always be requests for more support and I am open to examining these requests. Tusla provides funding for refugees.

I have, in the Domestic Violence Bill, taken on board the vast majority of the recommendations made to me by the various stakeholders. The Bill is on Committee Stage and I hope to

progress it quickly to ensure we have much stronger law which provides stronger penalties for perpetrators and more supports for victims of domestic violence. We have also implemented a campaign targeted at bystanders to highlight the importance of greater societal awareness, one of the issues raised by Deputy Coppinger.

We have seen extraordinary, horrible and upsetting examples of domestic violence which have led to the deaths of young women. Many other women are suffering domestic violence, sometimes in silence, and we must do everything possible to break the cycle and ensure they can escape.

An Leas-Cheann Comhairle: I ask Deputy Coppinger to focus on the content of the question.

Deputy Ruth Coppinger: I do not doubt that the Minister has introduced measures and will introduce further measures. However, the point the journalist in question was making is that Deputies jump up and down in the Dáil, quite rightly, about violence against the elderly in rural areas and so forth but do not jump up and down to the same extent about the epidemic of women being targeted and murdered. We must call out the toxic masculinity that is bred and reinforced by society, whereby men are encouraged to think they should be dominant, aggressive and seek to control women.

Alongside the measures to which the Minister referred, we need a criminal law that makes an offence of domestic violence. We also need emergency out-of-hours barring orders and legislation against stalking, which should be a ground for seeking a protection order. As we saw in the case to which I referred, stalking is an indication of more serious danger. In addition, protection orders should be served by the Garda rather than victims, the right of a possible perpetrator to interrogate a victim must be removed and child contact centres must be established. A slew of measures is required.

Deputy Frances Fitzgerald: Domestic violence is a very serious issue. I can only agree with the Deputy that the more people talk about it, the better. A large number of men are working very hard to change current attitudes which result in an extraordinary level of violence against women. I had thought and hoped domestic violence would decrease but unfortunately that is not the case.

Domestic violence is often linked to alcohol and drug abuse and we must tackle those issues. Members must be clear in their attitudes to alcohol, which will be an important part of dealing with this domestic violence.

Many of the measures to which Deputy Coppinger referred are included in the new Domestic Violence Bill. For example, the legislation provides better law and stronger provisions on harassment, revenge porn and stalking. I have been advised that it would be difficult to capture an exact definition of domestic violence in the Bill and it would not be the best way to protect victims. If I am convinced it is the best way to protect victims, I will act, but my advice is that existing law and the changes I am introducing in the Domestic Violence Bill will provide a stronger provision than trying to provide such an exact definition. The Bill is on Committee Stage and we will have an opportunity to discuss it again.

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Crime Levels

47. **Deputy Bernard J. Durkan** asked the Tánaiste and Minister for Justice and Equality the extent to which the number of reported incidents in the various categories of crime has fluctuated in the past ten years; the extent to which Garda strength has altered in the same period; if a correlation has been established between the number of gardaí and criminal activity; her plans to address this and other emerging issues by way of specific response, whether by new policing methods, increasing Garda strength or establishing policing procedures in line with those currently recognised as best practice in other countries; and if she will make a statement on the matter. [24342/17]

Deputy Bernard J. Durkan: In this question, I seek to clarify whether there is a correlation between the possible increase in crime levels in particular areas and the reduction, as a result of the economic downturn, in the number of gardaí available and whether particular policing methods are required to deal with the issue.

Deputy Frances Fitzgerald: This is a comprehensive question on which I will try to provide as much information as possible. I will also circulate figures in a table.

The Central Statistics Office, CSO, as the national statistics agency, is responsible for the publication of the official recorded crime statistics. These figures are published quarterly and I have provided the Deputy with a summary table of the trends in the main crime categories over the past ten years. It is perhaps worth noting that correlations only tell us a very high level story and do not tell us about cause and effect. Therefore, any analysis based solely on correlations should be viewed very carefully.

As the Deputy is well aware, a variety of factors may underlie the incidence of crime, including broader societal issues such as substance abuse - an issue I referred to a moment ago - and socioeconomic disadvantage as well as the activities of international criminal groups. It is clear, however, that the provision and deployment of policing resources is an indispensable part of our response to all categories of crime. One of the points made by the Garda Inspectorate and one about which the Policing Authority is concerned is the need to ensure Garda deployment is based on need and crime levels in various areas. The Government remains committed to providing the greatest level of support to An Garda Síochána.

The Garda Commissioner is responsible for the detailed allocation of policing resources to combat the incidence of crime and I have no direct role in such matters. I am advised that the allocation of resources is constantly monitored in the context of all new and emerging crime trends. This can be seen, for example, in the north inner city of Dublin where considerable demands are made on policing. We also have the armed response unit in Dublin. There is a substantial level of policing available throughout the country. Increased Garda visibility and more frequent checkpoints have been very important factors in reducing road deaths.

In terms of promoting best policing practice, the Garda Inspectorate was established to ensure the resources available to the Garda Síochána are used to achieve and maintain the highest levels of efficiency and effectiveness, with reference to the best standards of comparable police services.

As I indicated, I will meet Kathleen O'Toole, the chair of the new commission on policing, and I have no doubt some of these issues will be central to the commission's work. As the

Deputy is aware, the commission will be able to make recommendations on a rolling basis over the next year.

Additional information not given on the floor of the House

Many of recommendations made in recent reports by the Garda Inspectorate are being taken forward as part of the Garda modernisation and renewal programme. A good example of the effective use of the considerable resources the Government is providing can be seen in Operation Thor, which has led to a steady decrease in the rate of burglary and related crime since it was established in November 2015. The full year crime figures for 2016 show a 30% decrease compared with 2015.

Underpinning all these measures is the Government's commitment to ensuring a strong and visible police presence throughout the country and achieving an overall Garda workforce of 21,000 personnel by 2021, comprising 15,000 Garda members, 2,000 Garda Reserve members and 4,000 civilians.

Crime - Recorded Crime Offences

Recorded Crime Offences (Number) by Type of Offence and Year

Type of Offence	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Homicide of-fences	138	132	89	88	89	66	79	83	80	63	71
Sexual offences	1,415	1,366	1,406	1,480	2,366	2,014	2,116	2,009	2,053	2,348	2,549
Attempts/threats to murder, as-saults, harass-ments and related offences	15,454	17,665	19,150	18,353	17,703	17,062	15,710	14,502	15,164	16,976	16,360
Dangerous or negligent acts	19,280	21,009	19,587	15,532	12,093	9,946	9,051	7,660	7,298	7,224	7,768
Kidnapping and related offences	81	106	77	146	134	109	101	124	124	152	119
Robbery, extor-tion and hijacking offences	2,486	2,171	2,299	2,491	3,196	2,931	2,817	2,806	2,647	2,577	2,096
Burglary and related offences	24,788	23,603	24,682	26,910	25,420	27,695	28,133	26,218	27,635	26,261	18,438
Theft and related offences	74,494	75,187	76,861	77,031	76,826	76,974	76,402	78,737	77,697	75,864	64,981
Fraud, deception and related of-fences	4,176	5,858	5,410	4,947	4,988	5,370	5,790	4,824	5,178	5,579	4,902
Controlled drug offences	14,219	18,553	23,404	21,982	20,004	17,695	16,450	15,372	15,915	15,090	16,119
Weapons and Ex-plosives Offences	3,119	3,595	4,016	4,064	4,099	3,483	3,038	2,750	2,479	2,377	2,123
Damage to prop-erty and to the environment	43,582	43,284	44,626	42,330	39,369	35,573	32,428	28,913	27,394	26,049	22,267
Public order and other social code offences	56,615	60,583	61,820	57,351	54,941	49,060	43,861	36,453	32,639	33,276	29,158

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Type of Offence	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Offences against government, justice procedures and organisation of crime	9,482	10,997	13,255	11,898	11,396	10,172	9,445	9,187	9,765	11,438	11,683

Deputy Bernard J. Durkan: I thank the Minister for her comprehensive reply. To what extent have policing methods been updated and upgraded in line with best practice in other jurisdictions? What is deemed to be best practice in policing expressed in thousands of the population? How do we compare with other jurisdictions in Europe and globally, particularly on serious crime and criminal gang activity, which need to be dealt with urgently?

Deputy Frances Fitzgerald: We must also look at our own figures over the years and I have provided these in the table. The effective use of resources can be seen in Operation Thor, which has led to a steady decrease in the rate of burglary and related crime since it was established with Government support in November 2015. The full year crime figures for 2016 showed a 30% decrease compared with 2015.

The basic principle is to have a strong and visible police presence. We have a tradition of having gardaí available to the community and we intend to maintain this important tradition.

To respond to the Deputy's question on best practice, the Garda Inspectorate continually makes recommendations which are made not only on the basis of analyses of developments here but also developments internationally. The inspectorate wants to ensure best practice is adopted here.

Deputy Bernard J. Durkan: Has consideration been given to adopting a policy applied in other countries whereby community policing is undertaken by police officers on motorcycles, quad bikes and mopeds? This practice allows them to police a wide area, be visible to members of the public in a meaningful way and move rapidly from one location to another in line with the requirement to be able to respond to criminal activity in early course and in a responsive manner. Introducing these policing methods might be considered, particularly in view how effective they have been in other jurisdictions and the clear need in this country for an improvement in how we deal with organised crime.

Deputy Frances Fitzgerald: More than €34 million has been invested in Garda vehicles since 2012, with 720 new vehicles coming on stream since the start of 2015. The investment in a modern, effective and fit-for-purpose fleet will continue under the capital plan, which provides for a further €46 million for new vehicles. To take up the Deputy's point, this includes high-powered vehicles, marked and unmarked patrol cars and motorcycles for high-visibility road policing in order to support important anti-crime strategies such as, for example, Operation Thor.

I am informed that there are 721 community gardaí throughout the State, with four assigned to the Kildare region. However, all gardaí have a role to play in community policing. I agree with the Deputy on the need for flexibility, which the inspectorate has highlighted. In its third report, Policing in Ireland - Looking Forward, the inspectorate said that community policing is a fundamental policing philosophy with a strong foundation in Ireland and that it should be maintained.

The new community policing teams to be established in every district will entail gardaí from

a number of disciplines working with local communities to prevent and detect crime. Community alert and neighbourhood watch schemes will be worked with and CCTV will be used, in which respect there is €1 million for a new programme. This area will need further investment in the time ahead.

Deputy Bernard J. Durkan: I thank the Minister.

Law Reform Commission Reports

48. **Deputy Jim O’Callaghan** asked the Tánaiste and Minister for Justice and Equality her views on the Law Reform Commission’s report, Consolidation and Reform of Aspects of the Law of Evidence, published earlier in 2017. [24339/17]

Deputy Jim O’Callaghan: In January, the Law Reform Commission, LRC, published its report on the consolidation and reform of the law of evidence. Does the Minister or her Department have proposals in respect of that report and does she intend to introduce legislation as suggested therein?

Deputy Frances Fitzgerald: This report was published on 18 January and is under examination by my senior officials. As the Deputy probably knows, it contains an extensive draft Bill and is a substantial piece of work at more than 460 pages.

The law of evidence cuts right across the range of civil and criminal law and the stakes are high, not only in terms of ensuring that our evidence laws are effective, efficient and in keeping with people’s rights and international developments, but also in the sense of ensuring that any change introduced is carefully considered in order to avoid as far as possible unforeseen adverse consequences.

The LRC report is a serious piece of work that needs examination and I welcome it. Obviously, it is the result of extensive research and expertise and follows a number of earlier LRC consultation papers that focused on categories of evidence law such as hearsay, expert evidence and electronic evidence. The report recommends the consolidation of statutory provisions and sets down an extensive set of specific reform recommendations. Some of the reforms seem to be straightforward and compelling. For example, it is recommended that we abolish the existing statutory requirements that a person who wishes to give evidence by affirmation as opposed to oath must also state that he or she does not have any religious belief. There are more fundamental recommendations. The report, not only with its 87 recommendations but also with the 110 sections of a draft Bill it includes, provides a sound and extensive basis for getting this work done and progressing towards the required legislation in this area. There is plenty of food for thought and much work for the justice committee. If the Deputy would like to bring to my attention any of its recommendations that he believes deserves priority consideration, he should please do so.

Deputy Jim O’Callaghan: I thank the Minister for her response. I tabled this question because the LRC’s report, which was published last January, is extensive and contains many useful proposals on how the law of evidence could and should be reformed. It is important to note that this is not just an issue of interest to people operating in the courts. We want to make the laws of evidence more efficient so as to ensure that the courts can become more efficient in how they handle cases.

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The Minister mentioned that a number of consultative papers had been published in advance. They dealt with issues such as expert evidence, documentary and electronic evidence, hearsay evidence and consolidation of the evidence Acts. In particular, we should consider the issue of expert evidence, which has become a significant part of all civil and certain criminal litigation. It is important that experts who are retained by any side in a criminal or civil trial be aware that their overriding duty is to the court as opposed to being hired guns for either side.

Deputy Frances Fitzgerald: I agree that how evidence is handled, tested and reconciled goes to the heart of court proceedings and the rights of litigants and accused persons. It has implications in terms of costs, the length of time taken in cases and efficiency in civil and criminal cases that are before the courts. I am conscious of those implications. I sponsored what became the Legal Services Regulation Act through the Houses in 2015. That Act contains a number of key provisions, which are being implemented at present, aimed at controlling legal costs and increasing transparency in that regard. The implementation of some of the recommendations of the LRC in terms of evidence is also likely to improve efficiencies and speed of processing of cases. It makes eminent sense to consider these recommendations favourably as part of the overall strategy to reduce costs for parties to litigation.

I have asked the civil and criminal law divisions of my Department to examine this report. It is substantial, though, and I do not want to mislead the Deputy by giving him an immediate timeframe, but we should start by examining it and analysing the proposals as soon as possible.

Deputy Jim O'Callaghan: I agree that this should not be rushed into, particularly as it will require careful consideration. However, we cannot just let the report sit there or make no proposals. One of the report's interesting proposals is the suggestion that the Minister for Justice and Equality should publish statutory codes of practice for expert witnesses. This needs to be considered. The Tánaiste has established a group to examine the reform of civil litigation and how it can be made more efficient under the chairmanship of the President of the High Court. Perhaps his group could also consider this matter.

It must be recognised that, in criminal prosecutions, evidence can take an inordinate length of time. We have seen many examples of this in the not-too-distant past. As opposed to trying to infringe upon the rights of any individual, we must seek to ensure that cases can be prosecuted with evidence being made admissible in a more efficient and fair manner.

Deputy Frances Fitzgerald: This is an extensive report that contains many recommendations. If there are recommendations that can be taken forward speedily, they can be examined. When I get the first report on the matter, we will be in a position to decide. The work by Mr. Justice Peter Kelly's group is progressing and basic arrangements are being put in place. That will be useful and could be a place from which we will get recommendations on the points raised by the Deputy. If the Deputy believes that certain issues should be followed up on expeditiously, he should please get in contact with me and the Department.

Acting Chairman (Deputy Eugene Murphy): With co-operation from those on all sides, we will get through two further questions.

Surveillance Operations

49. **Deputy Mick Wallace** asked the Tánaiste and Minister for Justice and Equality if she is satisfied that the current system governing the surveillance of private citizens meets best international standards of accountability following the recent revelations of Garda surveillance on a private citizen; and if she will make a statement on the matter. [24381/17]

Deputy Mick Wallace: We discussed this topic last week and I am happy to discuss it again, as the Minister raised more questions than she answered. It relates to governance of surveillance systems, in which respect the Minister was most vague. She stated that current legislation contains “strong safeguards to ensure the system of interceptions is operated properly” and that there are “multilayered checks and balances in the system.” She did not flesh out these claims, so I wonder whether she could tell us how exactly Ireland lives up to international best practice in this regard.

Deputy Frances Fitzgerald: The interception of telecommunications and the use of covert surveillance by the Garda and other law enforcement authorities are governed by the provisions of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Surveillance) Act 2009. The law provides a clear framework and sets out strict criteria for the use of interception and surveillance powers and it also provides for clear judicial oversight mechanisms.

I presume the allegations to which the Deputy refers relate to allegations of abuses of the arrangements in place for the interception of telephone calls. As I said when we discussed this in the House the other day, it would be a matter of extremely serious concern if there were any abuses of the system for intercepting communications. The power of interception is an intrusive one and it is essential to have a proper system of checks and balances. However, I believe people need to be very clear that these powers are essential in the context of dealing with the activities of serious organised crime gangs and also in countering terrorist threats to the State, both national and international. Look at what we have just seen in Manchester.

I outlined in detail to the House last week the position in regard to the operation of the provisions of the 1993 Act. It is important to note that the Minister does not initiate a warrant and may only grant authorisations on the basis of a reasoned application from the Garda Commissioner, the Chief of Staff of the Defence Forces or the chairperson of the Garda Síochána Ombudsman Commission, GSOC, and then only for the purposes of the investigation of serious crime. This is not an *ad hoc* arrangement. It is only for the investigation of serious crime and in the interests of the security of the State and applies only once a number of strict tests that are laid out in the Act are satisfied.

It is overseen by a High Court judge, as I outlined to the House. That judge does important work every year in examining those applications and the judge has the absolute right to demand whatever level of information he or she wants in this regard.

Deputy Mick Wallace: Terrorist acts are no excuse for us not to legislate properly or not to follow international best practice. The Minister pointed out that under current legislation, only the Minister, after an application has been made to him or her, may grant authorisation to intercept communications. This is not a safeguard. Surveillance based on political authorisation rather than a judicial warrant is not best international practice. The powers granted to the Minister for Justice and Equality of the day under section 2 of the Act are possibly beyond the

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expertise of any Minister. For example, if the Garda Commissioner tells the Minister that all other means have failed or are likely to fail to produce the desired information and surveillance is necessary, how does he or she prove this? Is the Minister qualified to assess the proof if any is presented? In the US, all applications for interception of communications must be made in writing under oath or on affirmation to a judge of competent jurisdiction, including a full and complete statement on whether other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed or to be too dangerous. Is any Minister for Justice and Equality competent in these areas? Is the Minister presented with the full evidence of the attempts and failures-----

Acting Chairman (Deputy Eugene Murphy): Excuse me. I am informed there is a problem with the sound system and that Deputy Wallace's microphone is not working at present.

Deputy Jonathan O'Brien: It is a conspiracy. It interferes with the bugging devices.

Acting Chairman (Deputy Eugene Murphy): Deputy Wallace should continue.

Deputy Mick Wallace: International human rights law requires that interception of communications be authorised by a judge or an equivalent independent body. The legislation in Ireland does not have these strong safeguards. Having a judge browse over a few of them at the end of the year is not serious oversight.

Deputy Frances Fitzgerald: The law provides for a clear, judicially based oversight process. There are multilayered checks and balances which are designed specifically to guard against the type of abuse we saw in the early 1980s which led to the current legislation. The nature of the report submitted by the designated judge is a matter for the judge. As I said the other day, it is not a question of the length of the report but the fact the designated judges have been in a position to be satisfied that the system for interception has been operated in accordance with the law. That is what the reports have confirmed.

