



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Leaders' Questions . . . . .	2
Questions on Promised Legislation . . . . .	14
Thirty-fifth Amendment of the Constitution (Protection of Pension Property Rights) Bill 2017: First Stage . . . . .	24
An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Maoinehearta Pinsin a Chosaint) 2017: An Chéad Chéim . . . . .	24
Ceisteanna - Questions . . . . .	25
Official Engagements . . . . .	26
Departmental Strategy Statements . . . . .	35
Brexit Issues . . . . .	41
Topical Issue Matters . . . . .	44
Pre-European Council: Statements . . . . .	44
Ceisteanna - Questions (Resumed) . . . . .	63
Priority Questions . . . . .	63
General Practitioner Contracts . . . . .	63
Nursing Staff Recruitment . . . . .	66
Proposed Legislation . . . . .	68
Health Care Policy . . . . .	69
National Maternity Hospital . . . . .	72
Other Questions . . . . .	74
Diabetes Strategy . . . . .	74
Mental Health Services Provision . . . . .	77
Hospital Accommodation Provision . . . . .	79
Health Care Policy . . . . .	82
Home Help Service Provision . . . . .	84
National Maternity Hospital . . . . .	85
Hospital Waiting Lists . . . . .	88
Mental Health Services Provision . . . . .	90
Business of Dáil . . . . .	92
Topical Issue Debate . . . . .	92
Rent Controls . . . . .	92
Hospital Services . . . . .	95
Aquaculture Licences . . . . .	101
Building Standards, Regulations and Homeowner Protection: Motion [Private Members] . . . . .	104
Appointment to the Judiciary Nomination Procedure: Statements . . . . .	137

# DÁIL ÉIREANN

*Dé Céadaoin, 21 Meitheamh 2017*

*Wednesday, 21 June 2017*

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

*Paidir.*

*Prayer.*

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## Leaders' Questions

**An Ceann Comhairle:** We will take Leaders' Questions under Standing Order 29. I ask Members to have regard to the time allowed for Leaders' Questions.

**Deputy Micheál Martin:** I am sure the Taoiseach will agree that accountability should be central to everything we do in this House. The Taoiseach and the Tánaiste should be prepared to come to the House to answer in detail for their actions relating to the appointment of the former Attorney General to the Court of Appeal. It is an appointment which has been without precedent since 1995 and the 1995 Act, despite their disingenuous attempts to portray it otherwise. Section 18 of that Act was simply not adhered to and the law was circumvented. There is no question about that. The Taoiseach indicated yesterday, a week on from the controversy, that, the night before, he was aware of the possibility of an appointment being made on the basis that everyone knew there was a vacancy. Everybody knew there was a vacancy since March of last year. The Taoiseach is reserving the right to do it all over again by using the Constitution as his defence, because any new Act can be trumped by the Constitution and Article 1 in the future.

Today, we learned that Ministers were critical about the appointment at yesterday's Cabinet meeting. Behind closed doors, they said it should not have been dealt with in the manner it was dealt with at Deputy Enda Kenny's last Cabinet meeting. I do not know whether the Minister, Deputy Shane Ross, got his review at yesterday's meeting. There was an acknowledgement at Cabinet, apparently, that it was badly handled. Why was it done so secretly and in such a covert manner? Why did Deputy Enda Kenny engineer this appointment in this way? Why did the Tánaiste collaborate with him in doing so with the Taoiseach's acquiescence? As I asked on Wednesday last and, indeed, asked the Taoiseach on Sunday evening last, did anybody consider the Fennelly report and its findings in relation to this appointment and to the Attorney General at the time?

The Dáil should have an opportunity to debate this and to ask questions. Yesterday on the Order of Business, I thought we had got an agreement that would happen. The Government side fought tenaciously to resist questions. I am glad to hear that there is some change in that

21 June 2017

direction but it needs to be a comprehensive question and answer session, involving the Taoiseach and, indeed, the Tánaiste.

The Taoiseach invoked the separation of powers yesterday and that was bogus. In 1994, there was an open session here in relation to the appointment of Mr. Harry Whelehan to the High Court with full questions and answers taken by the then Taoiseach. That was a bogus invocation of that.

I do not know why the Taoiseach is so reluctant to come to the House to answer detailed questions in relation to it. Does he agree with his Ministers' assessment that this was badly handled? Does the Taoiseach accept that he essentially ignored all the Opposition's concerns about this appointment and that he rammed it through on Sunday evening to avoid accountability to the House? Did anyone raise the Fennelly report when this appointment was going through the Cabinet?

**The Taoiseach:** I am absolutely in favour of accountability before this House. I am here to answer any question Deputy Micheál Martin wants to ask me in relation to that appointment or any other matter today, as I was yesterday and as I will be on Tuesday and Wednesday next. I understand that discussions are under way at the Business Committee and among the Whips about a debate later on today involving other Ministers and a more comprehensive discussion and I have no difficulty with that provided the terms can be agreed.

As I stated yesterday, I knew there was a vacancy. It was a matter of public record. In fact, it was advertised. I knew that it was a possibility the evening before that this appointment could be made. I did not know it was going to happen and did not have any sight of the memo until the Cabinet meeting itself.

Ultimately, what happened here was that a suitable person was appointed by a lawful process. No matter how much Deputy Micheál Martin tries to make this into an issue different from that, what happened here was that a suitable person who was appropriately qualified was appointed to a vacancy lawfully using a correct process.

**Deputy Frances Fitzgerald:** Hear, hear.

**The Taoiseach:** What concerns me, though, is that yesterday Deputy Micheál Martin cast aspersions on the suitability and qualifications of Máire Whelan, who is now a judge of the Court of Appeal. I want Deputy Micheál Martin to be mindful of the separation of powers that exists between Parliament and the Judiciary and I also want him to be mindful of the allegation that he made against my Government in undermining the Judiciary. I want to give Deputy Micheál Martin an opportunity in this House today to correct and clarify the remarks he made about the suitability and qualifications of Ms Justice Whelan.

**Deputy Frances Fitzgerald:** Take the opportunity to withdraw it.

**Deputy Micheál Martin:** The Taoiseach has not answered the question. The Government fought tenaciously against accountability yesterday and did not facilitate a questions and answers session yesterday in the House.

**Deputy Frances Fitzgerald:** They had two hours last night. You refused.

**Deputy John Paul Phelan:** Withdraw the remark.

**Deputy Micheál Martin:** I put it to the Taoiseach that yesterday in the House he stated that this was the first he has learned about questions about the suitability. It was not the first he had learned about it because I told him on Sunday evening last in a phone call. I made it clear about the Fennelly commission and concerns I had about it. I made it clear to the Taoiseach, as I did last week in the House. I referenced Fennelly in my speech.

I do not like and, as I said to the Taoiseach on Sunday night, do not want to get involved in personal issues but one cannot separate suitability from an appointment. The point is that I did not invite this yesterday; the Taoiseach did. It is the Taoiseach who brought in the personalities and he named names. None of those persons-----

**Deputy John Paul Phelan:** Withdraw your remarks.

**Deputy Micheál Martin:** None of those persons who the Taoiseach named-----

**Deputy Frances Fitzgerald:** The Taoiseach praised them.

**Deputy Micheál Martin:** -----had any negative tribunal findings hanging over them.

**Deputy Frances Fitzgerald:** The Taoiseach praised them. He did not criticise them.

**Deputy Micheál Martin:** The bottom line is-----

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

**Deputy Micheál Martin:** The bottom line is that the former Attorney General, at the Fennelly commission, had to apologise for having given a contrary impression in her evidence to the commission and regrets that her at times “trenchant language” had undoubtedly left the commission with what she calls an “erroneous impression” that she had used such language at the meetings and in particular that she had used language alluding to criminal activity at the meeting with the Taoiseach and Mr. Fraser on 23 March 2014. If one reads Fennelly-----

**Deputy Eoghan Murphy:** Deputy Micheál undermined the Judiciary.

**Deputy Micheál Martin:** This is not being personal at all and I have no axe to grind with the individual-----

**Deputy John Paul Phelan:** Deputy Micheál Martin did yesterday. Withdraw the remark of yesterday.

**An Ceann Comhairle:** All right. I thank Deputy Martin.

**Deputy Micheál Martin:** I am making the point-----

**Deputy Frances Fitzgerald:** Withdraw what you said yesterday.

**Deputy John Paul Phelan:** Withdraw what you said yesterday.

**Deputy Micheál Martin:** With the greatest of respect, a bit more transparency from the Tánaiste would not go amiss in respect of all of this.

**Deputy Simon Harris:** Deputy Martin is undermining the Judiciary.

**Deputy Timmy Dooley:** The Government has undermined the Judiciary by its actions.

21 June 2017

**Deputy Micheál Martin:** I am simply making the point that there are substantive issues here arising out of Fennelly.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Micheál Martin:** The Taoiseach cannot try to escape from that or try to cast aspersions on references I made that were made genuinely. The Taoiseach invited the comparisons, not I.

**An Ceann Comhairle:** Thank you, Deputy. The time is up.

**Deputy Micheál Martin:** The Taoiseach did so to circumvent the issue that goes to the heart of this.

**Deputy Eoghan Murphy:** Deputy Martin made the comparisons yesterday and in doing so undermined the Judiciary. He should withdraw his remarks.

**Deputy Micheál Martin:** The Taoiseach tried to create the impression that there were precedents with these individuals, but there were not. There was no precedent with those individuals.

**An Ceann Comhairle:** Deputy, please.

**Deputy Micheál Martin:** It was disingenuous. That is what the Taoiseach was at and he should not have done it. The Taoiseach should be much more straight about it. He should come clean, say this was badly handled and that it circumvented the law. That would end all of this. A bit of straight-talking and honesty from the Taoiseach in respect of the issue is needed.

*(Interruptions).*

**An Ceann Comhairle:** Deputy, please.

**Deputy Thomas P. Broughan:** A Cheann Comhairle, on a point of order-----

**An Ceann Comhairle:** There is no point of order, thank you.

**Deputy Thomas P. Broughan:** You have allowed two minutes for the reply of this Deputy.

**An Ceann Comhairle:** Resume your seat please, Deputy. There is no point of order on Leaders' Questions.

**Deputy Thomas P. Broughan:** It is very unfair to the rest of us, given his disgraceful comments yesterday. I do not know what he is talking about.

**Deputy Timmy Dooley:** If Deputy Broughan had listened, he might know.

**An Ceann Comhairle:** Resume your seat, please. The Taoiseach to reply.

**The Taoiseach:** Deputy Martin had two hours of his party's time to discuss this if he had wanted to, and he chose not to.

**Deputy Micheál Martin:** That is not true.

**The Taoiseach:** I understand there are now discussions under way involving the Whips about us using our time to allow the Opposition to discuss this matter further, including a question and answer session. I am sure we can come to agreement on that. It is always the case that I am in the Dáil twice a week. Deputy Martin can ask any question he likes of me and I will do my very best to answer it.

What Deputy Martin said earlier is correct. Deputy Martin did say to me in his telephone call to me on Sunday night that he was questioning the qualifications, capabilities and competence of Máire Whelan. Deputy Martin also said he would not go there publically.

**Deputy Micheál Martin:** That is not true.

**The Taoiseach:** Deputy Martin did go there publically and doing so, in my view, was a mistake. It was wrong. Perhaps Deputy Martin did not mean to go there.

**Deputy Thomas Byrne:** The Taoiseach invited the comparisons.

**The Taoiseach:** Perhaps he said something in the heat of argument.

**Deputy Thomas Byrne:** The Taoiseach has disregarded the rule of law.

**The Taoiseach:** We have all been responsible for that in our time. However, in doing so, Deputy Martin cast aspersions on someone who is now a judge of the Court of Appeal.

**Deputy Sean Fleming:** Why did the Taoiseach not reappoint her as Attorney General?

**The Taoiseach:** Deputy Martin said that she was lesser than other people.

**Deputy Sean Fleming:** The Taoiseach created the problem. Why did the Taoiseach sack her as Attorney General?

**An Ceann Comhairle:** Deputies, please.

**Deputy John Paul Phelan:** The Taoiseach did not sack her as Attorney General.

*(Interruptions).*

**An Ceann Comhairle:** Deputies, please behave with a little decorum. The Taoiseach has been asked a question. He is attempting to respond.

**The Taoiseach:** Deputy Martin specifically cast aspersions on the competence, capability and suitability of a Court of Appeal justice, Ms Justice Máire Whelan, in this House yesterday. Deputy Martin said that she was a lesser person or of lesser character or less capable than other people he mentioned.

**Deputy Micheál Martin:** I did not say that.

**The Taoiseach:** I am referring to the specific people he mentioned.

Mindful of the separation of powers that exist between this House and the Judiciary and mindful of the need for people in important positions, such as Deputy Martin and I, not to undermine the Judiciary, I would like to give Deputy Martin one more chance to withdraw the

remarks he made about Ms Justice Whelan.

**Deputy Timmy Dooley:** The Taoiseach undermined the Judiciary by his actions. He undermined the Judiciary by making the appointment.

*(Interruptions).*

**An Ceann Comhairle:** Can we have order, please?

**Deputy Mary Lou McDonald:** I want to raise with the Taoiseach the position of Garda Commissioner, Nóirín O'Sullivan, and the virtual conveyor belt of crises that continue to engulf An Garda Síochána.

It is no secret that public confidence in the Commissioner is in tatters. It is certainly not difficult to see why. The Commissioner has failed to tackle persistent malpractice and a blatant lack of accountability in the upper echelons of Garda management.

Yesterday, the scandal surrounding serious financial irregularities at Templemore and the Commissioner's handling of the affair took yet another turn. At the Committee of Public Accounts it has emerged that the Comptroller and Auditor General was misled by the serving Garda Commissioner. The Commissioner wrote to the Comptroller and Auditor General on 31 July 2015 telling him or reassuring him that all was well regarding the integrity of Garda finances. However, the Commissioner knew that this was not true. She had known that, she says, since 27 July 2015.

The Committee of Public Accounts has heard evidence of attempts to contain, if not cover up, financial irregularities at the Garda training college. As part of that process, senior management sought to muddy the waters in communications with the Department of Justice and Equality. As the Taoiseach knows, there were in excess of 50 bank accounts being operated at Templemore and it has now emerged that GSOC is conducting a serious fraud investigation into what has become known as the Cabra account. The Taoiseach is aware of all of these scandals. He should make no mistake that any refusal to act by his Government makes this a crisis not only in policing but also in the leadership of the State. If, like his predecessor, Deputy Enda Kenny, he chooses to turn a blind eye to the seriousness of the situation, the credibility of his Administration will be broken. He has an opportunity to avoid that and do the right thing. He can bring to an end the evasion and political gymnastics that so dominated the previous Taoiseach's handling of these scandals and turn instead to an approach that would really change the administration of policing for the better.

Yesterday, during the proceedings of the Committee of Public Accounts, the Commissioner could or would not express confidence in her senior management team. How can anyone have confidence in the head of police if she cannot express confidence in her own team? It is incredible that anybody, not least the head of Government, could seriously argue that the Garda Commissioner is the right person to rebuild public confidence in policing. While the political establishment in the State stretches the bounds of credibility every day, even in Ireland credibility does not stretch that far. The Taoiseach has to face up to reality. The Commissioner has to go. Her position is absolutely untenable. Does the Taoiseach have confidence in Nóirín O'Sullivan?

**The Taoiseach:** Yes, I do have confidence in the Garda Commissioner, as does the Government. The problems besetting the Garda are long-standing. Most, if not all, predate her becoming Garda Commissioner.

**Deputy Brendan Howlin:** That is simply not true.

**The Taoiseach:** I believe she is somebody who is fighting many battles on many fronts in an effort to put things right.

**Deputy Brendan Howlin:** That is true.

**The Taoiseach:** More importantly, I want the public to have confidence in the Garda. That is crucial in my approach to the matter. It is unfortunately true that trust and confidence have been strained because of the revelations that have beset the Garda in recent months and years. The Government has a duty to restore that confidence and trust. We have a policing model in Ireland that is based on confidence and trust. We do not have an armed police force such as in other countries which base their authority on arms rather than the relationship with the community.

**Deputy Timmy Dooley:** Like in France or Canada.

**The Taoiseach:** The best way to restore trust and confidence in the Garda is, first, to ensure there is a thorough investigation of all of the allegations made. That is under way. The Committee of Public Accounts is carrying out hearings and sat for the entire day yesterday in order that the hearings could proceed. I also understand the Garda Síochána Ombudsman Commission has begun a fraud investigation into accounts in Templemore. It is important that these investigations proceed and quickly. It is also important that they be allowed to run their course. We should not come to conclusions on their outcome until the people actually carrying them out have come to a conclusion having listened to all of the evidence.

We also need to accelerate the pace of reform in the Garda. I am not happy with the pace at which it is occurring. It is very important in the coming months and years that we build on the reforms that have taken place and also accelerate things in order that we can do what is most important, namely, restore the confidence and trust of the people in the Garda.

**Deputy Mary Lou McDonald:** That is most uninspiring. The Taoiseach is treading the well worn path of Deputy Enda Kenny, a master of evasion who brought not taking decisions on Garda reform to the level of a higher art. Two things have been established and they are not in dispute. The first fact accepted by everyone, including the Garda Commissioner, is that she failed to comply with the Garda Síochána Act 2005 in failing to inform the then Minister, Deputy Frances Fitzgerald, of the serious allegations made at Templemore. That is not a matter of dispute. The second established fact is that the current serving Commissioner wrote to the Comptroller and Auditor General and misled him and his office. There is no contention, debate or dispute about those two facts.

Leaving everything else aside, on the basis of those two established facts, the Commissioner has to go. If the talk of reform is more than rhetoric and if the Taoiseach is serious about a new era in policing, then accountability has to start at the very top and that means the Taoiseach, as head of Government, has to come off the fence, call things for what they are and ensure that the Commissioner goes in the interests of An Garda Síochána and public confidence. Anything short of that demonstrates for one and all that he is simply talking down the clock and talking

21 June 2017

the language of reform but not with any real seriousness.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Mary Lou McDonald:** I have given the Taoiseach two established facts of failure in respect of Templemore that revolve directly around the serving Commissioner under her watch. What is he going to do about that?

**The Taoiseach:** First, I am not on the fence; I have been very clear and straight with the Deputy. I have confidence in the Garda Commissioner, as does the Government. I do not think that is being on the fence. That is being as straight as I possibly can on this issue.

In regard to the Act to which the Deputy referred, it requires a Commissioner to inform the Minister for Justice of certain things but it is in the judgment of the Commissioner as to whether the threshold is reached and it is something that needs to be referred to the Minister for Justice.

**Deputy Mary Lou McDonald:** That is pathetic.

**The Taoiseach:** That is the case.

**Deputy Pearse Doherty:** Does the Taoiseach believe the threshold was reached?

**The Taoiseach:** Deputy McDonald may not like that being the case but that happens to be the case and that is a judgment call.

In terms of the other facts she gave me, I can give her some facts too. The Committee of Public Accounts is currently carrying out an investigation.

**Deputy Mary Lou McDonald:** I am on the Committee of Public Accounts.

**The Taoiseach:** It had hearings that went on for hours yesterday at which the Deputy was present. The Garda Síochána Ombudsman Commission, GSOC, has launched an investigation looking in particular into alleged fraud when it comes to accounts in Templemore and a tribunal, the Charleton tribunal, is under way.

**Deputy Mary Lou McDonald:** And the Commissioner remains in place. That is astonishing.

**The Taoiseach:** Yes, but it is the Deputy's contention that we should bypass all those investigations-----

**Deputy Mary Lou McDonald:** No.

**The Taoiseach:** -----a tribunal-----

**Deputy Finian McGrath:** Due process.

**The Taoiseach:** -----GSOC and the Committee of Public Accounts and rush a judgment. I do not believe in summary justice or kangaroo courts.

**Deputy Patrick O'Donovan:** Kangaroo courts-----

**Deputy Timmy Dooley:** When the Deputy was on the backbenches he was fairly well able to delivery summary justice.

**The Taoiseach:** I appreciate that Deputy McDonald comes from a political tradition that is okay about that but mine is not.

*(Interruptions).*

**Deputy Thomas P. Broughan:** Why has the Taoiseach's Ministers, Deputies Paschal Donohoe and Simon Harris, refused to provide the funding necessary for the restoration of staff salaries in section 39 health sector organisations? Unlike colleagues often doing the very same job in section 38 agencies and in the HSE, health workers in the 1,800 section 39 organisations have been discriminated against and denied pay restoration under the Lansdowne Road agreement.

Three weeks ago I hosted a Dáil briefing that was addressed by chief executive officers of the two largest section 39 organisations in the country, the Irish Wheelchair Association and the Rehab. The briefing was well attended by colleagues from all sides of the House and the Seanad and was addressed by the two chief executive officers, Ms Rosemary Keogh of the Irish Wheelchair Association and Ms Mo Flynn of Rehab. I am delighted to extend a welcome to Ms Keogh who is in the Visitors Gallery. Both CEOs strongly warned that the services provided by their organisations will be in jeopardy if there is no urgent resolution of the pay restoration issue for their staff, and those most negatively impacted will be the tens of thousands of our citizens with disabilities receiving vital support services.

The Irish Wheelchair Association, which has its headquarters in Clontarf in my constituency, delivers 1.17 million hours of assisted living services to almost 2,000 people. It employs 1,500 people in providing assisted living services and it is the largest provider of these services in Ireland. It has approximately 20,000 members throughout the country. Ms Keogh succinctly informed us three weeks ago that if one works as a home support worker with a section 38 organisation or the HSE, one will receive the Lansdowne Road agreement pay increases but if one does equivalent work with the Irish Wheelchair Association, the State does not recognise one's right to seek pay restoration even though one will be carrying out the exact same tasks. Ms Mo Flynn of Rehab, which provides a similar level of services, highlighted the difficulty for section 39 organisations in retaining skilled staff, given that section 39 staff are now earning approximately €120 less per month than those doing the exact same job in the 44 section 38 organisations and the HSE.

Contrary to what the Ministers, Deputies Paschal Donohoe and Simon Harris, and the Minister of State, Deputy Finian McGrath, have been saying, members of not-for-profit associations such as the Irish Wheelchair Association and Rehab were instructed by the HSE to align pay with the Financial Emergency Measures in the Public Interest, FEMPI, legislation, adjust it and cut pay scales. In 2010 the Labour Court ruled that pay cuts must be imposed because the pay scales of section 39 and 38 organisations had been aligned for more than 15 years. Why is the Minister, Deputy Harris, so disingenuous when he constantly passes the ball back and forth to the HSE whenever I raise this matter with him? It is simply impossible for the Irish Wheelchair Association to meet the €1.34 million needed for pay restoration this year under the Lansdowne Road Agreement or the €290,000 needed for last year without HSE and State support. SIPTU has rightly taken the matter to the Workplace Relations Commission for adjudication and the WRC has suggested a conciliation conference. Recently, SIPTU also tried to raise the plight of section 39 workers in Lansdowne Road 2 negotiations. Will the Taoiseach now support a process for the full restoration of these salaries for this dedicated and highly valued workforce

which enables our citizens with disabilities to live independent and satisfying lives? The funding was supposed to have been in the 2017 Estimates and hopefully we will look at this in the Budget Oversight Committee. The Taoiseach needs to take action for the tens of thousands of our citizens with a disability. The workers concerned are people who get up early in the morning and work hard all day.

**The Taoiseach:** The Deputy and I both know, but maybe others in the House will not be as familiar with these issues and the Health Act, that the fundamental difference between people who work for a section 38 or section 39 organisation is that if one works for a section 38 organisation one is a public sector employee. One is effectively a public servant and therefore is subject to all the pluses and minuses that come with that, the pluses such as the very good public sector pension and minuses that arise from the various restrictions that apply to hiring and firing in the public sector, and pay reductions and increases where they arise. People who work for section 39 organisations are not public sector employees. They tend to work for a NGO, charity or religious order which is given a block grant from which they are expected to provide services and pay their employees. That is the difference between section 38 and section 39. It is not dissimilar to a company which receives a contract having to cover its costs, provide its services and employ its staff from the money it receives for that contract. It is not acceptable for any organisation that has had its budget increased to reduce the services it provides to its clients and I would take a very dim view of any organisation reducing services to its clients where its budget has not been reduced.

**Deputy Thomas P. Broughan:** The Taoiseach has just repeated the old mantra. He and I both know the distinction which goes back to the Health Act 1953. The reality is that the Labour Court judged in 2010 that the pay scales of similar type jobs in both section 39 and section 38 had been aligned for 15 years. Those workers took a massive hit, in common with the rest of the public sector workforce. Because there is this precedent, it is a foregone conclusion that the WRC will rule that section 39 workers are entitled to increases under the Lansdowne Road agreement. Therefore it is a question of when, not if. The Taoiseach and the Ministers, Deputies Harris and Donohoe, are placing vital services in jeopardy by withholding funding from the organisations which would have gone to provide necessary services. There is widespread support across the Oireachtas for this restoration. Some weeks ago, I sent a letter to Deputy Harris, which has not been acknowledged, from members of my technical group, Independents4Change, Solidarity - People Before Profit, supported by Sinn Féin, Fianna Fáil and the Rural Alliance, asking the Minister to meet with the Not For Profit Association. He has not even replied to us.

**Deputy Simon Harris:** I have already met them.

**Deputy Thomas P. Broughan:** The Minister has not even acknowledged the letter. The Taoiseach might ask him to do that. One final point. A constituent with a disability, who I know, sums up the need for urgent action on this issue. She receives a personal assistance package from the Wheelchair Association. Without it she would not be able to live her life to the fullest. She is holding down an important job, attending college and taking care of her young child and her family home. It is for her and the thousands of people like her that the Taoiseach should take action on this and not just give me these formulaic responses. I want something different and some real action on this matter.

**The Taoiseach:** I have not seen that Labour Court recommendation, but, as the Deputy will be aware, Labour Court recommendations are made to the employer. In the case of section 39

bodies, the employer is the legal employer - the charity, NGO, religious or other body - not the State. Regarding pay restoration, staff in section 39 agencies were not subject to the provisions of the public service agreements or the FEMPI legislation which imposed pay reductions. I am informed that a dispute resolution process with the HSE was entered into by both the Irish Wheelchair Association and Rehab and that significant progress has been made, as recognised by both sides. They have now agreed to a separate WRC process to deal with the issue of pay restoration issue. I believe the matter can be resolved at the WRC in the normal way.

**Deputy Thomas P. Broughan:** They need the Taoiseach's help.

**The Taoiseach:** On foot of this process, the director general of the HSE has given a derogation to both the Irish Wheelchair Association and Rehab to reinstate in full their funding levels.

**Deputy Eamon Ryan:** I hope I am not about to reveal what was said in a private conversation, but as it has been done already during Leaders' Questions, perhaps it encourages me to do so. During the interregnum I was walking around St. Stephen's Green and who did I meet but the Minister for Finance who was walking the other way. We stopped to have a chat, as one does. We talked about social partnership, capital plans and, inevitably and briefly, books we would recommend to each other. I recommended to him *The Myth Gap* by Alex Evans, while he blessedly recommended to me a short book he had just read, *On Tyranny*, by Timothy Snyder. It is a good book and worth reading as it is very interesting. It contains a thesis about politics having moved from the politics of inevitability, as he calls it, whereby it is just a question of the inevitable progress towards liberal democracy, to a political system, as we see here, where one party defends the *status quo* and the other just consists of negation. However, this myth was shattered in 2008 in the crash. It is a myth that has collapsed and is no longer viable. Mr. Snyder argues that it is being replaced in many countries by an alternative, the politics of eternity, as he calls it.

**Deputy Micheál Martin:** Most politicians would agree.

**Deputy Eamon Ryan:** He characterises it as the seduction of a mythical past that prevents us from thinking about possible futures.

*(Interruptions).*

**An Ceann Comhairle:** Order, please.

**Deputy Eamon Ryan:** He says it is led, in President Trump, by a nationalist who encourages us to be our worst and then tells us we are the best. It is the antithesis of a patriot who wants the nation to live up to its ideals, which means asking us to be our best. I raise this issue because I understand the Taoiseach has taken on an historian as his speech writer. The book is all about understanding and applying the lessons of history that allow us to see patterns and make judgments. It sketches for us the structures within which we can seek freedom. It permits us to be responsible, not for everything but something. He says the younger generation, to which the Taoiseach belongs, which I can say, unfortunately, has an historic responsibility to make this choice and not go down the route of nationalist politics or stick to the old inevitability but to stand up against tyranny and be courageous in doing so. The Taoiseach has a chance to be what Mr. Snyder calls the creator in a moment of history.

21 June 2017

In March the Taoiseach said he would not invite President Trump to Ireland. He is now the leader of the country, a country that wants to stand up against the demonisation of Islam, for which President Trump stands; to stand up against his treatment of Irish emigrants who are stuck in the United States undocumented; to stand up against his repudiation of the Paris climate change agreement which forms a central part of international co-operation; and to stand up with the German Chancellor and others who say President Trump is someone who cannot be relied on. How will the Taoiseach contact the US Government about the undocumented Irish when the United States does not have an ambassador here? In so doing will he discontinue the invitation to President Trump? Will he take the lessons of history and stand up against tyranny and for all that is good in this patriotic country?

**The Taoiseach:** I am delighted that the Minister, Deputy Paschal Donohoe, is making the same book recommendations to the Deputy as he is to me. He gave me the book *On Tyranny* for my 38th birthday. I have read it and it is a good read.

**Deputy Brendan Howlin:** Is the Minister trying to tell the Taoiseach something?

**The Taoiseach:** I know that for many members of the Deputy's party, the world stopped at some stage in the 1980s and that he has not read any political philosophy since, but it is-----

*(Interruptions).*

**Deputy Brendan Howlin:** I thought he had made him a social democrat.

**The Taoiseach:** Again, 1980s concepts, big time. I recommend that the Deputy read some books from the 1990s and this century which talk about other concepts. They are a good read. There are 20 lessons and the Deputy can read them just before bedtime. The Minister for Finance's other recommendation is *The Hillbilly Elegy*, while the Minister for Education and Skills recommends *The Political Brain*, both of which are a good read.

**Deputy Patrick O'Donovan:** How does one join the book club?

**The Taoiseach:** Perhaps after pilates, we can also have a book club.

To answer Deputy Eamon Ryan's question frankly, in March an invitation was issued by the former Taoiseach, Deputy Enda Kenny, to President Trump. I will not, of course, rescind that invitation. It would be inappropriate and create a diplomatic incident if I was to rescind an invitation once made but no progress has been made in organising such a visit, for which there is no timeline. I assure the Deputy that in my dealings with the American Government and my interactions and engagement with the chargé d'affaires who is here and acting US ambassador to Ireland I will approach them based on the long-standing friendship between our countries and the familial, cultural and economic links, but I will never shirk from raising issues such as climate change. I totally reject and oppose President Trump's attempt to withdraw the United States from the commitments made in Paris. I will also raise our concerns about human and LGBT rights and other issues in America that very much oppose the values of the new European centre about which I talk.

**Deputy Eamon Ryan:** I understand it is difficult diplomatically to rescind an invitation and perhaps this might go the way of the United Kingdom's which the American President said he would not take up because there would be protests. There will be protests here if he comes and

perhaps he might make the same decision not to come. It would be a deeply divisive moment because he stands for values against which we must protest. I am interested in the Taoiseach's next steps. His job is important and occasionally one has the sense that the path of history is evolving. We are watching his steps to see what path he will take. He has said he cannot rescind the invitation. What steps will he take to say the United States is not to be relied on, as Chancellor Merkel has done? What opportunity will he take to stand up for our values and against tyranny which is the central argument of the book mentioned? Where will he be courageous? In what way will he set his values and define what he represents? It is not good enough to stay shtum for the next ten months, visit for St. Patrick's Day and have the entire parade start again. What will the Taoiseach do if he is not willing to rescind the invitation? What has changed from what he said in March other than the confines of his office? How might he break from them in a truly enlightened and historic way? His historian might help him craft a speech, which is what I would recommend.

**The Taoiseach:** I have not hired a speech writer, but I have hired somebody who is a professor of history. I have a great interest in history which I believe is the study of the future because few things have not happened previously and it is a good idea to fill one's suitcase with history books because they are a good guide to what might happen on the road ahead.

**Deputy Marc MacSharry:** We are in for more of the same.

**The Taoiseach:** When it comes to any engagement I will have with the American authorities, I will stand by the values of this country and the European values for which the Government stands also. Whether it is interactions with the embassy in Dublin or the US authorities at other meetings or during a visit to the United States which may happen next March, the Deputy can be assured that I will absolutely include in those meetings discussions of the issues he mentioned, whether it be climate change, human rights, LGBT rights and the need to respect Muslim people, whether they are citizens of this or another country.

**Deputy Caoimhghín Ó Caoláin:** The undocumented Irish in the United States are being arrested by the dozen.

**The Taoiseach:** That too, of which the Deputy can be sure. When President John F. Kennedy addressed this House in 1963, he said the power small countries had was to use their voice and set an example. That is exactly what I intend this Government will do, namely, use our voice as a small country to promote those values into the future.

**An Ceann Comhairle:** That concludes Leaders' Questions. I have to say many of us have shown scant regard for the Standing Orders on the time allowed. We move to Questions on Promised Legislation. I remind Members that one minute for one question is what is allowed.

### **Questions on Promised Legislation**

**Deputy Micheál Martin:** The Technological Universities Bill, which was before the last Dáil and which is a critical piece of legislation in regard to the future of the institutes of technology, has been languishing for over 12 months now, with absolutely no progress in terms of bringing it to this House and having it passed. I said to the Taoiseach when we met some weeks ago that this is legislation we are prepared to engage on and compromise on, with a view to getting it through before the summer recess. It is my view that if we do not move on this, then

21 June 2017

paralysis will set in with regard to the ongoing development of the technological universities sector, which is so critical to economic development in this country and to the future of the institutes concerned. Will the Taoiseach indicate to the House when we are likely to see that legislation brought forward and the prospects of having it delivered through the summer? Everybody has been criticising the absence of legislation. The Government has not been active enough in bringing forward legislation over the last 12 months.

**The Taoiseach:** I ask the Minister for Education and Skills to respond.

**Minister for Education and Skills (Deputy Richard Bruton):** I thank Deputy Martin for raising this issue. There has been substantial progress. As the Deputy knows, we negotiated with the TUI, which was the obstacle to this. That has now been approved by ballot by the TUI and, on foot of that, we will be bringing forward amendments and I will be going to Government for permission to draft those amendments within the next couple of weeks. Obviously, as to whether I can meet a deadline of bringing forward those drafted before the summer recess, that is something I would like to do but there are always uncertainties in a drafting process. I can assure the Deputy this is getting very urgent and immediate attention. I understand why the Deputy is raising it, given it is urgent. It is an issue we want to move on but----

**Deputy Micheál Martin:** Deputy Thomas Byrne has received completely contrary information.

**Deputy Mary Lou McDonald:** The trial of Ibrahim Halawa was delayed again last month for the 24th time and has now been rescheduled for 4 July. By that stage Ibrahim will have been almost four years in Egyptian prisons and the impact of this on his physical and mental health has been enormous. The Government's diplomatic efforts thus far have been deeply disappointing and totally inadequate. In a letter written to the Taoiseach this week, Ibrahim writes of entering a dark tunnel and of four years of torture, suffering and pain. Will the Taoiseach commit to increasing our diplomatic efforts? Will he speak directly to the Egyptian President? Will he seek support at this week's European Council meeting for increased pressure on the Egyptian Government to release this Irish and EU citizen? Ibrahim Halawa was only 17 when he sought shelter in the al-Fateh mosque in Cairo. No young person should have to live through his experience since then. Will the Taoiseach respond to his letter and will he substantially increase our diplomatic efforts for his release, as I have outlined?

**Deputy Eamon Ryan:** I second that call. I want to add specifically that the Taoiseach should talk to the Greek Prime Minister at the European Council. Our understanding is that it is Greek opposition to having European monitoring of the case which is stopping it. We need the European monitor there on 4 July to put on the pressure to get him out. Will the Taoiseach specifically bring this up with the Greek Prime Minister and report back to the House, whatever answer he gives?

**The Taoiseach:** Ibrahim Halawa is an Irish citizen who has been detained without trial in Egypt for four years. That, to me, is something that is utterly unacceptable. He was detained when he was 17 years old and was a minor. I think a lot of work has been done by the authorities, including the Department of Foreign Affairs and Trade and others, to assist in his release. I know the Ceann Comhairle led a delegation with regard to that and carried out a very important role in the efforts to ensure he is released and given a pardon. The current state of play is that this cannot happen until the trial happens but the trial keeps on being delayed, which has us in a very difficult situation at the moment.

He wrote to me last week and I have read the letter. I welcome the fact that in the letter he said he has ended his hunger strike. I will set aside some time next week to consider what additional options or measures could be taken by the Government to assist in his early release but, of course, I do not want to do anything that might turn out to be counterproductive so I need to study it a little more myself.

**Deputy Mary Lou McDonald:** Will the Taoiseach report back on it?

**The Taoiseach:** I will of course. In regard to meeting the Greek Prime Minister, it will be my first European Council meeting and I am not sure exactly how they work, but if there is an opportunity to have a discussion with him I will do so.

**Deputy Eamon Ryan:** Start as you mean to go on.

**Deputy Brendan Howlin:** Another school year has passed. Schools throughout the country have filled their classes for next year without any reform to their admissions policy. The education committee will publish a report recommending the baptism barrier be ended. Just under a year ago the Dáil debated the Labour Party's Equal Status (Admission to Schools) Bill. The Taoiseach will remember the Government voted to delay the passage of the Bill for one year. We now have the report of the all-party committee, and the Labour Party's Bill will pass Second Stage next week when the year is up. Will the Taoiseach agreed to proceed the Labour Party's Bill to Committee Stage immediately so we can address this issue, on which I think there is consensus in the House, once and for all?

**Deputy Thomas Byrne:** This is another example of legislation my leader has offered that Fianna Fáil will facilitate before the summer recess. Will the Taoiseach clarify what is the Government's position on the school admissions Bill? Has the Government taken a decision on it? Has the Minister, Deputy Bruton, made up his mind? There seems to be total indecision on education with the Technological Universities Bill and the school admissions Bill. People are wondering what is happening. Quite a large part of the education sector is in a state of stasis at present because people do not know what is happening and what way they will have to operate their affairs in future.

**Deputy Richard Bruton:** To reassure the Deputies, the Education (Admission to Schools) Bill was drafted and largely built on the Bill by my predecessor. That will be on Committee Stage next Wednesday. That Bill, which deals with-----

**Deputy Brendan Howlin:** It is a different Bill.

**Deputy Thomas Byrne:** What are the Minister's views?

**Deputy Richard Bruton:** Let me answer. That is the Bill that was drafted to deal with admissions. There is much consensus on how we should deal with, for example, giving powers to the NCSE to designate a place for a pupil with special needs or making it illegal to discriminate on all sorts of grounds in admissions. It is an important Bill. The Dáil decided that the second issue, the issue of how we deal with religion as a criterion for entry to schools, should be dealt with on a different track. Since the Bill was published we have had a broad consultation on the issue. Four options were discussed and we had a forum very recently. What now needs to be done, and what I am doing, is bringing forward and developing amendments that can get the support of the Attorney General as the legal adviser to the Government, and get a broad consensus across the House and the broader education partnership.

21 June 2017

**Deputy Brendan Howlin:** We can proceed with the Bill to Committee Stage and then we can discuss it.

**Deputy Thomas Byrne:** The Minister is muddying the waters further.

**Deputy Richard Bruton:** What we need is an amendment that is robust at the end of the day.

**Deputy Brendan Howlin:** Then let us get the committee to discuss it.

**Deputy Richard Bruton:** I need to ensure I have a legally robust amendment so we can deal with this issue. I share the belief of all that we need to change this.

**Deputy Brendan Howlin:** Will the Minister stop the Bill then?

**Deputy Richard Bruton:** No, I am very happy for it to go to Committee Stage.

**Deputy Gino Kenny:** The Government made a commitment on the high cost of medicines in the programme for Government to drive down the cost of drugs and medicines. The reason I raised this issue is because of a lady called Charlotte Connolly. I am not sure many people know her, but she is the only person in Ireland suffering from Degos disease. Her husband was here yesterday. He walked from Mullingar to Dáil Éireann to highlight Charlotte's situation. She wants access to a drug called Soliris on an experimental basis to treat her illness. At present the drug costs €400,000 per year per patient. It is made by a company in the Taoiseach's constituency, Alexion Pharmaceuticals. Will the Taoiseach give a commitment to give Charlotte access to the drug? The Minister for Health should meet the family to clarify the issue.

**An Ceann Comhairle:** It is more suitable to a Topical Issue matter.

**The Taoiseach:** My understanding is the drug is not licensed for that condition. Perhaps the Minister for Health might be able to answer the Deputy in a different form, through replying to either a parliamentary question or a Topical Issue matter.

**Deputy Catherine Connolly:** A Vision for Change was a visionary document and I do not believe anyone had a problem with its content. The problem was the failure to implement it and the disbandment of the implementation body. Its life span was completed in January 2016, a year and a half ago. There have been repeated promises and I am aware from informal chat with the previous Minister of State that there might be some progress, but where is the promised review and when will it be published? Most importantly, has the implementation body been reinstated?

**The Taoiseach:** I am advised that the academic review of the A Vision for Change strategy is now complete and will be ready quite soon. That will allow the implementation committee to be established. I do not have an exact timeframe but I will ask the new Minister of State with responsibility for mental health, Deputy Jim Daly, to correspond directly with the Deputy on it. I am advised by the former Minister of State that it is now in train.

**Deputy Mattie McGrath:** I am glad the Taoiseach retained the Minister of State, Deputy Finian McGrath, in his post. The mobility allowance issue has been dragging along for three or four years. We were promised a review and the Minister of State has met the members of the Rural Independent Group and others on this. Families are suffering hugely as a result of this lousy cut. The Department of Public Expenditure and Reform has its claws all over it, but I do

not know why it is taking so long to reintroduce the scheme. I accept there will be new criteria and so forth but there must be some movement on it. It is simply unfair to families throughout the country who badly need the allowance. Many of them have old vehicles that are only fit for scrap so they must renew their vehicles. They need the mobility allowance immediately. They cannot wait for more promises as this has been ongoing for so long.

**The Taoiseach:** Putting a new scheme in place requires primary legislation. It is not anticipated that the legislation will be published in this session, but it is expected to be published in the next session.

**Deputy Mattie McGrath:** That is not good enough.

**Deputy Jackie Cahill:** The programme for Government contained firm commitments on the delivery of a Leader programme to rural communities. However, due to the rules and regulations imposed on the programme by the Government the Leader programme is simply not working. The rural development programme is turning into an over-bureaucratic rural administration programme. With regard to the expressions of interest in projects, there is a 60% fall-off before commitment to apply for a project. We are now ten months into the scheme and in County Tipperary not one contract has been signed and not one cent has been spent. Under the previous programme after nine months of the south Tipperary Leader programme 49 projects had commenced with a grant value of €720,000. This is happening across the country so it is clear that the rules and regulations under the current Leader programme are preventing rural communities from accessing this funding.

**Minister without Portfolio (Deputy Michael Ring):** The Minister, Deputy Heather Humphreys, met the Leader groups approximately three weeks ago and she has simplified the programme. She has made 32 changes. I will be taking over the Leader programme and I hope this will simplify it. I hope there will be more applications and less bureaucracy.

**Deputy Peter Fitzpatrick:** We must strengthen the law in the area of criminal justice corruption. Under proposed legislation a holder of public office can face up to ten years in prison and be removed from office if convicted under the Bill. It provides for lengthy prison sentences and allows for unlimited fines. A judge can forfeit their office and be excluded from seeking public office for a number of years. In addition, under the new Bill a public official can be presumed corrupt if he or she fails to declare their interests. Under the current legislation a person convicted of being corrupt faces a fine of €250,000 or a jail term of up to three years or both. The Bill was initially proposed by the former Minister for Justice and Equality, former Deputy Alan Shatter, in 2012. When can we expect the Criminal Justice (Corruption) Bill to be brought to the House?

**Minister for Justice and Equality (Deputy Charles Flanagan):** Progress on the anti-corruption Bill and on the review of white collar crime is well under way. I expect matters to be completed shortly and I expect the legislation to be published if not before the end of the current session certainly during the summer months. I will be happy to keep the Deputy informed on it.

**Deputy Charlie McConalogue:** The Taoiseach will be aware that the expert panel on mica reported in the last couple of weeks. Its report indicated that between 1,000 and 5,000 homes in Donegal are affected by defective blocks as a result of high mica content and that 700 homes in Mayo are affected by defective blocks as a result of pyrite content. Unfortunately, at all stages over the past three or four years the Government dragged its feet in addressing this issue. It is

welcome that the report has been published. What is the Taoiseach's view on the recommendations of the report? Could he outline the steps the Government plans to take next? Could the Taoiseach give a commitment that we will proceed immediately to putting in place a redress scheme for affected homeowners? Will the Government accept a proposal to have a debate in this House on the expert panel report?

**The Taoiseach:** I have not seen the report but I will ask the relevant Minister, Deputy Eoghan Murphy, to correspond with the Deputy or contact him directly about that matter. The scheduling of business is a matter for the Business Committee.

**Deputy Imelda Munster:** I wish to refer to the social housing strategy in the programme for Government. I want to raise the matter of the housing assistance payment and the fact that there is blatant discrimination by some letting agencies and landlords right across the State on a daily basis. This, in turn, is forcing more people into homelessness. A test was carried out recently in which five people contacted the same letting agency on the same day about the same property to rent. Two of those callers declared that they were in receipt of the housing assistance payment and they were told they would be put on a waiting list. The other three callers declared they were not in receipt of a housing assistance payment and would be paying privately. All three got a viewing appointment. The process that is currently in place is wholly inadequate, first, because it is under-resourced and, second, because it can take upwards of six months to investigate a complaint of discrimination. Given the level of discrimination right across the State in respect of the housing assistance payment, will the Taoiseach agree to extend the powers to investigate to Threshold and the Residential Tenancies Board? Will he also agree to a system, such as a telephone line, whereby people could report discrimination? The system should be resourced so action can be taken straight away against people who are found to be in breach and actively discriminating against those on the housing assistance payment.

**The Taoiseach:** The last time I checked, it was illegal to refuse rent supplement. It may well be illegal to refuse those on the housing assistance payment also. That sort of behaviour from landlords cannot be condoned and it is not acceptable. With regard to the actions that can be taken to prevent it and actions against landlords who engage in such discrimination, it is a matter for the Minister, Deputy Eoghan Murphy. I will ask him to get in touch with the Deputy.

**Deputy Bernard J. Durkan:** The criminal justice (legal aid) Bill is promised legislation. What is the degree to which consultations have already taken place in regard to it? When will the heads be cleared? When is the Bill likely to come before the House?

**Deputy Charles Flanagan:** Progress has been made on that. There has been widespread consultation. I expect that the scheme will be published in the autumn.

**Deputy John Brassil:** On promised legislation to deal with strengthening the building control (amendment) regulations 2014, and in light of the unfortunate tragedy in the Grenfell Tower in London last week, could the Taoiseach confirm whether the cladding material used in the tower refurbishment is available in Ireland? Can it be imported and used in Ireland? Can an audit be carried out to ascertain how many buildings, both public and private, if any, have this highly flammable material as part of their make-up? Are there any similar materials used that are a danger to our public?

**The Taoiseach:** On the legislation, heads were approved in May and it has proceeded to drafting.

**Deputy John Brassil:** What about my other questions?

**The Taoiseach:** What other questions?

**Deputy John Brassil:** Is there an audit being carried out? Has this material been used? Are there any public or private buildings that have this material as part of their make-up?

**The Taoiseach:** I cannot answer that but if the Deputy wants to put a parliamentary question to the Minister, Deputy Eoghan Murphy, he may do so.

**Deputy James Lawless:** I hope the Taoiseach, being new in office, will introduce a new way for the Government to do business. The programme for Government includes a commitment to improve the flow of information from Departments to Deputies. The portfolios announced yesterday included a range of digital responsibilities, including e-government, and various titles related to digital matters, yet every second time I ask a parliamentary question in this House or to a State agency, I receive a raft of paperwork in response. Very often a short memo states the relevant Department will be in touch and a letter is sent. Soon I will have enough of these missives to paper my entire office.

*I o'clock* The benefits of electronic communication need hardly be restated. They include efficiency, savings on costs such as print and postage and the cost to the Exchequer, not to mention the obvious environmental benefits of soft copy communication. If one was to be cynical, one might even think that it was designed to obfuscate the communication in this manner. Can the State lead by example? Can Government communications improve and move to the digital age? Will the Taoiseach issue a memo to Government to that effect?

**The Taoiseach:** I could not agree more with the Deputy. I believe he is absolutely right. As many communications that can be done electronically by Government should be done so. It is certainly something I will discuss with other Ministers.

**Deputy Thomas Pringle:** The national climate change mitigation plan was supposed to be published 18 months from the passing of the legislation to implement it. That date has now passed. Has the national mitigation plan come to the Cabinet? Will the Taoiseach bring it to the Dáil to allow it to be debated? Will he allow for amendments to be put forward, because all indications are that the plan will have serious failings?

**The Taoiseach:** It has not come to Cabinet yet. Once it does and once we approve it, we will then be in a position to publish it and have a debate in the House.

**Deputy Joan Collins:** The previous Minister for Housing, Planning, Community and Local Government promised that all families in emergency hotel and bed and breakfast accommodation would not be in that accommodation by 1 July. He promised it last year and to the Home Sweet Home delegation which met him. It is only nine days to 1 July. I want to know what is happening there. I put in two Topical Issues yesterday and today but they were not taken. What is this Government doing about those families? There were 592 families in hotels and bed and breakfasts at the end of April. What is happening there? Is the Government going to fail these families on this?

**The Taoiseach:** As the Deputy knows, what is being done is an increased provision of social housing, a 15% increase in rent supplement and HAP-----

**Deputy Joan Collins:** Where is the Taoiseach's commitment?

**The Taoiseach:** -----and also the family hubs are being established.

**Deputy Danny Healy-Rae:** The draft planning guidelines for wind turbines have been made available. Will these new guidelines apply to applications that have already been made? People in the Gneevgullia area, where there is a wind turbine application already in place, are saying that four times the height of a turbine is not enough distance to have between a dwelling and the turbine. In others words, the turbines are still too close. Four times 150 m is only 600 m and that is too near to a dwelling. What are we going to do about that to take it on board? It is very unfair.

**The Taoiseach:** To the best of my knowledge, the guidelines cannot be applied retrospectively. They only apply to new applications. Applications made prior to the new guidelines being approved fall under the old guidelines. Obviously, as is the case with any planning issue, there are differences of opinion as to what the guidelines should be, but the new guidelines are as they stand.

**Deputy Michael Healy-Rae:** According to a recent reply from management at University Hospital Kerry, the current waiting time to see the rheumatologist is three years. This is crazy. Our health system was never as bad. To have old people who are crippled with arthritis waiting this long to see a rheumatologist is an outrage. I ask the Taoiseach to think about an elderly person crippled and in pain being told that he or she will have to wait for three years. It is an outrage.

**The Taoiseach:** I absolutely agree with the Deputy. The waiting times people endure for outpatient appointments and for operations in Ireland make us an outlier in the western world and an outlier in a very bad way. For a country that spends so much on health care, it is almost incomprehensible that we are not able to provide a much better service. I know that the HSE has published its waiting list action plan and I hope that we will see some results come from that. In addition to that, €15 million has been provided to the National Treatment Purchase Fund for operations.

**Deputy John Brady:** In February I brought forward very important legislation to abolish the mandatory retirement age. It was debated in this Chamber in which it received cross-party support. In May it was subject to scrutiny at the relevant committee where it again received broad support. The report on the committee hearings has been published and sent to the Minister. However, the need for a money message is delaying the legislation. When will it be issued to advance this important legislation for which many people are looking and waiting in order that they will not be forced into retirement against their will?

**The Taoiseach:** No decision has been made on the matter. The money message has not been brought before me.

**Deputy Peadar Tóibín:** Tá dhá rud sciobtha agam. Inné, bhí Aire Stáit an Rialtais in easnamh sa Teach i rith cheisteanna ar ealaíona, oidhreacht agus an Ghaeltacht. An fáth go raibh sé ar iarraidh ná go raibh sé ag freastal ar an gcoiste gnó. Bhí sé ag freastal ar an gcoiste gnó mar gur thug an Taoiseach dhá phost dó. Ní bhíonn deis againne ach cúpla ceist a chur ar an Aire Stáit gach sé seachtaine. Is rud uafásach é nach raibh sé anseo. Bhí ar an Aire, Teachta Michael Ring, ceisteanna a fhreagairt, ceisteanna nach raibh feicthe aige go dtí go raibh sé á léamh. Cad atá an Taoiseach chun déanamh le bheith cinnte go mbeidh an tAire Stáit anseo as seo amach?

An dara rud ná go bhfuil géarchéim uafásach sa Ghaeltacht ag an bomaite mar gheall ar titim sa mhéad Gaeilge atá á labhairt ann. Tuigim anois go bhfuil an Rialtas idir dhá chomhairle maidir leis an bhfocal “Gaeltacht” a chur i dteideal na Roinne. An dtabharfaidh an Taoiseach-----

**An Leas-Cheann Comhairle:** Colleagues want to ask questions. It is one topic per questioner.

**Deputy Peadar Tóibín:** An bhfuil an Rialtas chun “Gaeltacht” a fhágáil i dteideal na Roinne?

**The Taoiseach:** Bhí an tAire, Teachta Heather Humphreys, tinn inné. She was absent for that reason. Thóg an tAire, Teachta Ó Rinn, na ceisteanna. Níl an teideal nua socraithe ach táim muiníneach go mbeidh “Gaeltacht” i dteideal na Roinne nua.

**An Leas-Cheann Comhairle:** With the Taoiseach’s permission, I call Deputy Pearse Doherty.

**The Taoiseach:** May the Minister of State, Deputy Joe McHugh, add to what I have said?

**An Leas-Cheann Comhairle:** An bhfuil freagra ag an Aire Stáit?

**Minister of State at the Department of the Taoiseach (Deputy Joe McHugh):** Maidir leis an teideal sa Roinn, bhí comhrá ag dul ar aghaidh inné agus, mar a dúirt an Taoiseach, níl an teideal socraithe, ach b’fhéidir go mbeidh cinneadh déanta in am gairid.

**An Leas-Cheann Comhairle:** Ní hí sin an cheist. Bhí an cheist ag lorg mínithe ar an easnamh inné. Ní hé sin an cheist a chur sé. Glaoim ar an Teachta Ó Dochartaigh.

**Deputy Pearse Doherty:** An cheist a bhí ann ná cén fáth nach raibh an tAire Stáit le cúramáí Gaeltachta anseo nuair a bhí deis ag Teachtaí Dála na ceisteanna a chur. Níor tugadh freagra air sin.

An cheist atá agamsa, the question I have is fá dtaobh de árachas Setanta. Setanta Insurance has collapsed, as a result of which over 1,000 claimants have suffered. The court case has been settled and the Insurance Compensation Fund must pay out. The liquidator of Setanta Insurance has informed us that 320 claims are to be processed by the State Claims Agency. For the first time, it has given me a breakdown of the size of the claims. The Insurance (Amendment) Bill which is on the schedule will mean that from now on, if there is another case like that of Setanta Insurance, claims will be paid in full. In respect of the 320 claims being processed, some individuals will lose out to the tune of €140,000 or more. They have been severely injured in accidents and were covered by Setanta Insurance. Will the Minister for Finance, Public Expenditure and Reform adopt the principles contained in my Bill which was ruled out of order by the Ceann Comhairle, a decision I do not challenge? The principles would allow for 100% payment to claimants of Setanta Insurance. This is something the Government is promising to do in the future but not for Setanta Insurance claimants.

**The Taoiseach:** Work on the Bill is under way. Obviously, it is not expected that we will have the heads until after quarter two. As is the case with any legislation, it will not be applied retrospectively. Perhaps this is a matter the Deputy might take up with the Minister.

**Deputy Alan Farrell:** I welcome the decision of the previous Cabinet under Deputy Enda Kenny to award medals of bravery to members of A Company, 35th Battalion of the Army, in

21 June 2017

regard to the events of September 1961 in the Congo. I understand legislation is required to award those medals to the survivors of that particular incident and the families of those who have sadly passed. I understand legislation is to be brought forward on this matter and I would appreciate it if the Taoiseach could inform the House as to when that might happen.

**Minister of State at the Department of Defence (Deputy Paul Kehoe):** I was delighted to recognise, along with the former Taoiseach, Deputy Enda Kenny, the bravery of the men at the siege of Jadotville in 1961 on a UN-mandated mission. I am not sure if we require legislation or if a Cabinet decision might suffice to award medals. If legislation is required, it will be a very short Bill and, hopefully, I will have it in before the summer recess.

**Deputy Willie O’Dea:** Is it the Government’s intention to have the water charges legislation on the Statute Book before the end of this session and, if so, when will it be published?

**The Taoiseach:** It is still intended to have that legislation enacted by the end of the session.

**Deputy Willie O’Dea:** When can we expect to see movement on it?

**The Taoiseach:** It is still being drafted.

**Deputy Marc MacSharry:** We are in injury time. I wish the Taoiseach the very best of luck in his new role as this is the first opportunity I have had to do so.

The programme for Government mentions the issue of catheterisation facilities in Waterford, which came up yesterday. What plans does the Taoiseach have for percutaneous coronary intervention, PCI, for the north west? There is a population of approximately 250,000 people in the catchment of Sligo University Hospital, as it is now known. The people there cannot time their cardiac arrests or heart attacks in line with good weather for air transportation to a centre nor can we wait for roads to be done up so that we can avail of that 90-minute turnaround time. Mortality from cardiac instances in the north west is a serious issue. I understand there are currently no plans for PCI in that part of the country. Given that the Taoiseach is a physician, and given his new role, what does the Taoiseach propose to do for that region?

**The Taoiseach:** I understand a large part of the north west is now covered by agreement from Altnagelvin and Letterkenny hospitals. I appreciate that Sligo is a long way from Derry-----

**Deputy Marc MacSharry:** In the absence of an Executive in the North, will I contact the Minister in Downing Street to ask about that? Does the Taoiseach have any plans of his own?

