



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	682
Commencement Matters	683
Respite Care Services Provision	683
Joint Labour Committees Agreements	686
Local Government Reform	688
Business of Seanad	691
Order of Business	691
Domestic Violence Bill 2017: Committee Stage (Resumed)	709
Report on Dying, Death and Bereavement: Statements	739

SEANAD ÉIREANN

Dé Máirt, 4 Iúil 2017

Tuesday, 4 July 2017

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I have received notice from Senator Michelle Mulherin that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Health to address the delays in the provision of respite care for adults with intellectual disabilities in County Mayo; to outline the total number of adults on the waiting list and the waiting times involved; and to provide details of the service level agreement the Health Service Executive, HSE, has for such respite care.

I have also received notice from Senator Ged Nash of the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to outline compliance levels with the Employment Regulation Order (Security Industry Joint Labour Committee) 2015, which has had legal effect since 1 June 2017.

I have also received notice from Senator Tim Lombard of the following matter:

The need for the Minister for Housing, Planning, Community and Local Government to outline his proposal for addressing the local government reform issues in Cork.

I have also received notice from Senator Aidan Davitt of the following matter:

The need for the Minister for Transport, Tourism and Sport to request National Car Test, NCT, centres to provide mileage data of certified cars to approved motor check history companies, and to request insurance companies to insure cars over 15 years with NCT certification.

I have also received notice from Senator Pádraig Ó Céidigh of the following matter:

The need for the Minister of State with responsibility for Gaeilge, Gaeltacht and the islands to provide an outline of the 20-Year Strategy for the Irish Language 2010–2030, together with the actions taken to date in the delivery of this strategy.

4 July 2017

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Health to reform the assessment and reimbursement process which applies to orphan status medicines for patients with rare diseases in view of the fact it is taking up to two years from the date of application to have these drugs approved under the drugs reimbursement scheme.

I have also received notice from Senator Victor Boyhan of the following matter:

The need for the Minister for Health to outline the total number of persons on the current cataract waiting list and the waiting times involved, and when he intends to publish the primary eye care report.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for Health to outline the present position relating to the review of management structures and other matters at the ambulance service.

I have also received notice from Senator Paul Gavan of the following matter:

The need for the Minister for Children and Youth Affairs to outline the steps she is taking to address the work and low pay in the child care and early years education sector.

I have also received notice from Senator John O'Mahony of the following matter:

The need for the Minister for Justice and Equality to outline the criteria for free legal aid and to address the need for reform in this area.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister for Public Expenditure and Reform to reinstate for public servants the recent reduction in the reimbursement rate for mileage for the first 1,500 km.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Mulherin, Nash, Lombard and Davitt and they will be taken now. Senators Ó Céidigh, Colm Burke, Boyhan, Conway, Gavan, O'Mahony and Gallagher may give notice on another day of the matters they wish to raise.

Commencement Matters

Respite Care Services Provision

Senator Michelle Mulherin: Thank you, a Chathaoirligh, for selecting this matter and I thank the Minister of State, Deputy Finian McGrath, for coming to the House to discuss it. There is a problem with the provision of respite care for adults with mental disabilities in the Ballina area of County Mayo. The service is provided through a service level agreement between the HSE and Western Care Mayo.

I will preface my remarks by pointing out that where the service has been available it has been good and people were happy with it. However, a problem arose last March. There was a safeguarding emergency which meant that current service users could not avail of the service because it had to be provided to a particular person on account of the safeguarding emergency that arose. Unfortunately, the service does not appear to have resumed or returned to normal.

There also appears to be a problem with information feeding back to the families of the dependent adults on when a normal service will resume. Between 40 and 43 adults in the Ballina area received the service in 2016, so it is important for the families. These adults are often in the care of their parents and the respite care provides a break for the dependent adults and their families. The fact that the service has been disrupted is also a cause of concern because many of these dependent adults have anxiety problems or suffer from autism. They need regularity of service and to avoid disruption.

Aside from the delay and disruption in the service for the people who had been receiving it, the other aspect to this is the number of dependent adults who have been waiting for this service, which I have been unable to ascertain. One family described their situation to me. When their child reached 18 years, the age of majority, they were sent to adult services, but they have been on a waiting list for four years and have not received respite care for that period. I am also aware of another case, although I cannot say if the waiting period is as long as four years.

I have put questions to the HSE management and to Western Care Mayo but I received no satisfactory answers, which is why I asked that the Minister come to the House today. Quite a number of the families are anxious, as are the adults involved. The least we could do is to provide a service. The Minister of State would have to agree that four years is an inordinate length of time for anybody to have to wait for this very important service. The Minister of State might be able to shed some light on a number of the questions I have raised and give clarity as to how soon the service might resume.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Senator Michelle Mulherin for raising this very important issue in respect of respite services. I know that she is a very strong campaigner for people with disabilities, particularly those in the Mayo area. It is a very important issue. I accept many of the points the Senator has raised and I will deal with them later on in my response. It is also important, however, that we know what is going on in respect of the provision of respite care both locally and nationally. The Programme for a Partnership Government recognises the need for respite services to be developed further. The Government is committed to safeguarding vulnerable people in the care of the health service by providing services and supports for people with disabilities which will empower them to live independent lives in accessing the services they choose and enhance their ability to tailor the supports required to meet their needs and plan their lives.

The provision of respite services has come under additional pressure in recent years. I accept that point. Particularly since I took over 11 months ago, we have focused any available development funding primarily on the provision of day places for pupils graduating from school or rehabilitative training programmes. This has led to increased demand for respite for those young adults who would have previously accessed respite as children. In my first 12 months we put extra money into providing a day service for those 18 years old and older. That issue has now been resolved and it is now time to move on to the other issues which the Senator raised, such as that of respite care.

4 July 2017

The HSE social care operational plan for 2017 aims to provide 182,000 overnight stays in centre-based respite services in addition to the 41,000 day respite sessions. Western Care has a service agreement with the Health Service Executive under section 39 of the Health Act 2004, on whose behalf it provides supports and services to people with intellectual disabilities in County Mayo. This includes funding for respite services for those with an intellectual disability. During 2016, Western Care provided 5,412 bed nights of respite to children and adults in Mayo. The total provided to adults was 4,278 bed nights of respite services located in Belmullet, Ballina, Ballyhaunis, Ballinrobe and Castlebar. In addition, some supports were provided to both children and adults to allow them to remain in their own homes. A total of 162 children and adults availed of this service during 2016 with the level of service each person used varying.

The number of adults currently waiting for respite services in Mayo as per the national database categories is 127. The categories included crisis and planned respite, overnight respite at home, regular part-time care every weekend, regular part-time care on alternate weekends and occasional respite with a host family. Unfortunately, I am unable to provide the Senator with the length of time these individuals have been on the waiting list in the timeframe given, but I will ask the HSE to write to the Senator directly with those figures. The Senator mentioned four years. I am absolutely shocked that any family of a person with a disability would not have received respite in four years. That is not acceptable. I will get the HSE to get back to the Senator.

In respect of the Ballina area, Western Care is funded by the HSE to provide 931 bed nights of adult respite per annum throughout 2017. In 2016, this level of service was provided to approximately 40 people. However, in March 2017, respite was cancelled for all service-users in the Ballina area as the facility had to be used to provide emergency residential placement, which caused the blockage there. As a result, Western Care is currently examining all possible options available, including reconfiguration of services, in order to restore some level of respite care in this area. Western Care is currently in discussions with the HSE to examine options with regard to solving this issue. The HSE remains committed to ensuring that respite services resume as quickly as possible. I also wish to reassure the Senator that we have included a strong focus on respite care services in the social care plan for 2017 to 2018 in our negotiations over coming weeks.

An Cathaoirleach: The Minister of State provided a comprehensive response. I ask Senator Mulherin to be brief.

Senator Michelle Mulherin: With the permission of the Minister of State, I will bring to his attention the name of the individual who has been waiting for respite care for four years and provide details of the other cases of which I am aware. There is clearly an issue with resources in Western Care. The disruption to its service occurred in March. It is now July and I ask the Minister to ensure that those who have experienced disruption and those on the waiting list for respite care are provided with information because they do not know when they will receive care. I would like to provide further clarity to the individuals in question. I can also provide the Minister of State with details of cases which could shed light on what is happening in the service and could be instrumental in delivering the service.

Deputy Finian McGrath: I will give priority to the Ballina area and the blockage in the service there. As the Senator indicated, a safeguarding issue in an emergency case had a negative impact on respite services. I acknowledge the point the Senator made on the family clinic.

I have been speaking to those in the services for the past 11 months in an effort to create a closer relationship with families and parents. It is unacceptable if there is a disconnect or a lack of information.

I will follow up on the individual cases the Senator raises. I am amazed to learn that someone has not been provided with respite care for four years. The Government restored the carer's grant of €1,700 per family per annum, which is not means tested. In recent months, a number of families informed me that they used this money to pay for respite services. Approximately 101,000 families are in receipt of this payment. However, a couple of thousand of other families who are eligible for the grant are not collecting it.

I fully accept the Senator's sincerity on this matter and that her comments are correct. Yesterday, I had a one-to-one meeting with the Taoiseach to discuss disability policy for the next 12 months. In fairness to him, the Taoiseach also raised the issue of respite services and he is very conscious of the need to do something about this issue. We must also fix local problems, address the lack of communications and ensure a more inclusive approach is taken to families. I will convey the Senator's concerns to the Minister and the HSE.

Joint Labour Committees Agreements

Senator Gerald Nash: I welcome the Minister of State, Deputy Breen. In the past two weeks alone, I have been contacted by many security workers from around the country who are not receiving from their employers the hourly rate of pay for the job they do. This practice must stop. As Senators are aware, as part of the most significant enhancement of workers' rights legislation anywhere in the world in recent years, the previous Government re-established a system of joint labour committees. This system was designed to ensure that vulnerable workers in sectors of the economy where pay is low and terms and conditions are at their most basic can have better pay, terms and conditions negotiated in a structured way and where the outcome of any agreement arrived at can be given the force of law. Two such orders, covering the rights of 20,000 security workers, have been signed in less than two years. The employment regulation order signed by the Minister of State, Deputy Breen, on 1 June sees the legal basic hourly rate of pay increase from €10.75 per hour to €11.05 per hour. As part of this agreement, security workers will earn more than what is considered a living wage by 2019, which is very welcome. These are minimum legal rates of pay.

Some security guards are being ripped off and effectively robbed of their legitimate wages. Unscrupulous companies engaged in this practice are breaking the law and must feel the force of the law upon them. Rogue security firms, of which there may be dozens, do not all share the view expressed by the Irish Security Industry Association, which helped negotiate the new legally binding arrangements. On 1 June, its chairman, Alan Durnan, stated that it was a great result for both the employers and employees of the industry and that improved terms and conditions for security officers are critical to attracting and retaining high calibre personnel.

Those who break the law by not paying their staff properly are not only stealing from their staff, but also sticking their two fingers up at the decent businesses in the industry who are compliant and who see their staff as an intrinsic part of the business and not a commodity to be used and abused. I have advised staff who have been affected by this and contacted me to make a formal complaint to the rights commissioners' service as per the legislation. That is what the legislation suggests they do. That is the legal route. However, if a worker or a trade

4 July 2017

union cannot, for whatever reason, take a case, the legislation governing this area provides the Minister with the opportunity to take a case on behalf of a worker in the event of non-compliance. I think that the Minister should consider this approach because I am seeing considerable non-compliance involving a considerable number of companies throughout the country. Errant security companies are queering the pitch for decent security companies that are prepared to pay the legal minimum rate of pay to security workers. They value those workers and, as I understand it, that is the law of the land.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Pat Breen): I thank Senator Nash, who is very much associated with the commencement of the employment orders for the security industry as well as the contract cleaning area, for raising this issue.

I wish to clarify that the employment regulation order that is in place for the security sector came into effect on 1 June last and not 1 June 2016, as had been suggested by the Senator. It is only in effect for the past month of so. The Industrial Relations Act 1946, as amended by the Industrial Relations (Amendment) Act 2012, provides for the making of employment regulation orders, EROs, whereby proposals on pay and other terms and conditions of employment for workers in certain sectors are formulated by joint labour committees, JLCs, and adopted by the Labour Court if the court is satisfied that the JLC has complied with the relevant sections of the 2012 Act. The Labour Court then makes a recommendation to the Minister for Jobs, Enterprise and Innovation and, if the Minister is satisfied that the Act has been complied with, the Minister will make an employment regulation order, the terms of which are legally enforceable and applicable to all employers in those sectors. It is important to note that they are legally enforceable.

Statutory Instrument No. 231 of 2017, Employment Regulation Order (Security Industry Joint Labour Committee) 2017, came into effect on 1 June 2017 following a consultation process that commenced in January last, following which the security industry JLC agreed proposals on terms and conditions for security operatives. These were subsequently adopted by the Labour Court which submitted a recommendation to me. Being satisfied that the relevant provisions of the 2012 Act were complied with I signed an order on 30 May last. Prior to that order coming into effect, Statutory Instrument No. 417 of 2015, Employment Regulation Order (Security Industry Joint Labour Committee) 2015, which came into operation on 1 October 2015, applied to the sector.

The number of inspections carried out by inspectors from the Workplace Relations Commission in the security sector between 1 October 2015 and December 2015 were three, with two employers in breach. In 2016, there were 17 inspections, with five employers in breach. It might be useful to the Senator to know that there have been five inspections to the end of May 2017, with two employers in breach. The Workplace Relations Commission anticipates that a similar number of inspections will be carried out in the sector this year as compared to last year.

I note what Senator Nash has been saying about rogue security firms and will take it on board.

Senator Gerald Nash: I am very encouraged by the increased level of inspections by the Workplace Relations Commission, WRC, inspectorate. It is important that the message goes out that rogue security firms will not be allowed to continue not to comply with employment regulation orders, EROs. They are the law of the land. I have evidence of security firms which

in recent weeks were not paying the new rate. I have advised those affected to bring their complaints to the rights commissioner and the WRC.

When I did some research on this I saw that some security firms are quite brazenly going onto recruitment websites and putting advertisements for rates of pay that are lower than the legal rates of pay. Some of these advertisements are dated 28 June and 1 July. This is continuing. I do not think this is a mistake.

These people are thumbing their noses at the law, insulting their employees and expecting them to work for a rate of pay that is less than the legal hourly rate. That is not acceptable. There is provision in the legislation, as the Minister of State knows, to apply for an exemption from an ERO rate. It is like the exemption that applies under the National Minimum Wage Act 2017 and nobody has made an exemption request under that Act or under the joint labour committee, JLC, system.

It has been brought to my attention that some of the security firms which appear to be non-compliant with the new rate are in fact receiving State contracts. There is an obligation on anyone who is operating a State contract under public procurement policies to respect the law of the land. The JLC system in security is the law of the land. An ERO was properly put to the Minister of State who signed it, was satisfied that it was legal and laid it before these Houses. That is the legal rate of pay. Those who do not respect the legal rate of pay should be stripped of their State contracts.

Deputy Pat Breen: Senator Nash has said the rate of pay is €11.05 and will increase to €11.35 in June 2018. If there are employees being abused by rogue security firms that should be brought immediately to the attention of the WRC. All enterprises are covered by the employment regulation order but if an enterprise is experiencing financial difficulties it can apply to the Labour Court for an exemption from its obligation to pay the rates. There are many people jumping on the bandwagon.

The law must be enforced, as Senator Nash has said. If this practice is noted it should immediately be brought to the attention of the WRC. I thank the Senator for raising the issue. It is always good to be aware of these issues. Security is a huge sector particularly in the entertainment area. The commission offices may be contacted on 1890 80 80 90 or through the WRC.

Local Government Reform

An Cathaoirleach: I welcome the Minister of State at the Department of Housing, Planning, Community and Local Government, Deputy Phelan, to the Chamber. I think it is his first time here in his capacity as Minister of State. I wish him luck and success. I am sure he will always have happy memories of the long hours he spent here in the past. It was a good *alma mater* for him.

Senator Tim Lombard: I also welcome the Minister of State to the Chamber, where he has been involved in many a debate.

I want clarity on what the new Minister for Housing, Planning, Community and Local Government will do for Cork and for the proposal to merge the local authorities or whether the population of the city will increase. This issue has been going around since the 1960s and has not

been dealt with by Government, whether Fianna Fáil or Fine Gael over the past few decades.

It is a big issue for the development of Cork county and city. Major national development plans are being proposed that will see increases in population throughout the country. It is important that Cork will have a focus and ensuring this will depend on local government structures and how we drive our local economy. Cork as an entity is one eighth of the area of Ireland. There are over 500,000 people attached to it, if not more. It has potential to grow rapidly due to access to fresh water and sewage systems, which already are in place. The question of how the city and the county are progressed is key to economic development and to the development of the west and rural areas. This aspect also needs to be considered. The northern and western parts of our county are focused on tourism and agriculture and there must be a combined strategy to ensure that everything comes together.

We have seen two reports. One, issued in September 2015, proposed that there should be one local authority. A counter report issued in March 2017 stated the city needs to incorporate a major part of the county itself. What we need now is clarity. We need a roadmap for the future and to have those issues aired. The consultants have had their say. The people in the universities have had their say. The politicians and the executives have had their say. Everyone bar the people has had their say on this very important issue. We need clarity from the Minister of State as to what he and his Department propose to do.

A local election is looming in 2019. Public representatives need to know what the Minister of State proposes in respect of that local election. They need to know whether there will be new boundaries or no change to the boundaries. Will a boundary commission be set up just for Cork or for the entire country? This is a very complex issue that must be dealt with in a very sympathetic way. Feelings are running high in this part of the world. The Minister of State knows better than anyone how feelings can run high regarding boundaries. When there was a proposal for Waterford to expand into Kilkenny he was vocal in opposing it. He should now bring his experience to bear on what is happening in Cork. He is the Minister of State in charge and he should have the ability to drive a fair and equal partnership in order that everything that can work to some degree in tandem in Cork.