The Deputy made comments about the robustness of the work that is being done. That is up to the High Court judge, who is in place to examine it and make sure it is robust. I do not believe we should underestimate the abilities and experience of the individuals who have carried out that role with distinction. The Deputy is making comments about the work they have done. There is also an independent complaints mechanism-----

Acting Chairman (Deputy Eugene Murphy): Excuse me. We need to move on.

Deputy Frances Fitzgerald: I will conclude. It would be quite wrong to suggest it has been established that there is widespread abuse of the interception system.

Deputy Mick Wallace: To compare this with the UK, oversight of phone tapping there is carried out on a full-time basis by an interception of communications commissioner with 13 support staff. The UK commissioner publishes detailed, twice yearly reports, statistics on the number of interception warrants issued and errors made and the safeguards in place. There is no comparison with what we are doing.

I am not giving out about the judge. I am giving out about the system and the poor legislation around it. The designated judge turns up on the day, looks at the bundles, and says, "I will look at two of these, one of those and three of the others." That is not oversight but that is what is happening. We have spoken to the gardaí who actually presented these to the judge. It is

not international best practice. As T. J. McIntyre has pointed out on numerous occasions, we are in the dark ages in comparison with what other countries are doing in this area. It is a very dangerous area and we should tighten it up.

Deputy Frances Fitzgerald: With respect, the Deputy does not know how the judge carries out the work. It is up to the judges to decide what level of detail they want in regard to any particular case. When responding to this in the Dáil the other day, I said that Ms Justice Marie Baker, who has the current responsibility, was informed of recent events and it will obviously be up to her to decide if further action is needed in regard to the issues that were brought to her attention by the Garda at the time of that court case. It is entirely up to the supervising judge to decide that level of detail. However, everyone is under an absolute obligation to give the judge all the information he or she requires, and I have no doubt that has been the case. Clearly, there are always developments in this area and I do not rule out changes to legislation in the future. What I am saying to the Deputy is that there is a robust system in place, supervised by a High Court judge, and that is a very important safeguard.

Criminal Law

50. **Deputy Margaret Murphy O'Mahony** asked the Tánaiste and Minister for Justice and Equality if new measures are being considered to tackle crimes against persons with disabilities; and if she will make a statement on the matter. [24350/17]

Deputy Margaret Murphy O'Mahony: I wish to ask the Minister if new measures are being considered to tackle crimes against people with disabilities, and if she will make a statement on the matter.

Deputy Frances Fitzgerald: There are robust mechanisms already in place in legislation to deal with discrimination and offences against all members of our society. In general, where criminal offences such as assault, criminal damage, or public order offences are committed against any person, including a person with a disability, they are prosecuted as generic offences through the wider criminal law. Judges are required to take aggravating factors, such as targeting a victim because he or she has a disability, into account at sentencing. The discriminatory grounds in equality legislation to combat discrimination in employment and the provision of services also include disability.

As indicated, the Department is to undertake a review of the Prohibition of Incitement to Racial Religious or National Hatred Act 1989 with a view to ensuring it meets the needs of contemporary society. The case for including incitement against a person with a disability will be considered specifically as part of this wider examination. It is something that will be considered in the review of the legislation.

Deputy Margaret Murphy O'Mahony: I thank the Minister. A report published in 2014 by the Irish Council for Civil Liberties found that people with disabilities who are victims of crime experience the same problems of under-reporting, lack of information provision, lack of private areas in courtrooms and delays in progressing complaints which apply in regard to all other victims in Ireland. However, very often the centrality of their outsider status is more pronounced.

This derives from a general failure to engage with the specific needs of people with dis-

abilities beyond those addressed by the Disability Act 2005. One of the difficulties highlighted was the adversarial nature of our legal system, which as one of the authors pointed out can also be a discriminatory barrier given its emphasis on spoken testimony, lawyer-led questioning, observation of the demeanour of a witness, the curtailment of free-flowing witness narrative, confrontation and robust cross-examination. Clearly that can be particularly difficult for those, for example, who have a difficulty with a long-term memory recall and with communicating information, with cognitive overload and with questioning that invites acquiescence and compliance. Has the Department of Justice and Equality reviewed legislation with a view to making the system more accessible for people with disabilities?

6 o'clock

Deputy Frances Fitzgerald: I have been discussing this very recently. The Criminal Justice (Victims of Crime) Bill 2016 makes very specific provisions requiring gardaí to carry out special measures in their assessments of victims. The Bill represents a sea change across the criminal justice sector in our attitude to victims. Obviously, that would include people with a disability. For example, that Bill, which is currently going through the Houses of the Oireachtas, provides that any communications with a victim are put in simple and accessible language and take into account the personal characteristics of the victim, including for example disability, which may affect his ability to understand or be understood.

Our law is increasingly reflecting the very critical point the Deputy is making. The law needs to be sensitive to people who have particular characteristics. The recently introduced Criminal Law (Sexual Offences) Act 2017 brings in further protections for people with a disability. When we review the incitement to hatred legislation, we can examine if further measures are needed.

Deputy Margaret Murphy O'Mahony: The Minister mentioned the hate crime legislation. As she knows, Deputy O'Loughlin and I introduced a Bill last autumn to deal with this. Deputy O'Loughlin has brought forward extensive and significant amendments to the Bill which we believe now has wide support in the House.

However, we feel that the Department does not seem very supportive - we may be picking that up wrong. Does the Department support the principle of hate crime legislation? Many people who work with people with disabilities want such legislation and it is vital that the Government also support it.

Deputy Frances Fitzgerald: As I said, we are undertaking a review of the 1989 legislation. I have already pointed to a number of pieces of legislation that are certainly strengthening the rights of victims who would be subject to hate crime. If further legislation is needed, we would certainly be open to introducing it.

Written Answers are published on the Oireachtas website.

Dáil Éireann
Topical Issue Debate

Pensions Reform

Deputy Niamh Smyth: I have come across numerous cases in my clinic of retired or retiring people who have been adversely affected by the anomaly in how entitlement to the State pension contributory is calculated. I have been presented with a number of situations where individuals, mainly women who have raised their families, are being penalised for having paid a small handful of PRSI payments during what effectively amounts to a previous working life. Having spent a great portion of their lives providing a socially vital service, these women are now being doubly penalised. Not only have they secured no private pension entitlements for this period of their lives but they are now being denied a full State pension. This clearly must change and requires immediate action.

Consideration should be given to amending the calculation method for contributory pensions. The system already disregards time spent working in the home since April 1994 for the purposes of calculating yearly average contributions. We should explore the feasibility of back-dating this further. Similarly, consideration should be given to allowing actual past payments to be disregarded, thereby altering the date at which the individual is considered to have entered the permanent workforce. Consideration should be given to allow individuals to disregard up to 200 pre-1994 A1 PRSI payments for the purpose of calculating their date of entry into the workforce.

I will give two examples from my constituency. A lady spent most of her married life working in the home. She entered the workforce for the first time in 2005, aged 56. She qualified for a full State pension in 2015, as she had paid an average of more than 48 weeks of PRSI contributions over ten years.

Another similar lady entered the workforce at the age of 46 in 1995. She paid an average of more than 48 weeks of PRSI contributions over 20 years. However, this lady also worked briefly in the late 1970s, before getting married and staying at home to raise her family. As a result, the Department of Social Protection averages her contributions over 37 years, rather than 20. This reduces the pension to which she is entitled and creates a great inequality in the system.

Despite the fact that the second lady has paid more than twice as many PRSI contributions as the first, she will have her pension greatly reduced while the first lady will be entitled to the full State pension contributory.

Minister for Social Protection (Deputy Leo Varadkar): Expenditure on pensions, at approximately €7.3 billion, is the largest block of expenditure in my Department, representing 37% of its expenditure. Demographic change, such as longer life expectancy which is welcome of course, alone increases this by €220 million every year. Maintaining the rate of the State pension and its value is critical to protecting older people from poverty. Poverty rates in Ireland for older people at about 2% are among the lowest in the world.

The State pensions system comprises a number of schemes, based on criteria such as contributions paid, income need and other factors. These ensure that people have an adequate standard of living in old age.

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The State pension contributory is one such scheme and its rate of payment is related to contributions made over the years into the Social Insurance Fund, which fund the scheme on a pay-as-you-go basis. As such, those who have paid more into that fund are more likely to be paid more under that scheme. The independent actuarial review of the fund in 2012 confirmed that the fund provides better value to female rather than male contributors on average, due to the redistributive nature of the fund.

Entitlement to the contributory pension is calculated by means of a yearly average calculation, where the total contributions paid or credited are divided by the duration in years of the working life. Payment rates are banded. For example, someone with a yearly average of 52 weekly contributions will qualify for a full pension, whereas someone with a yearly average of 20 may qualify at the 85% rate.

The homemaker's scheme makes qualification for State pension contributory easier for those who take time out of the workforce for caring duties. The scheme, which was introduced in 1994, allows gaps of up to 20 years, spent caring for children under 12 years of age or incapacitated people, to be disregarded when a person's social insurance record is being averaged for pension purposes. Homemakers still need to fulfil the eligibility requirements for that scheme, and have paid at least 220 weekly contributions. The scheme is not retrospective, and backdating it in respect of periods before its introduction in 1994 would cost an estimated €290 million every year.

A person who does not qualify for a full-rate contributory pension may qualify for a means-tested non-contributory pension, amounting to 95% of the maximum contributory rate. For example, a person with a yearly average of 20 qualifies for a reduced rate state pension contributory of €202.80. However, unless their means are over €52.50 per week, or €105 for a married couple, they may instead be paid a non-contributory pension of at least €204.50, which would bring their total personal means, including their pension, to over €257 per week.

Their household means test ignores their spouse's State pension, the capital value of their home and has generous income and capital asset disregards where applicable. This €257 does not include rent allowance, household benefits or fuel allowance.

Alternatively, if their spouse is a State pensioner and they have significant household means, their most beneficial payment may be an increase for a qualified adult, IQA, based on their personal means, which amounts up to 90% of a full contributory pension. Work is under way to replace the yearly average system with a total-contributions approach. Under this approach, the rate of pension paid will more closely reflect the total number of contributions made by people, not when they paid them. The position of homemakers is being carefully considered in developing this new system of calculating the contributory State pension.

It is expected that this approach to pension qualification will replace the current one from 2020. Following completion of the actuarial review of the Social Insurance Fund later this year, a refined proposal will be developed. My Department will conduct a period of consultation with relevant stakeholders, including interest groups, representative bodies and the Oireachtas. Following the consultation period, I will submit a proposal to Government seeking approval for the new approach.

Deputy Niamh Smyth: The homemaker's scheme, which was introduced by Fianna Fáil in 1994, makes qualification for the contributory State pension easier for those who have taken

time out of the workforce for caring duties. It allows up to 20 years spent caring for children under 12 years of age to be disregarded when a person's social insurance record is being averaged for pension purposes. However, a problem arises for people who took time out of the workforce prior to 1994, as the number of years over which contributions are averaged is greater, reducing the average number of weeks worked and greatly reducing their entitlement.

The Minister has said a lot and I am sure his experience in his clinics concurs with mine that women in particular are vulnerable in this situation. They seem to be the ones most affected by this inequity within the pensions system. The Minister referred to means-testing pensions, but that will not solve the problem as many women and men fall through the net in terms of qualifying and being entitled to the contributory State pension. I am pleased to hear measures are being taken at the moment to re-evaluate the situation, but I appeal to the Minister to take cognisance of this blatant inequality in the contributory State pension as so many women are losing out because of the anomaly and action is needed to bring equity for men and women who have given so much to society.

Deputy Leo Varadkar: I understand and am sympathetic to the case the Deputy is making. The homemaker's scheme was introduced by Fianna Fáil in 1994 and Fianna Fáil decided not to backdate it. The reason the Minister of the day, Michael Woods, decided not to backdate it was because of the very high cost of doing so. We estimate that the cost of doing so now would be approximately €290 million a year. When budget time comes around and one is Minister of Social Protection one must decide how best one is going to use additional resources and whether one targets them, as I sought to do, at those who need them the most, namely, the poorest in society, which is the reason I put the resources into jobseeker's benefit, the one-parent family payment, the widow's pension, the blind pension, the carer's allowance and disability allowance or whether one gives those resources instead to people who do not qualify for a means-tested payment at all, who are generally people who are a bit better off. That is the dilemma that faces any Minister at budget time. Of course one would like to do both but if one has to choose I hope one would tend to choose those means-tested payments paid to those who are the poorest in society.

The future is the new total contributions approach. I listened to the example the Deputy gave and it is anomalous to me that people who pay in more contributions get a lesser pension just because they paid them at the wrong time or over a longer period. We have worked out from our initial calculations that to do anything that is budget neutral, one would need to be making about 35 years of contributions to get a full pension. That is pretty normal. That is the case for people in employment and for public servants. However, in doing so, one could also give rise to many people ending up much worse off. Any change to the rules, as always, produces winners and losers unless one puts a lot of extra money into the system. What I intend to do is present a set of options on costings to the committee and consult it on how we go forward.

Road Projects

Deputy Michael Moynihan: I thank the Ceann Comhairle's office for facilitating discussion of this issue and for being understanding last week as well in postponing it until this week due to the death of Deputy O'Keeffe's mother.

There is significant concern about this motorway, which has been long flagged. It is a connection between the west and the rest of the motorway network. There has been much talk

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about it and many plans have been drawn up in regard to it. The main point we wish to make is one Deputy O’Keeffe and I raised a few weeks ago on Leaders’ Questions, namely, the suggested rerouting of the motorway up to Cahir and not going through north Cork, which leaves places such as north Cork, Charleville, Buttevant, Mallow, west Limerick and north Kerry completely out of the loop. I do not know who came up with that idea, whether it was someone within the National Transport Authority or the Department of Transport, Tourism and Sport, but it is ludicrous to allow the area to be without connectivity.

Deputy Niall Collins: There is significant concern in the Limerick and mid-west area about maintaining and enhancing the competitiveness of the region. Unfortunately, we have seen a two-tier economy develop in this country - Dublin and the greater Dublin area versus the regions. We must work on competitiveness. One of the key pillars in this regard which is missing in the mid-west region is the M20 motorway between Limerick and Cork, the second and third largest cities in the country. The urgency cannot be lost on the Minister, his Department and Transport Infrastructure Ireland, TII. It is a source of considerable concern that a proposed route has been circulating from an unknown source that the proposed route is due to go via east Limerick on to Mitchelstown and connect onto the main Dublin to Cork motorway. That would significantly disadvantage west Limerick, north Cork, north Kerry and impact on the competitiveness of the region. That is not a runner. With that in mind I want the Minister to focus seriously on delivering the route which was originally planned, namely, the direct route from Limerick through Charleville, Mallow and on to Cork.

Deputy Kevin O’Keeffe: I welcome the Minister to the House. From the Deputies present he can see this is a regional issue not just a localised one. I could just talk about the need for Mallow to have a bypass but we have progressed beyond that. As Deputies Niall Collins and Michael Moynihan stated, the motorway is necessary for the economic development of the south west. The only benefit in terms of infrastructural progress the Minister gave to the south west in budget 2017 was the upgrade of the motorway at Naas to get the traffic down to us quicker, but he forgot to provide any traffic infrastructure in the south west. It is important the M20 motorway is progressed.

The reason we have raised the matter with the Minister today is because there is talk, which nobody seems to discourage, that the Department is perhaps using delaying tactics by putting information into the media to the effect that the motorway will go from Cork to Cahir and connect with the proposed M24, Cahir to Limerick road. From economic and time perspectives the proposal is a non-runner. As the crow flies Cork to Limerick is approximately 86 km. Cork to Limerick via Cahir in County Tipperary is 121 km. Why would we add mileage to the journey when motorways are built to help people get from A to B in a quicker time?

Minister for Transport, Tourism and Sport (Deputy Shane Ross): I thank all three Deputies for raising this very important issue. I am familiar with the arguments they make. They will be aware that I have heard about the issue from many other Deputies but nearly always from the Cork point of view, so it is refreshing to hear the view from Limerick presented by Deputy Collins. I take all their points of view seriously and I hope to be able to address them now.

I have responsibility for overall policy and funding in relation to the national roads programme. The planning, design and implementation of individual national road projects is a matter for Transport Infrastructure Ireland, TII, under the Roads Acts 1993-2015 in conjunction with the local authorities concerned. Within its capital budget, the assessment and prioritisa-

tion of individual projects is a matter in the first instance for TII in accordance with section 19 of the Roads Act.

Ireland has just under 100,000 km of road in its network and the maintenance and improvement of national, regional and local roads places a substantial financial burden on local authorities and on the Exchequer. Given the national financial position, there have been very large reductions in Exchequer funding available for roads expenditure in recent years. For that reason the focus has had to be on maintenance and renewal rather than major new improvement schemes. The proposed upgrade of the N20 was one of a range of proposed road development projects which had to be deferred. The capital plan published in September 2015 outlined proposed transport investment priorities to 2022. The transport element of the plan was framed by the conclusions reached in my Department's strategic investment framework for land transport. This report highlighted the importance of maintenance and renewal of transport infrastructure together with targeted investments to address particular bottlenecks and critical safety issues. The capital plan provides €6 billion for investment in the roads network in the period to 2022, with €4.4 billion earmarked for the maintenance and strengthening of the existing extensive network throughout the State and €1.6 billion for new projects.

Allowing for the commitments relating to public private partnership, PPP, projects, the balance available for new projects within the available capital envelope was limited. Given the funding constraints, a project of the scale of the M20 would have absorbed a substantial proportion of the budget for new projects. In those circumstances, as I understand it, the decision made by my predecessor was to provide for a mix of smaller-scale projects throughout the country to address particular constraints, including bottlenecks and port connectivity.

While it will not be possible to address all the demands for schemes over the capital plan period, the plan does provide for the gradual build-up in capital funding for the road network towards the levels needed to support maintenance and improvement works. In this context a number of important projects in Cork are included in the plan, including the upgrade of the Dunkettle roundabout and the N22 road between Ballyvourney and Macroom. In addition, the plan also provides that the N28 upgrade scheme will also commence subject to necessary approvals.

We are all aware that the recovery of the economy is generating spending pressures across the Government system, including capital investment needs. I am conscious of the potential regional development benefits of an upgrade of the Cork to Limerick link, and in this regard I agreed to TII spending €1 million to undertake some early activity surveys and studies.

The Minister for Public Expenditure and Reform is progressing the review of the plan and my Department has made a submission putting forward a strong case for additional funding. The submission includes a request for funding for the development of a pipeline of road projects and I expect further planning work on the M20 to be considered in this context. Final decisions on the allocation of additional funding under the capital plan review are a matter for the Minister for Public Expenditure and Reform and the Government as a whole. I will review the scope for advancing the project further once the capital plan review is completed.

I understand the Deputies' frustrations. It is coming to me loud and clear that something ought to be done in this area. The size of the project is pretty forbidding in the current circumstances, but I would not rule out creative or imaginative suggestions in this regard.