**An Leas-Cheann Comhairle:** Let the Taoiseach speak without interruption.

**The Taoiseach:** I checked that there was an agreement in place for a certain number of cases per year to be done in Altnagelvin for Donegal.

**Deputy Marc MacSharry:** There are no plans for Sligo or Donegal.

**The Taoiseach:** I appreciate that Sligo is quite a distance from both Derry and Galway. As is always the case with specialist services, one has to balance the ideal of having it near everyone with the reality that, in order to maintain a service to a standard of safety and to staff it, there needs to be a critical mass of population. Such a service would tend to have approximately four centres in a country the size of ours.

**An Leas-Cheann Comhairle:** I inadvertently overlooked Deputy Declan Breathnach and offer my apologies. That will complete the questions on promised legislation.

**Deputy Declan Breathnach:** We were promised in this House - indeed, rate payers are waiting with bated breath for it - that the commercial rates Bill would be introduced before the end of May but that has not happened. We were also promised that some reform would take place in regard to the Valuation Office and how valuations are arrived at. I know that briefings are being given by the Department to local authorities, yet this House has not been given any sight of the legislation. When can we expect it? We were promised it for the end of May and it is now the end of June.

**The Taoiseach:** The heads of Bill were agreed by Cabinet in April, but there is still further analysis going on in the Attorney General's office with regard to drafting. A decision has to be made as to whether it might now be more appropriate to transfer valuations from the Department of Justice and Equality to the Department of Housing, Planning, Community and Local Government.

### **Thirty-fifth Amendment of the Constitution (Protection of Pension Property Rights) Bill 2017: First Stage**

### **An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Maoinchearta Pinsin a**

### **Chosaint) 2017: An Chéad Chéim**

**Deputy Willie O'Dea:** Tairgim:

Go gceadófar go dtabharfar isteach Bille dá ngairtear Acht chun an Bunreacht a leasú.

I move:

That leave be granted to introduce a Bill entitled an Act to amend the Constitution.

This proposal is to insert an amendment into the Constitution to prevent any future Government from imposing levies of the sort we saw imposed by the last Government. The context here is the demographic time bomb. The State pension as we know it is gradually becoming more unsustainable. Currently, the ratio is one person over the age of 66 for every five people at work. Within the next 25 years, that ratio will reduce to 1:2. Therefore, it is imperative to encourage people to save to provide for themselves because, as I have said, the State will be increasingly unable to do so, certainly at the present rate. Imposing levies on private pensions does the exact opposite. It discourages people from saving rather than encouraging them.

Private pensions are the savings of hard-working individuals carefully put away over the years so that they can care for themselves in old age rather than being forced to rely solely on the State which, as I have said, will face increasing difficulty as the years go on. We should be encouraging people to save.

The levy introduced by the last Government undermined faith in pension savings. We

21 June 2017

should not be surprised that, as a result of that levy, the rate of people participating in private pensions as a proportion of that section of the population has dropped quite substantially. Irish people appreciate the need to save but they no longer trust the system, hence the need to ensure that such a smash-and-grab raid on pensions, which is exactly akin to dipping into somebody's deposit account, will not recur in the future, at least without the consent of the people. This is the objective that this legislation intends to achieve.

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

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** No.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

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

**Deputy Willie O'Dea:** Tairgim: "Go dtófar an Bille in am Comhaltaí Príobháideacha."

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

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

### **Ceisteanna - Questions**

**An Leas-Cheann Comhairle:** When he returns, we will move to questions to the Taoiseach. The first group will be Questions Nos. 1 to 9, inclusive.

**Deputy Richard Boyd Barrett:** There are nine questions in the first group. I suggest we manage the time in some way so that----

**Deputy Ruth Coppinger:** How long do we get to speak? Can we work that out now?

**An Leas-Cheann Comhairle:** There are 15 minutes in total. There is the Taoiseach's reply, which I have not yet seen. There are seven Deputies with questions. We will give a minute to each and allow a composite reply from the Taoiseach.

**Deputy Richard Boyd Barrett:** A composite reply.

**An Leas-Cheann Comhairle:** Otherwise the last person will not get an opportunity. Is that agreed? Agreed.

**Deputy Eamon Ryan:** If we have two questions, do we get two minutes?

**An Leas-Cheann Comhairle:** We will use discretion. I understand the Taoiseach is grouping Questions Nos. 1 to 9, inclusive.

*Dáil Éireann*  
**Official Engagements**

1. **Deputy Eamon Ryan** asked the Taoiseach the most recent discussions he has had with the British Prime Minister regarding the sequencing of Brexit negotiation talks. [25653/17]

2. **Deputy Ruth Coppinger** asked the Taoiseach if he will report on his recent contact with other Heads of Government. [27222/17]

3. **Deputy Mick Barry** asked the Taoiseach if he has yet spoken to the British Prime Minister. [27227/17]

4. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his engagements with the British Prime Minister since the UK general election. [27242/17]

5. **Deputy Mattie McGrath** asked the Taoiseach the engagements that he has had with the British Prime Minister following the recent Manchester Arena and London Bridge terrorist incidents. [27549/17]

6. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to the British Prime Minister, Mrs. May, or any EU leader since the horrendous attacks and loss of lives on London Bridge; and if he is setting up a COBRA type committee. [27551/17]

7. **Deputy Eamon Ryan** asked the Taoiseach the discussions he has had with the British Prime Minister since assuming office. [27855/17]

8. **Deputy Gerry Adams** asked the Taoiseach if he has had any engagement with the British Prime Minister, Mrs. Theresa May, since he took office. [28792/17]

9. **Deputy Richard Boyd Barrett** asked the Taoiseach if he has been in contact with the British Prime Minister and other UK political leaders since the recent election. [28835/17]

**The Taoiseach:** I propose to take Questions Nos. 1 to 9, inclusive, together.

I spoke by phone with the French President, Mr. Emmanuel Macron, the Chancellor of Germany, Dr. Angela Merkel, and the British Prime Minister, Mrs. Theresa May, on 15 June, and with Prime Minister Modi of India on 16 June.

In my call with President Macron, we spoke about working together to advance the EU reform agenda, noting that there were many areas of common interest between Ireland and France. We also discussed Brexit. We looked forward to seeing each other at the European Council in Brussels this week.

Chancellor Merkel and I discussed the Northern Ireland talks and spoke about the renewed closeness of relations between Germany and France being a positive force for the future of the EU. We also discussed Brexit, and agreed to meet for more substantive discussions in Brussels this week.

In my conversation with the British Prime Minister, Mrs. May, following my appointment, I extended the Government's sympathies to her and to the people of London on the tragic fire at the Grenfell Tower. We also discussed Brexit, and the ongoing political discussions in London and in Belfast, agreeing on the need to have the Northern Ireland Executive up and running as quickly as possible. We agreed to meet in Downing Street to continue our discussions.

21 June 2017

In the meeting on Monday, I again expressed my sympathies on the recent tragedies and atrocities in London. We discussed the situation in Northern Ireland in some detail. We are both absolutely committed to seeing the Northern Ireland institutions back up and running as a matter of urgency. We discussed our respective contacts with the parties in recent days. I am confident that, in our role as co-guarantors of the Good Friday Agreement, we can provide resolute support and encouragement to the Northern Ireland parties in the days ahead, and that with goodwill and respect on all sides we can reach a successful conclusion to the current talks.

Now that formal negotiations between the EU and the UK have commenced, it is vital that the views and concerns of Northern Ireland are fully reflected. The Prime Minister and I reaffirmed the commitment of the two Governments to maintaining the common travel area and associated reciprocal rights, to protecting the peace process and, in particular, to keeping the Border invisible. We also recognise that this will be extremely challenging and, in the words of the EU negotiation guidelines, will require “flexible and imaginative” solutions. This Government will certainly play its part in working constructively with all our partners — in Northern Ireland, in Britain and across the EU — to find solutions that are in the best interests of everyone on these islands.

I also raised the ongoing talks between the DUP and the Conservative Party in the context of the need for impartiality of the two Governments.

The arrangements for national security are being kept under review.

**Deputy Eamon Ryan:** I will take Question No. 7 as well, if I can, at the one go.

I am interested to hear the Taoiseach’s view on what politically we can do in regard to the Brexit negotiations. Given that there is no nationalist representation in Westminster, given that there are reports today of 30 Members of the British Prime Minister, Mrs. May’s own party stating that they will not accept a hard Brexit and given that there is a campaign within the British Labour Party to firm up its position to confirm an exit approach which would see Britain still within the Single Market, do we have any political strategy? Do we have any approach whatsoever? Are we merely sitting back, letting this unfold and seeing what the European negotiators deliver or do we have any role in the current chaos in the British political system to try and serve our interest, which is not a hard Brexit but a retention of Britain within the Single Market or customs union?

What does the Taoiseach say to Mrs. May when she comes back stating the British are adamant, as I understand they stated at the start of the talks, that they want to leave the customs union and the Single Market? Do we just accept that, do we say nothing, or what diplomatically and politically can we do? What influence do we have in the incredibly complex jigsaw of political parts that are now at play in Westminster, and at which there is no Irish political representation, which is a shame?

**Deputy Ruth Coppinger:** Maybe I can take an extra half a minute for Deputy Barry’s question.

**An Leas-Cheann Comhairle:** I must adhere to Standing Orders.

**Deputy Ruth Coppinger:** I thought the Leas-Cheann Comhairle would be liberal.

I wanted to first ask the Taoiseach about his meeting with the British Prime Minister, Mrs.

May. The Taoiseach seemed a bit star struck in Downing Street. He quoted one of the worst films ever made.

**The Taoiseach:** Deputy Coppinger has no sense of romance.

**Deputy Ruth Coppinger:** I wonder, in between all of that, did the Taoiseach have time to ask Mrs. May what at this point is probably the biggest question on the lips of most of the population in Britain, that is, is she going to resign? I wonder if they had time to discuss the outcome of the election in Britain. Increasingly, what we saw in the election was an endorsement of left and socialist policies and I thought the Taoiseach might have an interest in that. We saw the biggest vote for a left-Labour candidate since 1945, mainly motivated by young people, by women and by traditional Labour voters who returned after the Blairites. Clearly Brexit was greeted negatively, particularly by some Members in this House last year. It was branded as being right wing and racist, but how then do these Members explain this vote which was completely the opposite? It puts it in perspective. UKIP lost all its seats and, as I stated, there was the biggest left vote since 1945.

The Taoiseach has been talking a lot about populism and so have some of his Ministers.

**An Leas-Cheann Comhairle:** I thank Deputy Coppinger.

**Deputy Ruth Coppinger:** I will just finish. The Taoiseach spoke by phone with President Macron. In terms of the populist vote, where stands the Taoiseach's Minister, who talked about one-in-eight seats being for populist parties including Jeremy Corbyn? He seemed to be including those who put principled-left positions in a populist camp, which is very unprincipled.

**An Leas-Cheann Comhairle:** I call Deputy Howlin.

**Deputy Ruth Coppinger:** We stand for the complete opposite.

**Deputy Brendan Howlin:** I want to ask the Taoiseach two questions. First, in regard to his conversations with the British Prime Minister, Mrs. May, he stated afterwards that he was reassured about the DUP role in supporting the Conservative Government. What specifically did the British Prime Minister say to the Taoiseach that gave him reassurances that whatever deal is arrived at with the DUP and the Conservatives, it will have no adverse impact on the Good Friday Agreement or undermine confidence in the role of the British Government as a co-guarantor of that Agreement?

Second, on the issue of sequencing in regard to the Brexit negotiations, the UK agreed to the EU format, in that the three primary issues to be dealt with were agreed but it seems the issue relating to Ireland was long-fingered in that the border issue as it affects Ireland apparently cannot be addressed until the broader trade arrangements between the EU and Britain are agreed. Did the Taoiseach discuss that aspect with the British Prime Minister, Mrs. May, and what is her view on it?

**Deputy Mattie McGrath:** I, too, am delighted to meet the Taoiseach on his first questions here today. The Taoiseach told us about the ambience, furniture and he waxed lyrically about poetry and history. On the serious issue regarding the Manchester Arena attack and the London Bridge attack, did the Taoiseach raise any issues with the British Prime Minister regarding post-Brexit, the borders here and our control of our own borders?

With regard to the position in which the DUP finds itself, would the British Prime Minister

be able to remain impartial if she is depending on that party for support of her minority Government amid the concerns that there are no nationalists at Westminster? They were elected but, strangely, choose not to go to represent the people of Northern Ireland. Has the Taoiseach plans to talk to Mrs. May again or when is the next meeting or phone conversation envisaged? The Border is too serious an issue to let it drift on until the negotiations are complete and we all will be scratching our heads to know what to do. It will be too late then, in terms of the protection of our own borders and the protection from an influx of people here.

**Deputy Micheál Martin:** In yesterday's session, the Taoiseach managed to talk at some length concerning the meeting in Downing Street but, as Deputy Howlin stated, the Taoiseach did not provide us with any additional information beyond what was available in the media. The core dysfunction in the Dublin-London relationship in recent years has been that there have been many meetings but no concrete outcome. The meetings have covered up the rapid withdrawal of London and Dublin from genuine engagement, particularly in regard to the Northern institutions.

A curious outcome of Monday's meeting was the Taoiseach's statement that he had been reassured about the link between the DUP and the Tories. Could he explain what exactly that means? What was the Taoiseach reassured about? Did the British Prime Minister, Mrs. May, merely tell the Taoiseach she was committed to the Good Friday Agreement and did the Taoiseach respond that that would be great? The latest news is the DUP is still flexing its muscles and has yet to agree a formal commitment to support the Tories in divisions. The Sinn Féin line, that the DUP supporting a government in London means the London Government is breaching the Agreement, is a curious one given that the same logic would apply to Sinn Féin in Dublin. However, there are concerns and the concerns of others are entirely legitimate. They go to the heart of whether we can trust the independence of governments in the administering of the Agreements. Will the Taoiseach, please, outline exactly what he was told that reassured him?

**An Leas-Cheann Comhairle:** Deputy Richard Boyd Barrett is next. I am sorry; it is Deputy Mary Lou McDonald who is next.

**Deputy Mary Lou McDonald:** You nearly missed me, a Leas-Cheann Comhairle. That would not be like you.

The concern in respect of the DUP and any agreement that party might strike with the Tories is that it might contain things that would undermine the Good Friday Agreement. That is not only a concern of ours; it is broadly held, but such a deal has not been struck. Certainly, we made it clear in our meeting with Theresa May that a breach of the Good Friday Agreement was not on the cards. It simply cannot and will not be countenanced by anyone. In our discussions the reassurances simply amounted to an assertion that this would not happen. I, too, would like to hear if the Taoiseach got something more than this. If so, what was the substance of those reassurances?

The primary issue I want to raise with the Taoiseach is the fact that he had made the sensible proposition that the North remain within the Single Market and the customs union. I assume that is still his position. Certainly, it is supported by the Dáil in our support for special designated status for the North. Why did the Taoiseach not raise the issue with Theresa May? What is this jazz about invisible borders? Any border on the island would be injurious to agriculture, the economy, etc. Why is the Taoiseach even countenancing the prospect of a border? Can he answer that question? Is it still about keeping the North inside the customs union and the Single

Market?

**Deputy Richard Boyd Barrett:** I am shocked, surprised and disappointed at the muted and pedestrian response from the Taoiseach and the Government to the horrific events in London at Grenfell Tower, where up to 80 people lost their lives in the most horrific and - it looks almost certain - scandalous circumstances. As recently as November last year, the authorities had failed to heed warnings from residents to the effect that the tower was an accident waiting to happen. I said to the Taoiseach last Tuesday that I had been told by a fire expert the week before about how a vast amount of Irish housing stock had major fire safety issues. This was confirmed over the weekend by Kevin Hollingsworth, a quantity surveyor, who said up to 40% of housing stock built during the Celtic tiger period and far more of the Irish housing stock besides was an accident waiting to happen. Spokespeople for Dublin Fire Brigade have said the same, yet we get an absolutely muted response. I am amazed that there has not been a minute's silence in the Dáil. What is more, I am amazed at the lack of urgency shown by the Government in asking whether the cladding material is being used anywhere here. Are we going to do something about self-certification in the building industry whereby designs of buildings are certified but not the actual buildings? We have experts telling us that vast portions of the housing stock are an accident waiting to happen. What is the Taoiseach going to do about it?

**An Leas-Cheann Comhairle:** I call on the Taoiseach to respond. I will give him three minutes in total.

**The Taoiseach:** There is no chance I will be able to respond to all of that in three minutes.

**An Leas-Cheann Comhairle:** Make the best of it.

**The Taoiseach:** I will do the best I can.

The first question was about the political approach taken. Of course, it is happening at multiple levels. Bilateral contacts between the Irish Government and the UK Government are ongoing. I had a meeting with Theresa May on Monday and will meet her again tomorrow or the day after in Brussels where we will attend the European Council. We are working hard. The Minister for Foreign Affairs and Trade, Deputy Simon Coveney, is in Northern Ireland to try to get the Northern Ireland Executive up and running. We want it up and running to give Northern Ireland a unique voice and ensure there will be an executive in Northern Ireland that can put forward solutions for it supported by the people of Northern Ireland. We want to put pressure on in London and Brussels to deliver them. There is an absence of nationalist representation at Westminster. I regret that that is the case. I think it is the first time in over 100 years there will be no nationalist representation at Westminster.

**Deputy Mary Lou McDonald:** I think it is marvellous. Is that not the objective of a free and independent Ireland - to be free from Westminster?

**The Taoiseach:** Yes, it is, but abstentionism did not achieve it. It did not achieve it for the Twenty-six Counties and I do not see how it would achieve it for the Six Counties.

**Deputy Mary Lou McDonald:** Actually that was the basis on which the first Dáil was established.

**Deputy Micheál Martin:** The Deputy should go softly.

**An Leas-Cheann Comhairle:** The Taoiseach to continue, without interruption, because the

clock is still ticking.

**Deputy Micheál Martin:** If we take 23 away from 26, we are left with three.

**An Leas-Cheann Comhairle:** No bilateral discussion, please.

**The Taoiseach:** In the absence of that one thing, we are working with and trying to-----

**Deputy Micheál Martin:** That was partition.

**An Leas-Cheann Comhairle:** Please, Deputy.

*(Interruptions).*

**An Leas-Cheann Comhairle:** The Taoiseach to continue, without interruption, or we will move on.

**Deputy Mary Lou McDonald:** Test the election-----

*(Interruptions).*

**An Leas-Cheann Comhairle:** Please, Deputies.

**Deputy Micheál Martin:** History is the order of the day.

**An Leas-Cheann Comhairle:** We will move on to Question No. 10 if Deputies are not prepared to listen to the Taoiseach.

**Deputy Mary Lou McDonald:** We are listening with bated breath.

**An Leas-Cheann Comhairle:** He deserves to be heard.

**Deputy Micheál Martin:** My apologies, a Leas-Cheann Comhairle.

**An Leas-Cheann Comhairle:** That is one for the black book.

**Deputy Mattie McGrath:** Surely you mean the red book.

**The Taoiseach:** There is one group with which we are working and hoping to reactivate. I cannot remember its exact name, but it is a British-Irish friendship group. It involves MPs at Westminster from all parties with a particular interest in Ireland. I understand it is led by Conor McGinn, MP. We are trying to make use of that body, a little like the Irish National Caucus in Washington, for obvious reasons. It is something into which we are going to put more effort and resources in the absence of the SDLP representation at Westminster.

I am disappointed that Deputy Ruth Coppinger does not like “Love, Actually”.

**Deputy Ruth Coppinger:** Not even Hugh Grant would say it was his finest hour.

**The Taoiseach:** Knowing the Deputy for as long as I do, I would never put her down as a romantic.

*(Interruptions).*

**Deputy Ruth Coppinger:** That is fine.

**The Taoiseach:** I suppose everyone should be relieved that I spoke about “Love Actually” and not “Notting Hill” because that would have been a very different scene at the door of No. 10 had it transpired.

**Deputy Ruth Coppinger:** The romantic poets are my favourite.

**An Leas-Cheann Comhairle:** Be serious in answering questions.

**Deputy Mary Lou McDonald:** I asked about the Single Market; never mind Hugh Grant.

**The Taoiseach:** I am going through the questions as they were asked one by one. I do not control the questions asked by Members of the Opposition.

I was asked about populism. Of course, there are forms of populism that amount to populism of the left and there is also populism of the right. Populism of the left is what we tend to call transitional demand. Proponents make claims that they know cannot be achieved, but they are used to cause people to vote for them. Then, once in power, the proponents abandon them. It is similar to the approach used by-----

**Deputy Richard Boyd Barrett:** There is also populism of the centre. It involves people making election promises that they do not intend to keep.

**The Taoiseach:** It is the time-honoured approach used by the Soviets, Bolsheviks and Trotskyites.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Please, Deputies.

**The Taoiseach:** They promise the masses – to use the term favoured by the Deputy – something that cannot be achieved in order to secure power. Then they turn around and tell them that it cannot be done and that they are going to the gulag.

**Deputy Ruth Coppinger:** We promised to get rid of water charges and we did.

**The Taoiseach:** There is plenty of populism on the left.

**An Leas-Cheann Comhairle:** There will be red cards.

**Deputy Brendan Howlin:** It will be tempting to bring back Deputy Enda Kenny shortly.

**The Taoiseach:** I did not ask her when she was going to resign. The object of the visit was to make friends, not enemies. I know that the Deputy does not believe in that approach either, but I was there to make friends.

*(Interruptions).*

**The Taoiseach:** I think we managed to begin the start of a relationship. The result of the election in Britain deserves analysis. Some of what the Deputy has said is true, but there is also another part to it. In wealthy constituencies in London there was a big increase in the vote of the UK Labour Party. They are not people who want their properties to be confiscated or who want to pay higher taxes. Many in Britain are angry remainers, especially in the south east, and they are right to be angry. They decided to vote for the Labour Party, notwithstanding the economic policies of Jeremy Corbyn. That is part of the coalition he put together and it is an interesting part of the analysis that deserves more attention.

**Deputy Richard Boyd Barrett:** It had more to do with the young voting.

**The Taoiseach:** As I have said on many occasions, I do not believe the politics of the future is about the traditional left-right divide. There are others, one of which is the difference between being open and closed. Many in the United Kingdom who believe in openness, free trade multilateralism and the European Union on this occasion voted for the Labour Party, whereas in the past they might have voted for the Liberal Democrats or a liberal Conservative.

**Deputy Richard Boyd Barrett:** What about my question on the London fire?

**Deputy Mary Lou McDonald:** I asked about the customs union.

**Deputy Richard Boyd Barrett:** A Leas-Cheann Comhairle, the Taoiseach did not answer the question about the London fire.

**An Leas-Cheann Comhairle:** We are eating into the time for other questions.

**Deputy Richard Boyd Barrett:** Will the Taoiseach respond to the question on the London fire?

**The Taoiseach:** There are lots of questions I did not answer. I would be happy to answer them.

**Deputy Richard Boyd Barrett:** That is a pretty serious question.

*(Interruptions).*

**The Taoiseach:** It is serious. They are all serious.

**Deputy Micheál Martin:** On a point of order-----

**An Leas-Cheann Comhairle:** It is not a point of order but raise it.

**Deputy Micheál Martin:** What this reveals is the fault of no one in particular; it is the fact that when we have so many questions taken together, we only get a minute, which is not satisfactory. The matter should be referred back to the Business Committee.

**An Leas-Cheann Comhairle:** It may be a matter for the reform committee.

**Deputy Micheál Martin:** It is not a satisfactory way of doing business.

**Deputy Richard Boyd Barrett:** Will the Taoiseach, please, answer the question on the London fire?

**The Taoiseach:** On a point of order, if I may-----

**An Leas-Cheann Comhairle:** I do not think it would be normal. I am here since 1981, except for a few years, and I have never heard a Taoiseach raise a point of order.

**Deputy Mattie McGrath:** New Taoiseach, new times, new boss.

**An Leas-Cheann Comhairle:** If I can be helpful to the Taoiseach, I will try.

**The Taoiseach:** I thank the Leas-Cheann Comhairle.

**Deputy Richard Boyd Barrett:** Just answer the question.

**Deputy Mattie McGrath:** Different boss.

**The Taoiseach:** On two points of order I agree with Deputy Martin. First, this procedure needs to be referred to the Business Committee. This is not a way to do questions and answers.

**Deputy Mary Lou McDonald:** It is bonkers.

**An Leas-Cheann Comhairle:** There is consensus on that.

**The Taoiseach:** Second, I would be happy to answer the remainder of the questions but I am not going to pick three to answer and one to leave out. I do not think it is fair. If the Leas-Cheann Comhairle will give me extra time, I will answer them.

**An Leas-Cheann Comhairle:** There is consensus on reform. Let us move on to Question No. 10.

**Deputy Richard Boyd Barrett:** I would like the extra time.

**An Leas-Cheann Comhairle:** It is outside my control. The Taoiseach has six and a half minutes to answer Question No. 10.

**Deputy Eamon Ryan:** Deputy Boyd Barrett can bring the matter up in Private Members' time tonight.

**Deputy Richard Boyd Barrett:** We will not hear the Taoiseach then.

### **Departmental Strategy Statements**

10. **Deputy Micheál Martin** asked the Taoiseach the way in which he and his Department are implementing the commitments made in delivering a better society made in his own Department's strategy's statement, particularly in respect of health and education. [25944/17]

**The Taoiseach:** My Department's strategy statement sets out the key objectives for my Department for the period 2016 to 2019. The strategy statement is aligned to the Government's key priorities and policies and sets out the following six strategic priorities: providing excellent support services for the Taoiseach and Government; ensuring that Ireland has a sustainable

economy; helping to ensure that Government policies and services support a socially inclusive and fair society; ensuring that Ireland maintains strong relationships in Europe and around the world; ensuring the best possible outcomes for Ireland in respect of Brexit which, of course, includes protecting the common travel area and the peace process; and planning for the future in the context of all of the many uncertainties arising in the international environment.

The strategy statement recognises the central and co-ordinating role of my Department in supporting Government to ensure that policies are developed and implemented which support a socially inclusive and fair society. This work is mainly undertaken through the Cabinet committee structure, supporting the implementation of Government policy and effective cross-departmental collaboration. In the case of health and education, these are the Cabinet committee on health and the Cabinet committee on social policy and public service reform. This includes implementation by the respective Departments of programme for Government commitments spanning these areas. These committees last met on 30 May and 23 May, respectively.

My Department publishes an annual report on progress towards all the objectives in its strategy statement, and the annual report for 2016 has recently been published on the Department's website.

**An Leas-Cheann Comhairle:** I call Deputy Micheál Martin.

**Deputy Micheál Martin:** How long have I got?

**Deputy Brendan Howlin:** Deputy Martin has 20 minutes

**An Leas-Cheann Comhairle:** What I intend is that the Deputy will get a supplementary question to be answered by An Taoiseach and if there are others who wish to contribute they may then do so, in accordance with Standing Orders.

**Deputy Micheál Martin:** In the strategy statement, there is a commitment to help to ensure implementation of reforms in health, education and other public services as outlined in the programme for Government. There are very ambitious statements concerning health and education and despite funding and so on, people are still finding it impossible to access health services. Some 666,000 people are on inpatient and outpatient waiting lists. There are shortages of consultants, nurses and general practitioners. There is a huge HR issue around health. Mental health funding fell short and waiting lists for access to therapies are getting longer, particularly for children. Hundreds of patients are still on trolleys. It is very difficult to see how improvement is going to happen in the short term.

The National Treatment Purchase Fund was allocated money this year, as we requested under the confidence and supply agreement. However, it is not up and running yet in terms of waiting lists and we are six months into the year. The money was allocated last October. It is not satisfactory. Can the Taoiseach confirm the number of patients who have been treated through the fund this year? Does he intend to chair the Cabinet committee on health? On the bed capacity review, is the Taoiseach confident that finance will be allocated to address the bed capacity issue? When does he expect the bed capacity review to be published?

As I have said to the Taoiseach before, education is fundamental to the strategic objectives and future of this country. There is a need for immediate investment in research, development and innovation, and for infrastructure funding for second and third level. Such investment and funding is critical to bringing in foreign direct investment. I mentioned the Technological

Universities Bill this morning. There is paralysis in that particular sector. In the programme for Government, there is a commitment to invest up to an extra €500 million in education up to 2021. Can the Taoiseach indicate whether that commitment will be delivered upon and whether he has a schedule for such delivery? On career guidance, as I have indicated, although there has been some restoration, the Government has fallen short on definitive issues. There seems to be some opposition to ex quota guidance counsellors.

The fundamental point is that to fire-proof against Brexit, we need investment in education, skills and the talent of our people. Since the publication of the Cassells report, I get no sense that the Government is seized by that fundamental objective and reality.

**The Taoiseach:** On the NTPF, I do not know how many patients have been treated so far. There is €15 million allocated this year for the NTPF. I raised the matter with the Minister, Deputy Harris, on foot of my conversations with Deputy Martin. I understand that part of the fundamental problem was that the NTPF had effectively ceased to exist. Although it was still there in name and had a board and some very limited functions around collating waiting lists, it did not have the capacity to do the job it used to do. There is now a new CEO and it is intended that the NTPF should begin paying for patients to be treated in private hospitals as soon as possible. I hope Deputy Martin is right and that it will have an impact on the waiting lists.

**Deputy Micheál Martin:** Can I have a detailed report from the Minister? We have to be briefed on the absence of capacity. It is nine months since the budget allocation.

**The Taoiseach:** Absolutely. I am sure that can be done.

I am going to have some new Cabinet sub-committees. I think there were too many, quite frankly. I am going to reconfigure them into a smaller number of Cabinet sub-committees which, of course, I will chair. They need to be more focused. We will have a new ten-year plan on infrastructure, which we hope to be able to publish in October or November. I anticipate that there will be ambitious capital programmes for both health and education. In health, this will provide for additional bed capacity and upgrading or replacing some of our existing hospital stock. There will be something similar in education. It is a long time since there was public money put into capital investment in third level. That will need to be done. We do not yet know how big an envelope we have for capital spending in the next ten years. There are lots of moving parts in that regard. It will be as big as is possible without contravening fiscal rules or jeopardising the finances of the State.

I am very supportive of the Technological Universities Bill and want to see it go through. I should admit that I have a constituency interest in it, namely IT Blanchardstown. I would like to see the legislation pass so that IT Blanchardstown can combine with IT Tallaght and DIT into a new technological university. I am very much behind it being fast tracked. The Minister, Deputy Richard Bruton, tells me they now have an agreement with the TUI, the union that represents the lecturers. They have amendments to the Bill. The next step is to go to Cabinet with the amendments.

**Deputy Micheál Martin:** There is no drafting capacity there. What we have heard from the officials is quite worrying in respect of the absence of any proactivity in drafting. The Taoiseach might check that out.

**The Taoiseach:** It is far too slow. We have a problem with drafting capacity, not just in education. Legislation is far too slow.

21 June 2017

On the Cassells report, in this current political configuration we are trying to achieve consensus around funding for third level that can pass through the Dáil. It is going to be difficult to achieve this but if we can, we are willing.

**Deputy Brendan Howlin:** I am very familiar with the way in which the Cabinet sub-committees worked in the previous Government. The Taoiseach is right. There are too many and they are too dispersed. However, on strategic issues, the Taoiseach being a driver makes it happen in a way it would not if he was not personally driving matters.

Of what particular policy areas does the Taoiseach propose to take personal control? For example, has he considered Sláintecare, the new future of health care document? Does he consider it worth implementing, albeit not necessarily according to the exact timeline set out by the all-party group? Would it be something he would want to drive?

I spent more than five years discussing the fiscal rules in respect of capital spending with the Commission and others. There is a willingness. For example, Italy has already utilised flexibilities in accounting for capital spending in particular. I welcome the Taoiseach's view that coincides with my own regarding the rainy day fund. We need a substantial capital envelope, and we will be able to get the capacity if we negotiate and push in Brussels for a very substantial increase in the capacity to spend and not breach the Stability and Growth Pact rules.

**Deputy Mary Lou McDonald:** Will the Taoiseach return to the subject I raised with him, namely, his stated commitment to keep the North of Ireland within the Single Market and the customs union? In the midst of all his committees, subcommittees and all that paraphernalia and with the competing political priorities, what concretely does he propose to do to advance that position? Why did he not raise that position with Theresa May in Downing Street the other day? I do not know what that was all about. I invite him to move away from the nonsense of invisible borders. It is an astonishing concept.

On a different issue, the Taoiseach is aware that the previous Taoiseach visited the north-east inner city of Dublin on many occasions. He will be aware of the very particular challenges faced by those communities. They are not unique but it is certainly the case, given what is called a gangland struggle that is under way, that the communities I happen to represent are very much caught in the middle of that. I would like the Taoiseach to give an indication of his continuing commitment to that process and, most specifically, to address my questions regarding the customs union and the Single Market.

**An Leas-Cheann Comhairle:** I will take a final supplementary from Deputy Boyd Barrett.

**Deputy Richard Boyd Barrett:** Is the Taoiseach going to update his strategy statement? It refers to quite a degree to the housing issue. There has been some acknowledgement with the transition to the new Minister that Rebuilding Ireland may not be all it is cracked up to be given the escalating crisis. Following my earlier question, given the potentially shocking consequences for fire safety in our housing stock, which I pointed out to the Taoiseach last week and which has been confirmed now by a range of experts with potentially 40% or more of the Irish housing stock being substandard in terms of fire safety, does he not believe that this issue must become a priority for the Government? That would merit it being included in the strategy statement and being given some urgency, which is distinctly lacking from the Government in the aftermath of what has emerged from the Grenfell Tower disaster and what is being said about the potential implications for the housing stock in this country. The self-certification process is

a joke. We are having designs of buildings certified rather than the buildings themselves, and there is no enforcement worth its name.

The Taoiseach got a letter, as did I, on the 19th from Mark Vincent Healy - I do not know if he has responded to him yet - where he pointed out-----

**An Leas-Cheann Comhairle:** The Taoiseach to respond-----

**Deputy Richard Boyd Barrett:** -----that the plans which were certified on his apartment block had fire doors facing one direction and in the actual building they are facing the wrong direction. This is what is happening in the Irish housing stock.

**An Leas-Cheann Comhairle:** I call the Taoiseach to respond on the commitments to delivering a better society.

**The Taoiseach:** I will start by dealing with the last question because essentially the Deputy asked it twice. I saw the Grenfell Tower on my way to and from the meeting with Theresa May. It is horrific to see it and to imagine the thoughts and feelings of people who were stuck in that tower while it was in flames and engulfed in smoke. I extended my condolences and offered any support and solidarity we can give to Prime Minister May when I was in Downing Street.

In response to the tragedy, the Minister for Housing, Planning, Community and Local Government, Deputy Eoghan Murphy, has requested a number of immediate measures to be taken. First, he has requested that all local authorities review their multistorey social housing units to ensure that all early warning systems, including alarm and detection systems, emergency lighting and means of escape, including corridors, stairways and emergency exits, are fully functional and in place.

In terms of raising awareness across landlords, including landlords of households in receipt of social housing supports, the Minister has asked the Residential Tenancies Board, RTB, to notify all landlords of their responsibilities and obligations as landlords in terms of ensuring that their properties fully comply with the fire safety requirements. Also, a business control management system, BCMS, was issued to all registered users of the BCMS to remind those involved in works to existing or new buildings of the need to remain vigilant in regard to compliance with building regulations and, in particular, to part B which deals with fire safety. It was issued to 57,000 registered users, including builders, assigned certifiers, designers and owners to remind them of their obligations in regard to compliance.

Also, a meeting of the management board of the National Directorate for Fire and Emergency Management was convened last Tuesday to assess the readiness of fire authorities to respond to emergencies. Over recent years there has been a general decrease in the number of fire fatalities, putting Ireland among the safest countries in the world. However, figures for 2017 show a slight upturn in fire fatalities, so while progress is being made, this reversal and the events in London are a reminder that we cannot and should not be complacent and that we need to remain vigilant when it comes to fire safety. In fairness to the Minister, Deputy Murphy, he has hit the ground running on this matter and put in place some very important-----

**An Leas-Cheann Comhairle:** I ask the Minister to respond to the supplementaries asked by Deputies McDonald and Howlin.

**Deputy Richard Boyd Barrett:** There is more to be done.

21 June 2017

**The Taoiseach:** I have no doubt of that but that is quite a lot in the first eight days of a new Minister being in office, in fairness to him. It is not even eight days, it is seven days.

In regard to Deputy Howlin's question, I set out in my speech appointing Cabinet Ministers the two or three major priorities, four in some cases, that I want them to pursue and I will pursue them to make sure that they are pursued. I will also set out some other priorities in the coming weeks and months.

The Sláintecare report was discussed at Cabinet yesterday. We decided that the Minister for Health would be tasked with preparing a reasoned response to the report and there will be a debate on it in the Dáil on Thursday. There are some aspects of it with which I strongly agree. We need to disentangle the public-private mix in our private hospitals. I strongly agree with that, but I accept and appreciate that this would cost €700 million without a single extra patient being seen. The whole thing needs to be teased out.

Also the Department of Public Expenditure and Reform disputes the numbers. It will not surprise Deputy Howlin to hear that it thinks it will cost much more and that the report does not adequately provide for demographics, but it will not be put on the shelf. There will be a reasoned response to it from the Minister and at the very least we will proceed to implement in the first year or two those things with which we all agree, and that is probably the best approach to it.

**Deputy Brendan Howlin:** What about the capital question?

**Deputy Ruth Coppinger:** What about the Apple tax issue?

**An Leas-Cheann Comhairle:** Did the Taoiseach answer all the supplementaries?

**The Taoiseach:** No. I did not get close to doing that.

**An Leas-Cheann Comhairle:** I know - we are against the clock.

**Deputy Brendan Howlin:** I asked about the capital issue.

**Deputy Mary Lou McDonald:** I asked about the customs union and the Single Market.

**An Leas-Cheann Comhairle:** We will move on to the next grouping, Questions Nos. 11 and 12.

**Deputy Mary Lou McDonald:** That is my second attempt to ask about those issues.

**An Leas-Cheann Comhairle:** I have no control over that.

**Deputy Brendan Howlin:** On a point of order, there is no point in proceeding to the next grouping of questions when we have all asked questions and we have not been given answers to them. I have gone through two sets of questions now and I have only got one answer.

**Deputy Mary Lou McDonald:** That is one more than I got.

**An Leas-Cheann Comhairle:** If the Deputies want to abandon the next set of questions-----

**Deputy Micheál Martin:** No, I do not-----

**Deputy Richard Boyd Barrett:** The Deputies each got one question answered.

**Deputy Micheál Martin:** It is a matter of equality in terms of the answers.

**Deputy Brendan Howlin:** That is the point but-----

**An Leas-Cheann Comhairle:** We have ten minutes remaining.

**The Taoiseach:** I have no difficulty answering them.

**Deputy Brendan Howlin:** Of course.

**An Leas-Cheann Comhairle:** I have been very generous with the time.

**Deputy Brendan Howlin:** The Leas-Cheann Comhairle is absolutely right.

**An Leas-Cheann Comhairle:** I cannot control the amount of time the Taoiseach spends in answering any one aspect of questions but I suggest-----

**Deputy Mary Lou McDonald:** I have asked twice about these matters.

**An Leas-Cheann Comhairle:** -----that the Dáil should be considered.

**Deputy Mary Lou McDonald:** Sweet Jesus I have twice asked about these matters.

**Deputy Brendan Howlin:** I am on the reform committee and I will certainly bring back to it that we should have a different format for this but, in terms of today, what number of minutes remain?

**An Leas-Cheann Comhairle:** We have fewer than ten minutes remaining.

**Deputy Mary Mitchell O'Connor:** Three minutes have already been wasted.

**Deputy Brendan Howlin:** Could we at least go through the answer to that question, the question on-----

**An Leas-Cheann Comhairle:** There was also a question on-----

**Deputy Brendan Howlin:** With all due respect, Deputy Martin was given six minutes in respect of his question.

**An Leas-Cheann Comhairle:** It was a single question. Does the Deputy want to continue with-----

**Deputy Richard Boyd Barrett:** We just want to hear the Taoiseach's answers.

**An Leas-Cheann Comhairle:** Hold on, Deputy. It is a matter for the House.

**Deputy Brendan Howlin:** There is no point in starting another round of questions if only ten minutes remain.

**Deputy Richard Boyd Barrett:** There is because there are only two questions in this group-  
ing.

**An Leas-Cheann Comhairle:** If there is not agreement, I have to move on to Questions Nos. 11 and 12. I call the Taoiseach to take those questions and there are now eight minutes remaining. This matter definitely needs to be looked at.

## Brexit Issues

11. **Deputy Stephen S. Donnelly** asked the Taoiseach the number of roles in his Department's Brexit taskforce; the grade of these roles; and the number of vacancies for these roles. [27020/17]

12. **Deputy Richard Boyd Barrett** asked the Taoiseach when he expects the special paper on Brexit. [28834/17]

**The Taoiseach:** I propose to take Questions Nos. 11 and 12 together.

The Department of the Taoiseach has implemented significant restructuring to ensure that Brexit is being treated as a crucial cross-cutting whole-of-Government issue. The amalgamated international, EU and Northern Ireland division was created under a second secretary who also acts as the Government's sherpa for EU business, including Brexit.

The work of this division includes supporting the Cabinet committee on Brexit and the Cabinet committee on European affairs. There are 32 staff assigned to this division and its resources are being kept under constant review. While the staff in this division deal with a wide variety of issues, Brexit is an increasingly significant factor across the division. Staff in other divisions also contribute to the work on Brexit, for example the economic policy division advises me on economic policy aimed at supporting sustainable economic growth with a particular focus on jobs and competitiveness, including possible economic consequences of Brexit.

Now that the terms on which the negotiations are to be conducted have been established, the Government has stated its intention to intensify its focus on the economic implications of Brexit including on domestic policy, measures to reinforce competitiveness of the Irish economy, to protect it from the potential negative impacts of Brexit and pursue all possible opportunities that might arise. Extensive work is now under way across several Departments on these issues including ongoing analysis of the impacts at sectoral level. Following on from the 2 May publication setting out the approach of the Government to the forthcoming negotiations, work is underway to prepare a further paper on economic implications of the Brexit challenge. This will draw on the work to date across Departments and will build on ongoing cross-government research analysis and consultations with stakeholders and that will reflect the core economic themes already indicated by Government in terms of prudent public finances, improved competitiveness and diversification, special attention to sectors and regions most at risk, economic opportunities and possible EU supports.

**An Leas-Cheann Comhairle:** The next question is from Deputy Martin on behalf of Deputy Donnelly.

**Deputy Micheál Martin:** Before I get to the question, the Taoiseach should note that the number of questions which are being transferred from his Department and seeking to be disqualified is at a historic high. That is something that the reform committee might look at.

I thank the Taoiseach for his reply. Given his more fundamental personnel changes over the last week, he clearly was not happy with the team that was managing Brexit because there can be no other explanation as to why he removed the two principal Ministers who have been talking to our European colleagues since Brexit began. The former Minister of State with responsibility for Europe said that the Taoiseach told him he was being removed because he

supported the wrong candidate in the leadership election. The Government press secretary has briefed that this is not the case. According to him the Taoiseach based all his decisions purely on merit. Having decided to replace the whole Brexit team in one stroke, can the Taoiseach now explain the new direction he proposes for these negotiations? Can he also indicate if he considers it worrying that it is only now that the issue of the economic dimension of Brexit is being seriously examined by his Department? I find that astonishing. We have had some work from the ESRI. Trade is at the heart of Brexit. It should be the top issue because it determines everything else in Northern Ireland in terms of the Border and so on. There has been an absence of analysis on the concrete, harsh reality of the potential damage from Brexit can have on the Irish economy in different sectors. The absence of such a detailed, profound analysis weakens our presentation of the issues to Europe, and particularly weakens the prospect that we will be in a position to provide solutions to Europe, to say that this is how we think it can resolve the undoubtedly difficult issues that will face many sectors of our economy as a result of Brexit. It is very worrying that focus on this has been absent over the last 18 months.

**An Leas-Cheann Comhairle:** I call Deputy Richard Boyd Barrett. There are three and a half minutes left. If I have a moment at the end, I will bring the other Members back in.

**Deputy Richard Boyd Barrett:** The Taoiseach said that following his meeting with Prime Minister Theresa May, he was reassured on the potential implications that a Tory-DUP deal would have on Brexit as it affects this country. Setting aside the fact that a coalition of the Tories and the DUP would represent extremism to the right of Genghis Khan, how can the Taoiseach have been reassured when no deal has been done? We are still not clear whether a deal will be done but it is strongly suggested that the DUP is seeking to extract concessions which may not be remotely reassuring on matters such as a hard Border, the common travel areas, tariffs and so on. Whence does this reassurance come? Could the Taoiseach enlighten us about any communication he may have had with the DUP itself as to what precisely it wants and what it is trying to extract from the Tories on the issues that affect this island?

**An Leas-Cheann Comhairle:** If the two remaining Members can each ask a question in one sentence, I will permit it.

**Deputy Mary Lou McDonald:** I can.

**An Leas-Cheann Comhairle:** And that is one sentence, not one minute.

**Deputy Brendan Howlin:** The Taoiseach could just answer the question that we both already asked.

**Deputy Mary Lou McDonald:** The questions relate to the common travel area, the customs union and the Single Market, and keeping the North of Ireland therein. I appeal to the Taoiseach. This is my third attempt today.

**Deputy Brendan Howlin:** There are proactive things that we can do in this State, rather than looking to the future to see what might be negotiated. We should now be investing in our ports and in access routes. We should look for the repositioning of the globalisation fund to assist vulnerable sectors that are already impacted by currency changes. There should be a twin-track approach. There are things that we can do immediately and things that are medium or longer term.

**An Leas-Cheann Comhairle:** If the Taoiseach can do the best he can in two minutes. I

know it is difficult.

**The Taoiseach:** In my own precedent, I will answer Deputy McDonald first since she has asked it a number of times. It is my view that Northern Ireland should remain in the customs union and the Single Market. It is also my view that the United Kingdom should remain in the customs union and the Single Market or that, failing that, we would negotiate a UK-EU free trade agreement that is not far off Britain remaining in the customs union and the Single Market if that is possible. I did express my view to the Prime Minister, Theresa May, which is that if there must be a border, I would prefer that border would be at British ports and airports rather than on our island. That decision is not one for me or this Government. Ultimately, it is a decision for the United Kingdom and the Westminster Government.

**Deputy Brendan Howlin:** Will the DUP support that?

**The Taoiseach:** It is one of the reasons I would like to see a Northern Executive established because I would like to see the parties in Northern Ireland come together and stand over the joint letter written by Arlene Foster, MLA, the late Martin McGuinness and others, which they sent only a few months ago. Although it does not say it, the contents of that letter are not far off an arrangement where Northern Ireland would effectively remain in the customs union and the single European market. Perhaps the DUP has hardened its position since then, and it would appear to have done so, based on some of their statements. If a Northern Ireland executive can be established, surely the co-equal First Minister and Deputy First Minister, joined at the hip, will stand over the letter written some months ago, and ask the British Government to deliver on that. Ultimately, if Northern Ireland asks to stay in the customs union and single market, London will not refuse that. This request has to come from the North.

**An Leas-Cheann Comhairle:** Time has expired for Taoiseach's questions. I know there were others who raised questions but I have no responsibility for that.

### 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 names of the member in each case: (1) Deputy Peadar Tóibín - the possible inclusion of Kells, Navan and Trim as rent pressure zones; (2) Deputy Alan Kelly - plans to upgrade the N24 route; (3) Deputy Michael Healy-Rae - the delays with visa application processing; (4) Deputy Sean Fleming - construction of an electricity sub station at Coolnabacca, County Laois; (5) Deputies Mary Butler and David Cullinane, John Halligan, James Browne and Mattie McGrath - the death of a patient being transferred from university hospital Waterford to Cork university hospital; (6) Deputy Thomas Byrne - the plans to upgrade the N2 from Kilmoon to Ashbourne in County Meath; (7) Deputy Carol Nolan - the cuts to home help hours in County Offaly; (8) Deputy Joan Burton - the recent apartment fires in Dublin and London and ongoing safety concerns; (9) Deputy Peter Burke - the progress on the rebranding of a midlands tourism strategy; (10) Deputy Donnchadh Ó Laoghaire - the need for light rail in Cork city; (11) Deputy Pearse Doherty - the need to reform the aquaculture licensing process; (12) Deputy Frank O'Rourke - the need for the HSE to review its home care packages; (13) Deputy Thomas Pringle - extension of the deadline for GLAS hedgerow planting; (14) Deputy Kathleen Funchion - capacity concerns at Amber women's refuge for both Carlow and Kilkenny; (15) Deputy Eamon Ryan - the alarming increase in

new HIV infections here; (16) Deputy Fergus O'Dowd - the distress being caused by a medical card review of a terminally ill patient; (17) Deputy Jackie Cahill - the impact of new application procedures in the rural development - Leader programme 2014-2020; (18) Deputy Michael McGrath - the provision of a permanent school building for Rochestown educate together national school, County Cork; (19) Deputy Martin Heydon - the need to amalgamate Allenwood boys and girls national schools; (20) Deputy Martin Ferris - weekend home help hours; (21) Deputy Clare Daly - the need to amend the pyrite remediation scheme; (22) Deputy Brian Stanley - the funding available for the completion of the Portlaoise orbital route; (23) Deputy Mick Barry - the reported surge in reported sex crimes in Cork; (24) Deputy Aindrias Moynihan - the need for a new school for De La Salle college, Macroom; (25) Deputy Pat Buckley - to discuss continued flood risks in east Cork; (26) Deputy Joan Collins - the commitment from Government that all families in emergency hotels and B&Bs will be housed by 1 July; (27) Deputy Catherine Murphy - the plight of homeless families being accommodated in a derelict and dangerous hotel in Dublin; (28) Deputy Mick Wallace - to discuss the ongoing crisis in An Garda Síochána; and (29) Deputy Robert Troy - communication of the status of school building projects in the school building programme 2016-2021.

The matters raised by Deputies Peadar Toibín, Mary Butler, David Cullinane, John Halligan, James Browne and Mattie McGrath, and Pearse Doherty have been selected for discussion.

### **Pre-European Council: Statements**

**The Taoiseach:** Amárach rachaidh mé chuig an mBruiséil le haghaidh cruinnithe de chuid Chomhairle an Aontais Eorpaigh. Tá mé ag súil le ceisteanna móra an lae a phlé le ceannairí eile na hEorpa. Ó thoghadh mé mar Thaoiseach, tá mé tar éis labhairt leis an Chanceller Merkel agus leis an Uachtarán Macron agus thaistil mé go Londain Dé Luain le bualadh leis an bPríomh-Aire May. Chomh maith leis an gComhairle, beidh cruinnithe eile agam, agus mé sa Bhruiséil, leis an Uachtarán Tusk, an Uachtarán Juncker agus an Chanceller Merkel agus leis an bPríomh-Aire Ratas ón Eastóin agus a huachtaránacht ar an Aontas Eorpach ag tosú go luath. Ag gach cruinniú, beidh teachtaireacht soiléir agam go bhfuil agus go bhfanfaidh Éire i gcoílár na hEorpa agus go mbeimid rannpháirteach sna díospóireachtaí faoi cheisteanna móra ár linne. Tá mé ag súil leis an Teach a chur ar an eolas nuair a fhillim. The meeting tomorrow will begin with the usual exchange of views with the President of the European Parliament.

The first working session will deal with security and defence, both internal and external. This is clearly a key concern for member states and our citizens, in particular those in countries that have been the targets and victims of recent terrorist attacks. I will offer Ireland's continuing solidarity and our strong commitment to working closely with our partners in combating this growing threat. The meeting will send out a strong message that Europe stands united and firm against terrorism, hatred and violent extremism. Among the issues we will discuss in particular is the need to fight the spread of radicalism online and to thwart its financing. This will undoubtedly take concerted action. Industry too will need to play a part in detecting and removing content that incites violence. On the external dimension, the High Representative, Federica Mogherini, will report to the meeting on the implementation of the EU global strategy one year after its adoption. The strategy aims to bring all the tools available to the Union together to maximise their impact so as to protect our citizens and contribute to peace and security in our neighbourhood and beyond. We have strongly supported the EU global strategy while emphasising the need for the comprehensive implementation of all five of its priorities. This is very

21 June 2017

important if all member states are to contribute and play an active part. I particularly welcome that consideration is now being given to the issues of resilience and the EU integrated approach to external conflicts and crises.

On Thursday evening, the European Council will discuss a range of external issues, including recent international summits and Russia-Ukraine. Given the decision by President Trump to renege on the Paris climate change agreement, the European Council will reaffirm our strong commitment to the swift and full implementation of the agreement and to playing a leading role globally. As I have previously said to the House, I am determined that the Government should show a new ambition when it comes to tackling climate change, and this will be the subject of a full-day strategic meeting of the Cabinet.

Prime Minister May will then update us about developments on Brexit from a UK perspective. She will then leave the meeting and the 27 remaining EU leaders will discuss other aspects of Brexit in Article 50 format. At the last meeting in this format, on 29 April, the EU guidelines for the negotiations with the UK were agreed. As the House will be aware, the outcome was very positive from Ireland's perspective. The guidelines fully reflect our specific concerns, including the need to protect the Good Friday Agreement and the gains of the peace process, avoid an economic border and maintain the common travel area and what it means for Irish and British citizens' reciprocal civil rights: the rights to leave, work and access welfare, pensions, health care and housing in one another's countries as though we were citizens of both. At the April meeting, agreement was also reached on a declaration providing reassurance about EU membership for Northern Ireland in the event of a united Ireland within the circumstances provided for in the Good Friday Agreement. This is contained in the minutes of the meeting which will be formally adopted by the European Council in its Article 50 format tomorrow. Much has changed since the end of April. The UK has had a general election and returned a minority Conservative Government. From the perspective of the EU, we remain united at 27. We are organised and we have been ready to begin the talks with the UK for some time. I am pleased that the first round of negotiations between Michel Barnier and David Davis took place on Monday. These focused on the issues to be resolved in phase one: citizens' rights, the UK's financial liabilities and Ireland-specific and border issues. At our meeting on Thursday, Mr. Barnier will update us on the substance of these talks and the agreed way forward for the next few months. The meeting is expected to approve procedures for the relocation of two EU agencies currently located in the United Kingdom, namely, the European Medicines Agency and the European Banking Authority. Ireland is bidding for both agencies, and we offer a great location in terms of business continuity, connectivity, facilities and other factors. We will continue to advance our case vigorously between now and the time of voting, which is expected to be in October.

On Friday, the European Council will consider a range of economic issues under the heading of "jobs, growth and competitiveness". These include: Single Market strategies, trade policy, the European Fund for Strategic Investments and the European semester. I support a high level of ambition for the Single Market. There are still too many barriers to cross-border trade in services, while digitisation is making boundaries between goods and services less relevant. Europe's capital markets can also make a stronger contribution to financing investments in the real economy at a time when this investment is urgently needed. The Single Market and digital Single Market strategies can both help unlock the productivity and growth potential of cross-border trade. I want to see delivery - concrete timelines delivering early and practical results for consumers and SMEs. I will work closely with like-minded member states to drive progress in a direction that is open, competitive and innovation-friendly. I joined several other EU leaders

this week in writing to President Tusk to call for greater ambition on this. On trade, I will make the case for a free and open approach within the EU and internationally. The draft Council conclusions set out a welcome commitment to this position. On the European semester, the European Council is expected to endorse this year's country-specific recommendations to member states. These have been largely agreed, although one member state has a point of contention. We are broadly happy with the tone and substance of the three recommendations proposed for Ireland, which cover fiscal policy, expenditure priorities and non-performing loans.

The discussion on migration will include updates on the migration partnership framework, the EU-Turkey statement, developments along the central Mediterranean route and implementation of the Malta declaration. The slow progress on reform of the common European asylum system will also be noted. Ireland remains at one remove from the full force of the migration crisis but we have nevertheless played a constructive role in the EU response. We have consistently highlighted the need for a comprehensive response that tackles both the effects and the route causes of migration. Ireland has provided €76.5 million in humanitarian assistance to Syria and the region since 2012, while our contribution to the EU-Turkey refugee facility will be almost €23 million. In 2015, the Government decided to accept up to 4,000 asylum seekers and refugees by voluntarily opting into the EU relocation decisions and through participating in the UNHCR-led refugee resettlement programme. To date, 785 people have arrived on resettlement and 459 on relocation, and this is ongoing.

The last item on the European Council agenda is digital Europe. This was added in the context of the incoming Estonian Presidency of the Council of the European Union, which will focus on digital issues during its term, including at a digital summit in Tallinn scheduled for 29 September. Ireland is a strong supporter of prioritising digital issues, and I commend the Estonian Presidency for its interest, focus and ambition in this regard.

As I said in my statement to the House last Wednesday, politics is far from perfect. At its best, it is a way of solving problems and helping to build a better future. The European Council provides the framework for solving our problems at EU level - often problems that cannot be solved by single nation states acting alone - and I look forward to participating actively, always keeping in mind the best interests of this country and Europe as a whole. I look forward to reporting back to the House next week on the outcome of the European Council.

**Deputy Micheál Martin:** Ar dtús báire, guím gach rath ar an Taoiseach ag an gcéad chruinniú a bheidh aige le ceannairí na hEorpa amárach. Mar aon leis sin, deirim leis go bhfuil sé fíor-thábhachtach go mbeidh an méid eolais a thagann amach as na cruinnithe seo i bhfad níos cruinne ná mar a bhí go dtí seo. Uaireanta, faigheann muid eolas ginearálta agus bíonn easpa cruinnis i gcroílár na bhfreagraí a fhaigheann muid ón Rialtas.

Before dealing with the summit agenda in more detail, I would like to make a few comments about how statements on EU meetings have been handled in recent years. It has been Fianna Fáil's policy during these sessions to engage constructively with the agenda of the upcoming summit. In contrast, it has been Government policy to maximise the generalities and minimise the detail and, as we know from yesterday, the new Taoiseach believes that preventing questions being asked in the Dáil can be a priority for him.