An Cathaoirleach: The Senator is handing the Minister of State a greasy ball.

Minister of State at the Department of Housing, Planning, Community and Local Government (Deputy John Paul Phelan): I thank Senator Lombard and the Cathaoirleach. I am glad to be back in Seanad Éireann, albeit in a different capacity.

The issue the Senator raises is highly contentious both in Cork and around the country. The report of the Cork local government committee in September 2015, based on the position of the majority of the committee, recommended that a unitary authority should be established as the statutory local authority for Cork as a whole. There were actually three reports rather than the two the Senator identified, as there was a minority report from that committee also. The minority report considered it essential to retain the city council as a completely separate local authority and took the view that a unified authority would not be able to address adequately the different needs of urban and rural areas. Both the majority and minority groups on the committee agreed that retention of the *status quo* in Cork was not a tenable option.

As the recommendations were inconclusive, the then Minister established the Cork expert advisory group in October 2016 to examine the majority and minority reports and underlying

material. It had a mandate to identify and examine a wider range of options for Cork than might have been considered previously. A key question which the group sought to address is what arrangements would best promote sustainable economic growth and strengthen Cork's position as Ireland's second city and an economic engine for the south of Ireland, along with the implications for business development, population growth, housing provision and associated infrastructure, particularly sustainable transport.

That group's report, published in June 2017, concluded that the current local government arrangements in Cork are unsustainable. Having evaluated a range of options against relevant criteria, it concluded that on balance, an expanded city council area offered the best solution, particularly in terms of the structure of local government and a strong focus on the needs and demands of the metropolitan area, including regeneration. The report also recognises the specific service needs of rural areas. This would involve two separate local authorities with an extension of the city council boundary, which the report concluded represents the best governance model for Cork.

The advisory group also recommended the establishment of a statutory metropolitan body to formulate and oversee a Cork metropolitan area plan to address strategic economic development, housing and infrastructure matters in the wider Cork area. Implementing a significant extension of the boundary of Cork city will be challenging and will involve considerable further logistical work and a detailed financial and organisational analysis to identify assets and liabilities and address issues such as the necessary financial and other adjustments between the local authorities, the transfer of staff and the establishment of new structures to ensure that the challenges of implementation are addressed effectively.

An implementation oversight group with relevant expertise, in particular in the financial area, is to be established to oversee the process. The changes represent the most significant population transfer associated with a local government boundary change in Ireland. This will be reflected in the consequent timescales for implementation. Arrangements for the operation of the implementation oversight group are being finalised. Its initial main task will be to submit a detailed implementation plan in the early autumn.

I will try to get more specific information for the Senator on the implementation plan and when it will be submitted. The Senator is right to identify the point that the potential transfer of such tracts of the county into the city area would have significant financial implications for Cork County Council, were it to happen, not to mention the review of local government electoral areas. There will be a national review of those areas, which is due to start in autumn of this year following the recent publication of the Dáil boundary report.

At this stage, the implementation oversight group is charged with finalising the boundary issue between Cork city and county. I will work with it, as will the Department, to ensure that happens as soon as is practically possible.

Senator Tim Lombard: I thank the Minister of State for his response. I am not too pleased with many aspects of it. Clarity is the major issue I sought but did not receive today. I mentioned that we have heard the views of academics, politicians and executives. Perhaps it is about time that we asked the people for their views and there should be a plebiscite on this issue. What is the view of the Minister of State with respect to asking the people of Cork their opinion? Everybody else has had an opinion on this, except for the people. It is a major issue in Cork. It is the subject of major debate and the Minister of State has dealt with the issue. He

4 July 2017

has seen how things can run deep. Would the implementation body believe it is appropriate that a plebiscite be held on this issue?

An Cathaoirleach: As Theresa May knows, a plebiscite does not always offer the answer one would like.

Deputy John Paul Phelan: The implementation group will investigate every aspect of what might be suitable for Cork. However, it is the job of officials in local authorities, elected members of local authorities and Senators to represent the views of the people - Senator Lombard represents the people of Cork. I represent the people of Carlow-Kilkenny and the wider country in my new position. A local plebiscite, as was previously suggested, might muddy the waters even further. A report has to be implemented and the group will be established in the autumn. It has a big job of work to do.

An Cathaoirleach: I am sure there will be a lot of chewing on this bone in the next 12 months.

Business of Seanad

An Cathaoirleach: In the absence of Senator Davitt, the House will suspend until 3.30 p.m. I apologise to the Minister, Deputy Ross, for coming here. He is a senior Minister and I appreciate his effort.

Minister for Transport, Tourism and Sport (Deputy Shane Ross) (Deputy Shane Ross): It could happen to a bishop.

Sitting suspended at 3.10 p.m. and resumed at 3.30 p.m.

Order of Business

An Cathaoirleach: Before asking the Leader to outline the business of the day, I congratulate him on his very good news and wish him and his partner every happiness and a good future. I do not want the Order of Business clogged by this but I will allow a few small comments.

Senator Jerry Buttimer: Go raibh maith agat. The Order of Business is No. 1, Domestic Violence Bill 2017 - Committee Stage (resumed), to be taken at 4.45 p.m. and to adjourn not later than 7 p.m., if not previously concluded; and No. 2, statements on Finite Lives, Dying, Death, and Bereavement: An Examination of State Services in Ireland, to be taken on the conclusion of No. 1 and to conclude not later than 8.30 p.m. with the contributions of Senator Marie-Louise O'Donnell and group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes, and with the Minister to be given five minutes to reply to the debate.

Senator Catherine Ardagh: If the Cathaoirleach will indulge me, I will raise four short items. On behalf of the Fianna Fáil group, I congratulate the Leader on his recent engagement to Conchobhar Ó Laoghaire. On behalf of our group we wish him the best happiness into the future and wish him the best of luck with his wedding preparation.

The second issue I will raise is the cath lab for the south east. I commend all those who

supported and demonstrated outside Leinster House today. The south east is the only region in the country without an operational cath lab open after hours and weekends. It is an absolute disgrace that even one life has been lost as a result of the negligence of the State. I extend my sympathies to the Power family and commend its members on championing this cause and leading the demonstrations today. Their bravery in ensuring this does not happen again is commendable in a time when they should be grieving.

I will also raise an issue I have raised on numerous occasions on the continuing increase in house prices in Dublin and the lack of supply. In Dublin alone, house prices are rising by over €5,000 a month. These figures are absolutely incredible. There is no way on earth those of us on an average salary - or even anybody with a gold-plated salary - could afford to save for a house the way house prices are increasing. It is impossible to save for a deposit and to compete with rising house prices. This Government has yet to deal with the elephant in the room that is supply and it has done nothing to address it to date. The now failed help-to-buy scheme will create even more chaos and inflated prices as it is envisaged it will be abolished in the next few months. It will feed into an already chaotic frenzy of people trying to secure a new home at these inflated prices. We need to look at practical measures to increase supply. We need to look at the cost of certification, VAT, investment in infrastructure and some form of “use it or lose it” taxes on those who have planning permission but are not using it. I call on the new Minister for Housing, Planning, Community and Local Government, Deputy Eoghan Murphy, to come into the House to explain what measures he will be taking. I do not believe he has been in the House yet. There are many young families and young people watching this space with great disappointment. There are over 2,500 families who are homeless and cannot wait any longer. It is no longer correct for the Government to do nothing. We want to see action and sods being turned in the country.

I will conclude by commending the Minister, Deputy Zappone, on implementing some of the key measures of Dr. Geoffrey Shannon’s report on emergency child protection measures. She is probably one of the fastest-acting Ministers in terms of implementing recommendations. I commend them.

Senator Victor Boyhan: I will raise four items today. Today the IFA and farmers are coming together in the biggest dairy sector trade show and information day in Moorepark in Fermoy, County Cork. It is the biggest gathering of dairy farmers and the farming community. The big focus this year is the shortage of labour supply and professional skilled labour. It is a big challenge for the agricultural sector generally but particularly for the dairy sector and horticultural sector. It is one that needs to happen. We need to look at joined-up synergies between the Minister for Agriculture, Food and the Marine and the Minister for Jobs, Enterprise and Innovation. It is a key sector. We have had exemptions in the past where people from non-EEA countries are given permits to come into this country to work. We need to look at that. It raises another big issue, which is the number of people in direct provision who have clearly expressed a wish to work in the fruit sector and the agricultural sector. They are prevented from working in this country and many of them have been here for six, seven or eight years. I ask the Leader to bring it to the attention of the Minister for Agriculture, Food and the Marine.

Today, in the AV room there was a presentation on cardiac services for the south east. Anyone who was present could not help but be moved by the highly charged emotion, frustration and disappointment of the people of that community who came here in large numbers today. It was interesting. Over 20 elected councillors from that region arrived here today as did their Deputies. I note a number of senior Fianna Fáil politicians were there today. Their interest in

4 July 2017

this story is telling. I issue a note of caution. Having spoken to a number of people who are key in holding that Government together, I believe this issue could have a huge impact on the cohesion and stability of the Government. They should not underestimate the seriousness of the issue and should do something about it.

I take the opportunity to congratulate Senator Richmond, Heidi Lougheed and officials from the secretariat who supported the Seanad Special Committee on the Withdrawal of the United Kingdom from the European Union on their really good work and the comprehensive report launched today. It was meaningful and good for the Seanad. It was particularly good that the issues were dealt with comprehensively and put into this brochure. I recommend that people look at the report.

I congratulate Senator Buttimer, the Leader of the House, on the announcement of his engagement. I wish him every happiness. I know it is a very special time for him. He has a tremendous record of dealing with issues in this House. He is an exceptionally popular Member of this House and I know everyone will wish him the very best.

Senator Rose Conway-Walsh: I also congratulate Senator Buttimer and his partner, Conchobhar. I wish them every happiness and good luck with their wedding plans. It was a joy to hear that good news on the radio this morning.

I commend the people of Waterford, many of whom I met outside this afternoon. I express my condolences to the family of Thomas Power. I have absolute solidarity with them because those of us in the west of Ireland know what it is like not to have these services. It takes two hours and 22 minutes to get from my house to the nearest cardiac unit in Galway. We know we are unlikely to survive that journey if we need cardiac services earlier than that. I urge people from Waterford, Mayo and other areas around the country who are deprived of vital services to join together.

I have no doubt that people are dying prematurely because they cannot access the services on time because they suffer a heart attack or stroke on the wrong day of the week or the wrong time of the day. That is wrong at any level. It is wrong to live in a Republic in which people sacrificed their lives 100 years ago and still have a State where people cannot get these vital services. I commend the people from Waterford who are here. I also commend my colleague, Deputy Cullinane, who produced his report on cardiac services for the south east. I urge the Government to listen to these people and put right what needs to be put right so that people can get these vital services.

I welcome that officers of the Competition and Consumer Protection Commission raided the offices of Insurance Ireland this morning. As a member of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, I sat through many sessions where we attempted to get clarity as to why the premiums had rocketed in recent years. I also labelled the industry as behaving like a cartel. The fact that the Central Bank accused companies of not providing information or providing false information seems good grounds for an action such as that taken this morning.

The massive spikes in insurance premiums left many people in financial difficulty. There were no explanations given for these massive hikes. After attending an entire module of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach during which all the major companies were questioned, we were still none the wiser as to why the premiums

rocketed in the first place. The answers we received were evasive, contradictory and repetitive. It is a pity that actions such as this morning's are necessary to get to the truth. I hope that these raids will form the start of a thorough and forensic investigation into an industry that has not been helpful or forthright in answering questions.

I also welcome the start of public hearings at the Charleton inquiry. I am not happy that we have another expensive process of finding out the truth. In Ireland it seems that the truth is the most expensive commodity that we search for.

Senator Kevin Humphreys: I also wish the Leader of the House every happiness in the future. It is great to see the results of the referendum on marriage equality here in the Republic. It is to be hoped marriage equality will come shortly to every part of the Thirty-two Counties, where every citizen will have the right to have his or her love acknowledged. Well done to Senator Buttimer for the work he did during the marriage equality referendum campaign in Ireland.

I wish to raise one more important issue that is getting more and more media coverage and about which I am very concerned. I refer to issues relating to Dublin. We need to be very careful about plans to rebalance the economy away from Dublin. The Government is failing to understand the importance of Dublin, specifically to the Irish economy. Jobs lost in Dublin are lost to cities such as Paris, Brussels, Zurich, Luxembourg and Birmingham. They are not lost to small rural villages and towns across the country. Dublin competes on a European and a world platform, so to starve Dublin of investment in infrastructure and public transport will greatly damage the Irish economy.

Nearly 70% of all tax income is raised in the greater Dublin area. I increasingly see a bias developing within this Government against Dublin, and this will affect the Irish economy. I have had reasons before in the other House to warn Fine Gael Ministers not to rip off Dublin. Now I give the same warning not to strangle Dublin because it is at the heart of the economy of this country. If investment into infrastructure and public transport is strangled, the Government will damage the Irish economy.

I ask the Leader for a full debate on plans to rebalance the economy on this island. I for one have always stood in solidarity with rural Ireland and sought investment into rural Ireland. However, we also need that level of investment into our public transport, our roads and our housing in Dublin, and if that does not happen, this country will be the worse for it because we compete in Dublin on a world stage for foreign direct investment. One can see a growing bias in the media and from this Government against this city. I for one will stand up for Dublin. I am fed up listening to this attitude of "ye in Dublin" getting far too much. Dublin needs investment in its critical infrastructure and it needs it now. I seek a full debate in this House on economic plans for the city.

Senator Catherine Noone: I rise to raise a World Health Organization, WHO, report that, thankfully, has found that sugar consumption among 11 to 15 year olds decreased between 2002 and 2014 although, unfortunately, obesity has continued to increase. It is good to know that the efforts made and the awareness campaigns being run about diet are having some effect.

The data for Ireland show that 70% fewer 11 to 15 year olds drank sugar-sweetened soft drinks daily in 2014 than in 2002. The same survey found that daily vegetable consumption had increased by 12.5%. However, despite these positive figures on the diet front, obesity in Ireland has been steadily increasing over these years. Although some children's diets may be healthier,

4 July 2017

it is clear some other issues are contributing to obesity - for example, our sedentary lifestyle and our obsession with social media and the like. Computer usage of two hours or more on a weekday has increased by 203%, for example, while moderate to vigorous intensity physical activity of 60 minutes or more a day has decreased significantly.

I have raised concerns about the increased time spent online, not least because of children's and teenagers' mental health, but this report from the WHO suggests that factors such as the increased use of computers and smartphones, as well as video games and the like, have a substantial part to play in our obesity issue. I raise this issue and this report so that we might have the Minister for Health, Deputy Harris, brought into the House when we reconvene. I know there will be much legislation over the next while and, in fairness to the Leader, he did have the Minister of State, Deputy Corcoran Kennedy, come before the House relatively recently for a discussion on obesity. Unfortunately, there is no specific Ministry responsible for obesity now so it falls back on the desk of Deputy Harris to deal with. We need to continue to have an integrated approach to tackling obesity in this country. It is still a very serious problem. Some progress has been made however, as is evident from this report.

Senator Robbie Gallagher: I, too, would like to join with others in the House in congratulating the Leader on his engagement. We can all look forward to a date in Cork in the not too distant future.

On a more serious note, along with many other Members, I have raised the issue of the future of rural Ireland many times. This, unfortunately, would appear to have fallen on deaf ears, as proved by two media reports this morning. One report concerned ambulance cover in rural Ireland and the fact that six counties in this State only have one ambulance covering the entire night-time period. Other counties only have two ambulances covering the entire 24-hour period, seven days a week.

One of those counties is County Monaghan. As I travelled down from Monaghan to Dublin this morning I listened to a lady from Donegal giving a very graphic and emotional account of how her mother lay on the side of a road in the Inishowen Peninsula for an hour and a half waiting for an ambulance. This was three and a half years ago. She commented that it was promised back then that something would be done, but three and a half years on the available service, or should I say lack of service, has still not progressed. That is very disappointing. She also made the point that there were three fire stations on the Inishowen Peninsula but only one ambulance.

What this highlights is the need for further and immediate investment in the ambulance service. We should perhaps also look at training our fire station personnel as first responders so that they could go to the scene of an accident, wherever that accident might be, and stabilise the individual until an ambulance arrives.

The other issue is that of broadband. Again, this has been raised by many Members and is a big issue for rural Ireland. The Minister, Deputy Naughten, now tells us that the promised broadband roll-out will be delayed by a further 12 months. It has now reached the stage where any broadband announcement from this Government is a complete joke which, unfortunately, nobody from rural Ireland finds funny. Be it in the farming sector, in small business, or even just schoolchildren doing their homework, rural Ireland needs broadband. We are desperately trying to get that broadband rolled out as soon as possible.

I ask the Leader to invite both the Minister for Health and the Minister for Communications, Climate Action and Environment into the House to address these issues.

Senator Gerard P. Craughwell: I had not been aware of the Leader's engagement and I am delighted for him. It could not happen to a nicer man. I wish the Leader and his partner all the best and I really look forward to the wedding. I will start saving from today.

At the request of the Ceann Comhairle I led a delegation last week to Berlin. I was joined by my colleague, Senator Butler, who will I am sure have something to say about this later. It was fantastic to see the work being done by our foreign affairs staff, in particular His Excellency, Ambassador Michael Collins. He has done tremendous work, as indeed had the former Minister of State, Deputy Dara Murphy, and the former Taoiseach. Everywhere I have been to speak on Brexit in Europe, these names keep coming to the fore. I do not think that we can say this often enough in this country. People are not aware of the amount of work being done by the Government. I will leave it to my colleague, Senator Butler, to fill the House in about that trip.

I thank the Leader and the Minister of State with special responsibility for defence, Deputy Kehoe, for bringing forward the outstanding payments for members of the Defence Forces. It is extremely important. There is, however, one very worrying aspect to the publicity around the Defence Forces at the moment. I am being contacted by people asking where they can donate food parcels. This is not something that we want for our Defence Forces. I know that neither the Minister of State nor the Taoiseach want that either. Together we have to find a solution to this, though possibly not on the floor of the House. I ask for the Leader's support on this matter.