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Deputy Michael Moynihan: The question we need clarified today is about the priority being given to the project to move it on and to rule out the notion being given by the National Transport Authority or by the Department of Transport, Tourism and Sport that there is a proposed rerouting of this road up to Cahir and on a longer distance, as Deputy O’Keeffe has pointed out. We want to be very clear, and perhaps the Minister will clarify it in this Topical Issue debate, that it is not a runner and the proposed M20, the road between Cork and Limerick, will go right through Charleville, Buttevant, Mallow and right through Cork to open up the complete south west. The Minister needs to clarify this matter to dismiss any rumours and leaks coming out from the National Transport Authority or the Department of Transport, Tourism and Sport.

Deputy Niall Collins: It is vital for the people of Limerick to know that when the road is built, it will have the shortest possible route, time and journey between the two locations, which is through Limerick, Charleville, Mallow and directly to Cork. The Minister would need to be pretty firm on that for us. The Minister referred to the size of the project. We recognise that it is going to be a very big project but there is no reason it cannot be broken down into phases at least to get it started. The Minister also spoke of the mid-term review of the capital programme. It is worth noting that many people made submissions, myself included on behalf of Fianna Fáil, for the mid-west. I will outline the submission briefly. The proposed M20 motorway was the first item we prioritised. We also included the proposed Limerick to Foynes motorway, the new 96-bed unit in the University Hospital Limerick in Dooradoyle, the relocation of the maternity hospital from the Ennis Road campus to the Dooradoyle campus-----

Acting Chairman (Deputy Eugene Murphy): Time please, Deputy.

Deputy Niall Collins: -----the construction of the 90-bed block in St. John’s Hospital, the construction of two new schools in Mungret and in Croom, and the upgrading of the junctions at Beary’s Cross on the N24 and also on the N20 at O’Rourke’s Cross.

Acting Chairman (Deputy Eugene Murphy): Deputy O’Keeffe wants to come in here.

Deputy Niall Collins: This is vital for infrastructure in Limerick.

Deputy Kevin O’Keeffe: Yet again we are none the wiser with the Minister’s answers. I asked Question No. 1376 more than ten Dáil working days ago. I have also yet to see a reply from Transport Infrastructure Ireland. We hope it will announce the decision being mooted out there that the route will continue to Cork and Limerick via Mallow and Charleville.

I will give the Minister a little history lesson. In 2008, the public consultation document identified the route from Cork to Limerick. I understand the situation was that we lost funding. In November 2011, our Cork and Limerick county managers were informed that proposed works and the agreed route that was designed to go to construction was postponed because of a lack of funding. I accept that but-----

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

Deputy Kevin O’Keeffe: -----on the same day, however, the then Minister, Deputy Varadkar, made an announcement to suspend public spending. He made a statement, “Given that we already have a large number of ‘shovel-ready’ projects which have been suspended until after 2016, there is little point in spending more money on planning new projects.” This project, however, had been agreed. It was shovel-ready and ready to go. I ask the Minister to do something about it, please.

Acting Chairman (Deputy Eugene Murphy): I am sorry to cut across Deputies but the Topical Issue debate is for four different categories and four groups of Deputies. I would appreciate if Members would co-operate with me in this regard.

Deputy Shane Ross: I take on board the Deputies' opinions on the alternative route but I cannot comment on things that are in any way leaked and unsubstantiated. Our ambition is to do what is absolutely the best for the area and the people. As I have already emphasised, the problem is the scale and the size. I take Deputy Collins's suggestion of building in stages as a constructive suggestion. The problem is that in building it now and spending the funds, it would use up virtually the entire capital allocation for the area. That cannot be done, I am afraid, and that is the truth. I would not rule out creative solutions in this case. When I speak of creative solutions, people get alarmed and they think there is going to be rerouting or a change of method. Do not ask me to comment on particular leaks but I will say that this project is still alive and it is intended to keep it alive, despite its size and its expense. Deputies Collins, Moynihan and O'Keeffe, among others, are keeping it alive. My Department is looking at ways of advancing it. There has been significant local pressure, we have found, at least to restart planning work on the M20 since the capital plan. The Department is conscious of the potential regional redevelopment benefits of an upgraded Cork to Limerick link, and the former Minister agreed to the spending of €1 million by TII to undertake some early activity surveys. This sends out the signal that this project is not being buried and is being kept very much alive. The scope for progressing the project further will be reviewed once the capital plan review is completed.

Acting Chairman (Deputy Eugene Murphy): I thank the Minister and Deputies. It is not often easy when there are several Deputies speaking on one issue. I appreciate their co-operation.

Schools Property

Deputy Richard Boyd Barrett: I welcome pupils, teachers and parents from Clonkeen College, Dún Laoghaire, who are in the Gallery. A couple of weeks ago at the beginning of May, they were utterly shocked to discover that the school patrons, the Christian Brothers, planned to sell the school playing fields. These 8.5 acres of grass playing pitches adjoin the school and have been used by the school for many years for sport and outdoor activities. The school found that the lands were to be sold to a property developer for private development. This is a non-fee paying school that draws its pupils from all over the Dún Laoghaire area. The fields are used by the pupils and a host of local community football clubs, GAA clubs and others. These fields are to be taken from the school, thereby substantially degrading the facilities available to it. The Department of Education and Skills invested €10 million on the refurbishment of the school and the management there spent more than €650,000 on draining and fencing off the fields. Approximately €300,000 of the latter was funding paid to the school by the Department. All of that investment is to be lost. A moderate special needs unit built adjacent to the hard court area will have to be relocated and this will impact on the special needs students in the school. It is outrageous. The Christian Brothers are justifying this sale on the grounds that they owe €10 million to the redress board. There is no doubt but that the Christian Brothers should pay their outstanding debt to the redress board in respect of the abuse they were guilty of visiting upon a previous generation of young people. However, it would be a supreme irony and an absolute outrage if the current and future generations of young people are to be made pay for the crimes of the Christian Brothers against previous generations. That would compound

one crime against young people with a further crime against them.

I and, more importantly, the parents, the local community, the teachers and the pupils are asking the Minister to intervene urgently before this sale proceeds and they have a number of questions for the Minister. Does the Minister believe it is acceptable for the Christian Brothers to sacrifice and degrade school facilities at the expense of school students? That a patron body of a school is attacking its students and facilities is scandalous. When the Christian Brothers presented the plan - which, clearly, was hatched some time ago - to the school earlier this week, they said that the Minister knew about it. I hope that is not true. Did the Minister know about it and is he aware that the Christian Brothers promised in 2008 that those lands would be given under licence to the school for as long as it is in existence? They had an agreement with the school. Is the Minister aware of that agreement and does he believe it is acceptable that it is being torn up?

The school's students have been betrayed by the Christian Brothers. We are hoping that the Minister will intervene to prevent this sale going ahead and to protect the facilities at the school.

Minister for Education and Skills (Deputy Richard Bruton): I thank Deputy Boyd Barrett for raising this important issue, which has given rise to some considerable concern. It is important to note that the decision to dispose of land owned by the Congregation of Christian Brothers is a matter for the congregation. It is not a matter over which I have direct control.

In early May, the congregation wrote to me on the wider issue of the transfer of ownership of its playing fields to the Edmund Rice Schools Trust, ERST. Proposals in respect of its playing fields had been made to the Government in 2009 and counter-proposals were made which were not accepted by the congregation or ERST, to which the playing fields are currently licensed. The congregation has indicated its willingness to engage further with my Department on how such a transfer would be reckoned as a redress contribution. That recent correspondence also noted the proposal to dispose of part of the lands at Clonkeen College, a secondary school under the patronage of ERST, and it states that contracts have already been signed with a builder. The congregation's letter states that its intention is to use part of the proceeds of the disposal to meet its outstanding contribution of €8.8 million relating to the voluntary offer it made in 2009 in response to the findings of the Ryan report. The congregation also advised me that it will have provided the college with 6.5 acres, inclusive of the school, and lands transferred in 2008 and the additional 3.5 acres of playing grounds now transferring.

My Department will be writing to the congregation on the matter of the Clonkeen lands, seeking clarification on a number of points, including whether the land in question is now the subject of a legally binding agreement with a builder. There is a role for the school patron, the ERST, to ensure that the current and potential future educational needs of the school, including the capacity of the school to meet future enrolment demands, are prioritised. I am not privy to the deliberations or the debates within the congregation on why these particular lands were selected for disposal. As I noted, the congregation has an outstanding redress contribution of €8.8 million. Completion of this contribution at an early date is vital because it will ensure that Caranua, the Residential Institutions Statutory Fund, will have available to it the full €110 million in cash contributions offered by the religious congregations. I appreciate that the Christian Brothers wish to follow through on their commitments, having already paid €21.2 million of their voluntary cash offer. It would, however, also be very disappointing if the educational needs of the current and future generations of children were compromised in achieving this goal. I would hope that the congregation takes this fully into account during its deliberations.

Deputy Richard Boyd Barrett: I welcome the Minister's final comment but, to be honest, we need a little more because that is exactly what is happening. The educational needs of current and future generations of pupils at Clonkeen College, which affects a huge catchment area right across the Dún Laoghaire area, are about to be fundamentally compromised if this deal goes through. As I said, if this sale goes ahead money invested in the school by the Department, public money, will go down the drain. That is unacceptable. A solemn promise that was made by the Christian Brothers to the school in 2008 is being breached. That is also not acceptable.

If, as the Minister said, the current and future needs of pupils should not be comprised by the need and requirement of the Christian Brothers to pay for the redress scheme, which they absolutely should do, then he needs to intervene urgently to stop the sale going ahead. We understand the sale has not concluded. The school agreed a number of years ago - and was happy to do so - to the sale of the ERST building which adjoins the school, plus an acre of adjoining land. Is it acceptable that one school of 95 should take the full hit for the outstanding debt of the Christian Brothers to the redress scheme in terms of the loss of all of their playing fields? The school will not have a GAA pitch or any of the other playing facilities it had. It is not fair. This will impact on local clubs, including Cabinteely Football Club, Park Celtic, Bray Wanderers, Cuala, Kilmacud Crokes and others who use those fields. This is an assault on the playing facilities of students and the entire community.

I ask that the Minister intervene to prevent this happening and, if necessary, to have the lands and the school transferred to the State. Clearly, on the basis on this sale, the Christian Brothers cannot be trusted with the protection of the educational needs and facilities of their own students. To my mind, this means that the Minister needs to take this school and the lands back into public ownership and secure these playing fields and the future of the school for current students and future generations.

Deputy Richard Bruton: In the first instance, the ERST is the patron. It must be satisfied that it is making adequate provision for the school and its future needs. As I said, that is the responsibility of the patron and it will have to satisfy itself in its discussions with the congregation that it can do that. Neither I nor my Department are party to an agreement made in 2008. I am not aware of the agreement to which the Deputy refers and, as such, that is a matter on which I cannot comment. As already stated, I will write to the Christian Brothers to seek clarification on a number of points, including to what extent the contracts referred to in the letter I received are legally binding.

The Deputy asked about the status of lands owned by the Christian Brothers and their relationship to the State. He suggests that I have the power to force the transfer of lands to the State but that is not the case. The agreement by the orders after the Ryan report was voluntary in nature and the State did not have the power to compel the transfer of any particular lands. Selling lands is a matter for the congregations involved. I do not have the power to which the Deputy refers.

The issue of playing fields has been opened up again and the Committee of Public Accounts and Comptroller and Auditor General commented adversely on the way they had been withdrawn from an original proposal. The order has written to me indicating that it is open to considering an agreement that had been suggested by a previous Minister for Education, Ruairí Quinn. That will have to be examined in due course.

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School Accommodation Provision

Acting Chairman (Deputy Eugene Murphy): I understand Deputy Ó Laoghaire will give way to his constituency colleague, Deputy Michael McGrath, after three minutes.

Deputy Donnchadh Ó Laoghaire: The southern part of metropolitan Cork has experienced significant growth in population. Thar timpeall ar an Dúglas agus i mBaile an Róistigh tá an pobal thart ar 25,000 duine agus i gCarragh Uí Leighin tá an pobal tar éis méadú ó 12,000 go 16,000 ó bhí 2006 ann. Consequently, and rightly, new schools have been planned for these areas, which I welcome. However, three schools face significant difficulties due to the arrangements made or, more specifically, not made. First, I will touch on the challenges facing Gaelcholáiste and Gaelscoil Carrig Uí Leighin. The school was opened in temporary accommodation in September 2015 following a lengthy campaign by parents. A site was secured in 2010 with a view to accommodating the Gaelcholáiste, a new site for the Gaelscoil and a special school. An *Irish Examiner* article from 2015 states that the Department expected the building to be ready by September 2016 but not a block has been laid. The Department is currently saying that it will be ready for December 2019, nine years on from purchase of the site. The process has been deeply frustrating for all involved, the cost appears to have increased and the timescales keep moving, causing serious difficulties.

The Gaelscoil expanded to three streams on the strength of a belief that the campus would be available and there are now 600 children on the site of a building initially developed for 200. The situation is farcical and very unfair on the schools involved and it will present a health and safety issue for the Gaelscoil. A permanent home has been identified for the Educate Together secondary school but the school is currently a tenant at Nagle community school. An interim building was to be developed in the vicinity for September 2017 but it has since become clear that there was not the necessary time to construct a temporary building. The school is soon to close for the year. It is operating out of two classrooms so can the Minister assure the school that, in the interim, adequate space will exist in Nagle community school for Educate Together to function adequately? Can the Minister give a timeline for the delivery of quality temporary accommodation for the Educate Together secondary school?

Deputy Michael McGrath: I thank Deputy Ó Laoghaire for giving me some time on this important issue. We are looking clarity on the campus development at Ballinrea, Carrigaline. I received a reply to a parliamentary question on 11 May which was very non-committal and evasive. I sought a timeframe for the development of the school, details of when it would go to tender and construction and when it would be occupied. I also sought an assurance that the capital funding was in place.

The campus is to have three schools and the current Gaelscoil in Carrigaline is bursting at the seams having become a three-stream school on the encouragement of the Department. The Gaelcholáiste is a new school and parents who are considering their child there want certainty that the new school building in Ballinrea will be ready in the near future. The Sonas special junior school for children on the autism spectrum has expanded across two sites in Carrigaline, which is far from ideal. Is the Department fully committed to this project and when is it going to go ahead to tender and construction? A reply from the Minister last November indicated that the Department was considering a fee schedule from the design team but a reply of the past two weeks stated that only a part of the fee schedule had been approved. That concerns me deeply. We need certainty for the three schools in question and the wider community they serve.

Deputy Richard Bruton: I thank the Deputy for raising this matter on the Educate Together secondary school and Gaelcholáiste Carrig Uí Leighin. As the Deputy is probably aware, Cork Educate Together secondary school was established in 2016. It is currently operating from part of Nagle community college, Mahon, Blackrock, County Cork. An extension of this arrangement was recently agreed with the school authority pending the delivery of alternative temporary accommodation which is being arranged by the school's patron body. I want to take the opportunity to put on record my Department's appreciation of the assistance of Nagle community college for facilitating this arrangement, which represents an excellent example of co-operation by the education partners in Cork.

In general, all new schools commence operation in temporary accommodation with a view to permanent accommodation being provided for them by my Department as quickly as possible. Officials in my Department have engaged with officials in Cork County Council under the memorandum of understanding for the acquisition of school sites with a view to identifying and acquiring a suitable site to accommodate Cork Educate Together secondary school. A number of site options were identified and a comprehensive technical assessment of feasibility was undertaken in respect of each option. A suitable site on the Old Carrigaline Road, adjacent to Douglas Garda station, has been identified and the acquisition process for this is at an advanced stage.

Departmental officials continue to work with Cork County Council in the context of the draft Ballincollig-Carrigaline local area plan with regard to the potential development of the site in question. Subject to the satisfactory completion of the conveyancing process and the views of the local authority, this site acquisition is being progressed with the intention of serving as the permanent location for Cork Educate Together secondary school. Development of the site will also be subject to planning permission being obtained. With regard to Gaelcholáiste Carrig Uí Leighin the Deputy will probably be aware that the intention is provide a new building for this school as part of multi-million euro school campus arrangement at Ardnacloghy in Carrigaline. Apart from a new state-of-the-art building for Gaelcholáiste Carrig Uí Leighin, the project also comprises new buildings for the local Gaelscoil and for a special school. The project has been devolved for delivery to the Cork education and training board. While earlier issues with planning permission have caused delay with this project, these have now been resolved and planning permission has been granted so that the project can now move ahead to the next stage.

I am pleased to be able to tell the Deputy that the education and training board's design team is currently preparing tender documents to pre-qualify contractors for the project. When the pre-qualification process has been completed, this positions the project to move to the tender process for construction. However, the existing contractual commitments for 2017 now fully account for the funding which was allocated for 2017 and carry a significant contractual commitment into 2018. This means that the Department must carefully manage the flow of additional projects to tender and construction stages for 2018. My Department will consider a request from Cork Education and Training Board for approval to proceed to tender for the full campus project when the pre-qualification process outlined has been completed. Our aim will be to progress all projects as quickly as possible, as soon as funding becomes available. In the meantime, Gaelcholáiste Carrig Uí Leighin is being accommodated temporarily in premises locally.

Deputy Donnchadh Ó Laoghaire: I am not terribly reassured by that. The site for the Gaelcholáiste was secured in 2010 and we are now in May 2017. The Department is entirely capable of delivering a building before December 2019 on a site that has already been pur-

chased. The potential of the school is being held back and it is not good enough to say it has to go to the back of the queue. The desire to build this school was in the system far in advance of many of the other schools which are currently funded. The Department has to progress this sooner and it will create a serious difficulty for the Gaelscoil and the Gaelcholáiste if it is not delivered. It can be done but the cost and the timescales seem to be increasing all the time, which is not acceptable.

I note the point about the Educate Together secondary school. To an extent, this is a new development. However, it is unfair on Nagle community school that it is dealing with the consequences of the Department's failures. There is no reference to temporary accommodation being provided until the permanent site is developed. It is quite worrying that the Department's attitude is that Nagle community school will be the location for the Educate Together secondary school until the permanent site is developed. Can the Minister clarify if that is the case? If so, that is an unacceptable situation in the context of needing space for resource teaching, for an autism spectrum disorder, ASD, unit which it has been operating and various other items.

I will share the remainder of my time with Deputy Michael McGrath.

Deputy Michael McGrath: I support everything that Deputy Ó Laoghaire has said in regard to the Cork Educate Together secondary school. There is an urgent need for clarity in regard to the temporary accommodation arrangements for the 2017-18 school year. There has been a great deal of messing in regard to that issue. There is still no clarity. I welcome that the site for the permanent building is being bought but I ask the Minister to focus on having proper arrangements in place for the temporary facility for next year.

I am concerned by the Minister's response regarding the campus development in Carrigaline. He spoke of contractual commitments spilling over into 2018. We have been told that the worst-case scenario is that the campus will be ready by the end of 2019. I question that. I worry about that. Even if it is delivered by then, that will create serious communities for those three school communities. We need greater clarity, the support of Government and that there be no undue delay in this project getting to tender and construction and getting on site as quickly as possible.