We have been obliged to seek information in Brussels and elsewhere in order to make a substantive contribution, and this seems likely to continue. I know that many others share our frustration at the superficial and dismissive approach by Government to real discussions of Eu-

21 June 2017

European policy. As this is the Taoiseach's first statement on Europe, he should be aware that patience has been exhausted on this matter. The reality is that the Government has seen European issues as simply another forum for domestic politics. The defining approach to negotiations has been to say as little as possible in public so that whatever emerges can be presented as a great national victory. In some cases, we have even discovered that Ireland had not actually tabled any proposals but the victory was claimed anyway.

Over the past six years, each year Fianna Fáil has outlined a detailed and radical approach to the development and reform of the Union. From a point two years before the referendum, we have been addressing the specific issue of Brexit, yet in response the level of engagement with and information from the Government for the pro-EU Opposition has been lower than at any point in decades. It is long past time for a comprehensive statement to be published on Ireland's future European policy. The debate is well under way elsewhere and some reports suggest the negotiations may even have started on the shape of the European Union in five and ten years' time. Ireland must join this debate and must develop a strategy to influence it. There has been a poor beginning to the revised Government's commitment to deal with the Opposition in good faith. In the normal course of events this would be serious, but when it comes to issues such as the European Union and Northern Ireland, it could cause real damage and undermine the non-partisan legitimacy from which the Government's policy has always drawn strength. This is the Taoiseach's choice, but if the partisan positioning and press briefing obsessed strategy continues on the European Union, it will do him no good and will cause real damage to the country.

Donald Tusk has been a good President of the Council and we supported his reappointment. He has shown a keen interest in Ireland from his first days as Polish Prime Minister and has maintained it. In the next two years he will lead the Council through extremely important discussions on the future of the European Union. The ten-minute bilateral meeting the Taoiseach is scheduled to hold with him on Thursday clearly will not allow for a detailed discussion; it will be more like a formal introduction. We would strongly support an invitation to him to address the Oireachtas.

Brexit is not a significant item on the summit's agenda for the obvious reason that the negotiations only started this week. As we have said repeatedly, we believe the Government's failure or refusal to propose specific arrangements for mitigating the impact of Brexit has been an error. Winning acceptance that Ireland is a special case is not even 10% of the battle. Securing support for a light-touch border crossing will help only marginally. Special status in some form for the North and the Border counties must be sought. Special status would threaten no one, but it could protect many from the worst impact of the narrow-minded decision foisted on Northern Ireland by an English majority. Equally, there is no realistic way of helping the worst affected industries within existing EU state aid regulations. If we are to secure concessions in time, we need to be pushing now and not after the worst of the damage has been caused. We will request a full Brexit debate in the House in the coming weeks during which we will expect the Taoiseach to go beyond the vague generalities we have heard so far.

The House should know that yesterday was World Refugee Day. The summit is due to discuss the ongoing migration crisis. On behalf of the Fianna Fáil Party, I again extend our thanks to the men and women of the Defence Forces who are working tirelessly to save thousands in the Mediterranean Sea. In particular, I note the extraordinary professionalism and humanitarian commitment shown in recent days by the crew of the *LÉ Eithne* when they rescued almost 800 people and delivered a baby girl on board. What is striking about this story is that it is a replica of what happened this week two years ago. In July 2015 the crew of the *LÉ Niamh* de-

livered a child while rescuing people who were desperate to get to Europe. The progress since has been limited at best. The reason there is still a migration crisis is the factors which cause people to flee their homelands remain. We support the efforts of the Council to achieve greater solidarity among member states in helping migrants seeking asylum. However, we also believe that not even a fraction of the required funding is being provided to help people in their home countries or close to them. The overwhelming majority of migrants do not want to leave their homes and would be willing to wait nearby until they can return. They are undertaking such desperately dangerous journeys because they have lost hope they can provide for themselves and their families. What we need from the Council is not just greater solidarity in helping those who reach Europe but also a step change in providing direct aid for people and communities in north Africa and the Middle East.

The decision of the Russian Government to support the Assad regime is the only reason the conflict in Syria escalated, fractured and displaced millions, yet both Russia and Syria are making exactly zero contribution to the provision of genuine humanitarian aid. As well as calling on the Russian and Syrian Governments to stop targeting civilians, the Council should also commence a process for increasing humanitarian aid in order that by the autumn we will not enter the spiral of heightened misery which has always followed the turn towards winter. The scheduled discussion on security and defence has not been preceded by details of what is involved. Our assumption is that it is simply a review of agreed actions and will involve no new policy.

As part of this discussion we believe leaders should begin a more detailed approach to dealing with the exponentially-rising threat of cyberwarfare. European states such as Estonia and Sweden have been the subject of aggressive cyber-attacks. In other cases, the use of cyberwarfare methods to interfere in democratic elections has been proved, including both service disruption attacks and the spreading of disinformation. All of this activity has had one source. The last two national risk assessments carried out by all parts of the public and security services have identified cyberdisruption as potentially the most damaging risk to Ireland, but little has been little done to respond to it. I have no doubt that a co-ordinated European response is the only way by which we can develop credible defences against this activity. I hope the Taoiseach will raise this matter and remind other leaders that it is a security threat on which every country, including the European Union's neutral members, can work together.

The summit will also formally sign off on the latest European semester. It may well be the worst named of the many badly named European procedures. It is simply the end of the latest cycle of economic and budgetary reviews. The tone of the draft conclusions implies that the process has been successful. In truth, the reviews have been helpful in only a limited number of cases. More generally, they are either banal or ignore profound issues. They are primarily about controlling budgets but are largely superficial when it comes to measures other than structural reforms. More importantly, they consistently ignore the need for new approaches to dealing with issues such as imbalances between countries. In addition, they do not grapple with the need for significant debt relief for Greece or provide a credible growth agenda for many other countries. One issue that has become obvious in recent months is that the current model for discussions within the Eurogroup is unsustainable. The *ad hoc* negotiations, devoid of an agreed procedure, dominated by side discussions and led by a Minister for Finance with no fixed term, are not a credible way to address the issues of the eurozone. As a start, a more permanent arrangement for a Eurogroup chairperson should be agreed, now that the incumbent will soon depart.

21 June 2017

It may be that a non-agenda point concerning respect for fundamental rights within the European Union will be raised. This relates, in particular, to a severe anti-NGO law recently passed in Hungary and some equally concerning laws in other countries. Every country that joins the European Union gives a commitment to respect basic rights. At this grave moment, when extremists threaten the basic tenets of liberal democracy, we cannot sit quietly and say nothing.

There is no doubt that the Taoiseach will travel to the summit with the lines prepared about how successful his trip will be. What matters is whether he is willing to do the much harder work of making concrete proposals about the future of the European Union, protecting Ireland against the impact of Brexit and ending the policy where Ireland has been little more than a bystander when fundamental issues have been discussed.

**Deputy Mary Lou McDonald:** Beidh mé ag roinnt mo chuid ama leis an Teachta Crowe. My colleague will focus on key issues on the agenda for the Council meeting, while I will focus on Brexit.

Last Monday David Davis and Michel Barnier met for the first time to formally launch the Brexit talks. Britain has now agreed to negotiate the divorce deal first and then to move on to its future relationship with the European Union. This represents an embarrassing U-turn for Theresa May. The three priorities set by the European Union and agreed for the initial phase of talks are the rights of EU citizens living in Britain and *vice versa*, the financial settlement and the Irish question - the border on this island.

Given the disastrous impact Brexit will have on the island of Ireland, it is more important than ever, now that the formal Brexit negotiating process has started, that we secure designated special status for the North within the European Union and that the Government join in the efforts to secure it. A motion was passed by the House to that effect, although it was not supported by the Government.

Last Monday the Taoiseach was also in 10 Downing Street to meet the British Prime Minister. Having talked tough on the issue of Brexit during the course of his leadership campaign, I was expecting him to argue the case for the North of Ireland to remain in the Single Market and the customs union. I was not expecting him to allude to the “Love Actually” movie but, that aside, I was extremely disappointed with his public call for any land border in Ireland to be invisible. I believe that entirely misses the point. Any border in Ireland, invisible or not, will be disastrous for our economy. Any border will have the most serious consequences for agriculture and small business. I believe the Taoiseach should have held firm on his earlier commitments and argued strongly against any border in Ireland. Make no mistake, he will have to argue that case very strongly with the Tory Government.

I have no doubt Prime Minister May was delighted to see the Taoiseach, as Head of Government, make a U-turn, as she may have interpreted it, on this issue. I believe that, on Monday, the Taoiseach failed the first test on his first outing and, in so doing, potentially undermined efforts to protect Ireland, North and South, from the effects of Brexit. It is vital that he does not repeat his “invisible border” comments at this week’s European Council meeting. I do not think any dodgy films have been made in the Council offices in the Europa building so, hopefully, there will not be any cinematic commentary on this occasion. The Taoiseach must forcefully fight for Ireland’s interests. He must inform his European counterparts that should the North be forcibly removed from the EU against the democratically expressed wishes of the people, this

will have a devastating impact on nearly every aspect of life, North and South. Sinn Féin has put forward a range of measures which we believe the Government should pursue in order to mitigate the impact of Brexit, and these types of mitigations must be put on the table.

I wish the Taoiseach well. This will be his first European Council meeting and we will be watching closely. As we know, there is an appreciation at EU level of the unique challenges that Brexit poses for us here in Ireland. The job is to harness that and to represent all of the people of Ireland. The Taoiseach's remit and responsibilities stretch to the entire island of Ireland. His responsibilities do not stop at the Border - they do not stop at Newry. I ask the Taoiseach to ditch the "invisible border" line and focus on ensuring that special status for the North inside the EU is secured so that no border will be placed on this island, because no border is acceptable.

**Deputy Seán Crowe:** Brexit is clearly a priority issue for Ireland but there are other important things to be discussed at the European Council meeting. Two of the key issues at the Council meeting will be spending on defence, which we believe will lead to the creation of a standing EU army, and migration. I believe the EU's priorities are all wrong. The EU says it has no spare money for positive social and economic programmes such as youth unemployment projects and community regeneration or improving public services like health care, but it has announced that it will spend €1.5 billion a year on regressive military projects. People are aware of the need to improve domestic security considering the recent attacks in Brussels, Paris, London and Manchester, but the creation of this external force is an extra financial burden which is not wanted by anyone. Indeed, the Taoiseach is signing off on this €1.5 billion while a large proportion of our own Defence Forces members are reliant on lousy wages and social welfare top-ups, and in many cases are living in substandard accommodation.

The European Commission's reflection paper on the future of European defence, launched on Wednesday, 7 June, clearly outlines its plans to establish a standing EU army. I want to see Irish taxpayers' money being spent on health care services and ending the trolley crisis, making education more accessible, creating good quality jobs in urban and rural areas and on housing, not on developing and investing in a standing EU army which is able to intervene militarily and conduct war. Any EU policy which aims to increase EU militarisation is a potential threat to Irish neutrality. What is the Taoiseach going to do to oppose these plans and protect Irish neutrality? What is the Irish position on the spending of €1.5 billion on military projects?

Yesterday was World Refugee Day. On Monday the International Organization for Migration confirmed that more than 120 people, mainly Sudanese, had died in a shipwreck off the Libyan coast last weekend. It also confirmed that 77,000 people have crossed the Mediterranean to Europe this year, with at least 1,828 people having died. The preventable deaths of men, women and children in the Mediterranean are unacceptable and a stain on the EU and its member states. We must do more to stop these people dying in the Mediterranean.

According to reports on the leaked draft conclusions of the meeting which the Taoiseach will attend, EU leaders are expected to pile on pressure to get countries in Africa to start accepting citizens who have been ordered to leave the EU. Many of them may face torture and violations of human rights, as we are hearing from the various agencies working with these people. It is also reported that the conclusions will include the training of the Libyan naval coast guard as a measure to prevent people from leaving the coast towards Italy. The Libyan coast guard has already returned an estimated 23,000 people since 2016. However, those stopped are then taken to any number of detention centres, where they are likely to face abuse and exploitation. I have seen the NGO reports, read personal stories and seen photo evidence of the appalling

conditions in these so-called migrant centres. The centres do not meet any humane standard at all; in fact, we have laws that would not allow anyone to keep an animal in such conditions. Hundreds of people are cramped into overcrowded and unhygienic cells, with no contact with the outside world, by what are essentially armed militias. What is happening is wrong but we will be facilitating it. How can the Taoiseach and his colleagues stand over a system where vulnerable refugees are rescued from drowning and then returned to Libya and left in appalling conditions?

I am also calling on the Taoiseach to oppose the so-called migration compacts with five African states - Nigeria, Niger, Senegal, Ethiopia, and Mali - which tie EU aid and trade to stemming flows of refugees. These are shoddy deals; they are wrong and counterproductive. Finally, I am calling on the Taoiseach to raise with his Hungarian, Czech, Polish and Slovakian counterparts their unhelpful and unacceptable boycotting of agreed EU resettlement and relocation quotas. I heard the Taoiseach earlier quoting John F. Kennedy. I agree it is time for countries like Ireland to stand up and make our voice heard, not only in Europe but across the world.

**Deputy Brendan Howlin:** This will be an important occasion for the Taoiseach as it will be his first European Council meeting as Taoiseach at a critical time for our country and, indeed, at a critical time in the EU's history. On a point made by Deputy Martin in earlier discussions, it is unfortunate that, as the critical part of the Brexit negotiations begins, the team that represents our country and the institutional knowledge they had about Europe has been completely changed. The removal of the Minister of State with responsibility for European affairs, Deputy Dara Murphy, the appointment of a new Minister for Foreign Affairs and Trade to replace the Minister, Deputy Charlie Flanagan, along with Deputy Varadkar's own election to replace the very experienced former Taoiseach, Deputy Enda Kenny, means there will be a completely new group of people without the institutional memory of their predecessors. That will require a great deal of learning on the job and of bringing themselves up to speed.

Of course, Europe itself is undergoing change. A new French President has been elected and we are soon facing into new elections in Germany, and perhaps also in other European countries such as Italy. The opinion polls indicate that Chancellor Merkel is likely to be re-elected; she will, therefore, continue to be the dominant force in European policy making. At the same time, Russia continues to be a destabilising influence on Europe's eastern borders. I understand the Taoiseach will engage in bilateral meetings with the President of the European Council, Donald Tusk, in advance of the meeting. When he was elected, President Tusk wrote to him, highlighting the challenges the island faces because of Brexit. While the Taoiseach's predecessor was criticised for many things, he really did ensure the European Union and all of its member states were very well briefed on the impact of Brexit on this island. When the Taoiseach meets President Tusk, I hope he will raise with him the future approach of the European Union to the Paris agreement and the decision of US President Donald Trump to withdraw his country from the agreement. There is an urgent need, therefore, for the European Union to step up and show global leadership on the issue of climate change. This will be particularly important in the absence of the United States from the agreement. I hope Ireland will be an exemplar in driving that agenda.

The dominant interest for us, of course, at the Council will be Brexit. In advance of the Article 50 meetings on Thursday, the Council will exchange views with the President of the European Parliament and I hope the Taoiseach will use the opportunity to build a relationship with Antonio Tajani who will have a crucial role to play in the approval of any final deal. It is critical that a deep understanding of Ireland's concerns and unique position be communicated

to all Members of the European Parliament who, in effect, will have a veto, unlike the Members of national parliaments, on the final decision to be made.

Formal Brexit negotiations have begun. It is welcome that when the Taoiseach met her on Monday the British Prime Minister committed again to the goal of what she describes - I suppose there are myriad phrases for it - as a frictionless border. However, as we know, Britain's intention, restated again on Monday, to withdraw from the Single Market and the customs union makes that statement impossible to achieve. I am gravely concerned by the approach taken by Britain thus far. It does not bode well that at the first formal meeting with Mr. Barnier the Secretary of State for Brexit, Mr. David Davis, came with no prepared negotiating papers, we are informed, and instead was simply armed with the White Paper and the Prime Minister's Lancaster House speech. We have little time as it is and the British Government squandered some time in holding an unnecessary general election, out of which it has come without a mandate or a majority for a clear expression among the elected members of the new Parliament in Britain of what they want from Brexit. It is very difficult to negotiate when people do not actually have a clear agenda. I am in very close contact with my Labour Party colleagues in Britain and Keir Starmer is migrating to a very acceptable position for us, which may well mean Britain staying in the customs union. These are things we need to deepen and address because the British position is quite flexible, or certainly in a state of flux. We have no detail on what the British Government wants, apart from an unrealistic desire for all the benefits of European membership that it keeps stating it wants but without any of the costs. At some point in the coming months it will have to make a choice and we should see if we can influence that choice through bilateral discussions with all of the political parties in the United Kingdom.

I hope the intense negotiations with Mr. Barnier, when they begin on 10 July, will see a detailed position being set out by the United Kingdom. In saying that, it is welcome that the British have agreed to the European Union's proposals for a phasing of the discussions. However, the strand of the negotiations dealing with Ireland, as others have said, will now be subject, we understand, to slower dialogue, which is truly disappointing. I hope the Taoiseach will raise with Mr. Barnier this issue when he briefs the European Council 27. We cannot rest on our laurels, having secured the commitments in the negotiating mandate that we sought. They will be fluid and dynamic negotiations and making the right start is important, but certainly it will only be a start. The acceptance of the United Kingdom of the European Union's proposals for phasing means that discussions on a free trade agreement will not occur until after other details have been decided, including the bill for exit and the issues facing Ireland. I listened again during the week to the Chancellor of the Exchequer in Britain entirely dismiss the moneys expected to be placed on the table as the legitimate cost to be met by the United Kingdom.

We have very little time available to us, less than two years, before we reach the Article 50 deadline. A comprehensive free trade agreement, as sought by the United Kingdom, will certainly not be achieved within that timeline. It is imperative that a transitional arrangement be put in place, for which we in the Labour Party have argued for some time. This will ensure Irish companies will have time to adjust and grandfather the changes ultimately agreed to. The impact of Brexit will fundamentally alter the island. In particular, if it is not handled extremely carefully, it will destroy many thousands of jobs.

I raised with the Taoiseach's predecessor the need for domestic policy action and do so again today with the Taoiseach. There is a need to secure funding and policy changes in Europe to meet our unique circumstances. As the Taoiseach knows, the Labour Party published its document on Brexit last March. While much has changed since, the 20 specific actions we

set out in the document are still very important and germane.

Since the first civil dialogue on Brexit in Dublin Castle I have highlighted the need for an early warning system between employers and trade unions and, critically, the need to seek to change the European Globalisation Adjustment Fund to support workers and employers impacted on by market changes due to Brexit or currency changes in advance of Brexit. One of our ambitions concerns the need to waive state aid rules and establish a Brexit trade adjustment fund of €250 million to support companies in transition. Three of the proposals we set out in our March document have been embraced by IBEC, which is an interesting development. There is growing consensus on what Ireland must do to support people, jobs and the economy. We have made the specific proposals and now want to see those which can be acted on immediately being acted on immediately.

As others have referenced, on Friday the Council will also discuss the issue of migration and the crisis in the Mediterranean. I hope the Taoiseach will deliver on the commitments we made when we were in government together to accept refugees into the State. We have committed to accepting more than 2,600 by September this year. The Taoiseach has given the number who have entered the State to date and I hope the others will arrive and be welcomed in communities throughout the country. I support the view of others that we need to ensure every member of the European Union will accept the responsibility to take in refugees.

The Council will address the jobs, growth and competitiveness strategy. I call on the Taoiseach to seek changes to the EU fiscal rules. I have already had these discussions. If the door is not open, it is certainly ajar. This is something on which we need to follow up and the clock is ticking. We need to ensure the vital interests of Ireland are actioned and not simply talked about.

**Deputy Richard Boyd Barrett:** I note that the Taoiseach spoke about the European Union standing firm against hatred and violent extremism and mentioned that he would fight the spread of radicalism. That is very much in tune with some of the very interesting rhetoric coming from him and the Minister, Deputy Paschal Donohoe, in particular. There appears to be a move from the pragmatic approach which veiled any obvious ideological prejudice under the former Taoiseach, Deputy Enda Kenny - not that it did not exist but it was veiled - to a much more gung-ho, ideological leadership for Fine Gael in the form of this Taoiseach and the Minister, Deputy Paschal Donohoe, with all the talk of attacking the populists as against the sensible, moderate people whom apparently they represent and associate with in Europe. It is good that they are framing things in that way. At least, it is a political debate. However, it is completely topsy-turvy in terms of who are the extremists and who are the reasonable people.

The left believes in human beings, internationalism, solidarity across borders and compassion for human beings. That is not an extremist position, but a moderate, sensible, human one. I contrast that with the position of some of the Taoiseach's mates in Europe. Robert Fico, the Prime Minister of Slovakia, who is one of the Taoiseach's colleagues on the European Council, has said that Islam has no place in Slovakia and that it is a necessity to monitor every Muslim. The Hungarian Prime Minister, Viktor Orbán, is a member of the European People's Party, of which Fine Gael is a part. He thinks migrants are "poison", every migrant is a terror risk and every refugee policy is a Trojan Horse of terrorism. He is already responsible for building a fence against migrants and he wants to build another, just like Mr. Donald Trump. What does the Taoiseach have to say about an association in the European People's Party with people who have those types of extremist views? The Bulgarian Prime Minister, Boyko Borisov, warns

about the Muslim threat to the Christian demographic balance of Europe. This is foul, extremist, racist hate-mongering and I wish to hear denunciations and serious challenge to such hate-mongering from the Taoiseach and the Government.

I also seek some criticism of the European Union's fortress Europe policy. This has resulted in 16,000 deaths in the Mediterranean since 2014, a miserable 3,000 Syrian refugees taken in by the European Union, as opposed to the 2.8 million who have fled that country and are now held up in Turkey, and the deal the European Union did with the Turkish regime, which is an extremist regime, to keep migrants out of Europe. It also did deals with Libya and Afghanistan, extremist regimes by any definition. The European Union is lining up with them at the expense of human compassion and decency when it comes to people fleeing from the most desperate circumstances.

I will conclude with a comment on the austerity extremism of the European Union. I read an article today in which a Greek woman named Dimitra says that she never imagined a life of being reduced to food handouts, "some rice, two packs of pasta, a packet of chickpeas, some dates and a tin of milk for the month". That is against a background of deprivation in Greece that has now shot up to 22%. There were 2,500 people in receipt of food aid in Athens in 2012. It is now 26,000. This is because Europe will not give Greece a break on its debt. Could we have some criticism of that type of economic and racist extremism emanating from the so-called moderate centre of Europe?

**Deputy Mick Barry:** There have been a number of significant general elections since the last European Council meeting. I will comment on the results of the elections in the UK and France. In some ways the election in the UK was the more significant of the two. It had a strange result where the winner was the loser and the loser was the winner. At the start of the campaign, Jeremy Corbyn's Labour Party was way behind. According to one poll the gap was 46% to 23%, or two to one.

The turning point in the campaign was the launch of the Labour Party's manifesto. It was rightly described as the most left wing manifesto presented by a main party in a general election in the UK in a generation. The manifesto's policies included an increase in the minimum wage to £10 per hour, the banning of zero-hour contracts, the building of 500,000 council houses, the abolition of tuition fees, the introduction of a wealth tax to pay for the policies and, importantly, it put back on the agenda the nationalisation of rail, mail, energy and water. That was not a full socialist programme. We would go further in terms of nationalising the commanding heights of the economy. The leader of the Labour Party here was right when he told the *Irish Independent* that Mr. Corbyn's policies were far closer to the policies of Solidarity-People Before Profit than to the policies of the Irish Labour Party.

Those policies proved to be tremendously attractive to young people, in particular. This is the first generation since the Second World War that has a decisively lower standard of living than their parents. They are fed a diet of precarious work and face a mountain of debt as a result of tuition fees. They flocked to those policies. That experience was not unique to the UK. There was a similar experience with so-called millennials attending the Bernie Sanders rallies in the United States and rallying to the banner of Jean-Luc Mélenchon and the radical left in France. That was a decisive push in that election-----

**An Ceann Comhairle:** You are going to link this to the European Council.

21 June 2017

**Deputy Mick Barry:** Of course I am. The Taoiseach will be sitting across from the people who participated in that election campaign. There could be another election in the UK before the end of the year.

The election saw the biggest gains by the Labour Party in the UK during an election campaign since 1945, narrowing the gap from 23% to 2.5% during the campaign. Since then, there has been the horror of what happened at Grenfell Tower, the tomb in the sky. Everybody knows that was a man-made disaster due to deregulation, cheap cladding, the failure to install sprinklers, slashing the number of inspectors and so forth. It is a monument to the failure of neoliberal capitalism. If it had happened the week before the election rather than the week after, there probably would have been a very different election result. The fact that it happened afterwards shows that the election is not the end of the matter. There is the start of a social movement against not just the Tories, but also the capitalism they represent.

In terms of the French election, there were two spectacular victories for Mr. Mélenchon. The turnout, particularly last Sunday, was woeful. It was down to 43%. Election fatigue and the weather are blamed, but Mr. Mélenchon was far closer to the mark when he said that it was a civic general strike. The centre left and the centre right have collapsed into the Macron movement, but there is no great enthusiasm among the mass of people. Confrontation is looming. Emmanuel Macron is talking about reforming the so-called labour laws by the summer, implementing a ceiling on damages for unfair dismissal and changing sectoral agreements to company by company agreements. That will open the door to driving down the living standards of workers in France. Attempts to go down this road resulted in mass protests against Mr. Sarkozy and Mr. Hollande and we will see the same against the policies of Mr. Macron. The challenge to him will come from the *syndicats*, the unions and the radical left.

There is an important lesson here, and I will conclude on this because I am aware that the Taoiseach is an admirer of the ideas of Mr. Macron. The agenda of the so-called new European centre in reality serves the interests of the establishment and the traditional right. It will be challenged on these policies by the working class movement and the radical left.

**Deputy Mick Wallace:** I am sharing time with Deputy Broughan.

*3 o'clock* I regret that the new Taoiseach is following in the footsteps of the old Taoiseach by departing the scene before the smaller parties or Independents have their say.

**An Ceann Comhairle:** I am sure he would not like to be called “the old Taoiseach”.

**Deputy Mick Wallace:** I am sorry. What would he like to be called?

**An Ceann Comhairle:** “Former Taoiseach” might be better.

**Deputy Mick Wallace:** Former. I take back “old”. It was not an ageist thing, trust me. I am nearly as old as him myself. Perhaps the new Taoiseach feels the esteemed leaders of the established parties talk more wisdom than us poor mortals. So be it.

I understand that the European Council meeting is mostly about migration and defence, or refugees and war, whichever way one looks at it. It would be good if the Taoiseach brought a new dimension to the European Council meetings. It is time that Ireland took a new position. We talk a lot about refugees and migrants. We probably do not ask enough as to where

they come from. One of the best ways of creating refugees is dropping bombs on their homes. Sadly, we still allow Shannon Airport to be used as a US military base. US military proceed from there to cause serious havoc in many predominantly Muslim countries, from which the majority of the refugees and migrants are coming at the moment. It would be good if we took a step back and reasoned why we have so many problems in this area.

Interpreting the refugee crisis as a defence and security issue will not make the problem go away. We are throwing money at people in Libya, people who leave a lot to be desired, to stop refugees coming across. This Government cheered when the country was being bombed to bits by the USA, UK and France. We were happy enough to see the place destroyed. Now it is in anarchy and there are unbelievable problems.

We seem okay about and pretty silent on the fact that refugees and migrants are being created every minute of every hour in Yemen at present. We have no problem in trading with the likes of Saudi Arabia and the United Arab Emirates, which, with the support of the USA, France and Germany, are bombing the place back into the stone age. There are many millions of people suffering on account of it.

I listened to the debate on Leaders' Questions today during which the new Taoiseach was challenged on not inviting Mr. Trump. Given that the Government is okay with the likes of Mr. Obama coming here, I do not really see a problem with Mr. Trump coming here, even though he is a lot worse. Mr. Obama holds the record for the US President longest at war in American history. He deported more undocumented migrants than any other US President in history and he signed off on the death warrants, without trial, of more people than all the US Presidents before him put together. While I agree that Mr. Trump is even worse, I do not know why the Irish Government has a problem trading with Russia when it is prepared to deal with the USA and the Saudis. We should not get into a selection process. I believe one should talk to everybody on the same terms. We should reopen our embassy in Iran. The notion that Iran might be a bigger threat to world security than the likes of the Saudis or the USA is frightening. It is about time we rethought the position on the Iranian embassy. Iran has 80 million people. As the House knows, Deputy Clare Daly and I were there a few months ago speaking at a conference. It is an amazing country.

I missed the Taoiseach's opening speech but I believe he mentioned John F. Kennedy. I do not know whether he was referring to the fact that John F. Kennedy was the one who started chemical warfare and the fact that there are children being born malformed in Vietnam today because of chemicals he dropped on that poor country many years ago. I am not sure whether the Taoiseach brought that up; perhaps he was raising some other issue regarding it. I ask him to reconsider allowing Shannon Airport to be used to help the American military to drop bombs on people's homes, thereby creating refugees and migrants who then become the source of a problem for the European Union.

**Deputy Thomas P. Broughan:** I echo the comments made by my colleague, Deputy Wallace, on defence matters. It is heartening to know that in his speech earlier the Taoiseach committed fully to the Paris climate change agreement and said that the 27 member states would stand together very firmly on that. I acknowledge his comments on migration and digital Europe. They are welcome but he needs to indicate clearly whether Ireland is living up to its commitments on migration.

One of the issues mentioned by the Taoiseach on which I have concerns is the European

21 June 2017

semester, particularly in regard to fiscal policy. Almost all the discussions we had at meetings of the budgetary oversight committee have revolved around the fiscal rules and looking back at those. As I mentioned a number of times at meetings of the committee, we have still amassed a huge national debt, largely imposed on us by the European Commission and the major European powers, especially Germany. This makes it so difficult for us to begin to rebuild our infrastructure, which has been allowed to fall into decay so badly over recent years. We expect the Taoiseach and the new Minister to put up a strong fight for fiscal leeway for Ireland in terms of current spending in certain areas, such as disability, as I mentioned during Leaders' Questions this morning, and also in general terms to give us the kind of elbow room we need, particularly given that we are the people most affected by Brexit.

From the time of the result of the UK Brexit referendum, I have been calling for a Brexit Minister. That the Department of Foreign Affairs and Trade has effectively become the Brexit Department is welcome. However, I was disappointed yesterday to note that the Minister for Foreign Affairs and Trade, Deputy Coveney, said there was no question but that Ireland was a priority on the first day of the talks with Mr. Michel Barnier and the British delegation. I am looking at a picture of the Minister with Michel Barnier in which he is being congratulated. The Minister stressed that Ireland wants to see a future relationship that is as close as possible between the EU and the UK but the account of the first day of talks in many of our newspapers today is very disheartening and disappointing. *The Guardian*, for example, reports that the hopes we all had for swift progress on addressing any possibility of a border being brought back in this country are dashed already. Mr. Barnier and the UK Secretary of State, Mr. Davis, MP, reported afterwards that Ireland would no longer be in the first wave of the working groups so we do not seem to be a priority in the negotiations themselves. We are to be subject to a separate, slower dialogue. The reason for this, given by Mr. Davis, is that resolving the common travel area and the Irish Border issue is such a difficult issue. However, many people feel, on considering the cases of Norway, Sweden and Switzerland, with its various borders, that there does not seem to have been the same level of difficulty in respect of them. Some people were categorising the negotiations yesterday as a 3:0 result, with the European Union being 3 and the UK being 0 in that the latter lost all its main negotiating demands. In fact, we seem to have had a 1:0 result against us. It is good that we have a Brexit Department at long last and that the Minister of State is present but we need to refocus to ensure we are a high priority from the outset.

**Deputy Danny Healy-Rae:** I wish the Minister of State, Deputy McEntee, well in her new role. We are sorry to lose her from her last Ministry because she had a lot of input into the fair deal scheme that we are trying to get for the farming community. She understood it well. We only hope that the new Minister of State will be as conversant with it as she was. We wish her all the very best for the future.

We are elected to this House by the people who vote for us to represent them. There are small businesses in Castleisland, Killarney, Tralee and Killorglin in Kerry which are very worried about the reduction in the value of sterling. Already, their incomes and products are netting 10% or 12% less than they were before the Brexit vote. I am sorry our new Taoiseach has left the Chamber. I only hope that he did not leave because only the smaller groups or parties are here now and that when he had dealt with the larger ones, he decided to go. That would be wrong. He should recognise that we are elected also by the people who vote for us and who need their complaints and problems listened to.

These small businesses are very worried that if the value of sterling persists at this low rate for a long time, and it is predicted that it could last for 20 years, it would have a savage adverse

effect on the Twenty-six Counties. Those businesses are making no apology for saying it. Much of the talk in this House over the last number of months has been about making a special case for Northern Ireland. We are elected here to make a case for the Republic of Ireland, the Twenty-six Counties. In that regard, it is said that much traffic will go across the Border for cheaper goods. Down as far as a straight line from Galway to Dublin, and even down further than that, it will have a very negative impact and all the traffic will be inclined to go up to the North of Ireland. The counties in the South will suffer an awful lot. Those businesses are asking how that is going to be addressed. I mentioned this last night. They even suggested that Northern Ireland should have to join the euro. After all, if the Border is going to be at the ports, we will not have a level playing field with the sterling being so low in the Six Counties. We would lose much of our custom. Counties and people would suffer accordingly.

With regard to the farming community, around the time of the election, the price for cattle dropped €100 per head. It is so volatile now that it dropped €100 per head when there was uncertainty and when Ms May lost so much of her vote in the setting up of a new government. We need to address those issues. I hope the Minister, Deputy Coveney, will do his best as Minister for Foreign Affairs and Trade. The Government's team and our new Taoiseach will have to address all these issues. When one goes out the gate this evening, everything looks grand and rosy. There are tower cranes all over the place. However, the farther one goes towards the Atlantic the worse things are getting. Young people are coming to the greater Dublin area to work and are leaving rural Ireland behind. Let us take the Leader programme for example. There are 18 different stages of approval. Rural Ireland is being forgotten about and it is getting worse. As much as we have talked in this Chamber, it is deteriorating by the day. On those matters, such as the Leader funding, not a penny has been spent yet.

I have gone into Deputy McGrath's time. More emphasis needs to be placed on rural Ireland when we are talking to the EU in the coming days.

**Deputy Mattie McGrath:** I too wish the Minister of State very well in her new position. I am disappointed to lose her from the position she was in because we had been working very hard on the fair deal scheme. Hopefully, the good work there will continue and the Minister of State will ask the new incumbent to do what she herself intended to do. I also wish the Minister, Deputy Coveney, well. I hope he makes a better job of this than he made of the housing crisis, because there was not a house built in Tipperary last year. I appealed to him several times to call in the county managers and insist that something be done. Nothing has happened. The talks and reports would build mountains and castles for us with all that is going on there, but there has been nothing. We are aware that one of the central issues to be discussed at the EU Council will be the future direction of Europe and what vision will guide the creation of that future. To that end, the European Commission published a White Paper on 1 March that sets out possible paths for the future of Europe. The Commission acknowledged that we face a great many challenges, such as globalisation, the impact of new technologies on society and jobs, and security concerns, and that we must ensure we are not overwhelmed but rather that we seize the opportunities that these trends present.

The White Paper offers five scenarios for the European Union's evolution, depending on the choices we will make. As the Commission has further noted, the White Paper marks the start, not the end, of this debate. Work will continue in earnest so that we have a plan, a vision and a way forward to present to the people by the time we hold European Parliament elections in June 2019.

21 June 2017

While I acknowledge the work of the European Commission, it is very hard to take what it says very seriously. After all, it seems to have had a very late conversion to citizen-centred democracy. It now speaks endlessly about the rise of so-called populism and the need to consult the people of the various member states. It has had a very late conversion to that. Where was all this when the drift away from true public consultation was occurring over the past ten years? Where was it when this State rejected various treaties, only to be told to think again, but this time with an economic gun to our head? Where was it then?

The Commission's White Paper presents one scenario of "Doing Much More Together". That would involve member states deciding to do much more together across all policy areas. While this sounds grand and noble, it also reflects the kind of drive toward ever-closer political union that leads many to fear for the sovereignty of their states. That is a huge worry for many people in Ireland. We have seen how international bodies like the United Nations already display breathtaking indifference and disregard for the Constitution of this State with its all too frequent and all too biased interventions of our laws, especially around family and life. Europe and those at the helm of the European project have also demonstrated this kind of arrogance for too long and too often.

I agree that it is vital that we have a strong Europe, a Europe of genuine partnership and collaboration. It is vital that it should not come at the expense of disregarding the views of those who fear that the European project has become derailed or overly powerful and centrist. The European Union must serve the people and not *vice versa*. That is what has happened with democracy, including our own one. We are not serving the people. We must serve the people rather than fatcat officials. The Commissioners we sent over failed politicians here. The European project must serve the people. The Taoiseach quoted John F. Kennedy today during Leaders' Questions. Indeed, he was waxing lyrical here again during questions to the Taoiseach with Deputy Copping and others. I have another quote for him that he might like to take to the EU Council, which John F. Kennedy said in 1962: "Those who make peaceful revolution impossible will make violent revolution inevitable." I hope he takes that with him as well.

I am not sure whether the Taoiseach has taken on only a part-time speechwriter. If so, he should take him or her on full time and make sure he or she has a good lesson in history and understands the recent history of Europe and the way Europe has led to people being disengaged, has down-played the rights and sovereignty of people in this country, put a gun to our head during the banking crisis and told us we had to do this and the other. Europe is now telling us that we cannot have the housing Bill introduced in the Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach. We cannot have a Bill that would save the people and keep them in their homes. We can have legislation to deal with the big people but nothing for the small people. It is time the EU reflected on the small people. It is time our MEPs told it so. I suppose I am wishing against the wind that Commissioner Hogan might say something for Ireland but he is too interested in playing golf and making sure all the fellows he put into Irish Water are still there getting their salaries.

**Deputy Eamon Ryan:** I wish to raise a point about which many other speakers have spoken in the past. In respect of statements, which I am sure will be a subject for discussion in our reform committee, there is a difference between those who come first and those who come last because the Taoiseach is never here and one has less opportunity to get one's point across. It is worth noting and I will raise it in the Dáil reform committee.

I welcome the Minister of State and wish her the best of luck in her job. I am sure she will

be very capable and have a key role so I am very glad she is here to hear my short contribution. It is difficult for the Taoiseach as he is going into his first European Council. I presume the Minister of State will be joining him at that event. The Taoiseach is going in at a difficult time. It is a bit like going into the Business Committee when one represents a small party. One has the two big beasts in Fianna Fáil and Fine Gael - the equivalent of France and Germany. I will not say which is which. One needs to hold one's ground sometimes and fight one's corner.

I have been a supporter of the EU for a long time but with the UK exiting, something in me fears for our position as a small country on the periphery in terms of how we can exert an influence if it is a return to the Franco-German engine of development in Europe. That would be a very different Union to the one we have been in for the past 40 plus years. We need to be very careful, stand up for ourselves and be resolute. I will give a few examples reflecting what the Taoiseach said was coming up on the agenda.

The Taoiseach said that one of the items for discussion is defence co-operation, particularly in response to the terrorist threat and other threats. We have absolute solidarity and sympathy with our Belgian, French and British colleagues in terms of the terrorist incidents that have occurred recently. However, I fear that this might be used by the French or German Presidencies, particularly the French, to push for a strong move towards defence co-operation. I do not believe that would be right for us. We bring more to the Union when we maintain our historic neutrality. Deputy Wallace might say that this neutrality has been undermined through the use of Shannon Airport or other factors but it is still a real strength that we bring to the Union in terms of maintaining an independence and not buying in to some elements of the military-industry complex. I know it is a clichéd term but it exists in France, the UK and Germany. We need to be different in that regard. When we are discussing European security and co-operation in the European Council, the Taoiseach should be upfront in saying that Ireland is different. I remember having a discussion with T.K. Whitaker about the negotiations around our entry. At that time, the German finance ministry stood up for our right to be independent in that way within the Union. We still need to do that.

The second is a related issue. I note that a section of the Council is due to discuss digital Single Market strategies and so on. The Taoiseach said that one of the items for discussion is how we will fight the spread of radicalisation online and thwart its financing. We must combat terrorism in whatever way we can but I have a real concern about some of the measures we are seeing. In example, in the Queen's Speech today, the UK Government is introducing a range of draconian measures that are quite repressive in terms of people's online digital rights. As a country that has become a centre for much digital industry and software companies, including our own start-up culture, we must be very careful about the nature of online surveillance that is permitted, the protection of privacy and support for content creators on the Internet. We must do so in a way that is truly based on an ethical and citizens' rights-led approach rather than a judicial, security angle. While that is important, I do not believe having really draconian measures to crack down on certain freedoms on the Internet will create a more secure environment. In fact, many of the recent terrorist incidents we have seen have shown that this will not work. We have a better approach in terms of our response to some of those terrorist threats than some of the other security responses we are seeing across Europe and we should stand up for our approach.

Even though we are distant from the most immediate points of migration such as Libya and other parts of the Middle East like Syria as well as Turkey, we have a slightly different relationship with some of those parts of the world. We should use that in any further discussions and

21 June 2017

deliberations regarding how we manage migration, for example, how we see Turkey. Deputy Boyd Barrett mentioned what is happening in Slovakia or Austria. There is a huge problem in a certain part of Europe regarding relationships with Turkey. There is a historic concern going back 500, 600 or 800 years about people coming from Turkey and being on the border of Europe. We have the chance to have a different relationship with Turkey and Iran. I agree with what Deputy Wallace said. We have the chance to play a neutral role and not just neutral in a “do nothing” sense. We can be neutral in a positive and constructive connection with the Arab world, Turkey and Iran. We should avail of that opportunity because we can bring a slightly different relationship to it compared to some other European countries. We add to the Union when we act in that regard.

The next issue is significant but it is the Minister of State’s job to think big in European Council meetings. I believe we should be taking a much stronger position in response to the Chinese Government’s new Silk Road initiative in terms of trying to develop co-operation and links between China and other parts of the world. I am not an expert in the exact provisions and what they offer with the possible exception of electricity grid connections where I have had some connections and involvement outside this House. It seems that the work the Chinese Government is doing in this area is hugely progressive and innovative and something where we should use our good relationship with China to think big in that way and to see ourselves as part of a big global co-operative approach rather than just locking ourselves within the EU.

The next issue might be outside the remit of the immediate Council, although it may come up because I believe one of the items for discussion is the situation following the US withdrawal from the Paris climate change agreement and how Europe responds to that. We should be strong in our response. We should hit the US where it hurts in the diplomatic area instead of getting into a trade war with the US that would damage our country as much as any other. We should be asking questions about the future role of the OECD and the International Energy Agency which typify institutions that were led by US diplomacy and US Governments. At this stage, the US is completely outside the pale and is a rogue state. We should be proposing some change in the International Energy Association or the OECD. How can we deal with the US when it has put itself outside any proper diplomatic context of co-operation?

I am scared by what is happening with Brexit because as others have said, the British Government has entered into negotiations and is three-nil down with about 30 seconds to go. It is incredible. Only a few weeks ago, the Secretary of State for Exiting the European Union, David Davis, MP, was saying that the row of the summer would be around sequencing and that the full Irish trade talks would need to begin at the very start. He went into the negotiations on Monday and walked out half an hour later having agreed to all the sequencing and having demoted the issue of Ireland’s trade and Border issues. It seems that the British do not have a negotiating position. They do not have any cards to play and are heading towards a hard, over-the-cliff exit, and we have to try to stop them from doing that. That is a wider political debate. I wish the Minister of State the best of luck in her role, as well as the Taoiseach as he walks into what I think is a very difficult first Council meeting.

**An Ceann Comhairle:** I call the Minister of State, Deputy Helen McEntee, to respond. I join with others in congratulating her on her appointment to this vitally important portfolio for European affairs.

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Helen McEntee):** The Taoiseach has already indicated that I will provide some additional detail about

the external relations issues for discussion at the European Council meeting tomorrow. I am honoured to do this in my new role as Minister of State with responsibility for European affairs, which I very much look forward to fulfilling with energy and a huge commitment. I thank Members for their well wishes.

The discussions on external relations are likely to include the Paris Agreement on climate change and updates on recent international summits, such as the EU meetings with the US and Turkey on 25 May, with Japan on 26 May and with China on 1 and 2 June. In their capacity as members of the Normandy group, President Emmanuel Macron and Chancellor Angela Merkel will also provide an update on ongoing efforts to resolve tensions between Russia and Ukraine. It can be expected that much of the discussion will focus on EU relations with the US. Transatlantic co-operation is fundamental for stability, security and prosperity on both sides of the Atlantic. The US remains the EU's key strategic partner. The EU and its member states, including Ireland, have proactively engaged with the new administration in Washington DC to reaffirm commitment to this relationship. As part of this, President Donald Trump visited Brussels on 25 May and met with President Tusk and President Juncker. Although President Trump has been sceptical about the EU, the administration as a whole has projected a largely traditional and positive attitude towards the EU, starting with Vice President Pence's visit to Brussels in February of this year. While there are differences, in particular on climate change, there is also much common ground - for example, in areas of economic co-operation. Ireland's links with the US run very deep and span many centuries, as we saw recently with the St. Patrick's Day festivities in March. These links previously transcended any one point of difference. This close relationship should continue, and similarly, we will work to maintain the close relationships between the US and the EU.

EU-Turkey relations have been under considerable strain, in particular since the attempted coup last July and, more recently, political developments in Turkey. The European Council is likely to discuss the meeting with President Erdoğan last month, at which the EU highlighted the key issue of human rights. Turkey remains an important partner, including in managing migration, and the EU will continue to work with Turkey on all aspects of our relationship. Ireland fully supports the EU approach and agrees that it is critically important to keep the lines of communication open.

It has to be acknowledged that the EU relationship with Russia remains under particular strain. The illegal annexation of Crimea, the conflict in eastern Ukraine and the support of the Assad regime in Syria are among the most divisive issues. In the long term, a constructive and predictable relationship between the EU and Russia is desirable as a strategic goal. Ireland remains open to exploring engagement with Moscow in areas where dialogue would clearly be in the EU's interest. However, Russia does not appear to be interested in fostering a more constructive relationship at this time. In 2014, the EU imposed targeted economic sanctions against Russia in response to its actions on Ukraine. In the following year, EU leaders linked the duration of these to the full implementation of the Minsk accords. The lack of progress in implementing the security and political provisions of the Minsk accords and Russia's failure to play a constructive role have led the Council to roll over the restrictive measures to the 31 July 2017 deadline. Ireland strongly believes that any relaxation of the EU sanctions can only be considered where there is clear evidence of the concrete progress we all wish to see on the ground in eastern Ukraine.

EU leaders are likely to discuss, as has been discussed here already, the Paris Agreement on climate change, which entered into force last November and which puts in place the framework

21 June 2017

for countries to take action to limit global warming to well below 2° Celsius above pre-industrial levels, and also to pursue efforts to limit the temperature increase to 1.5° Celsius. The Paris Agreement has been signed by 195 parties, representing 194 states and the European Union. As of 13 June, it has been ratified by 148 of those parties. Together with our fellow member states of the EU and most other countries, we sincerely regret President Trump's decision to withdraw from the Paris Agreement. We strongly believe that the agreement is fit for purpose and is not open for renegotiation. We will continue to work closely with our EU and international partners to ensure that the agreement becomes fully operational as soon as possible. The role of the EU as a global ambition leader will be to re-emphasise the agreement, through ambitious climate policies and through continued support for developing and climate-vulnerable countries.

## **Ceisteanna - Questions (Resumed)**

### **Priority Questions**

#### **General Practitioner Contracts**

42. **Deputy Billy Kelleher** asked the Minister for Health the position regarding the provision of a new general practitioner services contract; and if he will make a statement on the matter. [29222/17]

**Deputy Billy Kelleher:** My question is to ask the Minister for an update on the position regarding the provision of a new general practitioner, GP, services contract and if he will make a statement on the issue that I have raised. As we are well aware, there has been strong emphasis over many years on the provision of primary care, the enhancement of services in the primary care and community care setting, and the issue of a new general practitioner services contract is central to that evolution in health provision in primary and community care.

**Minister for Health (Deputy Simon Harris):** A core tenet of Government policy is the development of primary care, which is central to the Government's objective of delivering a high-quality, integrated and cost-effective health service. The aim is to develop a new modernised GP contract which will facilitate the shift within the health service away from hospital services towards an integrated primary care service in order to deliver better care close to home in communities across the country.

I want to see a new contract which has a population health focus, providing in particular for health promotion and disease prevention and for the structured ongoing care of chronic conditions. It should be flexible and be able to respond to the changing nature of the GP workforce. It should also include provisions for service quality and standards, performance, accountability and transparency. These are realities in today's world which must be accommodated. I think this will be key in making general practice a more attractive career.

Since 2015, negotiations have resulted in a number of service developments, including the provision of free GP care to under sixes, over 70s, the introduction of a diabetes cycle of care for adult general medical services patients with type 2 diabetes, and enhanced supports for rural GPs. The next phase of engagement with GP representatives is under way. The discussions

taking place are wide-ranging and ambitious in their scope. While there will be challenges for all parties involved, I am hopeful that with the goodwill and co-operation of all parties, significant progress can be made in these discussions in the months ahead. I made it clear around budget time, as did the GP organisations, that this body of work was always going to take the overwhelming bulk of 2017. It is a very substantive body of work. I hope that everyone will remain focused on our common goal of putting suitable new arrangements in place that will work for patients, for GPs and for other health care providers in primary care.

**Deputy Billy Kelleher:** The problem with the Minister's answer is that we have been waiting for a long time for discussions to commence. That was a commitment made by the previous Government. We are now in a situation where we have the Sláinte report. It has identified key recommendations in the area of provision of primary community care, enhancing the services in disease prevention, chronic disease management, moving from a hospital-centric health service to a primary and community care setting and, of course, the key issue in all that is the issue of capacity within the primary care setting. That is fundamental to the delivery of the recommendations in that report, which are also in line and in tandem with Government policy about expanding the primary care setting. The Minister talks about under-sixes and over-70s, but the harsh reality is that until the Minister expands and enhances the capacity of GP services in the community, we will not be able to provide what has been identified both in Government policy and in the Sláinte report from the committee chaired by Deputy Shortall. I ask the Minister to give an outline as to whether or not the challenges are because of a lack of resources, funding, a lack of personnel to roll out the proposals or because there is prevarication, either by the representative bodies or by the Department of Health and the Government.

**Deputy Simon Harris:** I welcome my new colleague in the Department of Health, the Minister of State, Deputy Jim Daly, whom I know will bring vigour and energy to his areas of responsibility.

I do not think there is anything wrong with my answer, because GPs and patients have been waiting for at least three decades for a new GP contract. Within weeks of coming into office, I began the process of engagement to put one in place. We have a situation whereby those negotiations are already under way. A process has been put in place for further engagement with GP representatives. Meetings with the Irish Medical Organisation, IMO, are held on a fortnightly basis, with some further meetings at an official level to discuss technical issues or, indeed, at a clinical level. There have also been consultative meetings with the National Association of General Practitioners, NAGP, and, as I have said, I expect a situation where we will see substantive progress made by the end of the year with regard to delivering a new, modern, fit for purpose GP contract. I am strongly of the view, as I think are GPs, that this should not be a static document. We should not do what all of us have done in the past, putting one static contract in place. We should modernise the contract and then keep the engagement ongoing.

In relation to Sláintecare, a substantial body of work on which I am looking forward to having a debate in the House tomorrow, it is likely that legislatively changes will be necessary for any substantial extension of GP care without fees to further cohorts of the population. It is clear that GP capacity must be addressed as well. I look forward to expanding further on those matters in the conversations tomorrow and in the contractual negotiations.

**Deputy Billy Kelleher:** The Minister's predecessor, now the Taoiseach, stated when he was Minister for Health that he hoped the negotiations would be concluded by April 2016. It is now June 2017. There has been a substantial amount of drift in terms of the negotiations.

21 June 2017

When does the Minister envisage these negotiations concluding? If we are to convince the public that the Sláintecare report, which is in line with broad Government policy in terms of the provision of primary care, expanding and enhancing those services, increasing capacity and trying to bring about universal access in primary and community care, these issues are critically important. They will require legislative changes. However, we need to see an end date in place. Could the Minister give us a rough estimate, at least more accurate than his predecessor's, of when those negotiations will conclude?

**Deputy Simon Harris:** My predecessor, now the Taoiseach, is committed to cracking once and for all as a country the challenges that face the health service and he made that clear in one of his first speeches as Taoiseach in this House. I share that view and that commitment.

I expect to make substantial progress on a new GP contract this year, but I am also saying that should not be the end of the matter. This will be a multi-annual process. Let us try to have a number of wins for patients and indeed wins for GPs whom we need to be able to have a viable career pathway so we can have GPs in every community this year.

As well as expanding free GP care - in fairness the programme for Government commits to expanding free GP care to all children under the age of 18 subject to negotiations with GPs in the lifetime of a five-year programme - a priority for my Department and for me is to look at chronic disease management. We need to look at things that could be done today in the community, and in other countries are done in the community, that are currently being done in the acute hospital setting. I expect to make substantial progress within this calendar year.

### **Nursing Staff Recruitment**

43. **Deputy Louise O'Reilly** asked the Minister for Health the position regarding current nurse numbers; and the success to date in 2017 on reaching the target set under the most recent agreement between his Department and an organisation (details supplied). [27957/17]

**Deputy Louise O'Reilly:** I congratulate the Minister on his reappointment. Indeed, I congratulate the Minister of State, Deputy Jim Daly, on his appointment. I am sure if the Minister had been reassigned he would miss my repeated questions upon this exact subject.

My question is straightforward. It relates to staffing. I would like an update. I have received some updates but perhaps the Minister may be able to enlighten us as to where the nurses who are so vitally needed will come from.

**Deputy Simon Harris:** Deputy O'Reilly and I get to hang out another bit longer anyway.

I thank the Deputy for her repeated question on what is an important issue in relation to nurse and midwifery numbers in this country.

As the Deputy will probably be aware, nursing and midwifery numbers at the end of April this year stood at 36,549 whole-time equivalents, having increased by 625 whole-time equivalents in the 12 months from the end of the previous April, and by 1,870 in the three years from April 2014 to April 2017.

The Deputy knows well that under an agreement reached with the INMO and SIPTU nursing, encompassing proposals put forward on 8 February and those in a related addendum on 4

March, health service management committed to increasing the nursing and midwifery workforce in 2017 to deliver 1,208 additional permanent posts. Delivery of these posts is possible through a combination of new development posts, for which additional funding is being provided in the current year, and the local conversion of agency employed staff into direct employees. Nursing and midwifery numbers increased by 126 from the end of February to the end of March and by a further 113 from the end of March to the end of April.

A broad range of measures is being implemented to give effect to the agreement. These include the conversion of agency employed staff into HSE direct employees, offering all graduating nurses and midwives full-time contracts, ongoing recruitment campaigns in Ireland and abroad - I welcome the one in Glasgow recently - and the implementation of a range of retention measures.

The recruitment measures include careers days, HSE attendance at national and international recruitment fairs and a communication from the national director for HR to all nursing and midwifery graduates telling them how to apply for a full-time permanent post in the Irish health service. A high-level group with an independent chair has been established for the oversight of the implementation of this agreement and the first meeting of that group was held on 24 May 2017.

Key retention measures include enhanced maternity leave cover, a career break scheme and offering nurses and midwives improved educational opportunities and career pathways. In addition, 130 additional undergraduate places are being provided in 2017, which means we will train this year more nurses than we have ever trained, in terms of undergraduate places, in the history of the State.

I also issued a written direction under section 10 of the Health Act 2004 - it has never been done before for nurse recruitment - to the Health Service Executive in order to emphasise the importance of the full implementation of this agreement.

**Deputy Louise O'Reilly:** I welcome all of that. Indeed, it is good news for Australia, America or wherever these bright young men and women will end up. The simple fact is they do not want to work in the health service as it is currently constituted. They are not only saying that to me. They are voting with their feet and they are leaving. For example, 22 nurses were trained as part of a co-operation between CUH and UCC. These were 22 highly specialised nurses trained in paediatrics and general nursing - absolutely top-quality, top-notch front-line professionals - and all 22 of them have left. That is a damning indictment of the efforts that have been made to date.

Deputy Kelleher mentioned the Sláintecare report. We all are hopeful of positive news from Government in that regard but we will not be able to do it without the staff. I am not convinced that enough is being done.

**Deputy Simon Harris:** I did not think the Deputy would be. Thankfully, when the INMO members had an opportunity to be balloted on this, over 80% of them voted in favour of these proposals, seeing them for what they are, which is a genuine and sincere effort by nurse representatives in this country, by my Department, by myself and by the HSE to try to increase recruitment and retention of nurses.

I will give Deputy Louise O'Reilly another practical example. The Deputy talks of her 22 nurses. The HSE recently went to Glasgow to a nurse recruitment fair where it met 27 Irish

21 June 2017

nurses who had been working in Scotland now ready and willing, and wanting, to come home and talking to the HSE about how do they take up opportunities in this country. The message needs to go out from all of us in this House that there are now opportunities for those nurses to come home.

The Deputy and I have talked about the issue of pay previously. There are now pay proposals on the table through the Department of Public Expenditure and Reform and I am sure those issues will be debated by nursing unions in the coming weeks and months.

One cannot get away from the fact there were 625 more nurses working in the Irish health service at the end of April last than there were at the end of April 2016 and the numbers are growing. It is not all about pay. It is also about career pathways. That is why there are measures such as taking on 120 new people to study and train up as advance nurse practitioners this September. I genuinely believe those career pathways will encourage more people to stay in this country.

**Deputy Louise O'Reilly:** I would be interested to know how many of those are nurses whom we had to go abroad to recruit at significant expense when, in fact, our own graduates have no interest in staying in this country, as the Minister well knows. Brexit, in this regard, may be the Minister's friend. We understand that a lot of nurses who may have chosen to go to England may be forced to remain here.

When the Minister referred to the conversion of agency staff into directly employed staff, that does not add any extra bodies although it represents a saving to the taxpayer. With regard to the projected figures, I understand that 1,200 was the target by the end of the year. Is the Minister confident he will meet that target? I refer to the 1,200 additional nurses, not necessarily 1,200 recruits, because we must consider the retention as well.

**Deputy Simon Harris:** To answer the Deputy's question directly, I am clear that the commitment in the agreement is to have 1,208 additional nurses, not just recruits, working in the Irish public health service.