We were talking about air ambulances. I live where I do in Dublin because I am within ten minutes of St. Vincent's Hospital. I have a tricky ticker. There are many people around the country who also have tricky tickers but who are not as fortunate as me. Why can we not use the helicopters of the Defence Forces? The problem is that we do not have enough pilots. We must step up to the plate and get the Air Corps back in the business of bringing people who are in need of urgent medical attention to hospital as quickly as possible. I appreciate the Cathaoirleach allowing me to speak on two matters.

An Cathaoirleach: I do not hear the second one.

Senator Maura Hopkins: I join other Members in congratulating Senator Buttimer on his engagement and in wishing him well.

Yesterday evening, I attended an open meeting in Kilbride Community Centre, Four Mile House, Roscommon, in respect of issues faced by early years educators. There were over 50 early years educators at the meeting. They are very frustrated and disillusioned and feel very undervalued. The issues they discussed predominantly relate to their wages. The average wage of a child care worker and early years educator is €10.27 per hour. Many of them must sign on during the summer because of difficulties with their contracts. They talk about their huge frustration with the consultation with government agencies on the progression of the child care sector. They have also spoken at length about the burden of administration and the increase in administration over the past number of years. Finally, they speak about the need for investment in facilities.

Obviously, many improvements have taken place in upgrading child care facilities, but the major difficulty is that we must invest in our staff. The staff are highly educated, as were all the people who attended the meeting last night. They are very committed to their work. Parents

4 July 2017

trust them with their children each day when they drop them off. However, the workers are extremely frustrated. They feel that while regulation, standards and the qualifications required have increased, the wages have not increased to reflect the demanding nature of the work within this sector. Improvements have taken place with regard to seeking to provide affordable child care for parents and the provision of the second preschool year, but we must value the work being done by early years educators. I ask that the Minister for Children and Youth Affairs, Deputy Zappone, be invited to address the House on the very serious issues we face in the early years child care sector.

Senator Paul Gavan: I join other Members in wishing the Leader well and in congratulating him on his good news today.

I wish to raise the issue of financial waste and outsourcing in the HSE and I ask that the Minister for Health be invited to the House to discuss it. This matter was revealed last week on foot of a parliamentary question submitted by my colleague, Deputy Louise O'Reilly. Since 2012, the State has spent €25.6 million on private ambulances and €800,000 of that was spent in Limerick. This colossal spend on hiring private ambulance services is financially imprudent and does not constitute anything like a long-term strategy for an essential public service. I will put this in context. For the €800,000 spent on outsourcing private ambulances between 2012 and 2015 in Limerick, University Hospital Limerick could have bought, staffed and owned four fully equipped emergency ambulances. Instead of this short-term planning, we must have the HSE invest in new ambulance services and build our own publicly-owned stock. Otherwise, our stock will continue to deplete and we will become utterly reliant on private providers who will demand higher fees while at the same time paying significantly less to their staff. The evidence of this is in the eightfold increase in State spending on private ambulance providers between 2012 and 2015, and there is no sign of a change in direction.

One often hears about the political centre and how the centre must hold. There is nothing of the political centre about a rightward rush to privatise our ambulance service.

That is what has taken place over the last years. The Government's own figures show this. Does the Leader support his Government's policy of the ongoing privatisation of our ambulance services? To me it is an absolute disgrace and it is a betrayal of the public sector workers who work so hard in that sector.

Senator Ray Butler: I wish my colleague, Senator Buttimer, all the best and congratulate him on his great news. Last week Senator Craughwell, Deputy Kevin O'Keeffe and myself visited the German Parliament to discuss the issues of Brexit and the European Union.
4 o'clock We met with the Parliament's leader, the finance committee, the interior Minister and the education committee. Of course Brexit was the big issue. The German finance committee had met with the English finance committee two weeks previously. It said that there had been no proper planning on the part of the English finance committee for leaving the EU with regard to banking. The British representatives had said that, when the UK left, it would not pay in respect of commitments given to the EU for the period to 2020. The German finance committee said that everything was up in the air. It said it was like a proper pantomime. All that was missing was Boris Johnson hidden in the middle of them.

Now we see Britain flexing its muscles on fishing rights. In today's paper we see that Brexit could cost the farming industry in this country €1.2 billion. According to officials, the reason is that difficulties would be compounded by the increased costs associated with implementation of

border controls, particularly if there is a disadvantage from EU regulations and standards in the UK after Brexit. We are in very worrying times. Germany has said that it will stand by us, as have the other 27 member states of the European Union, but the German officials have said that they will not let Britain walk all over them. This looks very bad for Ireland when it comes to a soft border because the other European member states will not let Britain walk all over them. I call on the Minister to start asking questions of our counterparts in Britain and to ask exactly what is going on.

Senator Jennifer Murnane O'Connor: I, too, congratulate Senator Buttimer. I know I will be seeing a lot more of him in Carlow. I hope he does not get any ideas about running in that constituency. Again, I wish him the best of luck. I wish to highlight again the importance of the meeting that was held today in respect of the cath lab at University Hospital Waterford. I know that it has been given great support here but we need the 24-hour service in Waterford. The Minister clarified last week that money was not an issue. We need to get that sorted and it is an urgent request.

I also want to bring up the issue of today's report in the *Irish Independent*, which I know has been brought up previously, regarding the new figures that show that Carlow, Sligo, Meath, Longford, Donegal and Laois sometimes have just one ambulance on call at night. That has happened on a regular basis. I looked into the logistics of the ambulance call-outs. The ambulance base has to either ring Dublin or Donegal. When there is a call-out they wait for a reply from Dublin or Donegal. The decision as to who goes on a call is based on the nearest resource. Recently, for example, an ambulance needed to be dispatched to Hook Head in Wexford as the ambulance from Wexford was unavailable due to either being on a call-out or being elsewhere. In this case Carlow paramedics were sent on a 108 km trip to the person in Hook Head and then drove 66 km to University Hospital Waterford. This would be the norm for the Carlow crew who are left to cover the counties of Laois, Kildare, Kilkenny, Wexford and Wicklow, leading to Carlow having one of the busiest paramedic crews in the country. This is unacceptable. It is frightening to think that there is only one ambulance covering this area. We need to get this addressed. This is an urgent matter.

To go back to rural Ireland again and the subject of broadband, the Minister, Deputy Naughten, has said that it will be 18 months before broadband will be considered again. This is urgent. People depend on broadband, whether for business or whatever. We need to get this sorted as soon as possible.

Senator Maria Byrne: I congratulate the Leader and wish him all the best for the future. It is great news. The very best of luck to them both.

I raise the issue of the new accident and emergency unit in University Hospital Limerick which is the most overcrowded emergency department in the country. Some 4,150 people have been treated on trolleys in the hospital since the start of January. Despite the opening of a new accident and emergency unit that is three times the size of the old emergency department, overcrowding remains a problem. I, and many of my colleagues, have raised this issue with the Minister of Health numerous times. The hospital requires new beds and 90 replacement beds are needed in St. John's Hospital to try to alleviate the overcrowding problem in the region. I ask the Leader to request that the Minister come to the House. It is terrible that University Hospital Limerick has treated 500 more people on trolleys than University Hospital Cork and almost 700 more people than the largest Galway hospital. We must continue to raise this issue until it is resolved.

4 July 2017

Senator Alice-Mary Higgins: I extend my warmest congratulations to Senator Buttimer who is a lovely person and wish him every happiness on this great occasion.

Today, the Prime Minister of Canada, Mr. Justin Trudeau, met the Taoiseach. While much attention has been paid to what the two men were wearing on their feet, what is more important are the steps they are taking to face the challenges facing our shared world. There is much that the Taoiseach and the Canadian Prime Minister can learn from each other. I hope Mr. Trudeau will convey to the Taoiseach that gender equality is not optional or an add-on but a foundation for a modern society and something on which we must build. I also hope the progressive legislation the Government has passed on hydraulic fracturing will be discussed and considered at the meeting because, unfortunately, the position taken by Prime Minister Trudeau in respect of the tar sands is one that is incompatible with a global effort to avert catastrophic climate change.

To be consistent, I must also refer to the trade and the Comprehensive Economic and Trade Agreement, or CETA, between Canada and the European Union, which also needs to be discussed. Yesterday, representatives of farmers' groups, small business organisations, environmental groups and trade unions, which do not often sit together at a table, agreed that they are concerned about this trade agreement. Their position is not that they oppose trade and they certainly do not oppose trade with Canada, with which Ireland has a very healthy trading relationship. In 2014, we exported services valued at €1.1 billion to Canada and in 2015, the balance of trade between the two countries was almost two to one in favour of Ireland. While trade is healthy and good, the concern is with the model of trade provided for in the agreement. CETA is a legacy of overreach by the European Commission. It contains investor court systems which are dangerous and unacceptable and a negative listing system which places everything on the table. We should decide what we put on the table. Ireland has some of the lowest levels of exclusions, in other words, matters we have taken off the table, of any country in Europe. I appeal to Senators, Deputies and the Taoiseach to consider that the European Commission told us CETA did not need to be ratified by national parliaments.

An Cathaoirleach: I ask the Senator to conclude.

Senator Alice-Mary Higgins: However, the European Court of Justice ruled that it must be ratified by parliaments and stated the European Commission was wrong to ignore citizens' initiatives involving millions of citizens across Europe.

An Cathaoirleach: The Senator is over time.

Senator Alice-Mary Higgins: Even those who support the deal should ensure it is not ratified until it has been tested by the European Court of Justice to ensure we comply with the standards and provide the checks and balances we need.

An Cathaoirleach: I call Senator Lombard.

Senator Alice-Mary Higgins: This is an issue that goes deeper than handshakes.

An Cathaoirleach: The Senator went a minute over time. I cannot allow her to do that every day. She must respect the Chair.

Senator Tim Lombard: I join other colleagues in congratulating Senator Buttimer on his good news and wish him the very best of luck.

I would like to follow on from Senator Butler's issue regarding Brexit, where we are going

and how we will deal with these issues regarding agriculture and fisheries. I take into consideration the announcement on Sunday by the UK that it is pulling out of the 1964 London Fisheries Convention. That is a major issue for the Irish fishing industry and will be one of the real key battle lines regarding Brexit. How we deal with it will be a key issue for an industry that, as the Cathaoirleach knows more than anyone, feels very much on the periphery of Irish society itself. In how we deal with the fishing industry, the statement by the UK has been deeply unhelpful and unwelcome. I would like to ask the Minister for Agriculture, Food and the Marine how we will move forward with the Brexit negotiations after this declaration. It would be important for the House to have a full debate on the statement by the UK and how we will progress the Brexit talks. It would be appropriate, before we adjourn, for the Minister to come to the House in the next few weeks to give a brief outline on how he proposes to deal with the Brexit talks and this core issue. There are communities throughout Ireland that are dependent on fishing. How we ensure they have access to the sea area between six and 12 nautical miles around the UK is important for them. This is a ticking time bomb in so many ways. If we can get the Minister to the House, we might get that bit of clarity that the people require.

Senator Niall Ó Donnghaile: Cuirim leis an chomhghairdeas atá seolta chuig an Cheadhnaire ar dea-scéal s'aige go bhfuil sé anois idir geall agus pósadh. I echo the sentiments of congratulations to the Leader on his recent announcement.

I echo the remarks by my colleague, Senator Boyhan, about the Seanad special committee's report on Brexit being published today. I commend the report to other Members if they have not seen it already. I understand that the Leader will be setting aside time for statements on the Brexit report next week to give us the opportunity to remark on it. I will await that debate to go into the finer detail. However, it is a significant body of work and the committee secretariat are worthy of our praise, thanks and recognition, as is Senator Richmond for his steady and astute stewardship and chairmanship over recent months.

To add to that sentiment, I want to reflect on and commend the Minister for Foreign Affairs and Trade, Deputy Simon Coveney, for his clear remarks the week before last at the launch of the report on Brexit of the Joint Committee on the Implementation of the Good Friday Agreement. He made clear his aspiration to see a special status achieved for the North, which is a stark change in tone from the Government and one that is welcome and, more important, necessary. Given the period we are in, there is merit in bringing in the Minister for Foreign Affairs and Trade to update the House on the latest Brexit situation and his contributions to the talks, or lack thereof, currently taking place in the North. Not only were his remarks in terms of a special status welcome but I also welcome resolutely his remarks that the Irish Government supports a stand-alone, rights-based Irish language Act for the North. I consider that a responsible call and one that is in tune and in concert with the vast bulk of MLAs and the public in the North.

Senator Paul Coghlan: It will please the Cathaoirleach and the Leader to know that yesterday Killarney House was officially opened to the public for the first time. This was the home of the Browne family, the Earls of Kenmare, including Lord Castlerosse and later John McShain, the man who saved it for the nation and was known as the man who built Washington. He built the Pentagon building and worked on the White House in 1952. It was the Browne family who planned initially and laid out the town of Killarney, and they did a good job of it given its success today. They were responsible for the foundations. In July 2011, the then Minister for Transport, Tourism and Sport, Deputy Varadkar, announced a restoration package worth €7 million which saved the house from almost certain ruin. Seven years later, Killarney House is officially open and has the potential to become the top tourist attraction in the south west. I

4 July 2017

thank the Taoiseach for his foresight and for that decision. The main rooms have been restored in period style, complete with original furniture from these families. The building has been magnificently restored. I toured it yesterday and it is a great credit to everyone who worked on it. The house and gardens are a sea of tranquillity, only a stone's throw from the centre of town, and are well worth a visit. I recommend it to all.

Senator Diarmuid Wilson: When is Senator Coghlan moving in?

Senator Paul Coghlan: I wish the Leader every happiness on his important announcement today. I am sure we will have the opportunity to celebrate suitably in due course.

An Cathaoirleach: I believe the Senator lost his seat in Killarney too.

I call Senator O'Donnell.

Senator Kieran O'Donnell: I thought Senator Coghlan was Killarney's answer to Bord Fáilte.

I extend my congratulations to our Leader, Senator Buttimer, on his engagement and wish him well. The big day is not too far ahead. It will be some time in December. As a good politician he has timed it to make certain it does not happen when there could be an election.

An Cathaoirleach: There could be a Seanad campaign then.

Senator Kieran O'Donnell: Are we getting a preview?

An Cathaoirleach: I am no sage.

Senator Kieran O'Donnell: On Sunday, a new service was launched from Shannon Airport with Norwegian Airlines flying weekly to Providence, just outside Boston, and to Stewart, just outside New York. It is a great news story for Shannon, for Limerick and the region.

A review of the runway capacity at all State airports is under way, commissioned by the Minister for Transport, Tourism and Sport, Deputy Ross. The percentage of traffic coming into Dublin is going up. It was 80% and is now 87%. There is talk of a third terminal in Dublin. Shannon Airport is operating at 50% capacity. We speak of balanced regional development. This is a relatively small island and that should be taken into account in this review. I have no doubt that the Minister for Transport, Tourism and Sport will come before us to discuss other matters. Bord Fáilte, in its marketing abroad, should encourage people to come to the mid-west and the western seaboard, including Cork. That is often overlooked. If Dublin grows beyond sustainability, it will have a negative impact on the wider economy. We are more than open for business in Shannon for extra capacity for airlines.

Senator Frank Feighan: I wish my colleague well on his forthcoming marriage. Everybody here seems to want to be invited to the wedding. To quote the old story about the politician and the difference between a wedding invitation and a speeding fine, the politician could do something about the speeding fine but not about the wedding invitation. We would be only too delighted to go to the wedding that night.

I agree with Senator Ó Donghaile about the Minister for Foreign Affairs and Trade, Deputy Coveney's remarks about the Irish Language Act in Northern Ireland. He has made a very strong impression in Northern Ireland. I was in Belfast last Saturday night and I observed the

Down colours flying on the Short Strand. I do not think people realise that while Belfast is in County Antrim, the Short Strand, where Senator Ó Donnghaile is from, is in County Down. I wish Down every success on Sunday week along with my own county of Roscommon which is playing Galway next Sunday, when the minor team of Sligo is also playing in the Connaught final.

Senator Niall Ó Donnghaile: Up Down.

Senator Frank Feighan: The marching season is up and running. I hope that everything will work out in the coming weeks and that there will not be a vacuum that could let things get out of hand. A lot of good work has been done by the communities on all sides to ensure that this will not be the case.

Everybody is talking about ambulance services. We absolutely need more ambulances in rural areas. I want to highlight that the air ambulance located in Athlone has saved dozens of lives. We need to expand on that and I certainly feel that we can.

Senator Colm Burke: I congratulate the Leader on his recent announcement and wish him and his partner every success in the future. I thank him for the courage he has shown over the last five years in respect of major changes that have occurred in Irish law, namely, the referendum on marriage equality, and the Protection of Life During Pregnancy Bill in the sense of getting it through various public hearings. He has shown great courage since he became a Member of the Oireachtas.

I wish to raise my concern over decisions taken by the HSE in the last few weeks in respect of support services for survivors of breast cancer. I became aware last Friday morning that major changes are being proposed which would withdraw those supports from some areas of the country while helping to improve support services in areas that did not have them. I find it disturbing that when I contacted the Minister's office, and it in turn asked the HSE for clarification, the HSE responded by issuing a statement to the press outlining the changes without first corresponding with the Minister. I also find it disturbing that there was no consultation with the service providers who give the supports to the women.

These new changes were brought about without really consulting those who are dealing with breast cancer survivors every day of the week. I thank the Minister for taking on board my concerns and for telling the HSE last Friday evening that it could not go ahead with these proposed changes.

We need to have the Minister come to the House to clarify what changes are going to be made and to make sure that the services required by people who have had mastectomies and require ongoing support are protected. We must make sure there is no withdrawal of services and that they are provided in other areas of the country which do not have them at the moment. It is extremely important for these people and we should take on board their concerns as well as those of the service providers.