Deputy Richard Bruton: The response that I have received, which I presume is accurate, states that an extension of the arrangement at the Nagle community college was recently agreed with the school authority pending the delivery of alternative temporary accommodation, which is being arranged by the school's patron body. It therefore appears that the present situation is there is an extension of the arrangement at Nagle community college. It is not satisfactory that the process takes such a long time but there appear to have been planning difficulties. However, I am unaware of the backdrop to those difficulties or why they delayed the obtaining of planning permission on the site. I will seek clarification for Deputies Ó Laoghaire and Michael McGrath in regard to the temporary accommodation in order to clarify for them how the arrangements will work.

Deputy McGrath raised the wider issue of the pace of school building programmes and the Department meeting targets in that regard. Each year, the Department increases the number of places provided for. This year, the Department will provide 22,000. We must ensure, however, that we are in a position to spend every penny we get. There are a large number of major projects proceeding at all times. Some get held up. At any point in the supply chain we must ensure that we spend every penny made available to me in this regard. Having a continuous supply

of projects that are shovel-ready is very important to ensure that the available capital budget in this area is fully exploited.

Deputy Michael McGrath: If that is the case, the Minister should ensure that this particular project is kept moving.

Deputy Richard Bruton: There are always projects and we must ensure that this situation continues. We will attempt to accommodate this project as quickly as possible. We have given pre-clearance to the approval of the contractors and it is hoped that we will soon be in a position to allow it go to the next stage.

Message from Select Committee

Acting Chairman (Deputy Eugene Murphy): The Select Committee on Jobs, Enterprise and Innovation has concluded its consideration of the Competition (Amendment) Bill 2016 and the Companies (Amendment) Bill 2017, and has made no amendments thereto.

Commission of Investigation (National Asset Management Agency) Order 2017: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That Dáil Éireann approves the following Order in draft:

Commission of Investigation (National Asset Management Agency) Order 2017,
copies of which Order in draft were laid before Dáil Éireann on 9 May 2017.

I will briefly summarise the matters that have led the Government to accept there is a need for a commission of investigation into matters of significant public concern in regard to NAMA's sale of Project Eagle. Deputies are aware that NAMA was established as part of the response to the banking crisis that arose in 2008. Its objective was to acquire loans from eligible banks, hold and manage these loans and related collateral, which was mainly commercial property, and to achieve the best financial return for the State by disposing of those assets in an expeditious manner.

NAMA acquired the loans from the participating banks for a total of €31.8 billion. Reflecting the steep reduction in property values following the financial crisis, this represented 43% of the outstanding amount owed by debtors. NAMA's purchase was funded predominantly through €30.2 billion of Government-guaranteed senior NAMA bonds, which was a large contingent liability for the State. At that time, there was no doubt that the repayment of this debt would be extremely challenging and vitally important to improving the creditworthiness of the State. To be successful, NAMA would have to make important and commercially-informed decisions at a time of great economic crisis.

It is important to note that since 2010, against all expectations, NAMA has redeemed 98% of its senior debt, thus reducing the State's contingent liability from the original €30.2 billion to just €500 million today. NAMA expects to redeem the remaining €500 million in 2017 and to ultimately deliver a surplus of over €2 billion to the State. The full repayment of NAMA's debt, let alone returning a surplus to the State, was considered unthinkable by most people at

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the time of NAMA's inception. NAMA's focus during the period from 2018 to 2020 will be on completing its objectives, include delivery of office space in the Dublin docklands and much-needed housing.

All Members of this House are now familiar with the fact that NAMA sold the Project Eagle portfolio to Cerberus in 2014. The sale represented NAMA's largest transaction up to that point. Issues relating to the sale of NAMA's Project Eagle portfolio subsequently became the subject of much media and political debate, including in this House and in the Northern Ireland Assembly.

During 2016, the Comptroller and Auditor General carried out an investigation into the sale in order to ascertain if NAMA had obtained the best achievable financial return for the State. In September 2016, the Comptroller and Auditor General published a special report on NAMA's sale of the Project Eagle portfolio, which criticised elements of NAMA's performance. The Comptroller and Auditor General concluded that the decision to sell the loans at a minimum price of £1.3 billion involved a significant probable loss of up to £190 million in terms of net present value, NPV. It also concluded that restrictions on the sales process, combined with the scope of Lazard's comfort letter, did not provide sufficient assurance that a different marketing strategy for the loans or different timing of the sale could not have resulted in NAMA achieving a higher price from the sale of the loans; and allegations of the involvement of a member of NAMA's Northern Ireland advisory committee in an arrangement to share fees with law firms connected to the sale warranted more action by NAMA. Following publication of the report, NAMA indicated that it fundamentally disagreed with many of the conclusions reached by the Comptroller and Auditor General.

On 14 March 2017, the Committee of Public Accounts published a report on NAMA's sale of Project Eagle. The report was completed following extensive public meetings at which many key witnesses gave evidence. I would like to acknowledge the contribution of the Chairman of that committee, Deputy Sean Fleming, and the other members of the committee, for their work in compiling this report. The conclusions in the report include that the Comptroller and Auditor General's report was evidence-based, balanced and reasonable and that the Project Eagle sale was marked by inadequate record-keeping, weaknesses in regard to the management of conflicts of interest, a seriously deficient sales process and, ultimately, an inability by NAMA to demonstrate that it had obtained the best value for money for the State. The Committee of Public Accounts welcomed the proposal to establish a commission of investigation into the sale of NAMA's Northern Ireland portfolio and was of the opinion that it should proceed.

I emphasise there has been extensive consultation with all parties in the Oireachtas since last September about the establishment of this commission of investigation. The Taoiseach met Opposition leaders on a number of occasions, both before and after the Committee of Public Accounts report was published. At those meetings, all present acknowledged the limitations a commission of investigation will face due to the cross-jurisdictional nature of the issues, as well as ongoing criminal investigations. At those meetings, the Taoiseach also emphasised that it was unclear how much more information a commission would be able to provide beyond what the Committee of Public Accounts has already achieved. Nonetheless, in view of the consensus among Opposition representatives that a commission of investigation be established and despite its likely cost, the Government has agreed to establish the commission. I am pleased to confirm that Mr. Justice John Cooke, former High Court judge, has agreed to chair the commission of investigation.

The Taoiseach also consulted Opposition representatives on the terms of reference of the commission and a number of suggested amendments were taken on board in the final version laid before the Oireachtas on 9 May. Under its terms of reference the commission will, in the first module of its work, investigate NAMA's sale of Project Eagle. As agreed with Opposition representatives, it will be possible to amend the terms of reference, in accordance with the Commissions of Investigation Act 2004, to provide for further modules at a future point. In particular, the commission is to investigate, having regard to NAMA's statutory obligations under the National Asset Management Agency Act 2009 and appropriate commercial practice whether the disposal strategy for its Northern Ireland loan portfolio, including the timing of the disposal and sale as a single portfolio, was appropriate in the circumstances; whether the minimum price applied and how it was derived in respect of its Northern Ireland loan portfolio were appropriate in the circumstances; whether the management of the sales process by NAMA, including procedures and controls applied, timeframes, access to potential bidders and record keeping, was appropriate in the circumstances and demonstrated best corporate governance; and whether any conflicts of interest arising with regard to members of NAMA's Northern Ireland advisory committee were managed appropriately in the circumstances. The commission also is to investigate when and how NAMA became aware of fees allegedly payable to a former member of the Northern Ireland advisory committee by bidders on Project Eagle and whether this issue was managed appropriately by NAMA during the sale of the Northern Ireland loan portfolio and if decisions and actions of the Minister for Finance and the Department of Finance relating to the disposal of the Northern Ireland portfolio, including communications with members and officials of the Northern Ireland Executive and meetings with potential bidders, were appropriate in the circumstances.

The commission shall avail of appropriate and independent commercial and financial expertise to inform its investigation. The commission will provide a final report on this first module of its work by the end of June 2018, subject to section 6(6) of the Commissions of Investigation Act 2004.

I note Deputy Wallace has submitted an amendment to the Government motion today and I wish to point out the Government will not be accepting the amendment. Due to the constraints on my speaking time today, I cannot go into detail regarding all aspects of Deputy Wallace's amendment but I would like to comment briefly on a number of points. First, Deputy Wallace wishes to remove the provision authorising the Taoiseach to appoint members of the commission. It is not clear why this amendment is being proposed as under the Commissions of Investigation Act 2004, only the Government or the Taoiseach can make such an appointment. As for the commission's terms of reference, the Deputy has suggested a number of amendments. However, the Government believes the current wording, which reflects the consultation with Opposition representatives, including Deputy Wallace, is sufficient and appropriate. Deputy Wallace's amendment also calls for primary legislation to deal with potential claims of privilege and confidentiality that may arise for the commission in its work. While bespoke legislation was enacted in respect of the IBRC commission of investigation, the Government's view is this is not required for this commission. However, as agreed in discussions with the Opposition, the commission will provide an interim report within three months. At that point any specific obstacles identified, legislative or otherwise, can be dealt with. In addition, as all Deputies will be aware, primary legislation takes time and I do not believe the establishment of the commission should be delayed until bespoke legislation, that may well not be needed, is enacted. Finally, the Attorney General's office has advised that the power of the Oireachtas is to approve or not approve the draft Government order. The Oireachtas cannot amend the draft Government or-

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der, which is an order of the Government under section 3 of the 2004 Act.

If this draft order is not approved, the Government will not be able to establish the commission without a new draft order being made and then passed by both Houses of the Oireachtas.

Acting Chairman (Deputy Eugene Murphy): I ask the Minister of State to conclude as his time is up.

Deputy Paul Kehoe: I need one minute, if that is agreeable to the House.

Acting Chairman (Deputy Eugene Murphy): Is that agreed? Agreed.

Deputy Paul Kehoe: The exact requirements of the commission will become clearer once the commission is established and begins to scope out its work in more detail. The appointment of staff and their terms and conditions will be subject to approval by the Taoiseach as the specified Minister with the consent of the Minister for Public Expenditure and Reform. Significant costs may arise in recruiting independent specialist financial expertise, possibly from overseas. Based on an initial assessment and taking account of the cost estimate for the IBRC commission to investigate one transaction, an approximate cost of €10 million is proposed. This may be an over-estimate if the commission does not suffer from the same level of third party costs and other challenges faced by the IBRC commission. Nonetheless, this estimate was conveyed to the Opposition leaders at all times during the Taoiseach's discussions with them. It is important to note that this estimate refers to the proposed first module of the commission's work on NAMA's sale of Project Eagle only. I believe there is a shared commitment and resolve among the Members of this House that the matters giving rise to public concern regarding the sale by NAMA of its Project Eagle portfolio are investigated thoroughly, effectively and in a timely manner. The Government and the Opposition leaders have agreed that a commission of investigation is the best method of answering the questions that have been the subject of much media and public debate. I commend the motion to the House.

Deputy Michael McGrath: The establishment of this investigation is welcome but it should have taken place well before now. After denial and stonewalling, the Government was dragged into conceding what the public has known since this controversy first arose, which is that the Project Eagle sales process fell - to put it mildly - a long way short of what we would expect for a transaction of this scale and certain aspects of it are nothing short of deeply disturbing. Project Eagle was a £1.1 billion transaction and the Comptroller and Auditor General concluded that there was a probable loss of value to the State of up to £190 million in net present value terms because of the way it was conducted.

I would like to focus on the reasons this inquiry is being established and the answers that we want it to produce. NAMA was established as an arm's length entity, which was to be entirely immune from political involvement. Public trust in its work rested on the belief that it would operate at all times to the highest standards of corporate governance and would do everything possible to maximise the funding recouped for the people. The accumulation of evidence on Project Eagle means that there is legitimate public concern about the process, price, insider information and inappropriate political involvement. The decision to sell the Northern Ireland portfolio occurred four years into NAMA's work at a time when it was well established and the national financial emergency was over.

The sequence of events in 2013 is very concerning. In June 2013 the Minister for Finance in Northern Ireland contacted the Minister for Finance, Deputy Noonan, to say that he had been

contacted by an investor about purchasing NAMA's northern assets. Five months later a member of the Northern Ireland advisory committee resigned, effectively to get involved in the process, and a further month later Project Eagle was launched. While that sales process was under way, the Minister, Deputy Noonan met one of the bidders in a meeting which he has defended as appropriate but which the Committee of Public Accounts decided by majority vote was procedurally inappropriate. As was addressed at great length in another inquiry, a Minister meeting a bidder during a closed and arm's length sale of a public asset is very unusual, especially if the Government has no role in setting the policy or regulatory framework which impacts on the asset. Once the sale went through, there have been consistent claims, including by the Comptroller and Auditor General, that the process was flawed and resulted in a major loss for the State.

I welcome that the commission will have at its disposal the appropriate independent commercial and financial expertise to inform its investigation. Given the conflict between the Comptroller and Auditor General and NAMA on technical issues around the discounting of cashflows, issues which are indeed fundamental to the overall conclusion reached by the Comptroller and Auditor General, having this expertise at the commission's disposal is essential.

What has been especially striking over the past year has been the aggression - we witnessed it a number of weeks ago in this House when the Minister, Deputy Noonan attacked the independent Chairman of the Committee of Public Accounts - with which the Government has defended not just the legality but also the propriety of its political actions. Such actions include a number of discussions on a North-South basis and the Minister for Finance's meeting the bidder. The Government has sought to frustrate and dismiss concerns about a potentially undermined process and, indeed, suspicious political involvement. As the Minister of State, Deputy Kehoe, has said tonight, jurisdictional issues are a major problem in this inquiry. Given that the DUP cannot lodge a petition of concern by itself, it is our hope that when the assembly and Executive get back to work, the majority will take steps to support the investigation which it is hoped this House will establish shortly. I also call on the Government to write formally to the Northern Ireland Executive, assembly and Secretary of State seeking their full co-operation in all matters pertaining to this investigation.

It may well be that there are other transactions in NAMA which deserve deeper public scrutiny. I have publicly raised questions about Project Tolka, for example. There is an absolute need to get to the bottom of the Project Eagle process and outturn in the first instance. The terms of reference provide for further modules in respect of other transactions, if necessary. I welcome the statement by the Minister of State, Deputy Kehoe, that any issues identified during the interim report, which will be furnished to the Government after three months, will be addressed. It is to be hoped we can understand that as a firm commitment from the Government. That would certainly be the desire of the Fianna Fáil Party.

I wish Mr. Justice Cooke and all involved in the commission team well in their efforts to get some answers to fundamental questions that remain outstanding in respect of the Project Eagle transaction.

Deputy Sean Fleming: I join my colleague, Deputy McGrath, in welcoming the establishment of this very important commission of investigation, which I do not doubt the Government will formally establish in the next couple of weeks. At this early stage, I also welcome the nomination of Mr. Justice Cooke to take charge of it. Although arrangements have to be made for accommodation, location, staffing and resources, it is to be hoped the commission will be fully up and running within the next couple of weeks.

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A question has been raised about the draft terms of reference. I understand the Attorney General has stated that the House can either approve the draft terms of reference or not, but it cannot amend them. While I accept that this is the legal position, if the Taoiseach is of a mind to change the draft terms of reference, I suggest that he might come back to the Oireachtas to get approval. We have approved the draft terms of reference in good faith on the basis that there will be no change to them prior to the Minister's formal establishment of the commission by statutory instrument. We can operate in good faith on that basis.

I welcome the commission. It has been called for over recent months. As Chairman of the Committee of Public Accounts, I was neutral on the matter until I examined it as part of our considerations of Project Eagle when the committee came to the firm conclusion that this commission of investigation should be established forthwith.

Fianna Fáil is pleased with the terms of reference, which include examination of the disposal strategy by NAMA of its Northern Ireland loan book portfolio, and consideration of the minimum price supplied. This is a very important issue. There were many technical discussions about what discount rate was being used. I have come to the view that the minimum price was set by the bidder that had made an earlier submission for up to £1.3 billion. The format was restrictive. It was not a publicly identified sales process and various conditions were attached to it. The person had to have the money on the table and there would not be any pre-financing agreements to be put in place. That really limited the scope of those who could bid. I believe that to be one of the reasons we had such a specific minimum price set.

There is a need to look at the management of the sales process, as the Committee of Public Accounts concluded in respect of NAMA's sales process. The commission should also look at the Northern Ireland advisory committee and how NAMA handled the conflicts of interest. I think it was far too laid back. The Committee of Public Accounts criticised NAMA in its report. There were conflicts of interest at an early stage and, although NAMA should have dealt with them in a timely fashion, it never did so adequately. There should also be examination of the contacts and discussions between the Department of Finance in the South and the Minister of Finance in Northern Ireland prior to the formal launch of the Project Eagle bid.

I welcome that the commission of investigation will be able to issue a recommendation as it sees fit. People will ask how long this will go on. That is the burning question. I am pleased that, according to the draft terms of reference, an interim report is to be presented to the Taoiseach within three months of the date of the commission's establishment. If it is established in mid-June, we would expect to be discussing the interim report before the end of September when we come back after the summer recess. It should be in the Taoiseach's hands by that time. There is then scope for adding further modules to the investigation as time goes along.

The Committee of Public Accounts did find that it was not appropriate for NAMA as a contracting body to meet Cerberus representatives the day before the Project Eagle bid closing date. We also found that it was not procedurally appropriate for the Minister for Finance to meet the same people on the same day, and I have no doubt that Mr. Justice Cooke will examine those issues. We were firmly of the view that the sale of Project Eagle was not a well-designed process and that the strategy pursued by NAMA included restrictions of such significance that it could be described as seriously deficient. It was the opinion of the committee that NAMA was unable to demonstrate that by pursuing such a strategy, it got value for money for the Irish State in respect of the price achieved.

The Committee of Public Accounts will pass to the commission all documentation that came to it. The committee members are happy and willing to assist in any way we can, including by providing the letters received from NAMA on 19 April 2017 and the committee's response on 15 May 2017, which came after the publication of the draft terms of reference.

If I may say so, the Committee of Public Accounts did outstanding work and produced a great report at absolutely no additional cost whatever to the taxpayer. Not a penny did we incur. It was all done using the facilities here in the Houses of the Oireachtas and by the members of the committee, whereas we are now putting forward €10 million for this. I hope we get value for money.

Deputy Pearse Doherty: Cuirim fáilte roimh an rún atá os ár gcomhair anocht. Sa deireadh thiar thall, táimid ag an bpointe seo. Le fáil go dtí an pointe seo, cuireadh go leor constaicí in ár mbealach. Bhí daoine sa Teach seo ag lorg coimisiún fiosrúcháin ag baint le díolachán Project Eagle le tamall fada. Chonaic muid arís agus arís eile an Rialtas agus Páirtí Fine Gael, le cuidiú agus le tacaíocht ó Pháirtí Fhianna Fáil, ag cur ina éadan sin. Caithfidh mé a rá go bhfuil sé anois thar a bheith bliain ó chur an Teachta Wallace an rún maidir leis an gcoimisiún os comhair na Dála. Ar an lá sin, shíl muid go mbeadh an coimisiún bunaithe agus i mbun a chuid oibre faoin am seo agus go mbeadh cuid de na torthaí le feiceáil agus an t-eolas ar fáil. Ar an drochuair, áfach, tháinig leasú ag an am sin ó Pháirtí Fhianna Fáil a dúirt nár chóir coimisiún fiosrúcháin a bheith bunaithe go dtí go raibh críoch leis na fiosrúcháin uilig a bhí ar siúl ag na fórsaí póilíneachta ar fud an domhain a bhí ag déileáil leis seo sna Stáit Aontaithe, sa Bhreatain agus a leithéid mar sin. Caithfidh mé a rá, áfach, go bhfuil mé iontach sásta go bhfuil achan pháirtí anois, mar a thuigim é, ag tabhairt tacaíocht don rún seo.