Deputy Louise O'Reilly is correct in saying we need to do everything we can to keep our nurse graduates here. It is also right, though, and indeed moral, that as a country we would go to some of the destinations where many of our best and brightest left to go to during the economic recession, meet them, make it easier for them to come home and let them know about the opportunities. Certainly, we are getting a positive response in relation to that. I am also grateful that the INMO has offered to assist with that.

In terms of nurse numbers, on 30 April 2015 there were 35,080 whole-time equivalent nurses working in the Irish health service. Exactly one year later, there were 35,924. On 31 March this year, there were 36,436 and on 30 April this year, 36,549. I am the first to acknowledge we have a way to go to get back to the levels we were at but we are genuinely making significant progress.

### **Proposed Legislation**

44. **Deputy Margaret Murphy O'Mahony** asked the Minister for Health when replacements for the mobility allowance and motorised transport grant scheme will be brought for-

ward; and if he will make a statement on the matter. [29223/17]

**Deputy Margaret Murphy O'Mahony:** First, I take this opportunity to congratulate the Minister on his reinstatement, and my constituency colleague, the Minister of State, Deputy Jim Daly, on his elevation. I will be expecting great things for Cork South-West now. I suppose, for me, it is a case of the devil you know is better than the devil you do not. I wish them luck.

I ask the Minister when the replacements for the mobility allowance and motorised transport grant scheme will be brought forward, and if he will make a statement on the matter.

**Minister of State at the Department of Health (Deputy Jim Daly):** I thank the Deputy for her question and good wishes. It is timely that the first question I get to answer in the House is for my constituency colleague.

Conscious of the reports of the Ombudsman in 2011 and 2012 on the legal status of the mobility allowance and motorised transport grants scheme in the context of the Equal Status Acts, the Government decided to close both schemes in February 2013. The Government is aware of the continuing needs of people with a disability who rely on individual payments that support choice and independence. In this regard, monthly payments of up to €208.50 have continued to be made by the Health Service Executive to 4,700 people who were in receipt of the mobility allowance.

The Government decided that the detailed preparatory work required on a new transport support scheme and associated statutory provisions should be progressed by the Minister for Health. A Programme for a Partnership Government acknowledges the ongoing drafting of primary legislation for a new transport support scheme. I can confirm that work on the policy proposals for the new scheme is at an advanced stage. The proposals seek to ensure there will be a firm statutory basis to the scheme's operation; that there will be transparency and equity in the eligibility criteria attaching to the scheme; that resources will be targeted at those with greatest needs; and that the scheme will be capable of being costed and affordable on its introduction and an ongoing basis. The next step is to seek Government approval for the drafting of a Bill for the new scheme.

**Deputy Margaret Murphy O'Mahony:** On 26 February 2016 the Government decided to scrap the mobility allowance and the motorised transport grant. In June that year it decided that new statutory provisions would be established to provide individual payments for people with a severe disability who required additional income to address the costs associated with their mobility needs. An interdepartmental group chaired by the Department of the Taoiseach was asked to develop detailed proposals for the operation of the new scheme or schemes, including eligibility criteria and administration arrangements, and report back by October 2013. On 26 November 2013 the Government decided that the work to prepare for the scheme or schemes should be progressed by the Minister for Health. The Taoiseach who set up the interdepartmental group is gone and two Ministers have since left the Department of Health, yet we are still waiting. There is extraordinary annoyance and frustration at the lack of progress being made on the replacement schemes for the mobility allowance and motorised transport grant schemes.

**Deputy Jim Daly:** I thank the Deputy for bringing my attention to this important matter. It is worth pointing out that the Government's legislative programme for 2017 includes the Health Transport Support Bill. As the Deputy is aware, the background to it did not involve the Government deciding to scrap the scheme. It was the result of the Ombudsman making a judg-

21 June 2017

ment on the operation of the scheme. I take on board the Deputy's concerns. It is a legislative priority for the Government and we intend to progress the Bill.

**Deputy Margaret Murphy O'Mahony:** It is extraordinarily frustrating that there has been no movement on this issue. It is disheartening to see the same reply being given time and again. I have raised the issue many times, but the same reply keeps being given. It is even more frustrating for those who had qualified under the previous schemes. They have simply been left with nothing to help them in their day-to-day lives. More than 1,500 days later, we are still waiting. That is longer than the duration of the War of Independence and the Civil War combined. People with disabilities have waited for far too long for the supports they need and deserve. It is not good enough that they are left to put up with temporary measures. The absence of certainty on the future of these supports is causing immense distress for many. It is yet another example of maladministration and lack of planning. When will the wait be over?

**Deputy Jim Daly:** As I said, those already participating in the scheme do not need to have any fear because the payments will continue. The HSE will continue to make monthly payments to all of them. I say as much, notwithstanding the concerns of the Deputy about new entrants to the scheme. It is a legislative priority for the Government. I will take up the matter with the Minister of State with responsibility for disability matters, Deputy Finian McGrath, to try to ensure progress. I will certainly convey to him the concerns expressed by the Deputy.

### Health Care Policy

45. **Deputy Michael Harty** asked the Minister for Health to outline his views on the Sláintecare report of the Committee on the Future of Healthcare; and if he will recommend that the report form the basis of health reform to introduce a universal single tier health service delivered on need rather the ability to pay [28073/17]

**Deputy Michael Harty:** I too wish to congratulate the Minister on his reappointment. Continuity in the Department of Health is important. I look forward to working with the Minister as closely as possible. I also congratulate the Minister of State, Deputy Jim Daly, on taking over responsibility for mental health affairs and care of the elderly, a major portfolio in which I wish him the best of luck.

I am seeking the Minister's views on the Sláintecare report of the Committee on the Future of Healthcare. Will he recommend the report as the basis for reform of the health service and introducing a universal single tier health service based on need, not on ability to pay?

**Deputy Simon Harris:** I thank the Deputy for his kind wishes and important question. This is a preview of what I imagine will be a more substantive debate on the Sláintecare report in the House tomorrow.

Supporting the establishment of the cross-party Committee on the Future of Healthcare in June 2016 was one of the first actions I took on becoming Minister for Health. I commend genuinely the great work done by all members of the committee, including Deputies Michael Harty, Billy Kelleher, Róisín Shortall and Pat Buckley, as well as a number of others who worked extraordinarily hard on the committee. Everyone involved across the political divide worked extraordinarily hard. The committee's establishment was agreed to across the House, demonstrating a shared understanding of the scale of the challenges facing the health service, as

well as recognition of the need for a fundamental reshaping of our vision and long-term strategy for health care. It should be based on cross-party consensus that does not change every time the Minister, the Government or electoral cycle changes. I have consistently supported this process, which I firmly believe can provide a once-in-a-generation opportunity to transform the health service.

The committee has lived up to its mandate and is to be commended for the significant achievement of developing a future vision, based on political consensus, for the health service. The report is the culmination of a year-long process of unprecedented cross-party collaboration, dialogue and engagement. It is testament to the desire across the political spectrum and the broader stakeholder community to work collaboratively to address the challenges in the health service.

I have been clear in my view since the committee commenced its work that, out of respect for its work, I would not advance major structural reforms until it had reported. It is vital that we now allow time to reflect and deliberate on the findings of the committee. I do not envisage it being a substantial period. I look forward to the Dáil debate on the report tomorrow. I will give full consideration to the recommendations made in the report when I have had the opportunity to hear views from across the Dáil.

The Taoiseach was very clear in his speech to the Chamber last week when he said delivering real improvements in the health service was a key priority for the Government. He has tasked me with preparing a detailed response to the report, including proposed measures and timelines, to bring to the Government. It is my intention to do so following the Dáil debate. I hope to bring a detailed analysis and proposals to the Government quickly.

I have no doubt that the report will be an essential document for all Governments and parties in the fundamental reform of the health service in the next decade. I look forward to talking with colleagues in more detail in the coming days about implementation and about how we can show the public that we intend to make quick progress in the areas where it is possible to do so, as well as how we intend to advance in the more challenging areas.

**Deputy Michael Harty:** It is important that the Minister understand the need for health care reform. The public system is not fit for purpose. It is fragmented, disjointed and incoherent. Some areas work reasonably well, but all areas are under pressure and struggle to deliver quality care services. There are lengthening waiting lists in outpatient departments, as well as lengthening inpatient lists for urgent and planned care. Of course, there are also lengthening trolley queues. In addition, there is an increase in the population, with a corresponding increase in the number of patients with a chronic illness or who have complex needs within the community. We must reform the entire health service rather than only parts of it. This process cannot be delayed any longer. The Minister has a responsibility and a duty to deliver health service reform, starting in this Dáil. Delaying reform will only make it far more difficult and costly. There was a common thread in all of the submissions received - that there should be a shift from secondary to primary care services. The reform programme needs to include the entire health service. There is a need for a universal single-tier public health service to cover everyone based on need.

**An Leas-Cheann Comhairle:** I thank the Deputy.

**Deputy Michael Harty:** I think the clock is wrong. I think I had only one minute instead

of two.

**An Leas-Cheann Comhairle:** There was one minute for the first supplementary question.

**Deputy Michael Harty:** This was my first, a Leas-Cheann Comhairle.

**An Leas-Cheann Comhairle:** It is one minute. The Deputy has now almost two minutes gone. He inadvertently got two minutes.

**Deputy Simon Harris:** We will have a lengthier time to discuss this issue tomorrow. It deserves and requires more time. The Deputy is correct that I do have a duty to deliver health reform. Clearly I have to discharge that duty in terms of my membership of the Cabinet and the Government. I formally received the report, which I am happy to describe as an excellent piece of work unprecedented in terms of cross-party effort. There are many elements within it that reflect my own thinking, which I articulated when I had an opportunity to address the committee. While I am eager that we put in place health care reform as outlined in respect of Sláintecare, we need to discuss some elements of the report. The Government will have a duty to do its own analysis of the costings, and to put in place implementation structures that can get on with delivering the report. I am committed in that regard.

While a number of elements of the report are in line with long-standing Government policy, such as e-health, integrated workforce planning, and clinical governance, it also puts forward a number of key policy changes, which I welcome. The biggest is the clear indication of a desire to move towards the establishment of a universal single-tier system, where access to care is on the basis on need and not ability to pay. That is going to require the introduction of a universal entitlement to health care services underpinned in legislation, at no or low cost, and the removal of private activity from public hospitals. I am committed to doing this but it is a substantive body of work. That is why it is a ten-year plan.

**Deputy Michael Harty:** This report needs to be implemented. It contains strong recommendations on implementation. To drive implementation forward, there needs to be political buy-in. The first requirement we ask from Government is that there be strong political buy-in for this reform. If that is not present, the reform programme and Sláintecare report are not going to get off the ground. Part of that is the provision of legislation to provide accountability, governance and responsibility in our health service, which is sadly lacking. No longer can we have a shrug of the shoulders style of management whereby things that go wrong are blamed on system failure. We must have strong governance underpinned by legislation.

We need to restructure the HSE so that it is decentralised and devolved down to regions. We need new contracts, as Deputy Kelleher said, not only for general practice but also for consultants. We need an implementation office developed very quickly to drive this reform programme forward.

**Deputy Simon Harris:** I agree fully on the need for new contracts. It is very important, and not just in the area of general practice. There is political buy-in. Every political party and grouping in this House, bar one, decided to sign off on the report. There is a role for the Government as well. As the committee members have pointed out, while the committee has costed the proposals, it was not its role to decide how to fund those costs. There might be very different views in the different political groupings as to how we might go about doing that. The Government has to look at all of the resources available to it, the fiscal space and all these terms

of which we are well aware.

As Minister for Health, I am determined to work with the Oireachtas to put in place an implementation structure to get on with progressing Sláintecare. One other point, which I will discuss further in tomorrow's debate, is the issue of capacity. As a general practitioner, Deputy Harty will know very well that even if we had the funding to provide free entitlement to all general practice services tomorrow, we might not have the capacity within general practice. The sequencing of change is very important if we are to make sure it is a sustainable model. Where there are entitlements, there must also be the capacity of health care professionals to deliver them. That view is shared by many health care professionals around the country.

### **National Maternity Hospital**

46. **Deputy Róisín Shortall** asked the Minister for Health his plans regarding the ownership of the new National Maternity Hospital; and if he will make a statement on the matter. [27956/17]

**Deputy Róisín Shortall:** It was mid-April when the controversy about the proposed new governance and ownership arrangements for the National Maternity Hospital broke, arising from the disclosure of the Mulvey report. There was widespread public controversy for a number of weeks and, at the end of April, the Minister asked for a month to consider this matter. That month came and went. While I appreciate that the Minister has been busy with other things, we are now three weeks over the deadline. I would like to know what developments have taken place.

**Deputy Simon Harris:** I thank the Deputy for her question and her ongoing interest in this very important matter. I would strongly refute the suggestion that the month came and went. As the Deputy will be aware, during that month there was significant engagement between myself, the chairs of the National Maternity Hospital and St. Vincent's, and the CEOs and masters of both hospitals, as well as extensive engagement between the St Vincent's Healthcare Group and my officials.

On 29 May, the Sisters of Charity announced their decision to relinquish their ownership of and involvement with the St. Vincent's Healthcare Group. This decision is an extremely significant development for the health care sector and for the National Maternity Hospital project. It addresses not all but a number of the concerns that were articulated by many. My Department has been briefed on this development. The St. Vincent's Healthcare Group's constitution will no longer refer to the Sisters of Charity and will be amended to reflect compliance with national and international best practice guidelines on medical ethics and the laws of the Republic of Ireland. I know that despite the specific provisions in the Mulvey agreement, there was a concern on the part of some about the potential religious influence being brought to bear on the new maternity hospital, and the potential role of religious interests on its board. The decision of the Sisters of Charity is extremely helpful in dispelling any such concerns.

We need to resolve the issue of ownership. I have made my views clear on this. Discussions are continuing with the St. Vincent's Healthcare Group on the terms of the State's investment in the new hospital and, in particular, arrangements for the protection of this investment. The Mulvey agreement envisaged that further consideration was required of the legal mechanisms necessary to protect the State's considerable investment. My Department is actively engaged in

devising suitable arrangements to ensure that these facilities are legally secured on an ongoing basis for the delivery of publicly funded maternity, gynaecology and neonatal services. I expect to be in a position to report significant progress on this shortly and will update the Government and the Oireachtas at that stage. I will also be bringing proposals to Government in the coming weeks for a broader discussion of ownership within the health service and the role of the religious and voluntary hospitals, as has already taken place in the education sector through the forum on pluralism and patronage.

**Deputy Róisín Shortall:** I thank the Minister. He will be well aware, I am sure, of ongoing concerns on the part of the HSE and his own Department in respect of the very unorthodox corporate structure in St. Vincent's Healthcare Group, whereby it is not possible to identify where public money is actually going, or the extent to which there is intertwining of public and private in respect of consultants' use of facilities and spending of public money. Tony O'Brien referred to the private hospital as having a parasitic relationship with the public hospital.

This is a very real issue. The audit done by the HSE is still under consideration. Recently, the HSE announced that it was commencing the second part of that audit, covering the breach of contract arrangements by consultants. In the context of that issue alone, does the Minister accept that it would not be appropriate to add a further public hospital to a very unorthodox, mixed group? Does he agree that it would not be a good idea?

**Deputy Simon Harris:** I thank the Deputy for her comments. The structure proposed in respect of the new National Maternity Hospital is envisaged as standing apart from the current St. Vincent's Healthcare Group. It retains the mastership structure. We have had a lot of public discourse and debate about this.

Although I always like to be forthcoming with information, I must be conscious of what I say as we are in the middle of ongoing discussions and negotiations between my Department, the Chief State Solicitor's office and the St. Vincent's Healthcare Group. This is a potential investment of €300 million by the taxpayer. I am absolutely clear in my view that the issue of ownership is of paramount importance. Absolute protection for the State's investment can be achieved in a number of ways. The Deputy may have articulated a number of ways in which this can happen. A number of ways are being explored and I expect to be able to revert to the matter very shortly when I hope to be able to announce significant progress in that regard.

**Deputy Róisín Shortall:** It was very clear that public concern was centred on two aspects, the first of which was ethos, while the second was ownership. Perhaps the issue of ethos has been addressed, but we do not know because we do not know the further details of the new entity proposed. On the issue of ownership, people were outraged that a publicly owned facility, valued at €300 million, could be handed over to private interests. This was rejected outright by the public and that message came across very clearly. On the use of public hospitals by public patients, does the Minister accept the principle that such a hospital must be retained in public ownership?

**Deputy Simon Harris:** It is a broader question than that. I am not sure what the Deputy's view was or what the views of many Members of the House were when the State invested €266 million in the Mater hospital to provide new state-of-the-art facilities, a hospital that is not in the ownership of the State. There are approximately 17 hospitals in the State that are either voluntary or joint board hospitals. There is also the National Rehabilitation Hospital. There are a number of hospitals that have not been owned by the State and for which Governments

of various political colours sanctioned projects. As I have described it previously, we have a rich tapestry when it comes to ownership. There are a number of religious and non-religious voluntary hospitals. The reason I want to have a broader discussion is that we need to identify the impact of the Deputy's statement, namely, that the State can only invest in what it owns. That may be desirable but it would not be without consequence. It would be quite significant and have an impact on the overall health budget. On the building of a new national maternity hospital, the position is somewhat different. I take the issue of ownership as being very important in that regard and have heard many people speak very clearly on the issue. The views of members of the public are quite clear. I hope to be able to report progress on it shortly.

## **Other Questions**

### **Diabetes Strategy**

47. **Deputy Charlie McConalogue** asked the Minister for Health his plans to create a centre of excellence in diabetes care in the north west in view of the fact that there is no centre of excellence in diabetes care north of the Dublin to Limerick line; his further plans to increase the level of staffing in the diabetes team in Letterkenny University Hospital; and if he will make a statement on the matter. [27785/17]

**Deputy Charlie McConalogue:** It is welcome that the Minister is due to meet the Donegal Diabetes Association next week and has met its representatives previously. Commitments were made to try to ensure services would be improved. My question focuses on what the Minister and the Government are doing to support diabetes services in County Donegal. In particular, what is the position on the Minister's commitment to explore establishing a centre of excellence in paediatric diabetes care in County Donegal and improve diabetic services and supports for adult diabetic patients in the county?

**Deputy Simon Harris:** I look forward to the meeting next week. The Deputy is welcome to come along and engage with Oireachtas Members, the group and me on the issues we discussed when I visited Letterkenny previously.

Letterkenny and Sligo university hospitals provide essential high quality hospital care for patients in the north west. I can assure the Deputy of the continued commitment to develop services in both hospitals, including those for patients with diabetes.

Adult diabetes services at Letterkenny are provided by a consultant endocrinologist, supported by a locum consultant general physician with a diabetic interest. In order to address waiting lists, additional clinics are provided on a monthly basis. Furthermore, the Saolta University Healthcare Group has advised that it is making applications for the approval of a second consultant post and an advanced nurse practitioner post in insulin pump therapy to serve both adult and paediatric patients. I can assure the Deputy that when the applications are made, they will be assessed with a degree of priority because of the importance of the matter.

With regard to the provision of paediatric diabetes services, an insulin pump therapy service commenced at Sligo University Hospital in 2015, with outreach clinics delivered at Letterkenny. However, in mid-April the consultant paediatrician with a special interest in paediatric

diabetes post in Sligo became vacant and the Saolta University Healthcare Group has advised that it is actively engaged in recruiting a replacement. That process is ongoing. Pending completion of the recruitment process, consultant paediatricians at Sligo and Letterkenny hospitals have undertaken additional training and development to maintain the provision of the paediatric insulin pump therapy service at both hospitals. Further additional support for these services has been arranged with another consultant, currently practising within the Saolta hospitals.

Provision of a diabetes centre at Sligo hospital is included in the capital plan for this year. HSE Estates advises that planning permission for the centre has been granted; construction is scheduled to commence by the end of the year and be completed in quarter three of next year. Filling the permanent diabetes consultant post at Sligo will enable the group overall, including in County Donegal, to further advance its plan for the diabetes care centre.

I will meet the Donegal branch of Diabetes Ireland, the HSE and the Saolta University Healthcare Group this month to discuss the current challenges and future development of diabetes services in the north west.

**Deputy Charlie McConalogue:** For children with diabetes, there is no centre of excellence in paediatric diabetes care north of the Limerick to Dublin line. Services are quite limited and in no way sufficient to meet the number of children in the county or the north west who need them. It is often considered at official level that if a service is provided in Galway, patients in County Donegal are covered. I know that the Minister has been to Letterkenny a few times and will know that it is closer to Dublin than to Galway. We need services in the north west.

On the provision of a centre of excellence in paediatric diabetes care which would include a consultant endocrinologist and support staff such as a dietician and a psychologist, will the Minister give a firm commitment that such a centre will be developed in the north west to serve children from Donegal and neighbouring counties? On the adult diabetes service, there is a need for an additional consultant in Letterkenny and a team to support him or her to deal with the number of patients in the county with diabetes. A total of 7,000 people in County Donegal have been diagnosed as having diabetes, of whom 700 have type 1 diabetes. The waiting time for a follow-up appointment is more than 20 months for patients with type 1 diabetes at a time when the recommended period is four months. It is simply not acceptable. The necessary resources and staff need to be provided to serve patients with diabetes in County Donegal.

**Deputy Simon Harris:** The Deputy makes a very fair point. The health service cannot presume that Letterkenny is just up the road from Galway. It is a significant journey to travel. We have talked previously about certain specialties, including cancer care, and the need at times for patients to travel to Galway, but, in general, as many clinics as possible should be held in Letterkenny to help patients in the north west. As I said to the Deputy, active recruitment is under way to try to fill the vacant consultant paediatrician post. Filling it would make a significant difference. I have asked the HSE to come back to me with further information in advance of our meeting with the Donegal branch of Diabetes Ireland. Obtaining a replacement to fill the post would be of significant assistance. In the meantime it is worth saying, as I mentioned, that paediatricians in Sligo and Letterkenny hospitals have undertaken additional training in order that they can keep the paediatric insulin pump therapy service running at both hospitals. There will be the development of a diabetes centre in the north west. Funding is provided in the capital plan for this year. I want to see paediatric services provided in the north west. I will be happy to discuss the matter further with the Deputy and the group when we meet next week.

**Deputy Charlie McConalogue:** I thank the Minister and look forward to discussing the matter further with him with the Donegal Diabetes Association next Wednesday. I highlight the impact on children with diabetes in County Donegal of not having a paediatric consultant endocrinologist in Sligo. It means that insulin pump therapy is not available to newly presenting children under the age of five years with type 2 diabetes. The service is struggling to provide a support service for the children who are receiving this therapy. It is crucial that the post be filled soon to ensure a service will be available to all children with diabetes. It is also crucial that Letterkenny University Hospital see an increase in staff numbers. An additional consultant should be provided, with the necessary support staff, to serve adults with diabetes. Teenagers who enter the adult diabetes service on reaching the age of 18 years are moving from having repeat appointments every three to four months to having to wait over 20 months for them. That is simply not acceptable and is very distressing for them. The problem can be solved only by having an additional consultant in Letterkenny University Hospital to ensure the service can be provided. Having regard to the fact that there are 7,000 people in the county with either type 1 or type 2 diabetes, it is crucial a service be available. As we know, prevention is better than cure. Therefore, the provision of support is critical for patients with diabetes.

**Deputy Simon Harris:** I will make four brief points. I can confirm to the Deputy that the process in regard to the consultant paediatrician post which is vacant will be expedited through what is known as the CAAC, the consultant applications advisory committee, and the Public Appointments Service. Saolta has confirmed that to me. Saolta has also advised that a plan is being put in place to ensure that all existing paediatric patients on pump therapy will continue to be managed locally in Sligo and Letterkenny with existing paediatric consultant staff and continuation of existing clinics. The locum paediatrician in place in Sligo and the existing consultant paediatrician in Letterkenny have undertaken additional training in order to continue provision of that service. Further development of clinical staff will be scheduled in coming months in order to continue the delivery of this therapy. All options, both internal and external to the group, are being explored to make sure that patients under the age of five years will have access to pump therapy. The Saolta group advises that it is currently engaging with a consultant in another hospital in the group with a view to putting governance arrangements in place for the oversight and review of patients and the management of new patients. This consultant has experience in the delivery of paediatric diabetic pump services. Sligo is further developing its centre for diabetes care. It is included in the capital plan for this year and this will ensure the facilitation of paediatric insulin pump services for people in the north west.

### **Mental Health Services Provision**

48. **Deputy Thomas Byrne** asked the Minister for Health if his attention has been drawn to the case of a person (details supplied) who was suffering from a mental health crisis and who did not receive appropriate and adequate care from a hospital; and if he will make a statement on the matter. [27651/17]

**Deputy Thomas Byrne:** My question relates to an individual, whose details I have kept private, who received totally inadequate hospital care when he presented at Our Lady of Lourdes Hospital with what I will describe as a severe mental health crisis some time ago. The Minister has the details which were supplied with the question. The question has been tabled to initiate a discussion on that specific case but also on the general point of what happens when someone presents for medical help to their doctor or hospital. What services are there for a person in a

mental health crisis?

**Deputy Jim Daly:** As a general rule, information on individual cases cannot be given due to patient confidentiality. For that reason, this parliamentary question is being answered in unspecific terms in relation to the individual regarding mental health services in Our Lady of Lourdes Hospital, Drogheda.

The person was referred by a GP on 10 April 2017 and was assessed in the emergency department in Our Lady of Lourdes Hospital and subsequently seen by the psychiatric non-consultant hospital doctor in the department of psychiatry on the same day. Following assessment the person was not admitted to the acute psychiatry department but was referred to the local community mental health team for further involvement in his care. The person was offered a new patient outpatient appointment on 23 May 2017 in his local area which he had confirmed by phone but unfortunately did not attend. He was offered an additional appointment on 13 June 2017, which he attended, and he has a further review appointment pending which was offered by his local community mental health team.

A new multi-million acute psychiatric inpatient unit opened last September in Our Lady of Lourdes Hospital, Drogheda. This is a significant new capital development for people with severe, enduring and disabling mental health issues. Mental health remains a priority care programme for this Government. We are committed to increasing the mental health budget annually, as shown by the substantial additional funding of some €140 million since 2012.

With regard to specific complaints in relation to experiences of individuals in our hospitals, there is a formal complaints policy, entitled Your Service Your Say, details of which are on the HSE website. In accordance with this procedure, a complaint must be made in the first instance to the hospital in which the incident causing the complaint occurred. If an individual is not satisfied with the response from the hospital, a review can be sought from the HSE director of advocacy and the Ombudsman.

**Deputy Thomas Byrne:** As I understand, the only reason my constituent raised this issue publicly was not merely to complain and create a fuss but to try to make the service better for others who might find themselves in the same position but who did not have the support of friends, community and family. Where would they be? The referral for specialist help was six weeks after the initial appointment. Luckily, this particular individual had considerable help from his community, family and friends such that he was able to deal with this issue but he has made it a public issue locally and, I suspect, nationally, mainly to get assistance for people and to clarify what help is available when someone presents at our hospitals or GP services with a mental health crisis which could be a matter of life and death. What treatment is available?

While the centre in Drogheda is welcome, the day centre in Navan, which was to replace the old centre in the town, has not been opened. *TheJournal.ie* has reported today that it is still closed, but that is known across the community. The services are really inadequate. Nobody seems to know what is available for someone at a point of crisis in mental health.

**Deputy Jim Daly:** It is a distressing case. I was shown some of the background to it by officials in the Department. It is obviously a very sensitive case and I do not want to dwell on it, nor does Deputy Thomas Byrne, but the gentleman in question has done the State some service by highlighting the difficulties he experienced in his case. The Deputy asked what happens when somebody presents to a hospital. The HSE mental health division has a clinical care pro-

gramme which comes into effect when people present to the emergency department with suicidal ideation or self-harm. All level-four hospitals have a liaison psychiatry service available on the site of the acute hospital. This service provides prompt assessments in the emergency department. In this case, the individual presented to the emergency department. I take on board the Deputy's concerns. I am new to the role and I am anxious to see for myself what is available on the ground. I thank the Deputy for highlighting its importance.

**Deputy Thomas Byrne:** I am sure the Minister, Deputy Harris, has heard from my colleague, Deputy Browne. The Minister of State, Deputy McEntee, and the Taoiseach will have heard from Deputy Browne and my party leader, Deputy Martin, one of the key priorities for our party is the whole issue of mental health and implementing A Vision for Change and the money required to pay for the resources needed, which is the key part of it and what was missing in this case. The money was not there and the resource was not available to give the help when it was required. I have no doubt that my colleagues will continue to press this issue with the Minister and with the Taoiseach, Deputy Varadkar, as a key priority for us and the country. We are all very good at talking, at getting photographs taken and at promoting all sorts of fantastic initiatives but the role of politicians and of the Government is to provide the resources needed to help people when they present in crisis, as happened in this case.

**Deputy Jim Daly:** The Deputy makes a very good point. It is a matter of deep concern to him and his party. In the continuance of the confidence and supply agreement he wants to see that this issue is dealt with. He is aware of the many different steps being taken with the mental health task force. I will meet it next Tuesday. We are having a consultation with numerous bodies, which we hope to publish very shortly. There is also A Vision for Change to which the Deputy referred. The Deputy mentioned resources and, of course, we want to see more resources. However, I am sure the Deputy would agree that it is not merely about resources but how we employ them. It is about awareness, education and cross-sectoral involvement. There are many issues to get right but I would welcome the Deputy continuing to keep the pressure on in regard to this issue during my time in this job.

### **Hospital Accommodation Provision**

49. **Deputy Mattie McGrath** asked the Minister for Health the status of the procurement of modular patient facilities at South Tipperary General Hospital; and if he will make a statement on the matter. [27646/17]

102. **Deputy Mattie McGrath** asked the Minister for Health if he will address concerns that South Tipperary General Hospital has been operating on the full capacity protocol for over 17 months; and if he will make a statement on the matter. [27647/17]

107. **Deputy Jackie Cahill** asked the Minister for Health the position regarding the provision of modular units at South Tipperary General Hospital which were promised to help ease the crisis in the shortage of beds at the hospital; and if he will make a statement on the matter. [27846/17]

120. **Deputy Alan Kelly** asked the Minister for Health his plans to alleviate overcrowding in South Tipperary General Hospital [27539/17]

**Deputy Mattie McGrath:** When will we see relief in terms of the provision of patient

21 June 2017

facilities? We were promised a mini-hotel by one of my colleagues. We were promised additional bed accommodation to try to alleviate the savage crisis that pertains in South Tipperary General Hospital, formerly and affectionately known as St. Joseph's in Clonmel. Will the Minister make a statement on the matter?

**Deputy Simon Harris:** I propose to take Questions Nos. 49, 102, 107 and 120 together.

Work is ongoing to address the capacity challenges at South Tipperary General Hospital. While the HSE is exploring what additional supports could be provided by Our Lady's Hospital, Cashel, it has identified that the most immediate and effective means to alleviate pressure on the emergency department is the fit out of additional space for 11 trolley bays on the first floor of the hospital. Local Deputies may have been briefed on this by hospital management in the last week. This was prioritised for funding which was provided, and completed recently. A recruitment process is under way to provide staff for this new area and it is hoped to have staff in place, recruited in advance of this winter. It is anticipated that this additional capacity will open in September 2017.

Another option under consideration is to provide additional surge capacity through a temporary inpatient solution, in line with the National Framework for Alternative Accommodation at Hospital Sites. I understand that the HSE plans to address this issue in the context of the Estimates 2018 submission.

I should also mention that in recognition of the significant increase in bed utilisation in recent times, a capacity review of the South Tipperary General Hospital by the South-South West Hospital Group is nearing completion. This review will inform the precise level and nature of any additional capacity required to meet current and future needs. The Department's national capacity review will also help identify service requirements and inform resourcing priorities.

I note that a brief for the procurement of a master plan to provide for the orderly development of the South Tipperary General Hospital campus is currently being finalised. This review will inform the precise level and nature of any additional capacity required to meet the needs of the people of Tipperary. The Department's national capacity review will also help to identify service requirements.

Finally, I wish to inform the Deputy that a brief for the procurement of a master plan for South Tipperary General Hospital to provide for the development of the hospital campus is being finalised. This will enable us to consider further developments in respect of the capital plan. I think it is fair to say this hospital over many years was overlooked for significant capital investment. The completion of this master plan, which has proceeded to procurement, along with the 11 bays, will enable us to try to include measures in the forthcoming Government's capital plan.

**Deputy Mattie McGrath:** I am very disappointed because we have had promises about this. The extra capacity was expected to be available from early May and could be used to accommodate a space for up to 11 trolley bays. It should be remembered that these would only be on corridors. It is almost certain the modular patient hotel for South Tipperary General Hospital will not be delivered for at least another year. The Minister talked about many tendering processes and everything else. If we get the modular hotel, as promised in a blaze of glory to my colleague Deputy Lowry a year ago this month, it is estimated that the 40-bed unit will cost €60,000 per week to operate. I note that the Minister in his reply tells me that the corridor is-

sue is nearly solved, there is space there for 11 trolleys - not beds - and he now has recruitment ongoing for staff. Why can he not do the two in tandem? I understand from my colleague who visited last week that the place is ready now, and now the Minister is looking for the staff and hopes to have the unit ready for September. Why can nothing be done in tandem? The hospital has been operating at emergency status for the past 17 months. It is under enormous pressure. Why can the recruitment not go on in tandem with the construction work and mini tender? Everything is just a matter of fobbing off and going back and forward. We will have another review and another capacity review by the South/South West hospital group and another one at a national level. It is just not good enough; it is not happening. The Minister visited Cashel with me and saw the spaces and the capacity there.

**Deputy Simon Harris:** That is not fair. I do not want to get involved in Tipperary politics. The Deputy's colleague, Deputy Lowry, and indeed all Tipperary Deputies are regularly in contact with me-----

**Deputy Mattie McGrath:** The Minister said he informed-----

**Deputy Simon Harris:** -----as is Deputy McGrath, on the very important issues regarding both South Tipperary General Hospital and Our Lady's Hospital in Cashel. We are seeing progress on South Tipperary General Hospital. The 11 bays will open. They will provide badly needed additional surge capacity for the winter. We need to have a master plan for the development. Successive Governments have failed to invest in the hospital and, as a result, it does not have enough capacity. The master plan will enable the hospital group to say what it wants to do in Clonmel and ask the Government to include that in its capital plan. That is the way the process works, it is the appropriate way and I hope the hospital group does that because I would like to see this included in the capital plan.

The Deputy brought me to Our Lady's Hospital in Cashel, I was there with him and I think there is a possibility of alleviating pressure there. I am about to run out of time, but I have already asked the HSE to develop a proposal in this regard and it has developed a proposal which is particularly focused on the development of the Cashel health campus to deliver integrated care, particularly for older people. I think it could do an awful lot for older people in this regard. This will involve additional resource requirements, including specialist staffing, and I therefore expect this to be considered in the context of the budget.

**Deputy Mattie McGrath:** The Minister replied quite recently to a question I tabled to tell me a decision will only be taken based on the outcome of the mini tender. Is the mini tender finished or has it become a major tender? How could any mini tender take so long? The HSE uses a particular vocabulary. The Taoiseach has talked about his new scriptwriter or historian or whatever. The Department of Health could get rid of half the speechwriters and scriptwriters it has for using multisyllabic words in the HSE to confuse people. The Minister saw Cashel. The HSE has no intention of placing patients in Cashel. It is a patient-free area, full stop. It is only being used for staff, as I said to the Minister before. It is an emporial fiefdom for the people in there. They do not want any patients in there. The Minister was there and I know he was shocked to see the condition and the splendour of the unit, the chronic pressure on South Tipperary General Hospital down the road in Clonmel, which he visited afterwards, and the palatial rooms, offices and suites of furniture in Cashel, and to hell with the patient. It is sickening, it is a disgrace, and he is not doing anything about it. I am glad he is back in his job. I will be holding him to account. He can tell Deputy Lowry whatever dúirt bean liom go ndúirt bean léi stories he likes but he will not tell them to me. I will not take them at face value and

21 June 2017

go announcing a patient hotel that was supposed to be in place last October. We have not even got the bed linen, not to mind the hotel. We have not got the pillowcases and there are no staff to dress the beds anyway.

**Deputy Simon Harris:** I do not think I could confuse Deputy McGrath if I tried because he is very clear in his thinking on this and never afraid to articulate that. He is right that when I visited Cashel, I was taken aback by the underutilisation of what is a fine resource within the ownership of the HSE. However, before I became Minister for Health, there was diddly-squat planned to do anything with it.

**Deputy Mattie McGrath:** I accept that.

**Deputy Simon Harris:** As a result of my visit to Cashel with the Deputy and his Oireachtas colleagues representing Tipperary across the political spectrum, I directed the HSE to put in place a plan to utilise Cashel so that it can help alleviate pressure in Clonmel - in addition to the 11 bays in Clonmel, the consideration of the modular accommodation and the master plan - so we can have a real capital development. As a result, the proposal that the HSE has come up with for Cashel now predominantly focuses on older people and on the idea of developing the Cashel health campus to provide services for the local population. These services can be developed in the existing accommodation at the former Our Lady's Hospital. However, this will involve additional resource requirements including specialist staff. Therefore, I am telling the Deputy today that this will be considered in the context of the budget for 2018 and I will keep in touch with him and other Oireachtas Members from Tipperary about that.

### Health Care Policy

50. **Deputy Michael Moynihan** asked the Minister for Health if he or his Department has received and read the all-party Oireachtas committee report on health that was published recently; and the way in which this will be implemented. [27561/17]

**Deputy Michael Moynihan:** Has the Minister for Health's Department received, read and studied the all-party Oireachtas Sláintecare report on the future of the health service, and what are his views on its implementation?

**(Deputy Simon Harris):** There was a similar question about this earlier and we will have a substantive debate, I hope, in the House tomorrow evening on the matter, but I welcome the question.

I have already spoken on this question today in response to a question from Deputy Harty, but it is important to use this opportunity again to thank and commend the committee on its work over the past year and acknowledge the thorough, open and positive approach the committee engaged in throughout this process in order to allow it to achieve this consensus report.

Regarding the Deputy's direct question, I absolutely assure him that I have read the report. Indeed, I have read it many times at this stage. I also assure the Deputy that I remain of the view that this process has provided us with a once-in-a-generation opportunity to transform our health services. People doubted that all the political parties in this House, and indeed Independent groupings, could come together and come up with a plan. With the exception of Deputy Barry, whose decision in this regard I respect, that is exactly what happened. This Government

is committed to delivering real improvements in the area of health and our new Taoiseach made that very clear in one of his opening speeches last week. The report of the committee now provides us with a solid framework for delivering these improvements over the next decade.

The Deputy has rightly highlighted the issue of implementation. How we go about delivering on the report must now come to the forefront. This is acknowledged by the committee in its report when it states that “mechanisms for implementation are as important as the report’s recommendations”.

As the Deputy will appreciate, the report’s remit is wide-ranging and its recommendations far-reaching. It is important, now that it has been published, that I give it careful and proper consideration in the context of how best we realise the vision and spirit of the report. Success will very much depend on the formulation of an effective implementation pathway. I assure Deputy Michael Moynihan that I will move quickly on this process of consideration and following the Dáil debate that will take place in this House tomorrow I will bring proposals to Government on this very shortly.

**Deputy Michael Moynihan:** There are a number of aspects to the question. My experience of the health service over the past 12 months is that there is crisis in many aspects of it, but one that always evades me is home care packages and what the Government is doing about them. There is also a discrepancy in how the packages are distributed. The figures show that there are 1,200 in parts of Dublin north-west alone and only somewhere in the region of 200 in north Cork. There is a huge discrepancy in how they are distributed. The one question I have for the Minister in the limited amount of time I have is whether his Department has assessed the home care packages and if he can comment on the value for money in keeping people out of residential nursing homes and in their own homes. From the layman’s point of view, it would be good value for money from the Department’s point of view and the State’s point of view. Has the Minister looked at these figures in real terms? Can he confirm to the House that it makes sound economic sense from the State’s point of view to have many more home care packages available than there has been heretofore?

**Deputy Simon Harris:** Yes, I can, and my new departmental colleague, the Minister of State, Deputy Jim Daly, will have responsibility for the area of home care in so far as it relates to older people. As Deputy Moynihan will remember, we had a debate in this House recently during which his colleague, Deputy O’Dea, raised this very issue by way of a Bill. We agreed at that stage that we would go forward with trying to develop a statutory home care scheme. We all say we would like people to be able to grow old at home but the only statutory scheme available for someone who grows old and needs more support is the fair deal scheme, that is, the nursing home support scheme. We intend to launch a public consultation process shortly to hear the views of older people on how that statutory home care scheme, an alternative to the fair deal scheme, for people in need of home help could work.

While there are many elements of the report on which we will all agree, we may not all agree on how to fund its implementation. For example, it proposes the removal of private work from public hospitals. I believe in that proposal instinctively, but it would create a €650 million hole in the health budget. Reference is made to the cost of implementing the report, but it does not outline how we would fund its implementation. The Deputy’s party and mine might have a view, but the parties and groupings on the left might have a different one. We will need to tease out these issues in the coming weeks and months.

**Deputy Michael Moynihan:** I congratulate Deputy Jim Daly on his promotion and wish him well in the Department.

On care of the elderly, everybody is telling us that the demographics are changing and that the State needs to be ahead of the curve. When people seek additional home help hours and support within their communities, they have to dovetail with their families to ensure they can stay at home for as long as possible. By and large, when they go into a nursing home, they are fully covered under the fair deal scheme, which costs the State approximately €1,000 a week. There is still a huge challenge for everybody working with elderly people to secure half an hour or an hour of home help provision. The figures were debated recently in the House when we were told there had been no cut in the number of home help hours. The same number of hours is being provided this year as in 2015 and 2016, but the number of people who require this support has increased substantially because of demographic changes. From a constituency point of view, we find that we are constantly trying to make representations to secure additional help in order that families can work with the HSE to keep elderly people at home for much longer.

**Deputy Simon Harris:** There will be no disagreement on this side of the House with the Deputy's analysis. The population of the country is changing; it is not just increasing. There will be 20,000 more people over the age of 65 years this year compared to last year and there will be 3,500 more over the age of 80. That trend is likely to continue into the future and will place significant demands on the health service for which we need to plan. The Deputy is correct that the home care system has largely developed with geographical inconsistencies and in an *ad hoc* way. It is not underpinned by statute, unlike the nursing home support scheme which has a budget of almost €1 billion a year. We need to have a serious conversation about older people seeking assistance to enable them to grow old with dignity. Should we have a statutory scheme that provides people with nursing home care if that is what they require or want but which can also veer in a different way if they wish to remain in their home and have the comfort and safety of knowing that they can avail of a consistent and sustainable model of care? That is where we want to get to as a Government and where the Deputy's party also wants to get to based on what I have heard. We will shortly launch proposals for public consultation in that regard.

### Home Help Service Provision

51. **Deputy Jack Chambers** asked the Minister for Health the reason behind the 19% reduction in the number of home help hours in the Dublin West constituency in the period January to April 2017 relative to the same period in 2016. [29085/17]

**Deputy Jack Chambers:** What is the reason behind the 19% reduction in the number of home help hours in Dublin West in the period between January and April 2017 relative to the same period in 2016? The Minister referred to trends, demographics and *ad hoc* planning. In the past 12 months the increase in the number last year has been reversed. There has been a significant decrease this year. That contradicts Government policy which is that the threshold should remain the same or increase. It deserves an explanation.

**(Deputy Jim Daly):** I thank the Deputy for raising this important matter. Home supports provision is a key mechanism in enabling older people to remain in their own homes and communities for as long as possible and facilitating their discharge from acute hospitals. The HSE's national service plan for 2016 originally provided for a target of 10.4 million home help hours

and 15,450 home care packages. However, the numbers of patients who had completed their acute treatment but required home care in order to be discharged were very high in the early part of the year. Without additional funding, this rate of hospital discharges could not have been sustained and the allocations for the rest of the year would have had to be reduced. The Government responded to this challenge by providing an additional €40 million for home care services in 2016. Further resources were provided through the winter initiative, in particular, additional home care packages and an increase in the number of approvals for transitional care beds.

This year's national service plan provides for a target of 10.57 million home help hours, 16,750 home care packages and 190 intensive home care packages for clients with complex needs. While the January to April data for home help hours are lower than for the corresponding period in 2016, of more significance is that the HSE target for this year is to provide approximately 200,000 home help hours in Dublin West, an increase of 20% on the number of hours delivered in 2016. A total of 509 people were in receipt of home care packages in Dublin West in April 2017, an increase of 8% on the expected target of 470. This represents an increase of 19% on the number in receipt of a package at the end of 2016.

**Deputy Jack Chambers:** I wish the Minister of State well in his role. He has a challenging few months ahead, given the ageing demographic. It is fundamental that we move away from the national picture he has outlined. Despite the changing statistics in the Dublin West constituency to which he referred, we know from the raw figures that there has been a 20% reduction in provision year-on-year. That is despite the ageing demographic and all of the challenges mentioned by previous speakers. The core issue concerns HSE management. Area managers are incentivised to balance their budgets and not to increase the provision of home care packages. There is a rigid threshold which is not about service delivery but about meeting budgetary targets. From a health service perspective, we need to move the management incentive away from an inhumane, rigid ceiling for different aspects of community-based health care and deliver for the individual. That should be the reward for the manager. Various area managers in Dublin West have been promoted on the back of cuts in the numbers of home care packages and community services, which have resulted in people being put into hospitals and nursing homes, resulting in a greater cost to the State. They have been rewarded for this flaw in the Government's health policy.

**Deputy Jim Daly:** I appreciate the Deputy's comments. There is no point in us arguing over and back about the statistics. As the Minister alluded to previously, the number of hours has increased year-on-year, but there is also increased demand, which has resulted in a reduction in the number of available hours. There are too many disparities geographically, with greater availability in some places. We have to get to grips with this. I would like the service to be put on a statutory footing similar to the fair deal scheme. We spend €373 million on home help provision, which is a large budget. We can continue to increase it, but we need to put the service on a statutory footing with a level playing field. I agree with the Deputy that we need to make sure everybody can access the service because it represents better value for money and, more importantly, a better quality of life for elderly people who wish to remain in their own homes.

**Deputy Jack Chambers:** I agree that it is important that we keep people in their own homes and maintain a community-based focus in health care, but we need to be careful about a statutory package. We saw what happened with the Tory policy in the United Kingdom on a dementia tax. It is fundamental that the Minister of State avoid imposing another tax obligation or levy on people's homes through a statutory scheme. That would scare the living daylights out of people who want to stay in their own homes. We will have to see what the Minister of

21 June 2017

State proposes in his scheme. Caring for people in their own homes and ensuring they took their prescriptions delivered through the primary care or hospital system would save the State money. The State should fund such a service and not impose a levy on the family home or the individual. It should be willing to care for them in their own homes because that will keep them out of the hospital system or nursing homes, which are costly alternatives. It is important that we incentivise the scheme by making it free for people and not examine it on a cost basis.

**Deputy Jim Daly:** We are saying the same thing. There is no argument from us. The Deputy's party colleague, Deputy Willie O'Dea, proposed a similar statute to the one we are discussing. We all want to get there. Obviously, there is a cost and we have to deal with the reality that if we go with a demand-led scheme, we cannot have a limitless budget because the budget has to be allocated year-on-year with a certain amount of money. It is a difficult challenge for us to get it right but I think we all want the same thing. I thank the Deputy for his interest.

### **National Maternity Hospital**

52. **Deputy Mick Barry** asked the Minister for Health his views on whether the allocation of space for private practice in the plans for the new national maternity hospital is compatible with the elimination of private care from public hospitals; and if he will make a statement on the matter. [27861/17]

128. **Deputy Mick Barry** asked the Minister for Health his views on the fact the State will pay for the construction of the new national maternity hospital yet it will be owned by a private entity; his Department's general policy in this area; and if he will make a statement on the matter. [27860/17]

**Deputy Mick Barry:** The Committee on the Future of Healthcare has proposed the phasing out of private practice from public hospitals yet it is clear the plans for the national maternity hospital make provision for a significant amount of private practice within it. I do not know how that can be squared but I look forward to hearing the Minister's comments on the matter.

**Deputy Simon Harris:** I propose to take Questions Nos. 52 and 128 together.

Deputy Barry must remember that when reforming a health service, one has to continue to run it on a day-to-day basis while those reforms are under way.

Discussions are ongoing with the St. Vincent's Healthcare Group on the terms of the State's investment in the new hospital and, in particular, arrangements for the protection of this investment - I had a question on this earlier from Deputy Shortall. There are long-standing arrangements in place between the State and the 17 voluntary hospitals to allow for public investment in the development of health care facilities and for these facilities to be protected for publicly funded health care. The Mulvey agreement envisaged that further consideration was required in regard to the precise legal mechanisms necessary to protect the State's considerable investment in the development of this much-needed national maternity hospital. My Department is actively engaged in discussing suitable arrangements to ensure the facilities are legally secured on an ongoing basis for the delivery of publicly funded maternity, gynaecology and neonatal services. I hope to update the Government and the Oireachtas on this progress very shortly.

On the issue of the allocation of private space in the new hospital, I would like to clarify that

there is no differentiation between public and private inpatient rooms in the hospital designs. All inpatient rooms are of a similar, high quality design given we want to build a state-of-the-art new hospital. In terms of outpatient consulting space, some limited private space will be provided, based upon existing policy and subject to any policy development, in so far as this is necessary to support the commitment in the current consultant contract. As the Deputy knows, the current consultant contract does envisage that consultants can carry out a degree of private work. If that changes in line with the Sláintecare report or any consultant contract discussions, which I think is the Deputy's question, that will be reflected in the changes to policy development.

In regard to the more general issue of private care in public hospitals, I look forward to the Dáil debate on the Sláintecare report tomorrow and I will give full consideration to the report's recommendations when I have had the opportunity to hear views from across the Dáil. Following the debate, it is my intention to bring detailed analysis and proposals to Government. I have no doubt the report will be an essential document for this and future Governments and all parties in the fundamental reform of our health services over the next decade. While I know the Deputy was not in a position to sign off on the report, I acknowledge he worked very hard with many colleagues on it.

**Deputy Mick Barry:** The architect's plans for the national maternity hospital, if anyone puts them up on the wall and has a look at them, show a corridor marked "private clinics". There are five rooms on the plans marked "private consult". We have a two-tier health service and it is two-tier in maternity services as well. I reject the Minister's point that there is equality. If anyone goes private, there is continuity of care. If they go public, that is very unlikely. A private patient who arrives for prenatal appointments does not have to wait whereas a public patient has to wait. It is two-tier. I am asking the Minister to comment and to state whether he agrees there is a two-tier care system within the health service or within maternity services in the context of planning for the future and the development of the national maternity hospital.

**Deputy Simon Harris:** We all want to arrive at a single-tier health service, and if we were already there we would not all be working so hard to arrive at that point. That is the purpose of the Sláintecare report, which has received broad political consensus. I do not know if the Deputy has walked the corridors of Holles Street hospital lately but I have been there many times. The point I am making, which the Deputy seems to reject, is that at the moment public patients are receiving excellent care from staff in deplorable conditions. Every patient, whether public or private, in this new state-of-the-art national maternity hospital will have the same high quality inpatient room. That is very important and is a significant development.

Yes, there will be rooms for consultants to see outpatients; in fact, there will be 32 consult examination rooms in total. Under the current consultant contract, roughly proportionately, some five of them would be used for private clinics. The point I am making in direct answer to the Deputy's question, which is how it is compatible with the Sláintecare report, is that if policy changes in this area, so too will the allocation of those rooms. I have to comply with the law today in terms of contracts but we are going to deliver the same rooms to the exact same specification as outpatient consult examination rooms and to the exact same specification as inpatient rooms as well. That is very significant progress for women in this country in terms of their own treatment.

**Deputy Mick Barry:** It is nothing to boast about that both public and private patients will have their own rooms. This is something that has existed for a long time in the National Health

Service in the UK.

**Deputy Simon Harris:** Not here though.

**Deputy Mick Barry:** It is a real sign of the backwardness of the health service in this country that we have not had this up to now. It is not something to be boasting about.

Ireland is one of the few countries in Europe that does not have universal foetal anomaly screening and many pregnant women were not able to avail of that last year. If a woman has concerns about genetic defects, she has to pay for the tests. The nuchal translucency scan costs €250 while non-invasive prenatal testing costs €450. This is really backward.

I too look forward to the Sláintecare debate tomorrow. The sooner we get this for-profit, two-tier operation out of our health service and maternity services, the better.

**Deputy Simon Harris:** My party has signed up to the implementation of the Sláintecare report whereas I do not believe the Deputy has. I look forward to that debate as well. It is not a matter of boasting; it is a matter of actually acknowledging when we make progress. I am determined and proud that this Government will deliver a state-of-the-art world class national maternity hospital for women and infants in this country, something that has not been done and was not done even in the boom years.

**Deputy Mick Barry:** Single-tier.

**Deputy Simon Harris:** I want to have a universal single-tier system. I ask the Deputy to take up my invitation to go across to the National Maternity Hospital, Holles Street, and ask to meet with the master of the hospital, walk the facility and see the conditions in which women have to give birth in this country. It is not acceptable.

**Deputy Mick Barry:** It is outrageous.

**Deputy Simon Harris:** It was forgotten about, even in times of economic boom. We are going to do it and we are going to get it right. We have seen developments in regard to this project, with the Sisters of Charity withdrawing in recent weeks. I have made it clear that my Department, the Chief State Solicitor's office and St. Vincent's Healthcare Group are now in discussions in regard to the ownership model. We will get this right and we will build this. I share the Deputy's view that we are coming from behind when compared to where many other countries are in terms of capital infrastructure and single inpatient rooms. However, this is an example of good practice, which means we are going to deliver a high quality inpatient room to every woman, regardless of whether she is a public or private patient.

### **Hospital Waiting Lists**

53. **Deputy Aindrias Moynihan** asked the Minister for Health the number of persons waiting for ophthalmology services in County Cork; his plans for reducing waiting times for persons; and the options he has considered to deal with these waiting lists [27868/17]

**Deputy Aindrias Moynihan:** Over the last year we have seen the number of people waiting for ophthalmic procedures, in particular cataract operations, in Cork continue to increase. While that list is increasing, those people's quality of life continues to deteriorate. People are

afraid of moving around their own homes in case they trip and fall and break a hip, and they have reduced mobility and are not able to get out to get their driver's licence renewed, for example. We need to establish what action will be taken to reduce the extraordinarily long waiting lists for those waiting for cataract operations in the south west.

**Deputy Simon Harris:** I thank the Deputy for the question. As he will be aware, NTPF data for May 2017, the last month for which figures are available, indicate that 6,607 patients are on ophthalmology outpatient waiting lists for hospitals in Cork and a total of 1,118 are on inpatient or daycase lists. I acknowledge that waiting times are often unacceptably long and I am conscious of the burden this places on patients and their families. There is no doubt that our public hospital system is challenged in meeting the growing demand for care. In order to take action on this and do something about it, we have developed waiting list action plans for this year in the areas of inpatient-daycase and outpatient services. These plans focus on reducing the number of patients waiting 15 months or more by the end of October. Under these plans, approximately 14,200 patients have already come off the inpatient-daycase list and almost 49,000 off the outpatient lists.

Last December I granted approval to the NTPF for funding in the region of €5 million for those waiting longest for daycase treatment to ensure that in excess of 2,000 patients waiting more than 18 months for a daycase procedure will receive an offer of an appointment by the end this month.

The NTPF has advised that to date 2,500 patient files have been transferred to private hospitals under this initiative, 631 patients have accepted an offer of treatment and 178 patients have received their procedure.

*5 o'clock* The inpatient and daycase waiting list action plan will be delivered through a combination of normal hospital activity from the HSE budget, funded under the national service plan, as well as insourcing initiatives through the NTPF in public hospitals and outsourcing initiatives in private hospitals using the €15 million of budget 2017. I assure the Deputy that ophthalmology waiting lists, including for people in Cork, will be progressed using insourcing initiatives while we will provide additional funding to public hospitals to provide more ophthalmology procedures using funding through the NTPF. I expect this will show significant progress in the coming weeks and months.

**Deputy Aindrias Moynihan:** I understand the €5 million aimed at daycase waiting lists was originally intended to reduce the number of people waiting by the end of June this year. At this stage, more than 87 people are waiting for inpatient procedures in Cork. Are we still on target for this? Is it realistic these people will get their procedures by then? Has the Minister looked at, for example, the Sligo model in which far more community services are used? This means instead of the consultant dealing with after-care this is done in the community and the consultant is free to deal with people who have cataracts and who are waiting for procedures. It is a major concern to so many older people in my community who, for example, are afraid of losing their driver licences because of their eyesight. This is not just about driving, it is about social isolation, a threat to the wider family and people being able to meet their grandchildren. Will the Minister prioritise this?

**Deputy Simon Harris:** I thank the Deputy. In fairness, he has highlighted the seriousness of this issue to a person's quality of life, safety and well-being. As I stated, the €5 million was to treat in excess of 2,000 patients. The NTPF has transferred 2,500 patient files, because not

every patient will be in a position to accept treatment for a variety of personal reasons. Today, 631 of these patients have accepted an offer of treatment and 178 of them have received their procedure. I expect this number to continue to grow apace because it is fully funded and fully authorised.

The point made by Deputy Aindrias Moynihan about doing more in primary care hits the nail entirely on the head. There is more we can do with regard to primary care by services in the community. As the Deputy may know, the HSE is about to finalise a report on a review of primary care eye services, the aim of which is to look at how much more can be done in primary care, with an increased emphasis on maximising the delivery of a comprehensive service in primary care, which thereby, as the Deputy correctly said, creates capacity in hospitals to provide more complex ophthalmology services. The programme for Government commits to developing a national eye care plan, including the evaluation of the Sligo model for cataract services. The Sligo model is largely one where more services are carried out in the community. I expect to have more information for the Deputy on this in the coming weeks and I will revert to him.

**Deputy Aindrias Moynihan:** Are the NTPF figures quoted by the Minister national figures or are they specific to Cork and Kerry? CUH has the largest number of people waiting more than 18 months, with 1,350 people. Well over 7,000 people are waiting for inpatient and outpatient procedures. Has the Minister looked at the option of hiring additional ophthalmic physicians? Is there space in the Estimates? If so, how many people will the Minister consider taking on, specifically in the Cork and Kerry region?