Senator Diarmuid Wilson: Like other colleagues, I wish the Leader and his partner well for the future. I agree with Senator Kieran O'Donnell's comments on regional development and particularly on the development of our regional airports. Dublin Airport is almost at full capacity. There is talk of another terminal and at least one other runway. A lot of this work could be avoided by upgrading the road infrastructure to Shannon Airport. Doing so would open up that airport to the part of the country from which I come. Indeed, the infrastructure

4 July 2017

should be continued into the North of Ireland. As my colleague, Senator Ó Donnghaile, will attest, Belfast International Airport is an excellent airport. Those airports should be prioritised for upgrade and the infrastructure to Belfast and Shannon airports should be put in place in order to avoid huge expense to the taxpayer at Dublin Airport. That is a matter on which we should have a discussion. We should invite the Minister, Deputy Ross, and the Minister of State with responsibility for regional development to come to the House to discuss it.

Senator Paddy Burke: I congratulate the Leader on his engagement. I wish him and his partner well and the very best of luck for the future. I would also like to express my sympathy to the Deasy and Hanafin families on the deaths of Austin Deasy and Des Hanafin. I hope the Leader will provide time for us to express sympathy to the families at a future date. The two deceased were former Members of the House.

I would like to support a number of other Senators who spoke in respect of Brexit. I congratulate the Brexit committee, under the chairmanship of Senator Richmond, on launching its report today. It was a very well done report and the committee is to be congratulated for the hard work it put into compiling and launching it.

Will the Leader ask the Minister for Agriculture, Food and the Marine to come before the House to discuss the decision of the UK on fishing in its waters? It will have a significant effect on the fishing industry in Ireland and Europe. We need a debate on this issue. The British want Ireland to pull out of the EU. It is well known that quite a number of politicians in the UK would like Ireland to pull out of the EU because there would be a ready-made border between the British Isles and Europe. There would be no problem in Ireland and it would suit the British if there was a water rather than land border. It is also well known that the House of Lords compiled a report and quite a number of Lords, including Lord Howard, want Ireland to pull out of the EU. A recent report suggested that Ireland would be better off out of the EU. While we are firmly European and are committed to Europe, it is important that the Minister for Agriculture, Food and the Marine come to the House to discuss fishing in British waters. I am of the view that Britain will raise every issue against us in order to weaken our case and try to get us to pull out of Europe.

Senator Trevor Ó Clochartaigh: Go raibh míle maith agat, a Chathaoirligh. Ba mhaith liom tréaslú leis an gCeannaire as an dea-scéal atá aige. Guím gach rath air féin agus ar a pháirtí.

We attended an Oireachtas Members' briefing in Galway yesterday with Youth Work Ireland, Galway's youth counselling service. It has been in existence since 2011, but is now at risk of closure due to a lack of funding. The service was set up to meet the needs of young people who could not access counselling services in Galway due to cost, location and issues relating to counsellors' qualifications. It has provided 15 hours of counselling annually across the county for young people aged between 12 and 21 years in youth centres in Tuam, Ballinasloe, Loughrea and Galway city by qualified and accredited counsellors. It is unique to Galway because it provides a free service that parents can refer to. GP referrals are not required and the service caters for those aged 12 to 14 years whose needs are not being met by the Jigsaw service, which provides listening support to those aged 15 years and older. My understanding is that other services in Galway, such as child and adolescent mental health services, CAMHS, are referring people to the service. The current crisis is such that it cannot continue to provide services without a stable source of funding and has had to agree that it will need to close and not reopen in September unless the funding issue is addressed. This is an urgent issue. I appreciate

that we are having very good debates in the Seanad consultation committee in respect of the area to which this matter relates.

I call on the Leader to ask the Minister, Deputy Zappone, to address the issue through her good offices or by means of a debate in the House. I tabled a Commencement matter on the issue previously, but I appreciate that there are many other calls on those debates. I am raising this issue with the Leader because it is extremely important and we are coming close to the end of the term. I hope the Leader can raise it with the Minister and her office to ascertain whether anything can be done to both retain the service and to extend it to areas such as Gort, Clifden and Carna, which have been asking for this service to be brought into those areas.

Senator Jerry Buttimer: I thank the 22 Members who have contributed to the Order of Business. Senators Ardagh, Boyhan and Conway-Walsh all raised the issue of the cath laboratory in Waterford. In last week's debate, Senator Coffey made reference to health apartheid. Senator Conway-Walsh, in her remarks, posed a very good question which we can use as a starting point. Irrespective of where we are from, the provision of services and the need to ensure that people can access services must be an overarching principle of our health system, whether we are in Castletownbere, Connemara, the Donegal-Derry border or wherever else. It is important to be able to access services. I will begin today by offering my sympathies to the Power family on the tragic death of Thomas. It is important that we understand that this is not about an individual person but a health system working for all members of society. The briefing today and the debate around the cath laboratory in Waterford is one that has been to the fore for a long time. It is emotive and highly charged and is an issue of absolute importance and of grave concern to both the Minister and to the Government as a whole. That is why the Government, through the Herity report, had an independent review. The Minister for Health, Deputy Harris, has given a commitment to look at it again along with the issue of primary care and other types of health provision. It is important that this be allowed to take place and I would be happy to have the Minister come to the House. We had the debate in this House last week. It is an important issue and one that we should continue to have investment in. We should all read the Herity report. If it is to be challenged then let us do it on the basis of clinical fact and evidence. I hope that would be the policy of Government in the future.

Senator Ardagh also made reference to the issue of housing prices and housing supply. The Government, through Rebuilding Ireland, is committed to ensuring that we solve and address the legacy issues to which it had to face up in respect of housing supply and the housing crisis. Rebuilding Ireland is the Government's policy and the vehicle within which we will drive change in the construction sector through the provision of housing in various different strands. The Minister for Housing, Planning, Community and Local Government, Deputy Eoghan Murphy, has been asked by the Taoiseach to review the plan, to report on progress under the plan and to identify measures that are required. I am quite confident he will do that. It is important that we live up to the needs of people and meet the demands that are imposed upon us in the provision of housing, whether it is in private housing, affordable housing, the supply and demand, and social housing.

I join with Senator Ardagh in commending Dr. Geoffrey Shannon, the independent Government rapporteur, on his report. I fully subscribe to Senator Ardagh's view that the Government must work with Dr. Shannon in implementing the recommendations around the protection of children. We have seen Dr. Shannon play a pivotal role in the past in this area and we hope he will continue to do so. The Minister for Children and Youth Affairs, Deputy Zappone, has been a very proactive Minister in her brief and I am sure that she will again rise to the challenge of

4 July 2017

completing this. I hope that we will have the Minister to the House.

Senator Boyhan referred to the open day in Moorepark, which is on the Cork-Dublin road. It is a huge centre of excellence in the agricultural sector, and I commend all involved in the different facets of Moorepark, including research, innovation and the development of our food sector. Senator Boyhan is correct that our dairy sector is a pivotal part of our agricultural community, and I would be happy for the Minister to come to the House. He also made reference to people in direct provision. I look forward to the day we allow people to work. The Senator referenced people working in the food and agriculture sector and I hope we can address the issue. There was a recent court ruling and the Government is working to implement the judgment.

Senators Boyhan, Paddy Burke, Butler and Craughwell referenced the importance of Brexit and the report of the Seanad Special Committee on the Withdrawal of the United Kingdom from the European Union. I congratulate Senator Richmond, Chairman of the committee, as well as all Members for their input and contributions. It was a pleasure to attend and to watch some of the hearings and Senator Richmond's chairmanship did a service to the House. Over 50 hours of work went into the plenary sessions, which is not to mention the research and the work done behind the scenes. This shows that the committee system of this House and the Houses of the Oireachtas is a fantastic catalyst for change and a forum for suggestions to be brought to the Government and Departments. Senator Ó Donnghaile was also a member of the committee and I apologise for not mentioning him. We will have a debate on a motion before the House next week. Brexit is of importance to all of us and I hope the committee report will not just gain media attention but will be read by people because it is a serious and substantive piece of work on the issue of Brexit.

Senator Conway-Walsh made reference to the raids on Irish-based insurance companies today. It is important that we understand the independence of the different arms of the State in investigating matters. This case concerns competitiveness and consumer protection in the financial services sector, specifically insurance companies. I hope there is a thorough investigation but I do not want to pre-empt the outcome. If anything is unearthed it is important that it benefits the consumer and it is important that we do not find anything that is anti-competitive in the practices in this industry. If sufficient evidence is unearthed action must take place. I very much welcome the first public session of the Charleton inquiry and I hope the tribunal concludes its work in a thorough and professional manner.

Senators Humphreys, Kieran O'Donnell and Wilson made reference to regional development and I will come back to their points about State airports. Senator Humphreys said Government was interested in rebalancing away from Dublin but I do not think that is the case at all. The previous Minister, Deputy Coveney, commissioned Ireland 2040, which had a huge and impressive consultative process. He was committed, as is the current Minister for Housing, Planning, Community and Local Government, Deputy Eoghan Murphy, to Ireland 2040 being completed and published. It is a highly ambitious plan for Ireland and involves a national planning framework to ensure the people of Ireland are recognised as being from the four corners, the four provinces, of Ireland. It is not about region but people and having development on an all-Ireland scale. The importance of balanced regional development will be seen when the report is published. If there is a choked capital and nothing anywhere else, it is not a balanced country. It is not about Dublin versus the rest of the country but is about allowing for a different model of economic development. It is about ensuring we can attract investment into many parts of the country, whether Cork, Cavan, Galway, Limerick, Waterford or wherever. It is about the opportunity to work, investment in local areas and a flourishing country, not just a flourishing

region. I look forward to having that debate. Ireland 2040 is about targeted, focused growth and, as the report outlines, is about urban gateways and hubs across the country. I very much look forward to having that debate in due course.

Senator Noone referred to tackling obesity. She has been a champion of the issue in her contributions in this House since I have come back here. She is right to outline the statistics and the fact that Ireland has 70% fewer 11 to 15 year olds drinking sugar-sweetened soft drinks, while at the same time daily fruit consumption increased by 26% and sweet consumption decreased by 49%. That proves the Government's Healthy Ireland policy is working but we need to do more work. I very much commend her on the work she does.

Senators Gallagher, Feighan and Murnane O'Connor referred to ambulances. I would be very happy to have the Minister come to the House to discuss the National Ambulance Service and the ambulance service plan which is part of the HSE's service strategy. HIQA has outlined deficiencies in some service provision. What we must have is a strategy that recognises the importance of timely access for people to ambulances.

Senator Gavan raised the issue of private ambulances but what he failed to mention in his contribution is that in the North, where I hope his party will be part of the soon-to-be restored devolved Government, private ambulances were used 561 times in the month of January at a cost of £1 million. It is not a black and white issue in terms of ambulances only being public. A balance needs to be struck. It is not the way forward to say private ambulances are always the wrong approach. It is about ensuring that all people have timely access to health care, in this case ambulance services. The people who availed of private ambulances do not care whether they are public or private once they can receive treatment.

Senator Gallagher referred to the delay in the delivery of broadband in rural areas. It is important that we acknowledge the Minister, Deputy Naughten, is committed to the delivery of broadband in rural areas. We all wish we had better broadband speed and access in many parts of the country but I am confident the Minister will deliver.

Senator Craughwell paid tribute to staff in the Department of Foreign Affairs and Trade, in particular to Ambassador Collins. I join with him in commending all diplomatic staff across the world who represent Ireland. I pay tribute to the retiring ambassador in Washington D.C., Anne Anderson. Having met her on a number of occasions I can say she is a first-class public servant who has represented her country with distinction.

Senator David Norris: Hear, hear.

Senator Jerry Buttimer: I thank her for her many years of service and wish her well in her retirement. I do not mean retirement as she is a young woman, but in the next phase of her life. I wish Dan Mulhall every success in taking up the baton in Washington D.C.

Senator Craughwell also made reference to payments in regard to the Defence Forces. I would be happy to have the Minister of State, Deputy Kehoe, come to the House. It is extremely important that we recognise the contribution of the Defence Forces at home and abroad. I will be happy to have a further debate on the issue of pay and we should be able to have it before the summer recess.

Senator Hopkins referred to a meeting in Kilbride, County Roscommon, last night. She is right to articulate the early years sector and the issues that need to be addressed, such as those

4 July 2017

raised by the early years alliance, in terms of investment and the rate of pay for staff. I would be happy for the Minister, Deputy Zappone, to come to the House. It is a matter that exercises people across the country. I have attended a number of meetings on the issue in Cork and I would be happy to have the Minister come to the House. I thank Senator Hopkins for raising the matter.

Senator Gavan made reference to the political centre. I remind all Members that it is the political centre that governs this country. It is about having responsibility and living up to it, not being populist or catch-all to all people but about ensuring that we have a Government that delivers. I hope we will all aspire to that aim.

I thank Senator Butler for raising the issue he mentioned in terms of his trip to Berlin and the importance of the co-operation and dialogue across Europe. It is only through dialogue and communication that we will see the Brexit negotiations achieve success for Ireland. I hope that will happen during the negotiating period.

Senator Maria Byrne raised the issue of the emergency department in Limerick. The Government has invested in the emergency department there. We must continue to invest to address the issues of people on trolleys and waiting times. I would be happy to have the Minister come to the House to debate the matter and discuss the strategy.

Senator Alice-Mary Higgins referred to the meeting today between the Taoiseach and Prime Minister Trudeau, who I welcome to Ireland. As the Taoiseach said, the visit is about ensuring that we forge a relationship with Canada. Senator Higgins referred to that type of relationship. I am sure, from the bilateral meeting today and the conversations we have had in the House and across Departments, that the relationship will focus on what is good for us in the context of employment, attracting investment and business. It is about what is best for Ireland. It is not about us being an inferior partner in the relationship, it is about us being coequal. We can certainly have that necessary debate in the House.

Senators Lombard, Gallagher and Feighan referred to the decision of the British Government to change its fisheries policy as announced at the weekend. As the Minister for Agriculture, Food and the Marine, Deputy Michael Creed, said, the decision is unhelpful and a very serious matter. It will form a central part of the Brexit negotiations in regard to our maritime sector and coastal communities. I commend all of those involved the seafood and maritime sector regarding Seafest in Galway at the weekend, which was a phenomenal success. The UK Government's decision is important and serious and we must be very proactive in respect of it. The Minister is and will continue to be proactive. Our ocean economy is worth €5.7 billion and employs 30,000 people. We must forge an alliance and a relationship with our friends and allies in Europe to promote our policy and ensure our access to waters is not hindered and that such waters remain open to us.

I join Senator Ó Domhnaill in hoping we see a positive resolution to the talks in the North. The Minister for Foreign Affairs and Trade, Deputy Coveney, has been very clear regarding the Government's ongoing need to see the Irish language Act form part of the talks. Special status for the North has been Government policy for a long time, as the former Taoiseach, Deputy Enda Kenny, made very clear in his remarks and work. As we enter the 11th hour in respect of the North, it is critical to re-establish the power-sharing government at Stormont and avoid direct rule, which none of us wants to see return. I wish all involved in the talks well. We will all work in whatever capacity we can to see that happen.

Senator Paul Coghlan referred to opening of Killarney House, on which I congratulate him. He referred to Lord Castlerosse and the home of the Earls of Kenmare. I suppose we could call Senator Paul Coghlan “Lord Killarney”. With the house opening for the first time, it is a great day. I do not mean to be partisan in noting that the Senator has been a champion of Killarney House. As Senator O’Donnell said, he could become a one-man band for all of the tourism bodies involved in the promotion of Killarney. He has been a champion of both the town and the house and I congratulate him and all involved on the project. I also thank the Government for providing the funding to open the house. I am sure Senator Paul Coghlan will say that there is more work to be done, but this is a positive development. It will add a huge tourist attraction to the town, joining those which already exist there. I hope to have better days in Killarney unlike last Sunday, which was a very poor day for Cork people. We will come back to that.

Senators O’Donnell and Wilson made reference to our State airports. I join Senator O’Donnell in welcoming the investment by Norwegian Air in both Shannon and Cork airports. It is not about these airports today; it is about investment in Ireland. I was at Cork Airport last Saturday to watch the first Norwegian Air flight taking off while the first flight landed there today. As both Senators said, we must examine how our State airports can be utilised to promote the country, attract investment both in business and in the tourism industry, and ensure value for money. I will try to facilitate a debate in the autumn, if not before the summer recess, on our airports and the need for regional development, as Senator Wilson said. That is not an anti-Dublin point; it is about being pro-country and using a collective approach.

Senator Colm Burke raised the issue of the HSE’s decision on support services for women with breast cancer. I join him in condemning the HSE for the callous nature of what it did the weekend. It was appalling, first, that an announcement was made on a Friday afternoon; second, that nobody was told; and, third, that the Minister had to intervene to ensure the policy was changed and stopped. It is not good enough that women in a vulnerable position, either undergoing or awaiting treatment, were subject to such an announcement. It is important that the Minister comes to the House to discuss the matter.

Senator Paddy Burke also made reference to Brexit and fisheries and I have responded on that.

I sympathise with the Hanafin family on the death of former Senator, Des Hanafin. I join all Senators in paying tribute and offering sympathy to the family of the late Austin Deasy whose son, John, is a Member of the Lower House. He was a fine parliamentarian and Minister. He was a man who stood his ground. As a former Minister for Agriculture, I recall him coining the great phrase, “There will be no capitulation” in his talks with the EU when I was a teenager. Perhaps that is a fitting epitaph. For us, there should be no capitulation in our Brexit talks. I would be happy to schedule expressions of sympathy on the sad passing of both men in the coming months.

Senator Ó Clochtartaigh referred to a youth work scheme in Galway. If he gives me the details, I will be happy to either have the Minister for Children and Youth Affairs debate the matter with him in the House or to approach him privately.