I welcome the fact that we are agreeing, across parties and across the Chamber, to establish a commission of investigation into the sale of Project Eagle. This is something Sinn Féin has been hailing for many years. Indeed, the amendment from Deputy Wallace reflects a statement made by Deputy Adams in light of the Fianna Fáil amendment to block the commission of investigation into this matter from being established 11 months ago. At the time, the Fianna Fáil representative stated, "To proceed with a Commission of Investigation while a formal criminal investigation is underway would, in our view, show reckless disregard for a police investigation and could potentially undermine prosecutions." I welcome that Fianna Fáil has changed its position on the question and that it supports the commission of investigation, as we do. We have suggested, as has Deputy Wallace in this instance, that the IBRC model would be the most appropriate way in which to investigate the matter.

There has been needless delay in respect of this issue. The commission of investigation should have been established. In the meantime, God only knows what has gone on in NAMA. For example, since that motion was tabled in the Dáil, we have had the sale of Project Jewel. We have seen some of the spin-offs from Project Jewel in the sense that one of the REITs bought some of the best assets. We can see the pressure this is putting on the housing market and tenants as a result.

I have no doubt that the change of mind from Fine Gael and Fianna Fáil on this matter has not simply come as a result of the pressure applied politically in the House but more so from public pressure. It has become unsustainable to stand against the idea of establishing a commission of investigation given the wealth of information in the public domain.

I value the work the Committee of Public Accounts has done, but I believe that it was not

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necessary in this case because the information was available. We saw it on our television screens and we can read the transcripts. The documentation was available. There was enough evidence to suggest that a commission of investigation was needed. Indeed, there is nothing in the Committee of Public Accounts report that actually adds anything. It parses the evidence and presents it again but there is nothing to allow us reinforce our view that a commission of investigation should have been put in place.

I commend the work of the Comptroller and Auditor General in particular as well as the members of the Committee of Public Accounts in not letting the issue rest. I understand there was a difference of opinion in respect of one of the findings at the committee. It related to whether the Minister for Finance, Deputy Noonan, met a person or whether that was appropriate. He had the meeting. In my view, it was inappropriate. In any event, that is not the biggest or most central issue. The biggest issue is that a State agency sold billions of euro of our assets. I am not simply referring to Project Eagle, although billions were at stake in that case also. In this instance, we have fixer fees, conflicts of interest, offshore accounts, eve-of-bid ministerial interventions and political-to-political interventions. All of these things happened. It would make for a good crime thriller, the type that a person could pick up in an airport bookshop, but this is real life and this is our money. As the Comptroller and Auditor General suggested, there is a probable loss of in the region of £190 million. This is at a time when our State cannot fund vital essential services, including those for children with special needs, people who have difficulties in accessing home help and those for children who cannot obtain access to special needs assistants in the education sector in order to ensure that they reach their full potential. This State agency has resulted in a probable loss of close to €250 billion and yet the Government, with the support of Fianna Fáil, was willing to sweep this under the carpet for a long time. Having said that, I welcome the fact that the commission is here.

I agree with the terms of reference. The first module should examine Project Eagle. I have always argued that there needs to be other modules. We will come to that as time passes by. Let us see how we get on with the first module. I have no doubt that it will be difficult. Cross-jurisdictional issues will arise and individuals may or may not comply with the commission of investigation. I appeal to everyone to engage with the commission of investigation in order to ensure that the truth emerges.

I welcome the fact that the decisions and actions of the Minister for Finance and his Department regarding the disposal of the northern portfolio will be examined. This includes examining whether communications with members and officials of the executives and meetings with potential bidders were appropriate in the circumstances. I welcome that this point is included in the terms of reference.

The Minister tells us that there was never any political interference of NAMA to sell. That is nonsense. How do I know that? We know from a recent freedom of information request from journalists Conor Molumby and Mark Tighe. They revealed new documents that call this very issue into serious question:

The Minister noted that following Ireland's emergence from the Bailout Programme, one of the Government's key priorities was to reduce Ireland's debt to GDP ratio from the current 120% to the European average of 94%. The Minister noted the wider implications and impact of NAMA's performance for the country and particularly for the banks. In this context he noted that the proceeds from a sale of Ireland's bank shares could be used to reduce the national debt and requested that NAMA consider whether it could advance the

repayment schedule of Senior Bonds through accelerating asset disposals with a view to making bank assets more saleable.

For me, that statement is clear. It amounts to the Minister for Finance - the political master of the day - giving the green light to NAMA to sell as quickly as possible rather than to sell as wisely as possible. It flies in the face of statement after statement that has been paraded in the House to the effect that the Minister did not direct or provide influence on NAMA to accelerate the process. All of this needs to be dealt with by the commission of investigation.

Something is altogether lacking at the heart of this State, because we have to go again and establish a commission of investigation. It will not be the last one. There is another inquiry into IBRC. We have commissions of investigation falling around us. The reason is that this State does not do accountability. Today, events in the courts have highlighted the weakness of white-collar crime legislation and enforcement. If the House and its legislators did their job right, we would not be talking about establishing another tribunal or commission of investigation. We would not be referring to reports such as those produced by the Moriarty tribunal or the Mahon tribunal in respect of which nothing actually happened. If we ensured that the legislation was robust, then there would be no excuses for the failings of the past.

Let us consider the Office of the Director of Corporate Enforcement. The staff of the office has been cut by 25% since Deputy Enda Kenny became Taoiseach. In 2007, Deputy Micheál Martin refused point blank to support the claims of the office to increase its workforce by 20. Bertie Ahern said that the office needed to get in line. That was at the time when the bankers were running amok and when they cost us billions of euro. We still do not have laws on reckless lending. We do not do white-collar crime in this country unless we take it from the script of the Minister for Social Protection, Deputy Varadkar, which holds that the only white-collar crime relates to welfare fraud. When it comes to wrecking the economy, the country, reckless lending, fixer fees, conflicts of interest relating to billions of euro and so on, then it is a free pass.

There must be clear lessons learned. We need to establish the commission of investigation because it is the only option. We need to learn the from what has happened. We need to get our act together and legislate properly in respect of white collar crime to ensure such activities never happen again.

It is absolutely unbelievable that we are allowing NAMA to sell off our assets as this commission of investigation is ongoing. The House is agreeing to establish a commission of investigation into what has happened in NAMA. Yet, NAMA has billions of euro of our money. The money is in property - bricks and mortar - greenfield sites and so on, but it is our money and we are allowing NAMA to do whatever it wants with that money while we are investigating whether what NAMA did in a €1.1 billion transaction was appropriate. There should be a complete freeze on NAMA's sales.

Deputy Mick Barry: I support the amendments to the Government motion seeking to focus the commission of investigation but also seeking to suspend NAMA sales pending the completion of the investigation. We are in the habit of having investigations and commissions that tread over the same ground.

It remains to be seen if this investigation will get us any further. That said, it is walking on the foundation of the Comptroller and Auditor General's report on Project Eagle, which tells us quite a lot about what we need to know about NAMA's operations. According to the Comptrol-

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ler and Auditor General, NAMA incurred a potential loss to the taxpayer of €223 million on the sale of a portfolio of all of its remaining 860 Northern Irish loans and 900-plus properties to Cerberus for €1.53 billion in April 2014. However, according to *The Irish Times*, the original book value of the Project Eagle loans was more than €6 billion. In that sense, the true loss to the State was actually approximately €4.5 billion and not €223 million.

I want to challenge again the typical response those of us on the left received throughout NAMA's existence from the Minister for Finance, Deputy Noonan, when we highlighted how NAMA's brief could have been radically altered in order to make a significant contribution to the resolution of the housing and accommodation crisis. The Minister's refrain was that NAMA had to get the best deal possible for the taxpayer. The uncontested facts around Project Eagle alone knock that one on the head. I put it to the Minister and the Government that not utilising NAMA's assets, even on the basis of their own narrow criteria of the best deal for the taxpayer, does not make sense. Had NAMA's resources and assets, including €2.4 billion in cash reserves last year and a projected €2.8 billion in overseas sales, been deployed to help solve the housing crisis over the past three years, how much would have been saved out of the tens of millions that have been spent on emergency accommodation? How many of the millions spent on rent supplement and the housing assistance payment, HAP, for extortionate rents would have been saved?

A 2014 National Economic and Social Council, NESC, report found there were 47,000 households on rent supplement that were not on the housing list. According to the Department of Social Protection, in 2014-15 there were between 30,000 and 31,500 tenancies with private landlords supported by the rental accommodation scheme, RAS, which would have been taken off the housing list. In addition, there are 8,800 households on the housing assistance payment, HAP. All of these schemes together cost approximately €500 million in handouts to private landlords. This is money that could be better spent building and acquiring permanent public housing. Some €6 billion was spent on rent subsidies to private landlords since 2004. That could have been used to build 60,000 permanent council homes by now.

Even that is not the full picture. There is also the societal costs that cannot be translated easily into monetary statistics. They include the mental and physical health of those who have experienced homelessness and overcrowding and the disruption to the schooling of children forced to live in emergency accommodation. It is clear that these calculations did not even enter the heads of those in this Government and, despite what we now know, nor is the Government inclined to change course now. Instead, its main concern is to prevent the retooling of NAMA as a public housing body. Why? It is because of the depressing impact it would have on private developers' ability to turn a big profit. According to the CEO of NAMA, Brendan McDonagh, many developers are, in his words, "not satisfied" with a €20,000 profit on a €300,000 home. They would rather wait until prices rose to a point at which a €50,000 profit was possible. He explained this to the special housing committee that was set up by this House after last year's election. He stated:

...if sales prices went up by 5%, the profit would increase to €30,000. If they went up 10%, the profit would increase to €40,000. That is the dynamic of the market.

The strength of my argument is also shown by estimates on the component costs of a €330,000 house that were provided to the committee by the Society of Chartered Surveyors Ireland. These estimates allow for nearly €40,000 in developer's profit on a €330,000 house. According to the chair of NAMA, Frank Daly, land speculators in Dublin are currently seeking

returns of 15% to 20%. That NAMA has acted as an accessory to the de facto strike in investment by developers is, of course, perfectly legal. However, for some of us it is even a bigger scandal that is worthy of exposure. It is even bigger a scandal than what has happened with Project Eagle, though that be scandal itself.

Deputy Mick Wallace: I move amendment No. 1:

To insert the following after “9th May, 2017”:

“, with the inclusion of the following amendments to the draft Order, which Dáil Éireann calls on the Government to make:

(a) the deletion of Article 4(2);

(b) after Article 4(4) the insertion of the following Schedule to the Order:

‘SCHEDULE

Commission of Investigation (National Asset Management Agency)

Terms of Reference

1. In the first module of its work, the Commission is directed to investigate and make a report to the Taoiseach in accordance with the provisions of section 32 of the Commissions of Investigation Act 2004 (No. 23 of 2004) regarding matters relating to the marketing and disposal of the National Asset Management Agency’s Northern Ireland loan portfolio in the period 1st May, 2010 to 30th June, 2014 (the “Relevant Period”).

2. In particular, the Commission is to investigate, having regard to NAMA’s statutory obligations under the National Asset Management Agency Act 2009 and appropriate commercial practice in the Relevant Period:

(a) if the disposal strategy for its Northern Ireland loan portfolio (including the timing of the disposal and sale as a single portfolio) was appropriate in the circumstances and was commercially sound;

(b) if the minimum price applied (and how it was derived) in relation to its Northern Ireland loan portfolio was appropriate in the circumstances and was commercially sound;

(c) if the management of the sales process by NAMA, (including procedures and controls applied, time frames and access to potential bidders and record keeping) was appropriate in the circumstances and demonstrate best corporate governance;

(d) if any conflicts of interest arising in relation to officials, executives, advisors or board members of NAMA, or members of NAMA’s Northern Ireland Advisory Committee occurred and, if so, were managed appropriately in the circumstances;

(e) when and how NAMA became aware of fees allegedly payable to a former member of the Northern Ireland Advisory Committee by bidders on the Northern Ireland loan portfolio, and if this issue was managed appropriately by NAMA during the sale of the Northern Ireland loan portfolio;

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(f) if decisions and actions of the Minister for Finance and the Department of Finance relating to the disposal of the Northern Ireland portfolio, including communications with members and officials of the Northern Ireland Executive and meetings with potential bidders, were appropriate in the circumstances; and

(g) if any of the matters at (a) to (f) above or other matters of concern identified by the Commission are likely to give rise to potential public concern in respect of the ultimate returns to the taxpayer.

The Commission shall investigate anything arising outside the State that it considers relevant to any of the matters set out from (a) to (g) above in so far as the Commission considers it practicable, appropriate and reasonable to do so and considers procedures adopted for that purpose can be carried out without unduly delaying the completion of the investigation and with a substantial expectation of being able to obtain the evidence necessary for the investigation.

3. The report to be made by the Commission in relation to the foregoing investigations shall:

(a) set out the scope and findings of the investigations in fulfilment of the purposes set out in 2. above;

(b) respect obligations of confidentiality and commercial sensitivity where those are not incompatible with the public interest; and

(c) set out such recommendations as the Commission sees fit.

4. The Commission shall report on any other matters of concern arising from its investigation of the above matters and make any further recommendations as the Commission sees fit.

5. The Commission shall exercise discretion in relation to the scope and intensity of the investigation as it considers necessary and appropriate, having regard to the general objectives of the investigation.

6. The Commission shall avail of appropriate independent commercial and financial expertise to inform its investigation.

7. Where it deems it appropriate, the Commission shall draw on information already available, including that gathered by, and contained in reports of, the Comptroller and Auditor General, the Public Accounts Committee, and the Northern Ireland Assembly Committee on Finance and Personnel.

8. The Commission shall provide an interim report to the Taoiseach within three months of the date of its establishment and shall provide a final report on this first module of its work by the end of June 2018, subject to section 6 (6) of the Commissions of Investigation Act 2004.

9. These Terms of Reference may be amended under section 6 (1) of the Commissions of Investigation Act 2004 to require the Commission to undertake further modules of work in relation to certain other transactions to which NAMA has been a party or to the operations of the Agency.’; and

(c) further calls on the Government to immediately introduce a Commissions of Investigation (National Asset Management Agency) Act 2017, in the vein of the Commissions of Investigation (Irish Bank Resolution Corporation) Act 2016, to override potential claims of privilege and confidentiality, and the specific provisions of the National Asset Management Agency Act 2009 that would otherwise render the work of the Commission meaningless and make it powerless.”

I welcome the terms of reference for a commission of investigation into NAMA’s Northern Ireland loan portfolio sale. I will refer to some of the aspects of my amendment. First, however, on a general note, the Minister of State stated in his contribution that I was looking to prevent the Taoiseach from being authorised to appoint the members of the commission. However, if one checks the draft order, it states at paragraph 4.2 that the Taoiseach “is authorised to set the terms of reference of the commission”. The Government’s draft order does not include the terms of reference but instead states in Article 4(2) that the Taoiseach is authorised to set the terms of reference of the commission. We propose to delete this provision and amend the order to include the terms of reference with our changes. This format is similar to that adopted for the O’Higgins commission and the Grace commission. They included the terms of reference in the order. This is the most transparent way to ensure that the Oireachtas is able to vote on the actual terms of reference. This happened with the Grace commission. We objected to the format and the Government changed it overnight, so it is possible. The Minister of State also stated that changes cannot be made, that we have to move on and that the Government cannot accept my amendment under section 3 or whatever it is. However, everything can be done when there is the will to do it.

In the first section in the proposed terms of reference we have included a timeline and removed the reference to Project Eagle. The main reason is that, technically speaking, Project Eagle did not start until January 2014 whereas the Northern Ireland advisory committee was set up on 13 May 2010. That is when the process began. I can tell the Minister of State that as early as December 2010 Cushman was trying to sell the whole Northern Ireland loan portfolio in one block to people in the Far East. That needs to be looked at. We propose to change the time line to May 2010 to 30 June 2014, which is to be defined as the relevant period. The timeline is based on the dates of the Northern Ireland advisory committee which was formed on 13 May. If we do not include a timeline, it is possible that a judge may only be able to examine events since Project Eagle was officially launched in January 2014. Solicitors for NAMA may state that they can only give evidence relating to the period on and after the official launch date of Project Eagle. The timeline proposed will also ensure the experiences of Barry Lloyd, a Northern Irish business man based in Asia, are taken into account. Cushman was trying to sell to him in December 2010.

In paragraphs (a) and (b) of the second section in the terms of reference, we have added the phrase “commercially sound”. The Comptroller and Auditor General could not comment on the commercial aspect of NAMA’s disposal strategy and nor could the Committee of Public Accounts. It is therefore important for this to be examined. The wording “commercially sound” comes from the IBRC commission, which is examining if the transactions in question stand up to commercial scrutiny. In paragraph (d) we have added in that all NAMA’s officials, executives, agents and board members who may have had a conflict of interest must also be examined. It is too narrow to include just members of the Northern Ireland advisory committee. We have added a new paragraph (g): “If any of the matters at (a) to (f) above or other matters of concern identified by the Commission are likely to give rise to potential public concern in

respect of the ultimate returns to the taxpayer.” The reports of the Comptroller and Auditor General and the Committee of Public Accounts both commented on the loss incurred, but it is not alluded to in paragraphs (a) to (f).

Section 10 of the NAMA Act states that its primary objective is to obtain the best achievable financial return for the State. As an addendum, we have stated that new emergency legislation will need to be introduced “in the vein of the Commissions of Investigation (Irish Bank Resolution Corporation) Act 2016, to override potential claims of privilege and confidentiality, and the specific provisions of the National Asset Management Agency Act 2009”, which mean even former staff are sworn to secrecy. For example, Ronnie Hanna cited it as a reason why he could not answer questions at the Committee of Public Accounts. People may hide behind commercial sensitivity, legal privilege, client confidentiality and legal advice and members of NAMA may hide behind the NAMA Act and that should be avoided at all costs.

It is disheartening it has taken nearly two years to get to this point. It is nearly two years since we brought information into the Chamber to the effect that fixer’s fees had ended up in the Isle of Man account. Tughans confirmed it in 24 hours but it has taken the Government nearly two years to act on it, which is a disgrace and we have lost a fortune in the meantime through the activities of NAMA, which have gone unchecked in that time. We are talking about £190 million according to the Comptroller and Auditor General’s figures on Project Eagle. I assure the House if we go forensically through how NAMA behaved, the cost to the Irish State will be closer to €20 billion in total. We have not brought in 10% of the information we have got through *namaleaks.com* and other sources because we have not had 100% proof for everything. What has come to our attention is frightening. Only recently, Deputy Michael McGrath raised the Project Tolka loan sale by NAMA through parliamentary questions and credit to him for doing so. We recently wrote to Colony NorthStar, the purchaser of Tolka, and queried its role in the sale. It was not very keen to answer our questions for some reason. We understand from the Minister, Deputy Noonan’s reply to Deputy McGrath, the debtors were involved in the sales process. We also understand from another source that serious sums of money have changed hands. Watch that space.