**Deputy Simon Harris:** They were national figures. Obviously, included in this is meeting the longest waiters regardless of where they live in the country. The figures that relate to the Deputy's region will be focused on in this regard. The South Infirmity Victoria University Hospital is actively working with the NTPF in terms of ophthalmology to ensure a number of patients will have their procedures performed by private providers locally. I have data specifically on Cork, which I am happy to share with the Deputy, but I would probably run out of time if I tried to get through it.

The Deputy's point on hiring additional staff is correct. The Deputy's party wished to see the re-establishment of the NTPF. It is very important in re-establishing the NTPF that we send out a message it is here to stay for a number of years and that hospitals, be they private or public, can hire additional staff. I have already asked the NTPF to start planning for 2018. The Government has already committed €55 million, which is a significant increase in the budget of this year, and Deputy Kelleher is wagging his finger to make sure we get on with it. That commitment should send an important message and I have conveyed this to the HSE to ensure we have in place and actively recruit additional staff so they can hit the ground running with regard to spending the money.

### **Mental Health Services Provision**

54. **Deputy Mick Wallace** asked the Minister for Health the position regarding the pilot mental health peer support worker initiative, which was to be rolled out in counties Carlow, Kilkenny and Tipperary in early 2017; the timeframe for the evaluation of this scheme; when he expects to roll it out in County Wexford; and if he will make a statement on the matter. [27870/17]

**An Leas-Cheann Comhairle:** We have one minute left and Deputy Wallace has waited all afternoon. He can put his question and the Minister can reply. It will be on the record and that is that

**Deputy Mick Wallace:** Come on.

**An Leas-Cheann Comhairle:** Or else no question.

**Deputy Mick Wallace:** My question is on the pilot mental health peer support workers initiative. I have asked about it a number of times. I asked the head of mental health services in the Wexford and Waterford region about it and she failed to answer my question. A month later she said funding for the trial of the initiative simply went to Carlow, Kilkenny and south Tipperary and that it will eventually be rolled out in Wexford. Of all the areas in the country, Wexford probably needs it more than most. We have no emergency mental health services outside 9 a.m. to 5 p.m. Monday to Friday. The programme is about empowering people to make decisions about how their care proceeds. Surely autonomy is a human rights issue and the bedrock of self-respect, and it is something that is not available to people who are challenged in this area in Wexford at present, where we probably have the worst mental health services in Ireland.

**An Leas-Cheann Comhairle:** The Deputy has included his supplementary question.

**Deputy Mick Wallace:** That is not true.

**An Leas-Cheann Comhairle:** The Minister can respond to both.

**Deputy Simon Harris:** I thank Deputy Wallace for raising this important issue. The Minister of State, Deputy Jim Daly, who has responsibility for mental health policies since yesterday has had to go to the Seanad to take a Private Members' motion so he is already working hard. I am taking this on his behalf. I thank the Deputy for raising what is a serious issue in Wexford. I have received correspondence from the Mayor of Wexford town, among others, highlighting this important issue and the Deputy has been in touch with us regularly on it.

The 2016 national mental health division's operational plan outlined an objective to introduce peer support workers in mental health services. Peer support workers are people who have lived experience of mental distress and recovery. The peer support workers will use their expertise gained through lived experience to promote recovery and share information to promote choice, self-determination and opportunities for connection with local communities. In addition to working with other mental health multidisciplinary professionals, it is envisaged that the peer support worker will work alongside an agreed number of service users on a one to one group basis.

Following a national competitive process for all HSE mental health service areas, an initial funding allocation to develop the national peer support initiative was allocated to a small number of multidisciplinary teams in the Carlow, Kilkenny and south Tipperary area. The pilot initiative began in February this year. A review of the initiative is planned in September. Following this, it is anticipated the peer support worker model will be developed, subject to additional resources, across an extended catchment area.

Additionally, a commitment to peer support is outlined in the 2017 HSE national service plan. Peer support workers are now working as part of 13 teams within mental health services. The extension of this initiative and recruitment of more peer support workers will commence

21 June 2017

later this year, once the review in September is published. I will ask the Minister of State, Deputy Jim Daly, to keep in touch with Deputy Wallace on this.

**An Leas-Cheann Comhairle:** The Deputy can have one supplementary question.

**Deputy Mick Wallace:** For the record, the executive clinical director for CHO 5 explained to one of my staff in November that there was no point in talking to the mentally ill, as the HSE like to called people with mental health issues, and that it is not possible to trust what the mentally ill are saying. That people hold this position is pretty much at odds with the approach at the heart of the peer support initiative. I wonder how the programme could take off when the executive clinical director for the area has zero regard for the integrity of those facing mental challenges. I plead with the Minister and the Minister of State to look at this area. We are not being well served by the personnel in the HSE in this region and that is a fact.

**Deputy Simon Harris:** Obviously I do not want to comment on individual staff matters or comments that may or may not have been said because I am not familiar with the details, but let me be very clear about my commitment and the commitment of the Government on developing further the peer support programme. It seems extraordinarily logical that we would benefit from the experience of people who have been through mental distress and have gone on to recovery. It is an invaluable tool. Anecdotally, I hear there are good benefits from the pilot project in place. The project was selected through a competitive process in which every HSE mental health services area had an opportunity to apply. We will have the results of the review in September, which will be in advance of both the budget and the HSE's service plan, and I am sure my colleague, the Minister of State, Deputy Jim Daly, will be eager to roll it out to an expanded area. I will take on board the Deputy's view about Wexford being considered in that context.

*Written Answers are published on the Oireachtas website.*

## **Business of Dáil**

**Minister of State at the Department of the Taoiseach (Deputy Joe McHugh):** It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall take statements today on the procedure for nomination for appointment to the Judiciary after Private Members' business tonight. The statements shall be brought to a conclusion after 115 minutes and the following arrangements shall apply: the statements shall be limited to a single round from a Minister and the main spokespersons for parties or groups or a Member nominated in their stead, shall not exceed ten minutes in each case and all Members may share time; a Minister shall be called upon to make a statement in reply which will not exceed ten minutes; on conclusion of the statements a Minister shall take questions for a period not exceeding 25 minutes and the Dáil shall adjourn.

**An Leas-Cheann Comhairle:** For the information of the House there are 48 minutes for the Topical Issue debate, a sos for 40 minutes and Private Members' business for two hours, so it will start later than 8.10 p.m.

**Deputy Joe McHugh:** Yes, it will be immediately after Private Members' business.

**Deputy Michael Moynihan:** The Dáil is scheduled to adjourn at 10.15 p.m., but is the sit-

ting to continue until the business is completed?

**Deputy Joe McHugh:** Yes.

**Deputy Billy Kelleher:** Is the Health and Social Care Professionals (Amendment) Bill gone from the agenda?

**An Leas-Cheann Comhairle:** Yes.

Question put and agreed to.

## **Topical Issue Debate**

### **Rent Controls**

**Deputy Peadar Tóibín:** This Government is a competitive one. There are many competing crises under the Government's remit at present but, unfortunately, one crisis is the clear winner - the housing crisis. This is a humanitarian crisis that has been building for many years and it still worsens today.

I attend Trim district courthouse regularly. It is chock-a-block with families in mortgage distress where banks are seeking to repossess their homes. It is shocking that there is a property rent and price bubble in full swing in Meath at present while the collateral damage of the last Fianna Fáil property crash is still weaving its way through the courts. Hundreds of families in Meath are living with friends and family. Dozens more are in emergency accommodation. I am aware of people in Meath who have had to stay in tents, churches and Garda station cells so they could bridge the gaps between homes. Currently, there are 3,800 people on the housing waiting list in Meath, despite the fact that there are 2,500 vacant or derelict buildings in the county.

Rents in the county have spiralled over the last number of years, increasing by 50% in the last four years. They increased by 15.8% last year and in the year to date they have increased by 16.7%. They are spiralling out of control. Indeed, they are increasing at a faster rate than in any other county in the State. I wholeheartedly support the right of a landlord to charge a fair price for a decent house. Indeed, it is a key component of the housing provision system in this country. However, the rents we are discussing now are in the realm of super profits. These are not the rents that are necessary to cover mortgages or to ensure that the landlord can provide a house and maintain its contents in a decent fashion. Supernormal profits are being made.

The average rent in Meath at present is €1,050 for a house. That makes renting a house unaffordable for many people on low incomes. Perhaps the Minister of State will put himself in the shoes of a person working 40 hours per week and earning the minimum wage. If that person is required to provide accommodation for their family and rent an average house in the county, they will spend 65% of their income on the rental of that property. That is their income before it is taxed. They are expected to spend the 35% that is left after paying the landlord on feeding their family and on providing electricity, warmth, clothing, education and health care for their family.

The key point here, which is something that has been missed by the Government so far, is

that the point at which rental accommodation becomes unaffordable is the point where homelessness begins. That is the reason our party, since this crisis has manifested itself, has pleaded with the Government to link rent increases to the consumer price index. At present, rent pressure zones have been designated in only a small part of this country. Places such as Meath West are left outside of those zones. I ask the Minister to ensure that towns in the commuter belt are considered part of the rent pressure zones.

**Minister of State at the Department of Housing, Planning, Community and Local Government (Deputy John Paul Phelan):** First, I beg the indulgence of the House as I have not read a script in 15 years, so if I get lost I will try to correct myself.

The way in which an area is designated as a rent pressure zone is set out in the Planning and Development (Housing) and Residential Tenancies Act 2016. The 2016 Act amends the Residential Tenancies Act 2004 to provide that the Housing Agency, in consultation with local authorities, may make a proposal to the Minister that an area should be considered for designation as a rent pressure zone. On receipt of such a proposal, the Act provides that the Minister must then request the director of the Residential Tenancies Board, RTB, to conduct an assessment of the area to establish whether it meets the necessary criteria for designation and to report to the Minister on whether the area should be designated as a rent pressure zone. Where the Residential Tenancies Board confirms that an area satisfies the criteria for the area to be designated, the Minister then has a statutory obligation to make an order designating that area as a rent pressure zone.

An area cannot be designated as a rent pressure zone unless it meets the criteria set out in the legislation. These criteria are that the annual rate of rent inflation in the area was 7% or more in four of the last six quarters and that the average rent for the area in the last quarter was above the average national rent in the RTB's rent index report in the last quarter, which is €987 per month for the first quarter of 2017.

On 15 June 2017, the RTB published the rent index report relating to the first quarter of 2017, which includes a summary of the data used as the criteria for designating rent pressure zones in respect of local electoral areas in the country. This allows all interested parties to see where their area stands with regard to rents and possible designation. The data from the rent index report relating to Kells, Navan and Trim is included in the report and indicates that the annual rate of rent inflation in Trim and Navan was 7% or more in at least four of the last six quarters, while for Kells the report shows that there was growth of 7% or more in three of the last six quarters. In all cases, however, the average rent for these areas was not above the RTB average national rent for the last quarter. Therefore, these areas do not meet the criteria for designation at this time.

Under the Act, the Minister has no further role or discretion in proposing areas for designation as rent pressure zones or in deciding whether they should be so designated. The designation process is independent and based on clear objective criteria and quantifiable evidence. The Housing Agency will continue to monitor the rental market and may recommend further areas for designation. Where, following the procedures set out in the Act, it is found at a future date that additional areas meet the criteria, they will be designated as rent pressure zones.

A review of the rent predictability measure and the system of rent pressure zones is currently under way. The provisions have been in place for six months and data from the Residential Tenancies Board's rent index report for the first quarter of 2017 are now available. This is the

first rent index covering the period since the rent pressure zone measure was introduced. Using these data, it will be possible to ascertain the effectiveness of the rent predictability measure and whether any changes need to be made - for example, to the qualifying criteria or the designation process. As part of the review, a public consultation process on the effectiveness of the rent predictability measure and the rent pressure zones was launched on 15 June 2017 and will remain open until 30 June. Further details on the consultation are available on the Department's website.

**Deputy Peadar Tóibín:** It is shocking to me to learn that the towns we have just discussed meet the criteria with regard to spiralling rent. The Minister of State says they do not meet the full criteria, however, because the rent in question is not already an outlier, as in being too high. In other words, the Government's mechanism is to wait until rent gets too high and then slow down the increase to 4%. It does not put the brake on it or stop it but it waits until it gets too high and then decides, perhaps, to slow it down somewhat.

I have mentioned the thousands of people who are already in massive crisis with regard to housing. There are thousands of other people living in houses today who are living in fear that their landlord will either increase the rent or decide to move them out of their home, thereby leaving them at the mercy of the market. That is exactly where the Government is leaving them. It is saying to them there are no brakes that it will apply to the rents in the towns of Navan, Kells, Athboy, Trim, Oldcastle and Enfield. It is extremely frustrating. Meath West constituency is the home of the Minister of State with responsibility for housing, Deputy Damien English. We would have believed there would have been some leverage there with regard to making the changes. It is also the home of the Fianna Fáil Deputy, Shane Cassells, who abstained from voting on the legislation and, therefore, allowed for these Meath West towns to be excluded.

The point the Minister of State made was that the Minister is prevented from participating. He is not. He has a mandate from the people to fix this problem. He is not stopped by legislation because he can make sure it is changed. If the Minister decides to change it, he will have willing helpers on the Sinn Féin benches to make sure the rent is linked to the consumer price index or the rate of inflation, and make sure that normal families can go to sleep easily in the knowledge that next year's rent will also be affordable.

**Deputy John Paul Phelan:** With regard to my area, the Deputy gave a very interesting statistic. He referred to there being 2,800 vacant buildings in County Meath. While I am in this position, it is my intention to consider how we can get those vacant properties back into the housing market. I have a particular, designated role in that regard.

The Deputy referred to legislation. It is clear. The Minister must act if the criteria are met. The Deputy is doing his job as a Deputy for Meath West but the criteria are not met. It is a bit rich, in a way, for any Deputy to say a Minister of State - Deputy Cassells was mentioned also - should be in some position to manipulate the legislation. It is quite clear that the criteria have not been met. The legislation can be amended and I agree with the Deputy in that regard. I indicated in my response that a full review was happening. It is only six months since this was introduced. It is not a universally recognised fact that rent controls work everywhere in the world. It is appropriate that after six months we would review the arrangement. As the Deputy clearly put to the House, there is a case for an extension to his area but we need to determine how the measure is working overall. After six months, it is appropriate to have the review. Certainly, the Deputy's representations arguing for an extension to other areas will be considered as part of the review of the legislation in this area.

21 June 2017

## Hospital Services

**Deputy Mary Butler:** I offer my sincere and heartfelt condolences to the family of Thomas Power, including his wife Bernie, his parents, his sister and extended family. As we know, Tom was buried this morning. His death was very untimely. As the Minister, Deputy Harris, is well aware, considering that we have raised this several times in the House, cardiac services in University Hospital Waterford are time sensitive. The cath lab opens from 9 a.m. to 5 p.m. on Monday to Friday. It is, therefore, open for eight hours per day and closed for 16 hours per day. It is closed all day on Saturday and Sunday. It is simply not acceptable that time restrictions play such a role in the day-to-day lives of our people. Cardiology intervention at University Hospital Waterford is time sensitive so if any patient presents requiring cardiac intervention outside the opening hours, his or her only option is an ambulance to Cork.

Last Sunday, Mr. Thomas Power, 39, recently married and expecting his first baby, presented at University Hospital Waterford with chest pains. A decision was taken that he should be transferred to Cork University Hospital. He died in Dungarvan, 30 minutes up the road. As I said, he was laid to rest this morning. The death has come as a huge shock to those of us living in Waterford and the south east. Unfortunately, it has not come as a surprise. Those of us campaigning for the second cath lab and for 24-7 cardiac care have warned for years of the dangers of transporting patients by ambulance for treatment. Dr. Patrick Owens, consultant cardiologist, has warned time and again that this would happen. It has happened. It is one death too many and it can never be allowed to happen again.

The Herity report has underestimated the impact of not having 24-7 cardiac care. It has underestimated the single-point-of-failure situation that we saw at the weekend. It has underestimated the commute time between University Hospital Waterford and Cork University Hospital. How can the Minister continue to stand over the Herity report?

**Deputy David Cullinane:** The people in Waterford and the south east are angry and afraid. They are angry because of what happened to Thomas Power, who presented to the accident and emergency ward in University Hospital Waterford on Sunday with chest pains. He was suffering from cardiac complications. The cardiac unit, the emergency PPCI service, in the hospital was closed at the time. It closes at 5.30 p.m. from Monday to Friday and it is closed for the weekend. Rather than being admitted into the ward and treated by cardiologists, Mr. Power was put into an ambulance, in which he died 30 minutes outside Waterford.

A number of months ago, a number of regional clinicians and consultants met in Buswells Hotel in Dublin and robustly challenged Dr. Herity's findings. They said at the time that a decision not to enhance cardiology services in Waterford would cost lives. I spoke to those consultants today and they are livid. They are livid with the Department and HSE and they are also angry with the Minister. They and I accept that medical services should be provided on the basis of clinical and medical need but there is no justification whatsoever for people in a region with a population of 500,000 not to have access to emergency cardiac services out of hours from Monday to Friday and over weekends. Worse still, Dr. Herity recommended that all emergency services at the hospital cease. How is that report justified, therefore? How could it be stood over? We need a new review. Everything in the review is irrelevant unless it is based on the population of the south east. I sympathise with the family, to whom I have spoken personally. We have a job of work to do. I commend the Minister of State, Deputy Halligan, and Deputy Butler and all the regional politicians who work together on this. If there is a new

review, will it be based on the population of the region?

**Minister of State at the Department of Education and Skills (Deputy John Halligan):**

I too offer my condolences to the family of Tom Power. I believe that if he had taken ill on a Friday morning instead of a Sunday, he would have received cardiac intervention at University Hospital Waterford, which is about ten minutes from his home. The Minister for Health and I have differed on the Herity report on a number of occasions. I respect that. He knows my firmly held views that the calculations of the population were flawed and that it was incomplete on the basis that the experienced concerns and service needs of the consultants in south Tipperary and Wexford were not sought, despite the fact that there was a comprehensive input from the consultants in Cork. Crucially, in the context of the death of Mr. Tom Power, the review did not address life and death clinical risk and safety concerns. Pre-dating the Herity review, the HSE itself identified the lack of the second cath lab at UHW as being an extreme clinical risk under the HSE risk register. That status was downgraded by an unknown person in the HSE prior to Dr. Herity commencing his review. After the publication of the Herity report, further suggestions of interference in the review process emerged. I believe that Dr. Herity was given flawed and biased information prior to commencing his work. A briefing note prepared by unit 3 of the Department of Health explicitly stated that the second cath lab was not a priority. It is my belief that the interference has continued.

I commend the Minister on the work that he is trying to do at present by formally approving the deployment of a mobile cath lab on 8 May. However, it was not until 12 June - five weeks later - that the Department of Health formally instructed the HSE to proceed to tender and notify the management of UHW. For five weeks, I believe that a ministerial order was completely ignored. For five weeks, the Minister's express instructions were treated with utter contempt by civil servants. This is not fair to the Minister. I believe that the HSE is a law unto itself and that unknown person or persons within the HSE are determined to put every obstacle possible in front of the expansion of the cardiac services in UHW. I believe there is an agenda playing out that the extension of services at UHW has nothing to do with the clinical need.

**An Leas-Cheann Comhairle:** Go raibh maith agat.

**Deputy John Halligan:** The presence of the mobile cath lab would not have saved the life of Tom Power. However, there will be more Tom Powers and more lives needlessly lost unless cardiac services in UHW are expanded. This will never happen while we, the elected-----

**An Leas-Cheann Comhairle:** The time has expired.

**Deputy John Halligan:** ----representatives of the region, are fighting against an invisible force within the health service.

**Deputy James Browne:** I begin by expressing my deepest sympathy to the Power family, to Thomas Power's wife and to her family, the Delaney family of Murrin town, County Wexford. Mr. Power's death is a devastating loss to his family.

The death of Thomas Power is a heart-rending reminder of the desperate need for 24-7 cardiac services in the south-eastern region. More than half a million people live in the south east. The existing cath lab is the only one that operates on a part-time basis. It is difficult to see how this is justifiable. How can it be that when patients reach the largest hospital in the south-eastern region, a university hospital, they cannot be given the basic services that are necessary to keep them alive? How can anyone stand over the fact that someone with chest pains who

21 June 2017

present him or herself at UHW before 5 p.m. on Friday is treated any differently to someone who presents after 5 p.m. or at the weekend? Why are those people made to risk their lives by having to travel to Cork?

Take my own county of Wexford for example. The popular village of Fethard-on-Sea down in New Ross is 180 km from Cork University Hospital. That is almost three hours of travel time. How could anyone be expected to survive such a distance? There have long been warnings of the risks of not having 24-7 cardiac services in Waterford. These risks are posed by outsourcing cardiac patients down to Cork city. It is simply indefensible. The people of the south east are being treated as second-class citizens. It is difficult to see how anyone can stand over a region of half a million people not having access to 24-7 services.

I appreciate the Minister realising the Herity report, but that report ignores the real consequences of restricted cardiac services for the south east. How can the State guarantee patient safety when critically ill patients present themselves at a hospital and are then expected to travel to a second hospital 130 km away? It is not rational, acceptable or right. A second review needs to be carried out on this situation.

**Minister for Health (Deputy Simon Harris):** I thank the Minister of State, Deputy Halligan, Deputies Butler, Browne, Cullinane, my colleague from the region, the Minister of State, Deputy John Paul Phelan, and from the other House, Senator Coffey, who have all raised this important issue of cardiology services at UHW. I too was very saddened to hear of the tragic death of a young man, Mr. Power, who was being transferred between two hospitals at the weekend. I offer my sincere condolences to his family. I think it is important that we are sensitive to their needs at this time. As Minister for Health, however, I cannot comment on individual cases and so will address the House on the wider cardiology service issue, except to say that I expect all the proper procedures will take place with regard to the circumstances of this tragic death. I believe that is important.

Last year, in line with a commitment in the Programme for a Partnership Government, an independent review of the need for a second cath lab at UHW was undertaken by Dr. Niall Herity, a world-renowned cardiology expert. The review concluded that the needs of the effective catchment population of UHW could be accommodated from a single cath lab. However, the review also recommended increased investment to enhance cardiology services at the hospital and to provide an additional eight hours cath lab activity per week to address waiting times and provide improved access for patients.

At the time of the publication of the report, I committed to providing those additional resources to the hospital. I did so. The HSE national service plan 2017 subsequently identified the implementation of the recommendations of the Herity report as a priority and additional funding of €500,000 was provided for the hospital. I should also mention, as the Minister of State, Deputy Halligan, alluded to, that the HSE issued a tender this week for a mobile cath lab that will contribute on an interim basis to a further reduction in elective cardiology waiting lists in UHW.

I also committed to a further review to assess the impact that these improvements have had on the volume of patients attending the cath lab and this review will take place at the end of the deployment of the mobile lab. I commit to keeping Oireachtas colleagues from Waterford and the region briefed on plans for that review.

With regard to emergency work at the hospital, I want to stress again that all decisions on how we configure our health services must be evidence-based. I think everybody accepts that and I appreciate that. Dr. Herity recommended that emergency work should cease in order to allow the hospital to focus on the much larger volume of planned work and to contribute to improved patient outcomes. That was the finding of the independent review. I believe it is fair to say that the organisation of primary PCI services is an issue for the whole country. It relates to how we provide services to our whole population taking account of the best evidence available. While we are discussing Waterford and the south east today, it is indeed an issue beyond just the south east. I would point out that patients in Monaghan are transferred to Dublin for primary PCI and patients in parts of Kerry go to CUH. Highly specialised services such as primary PCI need to be carried out in a small number of hospitals around the country where the volume of patients supports the provision of a safe service. Low-volume services do not facilitate the ongoing and sustainable achievement of the patient outcomes required. That has been the long-held clinical view. Based upon this country's population, we can only operate a limited number of primary PCI centres in order to ensure that services achieve required standards and are sustainable. Clinical staff cannot maintain their skills where volumes are insufficient and staff will not be attracted to work in units that do not facilitate them producing the outcomes expected.

I believe it is time for a full national review of primary PCI services. Therefore, I have now asked my Department to make arrangements for this national review to be undertaken based upon independent clinical expertise and this will obviously include the south east of the country. This review will seek to ensure that as many patients as possible have access on a 24-7 basis to safe and sustainable emergency interventions following a heart attack. The review will therefore address the wider implications for all services and all parts of the country of Dr. Herity's view regarding primary PCI services and will come up with a plan for the achievement of the best patient outcomes possible. Clinical safety is paramount as part of that review.

I want to repeat that extra investment is being provided to allow additional activity at the existing cath lab. The mobile cath lab is confirmed for Waterford and is on the way. There will be a further review of UHW's situation following the deployment of this mobile lab. I will consult with Waterford Oireachtas Members at that stage with regard to that review. In addition to that, there will be a national review recognising the importance of access to PPCI services for all our citizens.

**Deputy Mary Butler:** I thank the Minister for his answer. I welcome the fact that he has said that it is time for a full national review of primary PCI. Unfortunately, since five o'clock this evening, the cath lab is closed in Waterford while we are here discussing it. If another Thomas Power presents, we are still going to have the same issue. I ask that there would be no interference from the HSE with regard to the terms of reference for this report. Clearly, as the Minister of State, Deputy Halligan, pointed out, there was interference the last time. We all saw copies of the letter and the dictat issued. That cannot happen again. With regard to the extra investment, the Herity report was published in September 2016. I spoke to management in the hospital before I came here. Not one extra hour has been put in place. The hospital is only advertising for staff now. Those extra eight hours would be very important but they need to be in place as soon as possible. The only solution is a second catheterisation laboratory and I will be sticking to my guns on that.

**Deputy David Cullinane:** I am sure officials in the Department wrote the Minister's script. His response worries me because he is saying that highly specialised services such as primary percutaneous coronary intervention, PPCI, need to be carried out in a small number of hospitals.

He said that low-volume services do not facilitate the ongoing and sustainable achievement of the patient outcomes required and that based upon this country's population, we can only operate a limited number of primary PCI centres. We are being teed up again for a report that will again tell us the same thing. That is what I am reading from this because I have seen the documentation. I received it under a freedom of information request. The HSE, the Department, the acute coronary syndrome programme and the South-South West hospital group were all saying the same thing, which is that the population of Waterford and its environs does not justify emergency PPCI. Unless the Minister accepts that this is regional and unless the terms of reference are very clear that this is about the south east and the population of the south east, which is what was in the Higgins report where a clear commitment was given that enhanced cardiology services and interventional cardiology for all 500,000 patients in the south east would be provided at University Hospital Waterford, it will be a tee up by officials in the Department and the HSE. We have been sold pup after pup on this issue and enough is enough. While the Minister says he will consult, unless he agrees today on the regional nature of this issue, it will go nowhere and we will continue to be sold down the river time and again.

**Deputy John Halligan:** Members of the Independent Alliance and I had a meeting with the Minister today. Outside of the national review, there is a commitment to a review in the south east, which will cover all of the south east. The last review did not cover all of the south east. I take into consideration what Deputy Cullinane is saying but I ask Members from the south east to meet with the Minister and me as we sit down to decide the terms of reference for this review. For the first time ever, Members of the Oireachtas from the south east will have a say in how this review will be conducted. I am convinced that if the regions that were not taken into consideration in the first review - the consultants in Wexford, Tipperary and so on - and the catchment area whose inclusion we will have a say about are included, the catchment area alone will carry the review over the line, which did not happen the last time. I had a fruitful meeting with the Minister. We do not always get on and we have our differences but I think there has been a change. Let us get Members of the Oireachtas from the south east and the Minister together and see whether we can push this review over the line.

**Deputy James Browne:** We know about one death because it occurred on the road to Cork but how many people have made it to Cork only to die subsequently because it took them too long to get there and how many people have suffered additional heart damage as a result of a delayed arrival in Cork? The south-east region needs 24-7 cardiac care. It has a population of 500,000 people but it also has large populations in geographically isolated areas. I mentioned Fethard-on-Sea in County Wexford. Other areas include Ramsgrange, Kilmore Quay and Our Lady's Island. They are highly populated areas with high numbers of tourists yet they are up to three hours away from Cork. It is simply not acceptable to say to those people in the south of Wexford, Waterford, Carlow and Kilkenny that they must travel to Cork to get services to which everybody else in the country has access. A region with 500,000 people should have 24-7 cardiac services in its top hospital.

**Deputy Simon Harris:** I respectfully say to Deputy Browne that he is wrong in suggesting that everybody else in every other part of the country has access to this on their doorstep. That is not the case. I referenced two examples - Monaghan where people must travel to Dublin and parts of Kerry where people have to travel to Cork. There are a number of places in this country that are outside the 90 minutes and that is why-----

**Deputy James Browne:** Not an entire region.

**Deputy Simon Harris:** Well people are people and citizens are citizens. We need to ensure that every citizen in this country can access services. I am not making a partisan point but Deputy Cullinane made a number of what I view as potential slurs on officials in my Department and the HSE. I stand over their integrity as hard-working public servants. The Deputy might know-----

**Deputy David Cullinane:** No slur was made against anyone. The Minister of State, Deputy Halligan, made far stronger allegations against the Minister's officials.

**Deputy Simon Harris:** My officials do their job to the best of their ability in accordance with all good practice in the public service. It is the same position as that held by officials in Northern Ireland. If Deputy Cullinane asks the leader of Sinn Féin in Northern Ireland, who was a good colleague and counterpart of mine as Minister of Health, he will discover that the same procedure applies in respect of primary PCI in Northern Ireland. I would not like it to be interpreted as a view in the Department or the HSE. This is a long-established view on the island of Ireland regarding access to primary PCI.

Leaving that aside, I am committed to doing the four things. The additional investment has been provided. The point made by Deputy Mary Butler is valid. Management now needs to get on with expending that investment and putting those additional hours in place. The mobile catheterisation laboratory is on the way. When both of those things are in place, it makes sense to have a further review to see what the additional impact of the extra hours is in terms of the number of people using the catheterisation laboratory. I think this is logical. At that point, I will engage with Members of the Oireachtas in the south east. I genuinely welcome that engagement.

The fourth thing I am doing is talking about a national review because there are parts of this country where we need to make sure the spread of our primary PCI structure is at an optimum level for all our citizens. I have instructed my Department to commence that national review and will keep in touch with Members of the Oireachtas.

### **Aquaculture Licences**

**Deputy Pearse Doherty:** Tá mé iontach buíoch go bhfuil an cheist seo roghnaithe mar is ábhar iontach tábhachtach é, go háirithe do mo Dháilcheantar féin i dTír Chonaill, ach tá a fhios agam ó a bheith ag caint leis an Teachta Ferris go bhfuil an rud céanna amhlaidh i gContae Chiarraí agus go leor ceantar eile. Countless coastal communities are living in a state of constant dread and unease as their coasts face an uncertain future. I speak, of course, about the imposition of large-scale, poorly planned and in some instances, unsightly aquaculture developments. The prospect of trestles and other cultivation equipment on beaches and scenic locations for proposed oyster farms has created much anxiety in areas where it is felt that should such developments get the go head, much harm would be done to the local marine environment and its lure as a natural amenity with potential consequences for tourism, recreation and the wider local economy.

Communities in my county of Donegal have been left in limbo for months on end while controversial decisions about licence applications for oyster farms are still pending while decisions on appeal have still to be reached for others. Let us take the example of Cruit Strand. A period of public and statutory consultation into the licence application ended last October. I had

21 June 2017

the honour of addressing locals there at that time. We prepared the submissions. The area is not supportive of the type of large-scale aquaculture planned for that area. The local community is still waiting for a determination. The consultation ended in October yet we are now facing into July. This is in spite of the Department having received over 3,200 individual submissions from the local community regarding the development at Cruit Strand and the neighbouring strand. There is a legitimate question here. When is the community going to get a decision from the Department? Not only has the Department not made a decision, it cannot tell the community when a decision is likely. At scenic points such as Rann na Feirste, Rann na Mónagh, Cionn Caslach and Charraig Fhinn, places where natural beauty has acted as an inspiration for countless literary works, artists and musicians and to which people continue to flock each year, there are real concerns at plans to erect major oyster farms on its foreshore.

At Carrickfinn, permission was granted by the Department for the development of some 99 acres of pristine coast land at Braade Strand and Gaoth Dobhair Bay. If the Minister of State has ever flown into Carrickfinn, he will know all about it. It has been labelled the second best airport landing strip in the world. The local community there is still waiting to hear the outcome of appeals lodged earlier this year. My question to the Minister of State is simple and I speak on behalf of the thousands of people who have lodged applications. I speak for those who are waiting day after day to find out if this Department and the process is going to allow for their pristine strand and bay to be ruined and scarred in this way. Why are these communities, and countless more like them, forced to endure months of uncertainty while the Minister of State and his Department have sat on their hands?

All we have to do is look at the recent report from the independent review group, which was set up by the Department itself. It has criticised the length of time that determinations are taking. It has found that the current public and statutory consultation process is hugely flawed, including the method of informing the public of planned developments. None of what I have said should be taken or interpreted as saying that we are opposed to aquaculture or that aquaculture is a bad thing. No-one is against that in principle. However, people are against developments which are disproportionately large in both size and scale, which are scattered along the coast without any thought to the impact it would have on the local community, and what we in Sinn Féin have continually called for is that these developments only be granted where it is deemed to be sustainable and commensurate with the area and locality in which these activities are to be carried out.

What action is the Minister of State going to take to protect these communities, particularly with regard to the licence applications at Ranafast and at Cruit, and appeals against Carrickfinn. When are communities going to be taken out of limbo and told that these large-scale aquaculture developments will not go ahead on the Minister of State's watch?

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle):** An aquaculture licence is required by law for the cultivation of finfish, shellfish and certain marine plants such as seaweed. My Department considers all applications for aquaculture licences in accordance with the provisions of the Fisheries (Amendment) Act 1997, the Foreshore Act 1933 and applicable EU legislation. The process involves consultation with a wide range of scientific and technical advisers as well as various statutory consultees. The legislation also provides for a period of public consultation. In addition, my Department must adhere to a wide range of regulatory requirements and other legislation which impact on the licensing process.

A key component of the aquaculture licensing process is a series of measures designed to address the impact of aquaculture on the environment. This series is known as appropriate assessment, AA. This process arose from a European Court of Justice, ECJ, case against Ireland in 2007. The Court of Justice declared that, by failing to take all the measures necessary to comply with the EU habitats directive in respect of authorisation of aquaculture programmes, Ireland had failed to fulfil its obligations under that directive. The EU habitats and birds directives have resulted in the designation of certain bays by the National Parks and Wildlife Service as special areas of conservation or special protection areas for birds, or both. These are known as NATURA 2000 sites and most aquaculture takes place within them, or adjacent to them. In the negotiations to address the ECJ judgement, the Department agreed a process with the European Commission and the National Parks and Wildlife Service which would govern the State's processing of aquaculture licence applications. The AA process is managed in the main by the Marine Institute via environmental and scientific contractors commissioned by the Institute to carry out the necessary field work and desk analysis. To date, the Marine Institute has submitted appropriate assessments on 24 bays to my Department.

On the environmental impact assessment and screening process, all aquaculture licence applications must be either accompanied by an environmental impact statement, EIS, which is mandatory in the case of marine finfish cultivation or, in the case of shellfish cultivation, applications must be the subject of a detailed screening process with a view to determining whether an EIS is required. The screening process is managed by a screening group comprised of officials from the Marine Institute, Bord Iascaigh Mhara, my Department's marine engineering division and my Department's aquaculture and foreshore management division. This group examines in detail the characteristics, location and potential environmental impact of each application. The screening assessment process complies fully with applicable European regulations, requirements and guidance documents. In addition, the ministerial decision arising from the screening process is published on the Department's website.

On statutory and public consultation, the legislation specifically provides for periods of statutory and public consultation in respect of aquaculture licence applications and I can assure the Deputy that all observations received - he mentioned 3,200 in the case of two bays in County Donegal - are considered by the Department. Furthermore, any member of the public who wishes to appeal a ministerial decision may do so by submitting an appeal to the Aquaculture Licences Appeals Board, which is an independent body established by statute. An applicant can also avail of this appeal process.

**An Leas-Cheann Comhairle:** I have to interrupt the Minister of State. His time has expired, and I have to give an opportunity to speak to Deputy Doherty.

**Deputy Andrew Doyle:** Can the rest of my notes be included in the record?

**An Leas-Cheann Comhairle:** No, it is not a parliamentary question. We will get copies.

**Deputy Andrew Doyle:** I think copies have been circulated.

**Deputy Pearse Doherty:** The Minister of State mentioned that an EIS is required for finfish and the Department can carry out a screening for shellfish. The Department waived the requirement for an EIS in this application, which 3,200 people in the community expressed concern about. I am not sure if the Minister of State is familiar with the community and I know he is still new to the Department. I am not sure if the Minister, Deputy Michael Creed, before he is-

sued the ministerial direction which waived the requirement for an EIS to be carried out on that large-scale development, ever set foot in that part of our country. If he stood on the bridge on the way to Cruit and looked at where the trestles would go on and on, he would not have put pen to paper. If he stood in Ranafast, in Rann na Mónagh, in Annagry and in Carrickfinn and looked out at the bay at what 99 acres of aquaculture would look like, and then thought about the Wild Atlantic Way, the tourism, the culture and the beauty of that area, he would not have put pen to paper. It has given the inspiration for so many of our literary works, which are studied by our children at school and music which is enjoyed by people not only the length and breadth of this island, but also further afield. That natural environment is where people and artists draw their inspiration from. He would never have put pen to paper to waive this requirement if he had looked at the area.

The Minister's own review has shown that the process is flawed. I and my party, including our local councillors, Ms Marie Therese Gallagher and Mr. John Sheamus Ó Fearraigh, put together a serious submission to that review. Thankfully, certain parts of it have been upheld. This process is flawed. It is taking too long to make determinations. We want two things. We want the Government to fix the process, to speed up the level of determination and it to ensure that those communities will not be scarred indefinitely as a result of an aquaculture licence which is too large in scale and in nature.

I support many communities and many small entrepreneurs in securing aquaculture licences. I believe that oyster farming is a good thing in size and scale. These applications are way out of the norm and should be refused.

**Deputy Andrew Doyle:** I was going to get to the aquaculture licensing review group in the final part of my opening statement. Some 385 submissions were received. There are 30 recommendations which are being considered. I cannot pre-empt what decision will be made but the Department is currently considering that report. With regard to the Kincasslagh and Gaoth Dobhair bays, I understand the Keadue Strand application has been withdrawn so it is down to 1,700 to do with the Cruit Strand. I cannot answer why the EIS by the Department was not sanctioned but nonetheless, 1,700 submissions are being considered and I expect that is part of the reason for the slowness of the process.

I would also agree, no more than with the An Bord Pleanála appeal for planning, that at some stage we must have a definite horizon set on appeals for everybody's sake.

Some of the 385 submissions on the licensing review group were from the industry, which would say it is too prescriptive. In the previous Dáil, I chaired a sub-committee where one of the areas seen as really having potential was appropriate aquaculture. Given that so many of the bays and inlets being designated under Natura 2000 and the applications relating either to them or adjacent to them, everybody agrees a lot of care is needed.

I would make one final point. It is not indefinite. Every structure, such as trellises, that is put in is removable and much more easily removed than a lot of other big infrastructure developments.

The idea behind the licensing review group's work was to try and make this work more efficiently for everybody, the industry, the developers - if one wants to call them that - and the local communities so that they work in harmony. Consultation at any stage at the earliest possible point in any process is the key to it.

**Building Standards, Regulations and Homeowner Protection: Motion [Private Members]**

**Deputy Catherine Martin:** I move:

That Dáil Éireann:

notes that:

- thousands of people in Ireland have been affected by poor quality housing following the building boom of the past 20 years;

- the record of the current Government and the previous Government is one of clear failure to properly regulate the building industry and of regression of building standards;

- there is a commitment in A Programme for a Partnership Government to provide quality housing;

- effective building regulation requires an independent regulator, not self-regulation by the building industry;

- claims have been made by the Construction Industry Federation, CIF, that it will draft upcoming Government legislation in this area;

- with the exception of the Pyrite Panel, there has been no public inquiry or reflection on the causes of the widespread quality problems in housing which continue to emerge and which are a heavy burden on the lives of those affected;

- there has been no law reform that addresses the lack of remedies available to homeowners affected by pyrite, building regulations breaches and other housing failures;

- the availability of effective remedies for defects when they occur is an essential part of the quality of housing;

- the defects in housing resulting from this situation include defects which cause risks to life, health and well-being, as well as creating environmental damage and economic costs;

- Irish home buyers in both the public and private sectors are poorly served by the law, as it stands:

- the builder may be insolvent;

- the building contractor may not be available to provide a remedy when the defect appears, for example, where the house or apartment has been sold;

- the Statute of Limitations may bar the action; and

- there may be no defects insurance policy available to pay for the repair works;

- these problems have not been addressed by the Building Control (Amendment) Regu-

lations 2014, as while the regulations provide for mandatory inspections by certifiers appointed by building owners-developers and which require a certificate of compliance with building regulations to be lodged with the local building control authority before a new building is opened, occupied or used and are changing the culture of construction regulation, they do not create new legal remedies for homeowners;

- the Law Reform Commission has proposed appropriate legislation on several occasions to deal with many of these issues and there is also a commitment in Construction 2020 'to consider and report on potential forms of redress for consumers and homeowners, including the potential for latent defects insurance' and that redress must include new legal remedies; and

- many housing defects have ultimately been rectified at the expense of the State, rather than those responsible for those defects; and

calls on the Government to:

- introduce new primary legislation to include a transmissible warranty of quality and assignment of causes of action in negligence from builders and those involved in the building process in favour of the first and subsequent purchasers of houses;

- direct the carrying out of a feasibility exercise and business case for the creation of an Irish building authority, to which the functions of the existing building control authorities would be transferred, that would administer building control on a nationwide basis and that would provide a supervisory regulatory function in relation to those involved in the construction industry, including contractors, subcontractors and others involved in the construction process, as appropriate;

- consider the development and use of alternative forms of contract for delivery of housing;

- engage with the Law Society and the CIF to initiate a review of the standard form building agreement used for residential construction, to consider amendments to the agreement to facilitate consumer protection, including amendment of the dispute resolution provision, and removal of the restriction on transfer of the agreement on sale of the unit;

- establish a consumer-friendly system of dispute resolution for homeowners dealing with defective housing;

- amend the Statute of Limitations 1957 to implement the recommendations of the Law Reform Commission in relation to building defects;

- review and evaluate the resourcing of building control for local authorities, recognising that their role and objectives are quite different from the role and objectives of private building control certifiers who are appointed to protect the interests of building owners rather than the interests of the general public in ensuring compliance with the Building Control Acts; and

- prepare and publish options for the financing and carrying out of remedial works to defective housing units, that will form the basis for a nationwide scheme, enshrined in legislation, for the orderly remediation of legacy defects in housing.

Gabhaim buíochas leis an Chathaoirleach. Is cúis áthais dom an rún seo a thabhairt os comhair na Dála anocht. Tá cúpla mí caite agam leis an Chomhaontas Glas ag plé na ceiste seo, ach caithfidh mé a rá anois, tar éis na tragóide úafásach le Grenfell Tower, gur níos práinní na cúrsaí seo ná riamh roimhe. Is údar imní cad a tharla i Londain an tseachtain seo caite. Tá dúalgas orainn cinntiú nach féidir a leithéid a tharlú in Éirinn.

I am pleased to bring the motion before the Dáil. The Green Party has been working on it in conjunction with leading experts in this field in recent months. We published it weeks before the horrendous tragedy in west London last week. I offer my deepest sympathy to the families and friends of loved ones who were caught up and engulfed in the horrific fire that occurred last week in the land of our nearest neighbours. Ar dheis Dé go raibh a n-anamacha. Cuimhnimid orthu.

The motion calls on the Government to properly tackle the sorry legacy of defects in housing construction and to strengthen building standards and regulations in order to safeguard against this building and regulatory failure ever recurring. This and the previous Government have shown no political appetite or given no priority to dealing effectively with serious problems and issues arising from appalling construction quality of so many homes built during the boom-time era. There has been a series of crises, including the well-documented Priory Hall debacle and the high profile Longboat Quay shambles, as well as many other serious and varied problems that have emerged the length and breadth of the country, including in my constituency of Dublin Rathdown.

I appreciate that the newly appointed Minister is new to his brief. However, his party and Government colleagues certainly are not. In the past four years, we have had four Ministers with responsibility for housing. This shows the level of genuine intent and respect for the role of this ministry which is at the centre of the biggest crisis of our time. That is an indicator of how this critical ministry has been treated in recent times. It has become the revolving door ministry with no continuity, no stability and no appropriate demonstration of the level of priority and real action the crisis clearly and urgently merits. It is nearly six years since the Priory Hall development was found to be gravely defective yet there are no new remedies or proper building standards. Instead, we are still operating on a trust-the-builder basis. Homeowners and prospective homeowners are expected to put their faith in builders without an independent regulator. In case the Minister is unaware, he should know that people do not trust builders to self regulate.

We are in the middle of a housing crisis and new homes are urgently needed, on which we are all in agreement. However, we cannot sacrifice the safety of people in their homes to pacify the construction industry lobby. Safety must be paramount in any and all construction. There is a duty on the Government to protect its people against greed-driven building standards and incompetent rogue cowboy builders. I emphasise that I am not saying all builders are incompetent. They are not all rogues either but a number of builders and developers have done an extraordinary disservice to the many genuine, decent, hard-working people involved in the industry. This evening, we have an opportunity to take the first concrete steps in stopping rogue builders in their tracks by introducing measures that, once and for all, would put individuals and families first and protect them against these chancers. In essence, that is the priority. We need to protect ordinary consumers who buy their dream family home in good faith.

In January I asked the former Taoiseach, Deputy Enda Kenny, how many times the issue of defective buildings had to rear its ugly head before the people affected by it had some level of

certainty about the relief they could seek. Many months later, the same people are still in limbo and uncertain about what assistance, legal or financial, the State can provide for them. In his reply to me in this House in January the former Taoiseach also said he could not guarantee that there would be no more Priory Halls or Longboat Quays. Kevin Hollingsworth of the Society of Chartered Surveyors Ireland recently said that in the past three or four years he had remediated 29 developments for fire safety issues. Not all of these find their way into the media spotlight and many of those involved feel compelled to suffer in silence. They are suffering at the hands of a Government which they believe is not listening to their needs and does not have the hunger or appetite to make a real difference in their lives. In case the Minister is in any doubt, he should know that some individuals and families, including some of those in the Visitors Gallery, are suffering immense and ongoing stress and incredible financial pressure as a result of the State granting builders a type of *carte blanche*, giving them a near free-for-all to do what they want. Must these homeowners and the many others who have yet to learn how they will be affected by defective buildings forever be reliant on a Government which continues to act in an *ad hoc* wait-and-see manner?

Last week we heard the horrifying news of the fire at Grenfell Tower in London. Our hearts are with the families of those who lost their lives but our minds must be set on ensuring it does not happen here. In response to the tragedy Chi Onwurah, MP, wrote in *The Guardian* last week that for her, the souls of the dead were in every sub-clause of every tranche of health and safety legislation. Health and safety are matters of dull box checking and red tape at times but they are also absolutely vital. At issue is the homes of people. This is a matter of public health and safety but sometimes, ultimately, it can also be a matter of life or death. In order to ensure safety - the most fundamental of protections - we need radical change in how we view and value buildings. We need to act with a safety first attitude, not simply talk about it. As Members of this House, we need to stand up, once and for all, to the construction industry and put people's lives first.

It was reported recently that the Construction Industry Federation was writing the new building control Bill. While that report has been noted by the Department as being incorrect, it still does not help dissuade us of the picture of a Government which has been for far too long too close to the influential construction industry and too passive in its willingness to enforce high standards. This is not something we would tolerate in the food industry, road safety or car safety, where people's health is at stake. There is no reason to tolerate it when it comes to the standards and safeties at which we build people's homes. Our housing is a public safety issue. We need a regulator, like our food regulator, with specialised statutory powers to name and shame dodgy builders who put people's health and safety at serious risk, which is empowered to put things right.

In order to do this, in the motion before the House today, the Green Party is calling on the Government to create a new, strong, independent building regulator. We need a properly funded national building regulation office wherein such a building regulator will oversee national building control and actively and robustly regulate those involved in construction. We need to stop systematic failures in building control happening again and again by ensuring that building standards are raised and that there is appropriate building control compliance in this country, including fully resourcing the new building regulator office with a real and effective enforcement agency. We must provide protection and support for homeowners who discover serious latent defects in their homes by improving existing legal remedies. This country has been plagued by cowboy developers and there is very little in the current building control regime safeguarding

against and stopping it from happening again. There is no comfort for the consumer.

We cannot say that we have not been warned. The Building Control (Amendment) Regulations 2014 put in place an assigned certifier system but there are still huge problems with this. As Orla Hegarty of UCD has said, a self builder or developer is effectively appointing someone to police him-or herself while the appointed person does not have to be independent of the process and has no legal powers. As it stands, there is no guarantee that the assigned certifier must be independent of the developer. In fact, he or she can still be an employee of the developer and have other close links to the developer he or she is certifying. This set up fails to instill trust and confidence for ordinary consumers. It totally undermines the concept of independent regulation and is not something we would accept in any other industry, particularly one in which people's lives could be put at risk.

We need to look at the regulation of the construction industry in terms of risk management. We need to put the resources in place for ongoing inspections from fire services and fire safety authorities, not just a fire safety certificate before one starts. I welcome the new statutory regulations which will come into effect soon, requiring houses to be built in such a way as to prevent the spread of fire internally and externally and to have an adequate means of escape. These regulations will also impose obligations on landlords to ensure that rented properties meet certain standards. However, they must be accompanied by adequate resourcing of building control authorities for ensuring compliance and dealing effectively with breaches. How can the Government promise building standards will be adhered to if it cannot promise that independent inspections will actually be carried out? All the rules in the world do not matter if there is no credible threat of enforcement. How can the Minister assure the public and promise there will be no dangerous shortcuts if he provides no enforcement? The enforcement agency must have real teeth and not be regarded as a harmless pushover by builders. How many convictions have there been under the Building Control Act since it was introduced in 1992? The former Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, could not answer that when I submitted a parliamentary question. Nobody seems to know and that is very alarming. Worse still, many innocent people who are caught up in this storm, which is not of their making, believe that this Government does not care.

Local authority reports are light on detail when it comes to enforcement by building control authorities. Again, when I put a parliamentary question to the Minister's predecessor earlier this year, I was told that his Department is not responsible for the oversight of building control authorities. How can the Minister be sure of the strength of the enforcement of building regulations if he does not have oversight over the actions of building control authorities? At this stage, people quite reasonably wish to judge the Minister on deeds and not mere words alone.

There are 31 building control authorities in this country but they are not compelled to produce an annual report. A leading academic in this field, Deirdre Ní Fhloinn, examined all 31 annual local authority reports for 2015. There was very little reference to enforcement, never mind prosecution. That is simply not good enough. Effective building regulation requires an independent regulator and that is why many experts in this field agree with the Green Party's call for the establishment of an Irish building authority at arm's length from the vested interest of the construction industry. There is compelling evidence in support of initiating step this evening. To do otherwise, however the Minister may dress it up, would be a cop out, an abdication of responsibility. I urge the Minister not to abandon the people of Ireland who may not have the deep, wealthy pockets of some developers and who suffered most but whose voice is least heard as they do not have easy and ready access to the powers that be in this country.

Alongside this, it is vital that we do not lose sight of the goal of a real and lasting, long-term solution for residents, some whom are listening attentively to tonight's debate, who are the innocent victims of defective buildings. What redress and tangible support do these hard-working people have when major defects are discovered in their homes? In many cases the builder has gone bust but our forgiving corporate insolvency laws allow such builders to return to the workforce. They are given a fresh start, a second chance, a bright new day. Regrettably, in the proposed general scheme of the building control (construction industry register Ireland) Bill 2017, these rogue builders will continue to get second chances as it is proposed that a builder who is struck off for a period of time may apply to be restored to the register on merely demonstrating compliance with registration criteria and payment of the standard fee. It is not good enough. In contrast, the contractor responsible for the Berkeley balcony collapse has had its licence revoked for five years. Its managing director must pay the California Registration Board investigation fees of \$99,000 before the licence can be granted and may still in due course face a custodial sentence. There are no second chances for the individual citizen in Ireland, for ordinary consumers when major defects are discovered in their homes. They do not enjoy such corporate protections. They are abandoned. How many times must this issue rear its ugly head before the people who are so adversely affected by it have some level of certainty about the relief they can seek?

Simple first steps would include clarification from the Minister as to whether the Government is serious about offering tax reliefs for the undertaking of essential repair works. Giving income tax relief in respect of the repair costs incurred together with a suspension of local property tax and VAT relief along the lines of the home renovation initiative are all practical, reasonable measures which can, if the political will exists, be implemented quickly in order ease the burden on residents. Second, the Government should consider creating a loan fund for those who cannot pay. Section 71 of the 1966 Housing Act has a model for how this can work and this needs to be adapted and rolled out by local authorities to give assistance to homeowners. In conjunction with the implementation of these measures, as is stated in this evening's Green Party motion, it is crucial that the Government introduce a transmissible warranty of quality from builders or developers in favour of all subsequent purchasers so that damages can be sought from the original developers, ensuring there can no longer be any place to run and no shelter or place to hide for rogue builders.

An inexpensive, consumer-friendly dispute resolution mechanism for homeowners should be established. Landlords and tenants who find themselves in dispute in respect of a tenancy have easy access free of charge to the RTB dispute resolution service.

However, what resolution do home owners have facing into this unprecedented storm? They have none.

In order to ensure the State will never again be taken as a soft touch, it is crucial that increased resources must be pooled into this arm of local government with responsibility for robustly monitoring new builds and in order to be taken seriously, a properly resourced enforcement agency must work in tandem with a supervisory division to ensure that inadequate building standards will not be tolerated.

Twenty five years of evidence tells us that leaving the construction industry to its own devices results in widespread dangerous breaches. Will one of the Minister's first acts as Minister with responsibility for housing be to support this motion, to stand up to the construction industry and in doing so stand up for the health and safety of the people or will it be to cave

in to vested interests, given them their way and allowing them to continue to put lives at risk?

The tragic inferno in west London last week is a stark reminder that the overriding priority underpinning all construction must be the safety of residents. In the rush to build the houses so urgently needed in this country, we must ensure that this time we do it right and that all houses are built to an acceptable and safe standard. The Members of this House have a duty to create a legislative framework to support all those who are living the nightmare of having had defects discovered in their homes and to prevent this happening to another generation of home owners. I ask them to consider these home owners and what they are going through, to help them and to stop it from happening to another generation of home owners.

**Minister for Housing, Planning, Community and Local Government (Deputy Eoghan Murphy):** I move amendment No. 3:

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

“notes that:

— in light of the tragic events in the Grenfell Tower fire London, all local authorities have been requested, as a matter of urgency, to review their multi-storey social housing units to ensure that all early warning systems, including alarm and detection systems, and means of escape including corridors, stairways and emergency exits, are fully functional and in place; and

— immediate action has been taken to alert the building industry, landlords and homeowners to remain vigilant in relation to fire and life safety in buildings for which they are responsible;

acknowledges the many incidences of building failures and non-compliance concerns that have come to light over the past decade, and the associated significant economic and personal consequences of such situations;

further notes that building defects are matters for resolution between the contracting parties involved, including the homeowner, the builder, the developer and/or their respective insurers, structural guarantee or warranty scheme;

recognises:

— the important role of the State in maintaining an effective regulatory framework for building standards and the extensive statutory powers of enforcement that local building control authorities have, pursuant to the Building Control Act 1990, both during construction and during the five years following completion of building works, where issues of non-compliance with building regulations arise; and

— the powers that local authorities have pursuant to the Fires Services Acts 1981 and 2003, which have been effectively invoked in recent years in a number of cases where concerns have arisen regarding fire safety in a building;

welcomes the responding initiatives that have been introduced as part of a broad-ranging building control reform agenda, which have brought a new order and discipline to bear on construction projects and have created a culture of compliance with building regulations,

including:

— the Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014) and accompanying Code of Practice for Inspecting and Certifying Buildings and Works, empowering competence and professionalism in the design, construction, inspection and certification of building works through statutory certificates;

— the new Building Control Management System, which facilitates the electronic administration of building control functions and provides a common platform for clear and consistent administration of building control matters, and which is subject to ongoing improvement to achieve further efficiencies;

— the new Framework for Building Control Authorities, which standardises work practices, systems, procedures and decision-making in relation to oversight of building control activity across the sector, to enhance consistency of approach nationally, and to move towards a risk-based approach to inspections by building control authorities;

— the development of training programmes for building control officers;

— the significant changes and clarification in legislation for construction products on foot of the European Union Construction Products Regulation (No. 305/2011); and

— recent developments in the construction insurance market, including the introduction of products which offer first-party insurance cover, for damage and non-damage related claims; and

requests that continuing priority is attached to the completion of further important steps as part of the building control reform agenda, particularly:

— building on the preparatory work undertaken as part of the local government reform programme, the creation of a centralised structure for the governance and oversight of the building control functions of local authorities, through a shared service in a lead local authority;

— the completion of an evaluation of the adequacy of building control resources at local level. A 12 month study of local building control activity commenced in quarter two of 2017 and it is anticipated that a sufficient level of data will be received to commence analysis in quarter four of 2017, this will inform the evaluation of the adequacy of resources;

— the drafting and enactment of legislation in relation to the registration of building contractors, following on from the recent publication of the General Scheme of the Building Control (Construction Industry Register Ireland) Bill 2017; and

— the ongoing review and updating of the building regulations in light of technical innovation and international best practice in the construction sector, in particular, a new volume of Technical Guidance Document B (TGD B) in respect of dwelling houses will come into effect on 1st July, 2017, and work is ongoing in relation to a second volume of TGD B in respect of buildings other than dwelling houses.”

I wish to thank the Deputies for the motion proposed this evening. It addresses an area of fundamental concern, one that has a direct impact on the daily life of every individual living in

the State.

I would like to place on the record of the House our sympathies to all of those who have been so tragically affected by the devastating fire which took place in Grenfell Tower in London last week. The fire has brought into sharp focus the paramount importance not just of appropriate fire safety measures but also the importance of appropriate and robust building standards.