On a personal level, I thank all Members for their good wishes. It was great to see unanimity in respect of a matter of good news. I am happy that we, as a country, can allow all of us to get married.

4 July 2017

Senator David Norris: I congratulate the Leader.

Senator Jerry Buttimer: I thank the Senator.

Order of Business agreed to.

Domestic Violence Bill 2017: Committee Stage (Resumed)

SECTION 2

Acting Chairman (Senator Gerry Horkan): On amendment No. 1, Senators Conway-Walsh and Ó Donnghaile have tabled a substitute amendment by adding their names to the original amendment No. 1. As the original amendment No. 1 has already been moved and debate commenced on it, the Cathaoirleach has had to disallow the substitute amendment. This is a technical disallowance and does not in any way impede the right of the Members involved to speak to the amendment.

We will now resume debate on amendment No. 1 as it appeared on the list of amendments dated 31 May 2017. Amendment No. 1 was grouped with amendments Nos. 52 and 53 and Senator Alice Mary Higgins was in possession at the time.

I welcome the Minister of State, Deputy Stanton, back to the House.

Debate resumed on amendment No. 1:

In page 7, between lines 3 and 4, to insert the following:

“ “domestic violence” means any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse, (even if all or any of those incidents, when viewed in isolation, may appear to be minor or trivial), inflicted against an applicant or a dependent person by the respondent and includes all acts of physical, sexual, psychological or economic violence. In relation to “domestic violence”—

(a) “coercive behaviour” is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the applicant or a dependent person by the respondent;

(b) “controlling behaviour” is a range of acts designed to make an applicant subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour;

(c) “psychological” means violence inflicted against an applicant or a dependent person by the respondent and includes, but is not limited to, all, or any of the following:

(i) threatening (including threatening suicide) to use violence against, molesting or putting in fear;

(ii) harassing by persistently following, watching, pestering, besetting or communicating;

(iii) damaging property;

(iv) ill-treatment of one or both of the following:

(I) household pets;

(II) other animals whose welfare affects significantly, or is likely to affect significantly, an applicant or a dependent person's well-being;

(v) causing or allowing a dependent person to see or hear the physical, sexual, or psychological abuse of an applicant; or puts a dependent person, or allows a dependent person to be put, at real risk of seeing or hearing that abuse occurring. However, an applicant who suffers abuse as defined by "domestic violence" is not regarded as having—

(I) caused or allowed a dependent person to see or hear that abuse; or

(II) put a dependent person, or allowed a dependent person to be put, at risk of seeing or hearing that abuse."

(Senator Colette Kelleher)

Senator Alice-Mary Higgins: I welcome the Minister of State to the House. I commend the former Minister for Justice and Equality, Deputy Fitzgerald, on putting forward what is overall very progressive legislation and legislation which moves us forward. The amendment we were debating when we adjourned was one which is essential if we are to ensure the Bill goes far enough to make a significant difference. I acknowledge the former Minister indicated that with regard to amendment No. 1, the Department is looking at putting forward definitions. I am happy to work with the Department to see what proposals it makes and to engage with it constructively between now and Report Stage.

Amendment No. 52 is very crucial. It establishes very clearly an offence of controlling and coercive behaviour. The arguments we have heard against the introduction of this very necessary offence have been inadequate. Senators have talked about the complexity but all law comes with complexities. They go against the advice we have had from all of the NGOs working in this area.

I will mention a case that has emerged since we debated amendment No. 52 of the very tragic deaths in the UK of a man who killed his wife and daughter. His two sons have given extensive testimony, which is important to listen to, about the experience of domestic violence. It chimes with all of the case studies, evidence and experience our NGOs in Ireland have told us about. They talked again and again about the word "controlling" and said their father was a controlling, vitriolic bully. They talked about the homicides that took place as a result of decades of abusive and controlling behaviour. They talked about these not being a single event but the culmination of a lifetime of struggle.

It seems from the evidence it was a premeditated crime that took place after his wife and daughter had looked to establish themselves separately in a separate home. The reason this is important is there is a real concern that our legislation as it stands is not adequate. It is not adequate to talk about assault when we do not talk about the patterns of behaviour surrounding it. We cannot talk about individual events and it is not adequate to talk about harassment.

4 July 2017

If we look at the transcripts of cases, when people go into court and are asked about assault and harassment, they are asked why they responded to texts or why they returned to the house. None of that recognises the reality of coercion and control and of the manipulation and threatening environment that is created by coercion and control. It is a difficult area to step into but it is a much more difficult area predominantly for the women but also for children and men who live in such environments. It behoves us as a State to engage with this.

There is a move to look at controlling and coercive behaviour a little more in terms of issuing protection and barring orders. A breach of order may be one way in which we can ensure a criminal consequence. This neglects the key fact that it is at the point when people take a step out of an environment of control and coercion to try to reach for help that they often become particularly vulnerable and may be most vulnerable to an escalation in danger and violence. If there are situations where people have evidence and feel they can come forward with a crime of controlling and coercive behaviour, we should allow them to do it and ensure they have double and appropriate protection of a criminal prosecution and that a criminal prosecution can be brought in that area.

It is also important to state that controlling and coercive behaviour is not necessarily a compound and complex issue. It can be prosecuted alongside a situation of assault. It in no way prevents conviction for assault or harassment, for example. It simply provides another thread or strand and is something that moves beyond those individual instances to a pattern of behaviour. We have more esteemed legal experts such as Senator Bacik in the House. She has spoken about how in England and Wales we are seeing successful prosecutions under the provisions of sections 76 and 77 of the Serious Crime Act in respect of controlling and coercive behaviour. We are seeing an increase in the number of prosecutions because the courts are learning how to prosecute it. The signal that we send in respect of controlling and coercive behaviour being regarded as a crime by this State and not a matter of civil dispute is essential. There have been very few successful prosecutions in Ireland of marital rape, but the signal that was sent, which was that it was not okay or a matter of personal disagreement, argument or complexity and that there are behaviours which we as a State regard as unacceptable and criminal, was important. That signal is also important here.

I urge the Minister of State to engage with us and to accept this amendment. I recognise that the Department may wish to make changes to the amendment on Report Stage. Having, I hope, successfully passed this amendment on Committee Stage, I would be happy to work with the Department on the nuance or detail of any aspect of the amendment, as I am sure would those in my group and many others in the House. However, I consider it a fundamental, crucial and red line issue if this Bill is to do what we want it to do.

Senator David Norris: I also welcome the Minister of State and his advisers to the House. There have been changes since the last debate and there was an attempt to add names. However, anyone who reads the debate will see that it is not necessary to have one's name on every amendment. There are those of us who contribute passionately and will be regarded by the interested public as having taken a significant role. Therefore, I am not too worried about that.

Barnardos has taken a strong line on the absence of a specific offence of domestic violence. It stated that it is a significant weakness as it perpetuates the misconception that domestic violence is largely physical abuse and that “[w]hile some victims do experience physical and sexual abuse, [it fails to understand that] domestic abuse is often characterised by persistent, controlling and coercive behaviour that causes emotional and psychological trauma on victims

including children”. There we have the phrase “controlling and coercive behaviour” which is defined. “Domestic violence” is defined in the amendment as is “controlling behaviour” and “coercive behaviour”.

Since the last debate, I imagine that we have all been contacted by the Law Society. Its first recommendation in its communication on the Bill is that a definition of domestic violence be included in section 2 of the Bill to include all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit, including online stalking and harassment. The Law Society, an independent body, strongly recommends, as its first recommendation, that this should be taken on board.

In addition, its document states that, with regard to the inclusion of a definition of domestic violence in section 2, while the entire Bill is concerned with domestic violence, there is no definition of domestic violence in it. On the surface, it seems quite absurd. We have a Bill dealing with a specific subject that contains definitions of this, that and the other, but no definition of the principal source of concern in the Bill. Unless the Minister of State can provide an alternative explanation, that seems to be a serious lacuna.

On the last occasion, if my memory serves me right, the Minister said that it was a good idea to include such a definition. One therefore assumes that the definition will be accepted. It is arguable whether this specific and particular definition will be accepted but the proposer has indicated that she is happy to accept emendations which would clarify and improve the legislation. The Law Society continues by stating that such a definition is required to ensure that domestic violence, as defined in Article 3 of the Istanbul Convention, is recognised in law and practice and that that definition goes beyond physical violence to mean “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit”. I note the language used. Such a definition is required. In other words, legislation is defective without this definition.

The second thing the Law Society states is that the United Nations Committee on the Elimination of Discrimination against Women recommended that Ireland produce a specific definition of domestic violence and other emerging forms of gender-based violence such as online stalking or harassment. Therefore, another body, the United Nations Committee on the Elimination of Discrimination against Women, has recommended that this country take this on.

I see now that my memory is accurate because the third point the Law Society makes is that the Minister for Justice and Equality observed on Second Stage of the Bill that legal issues prevent the inclusion of a definition of domestic violence. The Law Society states that it would welcome an indication of those legal issues so that an accommodation within a carefully considered definition can be found. The Minister has had a number of weeks to consider this and I very much hope that it will be possible for the Seanad to be advised of what precisely are the legal issues to see if, with the assistance of Senators, we can find a way around this. It seems absurd that we have a situation where a definition of domestic violence is left out of the Bill. We have it in other jurisdictions, so they apparently have no legal problem. Perhaps it is a problem peculiar to the Irish Constitution. If it is, let us have it out in the open and let us see what is the situation.

With regard to the situation, which is often concealed, of the impact on children of domestic violence, I got figures from Women’s Aid. In 2016, Women’s Aid received 3,823 disclosures of child abuse in the context of domestic violence. When the figure is broken down, we find that

4 July 2017

3,558, or 90%, were disclosures of emotional abuse. Only 183 were disclosures of physical or sexual abuse. That is very interesting because it tells us that the overwhelming preponderance of damage inflicted upon children in situations of domestic violence actually constitutes emotional abuse.

To help the Minister of State, I will give an example of a definition from our nearest neighbour, the United Kingdom. This has apparently gone through and was passed. I think the section is in the family law Act but there is no point wasting time looking for the specific section. I am sure the Minister of State will be able to find it. In fact, it is section 76 of the Serious Crime Act 2015 that deals with controlling or coercive behaviour. Controlling behaviour has been described as, “a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour”. Coercive behaviour has been described as, “an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten their victim”.

I also have a non-exhaustive list of examples from the United Kingdom which includes: isolating people from their friends and family; depriving them of their basic means; monitoring their time; monitoring a person via online communication tools or using spyware; taking control over aspects of their every day life such as where they can go, who they can see, what to wear and where they sleep; depriving them of access to support services such as specialist support or medical services; repeatedly putting them down such as telling them they are worthless; enforcing rules on activity which humiliate, degrade or dehumanise the victims; forcing the victim to take part in criminal activity such as shoplifting, neglect or abuse of a child to encourage self-blame or prevent disclosure to authorities; and financial abuse including control of finances such as only allowing a person a punitive allowance. There was also a case, which I instanced the last time, of a man deliberately controlling the bank accounts of his wife. Other examples are threats to kill, threats to a child and threats to reveal or publish private information, such as threatening to out someone, for example, threatening to tell everyone that a person is gay. Offences dealing with the publication by one party of intimate photographs or videos that were exchanged in an intimate relationship, to the shame and embarrassment of the second party, could be included. It is not listed here but I am sure it could be part of it. Other examples are criminal damage, assault, rape and preventing a person from having access to transport while working. It is not an exhaustive list. It shows what is being done in the United Kingdom.

On the previous day, almost everyone, including the then Minister for Justice and Equality, agreed that a definition of domestic violence was a significant element missing from the Bill. The Minister quoted legal difficulties and told the House there were legal constraints on introducing such a definition. She did not specify what those legal constraints or difficulties were. Will the Minister of State indicate to the House what those difficulties are and how they can be addressed? That is mostly about amendment No. 1.

I am not sure I have indicated the correct place for amendment No. 52, which introduces an offence, because it comes right at the end of the Bill. If it is not the appropriate place, it can be looked at. It creates the conditions for the commission of an offence. It provides “A person A commits an offence if (a) person A repeatedly or continuously engages in behaviour towards another person B that is controlling or coercive”. If the amendment is accepted, we will have definitions of controlling and coercive behaviour. I will not read the entire amendment because I take it it has been read and it would be time-wasting to read the whole thing. The main thing

is it creates an offence of controlling or coercive behaviour in an intimate or family relationship.

I look forward with interest to the Minister of State's response.

Senator Ivana Bacik: I welcome the Minister of State to the House, in particular given his former role as Chairman of the Oireachtas Joint Committee on Justice, Defence and Equality. Senator Conway and I had the pleasure of serving on that committee with Deputy Stanton as Chairman. During that time, we prepared a report on domestic violence which made some key recommendations, and I am glad to see the Minister of State has it in his hand. Among the key recommendations was that there would be a specific definition of domestic violence and an offence of domestic violence. Senator Norris referred to the Law Society recommendation that there would be such a definition, and we are debating amendment No. 1 which provides for such a definition. We have all spoken at some length on this and I do not wish to waste time today. As we said the previous day, we would welcome the Minister of State's constructive engagement and that of the Minister, Deputy Flanagan.

On the previous day the then Minister for Justice and Equality, Deputy Fitzgerald, said she would consult the Attorney General and Parliamentary Counsel on the issue of both the definition of domestic violence in amendment No. 1 and the proposed definitions of an offence of coercive or controlling behaviour in amendments Nos. 52 and 53. She said she had had some preliminary discussions with the Attorney General but would like to have time to examine the matter and come back on Report Stage. That was on 31 May. Will the Minister of State tell us if there has been any progress since then? Will the Minister, Deputy Flanagan, and the Minister of State, Deputy Stanton, accept at least the spirit of these amendments and come back to us with a reworded version or an indication of whether the amendments will be reported on Report Stage?

I will not repeat the lengthy debate we had the previous day other than to say that in respect of amendment No. 1, I pointed out the need for a definition of domestic violence, which the Law Society has also recommended. SAFE Ireland and others have also called for it and I welcome their representatives to the Gallery. There has been a strong indication from the Law Society that the approach adopted in amendment No. 1 would be very much in line with the Istanbul Convention. The word it used was "required" under the Istanbul Convention.

In terms of amendments Nos. 52 and 53 and the proposed offence of coercive or controlling behaviour, I spoke at some length the previous day about the equivalent offence in the UK under the Serious Crime Act 2015. Although it is new legislation - it is only two years old - we have already seen quite a number of prosecutions and 59 convictions. The Minister of State is aware of the very recent article in *The Guardian* on 20 May which provided an overview of the operation of the provisions in the Serious Crime Act on coercive and controlling behaviour. It was a very accessible and well-written overview quoting some of the academic research on it. It is clear that it is possible, very feasible and practical to define an offence in such a way that it is effective. I am looking again at what the Tánaiste said the previous day. Her main concern was that any definitions or new offences we would introduce would be effective for victims and survivors of domestic abuse. It is a very valid concern. We need to look carefully at the wording. It is possible, particularly using the near neighbour example, that such an offence may be drafted.

Is there a need for such an offence? The Tánaiste addressed this in her speech and said she did not see any gap in existing law, in particular because of the Non-Fatal Offences Against the

4 July 2017

Person Act 1997. I take issue with that. I made a note the previous day that I wanted to respond to the Minister on it. I do not accept that existing Non-Fatal Offences Against the Person offences are sufficient to cover the gamut of domestic abuse behaviours, especially because that Act was not drafted or prepared with a view to covering violent or harassing behaviours in an intimate relationship setting. That is the key difference. That is why the changes have been made in the UK. It is why the Law Society is recommending we provide for separate offences. I used to defend under the provisions of the Non-Fatal Offences Against the Person Act in the criminal courts. They are drafted for the most part for offences of assault in a public setting, including, for example, harassment where there is stalking but it is not specific to a domestic setting. They are offences that are used routinely in domestic violence settings, particularly in the District Court. I accept that but they are not necessarily appropriate to those settings. The idea we would draft and prepare specific offences for an intimate relationship setting is now seen as a good idea and is best practice.

The Tánaiste also expressed concern about whether it would be possible to prosecute successfully for a specific offence of coercive or controlling behaviour. Looking at the overview of English practice since 2015, in many cases it is an offence charged alongside other offences related to domestic violence, but there has been at least one successful prosecution for a stand-alone charge. As gardaí and prosecutors become more familiar with an offence like this, we will see an increasingly effective use of it as a stand-alone offence. It may also be prosecuted alongside other offences. Has there been any progress since 31 May on accepting the principle of these important amendments which we are all seeking to push in one form or another?

Acting Chairman (Senator Gerry Horkan): Four more speakers have indicated on this grouping of amendments. They are Senator Conway-Walsh, Senator Murnane O'Connor, Senator Conway and Senator Ruane, in that order.

Senator Rose Conway-Walsh: I thank the Minister of State for being here. I will be brief and the reason I will be brief is this Bill gives us the instruments we need to prosecute the crime of domestic violence. I will not take up all my time talking about it because we have spoken about it on other Stages. Those of us who have worked with victims and survivors of domestic violence for a number of years know exactly what needs to be done, and this is what needs to be done. The Minister said it was too complex, but I do not accept that. The complexity arises where a child is robbed of his or her childhood or where a woman and children are in fear of their lives. That is the reality, so there is an urgency with this Bill. It is about power and control and the physical, psychological and financial abuse that takes place to control people's lives. We need a definition and it is provided here. Sinn Féin supports all of these amendments. Let us get the Bill on to the next Stage, so we can protect the lives of women, children and others who are experiencing domestic violence in this country.

Acting Chairman (Senator Gerry Horkan): I thank Senator Conway-Walsh for her brevity. I remind Members that there are 54 amendments in 22 groups as well as some to be taken singly. We definitely will not finish today given that we are still on the first amendment after half an hour, with three more speakers to speak on it. If Members try not to repeat what others have said, where possible, we might get through it a little faster.