Every week we learn something new about NAMA and its operations. Before Project Eagle was officially launched, there was a project known as Project Shift, which consisted of loans of a Northern Ireland debtor relating to German supermarkets. It was purchased by the one and only, Cerberus. From parliamentary questions, correspondence with the Comptroller and Auditor General and internal NAMA emails, we have learned a bit more about Project Shift. Ronnie Hanna ran the Project Shift sale. Ron Bolger represented Cerberus on the deal. He is the guy who arranged the meeting with Cerberus and the Minister, Deputy Noonan, the day before the bids for Project Eagle were due. I have spoken to Brian Rowntree in the past week about Project Shift. He was an external member of the Northern Ireland advisory committee, NIAC; the other was Frank Cushnahan. He has never heard of Project Shift. He told me he was led to believe by NAMA, via the chairperson and Ronnie Hanna, that Project Eagle was the first sale of any element of the Northern Ireland portfolio through a third party loan acquisition group. Since Mr. Rowntree told me this, NAMA has confirmed Project Shift was never discussed at any Northern Ireland advisory committee meetings. I do not understand it. Why was it never discussed? I also asked NAMA whether Frank Cushnahan advised the debtor in Project Shift and NAMA told me it was not in a position to establish if he did or not. That is nothing short of extraordinary. It is a “Yes” or “No” answer. NAMA knows the answer but chooses not to give it to us.

It gets worse. Cerberus was sale agreed on Project Shift before Project Eagle was officially launched. The assets in Project Shift were still included in Project Eagle. The final reserve for Project Eagle was £1.23 billion. Cerberus bid £1.241 billion, which was £11 million more than the final reserve. The price Cerberus paid NAMA for Project Eagle was £1.137 billion, £104 million less than its bid. This £104 million reduction was due to sales completed between bid and closing and included Project Shift for £76 million to Cerberus. This has been confirmed to me by the office of the Comptroller and Auditor General. What this all means is that when Cerberus was bidding for Project Eagle, it knew it was getting Project Shift already so Cerberus was really working off a reserve price of £1.154 billion - the original £1.23 billion reserve minus the £76 million for Project Shift. If Cerberus was bidding on Project Eagle, knowing the reserve would actually be £76 million lower, it could probably afford to bid a bit higher. How is this fair on Fortress, the only other bidder, which did not have access to anything like the information that Cerberus had because Cerberus bought its information? Fortress was bidding on Project Eagle without the knowledge that a minimum of £76 million would be taken off the price of the portfolio. Is this not a form of insider trading? Cerberus had non-public knowledge that the price for Project Eagle would be lower. Fortress did not have this knowledge. Why did NAMA not write to all bidders who signed non-disclosure agreements at the start of Project Eagle and inform them that a debtor was sale agreed for £76 million and that it may be removed from the price? I have written to the Committee of Public Accounts today to ask it to examine all aspects of Project Shift.

Ireland has been a number one seller of distressed loan sales in Europe for four years in a row. In 2016, loan sales by NAMA and Irish banks totalled €12.1 billion, making up almost a quarter of the total of €49.9 billion of distressed debt sales in Europe. In 2015, Irish loan sales amounted to €23.3 billion par debt. They are astonishing figures for a country with a population of 4.5 million. What makes it worse is the discounts these loans were bought at were usually between 70% and 80%. It is little wonder we are top of the table. It is unbelievable it has taken this long for the Government to do the right thing. I give credit to Sinn Féin, which has supported this from the start. The delay has cost us so much money. We bicker about different amounts in here but what it has cost us is astronomical. The incoming Taoiseach is worried about what welfare fraud costs when NAMA can lose in a day what social welfare fraud costs in a year.

Deputy Danny Healy-Rae: I welcome the opportunity to speak on this matter. I am not sure what the proposed commission of investigation will achieve. It is too late. It is like closing the stable door when the horse has gone down the road. We, as a country, have had many tribunals, inquiries and reports and people out there are very sceptical about what they have achieved. There will be jurisdiction problems with this investigation and problems getting witnesses to attend, as some of the people involved are living in other jurisdictions.

I had another sheet.

An Leas-Cheann Comhairle: The Deputy should take his time.

Deputy Paul Kehoe: Did Deputy Mattie McGrath take Deputy Healy-Rae's sheet?

Deputy Mattie McGrath: No. It is only the Government that takes votes for each other; we do not take things at all.

An Leas-Cheann Comhairle: The Deputy should proceed in his own time.

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Deputy Danny Healy-Rae: I am sorry. I do not know where I put it. I have it now.

NAMA was set up by Government and when it was first set up, many thought it was a good idea. Many felt that if NAMA held on to property owned by people, companies or banks with financial problems for long enough, it would realise substantial funding for the State. There has not been enough transparency with NAMA. People ask me why NAMA has not sold any of the properties it controlled by public auction or public tender and why it sold many properties in bundles. When it does this, it rules out the small people and the people who have an interest in a certain property. It sells a lot of bundles together or bundles up a lot of properties together which deprives many people of the opportunity of buying. We all know when a certain property goes for sale at public auction and people are interested in it, they drive it on and drive it up, because there could be two or three interested bidders. If there are more properties included, which they are not interested in, they are not as likely to show interest and they may not have the finance to buy a bigger bundle of properties together.

I support and welcome instances in which companies that lost everything during the collapse are given the opportunity to buy back some or all of the properties they lost. They have worked hard to provide funding to buy back some of their properties. They had invested large sums, employed people and then lost much of what they owned when the market collapsed. I am glad some of these companies were able to buy back some of the properties they owned previously.

I am not sure the commission of investigation will provide anything positive, other than perhaps find out some of the things that should or should not have happened. I do not know how it will leave the country or economy financially better off. I hope the investigation does not go on forever. I hope, when its findings are published, we will wake up and realise that some of these inquiries, reports and tribunals are providing very little in the way of repaying taxpayers for what should or should not have happened, as the case may be. I am sceptical about the commission of investigation but I will go along with it until I see what it achieves. Many people are sceptical about commissioning more investigations, reports and tribunals because previous inquiries have not delivered many financial benefits for taxpayers.

Deputy Mattie McGrath: I am pleased to speak on this issue and thank the Minister for Finance and Taoiseach for the briefings provided to Deputies on the establishment of a commission of investigation into the National Asset Management Agency, NAMA. I attended two such briefings with officials.

I am surprised by the appointment of the named eminent justice to chair the commission of investigation. A question that arose at the briefings I attended and in other briefings, specifically the one on the commission of investigation into An Garda Síochána, was where we will stop with inquiries and tribunals. Only last week, we were discussing legislation dealing with issues arising from the Flood tribunal. We are in a tribunal frenzy. This is like having a bad rust on old Morris Minor car - animal feed cars were worse as they rusted like hell - in that it is bad for the body politic. It is unclear if the tribunals and inquiries have been of value. Nobody has been held accountable. Many of the recommendations have been challenged and I understand more will be challenged. Tribunals and inquiries allow the white collar class and the big people to avoid facing trial as they would in other countries. When tribunals are set up the fat cats get fatter - Deputy O'Callaghan is not here - because they are let loose in the Law Library and get the industry going. The ball is thrown in like at a match in Croke Park that never ends. That is what is wrong with the tribunals and I do not have any faith in them.

I have never had any faith in the National Asset Management Agency either. The comments I made on the night we discussed the legislation setting up NAMA are on record. The then Minister for Finance, the late Brian Lenihan, was sitting in the seat occupied by the Minister of State, Deputy Kehoe. I fundamentally disagreed and differed with the Minister and described the establishment of NAMA as like letting a wild animal out in the woods with no idea where it would end up. By God, I have been proved right. The legislation on NAMA was so tight that Deputies could not interfere and were afraid to even write to the agency about issues for a long time.

We had Project Eagle here, project jackdaw in Clonmel and many other projects around the place. There is an amount of underhandedness and skulduggery. Ireland is too small for something like this because everybody knows everybody else. Even the people who had done a runner and left the country are back and own the land that went into NAMA. What in God's name is going on or are the lunatics really running the asylum? These people are back in business. People contacted me to say they could not be in business. Auctioneers are acting on their behalf and are now selling the land that went into NAMA, which was supposed to be of benefit to the State. Planning permission for 100 houses was granted in my village. Why did we not get some social capital or benefit from NAMA?

While the terms of reference of the commission of investigation are welcome, in particular regarding whether the disposal strategy for the sale of NAMA's Northern Ireland loan portfolio was appropriate, I have concerns about another matter, namely, the eminent justice who has been chosen to chair the commission. I received an email this evening from a man I know well, Mr. Seamus Maye, in which he states that Mr. Justice Cooke's shareholding in a defendant company, CRH plc, was not declared by him to plaintiffs in two cases during 2010, 2011 and 2012. Arising from Mr. Justice Cooke's failure to disclose his shareholding in that case, there are now-----

An Leas-Cheann Comhairle: The Deputy is here a long time and has considerable experience. He should refrain from making comments about the judge.

Deputy Mattie McGrath: The judge has been appointed and we are discussing his appointment.

An Leas-Cheann Comhairle: The Deputy must refrain from making any comments about people who are not-----

Deputy Mattie McGrath: I am commenting on the suitability of the individual who will head up the commission of investigation. Why bother discussing this if it is a closed shop?

An Leas-Cheann Comhairle: It is not a closed shop.

Deputy Mattie McGrath: It is if the Leas-Cheann Comhairle seeks to gag me.

An Leas-Cheann Comhairle: The Deputy knows the rules.

Deputy Mattie McGrath: Yes, but we are discussing the commission of investigation. The chairman, who will present the report, has been forced off court cases in the High Court and other courts and has been forced to declare issues he did not declare when he was presiding over cases in which he had a vested interest. That is not right. I do not know what will happen. If we are not allowed to debate this motion, will it be forced through and the issue dealt with in

that way? I will certainly not support it.

An Leas-Cheann Comhairle: It is better to resolve this issue this evening. The Deputy stated the judge had a vested interest.

Deputy Mattie McGrath: I did not say he had a vested interest in this case. I referred to other cases. I referred to previous incarnations and cases of construction companies and CRH, which supplied lots of concrete to people who went into NAMA. I did not refer to this case but to history.

An Leas-Cheann Comhairle: We will move on.

Deputy Mattie McGrath: Will we be satisfied with this? I am being gagged here.

An Leas-Cheann Comhairle: The Deputy is not being gagged.

Deputy Mattie McGrath: Yes, I am. I have been told I cannot question the chairman's suitability for the role.

An Leas-Cheann Comhairle: The commission has been appointed and we should allow it to get on with its work.

Deputy Mattie McGrath: I will not and I am not happy.

Deputy Catherine Murphy: I reluctantly support the setting up of this commission of investigation because I believe an inquiry should be held. However, it was predictable that matters should come to this. The investigation is to be specifically limited to Project Eagle and the controversial sale of the Northern Ireland loan book. It is clear that serious questions arise regarding the wider operations of the National Asset Management Agency and the agency's impact on the economy. While Project Eagle clearly requires specific investigation, there is no reason it could not be the first module in a wider commission of investigation.

The Minister for Finance, responding to questions in the House on the oversight of NAMA, repeatedly stated the Comptroller and Auditor General had a supervisory role in respect of NAMA. This overstates the role of the Office of the Comptroller and Auditor General, which has an audit rather than supervisory role. This is a major deficiency and the Minister's statements give a false impression of the type of oversight that applies. This goes back to the establishment of NAMA.

As a member of the Committee of Public Accounts, I was involved in the report on the sale of Project Eagle. I am, therefore, well acquainted with most of the details pertaining to the sale that were within the scope of the Comptroller and Auditor General's report. Wider issues arise, however, which is the reason the commission of investigation is being established. Serious concerns were raised regarding the appropriateness of the Minister for Finance and NAMA officials meeting Cerberus on the day before the bidding process closed and they were sufficient to divide the Committee of Public Accounts for the first time in its history. Those operating in the world of big business will confirm that even a perception that Cerberus had an inside track would be seriously off-putting for other bidders and could reduce the amount that could be obtained for other distressed assets.

It must be noted that Cerberus got the lion's share of the transactions involving billions of euro. I am confident that this, coupled with the knowledge that Cerberus held meetings with

the Minister, NAMA and other bidders, has the potential to give the impression at the very least that it was the preferred-----

An Leas-Cheann Comhairle: May I interrupt for a second? Obviously, we will not have this completed by 8 p.m., as per the order. Does the House agree that we should continue for the next seven minutes before proceeding to the next business? Agreed.

Deputy Catherine Murphy: It had a preferential opportunity. The questionable decision to bundle loans raised eyebrows, and rightly so, given that it excluded many potential bidders and ensured that the proposed sale would only be available to a small, elite group of large investors. It can be legitimately argued that such bundling may have occurred because of the need to bring forward the asset sales in order to allow the Minister to provide a skewed picture of our finances to the ECB. We were told that there was no pressure from the ECB to bring the sales process forward. It is vital that the commission thoroughly examine such a possibility and set out the reasoning behind the decision to bundle the loans in such a way.

While I support the commission of investigation, limited and all as it is, it would be remiss of me not to highlight the fact that yet another commission of investigation into a matter of serious public concern is about to get under way. This seems to be our approach to dealing with problems and needs to be examined in its own right. Why can we not deal with issues in real time and, when designing systems, predict the kind of oversight that is required? The work of commissions excludes us from making freedom of information requests and exploring issues, which almost go into hiding for the length of time it takes the commissions to do their work. The Committee of Public Accounts has done some work that shortcut the work of the commission. I hope this means that we will have a speedy result and a report is before the House sooner rather than later.

Deputy Eamon Ryan: I, too, have concerns about the establishment of this commission, but we are willing to support it. The Committee of Public Accounts has published a report that compels us to look further into the differences it outlined between the Comptroller and Auditor General's office, NAMA and the Minister.

Like Deputy Catherine Murphy, I have concerns about the mechanism of using commissions. We have seen the legal knots that we can get ourselves tied up in with such a process. It tends to be legacy oriented rather than related to current and urgent issues and problems with the process, expense and many other issues often arise.

I have mentioned a specific concern at various stages along the way, in that one of the key issues regarding this investigation into Project Eagle seems to be whether individual staff members within NAMA in the Republic were compromised by what was uncovered regarding Mr. Cushman and his claims that he was able to influence officials here. In the absence of the UK's National Crime Agency coming to any conclusion in its inquiries, which is probably the best way to put it, into the role of Mr. Ronnie Hanna in that regard, it is difficult to know how the commission can effectively take on its task. It has been almost a year since Mr. Hanna started helping the UK authorities with their inquiries, as they say. The chairman of NAMA, Mr. Daly, has indicated that there has been no indication of charges being laid against Mr. Hanna. That there has been no further charges makes it difficult for us to set out terms of reference or to know the scale of what we are inquiring into, given that we do not know the conclusion of the National Crime Agency's investigation. That agency has the ability to examine computer and other records in a way that is more insightful than anything we have seen to date.

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I must express another concern. As much attention needs to be applied to the management of the remaining assets. Deputy Catherine Murphy referred to real-time investigations. I would love for us to concentrate on the role of NAMA in the building of 20,000 housing units. We are in a housing crisis and I understand the majority of those units to be in the Dublin area and due to be completed within the next three years. I have a slight concern about the nature of commissions of inquiry, in that the legalistic force around this commission might distract from this key task for NAMA in its remaining years of existence. I seek an assurance that, wherever this process takes us, we manage the remaining land assets that NAMA has access to in an effective way.

In that regard, we seem to be restricted in a way that was not included in the original NAMA legislation. There was an interesting debate in the Dáil today on the development of Cherrywood, where NAMA had control over a large portfolio of land and loans. Similarly, the recommended strategic development zone, SDZ, at the Poolbeg site has just been completed. In my understanding of the NAMA legislation, section 12(8) should have provided us with much greater flexibility regarding how NAMA uses its landbank, particularly in urban areas where there is a critical housing need. I am wary that the focus on the Project Eagle inquiry does not divert from that remaining critical task for NAMA in the roll-out of other assets.

That said, we support the inquiry and wish the judge well in his work. It is important that he address within the three-month period some of the issues that I have raised, in particular an update on the National Crime Agency, which might influence the commission's work one way or the other. Whatever else happens, we should not get bogged down in a long, multi-annual, multimillion euro investigation process that provides us with no more clarity than the Committee of Public Accounts did in the first place.

An Leas-Cheann Comhairle: Deputy Wallace is not present to press his amendment.

Amendment, by leave, withdrawn.

Motion agreed to.

Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014: Report and Final Stages

An Leas-Cheann Comhairle: Amendment No. 1 arises out of committee proceedings. Amendments Nos. 1, 2 and 7 to 10a, inclusive, are related. Amendment No. 2 is a physical alternative to amendment No. 1, amendment No. 8 is a physical alternative to amendment No. 7 and amendment No. 10a is a physical alternative to amendment No. 10. Amendments Nos. 1, 2 and 7 to 10a, inclusive, may be discussed together.

Minister of State at the Department of Finance (Deputy Eoghan Murphy): I move amendment No. 1:

In page 3, between lines 14 and 15, to insert the following:

“Amendment of section 57BA of Principal Act

2. Section 57BA of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by inserting the following after the definition of “investigation”:

“ ‘long-term financial service’ means a financial service where the actual or intended duration of the service is 5 years and one month, or more, and is not subject to--

(a) an annual renewal, or

(b) a right to unilateral cancellation by either party,

prior to the expiry of the actual or intended duration;”.”.

These amendments to section 3 of Deputy Pearse Doherty’s Bill, as amended on Committee Stage, deal with the time limit to make complaints to the Financial Services Ombudsman and the necessary definition of “long-term financial service”. As the Minister, Deputy Noonan, stated on Committee Stage, the heads of the Government’s Bill, published last September, provide for a possible three-year discoverability period for complaints in respect of long-term services. This is now reflected in section 51 of the Government’s Bill, which was published a couple of weeks ago. In that respect, the extension of the time limits as proposed by section 3 of the Deputy’s Bill and related amendments are to be welcomed in principle.

The Deputy’s amendments Nos. 8 and 9 seek to remedy some of the issues that the Minister highlighted on Committee Stage, such as the inclusion of the standard objective test for the date of knowledge, and discretion is provided to the ombudsman to allow for a longer period where it would be just and equitable, similar to section 51(2)(iii) of the Government’s Bill.