As Minister with responsibility for both, one of my first priorities upon taking up my new role was to take immediate action to ensure life safety for all citizens living in flats and apartments here in Ireland. On Friday, I met with Dublin's chief fire officer to discuss fire safety and life safety issues in light of the London tragedy. I requested that the management board of the National Directorate for Fire and Emergency Management convene and assess the readiness of the fire authorities to respond to such emergencies. They have since reported back positively that we can have confidence regarding the capability of fire services to respond to emergencies in this State. I have requested that each local authority, as a matter of urgency, review its multi-storey social housing units to ensure that all early warning systems, including alarm and detection systems, and means of escape, including corridors, stairways and emergency exits, are fully functional and in place. I have also requested that the Residential Tenancies Board, RTB, issue a notification to remind all landlords of their responsibilities and obligations in this regard. Furthermore, I have been assured that the RTB is co-ordinating with local authority fire departments and the National Directorate for Fire and Emergency Management to provide detailed information directly and individually to all landlords in the coming days. The RTB has also placed notices to this effect on its website and in the press. In order to remind builders, assigned certifiers, designers and owners of their obligations in relation to compliance with the building regulations, I have requested that a notification be issued to all registered building control management system users. There are approximately 57,000 registered on that system. This process commenced late last week and has now been completed. I will continue to keep all of these matters under review as we move to a follow-up phase of work in the coming weeks.

While I am sure many of the Deputies in this House can agree with the sentiments of the motion proposed, it fails completely to recognise the significant progress which has been made over recent years in reforming the building control system. For this reason I have tabled a counter motion. It is one thing to say "do more" or "do differently" – that we can debate, but it is another thing to say that we have done nothing when that is not the case. This is an important debate but I would urge Deputies contributing to it to avoid certain rhetoric that flies in the face of the facts here in Ireland and I would remind them of their duty of care in this regard - not to unnecessarily spread fear where it may not be necessary to be fearful.

Unfortunately, we are all too well aware of the many incidences of building failures or severe non-compliance concerns that have come to light over the past decade. They exist in my own constituency, as I know they do in Deputy Martin's constituency. The economic and personal consequences of these situations have been very significant and they are deeply distressing for the individuals involved.

A reform programme has been advanced by my Department to strengthen the system by improving compliance with, and oversight of, the requirements of the building regulations. It was through the Building Control (Amendment) Regulations 2014, commonly known as BCARS, that key deficits in the regulatory regime were addressed. These regulations brought a new degree of competence and professionalism to construction projects and established a chain of responsibility that begins with the owner. Since 2014, the owner must assign competent

persons to design, build, inspect and certify building works that he or she has commissioned. They, in turn, must account for their contribution through the lodgement of compliance documentation, inspection plans and statutory certificates. The statutory certificate of compliance on completion signed by both a registered construction professional and the builder must be in place prior to occupation. Given the significant financial and professional implications attaching to signature of a statutory certificate of compliance on completion, there was considerable industry resistance to these reforms when they were first proposed but they were introduced and three years on, they have brought a new order to bear on construction projects.

I have often heard the current system of building control described as self-certification and I believe that this is a misnomer. Prior to the 2014 reforms a builder was required to obtain only an opinion of compliance with building regulations. However, the new regulations since 2014 now require the owner to assign a competent person to act as an assigned certifier in relation to individual projects. This person must develop an inspection plan and ensure physical inspections of the building works are carried out at key stages to satisfy themselves that the works are in compliance with the building regulations. The assigned certifier must be a registered construction professional, that is, an architect, a chartered engineer or a building surveyor. They must demonstrate the basis for the certification of compliance with the building regulations through the lodgement of compliance documentation, inspection plans and statutory certificates with the local building control authority, and this is done through the centralised building control management system. This is far more than obtaining an opinion of compliance, which was the previous practice.

The Government largely agrees with the sentiment of the motion tabled that proposes a national office to improve the effectiveness of the oversight and governance of the building control system. The national building control management system has been put in place to facilitate the electronic administration of building control functions and provides a common platform for clear and consistent administration of building control matters across the local authority sector. A BCMS module is currently being developed to collect data at commencement about construction works. This will position building control authorities to carry out the risk-based targeted inspections that the Deputy spoke of, delivering more efficient and effective use of available resources. In regard to the building control management project, a centralised structure for the governance and oversight of building control has been developed as a shared service and will be embedded in a lead local authority. A competitive process to select the lead authority for this is about to commence. This will facilitate increased risk-based inspection activity, improving consistency and promoting a culture of compliance in the building sector with a single unified national approach. This approach effectively draws on the wealth of experience that has been accumulated by local building control authorities achieving progress more rapidly than would be the case with the establishment of a whole new separate regulatory entity. We do not need a new quango to do this work; we can use shared IT services, the new building control management system and designate a lead local authority to achieve what the Deputy wants to achieve in her motion.

The Government also very much agrees with the sentiment of the motion tabled that proposes a national building regulation office to regulate those involved in construction. However, it must be recognised that the Building Control Act 2007 established a statutory system of registration for architects and surveyors and as recently as the end of last month, the Government approved the general scheme of the building control (construction industry register) Bill to establish a mandatory statutory register for builders and specialist subcontractors. This is

an essential consumer protection measure which will give consumers who engage a registered builder the assurance that they are dealing with a competent and compliant operator. It will also provide a forum for the investigation of complaints against registered members and the imposition of proportionate sanctions. Public tolerance for incompetent workmanship has been well and truly exhausted and the construction industry register will complement the reforms already in place and those that are planned.

Much improvement has taken place but there is no room for complacency. We need to ensure on an ongoing basis that the system provides the best possible protections for our people. The Japanese use a word “*kaizen*” which means continuous improvement. We must have this concept at the heart of what we do in terms of building standards. The performance of our buildings is contingent on a strong and evolving building code in support of quality, safe construction and sustainable development. There has been much debate in the media in regard to cladding in light of the tragic fire in London and the public have very justifiable concerns in this regard. Building regulations set out the requirements for fire safety and the use of proper products and materials, among other issues. While it has yet to be definitively confirmed what type of cladding was used in the renovation of Grenfell Tower, the United Kingdom Department of Communities and Local Government has confirmed that cladding using a composite aluminium panel with a polyethylene core would be non-compliant with current building regulations guidance as this material should not be used as cladding on buildings over 18 m in height. I can confirm that the same restrictions apply under Irish building regulations.

In the interests of supporting owners and residents living in developments where concerns regarding non-compliance with fire safety requirements arise, a review was undertaken by an independent fire safety expert to develop a framework for general application in such situations. The report is currently under consideration – it was received by my Department in May – and subject to clarification on a number of issues, it is intended that the arrangements necessary for publication will be made at the earliest opportunity.

In general, building defects are matters for resolution between the contracting parties involved: the homeowner, the builder, the developer and-or their respective insurers, structural guarantee or warranty scheme. In this regard, it is incumbent on the parties responsible for poor workmanship and-or the supply of defective materials to accept their responsibilities and take appropriate action to provide remedies for affected homeowners. It is not possible for the State to take on responsibility or liability for all legacy issues of defective building materials or workmanship. More than that though, it would not send the right message to the industry regarding their responsibility for compliance and it might lead to unnecessary risk taking given the financial liability for any failures would be borne by the taxpayer. Why remove this responsibility from builders and put it on taxpayers when builders have a responsibility and a liability which can be effectively policed and controlled?

The failures in construction of the past have arisen largely due to inadequate design, poor workmanship or the use of improper products or a combination of these factors. The significant reforms that I have described this evening are aimed squarely at addressing all three of these issues. While, as I indicated earlier, I can subscribe to the sentiments underlying the motion that has been tabled this evening by the Green Party, I believe that the Government’s counter-motion provides a fuller reflection of the reforms that have taken place, those that are in train, and the programme of actions initiated specifically in response to last weeks’ most tragic events in London.

21 June 2017

I therefore commend the Government's amending motion to the House.

**Deputy Jan O'Sullivan:** Can Deputies be given a copy of the Minister's speech?

**Acting Chairman (Deputy Declan Breathnach):** I am sure that can be arranged.

**Deputy Eoghan Murphy:** It should be on its way.

**Acting Chairman (Deputy Declan Breathnach):** I take the opportunity of congratulating the Minister on his appointment and also the Ministers of State, Deputies Phelan and English. I wish them well in their Department.

I call on the Fianna Fáil Deputies who are sharing their speaking time, Deputies Pat Casey, Fiona O'Loughlin and Barry Cowan.

**Deputy Pat Casey:** I thank the Chair. Should I move our amendment now?

**Acting Chairman (Deputy Declan Breathnach):** No, the Deputy may talk around it.

**Deputy Pat Casey:** I also send my congratulations to the Minister and the Minister of State across the Chamber.

I welcome this motion tonight as it is an area of housing policy on which I have been working on the Joint Committee on Housing, Planning and Local Government, and with my colleagues in Fianna Fáil over the last number of months. Before I came into the Chamber, I went on the websites for Cork City Council and Dublin City Council to see how much independent oversight is taking place on fire certification. One of the frequently asked questions on the Cork City Council website is, "Will Cork City Council inspect the development when it is completed?". The answer states: "The building control authority has the power to inspect and your building may be inspected for compliance with building regulation". On the Dublin City Council website, to the question, "Will Dublin City Council inspect and certify my building when it is finished?", the answer is "No. You should employ your fire safety consultant to oversee the fire-related issues of the works. When the works are finished, you should request the certificate of compliance from your consultant".

This is why we are here tonight. We have to move from the current system of what is still self-certification and move to a robust, independent and rigorous inspection system that is controlled by the State. That is why Fianna Fáil is in agreement with much of the reasoning behind this motion but we are placing an amendment which in my view places additional concrete measures - no pun intended - to ensuring an independent, robust and manageable building regulations system that homeowners and the State can have confidence in. If our motion is unsuccessful, I am pleased that we can support the original motion by the Green Party.

In the midst of the greatest housing and homelessness crisis in the history of the State we, as legislators, may be forgiven for concentrating solely on urgent measures to rapidly increase supply at all levels from social housing, affordable housing to private rental homes. However, it is essential that we learn the lessons from the previous housing bubble and the resulting financial crash. It is essential that we ensure that the increased supply of housing that is so badly needed and indeed the existing housing stock is of the highest possible standard. A house, at the end of the day, is a home for people that should be built to last. At the very least, every home in this Republic should be certified as safe for habitation. The tragedy in London just one week ago today is a too horrific reminder of the consequences of poor materials and insufficient

fire safety controls in buildings. I offer my deepest condolences to the families involved in the Grenfell Tower disaster. Our thoughts and prayers are with those in London still coming to terms with the enormous loss of life.

We also need to be clear about what exactly we are talking about so as not to be in anyway cynical about raising people's fears about building standards in Ireland for political motives. Everyone here tonight wants the best standards and is working towards that end. The standards that we in Ireland currently have in place for the construction of homes are high. Fire safety standards and building regulations are of a high quality and are on a par with best practice internationally and this has been confirmed by many experts in this area both at committee evidence and in external expertise that I have sought for policy development in this area. However, there is little point in having very high standards and comprehensive building regulations that can be pulled off a shelf every time there is an issue.

What is needed is a robust, independent and rigorous inspection system that is controlled by the State and that enforces the regulations with serious penalties for breaches. We all know about infamous developments such as Priory Hall where the standards and regulations did not matter because they were not enforced during construction. There was no independent oversight. That, combined with research that has identified that the fire inspection regime in place for the rental sector in Dublin City has an inspection rate of less than 10%, then one can clearly see the serious failings in the current inspection regime for that sector. I and my colleagues in Fianna Fáil will insist that we work purposefully towards an independent inspection regime of 100%. This will take a sea change in current thinking by this Fine Gael Government when it comes to the State's role in the housing sector and one that I genuinely hope will happen. I have been working with my Deputy Barry Cowen and my colleagues in Fianna Fáil in drafting legislation that will ensure an independent inspection regime that is fit for purpose and can be trusted. That is what is needed here.

We are also concerned about the lack of inspections in the private and public rental sector and through our vacant housing bill we will clamp down on abuses that are occurring. The current building control model, commonly known as the BCAR system, has fatal flaws. The current inspection model during construction involves an inspector known as an assigned certifier. This assigned certifier is a person that is employed by the builder or developer of the housing development. It does not take a brain surgeon or public policy expert to see the potential conflict of interest that exists between the assigned certifier and the fact that the person who is paying the assigned certifier is the developer of the development in question.

Another flaw is the prosecution of serious breaches in the inspection of building regulations. There must be severe and appropriate penalties on failures of inspectors. Currently under section 1.9, each professional body investigates complaints against their own members for example architects investigate architects, chartered surveyors investigate surveyors. This is self regulation and not appropriate in our view. The fact that no sanction has been brought against an architect or surveyor for the last six years is evidence of the failures inherent in the current BCAR regime. What is required here is obvious. Independent and professional distance between the inspection regime and the developer and builders who construct our homes. There are plenty of international examples of such systems and the model that we in Fianna Fáil will be proposing ticks all of those boxes. In our view, the most appropriate platform for delivering this independent building inspection regime is an approved certifier list which can be managed by the local authority that will provide the independent framework with Departmental guidance. It will be the local authority and the State who will provide the steel that is needed for a

robust inspection regime and it will be the State that will sanction and penalise any failings on behalf of the developer or the inspection system. A centralised national building authority, as proposed by the Green Party motion, while not intentional, will further contribute to the over-centralisation of public services and a further reduction in the role of local government in our view. Irish local authorities are the appropriate platform to deliver these services considering the role they already play in planning and housing, their management of the current BCAR process, their direct connection to the Department and their expertise. They also serve to deepen the institutional knowledge local government in Ireland needs to regain when it comes to delivery and management of quality housing for all our people.

Over time, as this new system beds in and develops, there is massive potential for the local authority, qualified inspectors, builders and developers to learn from one another and work in partnership to ensure that the homes built in Ireland are safe, built to an exceptionally high standard and can be trusted as having been independently verified as such. This new model of building regulations and controls will also serve to restore trust in the State's ability to oversee important areas of social policy on an ongoing basis. As legislators, that is what we are here for.

**Deputy Fiona O'Loughlin:** I take this opportunity to congratulate both Ministers on their appointments and wish them well. They have a huge task of work ahead of them and we look forward both to working with them and to holding them to account regarding the many challenges on the way.

The Minister said he wanted to avoid rhetoric and spreading fear in this debate. I accept the point he made. Priory Hall, Longboat Quay and Beacon Court are three schemes that have captured national attention over the past number of years. Thankfully, there has never been a fire in any of them. I wish to talk to the Ministers about a place where there was a fire. I refer to Newbridge, where six houses were absolutely gutted within 35 minutes. On 31 March 2015, just over two years ago, the six houses in Millfield Manor estate in Newbridge - six of a complex of 90 houses - burned to the ground after flames spread rapidly from a fire started in one of the houses. It transpired that there were no proper fire barriers between the houses. There were improper and badly constructed internal walls, and this terrace of two-storey - not multistorey - homes was ablaze within 20 minutes. The houses were gutted to the ground in 35 minutes. I have a photograph of the aftermath of the fire here. Thankfully, this happened during the day and there was only one resident present in the six houses. If it had occurred during the night, I think it would have been a very different state of affairs. Between 20 and 35 residents live in each of these blocks of six houses and it is almost certain that if this had occurred during the night, very sadly, people would have died. The present home owners live with that fear every single day. Six households fled for their lives with only the clothes on their backs. Not any other scrap of clothing, not a stick of furniture, not a family photograph, not a children's toy survived this inferno. All of the families' hopes and dreams went up in the flames, which I witnessed myself. Their lives - not only the lives of the six families, but also those of all the residents living in Millfield - changed forever. Every property owner in Millfield is an innocent party, having bought a property in good faith, relying on the provided certification and the processes they believed existed in the associated areas of planning and inspection.

Newbridge, in a sign of the wonderful community it is, responded in a hugely compassionate way that night and in the days and weeks that followed. Our local hotel, the Keadeen Hotel, immediately provided emergency accommodation for the families and the community immediately got together and responded by offering clothes, toiletries, finance and indeed comfort. Since then, on many occasions and at many meetings, I have sat with grown men who have

cried and women who held their children close and were afraid to bring them to their homes. These people are trapped in negative equity, do not feel safe or secure and are not able to sleep at night. This fire continues to cause grave concern and huge stress, and there are significant legacy issues for the remaining inhabitants, whose houses and apartments are now under serious question as to their safety compliance standards.

The various statutory bodies have offered no comfort or guidance to the remaining house owners, and they have many questions. Some of these questions are as follows. Is it safe to continue living in these houses or apartments? It is not. How is their insurance impacted by the perception that the structures were non-compliant with fire regulations? Many can no longer get insurance cover. What recourse do they have to the planning authorities? Of course, there is none. What responsibility does national government have? To date, no responsibility has been shown. What sanctions are open against the developer, who is now involved in NAMA and who just took shortcuts to make a quick buck, and the management company? There have been none. What can be done to restore equity to these houses that have become virtually unsellable since the fire? Of course, nothing has happened in that regard.

I do not think I have ever felt as frustrated or helpless as when I have had to tell my constituents living there that no financial or practical assistance is available for the installation of life-saving fire barriers. They have been told this work could cost approximately €35,000, which is simply unaffordable for them. They are struggling to meet their mortgages as it is. Those living there have been told no funding is available to bring their properties up to fire safety standards. They are unable to sell the properties or get home insurance as these are fire-risk houses. I appreciate that the Minister has only been in his position for a few days but the previous Minister, Deputy Coveney, has had a report about Millfield Manor sitting on his desk for 15 months. This report needs to be released and a surveyor appointed to quantify the works required on a sample block of six homes in Millfield Manor and the best way to proceed.

The residents of Millfield Manor have contacted me again in the past few days after the recent horrific and tragic fire in Grenfell Tower - in respect of which I offer my deepest sympathies to all involved - highlighting how unsafe they feel in their homes and their frustration with our failed building inspection systems. Building standards must be reformed. I commend Deputy Martin for tabling this motion as building control regulations are inadequate and protect neither home owners nor subsequent home purchasers against negligent developers. It is incredible that despite numerous high-profile building failures, there have been no sanctions against architects or surveyors for complaints in the past six years. It is clear that self-regulation of design and construction standards simply does not work and it is necessary for independent State authorities to check every new development to ensure it is compliant with building control regulations. Our party's amendment includes provision for this. We are all aware of the current housing shortage but in our rush to build new homes, safety must be paramount and grossly defective building standards must be a thing of the past. The fire in Millfield, Newbridge, has shown the consequences of failure to meet minimum compliance standards. The fear experienced by Millfield residents and homeowners daily is a legacy that cannot be ignored. We talk about safe and secure houses. We must make that happen. My party will table a different Bill to deal with the issue of non-compliance with fire safety and other building regulations.

I will leave my last words to the committee that has been formed regarding Millfield Manor: "This is a life-and-death issue within our community, and we have encountered serious obstacles in the last two years in remedying construction failures due to lack of clarity on standards and the cost associated with such works." I appeal to the Ministers to do something radical

about Millfield and to support the motion with our amendment.

**Deputy Barry Cowen:** I join other speakers in congratulating the Minister, Deputy Murphy, and the Minister of State, Deputy Phelan, on their appointments and wish them every success with those appointments. It is in the interest of all of us that they are successful and adhere to and listen to the suggestions from this side of the House and others about measures which can address the unfortunate crises and emergencies in the housing sector. I also commend Deputy Catherine Martin and her party for tabling this motion, which is very opportune, considering what has happened in London in recent weeks. The motion focuses our minds on how we adhere to our responsibilities to provide the best possible security and safety to those who reside in properties that obtain planning permission from local authorities and officers of the State. Our duty as a State must be to assume responsibility for ensuring planning authorities properly police and protect people's interests. Improvements were made in this regard by the previous Administration in respect of how that is done but they still contradict, for example, the manner in which the initial application is granted by virtue of the fact that the fire officer can grant permission based on the submission of the drawings and them being in compliance of the regulations. As previous speakers said, the responsibility then transfers to certifiers employed by the building trade when it comes to implementation of what the fire officer wants.

We heard from departmental officials at our earlier committee meeting about last year's decision of An Bord Pleanála regarding Airbnb and the obligation on the State to ensure that those who offer their properties for short-term lettings must seek a retention of planning permission to do so. When we asked how many instances have been acknowledged by the agents of the State, in this case local authorities, they replied, "None", despite the fact that circulars had issued to them to be vigilant about the manner in which they applied the law in respect of future permissions. However, there was nothing about responsibility in respect of existing permissions. There is a realisation on the part of departmental officials that they did not see fit to seek from the Minister and the Government adequate resources and personnel to ensure they could carry out the duties they must perform by virtue of another arm of the State having made this decision.

It is the same in this regard. If we want to be appropriate in the manner in which we adhere to this and our obligations, an independent authority such as assigned certifiers within local authorities should be adequately trained and resourced in order that they can carry out that duty. This could be done perhaps at a lower cost than by those employed by others. That is the road we should travel in this regard. I hope the Minister and the Government will acknowledge that. In the interests of safety, irrespective of the cost, they must adequately train and resource personnel to carry out this duty in the same professional manner as fire officers when they inspect the plans that are brought forward in the first instance. We have tabled an amendment to that effect in respect of how that should be done. We support the thrust of the Green Party's proposal in the absence of our amendment not being accepted by the House.

**Deputy Eoin Ó Broin:** I thank Deputy Catherine Martin and the Green Party, and the people who have been working with her behind the scenes, for giving us the opportunity to discuss an important policy issue. While much of our discussion is about the failures of the past, the context for these legislative proposals is the future. We are about to, hopefully, see the largest build and refurbishment programme in the public and private sectors in recent history. What better time to ensure the regulations put in place now in respect of building control, fire safety standards, etc., are of world-class standing as the building programme commences.

I would like to reflect on a number of local experiences because they will add to fully understanding the nature of the problems with the current system, including the post-2014 regime. These difficulties do not only relate to private builds; they relate to affordable housing schemes involving local authorities and private developers and local authority-owned social housing development and it is important not to lose sight of that. In my constituency, for example, one large local authority housing development built at the height of the boom was the subject of so many breaches of building regulations that one of the blocks that had been handed over to an approved housing body, AHB, had to be transferred back to the local authority within a short number of years because the cost of tackling the breaches was so great that the AHB could not cope with it. The residents in that large development, which was tenanted in 2007, still live with many of those regulatory failures. Even though it was built under the pre-2014 regulatory system, no remedy is available to those tenants who are today living with damp and other difficulties with their properties.

There was another good-quality affordable housing scheme in my constituency until one of the residents discovered that there were no fire stopping and fire safety measures in place. It took two years of hard campaigning to get the local authority and the builder, who was still trading, around a table to eventually come up with a remedy but that should never have taken so long. What if the developer had gone bust and there was no money or potential reputational damage to his or her business to resolve the problems?

As others have mentioned, management companies in large private sector developments are dealing with significant legacy issues and costs whether the units are owned or rented. Significant safety issues - although, thankfully, they are not fire safety issues - have yet to be resolved and it is unlikely they will be for some time to come. Even though the system of certification has changed, the remedies available to social and affordable or private housing tenants who find themselves living with construction defects have not been adequately addressed by the Government, which is all the more reason to support the motion.

I accept the fact that the Minister has outlined changes and that BCAR was introduced but his assertion that this is not self-regulation is unacceptable. It is simply a better form of self-regulation but there is potential for conflicts of interest because while the assigned certifiers have to protect their professional reputation, they are employed by the developer and, unfortunately, as we experienced at the height of the boom, that can lead to problems.

There are also issues relating to an inability to control costs whether it is a race to the bottom or significant additions to the cost of producing units, which would be better controlled in the system outlined by Deputies Cowen and Casey, which we are examining in the housing committee.

I am a strong advocate of resourcing local authorities properly but they experienced the greatest loss of public sector employees during the recession with a 23% reduction in staff. Even if the best regulatory regime in the world is in place, if they do not have the staff to carry out inspections, the regulations will never be enforced. We need greater support for local authorities in terms of resourcing.

One of the great merits of the Green Party motion is the proposal for a building authority whose function would be to assist co-ordination, improve standards, gather data and potentially be a location for information for people who discover defects in their properties for mediation or adjudication. That would be an eminently sensible addition to the important role of local

21 June 2017

authorities. It would not be a quango but it would be an important regulatory instrument. Even though the Minister will not support the proposal tonight, I urge him to reconsider that, particularly because it will be one of the recommendations in the Oireachtas committee report on the same issue. There was such a strong feeling among all committee members on this issue that we took a unanimous decision a number of months ago to hold a series of hearings and to invite industry, statutory and departmental representative as well as expert academic opinion and submissions from people affected by these issues. I am hopeful that we will produce a good, detailed report with further legislative recommendations. I hope the Minister will consider all of them. A building authority in addition to an adequate regime for dealing with defects will form part of that.

Sinn Féin has tabled a short, friendly amendment, which I understand the Green Party is willing to accept, in respect of the fire safety issues. Given what we have heard about Newbridge and my own experience, there is a need for an urgent review of the existing regulations to ensure that not only are they being adequately enforced but that they are up to scratch in light of the recent tragic events in London. One of the issues that has emerged from the interesting debate on the back of that tragedy is the increased use of combustible materials in construction generally, something which many of us not directly involved in the industry have been surprised to learn. The increased use of such materials is not in and of itself a fire risk but there clearly needs to be a review of these materials, as provided for in our amendment, to ascertain if our fire safety regulations and compliance regime should be strengthened to tackle the issue. The cladding used on Grenfell Tower was not lawful. Despite that fact, it was used, with the tragic effects we have seen.

With regard to the Fianna Fáil amendment, I want to acknowledge the work of Deputies Cowen and Casey in the discussions we have been having. In this debate there has been quite a lot of consensus. People do not want to play party politics with an issue of such importance because we want to try to improve the system of consensus and unanimity. While I will not support their amendment, it is only because I think there are parts of the Green Party motion which are stronger. Nonetheless, there is very little of what Deputies Cowen and Casey have outlined today that I would disagree with and I believe we can return to those issues in the committee report to the satisfaction of everybody.

While we are discussing all of these policy issues, we have to remember that in all of the developments we have discussed, whether we have named them or reserved the names, there are real families who are living either in substandard accommodation or in fear that the accommodation they are living in may be substandard. There are also a huge number of developments where residents are not even aware they are not compliant with building or fire safety regulations. I go back to the example I used from my own constituency. The only reason the firestopping was discovered to be non-existent was that the homeowner decided to do renovations on a property that was sold to them with a local authority grant as part of an affordable housing scheme. Again, to re-emphasise the point, not only did they discover that, but it took two years for the local authority in question and the developer to step up to the plate. Even if we think BCAR are great and do not need to be improved, there are many other issues in terms of enforcement and compliance that do need to be urgently looked at, which is why Sinn Féin is more than happy to support the motion.

What I would urge the Minister and his new team to do is, in addition to today's debate, to sit down and work with us when our committee comes forward with recommendations, both in terms of their own party members on the committee and in their own engagement with us.

If we make a proposal that at first sight does not seem to conform with their view of how we should proceed, they should engage with us, listen to us and deliberate with us so we can come out at the end of this process, starting with this motion today and the committee report in a few weeks' time, and improve the system to the very best standard possible. This would mean that those people currently living in defective buildings can get some remedy and we would not be here in five or ten years' time, after we have seen a significant increase in new builds and refurbishments of public and private housing, with either the existing types of defects coming back to haunt us or new problems. I believe this could be a real turning point and a real example of this House working collectively, Opposition and Government together, but that requires all of us to sit down and work on a collegiate basis. If we do that, I think we can put together a building control compliance and consumer protection system that is better than anywhere else in the world, one we will be proud to put our names to.

**Deputy Jan O'Sullivan:** I too wish the Minister and the Minister of State well in their new roles. I congratulate Deputy Catherine Martin and the Green Party for proposing this motion, which we will support, as we will support the amendment in the name of Deputy Ó Broin and his colleagues.

I want to join with those who have spoken about the awful occurrence at Grenfell Tower in London. I want to convey our condolences to the families of those who have perished and those suffering from the effects of that awful fire. It is a stark reminder of how lives can be lost when standards are ignored.

I agree with Deputy Ó Broin that this is a very opportune time to introduce an independent inspectorate in order to make buildings safe. We need construction to ramp up. We clearly have a shortage of houses and apartments and we hope, and are working to ensure, there is an increase in construction in the immediate future. In that context, we need to be absolutely certain we have the highest standards and that they are implemented. It is all very well to have standards but we have to ensure there is a body that will make sure they are implemented. That is why I believe we need to establish an independent inspectorate, and we support the Green Party in that regard. That inspectorate could be along the lines of the EPA, for example, or of the Food Safety Authority of Ireland. Such a body would have the power and remit to go in and examine homes under construction at various stages from foundation to finish. This is particularly urgent with regard to apartments where there are multiple occupiers. The "knock them down and fix them later" legacy of the Celtic tiger boom must never be allowed to happen again. I believe we should also have a register of inspections carried out that is available for public examination so there is an understanding and confidence that shoddy workmanship will not go unnoticed. I agree with Deputy Catherine Martin that this has to be adequately resourced.

Sadly, none of this will help the unfortunate householders who are faced with bills of between €15,000 and €38,000 in at least one development in the Dublin area, as we were told in the briefing today, and we know there are many more. They need a resolution process as proposed by the Green Party motion, another aspect of the motion which we will support. I agree with the suggestion that directors of companies that built substandard homes should be prohibited from being directors of any other company in the building sector for a significant time. We need to have some safeguard whereby, if people build something defective that is dangerous, they cannot set up another company, become directors and start all over again. We clearly need to do something about that and I would support that element also.

I was in the role of Minister of State in the Department of the Environment, Community and

21 June 2017

Local Government, as it then was, at a time when many of these issues were coming to light. One of the first meetings I had was with the residents of Priory Hall. The pyrite panel was also established at that time. In fairness to my senior Minister of the time, he did reform the building control regulations. That was hugely resisted by the very developers who had built substandard properties during the boom, when regulation was pretty invisible or just did not exist. At least there was that improvement. Unfortunately, however, there has been very little building since then, which is why I believe now is the opportune time for the establishment of an inspectorate, or whatever name it is given. Effectively, it would be there to ensure there is a random inspection programme and that builders would genuinely recognise that if they were doing something that was substandard, measures would be taken and there would be the possibility of a full inspection that would be publicly available for people to see. I believe that is the right thing to do. I welcome the fact the committee, of which I am not a member, is also working on this. I believe we should ensure we introduce these measures.

I want to quote one of the people who sent me an email, and I am sure many of us in the House received emails from residents who are trying to deal with this and who do not have the money themselves, which is why it is so important we look at the legacy issues as well as setting important standards for the future. One of the emails I received states: “For owners of apartments that are barely ten years old, it is unfair to be saddled with the financial burden that comes from the greed and carelessness of developers and contractors who benefited from the construction boom”. That is just one quote but I had the opportunity to speak to other people who were also affected. They are people who genuinely have large mortgages and who simply cannot afford to do this work themselves. We need to find a resolution process for them as well.

I want to ask the Minister about an issue raised in the media. It is suggested the Construction Industry Federation has stated it is drafting upcoming legislation in the area itself. That is just not on. While I understand there has been some clarification from the Department or the Government, we cannot have the Construction Industry Federation deciding how to regulate itself. We need completely independent regulation. If there is any question about this, we absolutely need to have it clarified.

I want to also raise the issue of the fire safety review, which was referred to in the Minister’s speech. While I am not sure if that is the same review Deputy Fiona O’Loughlin referred to, I understand there was a fire safety review commissioned in September 2015 and that it has been completed for some time. The Minister said that what I assume is the same report is currently under consideration. It was received by the Department and, subject to clarification on a number of issues, it is intended the arrangements necessary for publication will be made at the earliest opportunity. I urge that it be published. I understand it has been with the Department for some time. Clearly there are people who have a real fear following the awful tragedy in London as they just do not know whether their own building is safe. I know the Minister has said he has asked all of the local authorities to go back, look and find out. I have spoken to councillors in my local authority and asked them to please follow it up with the council. All representatives need to do this. We have to ensure these fears are allayed and I urge that the report be published.

**Deputy Richard Boyd Barrett:** The horror in Grenfell was murder by negligence. In November, the residents in the Grenfell Action Group wrote, “It is a truly terrifying thought, but the Grenfell Action Group firmly believe that only a catastrophic event will expose the ineptitude and incompetence of our landlord”. That was prophetic. For two years they had been warning about fire safety and other issues. Critically, as a fire consultant explained to me today, it was not just the combustible nature of the material, it was the fact that the gap between the

building and the material created a flue which allowed the fire to bypass the separation and fire resistance required between units.

The question we have to ask, apart from the criminal negligence that needs to be accounted for in Britain, is whether it can happen here. Last week, I raised it with the Taoiseach and I met him again today. Kevin Hollingsworth has confirmed that the answer to the question is that it can happen here. The deficiencies in our regulations themselves, and not just in enforcement or compliance, allow for this to happen. There is supposed to be 60 minutes fire resistance between units. The Government has known since the 1980s that the fire regulations do not provide that. I watched a film today where officials who are still in the Department with responsibility for the environment, watched tests showing this and were asked to change the regulations to ensure separation, from the roof to the separating walls. There are problems particularly in roofs but there are problems in sockets and other areas, which mean we do not have the 60 minutes. The fire in Newbridge that was mentioned earlier proves this. There were eight units, which means that a fire starting in one unit should take 420 minutes to spread to the last unit. It took 26 minutes. Those houses were signed off and certified as compliant.

There is a problem with the standards. Last year, the Minister asked fire consultants to make submissions, which they did. The fire consultant I spoke to met the then Minister, Deputy Coveney. The new version of the building regulations was agreed. Today, I was told that earlier this year they totally ignored the consultant's proposals for changes. Then we have the fiasco of self-certification off plans with no inspection of buildings. I could go on but I do not have time. This is absolutely scandalous. We are guilty up to our necks of refusing to listen for more than 20 years to experts who have told us the standards themselves, never mind the enforcement and compliance, are completely deficient, completely substantiate, and as recently as this year we ignored the advice of the experts in this area and signed off on new regulations. It is an absolute scandal.

**Deputy Ruth Coppinger:** This motion is given added poignancy by the disaster in Grenfell in London, and I extend my sympathies to all affected. What it showed was class, race and, as has been said, corporate manslaughter, and one of the issues is the outsourcing of public housing to private companies, a process which is happening here. The Dáil and the housing committee in particular should get a report and an update from the Minister. We heard some bullet points tonight but we need to interrogate this. Tens of thousands of people in the country are affected by the poor building regulations and the self-regulating that developers have been allowed to do. This stems from the close connections of these developers, in particular to the two big parties historically. It has led to the likes of what we have heard about today, with hundreds of residents in Beacon South Quarter in Sandyford picking up the tab of between €15,000 and €30,000 per apartment to address deficiencies in fire safety, water, ingress and structure. The fact developers are allowed to become insolvent and then re-trade, move along their merry way and set up somewhere else is completely unacceptable.

The motion references pyrite as a sole example of where remedy has been brought to bear. This was down to years of campaigning, since 2009 and even earlier, by residents and some public representatives. There are still thousands of residents who have an element of pyrite who are stuck in limbo and who only have stage 1, which may never progress and probably will not progress, but they cannot sell their houses. People heard one resident on "Morning Ireland" on Monday, a resident of my estate where hundreds of houses, including my own, suffer from pyrite but the developer, Shannon Homes, still operates. Nothing can be done.

21 June 2017

I am not as benign about the Fianna Fáil amendment as Deputy Ó Broin, because the amendment removes the section which calls for a building authority, which is the key point, I would have thought, of the motion. If Fianna Fáil is not in favour of having supervision of the construction sector through a building authority, how is it in favour of it? It should be called to account for this because I heard the same guff about it being a terrible disincentive to getting the construction sector back on track if we start adding all these extra demands on them. Where did we hear this before? We heard it from Boris Johnson and David Cameron in the years preceding the likes of Grenfell when red tape had to be removed to help business carry on its merry way.

NAMA was involved with Beacon South Quarter and funded the completion of many of those apartments in Sandyford. Apparently the works were signed off by NAMA. Does the Minister of State not think the State has a liability here? I agree it should not be the State that steps in on these legacy issues, but a levy should be imposed on the construction sector to fund them. This is meant to be done for pyrite and should be done in this regard. NAMA has to be asked to account for why it was happy to sell them off and not do those proper checks.

**Acting Chairman (Deputy Declan Breathnach):** I now call Deputies Thomas Pringle, Tommy Broughan and Clare Daly, who are sharing five and a half minutes.

**Deputy Thomas Pringle:** No, we are sharing seven and a half minutes.

**Acting Chairman (Deputy Declan Breathnach):** Deputy Michael Fitzmaurice has two minutes.

**Deputy Clare Daly:** No, he is not with our group.

**Acting Chairman (Deputy Declan Breathnach):** He is on the list. If there are only three Deputies speaking they are sharing seven and a half minutes.

**Deputy Thomas Pringle:** What?

**Acting Chairman (Deputy Declan Breathnach):** Deputies Pringle, Broughan, Clare Daly and Fitzmaurice are listed as sharing time, with seven and a half minutes between whoever of them will contribute. I call Deputy Pringle, who is first on the list.

**Deputy Thomas Pringle:** We were not aware of this.

**Deputy Clare Daly:** I think the Acting Chairman has made a mistake. Deputy Fitzmaurice is with the Rural Independent Group.

**Acting Chairman (Deputy Declan Breathnach):** I clearly indicated it was five and half minutes between the three Deputies and Deputy Michael Fitzmaurice has two minutes after that. We will check it. I ask Deputy Pringle to go ahead.

**Deputy Thomas Pringle:** I ask the Acting Chairman to check it now because I will lose time.

**Deputy Clare Daly:** We cannot start without knowing.

*8 o'clock* **Acting Chairman (Deputy Declan Breathnach):** We are in the process of checking it. I ask Deputy Pringle to go ahead and start speaking and we will deal with it as we go along.

**Deputy Clare Daly:** Deputy Fitzmaurice has confirmed that it is not our group.

**Acting Chairman (Deputy Declan Breathnach):** Give me a chance to check it. I am going by the indication on the screen.

**Deputy Clare Daly:** We cannot start until we know what time we have between us.

**Acting Chairman (Deputy Declan Breathnach):** I am saying the three Deputies have five and a half minutes. I ask the Deputy to commence as the clock is ticking.

**Deputy Clare Daly:** It is eight and a half minutes.

**Deputy Richard Boyd Barrett:** That is not fair.

**Acting Chairman (Deputy Declan Breathnach):** You can argue all you like but the clock is ticking down and you are wasting the time of other speakers. I ask Deputy Pringle to commence.

**Deputy Thomas Pringle:** With respect, we are not wasting the time of other speakers. We are trying to ensure that we get the time that has been allocated to our group under Standing Orders.

**Acting Chairman (Deputy Declan Breathnach):** I am operating by what was given to me by the office-----

**Deputy Clare Daly:** We have no problem facilitating Deputy Fitzmaurice. We always facilitate him.

**Deputy Richard Boyd Barrett:** Chairman, you should really stop the clock. It is not fair on the speaker.

**Acting Chairman (Deputy Declan Breathnach):** There are at least another eight speakers after this group. Time will run out if Deputy Pringle does not start. We will try to clarify it as you are speaking.

**Deputy Clare Daly:** Chairman, it is wrong to run the clock. Can you not just stop it?

**Deputy Thomas Pringle:** How can you clarify it as I am speaking? If I take a third of five and a half minutes I will have to sit down and I will not be able to come back in again.

**Acting Chairman (Deputy Declan Breathnach):** I am operating under Standing Orders.

**Deputy Michael Healy-Rae:** Will somebody stop the clock and put it back?

**Acting Chairman (Deputy Declan Breathnach):** You can argue against the clock all you like, but there is a time limit on this. It has to finish in an hour and 50 minutes, with the Minister to respond. There are 41 minutes left and there are at least another eight speakers. Deputy Pringle, you are only taking other Members' time. I ask you to start.

**Deputy Barry Cowen:** It is the longest day of the year.

**Deputy Thomas Pringle:** I am not taking other Members' time. The time is allocated to us under Standing Orders. However, I will cut my contribution short to facilitate other Members.

21 June 2017

First, I congratulate the Minister of State, Deputy Phelan, on his appointment. The motion is not his direct responsibility but local authorities should have a far greater role in building control and regulation in the State.

**Acting Chairman (Deputy Declan Breathnach):** To clarify, there are four speakers with seven and a half minutes, including Deputy Fitzmaurice. It is up to the Members.

**Deputy Thomas Pringle:** Perhaps the Chairman can calculate it and advise us when it takes place. However, it is something that will have to be taken up with the Business Committee because our group was not aware of it. We have no objection to sharing with Deputy Fitzmaurice when it is required, but it is something that must be addressed.

This motion from the Green Party is timely and worthwhile and I support it fully. We have seen the tragic events in London. Hopefully, through the grace of God, there will not be a similar event in this country. However, I wish to use my time to discuss the expert group report on the defective blocks that were used in Donegal. An estimated 5,000 homes have been identified as having serious problems due to the mica content in the blocks. The houses are crumbling before people's eyes. The Minister is probably aware of that. The expert group report has been released and the Mica Action Group is very disappointed with it, because it does not make any definite recommendations in terms of redress or remediation for those homeowners. The Government and the Oireachtas have a responsibility to deal with this and to assist home owners in correcting the problem, even though it will cost a substantial amount of money.

We have failed to regulate the construction industry. We do not insist that product standards are implemented and we do not check or enforce them. We do not require manufacturers to have product liability insurance which would provide the comfort to homeowners that they could have redress if there is a problem with their building at some stage in the future. We must address that. The motion recommends that local authorities be given extra staff to carry out on-the-spot inspections of houses as they are being constructed. That would be a self-financing and worthwhile step. The self-regulation clearly does not work and it will not work in the future.

The Government's proposed amendment includes an interesting line in which it "requests that continuing priority is attached to the completion of further important steps". Who is it requesting to continue the priority? Surely it is the Government's responsibility to prioritise it and to fulfil that request.

**Deputy Thomas P. Broughan:** I broadly welcome the motion. I was probably the first political representative to raise the pyrite scandal in the House when it became apparent in summer 2007. Ironically, it was the former leader of the Green Party, Mr. John Gormley, who filibustered me for almost three years before any action was taken on pyrite. I was also involved in highlighting what happened in Priory Hall and in some other important developments in my constituency.

I wish to mention briefly Lynam's Hotel in O'Connell Street which is currently being modified to become a family hub to house homeless families. A constituent contacted my office yesterday in great distress. She along with her two young boys were placed in Lynam's Hotel late on Monday night. They arrived to find the place without running water or electricity in the room. She felt very unsafe. Lynam's Hotel is being offered as a late night solution when no other family accommodation can be found, instead of sending families to Garda stations as happened recently. However, Lynam's Hotel is still a building site. Anthony Flynn of Inner

City Helping Homeless, a housing charity, went to the property yesterday with Dublin Fire Brigade and I understand that a full inspection was to be carried out today. There is a photograph on social media of a fire escape chained shut and I understand that members of the fire brigade declared the building a fire hazard last night.

I also understand young students and a family, including four children, were today evacuated from 24 Mountjoy Square due to safety issues. A fire safety notice was issued for this property in August 2016.

Can the Minister outline what other occupied properties around Dublin have fire safety notices, indicating the address and date of issue of the fire safety notice for each property? How can tenants be left in a property which has had a fire safety notice for almost a year? I ask the Minister, Deputy Eoghan Murphy, to act urgently on this.

**Deputy Clare Daly:** I will take one minute and give the rest of the time to Deputy Fitzmaurice.

**Acting Chairman (Deputy Declan Breathnach):** There is no need. It has been resolved.

**Deputy Clare Daly:** The Minister said that the problems in construction were largely due to inadequate design, poor workmanship and improper materials. That is not quite true. That was part of the problem but it was mainly the quest for super profits by cutting corners, which was facilitated by the State's failure to have a proper system to ensure that standards were enforced and that regulation was put in place. In that sense, the State is responsible and must take a lead in this.

I will deal briefly with the legacy issues. People have catastrophic problems in the homes they purchased at the height of the boom. They are now being told that they must carry the cost of remediation. That is unacceptable. I echo the points made with regard to the report of the review that is held by the Department. It was commissioned in 2015 after the fire in Newbridge. I have tried to get the report through freedom of information requests and questions to the Minister. That information must be published. It is in the public's interest to do so. There must be transparency around this. It is quite urgent, because it is not just Newbridge or Blanchardstown. There was a scheme in my constituency as well in which untold damage was done in 20 minutes. The reason for that and for there being no fatalities is, as Deputy O'Loughlin pointed out, that it happened during the day and people were not at home.

We must ensure the system of self-certification is abolished and replaced with a detailed procedure of independent inspections to ensure compliance with building regulations. We do not have that now. All the bluster from the former Deputy, Phil Hogan, did not deliver that scheme. There must be a proper independent authority. In that sense, I welcome the motion. It is incredibly timely on the part of the Green Party. It is good that it is before us. Not only did local authorities in some areas not have the power but they did not even exercise the power they had, in some instances cynically allowing the Statute of Limitations to run out to leave residents in a situation where they could do nothing. They then said they sent a letter to the management company, told the company that there were a few problems and a few fire safety defects and it was up to them now; that the local authority's job was done. That is not good enough. These legacy issues must be addressed and the State must facilitate that. We must take a lead on it.

**Acting Chairman (Deputy Declan Breathnach):** I thank Deputy Clare Daly for her cooperation. The Rural Independent Group speakers, Deputy Mattie McGrath, Michael Healy-

Rae and Michael Fitzmaurice, have seven and a half minutes.

**Deputy Mattie McGrath:** I thank Deputy Harty for giving his time to Deputy Fitzmaurice. Whatever the mix up was, it was not on our side. However, these things happen. He is welcome. Unlike the two bigger parties who wish to stop us talking, we will look after each other.

**Deputy Barry Cowen:** We will not be stopping the Deputy.

**Deputy Mattie McGrath:** I cannot hear myself with these Deputies talking. They complain that they do not have enough time but then they waste it heckling. I compliment the motion and the Green Party, particularly Deputy Catherine Martin, on tabling it.

One of the main features of the problem is the terms of the existing regulatory framework. I refer to the dangerous imbalance that may exist between the right of a family or an individual to a safe and protected home and the interests of those who may have developed the property without the necessary due diligence to serve that right. We had a boom and a bust and we now have very bad houses. Unfortunately, the tragedy in England brings it home to us. There are too many regulations affecting ordinary people trying to build a house on their own. They are going to build their house to proper standards anyway and have the work properly supervised because they are spending their own money. The problem is with the quick fix, the quick buck. The county councils have to take their share of responsibility. There are housing estates in Tipperary that are disastrous. They were not and are not subject to enforcement policies.

I compliment Deputy John Paul Phelan on his appointment to his new role as Minister of State. I am sure Kilkenny will be in safe hands now and Waterford will not be able to take any bit of it away from it. I look forward to the Minister of State reinvigorating local government after his big colleague, the big bully, former Minister Big Phil, destroyed local democracy.

I wish to put a question or challenge to the Minister of State and the Minister. I am informed that Dublin Fire Brigade, and all the fire brigades, have a maximum height capacity of 37 m. We are talking about building high-rise buildings up to 60 and 70 m. We have such buildings. This is an accident waiting to happen. This is a very serious point put to me by fire brigade personnel. I ask the Minister to check this out and ensure that we have equipment to reach all parts of buildings in Dublin safely. I do not want to be scaremongering but I am interested in protecting life.

I compliment Deputy Catherine Martin. It is not that the county councils are building houses. Mine did not build any last year or the year before. What are they doing? Why are they carrying out these inspections? I ask the Minister and Minister of State, just as I asked their predecessor, the Minister, Deputy Simon Coveney, to call in the county managers and make them account for their actions. They are well enough paid to do the job and they are not serving the public.

**Acting Chairman (Deputy Declan Breathnach):** I do not think Deputy Mattie McGrath should call anybody a bully. I ask him to withdraw the remark. I call Deputy Michael Healy-Rae.

**Deputy Mattie McGrath:** He is the biggest bully who was ever in this House. We all know that.

**Deputy Michael Healy-Rae:** I compliment the Minister and the Minister of State and wish

them every success on their appointments. I really mean that because I believe everybody deserves to be wished well on a new appointment. I wish them all the good luck in the world.

I thank the Green Party for bringing this very timely and important Private Members' motion before the Dáil. The sad events in England and the massive loss of life there, which we must acknowledge here this evening, are a wake-up call for all of us, including local authorities and the Department, indicating that we must do everything to ensure people are living in homes that are safe and comply with the regulations. I compliment the fire service, including those who work in it and manage it, be it in the local authorities or otherwise. I thank and compliment the fire service in Kerry County Council. Its members do excellent work, protecting people in their homes and tackling forest fires. At all hours of the day and night, they are out fighting fires or attending road accidents. They are on call. It is nice to acknowledge the work of such people, who are very much working voluntarily because they have only their costs covered. I thank them very much for that.

In Ireland today, there are thousands upon thousands of young couples and families who bought property at the height of the boom. Tragically, these houses are not up to standard. The buyers are paying massive mortgages and they are stuck with the banks. Everybody got a bail-out except these young couples. The people who owed hundreds of millions got off scot free but those who borrowed €200,000, €300,000 or €400,000 to buy a house are now left high and dry. We should really consider them and do everything we can to help them. I thank the Green Party for airing this issue tonight. It is a credit to both its Members.

**Deputy Michael Fitzmaurice:** I am thankful for the opportunity to speak on this issue. I welcome the debate tonight. I wish the Minister and Minister of State good luck. They have a tough job in hand in their Department.

In Dublin especially, there was a major problem over the years with pyrite. Certain quarries on the outskirts of the city posed a problem. Some of the problems have been rectified but a test needs to be done on all new quarries that are open to make sure the material is suitable. Many families who bought houses got into serious trouble over pyrite.

A certain amount of regulation is required, and no one denies that, but there are simple steps that can be taken for anyone who comes from the building side of things. Bringing blockwork up to the hip of the roof of a building with 40 apartments would prevent a lot of problems. There are simple procedures.

People in Dublin are talking about the price of property but if there are people with 40 letters after their names dreaming up ideas, the price of houses will be put totally out of the reach of people. One must watch what one does with regulations, therefore. There is a certain amount of regulation needed, and no one denies that.

Everyone sympathises with what happened in England. There are, however, simple things that can be done by anyone in the building sector to stop fire flying from one apartment to another. They need to be done. Timber is being used to construct walls, such that one can hear what a person is saying next door, and that will not work if we want to prevent fires from spreading. It is as simple as that. There is a 20-minute delay with regard to many of the fire boards and it should be ensured that there is testing.

Governments need to wake up to the fact that many of the small quarries are being put out of business. The pre-1963 measure of recent years was a hoax. We are looking at monopolies in

quarries. Whether we like it or not, we need quarries. There could be pyrite in one quarry but we need to open quarries around the country. We have the so-called environmentalists objecting to that also, but we need to make sure this is sorted once and for all. We heard earlier that this has been a problem since the 1960s. No Government is going to click its fingers and solve this overnight. It will take a lot of money and time, and we need to start somewhere. We will need a big budget to do it. If one is building a house for oneself, one does it to the best of one's ability. I do not want to see geniuses coming from every council around the country when people are building one-off houses telling them what they have to and must not do, as was the case over the past year. If one is building one's own houses, one builds it to the best specifications.

**Acting Chairman (Deputy Declan Breathnach):** I thank Deputy Harty for ceding time. I call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** I wish the Minister and Minister of State well. Both have very important portfolios. We look forward to holding them to account in their jobs.

The most important thing, a first principle, is that one should be safe in the house in which one lives, be it an apartment in a 25-storey block or a single-story building. That is what the objective should be. We saw this very badly violated last week in London. In Millfield Manor in Newbridge, the speed at which the fire travelled through the block of houses shows it is not just at height that there can be a problem. It is absolutely unacceptable that, 15 months after the event, the report is not published. It must be published immediately. The Department has initiated some work on determining the extent of the problem and considering other areas. It will be really important to see that.

I compliment the Green Party on tabling this very timely motion. I was elected to a county council in 1991. Essentially, the nuts and bolts of what we did involved picking up the pieces after the last crash. Some of us are actually quite experienced in picking up the pieces after building downturns or crashes. The motion is quite correct in stating residents themselves are affected, be they occupiers or home owners. The public purse is also affected. If one really wants to take shortcuts, one will do it where they cannot be seen. One will do it in the laying of sewers or by putting water mains too near the surface, or by having soak holes instead of proper drains. I have seen these things routinely. They have to be remediated by the local authority when, invariably, the bad builder goes out of business or is not seen. It really shows up at the point where estates are taken in charge. It is not unfair to say that those who are lucky enough to be able to buy a house, which involves the biggest investment they will have to make in their lives, have more consumer protection for the table and chairs they buy than for the house they buy. That is not right. We saw that in sharp focus when the likes of HomeBond could not be seen for dust when the pyrite issue erupted.

We need a properly regulated building industry. It is not just about putting good standards in place. They must be enforced. What we need to do is reward good behaviour but also punish bad behaviour. Essentially, there needs to be a mechanism by which to do that. I believe there is a mindset that this is about property that is regulated, given to somebody else to self-certify and one then hopes that everything will be all right. I believe it is down to the Government to promote the standards. The standards must be capable of being rigorously enforced. Otherwise, we will be picking up the pieces into the future. While there are costs up front, those costs are saved in the longer term by getting quality building in place.

Our planning system is really more about planning control. What I mean by that is that we

have local area plans and there is a public process. However, they are largely physical plans. They identify things that need to happen and identify standards. It is then down to the individual builder. There is the good, the bad and the indifferent in that group. I have seen absolutely all of those.

An Bord Pleanála permissions would be complicated by the legislation that was passed before Christmas. The local authorities would then be trying to interpret some of the conditions attached to the decisions that are made. Local authorities already have estates of more than 100 houses. They already have difficulty interpreting some of the conditions that An Bord Pleanála attaches. That is something that needs some attention in its own right.

We should not mind taking good ideas from elsewhere. I particularly feel that the building work contractor's licence in Australia is a really good idea. The builder must have a licence to take on any project worth more than \$12,000. If the builder loses that licence, he or she cannot build. The really bad people are weeded out by doing something like that. There must be a contract in place. There are statutory warranties in place. It also puts the consumer as king in terms of the person who is going to buy a house as well as in the case of it being built for a local authority or a housing association. It puts the obligation on those who build the houses. That is something that is well worthwhile looking at. It is already in place in Australia and it works very well there.

One of the points made in the motion was about the Construction Industry Federation possibly drafting legislation. If anybody has an idea that that would be a good thing, please get rid of it. We need a tension between the construction sector and the people who regulate it. We have seen where soft regulation does not work elsewhere and it certainly does not work in this sector.

With regard to pyrite, when HomeBond was sought out to be used as redress, it was not available. I am thinking of the late Shane McEntee at this stage. He really made a difference by getting that panel in place. A number of us had ongoing engagements with him because we saw some of the problems with pyrite. Where the remediation scheme has been put in place, there are still people very badly affected in that they cannot sell the property on, though they may be living in inappropriate accommodation that is too small, because they have not got to a degree at which the pyrite is bad enough, but it is still evident. There is more to be done there.

I published a piece of legislation in the last Dáil. One of the things I looked for was a national planning compliance register. The reason I looked for that was because there could be a really bad developer in one part of the country who people found out about and would not buy a house from. Then, the developer would move to another place where he or she was not known. That information would not travel with the developer to the new local authority. Each local authority is working in its own silo. We have to stop that. A compliance register could list people who have enforcement audits out against them or who have been through the courts due to a deficiency. That kind of thing needs to happen. At the moment, it does not work. We saw a celebrated case - to use the word "celebrated" inappropriately - in which there was a very high-profile person who was able to go on and do very serious damage elsewhere. The public purse picked up heavily for it. There was also stress involved for the people who were living in the large complex he subsequently built.

The motion is quite right that it is very timely that we should look at this sector now. We are starting to rebuild. Let us not make the same mistakes that were made in the past. The sector must be properly regulated. Proper regulation does cost money to enforce. When we start to

look at the cost of things going wrong for both individuals and collectively for the public purse, we will find that those costs will be well absorbed in the upfront costs that it takes to make sure that we get good standards and that we weed out the people who are taking liberties with the standards that are set. The standards need to be beefed up. However, where they are in place, and in some cases, where there are good standards, they are of no value unless they are properly enforced. With that aspect of it, there must be a survey of the local authorities to investigate their capacity to carry out enforcement, because sometimes the follow-up really lets the system down.

**Acting Chairman (Deputy Declan Breathnach):** I have to bring this debate to a conclusion in 15 minutes. I ask the Minister of State, Deputy John Paul Phelan, to try to limit his contribution to about seven minutes, with Deputy Martin taking a further seven minutes.

**Minister of State at the Department of Housing, Planning, Community and Local Government (Deputy John Paul Phelan):** I thank Members for their kind remarks. It has been a busy 24 hours for me and, I am sure, a busy week for the Minister, Deputy Murphy. For a start, with regard to the issue of the Construction Industry Federation developing legislation, there was a story published online last week but it was corrected later by that particular outlet. There is not legislation. Ultimately, it is the responsibility of the Oireachtas to debate and discuss any legislation anyway. As I understand it, that story was corrected later on.

With regard to other matters that were raised by different speakers in the debate tonight, I will turn to a few of them if I can. I thank Deputy Martin and the Green Party for raising the issue and the Social Democrats as well. It is very topical at the moment because of the devastating fire in Grenfell Tower in London, which is a stark reminder to all of us that we need to maintain a strong focus on compliance with building regulations, particularly the part B fire safety element of those regulations.

I will respond to a couple of issues raised by Deputies individually. The previous speaker, Deputy Murphy, spoke about taking in charge of estates. It is an area that will now come under my remit. There has been pretty significant improvement and an increase in the resources that have been given to local authorities across the country. However, there is still a backlog in some local authority areas, particularly in taking in charge. However, the delays have been reduced from what they were before. It is something that I will be arguing with other ministerial colleagues in order to ensure it continues to go in the right direction.