Senator Jennifer Murnane O'Connor: Many of us have been in contact with Barnardos, the people who are dealing with this situation. Their first concern is that children are often the hidden victims of domestic abuse. It is crucial that this is part of the Bill. They are trying to help and save the child. They seek to ensure that the damage caused by the exposure of children

to domestic abuse is recognised by ensuring risk assessment is undertaken by experts available to the court in respect of the granting of barring orders. These must be included for children.

Barnardos seeks the establishment of a network of child contact centres across the country to facilitate court ordered supervision of access visits. These matters must be included in the Bill because it involves children. It is crucial to consider extending the duration of emergency barring orders to at least six months. Consider the statistics. There was a major report in my local newspaper stating that there has been a big increase in the number of women fleeing domestic violence. Its incidence is increasing so we must ensure that this Bill is passed.

I brought my concerns to the previous Minister and she was going to deal with them. The biggest concern is awareness. There must be an awareness campaign to show what women and children are going through. There is no such campaign. I accept that all of the amendments must be discussed but we must push this Bill through urgently. When it is passed we must ensure there is a large awareness campaign for the women and children of Ireland who are going through this violence. Almost one in four Irish women experience some type of physical violence but what is frightening is that 70% of Irish women, which is top of the European table, do not contact any services or organisations, including the police, following the most serious incidents of violence. That is worrying. It is one of the biggest issues for this Bill. We must ensure there is a big awareness campaign and that we help women and children who are violently abused.

Senator Martin Conway: I welcome the Minister of State, Deputy Stanton. Senator Bacik is correct that a very useful and important job of work was carried out by the Oireachtas justice committee, under the chairmanship of the Minister of State, when it examined this issue. At the time, the report and its recommendations were groundbreaking, as is this legislation. I was particularly struck by the figures from Women's Aid relating to emotional abuse that were cited by Senator Norris. One can talk about physical abuse and use the traditional phrase that "sticks and stones will break my bones but names will never hurt me". That is untrue to a large extent.

Emotional abuse and people playing mind games are extremely serious and happen far too often. Definitions are important. The Acting Chairman has pointed out that there are a number of proposed amendments to the legislation and I agree with him that they will not be dealt with tonight. However, that is good too because these issues must be aired. Where better to get into the nitty-gritty of what is important in legislation than in Seanad Éireann? The amendments are worthwhile and I urge the Minister of State to reflect the recommendations of the report produced by the committee of which he was the Chairman and to put meat to the definitions. Definitions are ultimately decided on by the courts. When a court is deciding on a prosecution or whatever it is usually based on how the definition is interpreted by the courts.

I also acknowledge the representatives of Safe Ireland and the other NGOs who are in the Chamber. My engagement with the NGOs in this area has been fruitful and an informative learning curve. The NGOs do an enormous amount of work that is mostly under the radar and often not recognised. Their input in giving us important briefings for Committee Stage of the Bill is important. Report Stage follows Committee Stage and that is when the Government really responds to what is articulated here. In many cases the good and salient points that make a difference and are articulated on Committee Stage tend to find themselves surfacing, in one way or another, through Government amendments on Report Stage. I sincerely hope that will happen in this case.

4 July 2017

Senator Lynn Ruane: I will speak briefly on amendment No. 52, mainly to acknowledge its importance. I have been fairly silent throughout the debate on this Bill and one of the reasons is amendment No. 52, which deals with coercion and controlling behaviour. This is something that has impacted me personally, so I still feel that I cannot stand in the Chamber and acknowledge it out of fear of inviting that type of behaviour back into my space. It is an extremely important amendment and if it is not accepted today or if the Government does not make decent progress on it, I reserve the right to submit a version of it on Report Stage.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I thank Members for their welcome. Obviously there have been political changes since the last time this legislation was discussed here by the then Minister, Deputy Fitzgerald, and I have been asked to take today's debate. As Senators Bacik and Conway said, I chaired a committee which produced a report on this issue. I will not say it is coming back to haunt me, as good and serious work was done there.

Senator Ivana Bacik: Hear, hear.

Deputy David Stanton: Much of that work is reflected in the Bill and in the contributions from Senators both on the last occasion and today. The previous Minister for Justice and Equality spoke on these matters, and the Minister is in consultation with the Attorney General and the Parliamentary Counsel about them.

A number of Senators asked about the progress. I listened carefully to what was said and I am cognisant of other work that has been done and of the proposals put forward by various NGOs on this matter. Officials have begun drafting and they are in ongoing consultation with officials in the Office of the Attorney General. It behoves all of us to examine and test both sides of every argument, which is why today's debate is so good.

I appreciate what Senators are attempting to do in these amendments. They seek to provide a definition of domestic violence and to provide for a specific offence of coercive control. I am very sympathetic to that, as I was when the report was published in 2014. Senator Norris read a long list of definitions of domestic violence and said there is one more but it was not on the list. We have to be careful about having a circumscribed list because other things might or might not occur to us. If they are not on the list is there a risk to people who might be suffering domestic violence? The list is endless and a definition cannot be endless. This is the challenge. If the item is not on the list is there a risk that the perpetrator would go unpunished? We have to be cognisant of this. I have a very open mind on this. I welcome this debate and interaction.

The court in granting an order to a victim has already a wide discretion wherever there are reasonable grounds for believing that the safety and welfare of an applicant or a dependent person so requires. It would be unfortunate if a definition of a crime of domestic violence were to circumscribe this broad definition in any way. I will be interested in Senators' reaction to that comment. I am not opposing the amendment; I am debating it.

The awareness campaign was mentioned. The former Minister for Justice and Equality secured €1 million for 2016 and another for 2017, the first two years of a six-year national awareness campaign. The first three years concern domestic violence and the next three, sexual violence. I am concerned that Senators are not aware of the awareness campaign. We need to publicise it more. What the Senator says is very useful. The next phase of the campaign will be at the end of August into September.

Section 2 appears to be confined to defining domestic violence. This is a technical issue which I am sure can be overcome. The definition is not linked to any subsequent provision in the Bill. This is a technical legal problem with amendment No. 1 which we must work on. There is no attempt to capture coercive and controlling behaviours, including those with a psychological element. I have no ideological difficulty with defining domestic violence or creating an offence of coercive violence but I have concerns in case it is detrimental to victims. We have to reflect more on that. We do not put something into legislation that could be detrimental. We are all on the same page in that respect. If we can do it we will but we need to reflect more and get more advice on it from the Office of the Attorney General. That is happening as we speak.

What constitutes domestic violence has a wide currency and covers a broad spectrum of behaviours. It is a very complex issue and the amendment is proposed to demonstrate just how problematic it is to define in statute. I accept that behaviours in a domestic setting that involve emotional abuse, humiliation and fear are extremely detrimental as they are an abuse of the trust associated with an intimate relationship. However, effective legislation needs to be enforceable. Most instances of domestic violence take place in private. The difficulties of obtaining evidence of non-physical behaviour, and the harm it causes, to satisfy a criminal standard of proof, that it is beyond reasonable doubt, in order to secure a conviction, are obvious.

The difficulties in securing convictions for relatively simple offences will be compounded in the case of an offence of domestic violence. In considering the issue the Department consulted with relevant criminal justice agencies, which advised that in general there is no gap in the range of offences that can be prosecuted in domestic violence cases primarily under the Non-Fatal Offences against the Person Act 1997. Acts of physical violence such as assault and assault causing harm and sexual violence are already offences, as is the threat of violence. Non-violent abuse is also captured by the harassment and coercion provisions of the 1997 Act. Likewise, damaging property and animal cruelty are existing offences. Prosecuting an offence of domestic violence in addition to other existing criminal offences would inevitably make prosecuting more complicated and create further burdens for victims. That is another concern and we have to be careful about that. As it stands the court can take into account the fact that such acts occur in a domestic setting when sentencing an offender. The provision proposed significantly overlaps with existing criminal offences and duplicates existing offences as well. I would like Senators to consider these issues and would welcome their advice on them later on Report Stage. I am willing to examine further the text of the amendments and the valid points made by Senators during this debate. We are in consultation with the Attorney General and the Parliamentary Counsel on these matters and where possible and appropriate I will bring forward amendments on Report Stage. If that does not seem possible I will explain why.

Amendment No. 53 would have the effect of moving operational independence for investigations away from An Garda Síochána into the political arena. It is a longstanding principle that the Minister for Justice and Equality has no role in the conduct of Garda investigations and the advice is not to depart from that at this time.

In March of this year, the Scottish Parliament published the Domestic Abuse (Scotland) Bill which defines abusive behaviour as including psychological abuse. The legislation is still before the Scottish Parliament and it is too early to determine whether this will have a positive impact. I am advised it might be more appropriate to observe the developments in Scotland, to determine how this offence will work and identify any unintended consequences. We are working in parallel. While there is no offence of domestic violence in England and Wales there has been an offence of coercive control since December 2015. Official data on the impact of this

4 July 2017

offence will become available this autumn, which will be interesting. UK media reports from last August indicate that since the offence of coercive control was introduced, there have been more than 20,000 prosecutions for domestic violence and research has found that since its introduction, 202 people have been charged with the offence of coercive control. Little information on successful prosecutions is available although I think I got some information on the way in here from Senator Bacik, which I must reflect on and study.

In September 2016 it was reported that the first convicted person was jailed for an offence of coercive control. However, the conviction was in addition to convictions for serious physical assaults on the victim, which unfortunately led to the person's permanent disability. This demonstrates the potential difficulties associated with successfully prosecuting such an offence on its own.

I have listened very carefully to the points made by Senators. They are valid and sincere but we need to do some more work on this. I would like their permission to report on that work on Report Stage, having listened carefully to what they had to say today and having had a chance to reflect on the other work that has been done by the committee and other bodies. I have an open mind on this but I would like to wait for the advice from the Office of the Attorney General and the Parliamentary Counsel.

Senator Colette Kelleher: Will the Minister of State clarify that he has accepted the principle of considering a definition of domestic violence, including coercive control, notwithstanding the difficulties surrounding it to which he has alerted us? Is that what we will consider on Report Stage, not the question of whether we have a definition?

Deputy David Stanton: I have an open mind on it and we are consulting with the Office of the Attorney General and the Parliamentary Counsel on this. I do not want to make matters worse by putting something like this in. We have to be very careful that we do it correctly. My personal view is that if we can we will but I have yet to be convinced and we need to tease out some of the issues I have indicated. I would like to see the results from the UK to see what happens there. Scotland is also having such a debate at present and I would like to see what it will come up with at the end of the process as well. That said, I have listened carefully to what Senators have said. I ask them to reflect on what I have said and the points I have made. I look forward to having a debate with Senators afterwards and some Senators have had discussions with officials in the Department on the issue as well. While I am very open on the issue, we need to be sure we do not allow any loopholes in the legislation or do anything to make things worse for people if we have a prescribed list. A technical issue also arises to prevent acceptance of this amendment now because it is not linked further down the Bill. However, we would need to come back on Report Stage to fix that, if the amendment were accepted.

Senator Colette Kelleher: I am happy to leave the time open if I am sure that a definition of some type is envisaged because domestic violence is cited in the legislation on 36 occasions and we need to be clear about what it is we mean. It is a difficult area because it is very difficult to define but we have been in similar situations previously and we have got there. The Minister of State has drawn on his experience of the drawing up of the 2014 report of which he was part. I would be happy to hold back and give the extra time. The information from the UK will be very useful in terms of coercive control and how that is working. However, I only want to allow the time if I know we will be looking at a definition and doing the work on that with the Minister of State and the Department in the meantime.

Senator David Norris: It is very useful that the present Minister of State, Deputy Stanton, was the Chairman of the committee that produced the report and is familiar with the situation. It is worth pointing out that the report did recommend, as I understand it, the inclusion of a definition. That is the first point.

The second point is that the Minister of State stated he is interested in waiting until we get the results from the operation of a similar Act in the United Kingdom in terms of the definitions and so on and so forth. That is in the autumn. Is he suggesting that we suspend the passage of this Bill until the autumn? The Minister of State has indicated “No”, so I would be interested to hear if he has anything further to say on that.

With regard to the definitions, could I just point out there are two pages of definitions in the Bill already? We define all the different Acts, an interim barring order, a barring order, a child, a civil partner, a court, a dependent person, an emergency barring order, full age, interim barring order, Minister, prohibited degree of relationship, protection order, respondent, a safety order, spouse, welfare and so on. We have a whole range of definitions already. The Minister is quite correct that the Civil Service in particular is very often anxious not to create a list that appears to be exhaustive. It has very good reason for that, because it is beyond the wit of man to produce a list of anything that is really exhaustive. I have a positive, practical suggestion to address the issue. What I suggest is the inclusion of words along the lines of “may include” or “shall include”. That means that it is very clear in the legislation that it is not exhaustive. It includes certain things, which are considered to be the main items that will be considered by a court, but there may well be other ones. I think “shall include” would be better as by putting that in, one would thereby overcome the obstacle of a hypothetical further situation that arises down the line.

The Law Society and Barnardos, among others, have suggested these things. The provision is also in operation in the United Kingdom where the difficulty that the Minister of State perceives has not been found to exist. As the Act there is in operation with a definition, it remains for us to be told what precisely is unusual in the Irish situation that means we cannot have a definition whereas in the United Kingdom they have operated one and apparently with some success. It seems to me that this was the principal area outlined. I did ask the Minister of State what are the stumbling blocks and I had a slight consultation with a colleague about voting patterns so I might have missed something but the main objection was the fact that this might purport to be an exhaustive list and that it would complicate matters. I think I suggested a way around that which the Minister of State and his advisers might consider.

Senator Martin Conway: I have huge admiration for Senator Kelleher, who is a really great Senator in terms of the work she does. The Minister of State has said clearly he has an open mind on this and he will have to be guided by the legal advice of the Attorney General. He did chair the report in which a definition was recommended. I personally believe definition is a good thing once there is a caveat that the courts would have broad discretionary interpretation because the Minister of State is correct, definition can be endless and the last thing the legislation should do is create a scenario whereby somebody finds himself or herself in a difficult situation and the courts find themselves statute-bound or have difficulty dealing with the situation because we have defined domestic violence in a very specific way. Whether it is two pages or 22 pages, the last thing we want to do is ask why we did not have a 23rd page to cover something that has not been covered, so we must be very careful.

We have a responsibility to the victims of domestic violence to be very careful and to do

4 July 2017

this right. We are all on the same page in this regard but the one thing we must ensure is that we do it right and that is where we get the guidance from the Minister of State. That is his job. That is why he has the service of the Office of the Attorney General to come back to us and tell us whether something will cause problems. If it is not going to cause problems I know he has an open mind on it and he will ensure the Bill is designed in such a way as to offer maximum protection but if it does cause problems, we have a responsibility to the victims of domestic violence to take that on board.

Senator David Norris: I wonder if I might come back in later because there is one small matter that I left out of my contribution.

Acting Chairman (Senator Gerry Horkan): I will allow Senator Norris in after the next two speakers. We are almost a full hour into amendment No. 1 and there are-----

Senator David Norris: Yes, but it is crucial to the Bill.

Acting Chairman (Senator Gerry Horkan): I accept that. There are 54 other amendments and people should be aware it is not the only amendment to the Bill.

Senator Niall Ó Donnghaile: I will be brief. I do not disregard what Senator Conway has said but I share Senator Kelleher's sentiment. It is not even a case of concern as we are all on the same page here. We all seek to have the best legislation passed because, as Senator Conway-Walsh said during her contribution, this is about helping people and supporting existing and future victims.

I wish to hone in, first, on the issue of engagement. The Minister of State has committed to a process of engagement with Senators because we seek the best form of legislation that takes on board the sentiments we have expressed. The sentiments on definition are very important and they are shared by many Senators. The timeline is also an issue and Senator Norris touched on it. I do not suggest for a moment that it would be the case - this is why engagement is key - but the last thing we would want to see is something coming back on Report Stage and then we would not have an opportunity to amend it. I want a commitment that the engagement will begin soon and will be forthright. The Minister of State has a willing audience in terms of Members of the Seanad. I reiterate the point made by Senator Norris that if we are waiting on the results, we will be waiting for a fairly long time.

Senator Alice-Mary Higgins: First, on a point of information to the House, it is important to note that paragraph (c) of amendment No. 1, which is being discussed, is not a prescriptive list. Let us be very clear about that. It explicitly refers, for example, to psychological behaviour and states "but is not limited to" and gives examples. Where we have those examples it is very explicit that it includes what is set out but is not limited to them. There will be other behaviours that emerge. We want to move past having a woolly definition because there is a wide political perception that domestic violence constitutes physical abuse. It is a very strong argument that has been put forward. For example, Russia has moved to the point where only hospitalisation constitutes domestic violence. This is a trend and this is why we propose to name "psychological", "controlling behaviour" and "coercive behaviour". It is very clear that is not limited, but it is to build an understanding among judges and others practising the law that these are the kinds of things they can look to that might form part of a pattern. We are looking at a cultural shift in how we address this issue here. The amendment is constructive and not prescriptive. I do not believe we will have a comprehensive 23-page list. In legislation we may have a definition of

robbery, but we do not need to list every item.

The psychological aspect is important because the European Union Agency for Fundamental Rights research on the impacts of violence against women across Europe shows that unlike other countries, Ireland has a longer impact of feelings of loss of control and loss of confidence. I believe psychological violence has a longer impact in Ireland because it is invisible in our system.

I wish to put a direct question to the Minister of State, with whom we are keen to work. Regarding amendment No. 52, I believe we need to have the crime of controlling or coercive behaviour in this legislation when we complete Committee Stage. I would be very happy to work with the Minister of State - I am sure others would also be happy to work with him - to improve that on Report Stage.