However, I still have some difficulties with a number of the Deputy’s proposed amendments. The definition of “long-term financial service” as set out in amendment No. 2 is not satisfactory because it could include a wide range of policies or services that are subject to annual renewal or could be cancelled unilaterally by the financial services provider. In effect, it will change products which are short-term financial service products, such as house insurance and potentially travel insurance, into long-term products on a par with life assurance and pensions. I am especially concerned that the impact of this very wide definition of long-term financial service could increase the cost of policies such as car insurance or home insurance for customers because insurance companies would have to be mindful of the possibility of claims being taken in a longer timeframe, and they would accordingly pass the administrative cost of keeping records for longer periods on to customers. Additionally, they could refuse to cover customers up to a five-year period or increase annual premiums substantially after a five-year period to deter them from becoming long-term customers under Deputy Doherty’s definition. This would have a negative impact on customers.

Due to the concerns that the Deputy’s definition of long-term financial services in amendment No. 2 could increase the cost of insurance and other annual policies, I will be pressing amendment No. 1 in regard to the definition of “long-term financial service”. In amendment No. 1, I have provided a definition of “long-term financial service” as meaning a financial service where the actual or intended duration of the service is five years and one month, or more, and is not subject to annual renewal, or a right to unilateral cancellation by either party. This is intended to include policies like mortgages, long-term loans and so on.

Second, while I agree with the intention behind the Deputy’s amendments Nos. 8 and 9, which would bring the time limits more in line with section 51 of the Government’s Bill, I am afraid that the technical drafting of the amendments on the new time limits for complaints is not correct, given the current wording of section 57BX of Part VIIB of the Central Bank Act 1942.

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However, if Deputy Doherty was agreeable, I think the Minister's amendment No. 7 achieves what the Deputy seeks to achieve, which is the extension of the time limits for a possible further period of three years, based on the date of knowledge of the conduct, or when it ought to have been known, and the discretion of the ombudsman to extend the time period for complaints where this is just and equitable. For these reasons, I am pressing my amendments Nos. 1 and 7 in regard to the amendment of section 57BX of the Central Bank Act 1942 to achieve the extension of the time limits that both sides agreed to in principle, with the exception of the details of the definition of "long-term financial service". Therefore, I am opposing the Deputy's amendments Nos. 2, 8 and 9.

In regard to Deputy Doherty's amendments Nos. 10 or 10a, I can see what he is seeking to achieve, which is to put beyond any doubt that the ombudsman can investigate complaints made before the extension to the time limits but which had not been assessed, and to allow complaints that were refused as being outside the then applicable time limits and which have been resubmitted to the ombudsman because they could now possibly qualify under the new extended time limits. However, if the Deputy accepts amendment No. 7 to achieve his desired aims of extending the time limit and if he is pressing his amendment No. 10, then the numbering referred to within amendment No. 10 may need to change, and I see that he has submitted an amendment No. 10a to rectify this. The numbering of my amendment No. 7 will also need to change and I can outline the changes that need to be made to my amendment No. 7 to take account of the acceptance of amendment No. 10 on the Final Stage.

Deputy Pearse Doherty: I am very glad the Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014 is on Report Stage and, hopefully, it will pass Final Stage in the Dáil tonight. I welcome the engagement that I and Declan O'Farrell in my office have had with the Minister of State and his officials in regard to preparing for Report Stage. A number of amendments are grouped in this section. Amendments Nos. 1 and 2, to which the Minister of State referred, demonstrate a very clear and intentional difference in terms of the definition of long-term services, and I will come back to that point. The other amendments that are grouped are amendments Nos. 7 to 9, inclusive. Amendment No. 7 is a Government amendment which does exactly what amendments Nos. 8 and 9 do and is just a differently drafted version. I understand that both versions are acceptable. However, I have no problem in accepting Government amendment No. 7 and, therefore, in withdrawing amendments Nos. 8 and 9.

Amendment No. 10 and the amendment to that amendment, amendment No. 10a, are sequencing amendments. Amendment No. 10a is crucial, in my view, because it allows for dealing with the issue of those who have been locked out of the system heretofore because of the six-year rule but who, once this legislation passes into law, can apply to the ombudsman to have their cases heard for the first time, subject to the other provisions within the legislation. I believe that is crucial and it points to the immediate impact this legislation will have. Between 2011 and 2015 some 3,003 cases were rejected by the Financial Services Ombudsman because of the six-year rule. With the lifting of this rule many, if not all, of those could potentially be resubmitted to be heard. It also ensures that those within the process will not fall out of the process. Therefore, I reiterate the need to ensure those amendments are taken.

To return to the core issue of the definition of a long-term financial service, what the Government is proposing is based on a very restricted view of what is a long-term financial service. While it is welcome that we are getting rid of the six-year rule, and I want to acknowledge the legislative work Deputy Michael McGrath has done on this previously, we have to ensure this can apply in the broadest way possible, while not being overly burdensome on insurers or fi-

financial services providers. Our amendment is tabled in a way that I believe meets that need. It ensures the service has to be of a duration of five years and one month or more. If it is cancelled or has expired more than six years previously, it falls out of the provision in terms of being able to take a case to the ombudsman after the six years.

What the Government is trying to do is limit this provision to products that are not annually renewable or not subject to unilateral cancellation by either party. In that instance, many individuals will not be able to have recourse to the Financial Services Ombudsman. I have mentioned, for example, the PPI scandal, whereby we have seen tens of millions of euro paid out. I believe there are many thousands more who have not come under the radar of the Central Bank and we are engaging constructively with the Central Bank in that regard.

There is also the situation of somebody who was simply sold house insurance a number of years ago. As people do, the customer gets the premium and, as it is an annually renewable product, under the Government's definition there would be no change to the law in regard to making a complaint. Year on year, people just pay the premium until the house burns down or is flooded. When they then check the contract they find out they were mis-sold the product. Are we to stand here knowing that these cases arise and say we are sorry but, as it is an annually renewable service, it is not a long-term service and there was only six years within which to make a complaint? Instead, what we are doing here is introducing a period of three years from the moment the person found out, or ought to have known, that the conduct arose.

The Minister of State talks about the overly burdensome nature of this change and about increased premiums. I do not believe that. While I do not doubt that insurance companies will make that claim, let us remember what is happening here. Insurance companies, whether for house insurance, PPI or car insurance, have to hold on to people's records. At this point in time, under law, up to six years after the contract has expired I or anybody else can take a claim to the Financial Services Ombudsman in regard to the product that was sold. The companies are holding to the records currently for a duration of six years after the contract. What this does is to mandate them not to delete or get rid of the documentation until six years after the product has expired. I cannot see how that would incur additional administration costs. We are not thinking about insurance companies that are shuffling boxes out to storage units on the M50. This is all being held in the cloud and the only additional costs would be in regard to cloud space. I cannot agree with the Minister of State that this would actually increase costs.

Let us remember what we are doing here. Not to have the definition I have proposed in section 2 would mean that financial services providers who wronged their customers would be able to evade the grip of the Financial Services Ombudsman and, therefore, not have to redress the wrongful action or compensate the consumer because of this type of technicality. I will be pressing amendment No. 2 and I believe Government amendment No. 1 should be rejected. We have discussed this in and out privately. It is a policy choice. There is nothing in terms of the wording or drafting to my knowledge. It is a policy choice as to whether the Minister of State wants to limit this. My amendment does not state that all financial services are long-term financial services; indeed they are not. These services are only services that have a duration of five years and one month or more. The product has to have been sold after 2002 and if it has been cancelled or expired for more than six years, it does not come under the further sections of the Bill.

Deputy Michael McGrath: I welcome that Deputy Pearse Doherty's Bill has reached Report Stage and commend him in that respect.

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There is general consensus in the House that the kernel of the Bill, the six-year rule, needs to be addressed. There have been a number of pieces of legislation at various stages of the system in an effort to tackle that issue and I hope we can reach an agreement as to how to do it. The reality is that many thousands of financial services consumers are potentially affected by this issue.

I ask the Minister of State to clarify where this Bill sits in relation to the Government Bill. We seem to have this parallel discussion on an ongoing basis, with Second Stage of the Government Bill being taken on Thursday. The Government Bill is a much longer Bill and deals with a number of wider issues as well as this issue. If this Bill is enacted before the Government Bill, will the Government Bill supersede this Bill if it becomes an Act? Will this Bill be repealed by the enactment of the Government Bill? How will it work in practice if Deputy Doherty's Bill is enacted first and followed shortly afterwards by the Government Bill being enacted? Where will the two sit legally side-by-side?

On the issue of the definition of a long-term financial service, I fully understand that a financial service product that is subject to an annual renewal is not a long-term financial product. That is based on common sense. My issue with the Government's amendment No. 1 is that if the financial service product contains a right to unilateral cancellation by either party, prior to the expiry of the actual or intended duration, in effect, under the Government's definition, it does not constitute a long-term financial service product.

My understanding of a long-term financial product would be along the lines of a pension, mortgage, life assurance policy, life insurance policy or long-term investment product. In the past we have raised issues related to whole-of-life insurance policies and payment protection policies, which Deputy Doherty mentioned. My view on amendment No. 1 is that I accept that if a product has an annual renewal, it is not a long-term product. However, just because a product has a clause in it that the financial service provider can cancel it does not mean it is not a long-term financial service product. I am not a legal expert, but I imagine that if one went into the minutia of the terms and conditions of most of the types of product I mentioned, there would be some get-out clause for the financial services firm. I hope the Minister of State can address that issue. My instinct is that I would not agree with the Government's provision in amendment No. 1 that if it contains a clause for unilateral cancellation, it is not a long-term product.

The nub of the issue relates to amendment No. 7, which Deputy Doherty is inclined to accept. This amendment would replace the existing six-year rule. I just went through some examples in my own mind. Looking back at the payment protection insurance situation, 83,500 customers gained recourse following the Central Bank investigation, involving refunds of over €71 million, but of course it only related to customers who had taken out their policy since 1 July 2007 from 11 different credit institutions.

In a scenario where somebody took out their product prior to 1 July 2007, but only became aware of it in 2013, it could be argued that they are not covered by the Bill. However, there is the provision for the ombudsman to take a longer view of it provided the subsection (3D) provision that "the conduct complained of occurred during or after 2002" is relevant and that "that the long-term financial service concerned has not expired or otherwise been terminated more than 6 years before the date of the complaint". Taking the example I cited, if somebody had bought a PPI policy prior to 1 July 2007 and became aware of a problem in 2013, then at the discretion of the Financial Services Ombudsman, that complaint could now be taken. I ask the Minister of State to clarify that my interpretation of it is correct in that regard.

I welcome this discussion and I hope we can reach agreement on the key issues involved in the Bill over which I believe there is wide agreement. We are down to the finer details of this, which are important. Tens of thousands of customers have been denied justice by virtue of the six-year rule, which I know was caught up in a wider Statute of Limitations scenario. The Government has said for some time that it is willing to review this - here we are now and I hope we can get the job done. I would appreciate a response to those issues.

Deputy Eoghan Murphy: I acknowledge the important work of Deputy Pearse Doherty on this Bill and the work that Deputies Doherty and Michael McGrath, and the Minister, Deputy Noonan, did on Committee Stage. It is very important work and it is important that we have reached Report Stage. It is also important for us to distinguish between long-term and short-term financial services. In looking at long-term financial services, we must extend the time limits for recourse for customers who find a wrong done against them and they can then report that to the ombudsman. That is an important aspect in this Bill. The Government believes Deputy Doherty's amendment is too wide-ranging because it essentially captures what are short-term financial services, which could have a negative impact on the price of these financial services that are renewed on an annual basis.

I accept what Deputy McGrath said about the phrase "not subject to...a right to unilateral cancellation by either party". This was intended to cover the situation with income protection policies. We intended to count income protection policies as long-term financial services. Those policies contain a standard clause that prevents a financial service provider from cancelling such a policy unilaterally. However, it has come to my attention more recently that the Office of the Attorney General may need to look at this again in advance of the Bill being taken in the Seanad to ensure that the current wording is not open an unintended interpretation.

Deputy McGrath asked what will happen when the Government's Bill is enacted. Essentially, it will repeal that part of the Central Bank Act. If, for example, Deputy Doherty's Bill is enacted for a period of three months, it will fall away and the Government's Bill will become the legislation, but any cases that are taken in that three-month period will be taken based on the legislation as enacted, that is Deputy Doherty's Bill. The Government's intention was to try to have its Bill enacted before Deputy Doherty's. However, as it is more wide-ranging and comprehensive, that may not be the case. As I think the Minister, Deputy Noonan, may have explained on Committee Stage, we proceed now with Deputy Doherty's Bill. If that comes on to the Statute Book before the Government's Bill, that will be the law until the Government's Bill then replaces it.

It is the Government's intention to press amendment No. 1.

Deputy Pearse Doherty: I welcome that clarification. If anything I think my legislation has acted as a prompt for the Government. This Bill was first published in 2014. As it passed Second Stage, the Government produced the heads of its Bill. As it passed Committee Stage, the Government published its legislation. Hopefully as it passes Report and Final Stages in the Dáil tonight, the Government's Bill will then come to Second Stage. If we keep on going, we might get the Government's legislation across the line.

We have tried to ensure here that the thought process in the Government's legislation and our legislation are exactly the same so that it is a seamless process. My big concern, as I said on Committee Stage, is when the Government's legislation will become law. I welcome the fact that the provisions we outlined in our 2004 Bill, which we are discussing tonight, are being

incorporated into the legislation.

There is disagreement on the definition of long-term financial services. I agree with Deputy Michael McGrath that a long-term financial service is one that is long term so therefore it does not include motor insurance. However, that is not what we are dealing with here, which is the mis-selling of products to consumers and whether the rules are too rigid. The argument is that if I took out car insurance in 2007 or 2013 and had it for a year, but found out ten years later that it was mis-sold, should I have the right to make a complaint because of the new rules which specify three years from the time I became aware of the misconduct? The argument is that I should not. Therefore, we created a definition of a long-term financial service which states it is a service of a duration of five years and one month or more, but it cannot have been cancelled within six years. On the passage of this legislation, many thousands of people will be able to resubmit their complaints to the Financial Services Ombudsman and have them heard. Deputy Michael McGrath's example of somebody being outside the scope of the Bill is correct unless the individual made a complaint to the Financial Services Ombudsman during that period and, therefore, could automatically have her or his complaint heard. If one limits the definition, however, one will limit the number of people who can access redress and compensation, have the Financial Services Ombudsman's office adjudicate on that issue and, if there is a wrong, have it put right. I will press amendment No. 2. There is a difference here and at this stage I do not think we will reconcile it.

Deputy Michael McGrath: On the wider issue first, namely, the sequencing of the Bills, I wish to be reassured that it will be a seamless process and that we will not have customers facing one set of terms in relation to accessing the Financial Services Ombudsman for a period of months and then another set of terms when the Government legislation is finally enacted. I know it is a matter for the House to be consistent in how it legislates, but we must ensure that the conditions of access to the Financial Services Ombudsman are consistent. That is very important and that is why it is crucial we tease this out now and reach agreement or vote on it, so that we can dispose of the issue and are then consistent in the treatment of this issue when the Government Bill is being debated.

In his initial remarks, the Minister of State seemed to suggest that home or travel insurance could potentially be regarded as a long-term financial service product. I do not see how that could be the case. They are categorically subject to an annual renewal so I do not quite understand the point he made. It is pretty clear to me what a long-term financial service product is and it includes income protection, payment protection policies, life assurance and life insurance, pensions, long-term investments, mortgages and so on, but it does not include any form of home insurance, car insurance, travel insurance or anything like that. I am not convinced by the Minister of State's argument that omitting the provision on the right to unilateral cancellation brings into the net a much wider set of products that we do not intend to include. I do not get that point so perhaps the Minister of State will elaborate on it.

Deputy Eoghan Murphy: To go back to an earlier query raised by Deputy Michael McGrath about his interpretation in relation to payment protection insurance and the example he gave, his interpretation was correct, bearing in mind the long stop back to 2002.

In response to his point in relation to consistency between the enactment of Deputy Doherty's Bill and the Government's Bill, I agree that we must take a consistent approach. That is the reason I flagged in an earlier contribution that we would need to look again at amendment No. 1 and consult with the Attorney General to make sure there cannot be an interpretation of the

amendment that was not intended. Our fear is that Deputy Doherty's amendment No. 2 is too wide ranging and that it would capture financial service products that are renewed on an annual basis, and if that if they went beyond the five year and one month period they would then be treated as a long-term financial service, which would not be acceptable as we believe we must make the distinction between short-term and long-term financial service products.

The point about unilateral cancellation is the part of our amendment on which we need to seek clarity before we deal with the Bill in the Seanad.

Amendment put:

<i>The Dáil divided: Tá, 31; Níl, 59; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Barrett, Seán.</i>	<i>Adams, Gerry.</i>	
<i>Breen, Pat.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Breathnach, Declan.</i>	
<i>Byrne, Catherine.</i>	<i>Browne, James.</i>	
<i>Canney, Seán.</i>	<i>Buckley, Pat.</i>	
<i>Carey, Joe.</i>	<i>Butler, Mary.</i>	
<i>Daly, Jim.</i>	<i>Byrne, Thomas.</i>	
<i>Deering, Pat.</i>	<i>Cahill, Jackie.</i>	
<i>Doyle, Andrew.</i>	<i>Calleary, Dara.</i>	
<i>Durkan, Bernard J.</i>	<i>Casey, Pat.</i>	
<i>Farrell, Alan.</i>	<i>Collins, Joan.</i>	
<i>Fitzgerald, Frances.</i>	<i>Collins, Michael.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Collins, Niall.</i>	
<i>Flanagan, Charles.</i>	<i>Connolly, Catherine.</i>	
<i>Heydon, Martin.</i>	<i>Cullinane, David.</i>	
<i>Kehoe, Paul.</i>	<i>Curran, John.</i>	
<i>Kyne, Seán.</i>	<i>Doherty, Pearse.</i>	
<i>McEntee, Helen.</i>	<i>Donnelly, Stephen S.</i>	
<i>McLoughlin, Tony.</i>	<i>Ellis, Dessie.</i>	
<i>Madigan, Josepha.</i>	<i>Ferris, Martin.</i>	
<i>Murphy, Dara.</i>	<i>Funchion, Kathleen.</i>	
<i>Murphy, Eoghan.</i>	<i>Harty, Michael.</i>	
<i>Naughten, Denis.</i>	<i>Haughey, Seán.</i>	
<i>Neville, Tom.</i>	<i>Healy-Rae, Danny.</i>	
<i>O'Dowd, Fergus.</i>	<i>Healy, Seamus.</i>	
<i>Phelan, John Paul.</i>	<i>Kelleher, Billy.</i>	
<i>Ring, Michael.</i>	<i>Kenny, Martin.</i>	
<i>Rock, Noel.</i>	<i>Lawless, James.</i>	
<i>Stanton, David.</i>	<i>MacSharry, Marc.</i>	
	<i>McGrath, Mattie.</i>	

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	<i>McGrath, Michael.</i>	
	<i>Martin, Catherine.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Nolan, Carol.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>Pringle, Thomas.</i>	
	<i>Quinlivan, Maurice.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Bríd.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Troy, Robert.</i>	

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Amendment declared lost.

Deputy Pearse Doherty: I move amendment No. 2:

In page 3, between lines 14 and 15, to insert the following:

“Amendment of section 57BA of PART VIIB of the Principal Act

2. Section 57BA of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by the insertion of the following definition:

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“ ‘long-term financial service’ means a financial service where the actual or intended duration of the service is 5 years and one month or more;” ”.