Deputy Mattie McGrath in a two-minute contribution managed to say that he wanted more regulation and less regulation at the same time. I do not know how that would particularly work. Deputy Fitzmaurice raised a very relevant issue with regard to the testing of new quarries to prevent pyrite. It is not something that I have heard before. The Deputy has left the Chamber now, but I am sure that myself, the Minister, Deputy Murphy, and officials will look at that.

Deputy Clare Daly spoke about the need for a State fund to be established to rectify deficiencies in buildings that have been built in the last 15 or 20 years. There is the potential to remove liability from those who constructed those buildings in the first place. Ultimately, it has fallen to the taxpayer to rectify problems, a number of examples of which have been given, but it should not be the starting point. The starting point is that liability rests with those who constructed those buildings in the first place.

Deputies Ó Broin and Catherine Murphy spoke quite correctly about the importance of what

we talking about in terms of a house. It is a home regardless of whether it is for an individual or a family. Indeed, as Deputy Murphy noted, it is the most significant investment most private owners will ever make. This is what makes these regulations and the discussion of them all the more important.

We cannot accept the motion as proposed by the Green Party and the Social Democrats because it is not accurate. It is not accurate to say that nothing has been done. It is certainly politically arguable to say that more should be done and more needs to be done, but it not accurate to say that nothing has been done. In light of the tragic event in London, all local authorities have been requested as a matter of urgency to review their multi-storey social housing units to ensure all early warning systems, including alarm and detection systems and means of escape, including corridors, stairways and emergency exits, are in place and functional. Action is being taken to alert the building industry and landlords to remain vigilant with regard to fire and life safety in buildings for which they are responsible.

Unfortunately, we are all too well aware of the many incidences of building failures or severe non-compliance concerns that have come to light over the past decade. The economic and personal consequences of these situations have been very significant. While in general, building defects are matters for resolution between the contracting parties involved and the State has no statutory role in resolving defects in privately owned buildings, it plays a vital role in maintaining an effective regulatory framework for building standards and building control.

Local authorities have extensive powers pursuant to the Fires Services Acts 1981 and 2003, which have been invoked effectively in recent years in a number of cases where concerns have arisen regarding fire safety in buildings. A number of initiatives have been introduced over recent years as part of a broad-ranging building control reform agenda. Taken together, these reforms have brought a new order and discipline to bear on construction projects and have created a culture of compliance with building regulations. It was through the Building Control (Amendment) Regulations 2014, SI 9 of 2014, that the key deficits identified in the system were addressed by empowering competence and professionalism in construction projects and establishing a chain of responsibility that begins with the owner. The owner must assign competent persons to design, build, inspect and certify the building works who, in turn, must account for their contribution through the lodgement of compliance documentation inspection plans and statutory certificates. The statutory certificate of compliance on completion is signed by both a registered construction professional and the builder and must be in place prior to occupation. It effectively represents a badge of approval reassuring owners of buildings that their building is compliant with the building regulations.

The building control management system, BCMS, was introduced with effect from 1 March 2014 to facilitate the electronic administration of building control functions and provides a common platform for clear and consistent administration of building control matters. The BCMS is subject to ongoing improvement to achieve further efficiencies and innovation in building control.

Strong and effective regulation in the building control system and the construction industry is essential to provide insurance underwriters with sufficient confidence to cover risks at prices which are sustainable and which the market can bear. Reform of the building control regulations in 2014 was welcomed by the insurance industry, and there is evidence that, since then, more construction related insurance products have become available on the market, such as the products which offer first party insurance cover for damage and non-damage related claims.

As part of the local government reform programme, a centralised structure is being created for the governance and oversight of the building control functions of local authorities through a shared service in a lead local authority. I again thank the Deputies who raised this topical and recently tragic issue for discussion. I thank those Deputies who participated in the crucial debate on this issue. I encourage the House to support the Government amendment.

**Deputy Catherine Martin:** I congratulate the Minister and Minister of State and wish them well in their respective roles. I thank Members for their contributions to the debate. The record of building control authorities in taking high-profile enforcement action and prosecutions has been criticised by both the Pyrite Panel in 2012 and last week by the expert panel on block-work in Donegal and Mayo. Yesterday, the Department of Housing, Planning, Community and Local Government was reported as saying that a register of enforcement notices served and the outcome of any decision of the District Court in respect of an enforcement notice are held by Ireland's 31 building control authorities. However, as it stands, to find out statistics about building control authority enforcement, one needs to visit the offices of all 31 building control authorities during office hours. By contrast, the Food Safety Authority has a website which contains a significant amount of information across its range of activities, is updated regularly and includes details of enforcement orders issued. It operates a consumer helpline that received almost 12,000 calls in 2015. It co-ordinates inspection and reporting from around the country through 33 official agencies operating locally.

The Construction Industry Register Ireland, CIRI, which was referenced and lauded by the Minister, was created by the construction industry. It is like putting the foxes in charge of the hen house. The fact that CIRI will be separate from the Government's planned lead local authority is very problematic because it is a requirement for registration with CIRI that an applicant declares convictions under the Building Control Acts. As was reported yesterday, convictions under the Building Control Act are not recorded centrally but are on 31 registers throughout the country. I would like clarity from the Minister as to how the CIRI admissions board will check that an applicant or a registered member is telling the truth about previous convictions. How will the CIRI board verify information from applicants from overseas who have an entitlement to work in Ireland? If there were a national regulator with enforcement powers and centralised access to each of those 31 registers of enforcement notices and District Court orders, it would have a full picture of a person's compliance record, how many enforcement notices have been issued against him or her, whether he or she has convictions under the Act and whether he or she is a fit and proper person to be allowed to carry out building work.

No regulatory body will oversee the operation of CIRI the way that the energy regulator does for the registered electrical contractors of Ireland and registered gas installers, which are the registration bodies for electrical and gas installers. This is why our motion seeks the creation of an Irish building authority. It is not a quango. It is a regulatory body and we need a real, strong independent regulator.

There is a lot of merit in Fianna Fáil's amendment and I am glad to see it has followed our lead on the law reform needed to deal with remedies. However, its motion does not recognise that a national regulatory body would provide the essential oversight of existing building control in a manner which is not being done at present and a supervisory regulatory role in respect of the proposed construction industry register. Regrettably, the Minister cannot see the merit of this authority either. What the Minister proposes would keep these two functions separate, which makes no sense at all - one body to inspect and enforce compliance with building regulations and a totally separate private body that is given a monopoly on registration and fees for

those who will be responsible for complying with those rules.

The national building control management system, which was mentioned by the Minister, aims to appoint a lead local authority which will have overall responsibility for building control management on a national level. That authority will not operate as a regulator. The lead authority referenced by the Minister will have no legal obligation to exercise a regulatory oversight function in respect of the national activities of building control authorities, to co-ordinate regulatory activities and enforcement, and to publish information relating to this work. Enforcement will continue to be decentralised among 31 building control authorities, without a single public-facing profile that could educate people about the value of building control and could publicise building control activity, including enforcement, on a regular basis in an accessible format.

People deserve better than a “wait and see” attitude from a Government that has yet to face up to the scale of the problems so many are facing, and it needs to consider practical ways in which it can help. Many homeowners have spent years trying to secure legal remedies through the courts and through arbitration, putting their lives on hold while they do. In the Minister’s counter-motion, it is quite clear that the Government will continue to refuse to give support to these homeowners, and that is nothing short of disgraceful and an abdication of responsibility. I welcome his call on local authorities in recent days to review multi-storey social housing units, but why not call for a nationwide audit of all multi-unit housing and a Government fund to deal with dangerous defects?

I thank the many Deputies who spoke in support of the motion. No doubt the people on the front line, the real people both in the Gallery here tonight and those at home who are affected by this through no fault of their own have hung onto every word that has been said. We, as Members of this House, must do everything in our power to protect and support homeowners whose lives have been turned upside-down and have been hurled into a heartless financial pressure zone, all as a result of greed-driven cowboy builders and we must prevent this happening to another generation of homeowners.

**Acting Chairman (Deputy Declan Breathnach):** I thank the Deputies for sticking to the time allotted.

Amendment put.

**Acting Chairman (Deputy Declan Breathnach):** In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 22 June 2016.

### **Appointment to the Judiciary Nomination Procedure: Statements**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I remind the House that, since 1922, this State has had a robust and independent Judiciary. I am pleased to underline the widely held view that the Irish Judiciary is now and has always been one of the great successes in our history and is consistently among the top ten independent judiciaries globally.

Judicial appointments are made in accordance with Articles 13.9 and 35.1 of the Constitution, *Bunreacht na hÉireann*, by the President acting on the advice of the Government. This constitutional function cannot be transferred or delegated. Government, in making the deci-

21 June 2017

sions necessary to nominate people for judicial appointments, is performing a very profound function under the Constitution and one which is fundamental to our separation of powers and to the maintenance of independence and public confidence in our Judiciary. The effectiveness of the performance of this function by successive Governments has been illustrated by the extraordinary quality of our Judiciary and the public respect in which it and its independence is held. Fundamental to the making of any decision in this area by Government is the intent to nominate the best person for a particular judicial appointment and this is what happened when Ms Máire Whelan was nominated by Government for appointment as a judge of the Court of Appeal.

A vacancy for an ordinary judge of the Court of Appeal arose following the retirement of the Honourable Mr. Justice Garrett Sheehan on 23 March 2017. In response to a request received from the then Minister for Justice and Equality, the Judicial Appointments Advisory Board, JAAB, reported on 16 May 2017 that it was not in a position to recommend a person for appointment to the vacancy in the Court of Appeal. Last week, at its meeting of 13 June 2017, the Government nominated the then Attorney General, Ms Máire Whelan, Senior Counsel, for appointment as an ordinary judge of the Court of Appeal. The Government acted entirely within its constitutional powers and responsibilities in making this nomination. The constitutional prerogative on whom to advise the President to appoint as a judge rests with the Government alone. On Monday, Ms Justice Máire Whelan was appointed by the President as a judge of the Court of Appeal. It would not be appropriate for me, as Minister for Justice and Equality, to comment any further on specific nominations to judicial office, which are decisions made by Government and which are subject to Cabinet confidentiality under Article 28.4.3° of the Constitution. The Government has sole discretion under the Constitution to nominate persons of its own choosing, provided they are qualified and eligible for appointment as a judge.

I would add that I have been surprised in recent days to hear experienced Members of this House, some former Ministers, and people outside this House clamouring for Ministers and for Government to lay down, itemise and publish the A to Z of what did or did not happen around the Cabinet table or in the deliberations of Cabinet leading to the decision made on 13 June. It is abundantly clear that such matters are covered by Cabinet confidentiality under Article 28 of the Constitution. Also, to set the record straight, this Cabinet confidentiality is a requirement of the Constitution, not a privilege of the members of the Government for the time being that they can choose to waive at any whim or any time.

I am also surprised about experienced people banding about information that some number of High Court judges may have expressed interest in the Court of Appeal vacancy and asking what happened to these expressions in the Government decision-making process. Not only is that also covered by Cabinet confidentiality, but, in fairness to any such member of the Judiciary who may have expressed such interest in respect of any such vacancy in the past, we are hardly going to lay out for political and public consumption the names and details of serving judges who have chosen to put themselves forward for more senior posts. Would we not rightly be castigated for doing such?

I and others have stated countless times that we are satisfied that all necessary procedures regarding judicial appointment have been followed. In the instance of last week, I am also satisfied that the new judge, having regard to her qualifications and breadth of experience, will make an invaluable contribution to the work of the Court of Appeal. This is what has happened up to this point.

I will now refer to what the Government wants all of these processes to look like in the future on foot of a fundamentally reformed system, heralded by the publication of the Government's Judicial Appointments Commission Bill on 31 May 2017. Deputies will be aware that on 30 May 2017, the Government approved the publication of the Judicial Appointments Commission Bill 2017 which has now been circulated to Deputies. The Bill will deal with all judicial appointments, including the promotion of serving judges which are currently outside the remit of the Judicial Appointments Advisory Board.

The legislation arises from a public consultation process on a review of the judicial appointments system in 2014. The need to ensure and protect the principle of judicial independence was a significant factor in this consultations process. It was also recognised that, while the Judicial Appointments Advisory Board process was a model of best practice in its day, almost 20 years from its establishment it was considered worthwhile to review the manner of its operation. The focus of the Bill is very much on the manner in which the selection, recommendation and appointment arrangements can be improved in a new statutory framework. I am keen to ensure that the entire judicial appointments system is enhanced to ensure it reflects current best practice, that it is open, transparent and accountable and that it promotes diversity. The Bill is also intended to give effect to the commitments in A Programme for a Partnership Government, that is to replace the Judicial Appointments Advisory Board with a new judicial appointments commission, to include a reduction in its membership, an independent chairperson selected by the Public Appointments Service and approved by an Oireachtas committee, and a lay majority including independent people with specialist qualifications, to reduce the number of suitable candidates proposed by the judicial appointments commission for each vacancy to not more than three candidates.

Deputies will be aware that Second Stage of the Bill is scheduled for next week in the House. I look forward to debating with members the very significant and innovative measures Government has agreed to reform entirely the system of appointments of judges in this State. The Bill provides for 13 members of the judicial appointments commission, two more than the general scheme provided for, made up of three senior judges - the Chief Justice, the President of the Court of Appeal and the President of the High Court - the Attorney General, a nominee of the Bar Council, a nominee of the Law Society, six lay members recruited through the Public Appointments Service, PAS, and a lay chair also recruited by PAS. Working through a system of committees, the commission will have a dual role of making recommendations for appointments, and by way of published statements, the ongoing development of selection procedures for judicial appointment and of the skills and attributes that may be required of judges. The Bill will reduce the number of suitable candidates proposed by the commission for each judicial vacancy to three candidates from the stipulated minimum of seven now under the current JAAB system. Under the Constitution, the Government retains discretion to appoint but, in a replication of the Judicial Appointments Advisory Board, JAAB, provisions, the Bill will provide that Government must have regard first to the recommendations of the new commission. Most importantly, merit is provided for in the new legislation as the criterion for selection and recommendation, and subject to that, the Bill provides for the objectives that the Judiciary should be equally comprised of men and women and that it should reflect the diversity within the population of the State.

I look forward to the debate on the Second Stage of this Bill and to making progress. Indeed, I invite Members of this House, from all parties and none, to have this Bill debated in a constructive environment with the aim of putting in place a model of best practice. I am asking

for the support of the House on the scheduling of the legislation. I am asking for the Business Committee to ensure every effort can be made to have this legislation debated and that the Dáil facilitates and expedites the process, leading to its passage at the earliest opportunity.

**Deputy Jim O’Callaghan:** The Minister, Deputy Flanagan, and the Tánaiste have been Members of this House for a long time. In fact, they both were Members in 1994 when there was considerable political controversy about the appointment of an Attorney General to judicial office. On that occasion Fine Gael, then in opposition, demanded a debate into the appointment of the person to the presidency of the High Court. That debate took place on 15 November 1994. During that debate, Fine Gael stated, in my opinion, correctly, that there was no convention entitling an Attorney General to be appointed to any judicial office. Fianna Fáil, in government at the time, acknowledged that irrespective of whether there was a convention, it should no longer continue into the future. As a result of that political controversy, the Oireachtas decided in 1995 that the law should be changed. It was decided by the Oireachtas to reform significantly the system whereby judges are nominated and appointed in Ireland. As a result the Courts and Court Officers Act was enacted in 1995. It established a Judicial Appointments Advisory Board. The purpose of that board was to act as a recommending and filtering process. If individuals were interested in becoming a judge, they had to apply to that board for it to assess whether they met the qualifications and suitability criteria. If they did, their names were then recommended to the Government which, as the Minister, Deputy Flanagan, stated, has the constitutional power to nominate for appointment.

It is of particular note to recall that the legislation introduced in 1995 specifically included a provision about what should happen if the Attorney General is interested in nomination and appointment to judicial office. That makes sense because the reason there was the political controversy, the reason the law was changed, was because we had an Attorney General who had wanted to and did attain judicial office.

Since 1995, the Judicial Appointments Advisory Board has played a significant role in how judges are appointed in this country. It has had a beneficial role. It has been in existence for 22 years. During that period hundreds of judges have been appointed in this country. I have tried to calculate how many. It is difficult to do so but when I tell the House that there are 157 judges at present, I think Members will agree there must be between 200 and 300 persons who have been appointed to judicial office in this country since 1995. In those 22 years, every person who has been appointed to judicial office has gone through the Judicial Appointments Advisory Board, except for two people. We are talking about hundreds of judicial appointments and throughout that period, only two people were not appointed after having gone through the Judicial Appointments Advisory Board process. The first was in 2004, when a person who was not an Attorney General became available and, correctly, was grabbed by the Government immediately. There was no objection from any individual from any quarter to his nomination or appointment. The only other exception was in respect of yesterday’s appointment.

However, yesterday’s appointment was unique because it was an Attorney General who was appointed to judicial office. Do we not remember that the reason we got into the political controversy in 1995 was because it was an Attorney General who had sought office? Do we not remember that the reason the law was changed, and why section 18 was specifically included, was because it was known that there is political controversy when an Attorney General seeks judicial office? I listened to the Taoiseach earlier today stating that he was interested in history because it teaches us about the future. He must, if he has an interest in history, look back to see what happened 22 years ago and it is because of that that the decision of the Government

eight days ago was so surprising. In short, what happened was that the Government deliberately decided to evade the law. They circumvented the law. That is why it is laughable for the Government to suggest that it followed correct procedures.

It is also important to note that if the Oireachtas establishes a statutory scheme which is to regulate or emphasise how the Government is to perform its functions then it is incumbent upon the Government to follow that statutory scheme. If it is the case, however, that there will be a parallel scheme whereby an Attorney General can apply for office, why cannot anyone else go by that parallel scheme as well? It is incumbent on the Government, if it is the case that there is this unknown parallel scheme, to publish it to make the public aware of it in order that other individuals can apply under that same scheme.

I say here today - this does not breach any principle of Cabinet confidentiality because it appears that the three judges who it is thought applied did not get their curricula vitae even considered by the Cabinet - it was grossly unfair on other individuals who applied for and who expressed an interest in this position that the Government did not even get to consider it. It is not correct for the Government simply to state that correct procedures were followed. Not only were correct procedures not followed but fair procedures were not followed. It is known that the former Attorney General was permitted by the Government to remain in the room while her nomination was being discussed. That tainted it with the perception of unfairness and bias. It is not fair to other individuals who did not get their nominations before the Government and who wanted to be considered that they were not permitted to be in the room.

A number of questions must be answered and I will set them out in the hope of getting answers from both the Tánaiste and the Minister for Justice and Equality. First, were letters expressing interest in the vacancy sent by members of the High Court to the Government? If so, who received them and when were they received? That does not infringe in the slightest any principle of Cabinet confidentiality.

Second, it is known that on 23 May, the Government nominated seven persons to fill vacancies on the High Court, the Circuit Court and the District Court. Some of those vacancies had not yet even occurred. In fact, one of the vacancies arises in October next. Why did the Government not fill the Court of Appeal vacancy on 23 May? We have just learned for the first time from the Minister, Deputy Flanagan, that JAAB informed the Government prior to that date that the board was not recommending any person for the Court of Appeal position. Why then was the Court of Appeal position not filled on 23 May?

**Deputy Barry Cowen:** Exactly.

**Deputy Jim O'Callaghan:** Third, did the then Tánaiste and Minister for Justice and Equality discuss the vacancy on the Court of Appeal with the former Attorney General prior to the Government meeting on 23 May?

Fourth, did the Judicial Appointments Advisory Board tell the then Minister for Justice and Equality that it wanted a judge of the High Court to fill the position on the Court of Appeal? We know that the Government was aware, prior to the meeting on 23 May when other judges were nominated, that the Judicial Appointments Advisory Board was not recommending anyone. Presumably, it must have been known by the Tánaiste that the reason they were not recommending anyone was because they wanted a High Court judge nominated.

Fifth, who decided that only one name would be brought to Government and why did the

Government not get to consider the other applicants who it is known put in applications to be considered for this position?

Sixth, who was aware before last Tuesday's Cabinet that this was happening? We know the Taoiseach was aware. He told us today that he was aware the evening before. We know that the former Taoiseach was aware. We know the Tánaiste was aware and we know the former Attorney General was aware. We need to know who else was aware, and when and where they discussed these issues prior to the Cabinet meeting on Tuesday last.

Seventh, why, at Cabinet, did no one say, "This is unusual". There are members of the Cabinet who have been members of Government for six years. This is the first time  
*9 o'clock* that any lawyer was appointed to court as a judge without having gone through the Judicial Appointments Advisory Board process. Did anybody ask why this application and nomination did not go through the Judicial Appointments Advisory Board process?

Also, why was there no formal memorandum for Government in respect of this nomination?

Eighth, why did someone in Government not ask the former Attorney General to leave the room? As I said previously, fair procedures require that a person should not remain in the room while the candidacy of that person is being discussed. Even if there was only one person before Cabinet, there is the possibility, even with this Cabinet, that someone might raise a question or an objection in respect of the candidacy.

That brings me to my ninth and final point, and I say this appropriately. Two unusual decisions were made at this Cabinet meeting. First, we had the unusual decision to nominate a person to judicial office who had not gone through the appointments board; and, second, we had the unusual decision that it was going to be announced that one Garda station was re-opening. I want to know if those decisions were related. There may not be hard evidence, but there is considerable circumstantial evidence suggesting that they were.

This is a sorry saga, but it is one caused by the Government, and responsibility for it lies with the Government. The Government circumvented the law. If the Government had applied the law the way it has been applied for the past 22 years, we would not be here this evening. I know the Government wishes to emphasise the importance of the Judiciary and how this House respects it. This House does respect the Judiciary, but it brings it into disrepute if Government does not apply the correct laws in place for the nomination and appointment of judges.

The Minister for Justice and Equality said that he hopes we will be able to engage in respect of the new process involving the judicial appointments commission Bill that he intends to bring forward next week. I put it to the Minister that I have lost trust in the Government's ability to have any responsibility for judicial appointments in future.

**Deputy Mary Lou McDonald:** First, I wish to remark on the fact that Deputy Micheál Martin of Fianna Fáil is not present for this exchange.

**Deputy Fiona O'Loughlin:** He is in Brussels dealing with Brexit.

**Deputy Mary Lou McDonald:** Since he shouted so loudly for this opportunity, I am surprised at him.

**Deputy Barry Cowen:** Where is Deputy Adams?

**Deputy Mary Lou McDonald:** I am also interested to hear, as this narrative has unfolded, from Fianna Fáil that this matter is not now a breach of the confidence and supply agreement, which of course facilitates the Fine Gael Members sitting on the Government benches.

To be clear, there is no suggestion nor has there been any suggestion-----

*(Interruptions).*

**An Leas-Cheann Comhairle:** Please continue, Deputy McDonald.

**Deputy Mary Lou McDonald:** There has been no suggestion that anything unconstitutional has been done by the Government. Let us not go off on a wild goose chase in that regard. What has been said, and what is absolutely apparent is that the Government deliberately and wilfully circumvented the law. To be precise, I am referring to the Court and Court Officers Act 1995. Deputy O’Callaghan has set out the content of that legislation. The members of Cabinet know that is what happened.

The Minister for Justice and Equality told us in his very long-winded way to mind our own business - at least, that is how it sounded to my ear. He said that the JAAB reported on 16 May last that it was not in a position to recommend a person for appointment to the vacancy in the Court of Appeal. That is fine. The Minister then went on to say that at its meeting of 13 June 2017 the Government nominated the then Attorney General for appointment to the position in question. That is fine. The only difficulty is that the controversy resides in what happened in the space in between.

To whom did the former Attorney General express her interest in this position? Did she come forward? Alternatively, did someone, for example, a member of Government, approach her and suggest that this might be the right position for her? Were there other applicants for the post? We do not need their names and certainly we do not need to have debate on the merits, relative merits or de-merits of any candidate or their qualifications. That is not our business in this Chamber. However, we ought to be told whether there were other applicants. If there were, to whom did they express an interest? What precisely was the procedure and process employed to decide and evaluate the quality of their candidacy?

We need an answer to how it is that there could be any pretence of any kind of fair procedure when the successful applicant sits at the table, albeit as the only name coming forward, when the decision to appoint is made. That is simply off the wall. Anyone with experience in the local residence association, GAA club or tiddlywinks association knows that simply does not happen. How is it that in this case the successful applicant was present? We should remember this for the people we serve and the people the Cabinet serve, including those who are looking on. What would they figure had they applied for a job and been unsuccessful, but the successful applicant sat on the panel when the decision was made? They would rightfully be asking questions about fair procedure.

There is no attempt to question the constitutional prerogatives of the Government. All of us understand that those are necessary prerogatives for our system to work. Let us take that off the table. The Minister for Justice and Equality spoke convincingly about the sole discretion of Government to make such appointments. He said of Cabinet confidentially that it is not *à la carte* or at the discretion of individual Ministers. He said that it is an absolute constitutional

imperative and requirement. The Minister is absolutely right on all of those counts.

Riddle me this then because today we discover that the Taoiseach had a conversation by telephone with Deputy Micheál Martin. This came to light on the floor of the House earlier. In that conversation, it seems that Deputy Micheál Martin said to An Taoiseach that the individual in question was unsuitable and so on and so forth. I believe that is a serious matter and raises serious questions not only for the Government, but for Deputy Micheál Martin to answer. Was the leader of Fianna Fáil attempting to influence Government in respect of a judicial appointment? Is that lawful? Does that respect the prerogatives of Cabinet? Was it appropriate for An Taoiseach of a Sunday to have a discussion by telephone with the leader of Fianna Fáil, who is not a member of Cabinet, on the matter of an appointment to the Bench, a matter in which Cabinet enjoys sole discretion?

**Deputy Fiona O'Loughlin:** Is Deputy McDonald jealous?

**Deputy Mary Lou McDonald:** Is it a belief on either side of Fine Gael and Fianna Fáil that this confidence and supply agreement somehow confers authority on the leader of Fianna Fáil to have a say on who might be appointed to the Bench?

There is no doubt that the appointment of the outgoing Attorney General smacks of a political appointment. I think it stinks to the highest heavens of the scent of cronyism. However, it looks to me as though Deputy Micheál Martin's only concern is that it was not his political appointment. That is deeply troubling too. We want an explanation from the Government as to why it was that An Taoiseach was having conversations with the leader of Fianna Fáil on the matter of appointment to the Bench. We want to know from Deputy Micheál Martin, who was all consumed and concerned about adherence to the law and to the Constitution, as to how and why he imagines that he has a special prerogative to lean on Government in any way to influence such an appointment. Those questions need to be answered.

In what we might refer to as the real world people know, notwithstanding the quality of the Judiciary, so extolled by the Minister, dating back to 1922 and the quality of so many people who have served on the Bench, that there have been political games played with appointments. It is an open secret. In fact, it is a recognised problem because there is a proposal to reform and overhaul the system. It is well known that Fine Gael and Fianna Fáil would use these appointments as political baubles for those who adhere to their particular world view. That is what happened and well we know it. The other news is that in the real world, people are not prepared to tolerate that any more. They almost grimace at the irony of the fact that it would be Fianna Fáil presenting itself as a champion of accountability and probity on these of all matters.

That said, it should not take from the very serious situation in which we find ourselves now. We need answers to the question as to why the Government circumvented the law - not the Constitution but the 1995 Act. That is what it did.

**Deputy Barry Cowen:** Deputy McDonald agrees with us, then.

**Deputy Mary Lou McDonald:** We need to know why it was that the successful applicant was seated at the table of decision at the time of decision. We need to know why the new Taoiseach, Deputy Varadkar, breached Cabinet confidentiality - as it seems to me - compromised the sole constitutional prerogative that the Minister has set out in a conversation with the leader of Fianna Fáil, not a member of Cabinet, albeit he is keeping all of the Ministers in Cabinet, on a matter of an appointment to the Bench.

**Deputy Thomas Byrne:** It was raised in the Dáil.

**Deputy Mary Lou McDonald:** How is that possible? Our Fianna Fáil colleagues may wish to look at the transcripts from this morning.

**Deputy Barry Cowen:** Deputy McDonald should look at the transcripts from last Wednesday.

**Deputy Mary Lou McDonald:** It was very clear that the conversation was not just a casual *tête-à-tête* between the leaders of Fine Gael and Fianna Fáil.

**Deputy Mattie McGrath:** Like you and Gerry.

**Deputy Mary Lou McDonald:** It was very directly an attempt by Deputy Micheál Martin to prevent an appointment to the Bench by Government. He does not have the right or the authority - legally or constitutionally - to intervene in that way.

**Deputy Eugene Murphy:** He has the right to ask questions.

**Deputy Barry Cowen:** He has the right as leader of the Opposition.

**An Leas-Cheann Comhairle:** Tá an t-am caite.

**Deputy Mary Lou McDonald:** The great tragedy, a Leas-Cheann Comhairle, mo bhrón, mo bhrón, mo chomhbhrón, is that he is not here to answer those questions himself.

**An Leas-Cheann Comhairle:** Deputy McDonald cannot circumvent the time. I call Deputy Brendan Howlin, who has ten minutes.

**Deputy Michael Moynihan:** A Leas-Cheann Comhairle, on a point of order-----

**An Leas-Cheann Comhairle:** What is the point of order?

**Deputy Michael Moynihan:** The leader of Fianna Fáil, Deputy Micheál Martin, is in Brussels tonight.

**An Leas-Cheann Comhairle:** That is a point of information.

**Deputy Brendan Howlin:** There is no such thing as a point of information under Standing Orders.

**Deputy Michael Moynihan:** It is a point of information to the House. There was a smear attempt on Deputy Micheál Martin and I wish to-----

**Deputy Jonathan O'Brien:** He was here last night and had an opportunity-----

**An Leas-Cheann Comhairle:** A point of information has got to be relevant to the proceedings.

*(Interruptions).*

**Deputy Brendan Howlin:** Can I have my clock restarted?

21 June 2017

**An Leas-Cheann Comhairle:** Stop the clock.

**Deputy Michael Moynihan:** If the debate was allowed last night during our Private Members' time, he would have been here. He has a prior engagement in Brussels tonight.

**An Leas-Cheann Comhairle:** Point of information taken. I call Deputy Brendan Howlin. Start the clock.

**Deputy Thomas Byrne:** Where is Deputy Adams?

**Deputy Barry Cowen:** He is up in Louth. He is attending talks on government formation at Westminster.

**Deputy Brendan Howlin:** I have no wish to tell the Leas-Cheann Comhairle the rules of the House, but there is no such thing under our Standing Orders as a point of information.

At the outset, I want to make one thing absolutely clear. I have known Ms Justice Máire Whelan for many, many years.

**Deputy Kevin O'Keeffe:** She is a member of the Deputy's party.

**Deputy Brendan Howlin:** She is a person of integrity and passion, with a steely determination and an absolute commitment to leaving our nation a better place than she found it. I knew her back when I was drafting the Civil Unions Bill in 2006. Her immense experience in the area of family law was invaluable in helping us to draft the legislation that became the precursor for civil partnership legislation, which, in turn, preceded the marriage equality referendum. I still knew her after Fianna Fáil had crashed the economy when she had drafted the legal textbook on the NAMA legislation. Her knowledge of the complexities of property law and conveyancing are clearly apparent from that seminal text. Of course, I came to know her immensely well indeed during my time serving in government alongside her. I was able to get whistleblowing legislation, freedom of information legislation and legislation on the regulation of lobbying with her invaluable assistance. Outside my then Department, there was the X case legislation, the wordings for the children's rights and marriage equality referendums and many more fine pieces of work. From dawn until late at night, she was available to the entire Cabinet as an adviser, a counsellor and an expert on legal affairs. I have the height of respect for her and I am absolutely convinced that she will make a very fine judge indeed.

Some people who do not seem to have read either of the Fennelly reports will say that she came out of them badly. However, those who have read the reports will know this is not case.

**Deputy Clare Daly:** That is ludicrous. Deputy Howlin clearly has not read the report.

**Deputy Brendan Howlin:** It is true to say that, in his first report, Mr Justice Fennelly appeared to raise a quizzical eyebrow at those of us in government who reacted so swiftly and decisively when we were told that Garda telephone conversations were being recorded right across the country. It would have been bizarre not to have looked askance at such a development. To categorise as alarmist those who were alarmed, as the judge seemed to do in this first report, seems to me to be unfair, particularly given that Mr. Justice Fennelly had decided to postpone until his second and final report any consideration of the question as to whether the then Attorney General's fears of illegality were justified. In the event, when one reads his key findings on that question, one must conclude that the then Attorney General's response was not just legitimate but that it was the only legitimate response. The key findings of the

Fennelly report were: that the installation and operation of the telephone recording system in Garda stations up and down the country were not authorised by common or statute law and were therefore illegal; that the recording system operated in breach of the Constitution and of constitutional rights; that it breached the European Convention on Human Rights; and that it also breached substantive European Union law and the EU charter itself.

That there was, for decades, a scheme for surreptitiously recording telephone calls in Garda stations, without any official authorisation or legislative underpinning, amounts in anyone's language to a wholesale violation of the law. This was quite properly a matter of utmost concern to the previous Government when this was discovered. The quite incredible finding was that gardaí at operational level somehow managed to maintain and operate a legally unsanctioned and unconstitutional recording system unbeknownst not only to the Minister of the day but also to their own Commissioner and to senior management. Even taken at face value, these findings point to a profound failure of governance within both the Garda and the Department of Justice and Equality.

There are some in this House who are willing to go further and utterly traduce the reputation of any person in search of headlines. To do so in the case of Ms Justice Whelan is truly wrong.

**Deputy Charles Flanagan:** Hear, hear.

**Deputy Brendan Howlin:** I heard Deputy Micheál Martin do exactly that yesterday afternoon. In listing off the judges for whom he has respect, one thing was immediately noticeable, namely, that they are all men.

*(Interruptions).*

**Deputy Anne Rabbitte:** Oh, now.

**Deputy Thomas Byrne:** Do not play that card.

**Deputy Kevin O'Keeffe:** This is outrageous.

**Deputy Brendan Howlin:** It has to be said that there has been more than a whiff of misogyny about some of the comments we have heard in recent days. Even more, there has been a stench of political opportunism. Not for the first time, in recent days we have seen Deputy Micheál Martin's willingness to send out his own senior counsel onto "Morning Ireland" to march Fianna Fáil up a hill. The confidence-and-supply agreement had been breached, we heard, again. In December of last year, we were told the agreement had been breached over the failure to advance his Judicial Appointments Bill. In April, we heard the agreement had been breached over the water issue.

**Deputy Mattie McGrath:** It was 1 April.

**Deputy Brendan Howlin:** This week, we heard it had been breached over a judicial appointment. Frankly, it has become embarrassing to hear Fianna Fáil's successive claims of outrage, each of which is predictably followed after a couple of days by a quiet climb-down.

**Deputy Barry Cowen:** The Labour Party has a monopoly on embarrassment.

**Deputy Brendan Howlin:** Whether over the Garda Commissioner or this matter, Deputy

21 June 2017

O’Callaghan is sent off to play the part of the Grand Old Duke of York. He marches the Fianna Fáil Party up to the top of the hill and then he marches it back down again while Deputy Micheál Martin decides on which side of the issue he stands.

**Deputy Barry Cowen:** Deputy Howlin is on the hill. They will bring him up the hill anyway.

**Deputy Brendan Howlin:** I have spoken warmly about Ms Justice Whelan this evening because I think she will make an excellent judge. That does not mean that I think that the events that led to her appointment to the Court of Appeals were in order.

**Deputy Barry Cowen:** Deputy Howlin agrees with us then. He should make up his mind.

**Deputy Brendan Howlin:** I have said and I believe that the lack of a transparent process was absolutely wrong. It is unfortunate that her appointment as a judge has been overshadowed by a political row. For 20 years and more, the Labour Party has been committed to improving openness and transparency in public life. Arguably, we have done more than any other party to seek to raise standards in public office, to make appointments and employment more transparent and accountable and to prevent people from abusing power and positions of responsibility.

*(Interruptions).*

**Deputy Brendan Howlin:** To truly champion the highest of standards, we must do so on every occasion-----

**Deputy Barry Cowen:** Which side is the Deputy on?

**Deputy Brendan Howlin:** -----even when we know and we like the people directly involved. Unfortunately, it seems that no objective test was applied in this particular case. That has raised question marks about whether other qualified candidates had their applications handled in an objective and transparent manner. It has at least appeared to link this appointment to the reopening of the Stepside Garda station, which naturally raises further questions.

That brings me to another point I want to make. The Minister, Deputy Ross, used to sit on the Opposition benches. Whether in this Chamber in opposition or in the other Chamber or in his long-running newspaper column, we all know what his reaction to this event would have been, but the arch-critic has now gone mute. Content to play the parish pump, with his much-vaunted principles cast aside, as ever, the Minister sat on his hands when Cabinet made this decision. When it then caused public controversy, he asked for a review of the decision he participated in. Therefore, a review we will have, and the Minister, Deputy Ross, can keep his principles. The Taoiseach should add the title “Minister for reviews” to his job description, for all the difference they have made. The Independent Alliance has secured several such reviews. We have had the review of cardiac services at Waterford hospital, an independent review of the Garda that never even started, the independent review of the corporate tax system, which was supposed to be due by now but has not appeared, the review the Minister, Deputy Ross, started about the Olympic ticketing scandal, which was due by the end of 2016 but has not appeared, and now a review about how judges are appointed.

If people wanted reviews, they were right to vote for the Independent Alliance. If they wanted action, they have been sorely let down. A year on in power, they still have little con-

cept of how Cabinet works. They clapped through an appointment they now oppose. We have ended up with competing Bills in this House on the reform of judicial appointments. What is clear is that it is time to draw a line under this soap opera.

Ms Justice Whelan has been appointed to the Court of Appeal. I have no doubt she will do an excellent job. Instead of grandstanding, I hope this House will now draw a line under this latest debacle and ensure appropriate legislation is passed once and for all. The Taoiseach and the Minister present in the Chamber have promised to have that legislation before us next week. We have much to say on its contents. I would like to have had the time to include it in my comments but I do not have the time. It also should be accompanied by the judicial standards Bill, which was originally part of the same set of legislation. If that fundamental set of changes can be brought about, some good can come from this unfortunate saga.

**Deputy Mick Barry:** I wish to share time with Deputy Bríd Smith.

**An Leas-Cheann Comhairle:** That is agreed.

**Deputy Mick Barry:** The row between Fine Gael and Fianna Fáil over the appointment of Ms Máire Whelan by the Cabinet to the Court of Appeal has dominated politics for six days. While there are important issues at stake, the row has taken the form of a spat between two factions of the ruling elite in this country.

The story of the Irish Judiciary and of the judicial appointments system is a story of class privilege and establishment political interests from start to finish. On the one hand in this spat, we have Fine Gael, now led by the Taoiseach, Deputy Leo Varadkar. Having recently emerged victorious from an inner party contest against another ex-private school boy and having appointed a Cabinet described by an anonymous member of his own party as lads in suits, the Cabinet which looks like a group photo before a stag party, the Taoiseach, Deputy Varadkar, has decided to stand over an old-fashioned political stroke. On the other hand, Deputy Micheál Martin and Fianna Fáil, allies of Fine Gael in implementing austerity and in attempting to hold the centre against the left, fell out with their Fine Gael allies on this issue, but their bluff has been successfully called because having voted to allow the Taoiseach, Deputy Varadkar, come to power on a Wednesday, they are not going then to bring the Government down by the weekend, and of course, Fianna Fáil, as a party of the capitalist establishment, is a beneficiary of the judicial appointments system.

In 2011, the *Irish Independent* estimated that 56 of the 168 judges on the Bench in this State, in other words, one third, has “personal or political connections to political parties”. I can assure the House that there are no judges on the Bench who have personal or political connections to Solidarity-People Before Profit.

**Deputy Bernard J. Durkan:** They could be volunteers.

**Deputy Mick Barry:** The bulk of these politically connected judges are connected to Fianna Fáil and to Fine Gael.

**Deputy Charles Flanagan:** That is an outrageous comment.

**Deputy Mick Barry:** Those are the facts of the matter.

**A Deputy:** What about the Labour Party?

21 June 2017

**Deputy Mick Barry:** Of course, there are some Labour Party judges, that is a point, but overwhelmingly they are connected to the party on this side of the House and the party across the floor of the House, Fine Gael.

The proposal is that there would be a reform of the judicial appointments system, but even if we take away the most blatant political involvement and interest in appointing judges, we are still left with a Judiciary which is riven with class bias. The overwhelming bulk of judges in this State are barristers. This is perhaps the most difficult of all the professions for a young working-class person to which to gain access. One would have to be able to put oneself through years and years of college, then engage in an apprenticeship devilling for one year mandatory without any wage and, as I understand is the norm now in the profession, devilling for a second year without any wage. One would have to do years of college and then two years of working for nothing. How many sons of a construction worker could do that? How many daughters of taxi drivers could do that? After many years, the barristers go on to become judges where they are paid not double but triple the European average. They share the lifestyle of the ruling elite, and their vantage point for looking out on society is the vantage point of the ruling elite.

The changes that are needed regarding the Judiciary in this country go well beyond the timid reforms being proposed before the House, but we will debate that and the alternatives to it in the discussions next week.

**Deputy Bríd Smith:** I want to make it clear that I have no idea whether Máire Whelan is an eminently qualified judge, as is alleged by the former Taoiseach, Deputy Enda Kenny, and Deputy Brendan Howlin, but nor do I have any idea that she is not, as alleged by Deputies Micheál Martin and Jim O'Callaghan. On one level, I do not believe it really matters to most ordinary people because I believe most people are sceptical of the concept of eminence in judicial matters, and neither do most of us know whether proper procedure was followed, but we do know that the Taoiseach has said that this was all legal. Whether it was right or not is another matter entirely, and whether it was done because she was suited to it or, like all such appointments made, that the person in question was so close to those in power, she and those like her know where all the bodies are buried.

**Deputy Charles Flanagan:** That is an outrageous comment.

**Deputy Bríd Smith:** I do not know; I cannot say. From what I can see, she probably is eminently qualified from that proximity to those in power and the loyalty she gives to her own class.

Like previous Fianna Fáil appointees to high positions, either as Attorneys General or judges, she has shown herself to be reliable and loyal to those who appointed her, and loyalty and reliability seem to be the only explanation for her contradictory evidence to the Fennelly inquiry.

Like Harry Whelehan in the past, who was appointed by Fianna Fáil, Máire Whelan has shown her willingness to criminalise women. Harry Whelehan stopped women trying to control their own bodily autonomy by-----

**An Leas-Cheann Comhairle:** I remind the Deputy and anyone else who might wish to intervene that the statements are on the procedure for the nomination of the appointment to the Judiciary, and that is what it is about. Therefore, we must have regard to the separation of powers. I ask the Deputy and other Deputies to refrain from naming individuals.

**Deputy Bríd Smith:** A previously eminent Attorney General interned a 14 year old rape victim and the outgoing Attorney General, about whom the controversy is, inserted-----

**An Leas-Cheann Comhairle:** The Deputy is trying to circumvent the rules. I ask her to respect the rules.

**Deputy Bríd Smith:** I am making a political point that there are similarities between them, particularly in how they treated women. The outgoing Attorney General included a sentence of 14 years into the recent legislation for women who take an abortion pill. Those are parallels that matter. There are also parallels in how a previous Fianna Fáil appointee prevented a former Deputy, Ray Burke, from giving evidence to the beef tribunal -----

**An Leas-Cheann Comhairle:** I just reminded the Deputy that she should not name names. That is all.

**Deputy Bríd Smith:** I am stating facts. This is historical fact that amounts to a political point.

**Deputy Barry Cowen:** We were adhering to the law.

**Deputy Bríd Smith:** No one can dispute the facts. Whether I say them in this House or not, people out there know that they are facts. I am making a parallel between this appointment of an Attorney General by this Government and one made by a previous Fianna Fáil Government. The quality that applies on both sides of the House is that they are loyal to their class and to the people in power. They stay quiet when that is required of them. That is not to suggest that there is anything improper about that behaviour but at best it is incompetent and dishonest to the people of this country. It gives an explanation for why every time there is a kerfuffle inside this Parliament to the extent that it might bring down a Government, it relates to such an appointment because that appointment is very important to a Government. It can provide cover and it can provide the secrecy that is required.

In the few minutes I have left, since much of my time was taken, I have a suggestion for how this can be resolved. Can the newly appointed judge, Máire Whelan, give evidence to the Charleton inquiry? If she cannot, I suggest she stands down from her new appointment so that she is in a position to be interviewed by that inquiry and get to the bottom of the smear campaign against whistleblowers and the unexplained loss of mobile phones. It would be worth holding up her appointment for any evidence that she might give. Having cleared all that up, she can return to being an eminent judge, like all the other eminent judges that Fianna Fáil and Fine Gael appoint in order to ensure that the law in this country is served according to themselves. Justice is another matter.

**An Leas-Cheann Comhairle:** We move on to Independents 4 Change. I call Deputy Clare Daly who may be sharing time.

**Deputy Clare Daly:** Yes, with Deputy Connolly and Deputy Fitzmaurice.

I want to start by referring to some points made by Deputy Howlin. The criticism of the former Attorney General by Mr. Justice Fennelly had absolutely nothing to do with the overall scandal regarding the tape recording in Garda stations but had everything to do with the circumstances that led up to the midnight visit which led to the departure of the former Garda Commissioner, Martin Callinan. Mr. Justice Fennelly pulled no punches whatever when he said that

21 June 2017

it was inescapable that the former Attorney General presented an alarming picture. He did so, not because of the circumstances -----

**Deputy Brendan Howlin:** Does the Deputy think she was wrong?

**Deputy Clare Daly:** Absolutely, because the person had access to information which she failed to inform the Minister for Justice, Deputy Shatter -----

**Deputy Brendan Howlin:** On another day the Deputy would have been doing cartwheels.

**An Leas-Cheann Comhairle:** Deputy Daly may speak without interruption.

**Deputy Clare Daly:** She failed to inform the Minister for Justice, Deputy Shatter, and failed to verify the facts of the situation with the former Garda Commissioner. Not only that, but she presented a statement to the Fennelly commission in February. She was asked to verify that statement in February, and she did. Three months later, in May, she substantially altered that written statement in order to redefine the role she played that fatal weekend.

**Deputy Brendan Howlin:** Twisting the truth.

**Deputy Clare Daly:** It was those circumstances that led Mr. Justice Fennelly to be highly critical of the individual in question. An individual with no trial experience. If this is the best person for the job, I wonder if the country is that small.

**An Leas-Cheann Comhairle:** We are debating the procedure, not the individual.

**Deputy Clare Daly:** Absolutely a Leas-Cheann Comhairle. I was trying to put some balance to Deputy Howlin's earlier eulogising.

The Taoiseach made the point earlier that this appointment was made legally and with the correct process. That is not the case. It is a red herring to say that it was not illegal. We know that it was not illegal because the current system of political appointments to the Judiciary, the very one the Government made such a point about changing, is very much alive and well. This was a political appointment. However, if it was the correct process, why is the Government in such a rush to change it? Why is it talking about going so far as to extend the Dáil into the recess in order to get this Bill through? Why, when the Chief Justice and the president of the Court of Appeal wrote to the Government last October and asked it to fill those vacancies, did the Government respond that it was not filling them because it was not filling any vacancies until we had a new system in place? Yet, on the eve of the summer holidays of the Court of Appeal, when it is going into recess in a couple of weeks, at the last meeting with the old Taoiseach's agenda, we have this appointment being rubber-stamped. It is an absolute disgrace.

All week, the myth has been pedalled that this is typical of the current appointment regime. That is not true. Bad as the current regime is, as Deputy O'Callaghan pointed out, practically nobody has been appointed outside of the JAAB process, except for sitting judges who are going for promotion. That is the system. It is not even within the current system. It is outside that. What makes it more galling is it is outside that with the person who was charged by the then Minister, Deputy Shatter, who set up this process, to look for expressions of interest in this job is the very person who ended up landing the job. It has caused outrage among citizens. How the Government has the brass neck to defend it is beyond me. That brass neck is equalled entirely by Fianna Fáil because the Government may have made the appointment but the only reason it stands, and the only reason that the individual has not been embarrassed into with-

drawing, is because it huffed and puffed. If Fianna Fáil was really serious, it would have had a motion in here last night, a motion of no confidence in the Government which would have put an end to the matter. Those games need to be dealt with too.

**Deputy Catherine Connolly:** I will refer to Deputy Howlin once more, I hope that he does not mind.

**Deputy Brendan Howlin:** Not at all.

**Deputy Catherine Connolly:** That he would use ten minutes to eulogise a judge and then complete this eulogy by saying that we really need appropriate legislation, captures for me precisely why Governments get away with what they get away with. Government has the power to do what it wants because the so-called Opposition is not Opposition at all. What Deputy Howlin completely ignored, as has the Government, is that the legislation exists. We do not need new legislation. We do in terms of the general reform of the system but not in relation to the appointment on an Attorney General. If Deputy Howlin looks at the Court and Court Officers Act-----

**Deputy Brendan Howlin:** I was part of the Government that produced it.

**Deputy Catherine Connolly:** -----specifically Part 4, he will see that it is specifically provided for. Section 17 does not allow for existing judges to go through this system.

**Deputy Brendan Howlin:** That is the very point I was making.

**Deputy Catherine Connolly:** I will come back to that in a minute if the Deputy could stop interrupting: he had ten minutes and I have three. Section 18 relates to the Attorney General and what should happen. There are three parts to that, two dealing specifically with the Attorney General. The board can recommend her and if she wishes to be considered, she must step outside the door.

First, why did the Government ignore that legislation particularly with a Taoiseach that is so given to history, as has been pointed out and who has employed an historian? The age of reason, where we learn, is usually considered to be 21 years. It is 21 years, just going into the 22nd year. This legislation was brought in specifically because of a debacle in which an Attorney General was involved. We fast forward 21 years later, and in that period the Government has learned nothing. It has ignored that legislation. Could the Government please clarify why that was ignored? In the Minister's history lesson on two pages, which I enjoyed, he went forward from 1922 to the present day and on into the future in relation to legislation which is nothing to do with this debacle. The Minister gave us key dates, going from Mr. Justice Garrett Sheehan's retirement on 23 March to the JAAB confirming that there was no suitable candidate, but he is not giving the whole story in relation to that confirmation. They could not nominate or recommend a sitting judge. It is very important he clarifies that. Then he goes forward to 13 June when he nominated one name. He has not explained what he did in between with the other three interested parties. More particularly, he has not explained why the Government did not even invoke the best part of that Act. If the Government was going to do what it could anyway, why did it not invoke the best part of the Act and ask the Attorney General to step outside the door? The Minister has not confirmed how the Government dealt with the potential conflict of interest in respect of this matter. Indeed, was there one? Quite clearly, the existing and sitting Attorney General and three more parties had expressed interest in the position, so how has the former Minister for Justice and Equality, who had the responsibility to bring forward one name,

resolved this? These are very practical matters and have nothing to do with the qualifications of the judge who has been elevated. This is about process, and if the Government ignores this, it does so at its peril. I will finish by quoting one of Fine Gael's former leaders. Fine Gael members held a commemoration recently in his honour or his memory. He said to a local gathering of Fine Gael members: "The party which fails to heed the people's voice will do so at its peril."

**Deputy Michael Fitzmaurice:** I thank Deputies Clare Daly and Catherine Connolly for sharing their speaking time with me. I wish the Minister, Deputy Flanagan, luck in his new position. He was helpful while Minister for the Department of Foreign Affairs and Trade.

Regarding these statements, most people do not question the ability of the Attorney General. It is a matter of the cronyism and the slick way in which the appointment has been made. We have seen this down through the years with the big guns in Irish politics. I sat for days in meetings on the formation of a programme for Government. Unfortunately, as was pointed out earlier, it is a big disappointment for us Independents to see the Government Independents staying very quiet about this. We have seen in the programme for Government reviews of railways, ticket scandals, helicopter services, the Common Agricultural Policy, mental health services and so on. We are a year and a few months into the current Government and nothing has changed. Principles are very important. I believe in standing up for what is right and speaking up, but there is no doubt about it, and let us be honest about it. Some of the Independents who have not said anything in recent days need to come out and state their positions. Independents, especially those in government, should distance themselves from all this. The Government Independents were at the table looking at this and listening to it. They had the opportunity to stall what has gone on. No doubt the system down through the years has been corrupt and rotten, and we need to change things very quickly. Legislation will be introduced next week, which is fine, but this debate will be over and it will be like every other week. We go from debacle to debacle, but what happens? Does one person lose his or her job? Does anyone get any wrap on the knuckles? No. It is a big hoohah for an evening like this and then nothing afterwards.

There is one group here, namely, Fianna Fáil, that has an opportunity to make sure there is transparency on this. During the week, at Leaders' Questions, the new Taoiseach, to put it simply, was not listening to Fianna Fáil. Fianna Fáil members have the trigger in their hands. They can huff and puff but, at the end of the day, it takes one thing, a bit of guts, to be like the wolf and blow the house down, and they should do that.

**Deputy Michael Harty:** I am sharing time with Deputies Michael Collins and Mattie McGrath. The appointment of the former Attorney General, Máire Whelan, to the Court of Appeal has raised eyebrows, especially in my mind, due to the manner of the appointment. I have no doubt about her qualifications and I am sure she will fill her role with distinction. However, the manner and process of her appointment seem to have been premeditated and irregular. I understand her nomination was lawful in the letter of the law but it was not within the sentiment of the law. At best, it was ham-fisted and, at worst, sharp practice but within the law. We all know how matters are rubber-stamped when they are presented without prior notice, rushed and unexpected, particularly in what would have been a Cabinet meeting which was busy and high-spirited. Mature reflection, I feel, will highlight and has highlighted the deficiencies of the process of this nomination and approval. I feel the Government has been embarrassed by this flawed process which has tarnished the new Cabinet's first week in office. The Government has been forced to have this debate due to the uncertain explanation of the process which was of its making and which was the responsibility of the previous Taoiseach and the Minister for Justice and Equality. The nomination did not happen by chance or as a matter of normal routine. It was

done with deliberate intent and for some political reason. Therefore, it is essential that transparent and accountable procedures are put in place for all judicial appointments from the highest to the lowest courts in the land to ensure such a controversy does not occur again.

**Deputy Michael Collins:** I am glad to have the opportunity to speak on this very controversial issue. I do not question the ability of the former Attorney General, Máire Whelan, to fulfil her new position in any way, and I am sure the majority of people will agree with me on that. However, the process of the appointment of Máire Whelan to the Court of Appeal, the second highest court in this land, was nothing less than corrupt. The Courts and Court Officers Act 1995 sets out a clear procedure for the process of applying for judicial positions through the JAAB. Had Máire Whelan applied for this position through the JAAB and been duly granted a position, I do not think we would have any raised eyebrows. It was the fact the former Taoiseach, Deputy Enda Kenny, and his Cabinet wanted to secure one last stroke for their friends that it has raised eyebrows. It is a case of jobs for the boys, and the girls, in this case.

This morning, I was back in my constituency of Cork South-West, at a function, and every single person who spoke to me about this issue felt the very same way, that this appointment was rotten and another example of cronyism alive and well in Ireland. We are less than a week into the new Taoiseach's leadership and I am sure he did not imagine such a baptism of fire. The Taoiseach himself said he knew this appointment was a possibility the night before it happened. If so, I ask the Tánaiste why he did not put a halt to it then. In the Government formation talks a few weeks ago, the Taoiseach spoke and sought the support of many Independents, but he did not contact me. This led me to make the decision that I could not support the Taoiseach, and now I am very glad I voted against him last Wednesday following the events of recent days. This is not the new politics about which the Tánaiste and her Government so fondly speak.

**Deputy Mattie McGrath:** I too am delighted to be able to speak on this matter. I invoked the lyrics of a certain song the day of the appointment of An Taoiseach, Deputy Varadkar, by a band called The Who, "Meet the new boss/Same as the old boss". The song is called "Won't Get Fooled Again". I am sure the old boss is looking in on tonight's proceedings, rubbing his hands, probably having a relaxing drink or cup of tea and remarking what a fine mess he has left the Ministers in and how they deserved it because they pushed him and pushed him and came up the hill. The Fianna Fáil lads were up his hill too but they went back down each time.

**Deputy Fiona O'Loughlin:** The Deputy was one of us once.

**Deputy Mattie McGrath:** Of course I was. That is why I am delighted I am not now.

**Deputy Barry Cowen:** It is a good job he went over the hill on his own.

*(Interruptions).*

**Deputy Mattie McGrath:** The best part of my-----

*(Interruptions).*

**Deputy Mattie McGrath:** May I have extra time now?

21 June 2017

**An Leas-Cheann Comhairle:** I advise Deputies not to interrupt.

**Deputy Mattie McGrath:** I thank the Leas-Cheann Comhairle.

**An Leas-Cheann Comhairle:** I also advise Deputy McGrath not to invite interruption.

**Deputy Mattie McGrath:** I will not invite any interruption. I am just stating facts. As I said here yesterday about the appointment of judges, I have nothing against the appointment or Ms Justice Whelan's credentials. I actually like her. She has done a lot of good work and I wish her well.

Thankfully, I opposed the Court of Appeal referendum, which very few in this House did, that set up this new Court of Appeal, of which Ms Justice Whelan is now president. However, the referendum was carried, although not by a huge majority because no attempt was made during the campaign by the then Minister, Mr. Shatter, and the Government of the time to explain what they were going to do, how many judges there would be and whether any work rate or questioning of how they would work was proposed.