In deciding whether to press amendment No. 1, can the Minister of State confirm that on Report Stage he will introduce definitions of domestic violence and coercive behaviour, and that the definitions meet the standards set out in the Istanbul Convention that Ireland has signed and hopes to ratify? I recognise that others across this House reserve the right to improve on our amendments and produce their own on Report Stage. If there is a risk of an imperfect amendment, there is a greater risk of not fulfilling our obligations under the Istanbul Convention of not having a definition of domestic violence in this legislation. Will the Government introduce proposals and definitions on Report Stage to allow us not to have to press amendment No. 1 and constructively engage with the Minister of State? An open mind is not enough; we need a promise.

Senator David Norris: I notice a little trend, almost implied, that domestic violence is universally and uniquely by men against women; it is not. There are much smaller numbers, but there are numbers. To my mind domestic violence is always violence, irrespective of whether it is by a man against a woman, a woman against a man, a man against a man or a woman against a woman. We need to bear that in mind in our use of language when discussing the matter.

The Minister of State said that a number of the offences listed can be prosecuted under other legislation, which is true. However, it is also true that offences in the UK include offences prosecutable under other statutes. Rape, financial abuse, threats to hurt or kill or criminal damage are all matters that are susceptible to prosecution under other statutes in United Kingdom law and yet these matters survive in the list that is appended to the legislation. Therefore, this duplication does not seem to worry the United Kingdom. We have an example we can look to and it seems to call into some doubt the Minister of State's attitude on this matter. I ask him to reconsider that in light of the United Kingdom experience.

Deputy David Stanton: I have listened very carefully to what the Senators have had to say. It is very clear that a definition of domestic violence is complex and lengthy. Senators will agree it is difficult to be inclusive of all behaviours because it is difficult to anticipate the ingenuity of the human mind to devise new ways to inflict cruelty on others. That is one thing.

I draw Senators' attention to line 33 on page 8 of the Bill. This is repeated for the different orders and states:

Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person so requires, it may, subject to section 11, by order (in this Act referred to as a "safety order") prohibit the respon-

dent to the application from doing one or more of the following:

We have a very broad definition in there. It covers everything - safety and welfare. The amendments seek to be more prescriptive by having a list. I have a completely open mind on this. Senator Norris made the point that obviously it is mainly women who are impacted by violence of this kind and only a small number of men. I remember a very interesting presentation to the Joint Committee on Justice and Equality on the issue of controlling behaviour, grooming of victims, etc. It was really frightening stuff.

There can be a risk of counterclaims of domestic violence and especially of coercive control being made by perpetrators to undermine the victim's case. I also ask Senators to reflect on the difficulty of meeting the standard of proof required to secure criminal convictions, which is a different standard from that for civil convictions, as we know.

I will not promise to Senator Higgins that I will come back with a definition. However, we are seriously looking at the definitions of domestic violence and coercive control. If it is possible we will come back with some proposals and if the advice from the Office of the Attorney General and others is that is the way to go. I will not go down that route.

However, I point out that the Bill already contains a broad definition on page 8 and it continues in other sections also. I am sympathetic to the points made. Let us see how we can tease this out.

Report Stage is coming up; I am not sure when that will be. It obviously depends on when we finish Committee Stage and we need time between Committee Stage and Report Stage, especially for a Bill like this. We do not need a lot of time; I am as anxious as everybody else here to get this passed into law and it needs to go through the Dáil anyway. I ask Senators to reflect on the points I have just made and not to press the amendment because if we find issues with it, we will have to undo it later on which is even more difficult. It is easier to insert something that is correct from day one rather than change it later. The Senator should not press it at this time, but take my commitment that we are looking at it seriously. As requested, we will engage with Senators on the definition.

Senator David Norris: Does the United Kingdom example not show that it is possible?

Deputy David Stanton: The UK has put it in. It is possible to put anything into legislation.

Senator Martin Conway: It does not mean it is right.

Deputy David Stanton: We want to ensure it will work and do what it is intended to do. There is a technical problem anyway, but I do not want to use that. I am more interested in substantive reasons. I am very open to this. Let us engage on it in the meantime and see if on Report Stage together we can come up with something that will work. I am not making a promise now on this because I cannot do that at this stage. I promise we will look seriously and sincerely at it to see what we can do to address the intention behind the amendments. I ask for more time to consider it further.

6 o'clock

An Leas-Chathaoirleach: Is Senator Kelleher pressing the amendment?

Senator Colette Kelleher: With reluctance we are withdrawing it for now, but we will reintroduce it on Report Stage. We will hold the Minister of State to his commitment.

I am very torn about this because of its importance. I know it is hard but many things are hard and we can get our heads around this. We are withdrawing this for now but we reserve the right to bring it back on Report Stage.

Amendment, by leave, withdrawn.

Government amendment No. 2:

In page 7, between lines 19 and 20, to insert the following:

“ “specified order” means—

- (a) a safety order, barring order, interim barring order, emergency barring order or protection order, or
- (b) an order varying or discharging an order referred to in *paragraph (a)*;

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

NEW SECTIONS

An Leas-Chathaoirleach: Amendments Nos. 3 to 6, inclusive, are related and may be discussed together. Is that agreed? Agreed.

Senator David Norris: I move amendment No. 3:

In page 8, between lines 2 and 3, to insert the following:

“5. (1) In determining for the purposes of this Act whether or not to grant a relevant order,

the court shall have regard to all of the factors or circumstances that it regards as relevant to the applicant concerned and his or her family.

(2) The factors and circumstances referred to in *subsection (1)* shall include but is not limited to a list as devised by the Minister.”

I will speak on amendments Nos. 3 and 4. Amendment No. 3 is a requirement for the other amendment and is presupposed by them. The other amendments, though slightly different, are very much in the same ball court and address very much the same issues. It is an indication of the degree of concern felt by my colleagues that they tabled these amendments with only very slight differences. My amendment is the longest and thus perhaps the most exhaustive. We have addressed the problem the Minister looked at in the previous amendment because this makes it absolutely clear that this is not an exhaustive list. “The factors and circumstances [...] shall include but is not limited to” the list still left at the Minister’s discretion.

Amendment No. 3 is necessary for the other amendments because it states “in determining [...] whether or not to grant a relevant order, the court shall have regard to all of the factors”. Without this amendment, which is quite a simple one, there would be no relevant context to the

factors to be considered. To a certain extent they would be left floating around in mid-air.

I do not wish to test the patience of the House but this is a complex matter and one of considerable import to the operation of the Bill. With the indulgence of the House I would like to quickly go through the factors in amendment No. 4 that might be considered under sections 6 to 10. It proposes a new section 5(1) which provides “On any application for an order under *sections 6, 7, 8, 9 or 10*, the court shall have regard to the following when deciding whether there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person requires that such an order be made”. Thereafter follows a list, which is itself of interest. First, it includes “any history of violence by the respondent against the applicant”. In other words, if there is any background that shows that this has happened in the past and if this is a pattern. If there is a pattern then it is likely to be repeated in the future. Court action is therefore required to prevent that occurring.

The court also will have regard to “(b) whether any violence by the respondent against the applicant or any dependent is repetitive or escalating”. This, again, is interesting. It continues the idea of repetition, which is implicit in the first factor, but also contains the idea of escalation. We all know from the history of murder in these islands that very often a situation obtains involving a series of physical attacks that start at the lower end, get increasingly dangerous and end tragically in the murder of the victim. It is absolutely vital that the whole question of repetition and escalation be considered by the court if it is to avert tragedy.

The court also must consider “(c) whether any psychological violence by the respondent of the applicant constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at the applicant by the respondent”. Acts are not, in other words, seen in isolation. They are not considered on their own but rather as part of a pattern. If that pattern is sinister then the court intervenes.

The court also will have regard to “(d) the current status of the relationship between the applicant and the respondent, including any recent separation or intention to separate”. Regardless of Garda or British police statistics, anybody who watches crime drama on television or reads reports in the newspapers will tell you that what very frequently triggers extreme violence, including murder, is a separation. We have recently had several cases in the Irish courts where young women told young men that their relationship was over. Within a matter of days these women were dead. There is a clearly detectable pattern there. The current status of the relationship and whether there is any suggestion of breaking up is important.

The list of factors also include “any circumstance of the respondent that may increase the risk of violence by the respondent against the applicant or any dependent, including substance abuse, threats of suicide, employment or financial problems, mental health problems associated with a risk of violence, access to weapons, or a history of serious violence including lethal violence, against the applicant and/or others, including violence against family pets or other domestic animals”. Those are circumstances which would lead a court to entertain the gravest concern about the welfare of the applicant.

We then move the focus slightly and take in the applicant herself, or in some limited circumstances, himself. The proposed section 5(1)(f) refers to “the applicant’s perception of risks to his or her own safety and security”. This is because the person best able to assess whether they are in danger is the person who is being threatened. In most circumstances nobody else, except perhaps an unfortunate child, has been a witness to this situation. It is very important that the

point of view of the applicant be taken into consideration.

The proposed section 5(1)(g) refers to “any circumstance that may increase the applicant’s vulnerability or any dependent’s vulnerability to violence from the respondent, including pregnancy, age, family circumstances, health or economic dependence”. These are further characteristics to be considered. The use of violence against a pregnant woman, for example, is much more serious than violence against a healthy woman who is not pregnant. Violence against a pregnant woman could very easily lead to the loss of the child. When it comes to the question of age, we all know that older bones are much more brittle and that elderly people are more susceptible to the breaking of limbs than a person in the full flush of youth.

The list also includes “(h) the accommodation needs of the applicant and any dependent(s)” and “(i) any evidence of deterioration in the physical, psychological or emotional welfare of the applicant or any dependent which in the opinion of the court, was caused directly by the behaviour of the respondent”. This creates an opening for the direct observation of the judge. The judge can look at the applicant and it may perhaps be the case that the applicant has been in court on a previous occasion. The judge will thus be in a position to say if there was a significant decline between occasion A and occasion B. It may also be the case that the applicant enters court displaying bruises or contusions or is wearing a sling, a bandage or a plaster. This, again, is calling in another element, namely the observation of the judge.

Finally, the list includes “(j) whether it is appropriate in the circumstances to make any order under *section 14*” and “(k) any other matter which appears to the court to be relevant to the safety and welfare of the applicant and any dependents”. This is a catch-all phrase.

With regard to the violence referred to in the proposed section 5(1), the proposed section 5(2)(a) states “a single act by the respondent against the applicant or any dependent, may amount to violence”. It may have just been one act, it does not have to be a pattern. A number of acts constituting a pattern, however, is more significant. Under the proposed section 5(2)(b), “a number of acts by the respondent against the applicant or any dependent, that form part of a pattern of behaviour may amount to psychological violence for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.” In other words, a slight physical altercation might not be considered a serious offence, but if repeated consistently it becomes not just an act of physical terror, but also an act of psychological terror, and the witnessing of this by children is always terrifying to the child.

The proposed section 5(3)(b) states “‘psychological violence’ includes” - and we give a list there. I will not go into it. The proposed section 5(3)(c) then provides “whatever order is made or not made on the application for an order ... the reasons for making it or not making it and for making it subject to conditions, if any, should all be recorded by the court and a copy of these reasons should be made available to each party”. That is fair. If a court is going to make a decision, it needs to record it and transmit those reasons to the interested parties. The proposed section 5(4) goes on to provide:

The court shall also have regard to the following factors when deciding whether there are reasonable grounds for believing that the safety or welfare of the applicant or dependent person requires that such an order be made:

(a) any immediate risk of significant harm being caused directly or indirectly by any kind of violence by the respondent against the applicant or any dependent if the order is

not made immediately.

In other words, immediate intervention may in many circumstances - not just in some - be essential to the welfare of the applicant. The provision continues by specifying the court shall have regard to “whether any previous orders under the Domestic Violence Acts have been made against the respondent”. Again, we are looking here at the court establishing whether there is a pattern. If there has been a pattern in the past, one can with reasonable justification predict that matters will escalate and it is the interest of the court to ensure that this escalation does not take place. The court also will have regard to “(c) any criminal proceedings for violence against the respondent, in respect of the applicant and/or others, pending or concluded, as far as known”. Again, if there is a list of pending prosecutions, or even one example of a pending prosecution, for violence by the defendant against the applicant, that surely must be taken into account by the court. Finally, the court will have regard to “(d) any violence by the respondent against the applicant and/or any dependent children, which is recent, repeated, and/or severe, including attempts at lethal violence against either the applicant or any dependent”. This is self-evident. If there has been an attempt at lethal violence - if the defendant has attempted to kill the plaintiff - surely to God, that is a very good reason for the granting of such an order.

I am sorry to have taken so much time but it has been worthwhile to explain in some detail the reasoning behind these amendments.

Senator Colette Kelleher: I agree with Senator Norris that this group of amendments can be considered together. They make the case for having statutory guidelines and further set out in detail what those guidelines should be. The amendments will provide judges with a clear checklist they will have to consider when making an order under the Bill. This group of amendments seeks to fix a very real problem, that is, the lack of consistency. One can appear before one judge who will have one set of interpretations and one can appear before another with a very different outcome. Organisations such as Safe Ireland that work at the coalface report time and time again that cases with very similar facts have very different results. We should not allow this situation to continue and the Bill is an opportunity to put it right. We must give judges legal terms and all involved clarity as to the factors that would be considered when an order is being made under this Act and confidence to act.

The amendments I tabled were advised by Safe Ireland and they provide an alternative opportunity to define “domestic violence”. While Members went through this in the first grouping of amendments, in a way this is another bite of that cherry for once and for all including psychological abuse and coercive control in the definition, going beyond physical abuse as a form of domestic violence, as Senator Norris said.

It is probably good we have some time because we have the expert, or one of the leading experts in the world, in this field coming to Dublin next week. I refer to Dr. Evan Stark, who will be in Croke Park on Tuesday. For the information of those who cannot make it to Croke Park, he will also come here. I am sponsoring his visit with Safe Ireland. It would be great to see the Minister of State, his officials, all present here and all others who might be looking at this work in the Dáil at a later stage. As the Minister of State said, when one listens to experts, when one delves into the depths of what such psychological abuse consists of day in, day out and year in, year out for victims and when one sees it is often the thin end of a very violent wedge, one understands these are not separate but are part of the same pattern. When someone puts a person down, the latter might say, “Ah, well, I can get over it,” but the former person is taking a liberty with the other person. He or she is saying, “You are not equal to me and you are not

that important.” We therefore need steps that go further in respect of the limiting of a person’s freedom and views as to how people behave and how they go about their business. Last year, when a person tragically took the lives of his spouse and children, everyone was at pains to say he was lovely and an upstanding member of his community. This may very well have been the case, but it is possible that he was not the same nice person behind the doors of his own house because such acts do not happen ordinarily. There are mental health issues at stake but that still does not give a person the right to put a person down, be abusive or commit such acts.

SAFE Ireland has put considerable work into these amendments and has advised that the Labour Party’s amendment is probably the best worded. I think we would all be open to looking at that amendment as the one we would-----

Senator David Norris: We could have a combination of the three amendments.

Senator Colette Kelleher: Yes. We would be open to that, again, once the Minister of State can give us an assurance that this will be looked at seriously and genuinely and that he is not just open-minded but committed to looking at this on Report Stage.

Senator Ivana Bacik: As Senators Norris and Kelleher have already indicated, amendments Nos. 3 to 6, inclusive, are very important, practical amendments which seek to insert into this welcome legislation provisions for statutory guidance for judges in the making of orders under the relevant sections. There has been serious concern about inconsistency among different judges, particularly in the District Court, in how they exercise discretion and the lack of availability of statutory guidance. I note the Law Society’s own recommendation as long ago as 1999 advocating that the provision of detailed statutory criteria to guide judicial discretion should be adopted and that it is already an approach adopted elsewhere in family law through the Judicial Separation and Family Law Reform Act, the Family Law (Divorce) Act and so on. We might now add the Children and Family Relationships Act to that list. We should now have good practice in setting out structured guidelines for district judges in exercising criteria. This is particularly important when we are talking about orders such as safety orders, protection orders and barring orders because we know there is a divergence in practice in this regard and that district judges and practitioners refer colloquially to applicants having to reach a bar or threshold before they will satisfy the judge that an order may be made. There is no such bar or threshold. I remember people talking about this when I was in practice. I understand this misleading expression is still being used now; yet judges do not have available to them any statutory criteria to guide them.

Amendments Nos. 3 to 6, inclusive, all seek to do the same thing, that is, to provide some structuring to judicial discretion. It is a hugely important principle. I ask the Minister of State again to express an indication as to whether he is willing in principle to accept the need for such a provision and then to come back to us on Report Stage, having considered the wording of all these amendments, which are all very similar, and to tell us whether he is willing, as I said, to enact one of them in principle or even an amalgam of them. I am grateful to Safe Ireland, which has indicated its support for our own version, namely, amendment No. 6. Safe Ireland says it is its preferred framing of the statutory guidance because the order in which it is laid out is clear. In amendment No. 6 we seek to provide the definition of “domestic violence”, essentially, which we have already debated, and the inclusion of which was also sought in amendment No. 1. We have tried to do this within one section because it is a sensible approach.

Amendment No. 6 seeks to insert a new section 5 at the start of Part 2, which deals with

4 July 2017

court proceedings. It provides for the making of a safety order, barring order, interim barring order, emergency barring order and protection order. We seek to re-enact the orders that exist under the 1996 legislation. The new section 5(1) to be inserted by the amendment reads:

Where a court is deciding, on an application for an order under *sections 6 to 10*, whether there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person requires that an order be made, the court shall have regard to the following considerations ...

All of that is prescriptive. The amendment outlines a list of considerations that the Law Society and Safe Ireland have outlined in similar terms. Senator Norris has gone through them already. Essentially, they are the same.

We are all aware of the evidence and the literature that shows there are circumstances that may increase an applicant's vulnerability such as pregnancy and health or economic dependence. There are issues that may lead to the deterioration of the welfare of the applicant or dependent person. There are accommodation needs that should also be considered. We have compiled a sensible list. We have also provided that where the court is considering an emergency barring order or protection order, that is in order under section 8 or 9, that the court shall also have regard to four further considerations, including the immediate risk of significant harm. Again, these are sensible measures.