Amendment put:

<i>The Dáil divided: Tá, 59; Níl, 32; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Adams, Gerry.</i>	<i>Barrett, Seán.</i>	
<i>Aylward, Bobby.</i>	<i>Breen, Pat.</i>	
<i>Brady, John.</i>	<i>Brophy, Colm.</i>	
<i>Brassil, John.</i>	<i>Bruton, Richard.</i>	
<i>Breathnach, Declan.</i>	<i>Burke, Peter.</i>	
<i>Browne, James.</i>	<i>Byrne, Catherine.</i>	
<i>Buckley, Pat.</i>	<i>Canney, Seán.</i>	
<i>Butler, Mary.</i>	<i>Cannon, Ciarán.</i>	
<i>Byrne, Thomas.</i>	<i>Carey, Joe.</i>	
<i>Cahill, Jackie.</i>	<i>Daly, Jim.</i>	
<i>Calleary, Dara.</i>	<i>Deering, Pat.</i>	
<i>Casey, Pat.</i>	<i>Doyle, Andrew.</i>	
<i>Collins, Joan.</i>	<i>Durkan, Bernard J.</i>	
<i>Collins, Michael.</i>	<i>Farrell, Alan.</i>	
<i>Collins, Niall.</i>	<i>Fitzgerald, Frances.</i>	
<i>Connolly, Catherine.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Cullinane, David.</i>	<i>Flanagan, Charles.</i>	
<i>Curran, John.</i>	<i>Heydon, Martin.</i>	
<i>Doherty, Pearse.</i>	<i>Kehoe, Paul.</i>	
<i>Donnelly, Stephen S.</i>	<i>Kyne, Seán.</i>	
<i>Ellis, Dessie.</i>	<i>McEntee, Helen.</i>	
<i>Ferris, Martin.</i>	<i>McLoughlin, Tony.</i>	
<i>Funchion, Kathleen.</i>	<i>Madigan, Josepha.</i>	
<i>Harty, Michael.</i>	<i>Murphy, Dara.</i>	
<i>Haughey, Seán.</i>	<i>Murphy, Eoghan.</i>	
<i>Healy-Rae, Danny.</i>	<i>Naughten, Denis.</i>	
<i>Healy, Seamus.</i>	<i>Neville, Tom.</i>	
<i>Kelleher, Billy.</i>	<i>O'Dowd, Fergus.</i>	
<i>Kenny, Martin.</i>	<i>Phelan, John Paul.</i>	
<i>Lawless, James.</i>	<i>Ring, Michael.</i>	
<i>MacSharry, Marc.</i>	<i>Rock, Noel.</i>	
<i>McGrath, Mattie.</i>	<i>Stanton, David.</i>	
<i>McGrath, Michael.</i>		
<i>Martin, Catherine.</i>		
<i>Mitchell, Denise.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		

<i>Munster, Imelda.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Murphy, Eugene.</i>		
<i>Nolan, Carol.</i>		
<i>Ó Broin, Eoin.</i>		
<i>Ó Caoláin, Caoimhghín.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Laoghaire, Donnchadh.</i>		
<i>Ó Snodaigh, Aengus.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Brien, Jonathan.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Keeffe, Kevin.</i>		
<i>O'Reilly, Louise.</i>		
<i>O'Rourke, Frank.</i>		
<i>Pringle, Thomas.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Rabbitte, Anne.</i>		
<i>Scanlon, Eamon.</i>		
<i>Smith, Bríd.</i>		
<i>Smyth, Niamh.</i>		
<i>Tóibín, Peadar.</i>		

Tellers: Tá, Deputies Aengus Ó Snodaigh and Denise Mitchell; Níl, Deputies Tony McLoughlin and Joe Carey.

Amendment declared carried.

An Leas-Cheann Comhairle: Amendments Nos. 3 and 4 are related and may be discussed together by agreement.

Deputy Eoghan Murphy: I move amendment No. 3:

In page 3, lines 16 and 17, to delete “Amendment of section 57BK of PART VIIB of the Principal Act (as inserted by section 16 of the Act of 2004.), in subsection (4)” and substitute “Subsection (4)”.

These are technical drafting amendments to section 2 of the Bill to remove some superfluous words at the start of the section, and also quotation marks, which on the advice of the Parliamentary Counsel will not affect the meaning of the section. I agree with the section as it replicates section 12(11) of the Government’s Bill which allows the Ombudsman to act in an

informal manner without undue regard to legal form.

Deputy Pearse Doherty: I accept amendments Nos. 3 and 4. They are technical and I am glad they clear up the section. There was a lot of discussion at prelegislative scrutiny stage and on Committee Stage. We have reached a good compromise.

Deputy Michael McGrath: I agree with the amendments.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 4:

In page 3, line 18, to delete “ “adding” and substitute “adding”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 5, 6, 12 to 15, inclusive, and 18 are related and may be discussed together.

Deputy Eoghan Murphy: I move amendment No. 5:

In page 3, between lines 19 and 20, to insert the following:

“Amendment of section 57BS of Principal Act

3. Section 57BS of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by substituting “upheld or substantially upheld” for “substantiated or partly substantiated” in each place where it occurs in subsections (5), (6)(c) and (9).”.

Deputy Doherty has made similar amendments with amendment No. 6 and the necessary consequential amendments Nos. 14, 15 and 18 and I accept them. The Deputy has opted for a full restatement of some of the subsections in the 1942 Act but the effect is the same and I will not press the Minister’s amendments Nos. 5 and 13. My amendment No. 12 is a purely technical drafting amendment to remove superfluous wording referring to part of the principal Act on the advice of the Parliamentary Counsel. Other steps have been taken in the Government’s Bill, which was published on 12 May, to improve transparency and reporting, including the introduction of preliminary decisions, the publication of decisions on financial services complaints and more transparent information in the annual report and all investigations, including those terminated and settled.

Deputy Pearse Doherty: This group of amendments follows the changes we made in the legislation so that four different findings can be made by the Financial Services Ombudsman, which will give greater clarity to consumers and in terms of reporting. There are mirror amendments in my name on the same issue and it is a matter of drafting. The Government is accepting two of those amendments and my amendment No. 18 is identical, so it will be moved by both myself and the Minister.

Deputy Michael McGrath: We support this group of amendments and welcome the clarity given to the nature of the findings that can be made by the ombudsman.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 6:

In page 3, between lines 19 and 20, to insert the following:

“Amendment of section 57BS of PART VIIB of the Principal Act

3. Section 57BS of Part VIIB of the Principal Act (as amended) is amended by the substitution of the following for subsections (5) to (9):

(5) A regulated financial service provider falls within this subsection if, in the preceding financial year, at least 3 complaints relating to the regulated financial service provider which have been made to the Financial Services Ombudsman have been found by that Ombudsman to be upheld or substantially upheld.

(6) The information referred to in subsection (4) is—

(a) the name of the regulated financial service provider, including any trading name (if different),

(b) where applicable, the identity of any group of which the regulated financial service provider is a member, and

(c) the number of complaints found to be upheld or substantially upheld in respect of the regulated financial service provider in the preceding financial year.

(7) For the purposes of the law of defamation the publication of the information referred to in subsection (4) in a report under subsection (1) shall be absolutely privileged.

(8) A report under subsection (1) shall not divulge the identity of any complainant nor shall anything be published in the report which may lead to the identification of any complainant unless the complainant consents in writing.

(9) For the purposes of this section if the regulated financial service provider has appealed against the Financial Services Ombudsman’s finding that a complaint has been found to be upheld or substantially upheld the complaint is to be taken to have been so found only when—

(a) the finding is affirmed (with or without modification) on appeal, or

(b) the appeal is withdrawn, struck out by the High Court or abandoned.”.”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 7:

In page 3, to delete lines 20 to 31, and in page 4, line 1 and substitute the following:

“Amendment of section 57BX of Principal Act

3. (1) Subsection (3) of section 57BX of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by substituting “Subject to subsections (3B) to (3D), a consumer” for “A consumer”.

(2) Section 57BX of the Principal Act is further amended by inserting the following after subsection (3A):

“(3B) Subsection (3)(b) shall not apply to a complaint by a consumer in relation to conduct that relates to a long-term financial service.

(3C) A complaint by a consumer in relation to conduct (the “conduct concerned”) that relates to a long-term financial service shall be made to the Financial Services Ombudsman within whichever of the following periods is the last to expire:

(a) 6 years from the date of the conduct concerned;

(b) 3 years from the earlier of the date on which the person making the complaint became aware, or ought reasonably to have become aware, of the conduct concerned; or

(c) such longer period as the Financial Services Ombudsman may allow where it appears to him or her that there are reasonable grounds for requiring a longer period and that it would be just and equitable, in all the circumstances, to so extend the period, but no complaint in relation to such a service may be made unless

either—

(i) the conditions specified in subsection (3D) are satisfied, or

(ii) the Financial Services Ombudsman has allowed a longer period under paragraph (c).

(3D) The conditions referred to in subsection (3C)(i) are that the long-term financial service concerned has not expired or otherwise been terminated more than 6 years before the date of the complaint, and the conduct complained of occurred during or after 2002.”.”.

Amendment agreed to.

Amendments Nos. 8 to 10, inclusive, not moved.

Deputy Pearse Doherty: I move amendment No. 10a:

In page 4, between lines 1 and 2, to insert the following:

“(3) Section 57BX of PART VIIB of the Principal Act (as inserted by Section 16 of the Act of 2004) is amended by the insertion of the following:

“(3E) The time limits specified in subsection (3C) shall apply to the following:

(a) any complaint received by the Financial Services Ombudsman which had not been assessed as to its suitability for consideration by the Financial Services Ombudsman; and,

+ (b) any complaint received by the Financial Services Ombudsman before the coming into force of this subsection that was refused as being outside the applicable time limits in this Act and that has been resubmitted to the Ombudsman on or after the coming into force of this subsection.”.”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 11:

In page 4, to delete lines 2 to 12 and substitute the following:

“Amendment of section 57CA of Principal Act

4. The Principal Act is amended by substituting the following for section 57CA (as inserted by section 16 of the Act of 2004):

“57CA.(1)The Financial Services Ombudsman may, as part of an investigation, in circumstances where he or she deems it appropriate, try to resolve a complaint by mediation.

(2) The Financial Services Ombudsman shall engage with complainants and providers to ensure that the objective of mediation is understood to promote engagement in the mediation process.

(3) Participation in mediation by the parties to a complaint is voluntary, and a party may withdraw at any time.

(4) The Financial Services Ombudsman may, on reasonable grounds, abandon an attempt to resolve a complaint by mediation as he or she considers appropriate.

(5) Evidence of anything said or admitted during a mediation, or an attempted mediation, of a complaint, and any document prepared for the purposes of the mediation, are not admissible—

(a) in any subsequent investigation, under this Part, of the complaint (unless the person who made the admission, or to whom the document relates, consents to its admission), or

(b) in any proceedings before a court or a tribunal in the State.

(6) Where an attempt to resolve a complaint by mediation is unsuccessful, the Financial Services Ombudsman shall—

(a) deal with the complaint by adjudication, and

(b) notify the parties in writing accordingly.”.”.

I propose to replace section 57CA of the Central Bank Act with a text which mirrors the text in section 58 of the Government’s Bill on mediation and details how the mediation process will work in complaints cases. The Government supports the voluntary ethos of mediation. It is important to focus on the fact mediation is successful when both parties agree that it is a voluntary process which attempts to resolve a dispute.

Deputy Pearse Doherty: I accept the Minister’s amendment and the provision that the ombudsman shall engage in mediation is a major step forward. I acknowledge that there have been great moves in that direction by the ombudsman and his office and I hope this section will encourage the progress we have seen in the past short while.

Deputy Michael McGrath: I acknowledge the efforts, as laid out in the latest annual review of the ombudsman, the efforts that are being made to resolve complaints through mediation, which can play an increasing role in ensuring that disputes and complaints are resolved to

the satisfaction of both parties. Giving statutory recognition to it is desirable and we support it.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 12:

In page 4, lines 14 to 16, to delete all words from and including “Amendment” in line 14 down to and including line 16 and substitute the following:

“(1) Section 57CI of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by substituting the following for subsection (1):”.

Amendment agreed to.

Amendment No. 13 not moved.

Deputy Pearse Doherty: I move amendment No. 14:

In page 4, between lines 23 and 24, to insert the following:

“(2) Amendment of section 57CI of PART VIIB of the Principal Act (as inserted by section 16 of the Act of 2004), in subsection 2 of section 57CI of PART VIIB of the Principal Act (as inserted by section 16 of the Act of 2004) is amended to be read as follows:

“(2) A complaint may be found to be upheld, substantially upheld or substantially rejected only on one or more of the following grounds:

- (a) the conduct complained of was contrary to law;
- (b) the conduct complained of was unreasonable, unjust, oppressive or improperly discriminatory in its application to the complainant;
- (c) although the conduct complained of was in accordance with a law or an established practice or regulatory standard, the law, practice or standard is, or may be, unreasonable, unjust, oppressive or improperly discriminatory in its application to the complainant;
- (d) the conduct complained of was based wholly or partly on an improper motive, an irrelevant ground or an irrelevant consideration;
- (e) the conduct complained of was based wholly or partly on a mistake of law or fact;
- (f) an explanation for the conduct complained of was not given when it should have been given;
- (g) the conduct complained of was otherwise improper.”.

Amendment agreed to.

Deputy Pearse Doherty: I move amendment No. 15:

In page 4, between lines 23 and 24, to insert the following:

“(3) Amendment of section 57CI of PART VIIB of the Principal Act (as inserted by

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section 16 of the Act of 2004), in subsection 4 of section 57CI of PART VIIB of the Principal Act (as inserted by section 16 of the Act of 2004) is amended to be read as follows:

“(4) If a complaint is found to be upheld, substantially upheld or substantially rejected, the Financial Services Ombudsman may direct the financial service provider to do one or more of the following:

(a) to review, rectify, mitigate or change the conduct complained of or its consequences;

(b) to provide reasons or explanations for that conduct;

(c) to change a practice relating to that conduct;

(d) to pay an amount of compensation to the complainant for any loss, expense or inconvenience sustained by the complainant as a result of the conduct complained of;

(e) to take any other lawful action.”.”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 16 and 17 are related and may be discussed together.

Deputy Eoghan Murphy: I move amendment No. 16:

In page 4, between lines 23 and 24, to insert the following:

“Amendment of section 57CL of Principal Act

6. Section 57CL of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by substituting the following for subsection (3):

“(3) An appeal under this section must be made—

(a) within 30 days of the date of the notification of the decision of the Financial Services Ombudsman, or

(b) within such further period as the High Court may allow.”.”.

I understand that amendments Nos. 16 and 17 concern the time limits to appeal to the High Court. Given the fact the suggested amendment of 30 days from the Government is similar to Deputy Doherty’s proposal of 35 days, I have no objections to Deputy Doherty’s amendment.

Deputy Pearse Doherty: I welcome the Government’s decision to withdraw its amendment. This is a step forward. My original Bill, which was published in 2014, suggested a 60-day window and the current rule is 21 days but that timeframe for a consumer to challenge the outcome of a ruling by the Financial Services Ombudsman in the High Court is very limited when one needs junior and senior counsel. The extension to 35 days will be more beneficial to consumers, while acknowledging that the courts can set their own rules. Hopefully, the extension to 35 days will allow more consumers to consider appealing their cases if they believe there is merit in doing so.

Deputy Michael McGrath: We support the amendment of Deputy Doherty. It is a very big decision for a consumer to appeal a decision of the ombudsman to the High Court. Substantial legal costs are involved and consumers do not make the decision lightly. They should have the maximum possible time and the increase to 35 days is welcome to give them a window of opportunity to make what is a serious decision.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 17:

In page 4, between lines 23 and 24, to insert the following:

“Amendment of section 57CL of PART VIIB of the Principal Act

6. Subsection (3) of section 57CL of PART VIIB of the Principal Act (as inserted by section 16 of the Act of 2004) is amended to be read as follows:

“(3) An appeal under this section must be made—

(a) within 35 days of the date of notification of the decision of the Financial Services Ombudsman, or

(b) within such further period as the High Court may allow.”.”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 18:

In page 4, between lines 23 and 24, to insert the following:

“Amendment of section 57CP of Principal Act

7. Section 57CP of the Principal Act (as inserted by section 16 of the Act of 2004) is amended by substituting the following for subsection (2):

“(2) The High Court may not grant an application under subsection (1) unless it is of the opinion that the conduct sought to be restrained is likely to prejudice or negate the effect or implementation of a decision that the Financial Services Ombudsman might make under this Chapter if that Ombudsman were to find the complaint to which the conduct relates is upheld or substantially upheld.”.”.

Amendment agreed to.

Bill reported with amendments.

An Ceann Comhairle: When is it proposed to take Fifth Stage?

Deputy Eoghan Murphy: Now.

An Ceann Comhairle: Is it agreed that Fifth Stage be taken now? Agreed.

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

Minister of State at the Department of Finance (Deputy Eoghan Murphy): In light of the acceptance of amendment No. 10a, I am asking that the House agree to a cross-reference

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change within amendment No. 7, which we have also agreed. The change is in section 3(1) of the text inserted by amendment No. 7 and is to substitute “Subject to subsections (3B) to (3E)” for “Subject to subsections (3B) to (3D)”.

An Ceann Comhairle: Is the Minister of State asking on Fifth Stage that the qualification be entered prior to agreement on the Bill ?

Deputy Eoghan Murphy: That is correct.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Pearse Doherty: I acknowledge the work that officials from the Minister of State’s office have put into working with Sinn Féin. I also acknowledge the work done by Declan Farrell of my office in regard to preparing amendments. He should be celebrating the birth of his child a couple of weeks ago and is supposed to be on paternity leave, but he returned to assist in the passage of this legislation. I also acknowledge the role played by the Free Legal Advice Centres, FLAC, in terms of setting the ground for what is contained within this legislation, in particular through its report of several years ago. Credit is also due to the Financial Services Ombudsman for the work done in conjunction with my office in preparation for this legislation. I thank the Minister of State and Deputy Michael McGrath for their support for the legislation.

Deputy Michael McGrath: I commend Deputy Doherty on getting the Bill to this point and on encouraging the Government with its own Bill. Fianna Fáil also tabled a Private Members’ Bill on this issue but took the view that, as there were three similar Bills in the system at that time and the Sinn Féin Bill was ahead, we would not pursue our own Bill in the interests of efficiency. I am glad that this Bill has now passed all Stages in Dáil Éireann. I wish it well in its journey through the Seanad and I encourage the Government to accelerate the progression of its own Bill which incorporates the issues in this Bill but also wider issues which are equally important for consumers.

Deputy Eoghan Murphy: I again acknowledge the work that has been put into this Bill by Deputies Doherty and McGrath and also the co-operative nature in which we approached this Bill both on Committee Stage and this evening.

An Ceann Comhairle: It is great to see collegiality at work.

Question put and agreed to.

The Dáil adjourned at 9.15 p.m. until 12 noon on Wednesday, 24 May 2017.