The Judiciary badly needs reform, and I hope Ms Justice Whelan will lead that reform in the Court of Appeal and get some satisfaction from doing so. We cannot find out how many cases the judges have heard or what they have done since their appointments, and these do not come cheap. I also question the way in which the Judiciary has been appointed. I attended the Government formation talks. The Tánaiste was also there. The Minister, Deputy Flanagan, was not there but other Ministers were, and I wish them well in their new roles. I demanded that we have reform of the Judiciary. Deputy Shane Ross's name has been bandied around tonight. I compliment him because I fought for the same thing in parallel talks with the rural Independents, that is, reform and for it to be taken out of the grubby hands of politicians because they could not handle it. For all parties involved in government, including the coalition parties, there was a kind of barter system: you get one and I get two. That is the way it was with the previous Fine Gael and Labour Government, with Mr. High Priest Howlin from Wexford lecturing us all, or Deputy Howlin. I apologise. That is the way it was: two for one. Deputy Alan Kelly appointed all the board members of Bord na gCon and started to sack them in recent months after he had traded in people and other appointments for himself. That is the way grubby government works, so the Deputies involved cannot be wringing their hands tonight. I am delighted that the Minister for Transport, Tourism and Sport's Bill is being fast-tracked by the Government and we all have been invited to take part in the debate by the Minister for Foreign Affairs and Trade. I look forward to it because it is high time that we had it. I have been the victim of strange decisions by judges and strange appointments. I have the history and I can give it to the House any day of the week. I will not bring it here tonight, but I have it. That is why I am so passionate about this. I was blackguarded. That is why I am not in Fianna Fáil and I have told Deputy O'Callaghan this and I will tell the party leader, if he wants to find out too. I was surprised that the party leader impugned the reputation of the former Attorney General yesterday in comparison to the other three former incumbents. I was surprised to see him go that way and I am surprised that he did not say it in Brussels tonight. We sat yesterday for almost an hour at a Business Committee meeting to schedule a debate last night. When I came into the House to speak on it, the debate was gone. The opportunity could have been had last night for Deputy Micheál Martin to be present.

**Deputy Michael Moynihan:** There were no questions to be answered last night.

**Deputy Mattie McGrath:** That is fine. We had agreed the way it was at the Business Committee meeting; I supported whatever was going to happen.

This reform is needed. I brought it up with the Tánaiste and I got an angry response and rebuttal. It was not going to happen. The Independent Alliance has achieved this much in government, if not much else, and I salute them for that because it was badly needed. I do not like that six lay people will be appointed by another bastion of old power, the Public Appointments Service. It will pick the six members and the lay chairperson. I do not like that because they will be all retired senior public servants. What about the ordinary people?

What about what is going on in the courts at the moment with county registrars up and down the country turving people out of their homes? These people are ill and there have been suicides and everything else given the trauma that was visited on them following the blackguarding in the banks. We know what happened when the banks were charged in court cases. There are laws for the rich but no laws for the poor. The little people have to take their medicine. County registrars need to be reformed. The Joint Committee on Finance, Public, Expenditure and Reform and Taoiseach was informed yesterday that the registrars have no powers to do what they are doing. The chairman, Deputy McGuinness, brought in people to talk to us about the new housing Bill to try to get these people off death row. They might as well be on death row as to be waiting for the sheriff. I waved a book at the Tánaiste two years ago waiting for a sheriff. People cannot live, they cannot educate their children, they cannot feed themselves and they cannot prosper or thrive, but neither can Ireland unless we have reform of all those systems. The county registrars have no powers in those areas to grant repossession orders and they need to be challenged. People cannot get the lawyers to stand up to members of Judiciary and they will not be accepted by some judges, including one appointed by the Tánaiste. I was in the court that day. He was around this House not so long ago and he would not allow a woman who came out of prison in a prison van to have a lay litigant represent her. She could not stand up or talk-----

**An Leas-Cheann Comhairle:** I sounded a note of warning.

**Deputy Mattie McGrath:** The Leas-Cheann Comhairle did and I did not mention any names.

If the caps fits, wear it. All the judges are appointed by certain parties and it is time we cleaned it up to get justice for the ordinary people. We do not want any more of this up the hill and down the hill and “We will” and “We will not”. The public is sick and tired of threats by Fianna Fáil to pull down the Government and statements about issues being a resigning matter. The pipe of supply has ruptured and they now want to fix it. It has ruptured so many times now it is like a sieve. It will not break at all because they do not have the courage or conviction to call an election and let the people decide who will be in government. They did not want to be in government the last time. Deputy Martin went to Tipperary and said they did not want to be in government. The truth hurts. Deputy Martin was afraid he would get the votes and my colleagues are present to prove that. He did not want it.

**An Leas-Cheann Comhairle:** We are not debating the formation of the Government; we are debating the procedure-----

**Deputy Mattie McGrath:** I am just pointing out facts. Fianna Fáil Members are complaining about the procedure. The only problem with the procedure this time is they did not have

21 June 2017

the appointment in their hands. The procedures have to be changed - new politics my foot. We need new politics and we need a clear out of what is going on.

**Deputy Róisín Shortall:** I wish to share time with Deputy Eamon Ryan.

When the Taoiseach commented yesterday that he would not have chosen a controversy such as this as a welcome into office, I could not help but be reminded of Albert Reynolds's statement of regret which led to the resignation of former judge, Harry Whelahan, from the High Court. Undoubtedly, there are strong historical parallels but in a way this appointment is even more controversial and tawdry than the one in 1994-95. That led to a change in the law and the introduction of new procedures in respect of the appointment to the bench of an Attorney General. Unfortunately, the lessons that were learned in 1995 have not been taken on board by the Government and those mistakes have been repeated to a large extent.

I was surprised that the Leas-Cheann Comhairle did not remind the Minister for Justice and Equality of the purpose of this session when he made his introductory remarks. These are statements on the procedures covering the judicial appointment, yet we heard precious little from the Minister about them. That is the controversy. We want to know what happened over recent weeks in respect of this controversial judicial appointment and he gave us precious little information about that. He referred to what he would do in the future but he did not provide the information required. I hope the Tánaiste and former Minister for Justice and Equality fills in the many gaps we are waiting to hear about when she contributes.

A number of key questions need to be responded to in the debate. We were told that three High Court judges applied for this position. I hope the Minister confirms that as a fact because nobody has done so. If that is the case, we do not know anything about what happened to those expressions of interest. Who received them? Were they sent to the then Attorney General? Did the Tánaiste see those applications when she was Minister for Justice and Equality? Who else in the Department saw them? What consideration was given to those applications? Were they rated or considered at all? Did the Tánaiste inform the Taoiseach of those applications? Did she inform her Cabinet colleagues about them? Where are they now? Did she just bin them or did she use a transparent process to consider them?

How did it come about that contact was made with Áras an Uachtaráin by somebody representing Government on Sunday morning, giving notice of a warrant of appointment requesting that the appointment of the new judge to the Court of Appeal be expedited? Who issued that instruction? The Taoiseach implied that it just happened that somebody in the Department of Justice and Equality or his Department did so. I cannot believe that a senior official from any Department would take it on himself or herself on a Sunday morning to make a move like this. How convenient it is that the appointment was expedited. How convenient it is that the Taoiseach and others in government were then in a position to plead the separation of powers when we tried to probe all the grubby circumstances surrounding this appointment.

It is legitimate for Members to raise concerns surrounding the handling of various issues relating to Garda whistleblowers. There are questions marks over several people associated with the Government and in government about how they have handled them. There is serious public concern about the role the former Attorney General played in that, in particular. There is also serious concern about the changing of the witness statement for the Fennelly commission and, most important, there is serious concern about the fact that Máire Whelan will be exempted from appearing before the Charleton inquiry and giving evidence. That is not accountability.

This whole affair is shameful on the part of the Government.

**Deputy Eamon Ryan:** It is right for the democratically elected representatives of the people to select our judges. It would be better if they were choosing between three people but, ultimately, that power should reside here. It has served us well, by and large, in the history of the State with the exception of the past two Governments. It is with regret that I have to come back to what Deputy Howlin said.

Those in the legal world would have a view that the hostility in the relationship between the previous Government and the judicial system was unprecedented. The key point in respect of appointments by that Government was, as Deputy Mattie McGrath said, two for  
*10 o'clock* Fine Gael, one for Labour - not on every occasion, but that was the basic arithmetic. Many of them were very good but the word I hear from people involved in the system is that we have not lived up to the tradition of the State in terms of really good judicial appointments.

I am afraid there are flaws in the statement by the Minister, Deputy Flanagan. In fact, we could drive a coach and four through it. I want to raise some specific points that have not been addressed. First, he stated that all necessary procedures regarding judicial appointment have been followed in this instance. While I am not an expert, we had experience in government for four years during which there were quite a large number of judicial appointments. On every single occasion, they came through JAAB and through the Attorney General's office. If there was a conflict of interest, that had to be taken account and measured in the process. Critically, and this is a political point, the Minister stated that we cannot discuss what happened in this process because of Cabinet confidentiality. I am sorry, but at the heart of this process there is one aspect that is different to anything I experienced. During our time in government, we, as a minority party, were involved in every single judicial appointment. We were fully informed and had the opportunity to agree or disagree. This was not in Cabinet - we did not have a debate in Cabinet. We decided before the relevant Cabinet meeting whether we agreed or disagreed or were happy with the names going forward.

**Deputy Barry Cowen:** Well said.

**Deputy Eamon Ryan:** That did not happen in this case.

**Deputy Barry Cowen:** Not at all. It was telepathy.

**Deputy Eamon Ryan:** We do not require the breaching of Cabinet confidentiality. The Minister for Communications, Climate Action and Environment, Deputy Naughten, has stated that he knew nothing about the appointment. He was in an impossible position because the matter comes before Cabinet, the person who is about to be appointed is sitting there and suddenly someone asks, "Is this decided?" How could anyone say "No" when everyone is suddenly applauding? That is just wrong in terms of Cabinet confidentiality. Cabinet collective responsibility is a double-edged sword. It is a limit to one's powers but it is also the case that one has the powers but cannot operate them where some members of Cabinet turn up to Cabinet with no knowledge of what is coming in terms of such a highly sensitive appointment. That process is wrong and there are questions we need to have answered.

The key question I want answered is where is the Minister for Transport, Tourism and Sport, Deputy Ross. We are usually the last to get speaking time, except when the Independent Alliance is in the House. While he may burst through the door in the next 90 seconds, I think he has

questions to answer. He had a meeting with the Taoiseach-to-be, Deputy Varadkar, on the Sunday - it was not just a phone call from Deputy Micheál Martin. The main item of the meeting was judicial appointments in exchange for support for the Government. It beggars belief that the Taoiseach, who admitted today he had a sense that this appointment was going to be on the cards, did not mention it to the Minister during the meeting to which I refer. We need to know from the Minister when he found out about this appointment or is his whole interest in judicial appointments a complete populist pretence that has now been exposed?

**Deputy Fiona O'Loughlin:** Hear, hear. Well said.

**Deputy Eamon Ryan:** If he did not know about the appointment and he was sitting there in Cabinet, why did he not say "No"? Why did he not stop it if he is so concerned about the judicial appointments process? If he did know, that is even worse. We need an answer in that regard.

Why was the Minister for Communications, Climate Action and Environment, Deputy Naughten, not informed? Is that the standard operating procedure of the Government, namely, that the minority members of the coalition are not kept in the loop? From my experience, Cabinet confidentiality and collective responsibility cannot work in such circumstances. That is one of the political failings that has been exposed in this entire process. We need answers to what are perfectly valid questions. This statement does no justice to the power we need to keep, as a democratic assembly, to appoint judges. We deserve to hold on to that power but not if we pretend that due process was followed in this case. To my mind, it goes completely against the process. The decision two or three weeks earlier to appoint as judges people who, as Deputy O'Callaghan said, had not even come to the end of their terms yet calls into question Fine Gael's approach to this whole matter. What has gone on is a disgrace.

**Tánaiste and Minister for Jobs, Enterprise and Innovation (Deputy Frances Fitzgerald):** We are most fortunate to have in Ireland a strong, independent, impartial and well-respected Judiciary. I have said on many occasions, particularly in the last year when we have been discussing the new judicial appointments Bill, that we have been very well served by those who have been appointed by Governments made up of all parties.

Enshrined in Article 35.2 of the Constitution is the important principle to the effect that "All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law". I call on Deputy Micheál Martin and the Fianna Fáil Party to row back on their recent attempts to denigrate the character and calibre of the former Attorney General, who is now a member of the Court of Appeal, in this House. The comments suggest that she is somehow of inferior character and ability when compared to others who were appointed to positions in the superior courts when the party opposite was in government. The comments impact on the constitutional separation of powers which exist in this State. I would ask whether Deputy Jim O'Callaghan shares these views. Does he associate himself with or disassociate himself from the views of his leader? If he shares those views, we must surmise that Fianna Fáil's real objection to this nomination is that the former Attorney General does not meet some unknown criteria his party applied to these situations when it appointed ten Attorneys General to the Bench. The Deputy has a choice: he should inform the House what those criteria are or he should disassociate himself from the comments of his leader.

At its meeting of 13 June 2017, the Government decided to nominate the then Attorney General, Ms Máire Whelan, SC, for appointment as an ordinary judge of the Court of Appeal

pursuant to its prerogative under Article 13.9 and Article 35.1 of the Constitution to advise the President on appointments to judicial office. As we know, Ms Justice Máire Whelan was subsequently appointed by the President as a judge of the Court of Appeal.

Let me set out again for the information of Deputies some points in regard to this appointment. The constitutional prerogative when advising the President on judicial appointment lies with the Government alone. It is in accordance with the law and the Constitution for the Government to recommend a person to be appointed a judge of the Court of Appeal provided they are eligible and qualified, whether or not that person's name has been put forward by JAAB. The Government is obliged under section 16 of the Courts and Court Officers Act 1995 to first consider persons recommended by JAAB. However, the Government is not obliged to follow the recommendations of JAAB, nor could it constitutionally be required to do so. In accordance with practice, I referred this vacancy to JAAB and in this case, as has already been stated publicly, JAAB was not in a position to recommend any applicants for appointment to the Court of Appeal vacancy.

**Deputy Michael McGrath:** They never applied. That is the whole point.

**Deputy Frances Fitzgerald:** Those are the facts of the situation. Where existing judges of the High Court, or any other court, put forward expressions of interest in a vacancy to the Attorney General, all such submissions are considered.

**Deputy Róisín Shortall:** By whom?

**Deputy Frances Fitzgerald:** I want to be very clear about that. Of course, all such submissions are considered and are treated in a confidential manner, for very good and obvious reasons, as Deputies will agree. While, of course, such expressions of interest are always considered, constitutionally, the Government cannot be bound by any such expressions of interest in exercising its prerogative to advise the President on an appointment. It is in accordance with both the law and the Constitution to nominate a person to the President to be appointed a judge of any court. This includes the Court of Appeal, provided they are eligible and qualified. It is also in accordance with both the law and the Constitution for the Government to nominate for appointment an eligible and qualified person who is not already a judge, even if there are existing judges who have expressed an interest in the appointment. These are the constitutional prerogatives set down for the Government. If the Deputies across favour a change in the Constitution in this area they should outline the alternative they favour.

I have had six years experience of working with Máire Whelan as Attorney General. She is a talented lawyer and a person of the highest integrity and qualities. She has directed and overseen the legal work of this State during a period of economic and social change. She has designed, picked and managed the legislation required during some of the most difficult periods in the history of the State. Deputy Howlin has outlined the range and depth of her work during her period as Attorney General. In fact, she has been the longest serving Attorney General in more than 50 years in the State. She has done all this work with skill, professionalism and admirable temperament. She does not deserve to have her character questioned in this House. The breadth and depth, the gravity, relevance, complexity and significance of her six years' experience as the constitutional legal adviser to the Government, advising on complex matters of legal and constitutional importance, ensures she is absolutely qualified.

The Government has committed to significantly enhance the judicial selection model. On

21 June 2017

30 May 2017, the Government approved the publication of the Judicial Appointments Commission Bill, which fulfils the programme for Government commitment to introduce legislation to replace the JAAB with a new judicial appointments commission. Let me make it clear again that JAAB does not deal - and I think this was a question from Deputy O'Callaghan - JAAB does not make recommendations on judges to the Government. It deals with applications of people who are not judges. This Government set in place a procedure whereby if sitting judges wanted to express an interest they would do so through the Office of the Attorney General. Under previous Governments, what happened was there seemed to have been some system of very informal lobbying. Lobbying, as Deputy O'Callaghan and other Members know, has been quite common with regard to various vacancies. What the previous Government did was put in place a procedure to deal with expressions of interest.

**Deputy Catherine Connolly:** And then ignored it.

**Deputy Frances Fitzgerald:** No, it did not ignore it. This is not correct. It did not ignore it.

**Deputy Barry Cowen:** The Attorney General should have informed JAAB.

**An Leas-Cheann Comhairle:** The Deputy may get an opportunity to ask questions.

**Deputy Barry Cowen:** May?

**Deputy Frances Fitzgerald:** As I said, there was no procedure before, and it was informal lobbying-----

**Deputy Michael McGrath:** What is the procedure when a judge applies?

**Deputy Frances Fitzgerald:** -----it would appear, or making interests known, by judges. A procedure was put in place. It is not on a statutory basis but a procedure was put in place and the Judiciary is well aware of that procedure.

We now have the possibility of extremely comprehensive legislation coming before the House next week. Work on the new legislation will now move forward under the guidance of my colleague, the new Minister for Justice and Equality, Deputy Flanagan, and I ask all Deputies to support this legislation. I ask Fianna Fáil to support this legislation.

I reaffirm once again what the Taoiseach said earlier. There was a suitable person appointed by a lawful process. Talk here of this being outside the law or circumventing the law is not accurate. No matter how much the Opposition tries to make this into an issue different from that, what happened here was that a suitable person who was appropriately qualified was appointed to a vacancy lawfully using a correct process.

**Deputy Barry Cowen:** Yes, well answer the question.

**Deputy Frances Fitzgerald:** I call on Deputy O'Callaghan, and others, to disassociate himself from the comments of his leader, who attempted to play the woman and not the issue.

**Deputy Niamh Smyth:** Not true.

**An Leas-Cheann Comhairle:** We have 25 minutes for questions and answers, and I ask Members to respect the fact that their colleagues will want to ask questions.

**Deputy Barry Cowen:** Just ask questions.

**An Leas-Cheann Comhairle:** I suggest short relevant questions and short relevant answers from whichever Minister decides to answer. The first indication was from Deputy O’Callaghan.

**Deputy Jim O’Callaghan:** The Government is answerable to the Dáil. I set out a series of questions. I want to repeat the first two and ask the Government to answer them. Were letters expressing an interest in the Court of Appeal vacancy sent by members of the High Court? If so, who received them and when?

**Deputy Mary Lou McDonald:** Sorry, Deputy O’Callaghan, can we even get an answer to that?

**Deputy Jim O’Callaghan:** I will just do it my way. On 23 May, the Government nominated seven people to fill vacancies in the courts. We know from what the Minister, Deputy Flanagan, has said that JAAB reported on the Court of the Appeal vacancy on 16 May. Why was the Court of Appeal vacancy not filled on 23 May?

**Deputy Barry Cowen:** Two questions.

**Deputy Frances Fitzgerald:** I will deal with the first question. What I made very clear in my answer is that there is a process in place if a judge, any judge, wants to express an interest in a judicial vacancy. Under previous Governments there was not a process in place. There is now a process in place, and if any judge wants to express an interest at any point, not just when he or she knows there are vacancies but in anticipation of vacancies, a judge can make his or her interest-----

**Deputy Jim O’Callaghan:** Did any judges express an interest in this vacancy?

**Deputy Michael Moynihan:** “Yes” or “No”?

**Deputy Frances Fitzgerald:** Can I make it absolutely clear that all expressions of interest that were received in respect of this or any other vacancy had been absolutely appropriately dealt with----

**Deputy Mary Lou McDonald:** The Minister is not answering the question.

**Deputy Barry Cowen:** If so, who received them and when?

**Deputy Frances Fitzgerald:** -----had been absolutely appropriately dealt with-----

**An Leas-Cheann Comhairle:** Other Members will have an opportunity.

**Deputy Frances Fitzgerald:** I have already-----

**Deputy Barry Cowen:** In this instance.

**Deputy Frances Fitzgerald:** Does the Deputy want me to answer?

**Deputy Barry Cowen:** Yes.

**Deputy Frances Fitzgerald:** I have already outlined that there is a procedure in place, whereby they go to the Office of the Attorney General who then forwards them-----

**Deputy Mary Lou McDonald:** Entirely outrageous. The Minister is stonewalling.

21 June 2017

**Deputy Barry Cowen:** That is fine. When did she get them?

**Deputy Frances Fitzgerald:** Sorry, would the Deputy mind listening to the answer?

**Deputy Mary Lou McDonald:** I am listening.

**An Leas-Cheann Comhairle:** There has to be order.

**Deputy Frances Fitzgerald:** The Attorney General then forwards them-----

**Deputy Mary Lou McDonald:** The Minister is not answering.

**Deputy Frances Fitzgerald:** I am answering the question.

**Deputy Jim O'Callaghan:** The Minister is not answering the first question.

**Deputy Frances Fitzgerald:** I am answering the question.

**Deputy Jim O'Callaghan:** Were letters expressing an interest in the vacancy received?

**Deputy Frances Fitzgerald:** Would the Deputy allow me to finish the answer?

**An Leas-Cheann Comhairle:** Tánaiste, I did say relevant questions and relevant answers.

**Deputy Mary Lou McDonald:** The question is relevant.

**Deputy Frances Fitzgerald:** There is an absolutely clear process. They are then forwarded-----

**Deputy Brendan Howlin:** That is in general.

**Deputy Frances Fitzgerald:** -----to the Department of Justice and Equality for the attention of the Minister for Justice and Equality. That is the procedure that is followed in all cases where-----

**Deputy Barry Cowen:** That is not an answer.

**An Leas-Cheann Comhairle:** I must interrupt the Tánaiste. I call Deputy Jonathan O'Brien.

**Deputy Frances Fitzgerald:** -----the judge expresses an interest. There is a clear procedure.

**Deputy Jim O'Callaghan:** Having failed to answer my first question, the Tánaiste should answer my second question. She failed to answer the first question. She should answer the second.

**An Leas-Cheann Comhairle:** I cannot be responsible but I did state clearly the answers also had to be relevant. The Tánaiste will have an opportunity if she wishes.

**Deputy Barry Cowen:** If the Tánaiste talks down the clock we will get no answers.

**Deputy Jim O'Callaghan:** The second question was fairly simple.

**An Leas-Cheann Comhairle:** There will be no talking down the clock.

**Deputy Jim O'Callaghan:** Why, on 23 May, did the Government not fill the Court of Ap-

peal vacancy since JAAB had reported to the Minister on 16 May in respect of it?

**Deputy Charles Flanagan:** Because the matter did not arise.

**Deputy Jim O'Callaghan:** Sorry?

**Deputy Charles Flanagan:** There was an agenda item, which involved the filling of a number of vacancies, which did not include any reference to the Court of Appeal.

**Deputy Jim O'Callaghan:** Why not?

**Deputy Barry Cowen:** Considering JAAB had told the Minister there was a vacancy.

**An Leas-Cheann Comhairle:** I call Deputy Jonathan O'Brien to ask a relevant question.

**Deputy Barry Cowen:** Ah, lads.

**Deputy Jonathan O'Brien:** I will ask the relevant question but I hope the Tánaiste will give me the relevant answer that she did not give Deputy O'Callaghan, and that is we all know the process. The question is whether expressions of interest were made-----

**Deputy Brendan Howlin:** In this case.

**Deputy Jonathan O'Brien:** -----in this particular case. It is not breaching Cabinet confidentiality to answer that. Were expressions of interest made and, if so, to whom were they made and how were they processed? That is the first question. The next question is did the successful applicant make an expression of interest and, if so, when was that made and to whom? If she did not make an expression of interest, I can only presume that somebody approached her, asking her whether she was interested in the particular position. If that is the case, when did that happen and who made that approach? My final question is about the phone call last Sunday night between Deputy Micheál Martin and the Taoiseach. Is it the opinion of the current Minister for Justice and Equality that a phone call of that nature is an attempt to influence the judicial process in terms of appointing a judge? Is it legal or illegal to do so?

**Deputy Charles Flanagan:** I will deal with that. It is most unfair of Deputy O'Brien to seek further and more detailed information-----

**Deputy Jonathan O'Brien:** That is the whole point of this debate.

**Deputy Charles Flanagan:** -----on the matter of a phone call between two Members of this House, neither of whom are present-----

**Deputy Mick Barry:** How convenient.

**Deputy Charles Flanagan:** -----and both of whom were present during the day when this matter was mentioned. I suggest to Deputy O'Brien, in fairness to the Deputies involved, this is an issue that perhaps consideration might be given to at a further-----

**Deputy Jonathan O'Brien:** I have asked the Minister for his opinion. He is the Minister for Justice and Equality.

**An Leas-Cheann Comhairle:** The Minister, Deputy Flanagan, without interruption.

**Deputy Jonathan O'Brien:** I asked him whether it is lawful in his opinion as Minister for

21 June 2017

Justice and Equality. I did not ask for their opinions.

**An Leas-Cheann Comhairle:** I call Deputy Howlin.

**Deputy Jonathan O'Brien:** Hold on, I did not get an answer.

**Deputy Mary Lou McDonald:** It is absolutely farcical.

**Deputy Charles Flanagan:** I will give the Deputy an answer. It is totally unfair in any form of due process to question me on the detail of an issue that was discussed between two Members of this House, the Taoiseach and the Leader of the Opposition, earlier today. I respectfully suggest, in the interests of due process and fairness, that the best people to whom further and more detailed questions might be addressed are the people themselves. I do not have any knowledge of the detail.

**Deputy Mary Lou McDonald:** Were there other applicants?

**Deputy Charles Flanagan:** I was not there.

**Deputy Jonathan O'Brien:** Were there other applicants?

**Deputy Mary Lou McDonald:** Answer that question or this is pointless.

**An Leas-Cheann Comhairle:** The Minister without interruption.

**Deputy Charles Flanagan:** Deputy McDonald does not like the answers.

**Deputy Mary Lou McDonald:** They are not answers.

**Deputy Charles Flanagan:** She persistently continues to interrupt in a way that ensures the process which the House has ordered to take place will not take place in an orderly manner. That suits her agenda. It suits an agenda to destabilise, obfuscate and cloud.

**An Leas-Cheann Comhairle:** I must call the next question.

**Deputy Charles Flanagan:** On the matter of expressions of interest-----

**An Leas-Cheann Comhairle:** I have to be fair to all Members. I call Deputy Howlin.

**Deputy Jonathan O'Brien:** There were no answers.

**An Leas-Cheann Comhairle:** I have no responsibility if the Ministers do not answer the questions. I call Deputy Howlin.

**Deputy Jonathan O'Brien:** It might be third time lucky.

**Deputy Mary Lou McDonald:** You are a disgrace.

**Deputy Brendan Howlin:** So far two Deputies have asked the same simple question relating to how other applicants for the same position were handled, but there has been no answer. Can we have an answer on how many other applications were received and how those applications were handled? Second, with regard to the telephone call that was made to Áras an Uachtaráin on the Sunday morning, can the Tánaiste and former Minister for Justice and Equality say who initiated the contact with Áras an Uachtaráin on a Sunday with regard to fixing a

date for the warrant to be signed by the President?

**Deputy Frances Fitzgerald:** I am surprised at the Deputy. He knows very well that it would be extraordinary to suggest, if that is what he is suggesting-----

**Deputy Brendan Howlin:** I am just asking a question.

**Deputy Frances Fitzgerald:** -----that there was any pressure put on the President or-----

**Deputy Mick Barry:** Answer the question. It is outrageous.

**Deputy Frances Fitzgerald:** -----that he succumbed.

**Deputy Brendan Howlin:** Who initiated the contact?

**Deputy Frances Fitzgerald:** The Deputy is well experienced in government. He knows quite well that we do not come to the House and talk about contact between any particular officer in a Department with the President.

**Deputy Brendan Howlin:** Which Minister initiated the contact? Was it the Tánaiste? Did she ask that contact be made with the President?

**Deputy Frances Fitzgerald:** The Deputy knows very well-----

**Deputy Brendan Howlin:** Who? It was on a Sunday.

**Deputy Frances Fitzgerald:** Let me answer. When a judge is about to be appointed there is always contact from the relevant Department, which is the Department of the Taoiseach-----

**Deputy Brendan Howlin:** Not normally on a Sunday. The Minister knows that.

**Deputy Frances Fitzgerald:** -----with the President. To suggest, first, that there is any inappropriate pressure put on the President-----

**Deputy Brendan Howlin:** I am simply asking a question.

**Deputy Frances Fitzgerald:** I am responding.

**Deputy Brendan Howlin:** Did the Minister initiate it?

**Deputy Frances Fitzgerald:** I already said that after the nomination of a judge contact is always made from the Department of the Taoiseach to make those arrangements. To suggest that there was any pressure-----

**Deputy Brendan Howlin:** The Taoiseach's Department is not normally staffed on a Sunday.

**Deputy Frances Fitzgerald:** -----or to say that the President in any way would succumb to pressure is outrageous and absolutely untrue. It is inappropriate to suggest it.

**Deputy Jonathan O'Brien:** Were there other expressions of interest? How many expressions of interest were there?

**An Leas-Cheann Comhairle:** No, I have a list here. I am going to be very fair to everybody. The next question is from Deputy Barry Cowen.

21 June 2017

**Deputy Barry Cowen:** When Deputy O’Callaghan spoke on our behalf there were nine questions in his speech. He reiterated two of them and the Minister failed to answer the first and she inadequately answered the second. I will ask the third. Did the Judicial Appointments Advisory Board tell the Minister it wanted a High Court judge for the position that was available?

**Deputy Frances Fitzgerald:** Does the Deputy want me to answer?

**Deputy Barry Cowen:** Yes. It will be the first question the Minister answers, incidentally.

**Deputy Frances Fitzgerald:** The question shows a complete misunderstanding of the role of the role of the board-----

**Deputy Barry Cowen:** It did not.

**Deputy Frances Fitzgerald:** Of course it did not.

**An Leas-Cheann Comhairle:** That is the question answered.

**Deputy Frances Fitzgerald:** It is not its role to recommend judges to the Government.

**Deputy Barry Cowen:** I thank the Minister. That is all I wanted to know.

**Deputy Frances Fitzgerald:** Judges do not apply to the board.

**Deputy Barry Cowen:** Did the Minister discuss the vacancy in the Court of Appeal with the former Attorney General prior to 23 May?

**Deputy Frances Fitzgerald:** No, I did not.

**An Leas-Cheann Comhairle:** A final question from the Deputy.

**Deputy Barry Cowen:** Who decided the only name that would be brought to the Government and why did the Government not consider the other applicants? Who decided that only one name would be brought to the Government? Did the Minister decide it? Was it the Minister alone?

**Deputy Frances Fitzgerald:** What was the first question?

**Deputy Barry Cowen:** The Minister actually answered two, so we are on a roll.

**Deputy Frances Fitzgerald:** What was the first part of this question?

**Deputy Barry Cowen:** Who decided that only one name would be brought to the Government? Why did the Government not consider other applicants?

**Deputy Frances Fitzgerald:** Let me be very clear, and I have said this a number of times already. All applications that were in the system were all considered and due process was, and is, always accorded to all applications that come to the Minister for Justice and Equality, whether it is via the Judicial Appointments Advisory Board or the system that is in place for judges.

**Deputy Barry Cowen:** So the Minister decided.

**Deputy Frances Fitzgerald:** All receive due process and due consideration.

**Deputy Barry Cowen:** The Tánaiste, as the Minister, decided. That is great. I thank the

Minister. I have a final question. Finally, who was aware-----

**Deputy Colm Brophy:** On a point of order-----

**Deputy Barry Cowen:** Sorry, Deputy, the Opposition parties are asking the questions here.

**Deputy Colm Brophy:** On a point of order, there has to be fairness in this process.

**An Leas-Cheann Comhairle:** Deputy, have you been delegated to respond on behalf of the Government?

**Deputy Colm Brophy:** You said there was a list. There has to be fairness in the process.

**An Leas-Cheann Comhairle:** I ask you to resume your seat.

**Deputy Barry Cowen:** The Deputy can use the forum of the parliamentary party to ask questions of the Minister.

**An Leas-Cheann Comhairle:** I certainly cannot gazump this for you. If the Ministers ask you to respond on their behalf, and I doubt that they will, then you will intervene, but not until I call you.

**Deputy Barry Cowen:** Can I ask the Minister who was aware before last Tuesday of what was to happen on Tuesday with regard to this appointment?

**An Leas-Cheann Comhairle:** This is your final question.

**Deputy Barry Cowen:** Was it just the Minister or was it the Minister and the former Taoiseach?

**Deputy Frances Fitzgerald:** In this situation normal practice going back over several decades was followed. It is recorded in many different places-----

**Deputy Barry Cowen:** I did not ask about several decades ago, with all due respect.

**Deputy Frances Fitzgerald:** -----including in academic sources. Normal practice over a long period, including during the terms when the Deputy's party was in government, has been that the Minister for Justice-----

**Deputy Barry Cowen:** Yes, my own brother and all the rest of it.

**Deputy Frances Fitzgerald:** Why does the Deputy not listen to the reply before he starts making comments?

**Deputy Barry Cowen:** I am not interested in several decades ago. I am interested in who the Minister discussed this with before last Tuesday.

**Deputy Frances Fitzgerald:** Yes, I am answering the question. I am telling him that there is precedent here. The Minister for Justice and Equality in consultation with the Taoiseach brings a name to the Cabinet by way of nomination. That has always been the situation-----

**Deputy Barry Cowen:** It was only the Minister and the Taoiseach.

**Deputy Frances Fitzgerald:** -----for the personal privacy of applicants, for obvious pro-

21 June 2017

fessional and commercial reasons. Apart from anything else, this approach is central to the maintenance of the independence of our Judiciary-----

**Deputy Barry Cowen:** It was just the Minister and the former Taoiseach. Is that correct?

**Deputy Frances Fitzgerald:** -----which we all know is recognised and highly valued.

**Deputy Barry Cowen:** Was it just the Minister and the former Taoiseach?

**An Leas-Cheann Comhairle:** Will you give other Deputies an opportunity?

**Deputy Barry Cowen:** It is important that she clarify this.

**An Leas-Cheann Comhairle:** Others can answer it. I call Deputy Lawless.

**Deputy Barry Cowen:** For the purposes of the record it should be noted that the Minister is not answering the question.

**An Leas-Cheann Comhairle:** I call Deputy Lawless. I will insist that the Minister or the Tánaiste have a relevant response.

**Deputy Róisín Shortall:** Why call that Deputy?

**An Leas-Cheann Comhairle:** Their names are down.

**Deputy Róisín Shortall:** Yes, but it is the same party.

**An Leas-Cheann Comhairle:** The position is that it is when the Member indicates.

**Deputy Jonathan O'Brien:** Can we get a list of the names?

**An Leas-Cheann Comhairle:** No.

**Deputy James Lawless:** The Taoiseach indicated having knowledge prior to the night of the meeting that the appointment was to occur. Who was aware before last Tuesday's Cabinet meeting that this appointment was taking place?

**Deputy Barry Cowen:** She answered that.

**An Leas-Cheann Comhairle:** Is that the only question?

**Deputy James Lawless:** Yes. Who was aware of the appointment prior to last Tuesday? The Taoiseach has indicated knowledge. Can she advise us further on that?

**Deputy Barry Cowen:** She has just to clarify whether it was the current or the former Taoiseach.

**Deputy Frances Fitzgerald:** When an item is on a Cabinet agenda the information relating to that is covered by Cabinet confidentiality.

**Deputy James Lawless:** Was it on the agenda?

**Deputy Frances Fitzgerald:** That is the reply to the Deputy's question.

**An Leas-Cheann Comhairle:** I call Deputy Breathnach. I am following the order list.

**Deputy Declan Breathnach:** I want to return to a question that has been asked twice already, and particularly the earlier statement by Deputy Shortall. I am saddened by such a sad, sordid, shabby and shambolic exercise by the Government in terms of this judicial appointment. On the attempt to blame an Opposition party for the silly collective decision that was made, it is absolutely disgusting to hear people try to say that Deputy Micheál Martin has been-----

**Deputy Mick Barry:** A question.

**An Leas-Cheann Comhairle:** A question.

**Deputy Declan Breathnach:** My specific question for the Tánaiste is whether the President's diary was changed on the Monday to facilitate the continuation of the Government trying to cover its tracks in regard to the appointment.

**An Leas-Cheann Comhairle:** It is a question for the President.

**Deputy Charles Flanagan:** I want to deal with that question because this House is doing a great disservice to the Office of the President. I refer in particular to the Deputy who is laughing merrily at the back, Deputy Shortall.

**An Leas-Cheann Comhairle:** I have just said that we cannot discuss the President's diary.

**Deputy Róisín Shortall:** Answer the question and stop obfuscating.

**Deputy Charles Flanagan:** I want the House to be absolutely sure, and I want to refer to what the Taoiseach said here this morning, that is, that there was absolutely no attempt-----

**Deputy Mick Barry:** Answer the question.

**Deputy Charles Flanagan:** -----on the part of the Taoiseach to instruct in any way Áras an Uachtaráin or the President. There was absolutely no contact from anybody in the Department of Justice and Equality with Áras an Uachtaráin. For Deputy Shortall, Deputy Breathnach or anybody to suggest there was an attempt on the part of the Government, at any level, to characterise the relationship between the Office of the Taoiseach or the office of the Department of Justice and Equality and the Áras as one of instruction is outrageous. It is totally unacceptable for Deputy Breathnach, whom I know is not here too long and who is a Deputy of the highest standing, to make allegations such as this.

**Deputy Barry Cowen:** I thank the Minister for that answer.

**Deputy Catherine Connolly:** I have two very brief questions. Why was the former Attorney General not asked to leave the room when the decision was being made? When did the former Attorney General become aware that she was going to be nominated by the Government? When precisely was she told that? Ar tháinig sé aniar aduaidh uirthi i rith an chruinnithe?

**Deputy Charles Flanagan:** These are issues that strike at the heart of Cabinet confidentiality and I am not going to breach that doctrine. I am not going to act contrary to the Constitution. I say to Deputy Connolly what I said in my opening statement, namely that I am not in a position to go into any detail about who was in the room, who was not in the room, what was presented to those who were in the room, what was discussed within that room-----

**Deputy Catherine Connolly:** I did not ask any of those questions.

21 June 2017

**Deputy Charles Flanagan:** I stand by the Constitution here. If this House decides after this debate or at any future date to change the Constitution, we know the process.

**Deputy Catherine Connolly:** I did not ask any of those questions.

**An Leas-Cheann Comhairle:** Deputy Barry may ask a short question.

**Deputy Mick Barry:** I will ask one question, and one question alone. I do ask myself the question as to who gains from the appointment. I believe Ms Justice Máire Whelan gains from the appointment.

**An Leas-Cheann Comhairle:** Has the Deputy a question to ask?

**Deputy Mick Barry:** Politically, it is the Taoiseach, Deputy Varadkar, who gains most from the appointment because it frees up a space in the Attorney General's office so that he can put his own man from his own party background in there. My question is for the Tánaiste. When did she first discuss the issue of the appointment with the Taoiseach, Deputy Varadkar?

**Deputy Frances Fitzgerald:** The Taoiseach was in the Cabinet room at the same time as all other Ministers.

**Deputy Mick Barry:** Was that the first time?

**Deputy Frances Fitzgerald:** He was present, obviously, for that discussion.

**Deputy Mick Barry:** Sorry-----

**An Leas-Cheann Comhairle:** The Deputy asked one question.

**Deputy Mick Barry:** And there was no answer.

**An Leas-Cheann Comhairle:** There are other Deputies who-----

**Deputy Mick Barry:** No. The question was not whether he was in the room-----

**An Leas-Cheann Comhairle:** The Deputy may not override the Chair.

**Deputy Mick Barry:** It was about when she first discussed the issue with the Taoiseach, Deputy Varadkar.

**An Leas-Cheann Comhairle:** I call Deputy Shortall.

**Deputy Mick Barry:** The Tánaiste wishes to answer.

**Deputy Jonathan O'Brien:** On a point of order-----

**An Leas-Cheann Comhairle:** There is no point of order.

**Deputy Mick Barry:** The Tánaiste wishes to answer the question.

**An Leas-Cheann Comhairle:** The clock will run down and when the five minutes are up, that is it. I call Deputy Shortall.

**Deputy Jonathan O'Brien:** On a point of order-----

**An Leas-Cheann Comhairle:** There is no point of order. I call Deputy Shortall.

**Deputy Mick Barry:** When did the Tánaiste first discuss the issue with the Taoiseach, Deputy Varadkar?

**Deputy Frances Fitzgerald:** I had no prior discussion with the Taoiseach in relation to it.

**An Leas-Cheann Comhairle:** Deputy Barry got his opportunity. I call Deputy Shortall.

**Deputy Jonathan O'Brien:** The Minister for Justice and Equality, Deputy Flanagan, cannot say who was in the room while the Tánaiste can say who was in the room.

**An Leas-Cheann Comhairle:** I call Deputy Shortall.

**Deputy Mick Barry:** When was the issue first discussed with the Taoiseach, Deputy Varadkar?

**An Leas-Cheann Comhairle:** I propose that we complete the business now-----

**Deputy Róisín Shortall:** No.

**An Leas-Cheann Comhairle:** -----unless you resume your seat. If the Deputy wants to be responsible for me concluding the business, the Deputy should be responsible.

**Deputy Frances Fitzgerald:** I had no conversation with the current Taoiseach in relation to this appointment. I cannot comment further on it because, if I were to do so regarding the Deputy's question, I would be in breach of Cabinet confidentiality.

**Deputy Barry Cowen:** No, the Tánaiste would not.

**Deputy Frances Fitzgerald:** Like the Minister for Justice and Equality, I will not do that.

**An Leas-Cheann Comhairle:** The order is Deputy Brophy, Deputy Ryan, Deputy Murphy, Deputy Butler, Deputy O'Loughlin and Deputy Rabbitte. I will try to facilitate all of them.

**Deputy Charles Flanagan:** I would like to address Deputy Shortall's outrageous allegation.

**An Leas-Cheann Comhairle:** No. We have to move on. I call Deputy Brophy.

**Deputy Róisín Shortall:** Sorry, a Leas-Cheann Comhairle, I have not asked a question.

**An Leas-Cheann Comhairle:** My apologies.

**Deputy Jonathan O'Brien:** She did not even ask a question but the Minister for Justice and Equality wants to answer it.

**Deputy Róisín Shortall:** The Tánaiste has outlined the process for considering expressions of interest. They go to the Attorney General, then to the Department of Justice and Equality and then to the Minister for Justice and Equality. My first question is whether the Tánaiste is confirming that she is the person who made the decision to recommend the Attorney General over the three High Court judges who had expressed interest.

**An Leas-Cheann Comhairle:** A short answer.

21 June 2017

**Deputy Frances Fitzgerald:** I am afraid that is a confidential matter. In terms of the approach that is taken to expressions of interest, there is a process that is followed in relation to the consideration of those. Normally, in consultation with the Taoiseach, a nomination is made to Cabinet.

**An Leas-Cheann Comhairle:** I call Deputy Brophy.

**Deputy Róisín Shortall:** Did the Tánaiste recommend it?

**An Leas-Cheann Comhairle:** The Deputy has asked the question. I call Deputy Brophy.

**Deputy Róisín Shortall:** I said there were two questions.

**An Leas-Cheann Comhairle:** No. I have to be fair to all.

**Deputy Mick Barry:** This is a farce.

**Deputy Róisín Shortall:** Everybody else is allowed to ask multiple questions. My second relates to this-----

**An Leas-Cheann Comhairle:** Ask the two together.

**Deputy Róisín Shortall:** My second question relates to what happened last Sunday morning when there was contact between the Taoiseach's Department and the Office of the President. My question is: who initiated that contact and on what basis did he or she do that? Presumably, it was not a senior official acting off his or her own bat in doing that. On whose instruction did an official make contact with the Office of the President?

**Deputy Frances Fitzgerald:** I just want to repeat again-----

**An Leas-Cheann Comhairle:** The Tánaiste does not have to repeat.

**Deputy Frances Fitzgerald:** There was no question of any pressure being placed on the President to make the appointment-----

**Deputy Róisín Shortall:** I did not ask that. I said-----

**Deputy Frances Fitzgerald:** Let me answer-----

**An Leas-Cheann Comhairle:** Deputy Shortall-----

**Deputy Frances Fitzgerald:** -----to make the appointment on a specific date.

**Deputy Róisín Shortall:** I asked on whose direction was the-----

**Deputy Frances Fitzgerald:** I have actually answered that. His only involvement was to indicate availability in his diary to attend the ceremony. It has been commonplace for judges to be confirmed by the President over the years, sometimes within days-----

**Deputy Róisín Shortall:** The Tánaiste will not answer.

**Deputy Frances Fitzgerald:** I answered the question earlier. It is sometimes within days and sometimes-----

**Deputy Róisín Shortall:** I asked who directed the official to make contact with the Office

of the President.

**An Leas-Cheann Comhairle:** If Deputy Shortall is going to continue, on her head it may be if we decide to adjourn the Dáil.

**Deputy Frances Fitzgerald:** It is normal practice for the Department of the Taoiseach to make contact with the President's office in order to arrange the logistics of the appointment.

**An Leas-Cheann Comhairle:** I call Deputy Brophy.

**Deputy Charles Flanagan:** May I answer that, a Leas-Cheann Comhairle?

**An Leas-Cheann Comhairle:** There is only one answer.

**Deputy Charles Flanagan:** There is no direction. There is no instruction or anything of that nature.

**An Leas-Cheann Comhairle:** The Tánaiste answered the question. I call Deputy Brophy.

**Deputy Charles Flanagan:** It is most unfair, a Leas-Cheann Comhairle, to allow Deputies to make allegations like that and not to allow an answer----

**An Leas-Cheann Comhairle:** The Minister should not make any accusation against the Chair for allowing questions. Relevant questions may be asked and I would say to the Ministers that I have also asked for relevant answers. I call Deputy Brophy. Maybe the Minister wishes to withdraw the statement that I-----

**Deputy Charles Flanagan:** Of course, but I merely ask that if an outrageous allegation has been made-----

**An Leas-Cheann Comhairle:** No, no. These questions are unprecedented. I call Deputy Brophy.

**Deputy Charles Flanagan:** I accept the Chair's ruling.

**Deputy Colm Brophy:** I have something to say that might anger the Leas-Cheann Comhairle but I am going to say it anyway. I am very sorry but I really believe this whole process, this version of a Star Chamber, is ludicrous.

**An Leas-Cheann Comhairle:** Does the Deputy have a question?

**Deputy Colm Brophy:** I do have a question.

**An Leas-Cheann Comhairle:** I call Deputy Eamon Ryan.

*(Interruptions).*

**Deputy Colm Brophy:** Sorry, Leas-Cheann Comhairle. This is absolutely typical of what I mean. I really mean this.

**An Leas-Cheann Comhairle:** Typical of?

**Deputy Colm Brophy:** Some Deputies get four or five questions. They get to come back

21 June 2017

and then the Leas-Cheann Comhairle adjourns them. Someone says something, on the other hand, and the Leas-Cheann Comhairle dismisses the question.

**An Leas-Cheann Comhairle:** They were relevant questions.

**Deputy Colm Brophy:** The relevant question I want to ask is what precedent exists for appointing Attorneys General to the Bench. I would like either Minister to answer it.

I want to make the point that there is no fairness in the process that is taking place here. I am the first Government backbencher to get to speak on this. We have had multiple interjections by Deputies-----

**An Leas-Cheann Comhairle:** Deputy Brophy-----

**Deputy Mattie McGrath:** That is irrelevant.

**Deputy Colm Brophy:** -----and it has gone all over the place. I think that is very unfair.

**An Leas-Cheann Comhairle:** I remind Deputy Brophy that he is the only Government backbencher who requested to speak. His insinuation-----

**Deputy Fiona O'Loughlin:** There are only two of them here.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Resume your seat, Deputy Brophy.

**Deputy Barry Cowen:** I cannot believe Deputy Durkan did not ask a question.

**An Leas-Cheann Comhairle:** Can we have peace for one minute, Deputies? Deputy Brophy is insinuating that I am not being impartial while I am in the Chair. He has stated that he was the only one I called. He was the only one who indicated. I ask him to withdraw that insinuation. Withdraw the insinuation, Deputy Brophy.

**Deputy Eugene Murphy:** Withdraw it.

**Deputy Colm Brophy:** If I am the only one, I withdraw the insinuation but-----

**An Leas-Cheann Comhairle:** You are the only one. I call Deputy Eamon Ryan.

**Deputy Charles Flanagan:** Can I answer Deputy Brophy's question?

**Deputy Mary Lou McDonald:** No.

**An Leas-Cheann Comhairle:** The Minister can answer the question.

**Deputy Charles Flanagan:** Very briefly in response to Deputy Brophy, there are a number of precedents. In 1953, the former Attorney General, Cearbhall Ó Dálaigh, was appointed to the Supreme Court. In 1977, the former Attorney General, Declan Costello, was appointed to the High Court.

**Deputy Brendan Howlin:** The law was changed in 1995.

**Deputy Charles Flanagan:** In 1991, John Murray was appointed as a judge to the European Court of Justice. There are other examples of appointments of Attorneys General to distinguished posts both nationally and internationally.

**An Leas-Cheann Comhairle:** Deputy Eamon Ryan, without interruption.

**Deputy Eamon Ryan:** Is it standard operating practice in this Government that members of the Government within the coalition are informed of senior decisions on applications in advance? Did that happen in this case? If it did not happen, why not?

**Deputy Jonathan O'Brien:** I will answer that: Cabinet confidentiality.

**Deputy Frances Fitzgerald:** That is a broader question of how Cabinet operates and I am not in a position to answer that.

**Deputy Kevin O'Keeffe:** That is not the question.

**Deputy Barry Cowen:** That is not confidential. There is no harm if the Minister does not tell us, but she should just tell us. It is her prerogative not to tell us.

**An Leas-Cheann Comhairle:** I call Deputy Mary Butler.

**Deputy Mary Butler:** Does the Tánaiste consider it correct procedure that the Attorney General should remain at the Cabinet table during the discussion about her elevation to the Court of Appeal? Did no one at Cabinet say that this was unusual? Did no one ask the Attorney General to leave the Cabinet table when the decision was being made?

**Deputy Charles Flanagan:** These are issues that have arisen over the past half hour. I will say again that I am precluded as a member of Government and Cabinet from entering into any discussion in this House or outside it-----

**Deputy Mary Lou McDonald:** With a heavy heart, he decides-----

**Deputy Charles Flanagan:** -----on any of the issues that were raised about who was in the room and who said what.

**Deputy Mary Butler:** I have a-----

**An Leas-Cheann Comhairle:** I cannot allow a follow-up. I am being accused of allowing a second question.

**Deputy Jonathan O'Brien:** The Tánaiste can tell us who was in the room.

**Deputy Mary Butler:** It is the same question. I asked whether the Minister considers it correct procedure. I would like his own opinion. Is it correct procedure that the Attorney General remained at the table while they were discussing her position?

**Deputy Barry Cowen:** Does he think it makes sense?

**Deputy Mary Butler:** The Minister's opinion will do me.

**Deputy Mick Barry:** Strong and stable Government.

**Deputy Charles Flanagan:** I am quite satisfied that in the circumstances surrounding this

appointment the correct and proper procedures were employed from start to finish.

**An Leas-Cheann Comhairle:** I call Deputy Michael McGrath.

**Deputy Michael McGrath:** Will the Tánaiste tell the House when and in what form the former Attorney General first applied for or expressed an interest in the position in question? Will she clarify whether she is refusing to confirm to the House whether other persons expressed an interest in this position? If she is not refusing, will she please tell us when they expressed such an interest?

**Deputy Frances Fitzgerald:** What I have made absolutely clear is that all applications, whether by way of the Judicial Appointments Advisory Board, JAAB, or by way of expressions of interest by the Judiciary, are dealt with appropriately and correctly. There is a procedure-----

**Deputy Michael McGrath:** But the Tánaiste will not confirm whether any-----

**Deputy Frances Fitzgerald:** I am respecting the confidentiality of the process of-----

**Deputy Michael McGrath:** When did the Attorney General express an interest?

**Deputy Frances Fitzgerald:** -----the appointment of judges. I would never feel that it was appropriate to give details on who or who did not apply.

**Deputy Jonathan O'Brien:** We are not asking for names. We are asking whether there were other applicants.

**Deputy Mary Lou McDonald:** No one is asking for names.

**Deputy Frances Fitzgerald:** It has never been the practice to give any information on the numbers of judges who have applied. That is for privacy and confidentiality reasons.

**Deputy Mary Lou McDonald:** That is rubbish.

**Deputy Michael McGrath:** There is no privacy around the former Attorney General because she was appointed. Therefore, will the Tánaiste clarify when and in what form she applied for or expressed an interest in the position? There are no confidentiality issues there. She got the job.

**An Leas-Cheann Comhairle:** I call Deputy Fiona O'Loughlin-----

**Deputy Michael McGrath:** Please, a Leas-Cheann Comhairle. It is a very simple question.

**Deputy Frances Fitzgerald:** The point I have made is that in circumstances in which there are applicants for the position of a judge, the usual procedure is that the Minister for Justice and Equality and the Taoiseach are the two people who bring that nomination to the Cabinet.

**Deputy Michael McGrath:** I asked when she applied.

**Deputy Jim O'Callaghan:** How did the former Attorney General apply?

**Deputy Barry Cowen:** So she did not apply at all. The Government just appointed her.

**An Leas-Cheann Comhairle:** Before I call Deputy Fiona O'Loughlin, the Chief Whip has reminded me about the time factor. It is the same as with the Order of Business. I do not want

to muzzle the House on an important issue like this. Is there agreement to take the last four questions?

**Deputy Frances Fitzgerald:** Four questions? Yes.

**An Leas-Cheann Comhairle:** Four or five. Does the Whip have a problem with that?

**Deputy Frances Fitzgerald:** We do have a time limit, do we not? We will take the four questions, of course.

**An Leas-Cheann Comhairle:** It happens during the Order of Business every day. Is that agreed? Agreed. I call Deputy O'Loughlin.

**Deputy Fiona O'Loughlin:** There is a significant absence in the room tonight, but it is not my party leader, Deputy Mícheál Martin, as Deputy McDonald said. It is the Minister, Deputy Shane Ross, someone who has made a career out of being anti-establishment-----

**An Leas-Cheann Comhairle:** Does the Deputy have a question for the Minister?

**Deputy Fiona O'Loughlin:** -----and being an outsider. I find it most unusual that he would not have said something at Cabinet about this decision. Why was this unusual decision on the appointment of the Attorney General taken on the same day and at the same meeting as the unusual decision made about Stepside Garda station?

**Deputy Frances Fitzgerald:** There is no connection between the two items.

**An Leas-Cheann Comhairle:** I call Deputy Rabbitte.

**Deputy Anne Rabbitte:** This question I ask is not in breach of Cabinet confidentiality. If one was running the bridge club at home and there was a conflict of interest where two people were going for a job, would the committee, in good party policy, not ask the person with a vested interest to stand out of the room while the position was being discussed?

**Deputy Frances Fitzgerald:** I have already said that the former Attorney General acted appropriately at all times. Beyond saying that, I am not going to breach Cabinet confidentiality one way or another by referring further to her presence or absence at the Cabinet table.

**Deputy Mary Lou McDonald:** I do not know why the Minister showed up this evening.

**An Leas-Cheann Comhairle:** I call Deputy Murphy and then Deputy O'Keeffe.

**Deputy Eugene Murphy:** There will be very short answers to these questions if they are answered directly and straight. We need to ask questions of the Taoiseach. The Ministers are here representing the Taoiseach tonight. Fair enough, he cannot be here. Was the Taoiseach made aware at any stage that three other judges had expressed an interest in this job? When exactly did the Taoiseach know or become aware that Ms Whelan was to be given the job? When I think back correctly to Tuesday, the Taoiseach gave two different answers. If the records are checked, he said Sunday evening and then he said Monday morning. If the questions are answered correctly and straight, I will be quite happy. Also, did the Attorney General apply for the job?

**Deputy Frances Fitzgerald:** I have already answered with regard to the Taoiseach-----

21 June 2017

**Deputy Barry Cowen:** Current or past Taoiseach?

**Deputy Charles Flanagan:** I assume it is the current Taoiseach the Deputy is asking about.

**Deputy Frances Fitzgerald:** The current Taoiseach. With regard to the details of the Deputy's question, all of the circumstances, memoranda and discussions around an appointment that is discussed at Cabinet are covered by Cabinet confidentiality. That is the reality of the situation.

**Deputy Fiona O'Loughlin:** Did the former Attorney General apply for the job?

**Deputy Barry Cowen:** The Minister did not answer one of the questions. Did she apply?

**An Leas-Cheann Comhairle:** I call Deputy Kevin O'Keeffe.

**Deputy Kevin O'Keeffe:** Prior to the Cabinet meeting, did the Tánaiste, the Department or Department officials speak to other Ministers, in particular the Independent Ministers, about bringing this proposal to the Cabinet? Did the Tánaiste have discussions with other Cabinet members before the Cabinet meeting about this proposal?

**Deputy Frances Fitzgerald:** Following an amendment to the Constitution by the insertion of Article 28.4.3o, Cabinet discussions and documentation disclosing Cabinet discussions are absolutely confidential and cannot be disclosed. The same doctrine obviously applies to Cabinet committees. The word "discussions" as it is covered, and this is the reality of the situation, referred to by the court refers to the oral exchange of views by members of the Government at meetings of Government and extends to discussion at Cabinet and the content of discussions so I am not in a position to reply to that question.

**Deputy Charles Flanagan:** For the record, I did not enter into any discussions with any of my ministerial colleagues about this issue.

**Deputy Mattie McGrath:** I do not wish to detain the House. It is the longest day of the year and I do not wish it to be the longest night of the year for the Tánaiste and Minister for Justice and Equality but could the Tánaiste or the Minister enlighten us? So many questions have been asked about Stepside Garda station. I know it was debated around the time of the programme for Government. When was the decision to reopen Stepside Garda station taken and when will we see the reopening of the other five stations that were promised in the programme for Government? It might enlighten many people.

**An Leas-Cheann Comhairle:** I do not know about the relevance of it but if the Tánaiste or Minister wishes to answer it, they can.

**Deputy Frances Fitzgerald:** As I previously explained, an interim report was received which recommended the reopening of Stepside Garda station. It also recommended that the reopening of a number of other stations should be considered and that a further final report would come at the end of June. There was also a recommendation that a Garda station should be opened in Dublin Airport and Dublin Port.

**An Leas-Cheann Comhairle:** That concludes statements. Can I say to those who might have suggested that I was less than impartial that I accept their withdrawals, be they by word or nod?

*Dáil Éireann*

The Dáil adjourned at 10.55 p.m. until 12 noon on Thursday, 22 June 2017.