The new section 5(3) contains a list of defined provisions beginning with the following, "(a) 'violence' includes physical, sexual or psychological violence." We inserted the definition because we are aware, anecdotally, of court proceedings where judges appear to suggest that only evidence of physical violence is what is required in order for an applicant to satisfy the court that a particular type of order should be made. Clearly, that is wrong. At present, there is no statutory provision that clearly sets out for judges that violence must include physical, sexual or psychological violence.

The amendment continues with a definition of psychological violence. We made further points about issues that are contentious in court practice about whether a single act is sufficient or whether there needs to be a number of acts. We have outlined different provisions which are sensible and which provide important structured guidance for judges.

Finally, the new section 5(4) states, "the reasons for the decision of the court shall be recorded by it in writing. This would be a much better practice. We recognise that in all of these important decisions.

Senator David Norris: The amendments are virtually identical.

Senator Ivana Bacik: Yes. They are very similar.

Senator David Norris: Almost word for word.

Senator Ivana Bacik: Yes. We all seek to do the same thing with our amendments. We would all be grateful if the Minister of State indicated a willingness to accept, in principle, the spirit of these amendments so that we can move on.

Senator Niall Ó Donnghaile: I, too, commend amendments Nos. 3 to 6, inclusive. A lot of what I was going to say has been said so I will not rehearse it.

Amendment No. 3 contains an important addition in the context of the phrase “that it regards as relevant to the applicant concerned and his or her family”. Senator Norris has eloquently outlined the reasons the provision is necessary.

The new section 5(1)(f) to be inserted by amendment No. 4 contains the phrase “the applicant’s perception of risks to his or her own safety and security”. The use of the word “perception” is critical. We have already touched upon the notion of - and I hate even saying the following because I cannot think of a better term - the traditional understanding of domestic violence. What passed for domestic violence in the past is changing because of changes in the world around us and in how the people in society interact and engage with each other, whether it is through more known and understood forms of abuse, coercion, intimidation or violence or, indeed, whether it is the victim’s perception due to the use of new technologies, Senator Norris referred to revenge porn, its impact on people and the fact that it is a form of abuse. The word “perception” would be an important addition.

The word “coercion” is used in the new section 5(3)(b) to be inserted by amendment No. 4. We have had a very worthwhile discussion on what constitutes coercion and how it impacts and sits within this sphere. There is merit in making coercion a specific criminal offence. The provision is not necessarily a matter for this debate but, as this legislation and the debate on the issue to which it relates move forward, it is becoming increasingly clear and understood that coercion is a pointed and sharp edge of domestic violence and how it manifests itself.

I support the amendments and Sinn Féin commends them to the House.

Deputy David Stanton: These amendments are similar to what we discussed earlier in some ways. I fully appreciate what Senators have attempted to provide for in their amendments. They seek to provide guidance for the courts when considering applications for orders. In attempting to help the court reach a determination on whether a domestic violence order is appropriate, the factors that Senators propose to prescribe might run the risk of fettering judicial discretion. We all agree that this is a very difficult process for applicants and victims, so the last thing that we should do is further complicate it, make it more stressful or prolong it for the applicant in any way. We must be careful not to do anything that might do so. The amendments demonstrate the complex nature of domestic violence. As I said earlier, the human mind can conjure up ingenious ways that we might never be able to list.

Amendment No. 3 proposes that the Minister for Justice and Equality devise a list of factors and circumstances that the courts would be required to consider. This amendment would give rise to operational difficulties in that it does not set out any policies and principles to guide the Minister in formulating the list. Neither does the amendment specify the legislative status of the list. It does not provide for the list to take the form of a ministerial order or regulations. These are important technical issues. Before we go any further, we would have to figure out whether it is a regulation or ministerial order and then the underlying policies and principles to guide the Minister in formulating a list. The provision gives the Minister a lot of discretion.

Amendments Nos. 4 to 6, inclusive, seek to prescribe a list of factors that a judge hearing a domestic violence case must consider in reaching a decision in a domestic violence application. Further, the proposed amendments attempt to define what constitutes violence and psychological violence. The amendments go on to include additional factors that a court must consider when deciding applications for an emergency barring order or a protection order. The bulk of domestic violence cases are dealt with under the summary jurisdiction of the District Court. In

4 July 2017

deciding whether to grant a domestic violence order, the court has very wide discretion. The threshold for the granting of an order is that the court is of the opinion that there are reasonable grounds for believing the safety or welfare of an applicant or a dependent person requires an order. As a result, the discretion is very wide. I think this is appropriate because it is sufficiently broad and does not restrict the court in determining what is relevant in deciding a domestic violence application. The discretion is very broad and everything is included.

There are so many factors that could cause a court to consider that someone is in danger. I want us to be careful in limiting the court's discretion or independence on this complicated matter. Everything is covered already because section 6(2) includes the phrase "there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person so requires". As matters stand, an applicant can put forward to the court any factors he or she considers relevant to the application. The judge will consider each case on its merits and make a decision based on all of the evidence put forward. There may be factors involved that we may not have considered at all here. We already have a very open provision.

I have been advised that including a list such as that proposed runs the risk of creating a lawyers' charter that would involve arguments on both sides. In itself, the latter would run the risk of prolonging cases. Again, I return to the difficulty involved in drawing up an exhaustive list of behaviours that constitute domestic violence. I argue that everything has already been covered in the legislation because the provisions are very broad. As already stated, the legislation provides that an order may be granted where "there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person so requires". I have tabled an amendment which will deal with one aspect of the proposed amendments Nos. 3 to 6, inclusive. Amendment No. 35 proposes to require the court to give reasons for decisions to grant or refuse applications for orders, including reasons for a decision relating to exemptions or conditions to which the order is subject. I understand the intention behind the proposed amendments, given the complexities, the possible delays that could arise in arriving at a decision and the wish to retain wide discretion for judges hearing these cases, but I am proposing that we should not put forward those amendments now. As Senators have requested, as with the issue of control, I am willing to examine further the text of all the amendments tabled on this issue and the important points made by Senators during the debate. I will again consult with the Attorney General and the Parliamentary Counsel on these matters and see what amendments could be proposed on Report Stage.

One could say that a list imposed by statute may not give rise to consistency in outcomes, given the different perceptions of different judges but the Chief Justice has informed the Tánaiste that the Judiciary has received training or information on domestic violence cases. It is quite important that this happens. The importance of an independent Judiciary is a cornerstone of our democracy. Nevertheless, the Judiciary is not blind to the menace of domestic violence and the requirement of an appropriate response. We are aware that members of the Judiciary are very aware of the needs of victims. There are arguments for and against, but I am willing to examine further the text of all the amendments and I am cognisant of what we discussed earlier regarding definitions and listing and so on. There are risks, if there is a list in the legislation, that it could become prescriptive in some way although I take Senator Norris's point that one could include a catch-all phrase, stating the list is not exhaustive.

Senator David Norris: The Minister could.

Deputy David Stanton: If there is a specified list, however, could the argument be made

that it could become in some way or another predominant? The way the Bill is drafted at present means it is very open. An applicant can bring any issue he or she wishes to the court's attention and it is very broad. I have listened to what Members have said and we will take those points away and go through them. We can engage again with Senators and possibly come back on Report Stage, if that is the advice, with proposed amendments.

An Leas-Chathaoirleach: I thank the Minister of State. I call Senator Conway-Walsh.

Senator Rose Conway-Walsh: I thank the Minister for his response. I am very concerned about the direction the debate is going. The reason I am concerned is that each and every one of these amendments has been informed by what survivors of domestic violence and abuse are saying they need to protect them and to ensure their safety. It seems that we are saying that is too complex to be done. I am really concerned about the timeline on when this will be implemented. I am concerned that we will pick it to pieces so much in trying to get a perfect Bill. The survivors of domestic violence are not saying they need a perfect Bill, but they are saying they need a Bill to protect them. We need to listen to them, and the Attorney General needs to listen to them.

I am concerned when the Minister states that the Judiciary has discretion because my experience, and the experience of many women with whom I work, is that some absolutely appalling decisions are made by some members of our Judiciary. If training is being provided at present, that training is not effective. It is not teaching the Judiciary the dynamics of domestic violence. The complexity is in the dynamics, in the behaviour of the perpetrator and the power and control he or she exerts on his or her victim. I hate using the word "victim". We need to listen to the survivors of domestic violence. It is written all over these amendments. There are others who are not here because they have lost their lives through domestic violence. We need to speak for those people as well.

Senator David Norris: I am also getting a little bit worried because we are being told by the Minister of State to live horse and we will get grass - do not push the amendment, let us leave it and I will consider it. I can envisage that, even with the best will in the world, the Minister of State will come back and rabbit through the Bill on Report Stage, where we only have one opportunity to speak. I accept that the Minister of State is decent and that he has a real concern about this area, but there are anonymous forces operating behind the scenes.

I have already addressed the Minister of State's main difficulty in amendment No. 3 by inserting the following phrase in section 5(2): "The factors and circumstances referred to in *subsection (1)* shall include but is not limited to a list as devised by the Minister." That could not be clearer. This is by no stretch of the imagination an attempt to create an exhaustive list. How could it be? The wording plainly states that it is not. That argument is gone.

The Minister of State speaks very glowingly of the intricacies of the criminal mind and its capacity to invent circumstances not contemplated by legislation. I wonder if the Minister of State could give us an example of that? Is there an example of which we have not heard, where the criminal mind's ingenuity defeats the intelligence of the Oireachtas? I challenge the Minister of State to give me such an example. He is smiling broadly. I am not sure whether that means he has one in his back pocket. If he has, then let us include that in the list.

An Leas-Chathaoirleach: We will have that in due course.

Senator David Norris: I am sure we will have it and let us just shove it in the list - the

more the merrier.

The Minister of State is then agonised about the possibility that this list might become predominant. Of course, it will. That is the whole point of it. There would be damn all point if it was not going to be predominant. This is the product of the experience of victims, female and male, of domestic violence. This is what their experience is telling us. Of course the list will be predominant. These are the issues that come before the court day after day.

Then we have the point that there might be argumentation between learned counsel in the courts. The Minister has said that everything is included already. The phrase “everything” is a pretty broad menu for legal counsel to get their teeth into so I do not see any difference nor do I see why there will be more legal argument because we have this list. In fact, there might well be less, because people will check things off the list and there will be less to argue about. What one argues about is a lacuna, about what is not there. I look forward with great interest to the Minister of State’s example and if we have a revised amendment put before the House on Report Stage, we will certainly do the Minister of State the courtesy of including any further examples that he wishes to lay before the House.

Senator Ivana Bacik: I wish to make three brief points. I am concerned to hear the Minister extolling the virtues of broadness in this context because that is the precise difficulty. Judicial discretion at present is so unstructured and we have a real problem with inconsistency and divergence of practice. This is a problem identified, as the Minister of State has heard, not only by NGOs such as Safe Ireland, which works with survivors and victims on the front line, but as long ago as 1999 by the Law Society. I have quoted their concern expressed then that there was considerable divergence among District Court judges in the exercise of their discretion. There is a real concern and the idea of introducing a form of statutory guidance is precisely the way to deal with that and to deal with broadness. One does not lose the divergence.

Senator Norris has referred to his formula in amendment No. 3, but all the amendments include the phrase that the court shall have regard to “any other matter which appears to the court to be relevant to the safety and welfare of the applicant and any dependants”. The Law Society has recommended “any circumstance which might increase the applicant’s or dependant’s vulnerability to violence”. There are a number of ways one can keep the merit of a broad approach, including a reference to any other matter which appears relevant to the court. That is important, but it is included already in any one of the amendments that we have put forward. That guards against the problem the Minister of State has identified of narrowing the criteria or making the guidance too restrictive.

The third observation I would make is that when I practised in the area briefly some years ago in Dolphin House, the physical setting where these matters were dealt with in Dublin was desperately inadequate and remained so. I was delighted to hear the Tánaiste speak on Second Stage about the new courts complex which is coming on stream at Hammond Lane. There are great plans for that which will really improve the physical venue where many of the domestic violence applications, certainly those in central Dublin, are made. It would be a shame if we were to improve the physical environment and yet retain so much discretion for judges that applicants coming forward would still be faced with ongoing uncertainty as to whether their applications will be granted or what the criteria are. It is a real problem that we are still faced with this divergence in practice which was identified long ago.

Senator Alice-Mary Higgins: I join others in expressing my disappointment. Due to the

Minister for Justice and Equality's, and indeed the outgoing Minister's, work and background in this area, I had expected that we would be hearing variations from the Government in terms of the proposals on how this should be dealt with. I am very surprised to hear a message which seems to say that things are working fine, we should not worry and there is already enough scope and discretion. That discretion is exactly what was described by my colleague, Senator Colette Kelleher, when she spoke about the radically different outcomes we see from similar circumstances in different cases. We do not even need to look to the patterns of judgements, sometimes coming from particular judges, which seem to be contrary to what we might understand of domestic violence.

These proposals give guidance and clarity and ensure certain things are considered. It does not introduce a criminal burden of proof. In this particular section we are talking about applications for orders. It is not true or accurate to suggest there will somehow be a huge and prolonged debate in this area. We will not have a situation where certain judges may give a very narrow definition of safety and welfare. They may simply look to whether an applicant's life is in danger and whether the welfare involved is purely financial or whether it is physical, while neglecting that wider definition. These are very useful proposals.

As I said, there is support right across this House. Everyone has put forward proposals on this. There is also a generosity in this House. For example, we are happy to concede that the version which has been put forward by Senator Bacik is an improvement on our version and is a better version. We are happy to work with that. If the Minister of State were to come to the House with a proposal which was meaningful and which substantially engaged with these issues, I believe he would find this House willing to work with him. Instead, he is putting forward the frankly unacceptable position that a very wide and broad interpretation of safety and welfare, which is subject to the views of whichever judge may be sitting in the chair that day, is sufficient. Looking to these very concrete proposals around repeated patterns of behaviours, the particular vulnerabilities of a victim and how they might be exploited, and the particular factors of vulnerability which have been mentioned, these really concrete, positive proposals will help any judge in making decisions.

I expected the Minister of State to come in with an amendment, a promise or an intention towards an amendment which would put forward his proposal, and if it was a better proposal, this House would have worked with him. If he is saying that the *status quo* might work as it is or that it is working, we know that is factually not true. We know it is not working and that it is not adequate. I ask the Minister of State to do better in his response to us in this House.

Deputy David Stanton: I acknowledge the sincerity and the work which has gone into these amendments. I have said that I wish to examine further the texts of all the amendments tabled on this issue and to take into account the points which Senators have made during the debate. We are in consultation with the Attorney General and the Office of the Parliamentary Counsel on this matter. There are two issues under discussion. First, we are talking about putting forward lists of criteria. Senator Norris made the point that each proposed list contains a reference to any other matter which appear relevant to the court, so the catch-all provision is there. Senators challenged me about lists earlier. The Senator himself indicated that there was something missing from one of his lists which he spoke about. I believe it was about someone being outed for being gay. He said that should be in there as well. The Senator himself has given an example of something that was missing from a list.

Senator David Norris: I believe it is on the list.

4 July 2017

Deputy David Stanton: I think we run a risk with the lists. There are arguments for and against what is proposed here. I have an open mind on it. I want to go away and consider it further. I am concerned about suggestions that we might have to limit the discretion of judges. We should not be doing that.

Senator Alice-Mary Higgins: On a point of information, that was not suggested.

Deputy David Stanton: The point as I heard it, and I stand to be corrected, was that judges have too wide a discretion. That point was made, as was the point that we should narrow their discretion.

Senator David Norris: No, it was that they had made bad decisions.

Acting Chairman (Senator Diarmuid Wilson): The Minister of State without interruption.

Senator Alice-Mary Higgins: This is a point of information. I will come in on it.

Deputy David Stanton: The point about judges receiving training and education is important, but I would like to caution about limiting discretion. There may be issues that might arise, and which might be brought before a court by an applicant, which might not be covered here, even with the catch-all provision. I ask for the indulgence to take an opportunity to study this further. We are in consultation with the Attorney General. I regret that we did not have a better amendment to bring forward, if we were going to bring forward one. I know it would have been better if we had. The best I can do is to say we are looking at it and we are examining it. We have brought forward many other amendments to the Bill to try to improve it and we have taken many issues into account. This was not one of them. At this stage, we are still working on it but I was anxious to hear what Senators had to say on these issues today. I now have that information so, with the permission of the House, I will take that away, spend some time on it and come back on Report Stage.

With respect to the progress of the Bill, the legislative process is what it is. There is a Committee Stage and a Report Stage, then it will have to go to the other House. I am not in charge of that but I do not wish to delay the process at all. That is not the intention. I am anxious to get this legislation on the Statute Book as soon as possible, as is everyone else here.

I ask that we take the time to hear what the Attorney General and the Office of the Parliamentary Counsel have to say on these issues and to come back to see whether including a list would help in some way, without limiting discretion. Perhaps “focus” is the word we are thinking of. Perhaps that is what we are looking at: focusing more than limiting. We have to leave discretion and we have to leave it as broad as we can. I take the point that leaving something very broad can perhaps lose focus. I believe that is the point that is being made. We must trust our judges as well, however, and trust that they are doing their best with what they have. I take Senator Bacik’s point about Hammond Lane. That will be a big improvement in respect of the physical surroundings of the court for family law and matters such as this.

Senator Ivana Bacik: I thank the Minister of State for his constructive comments and for indicating that he has an open mind on this. This is very much a constructive engagement. All of us here, on Second Stage and since, have expressed a warm welcome for this much-needed and progressive legislation. It brings to mind the debates we had in this House on the Gender Recognition Bill 2014, which was also a much-needed and much-welcomed Bill but which

was greatly improved through the constructive engagement of non-governmental organisations, NGOs, stakeholders and Members of the Oireachtas with the Minister and officials. There are many other examples but that is a recent one. I believe that is what we are seeking to do here, to ensure the Bill brings in best practice.

There have been very clear indications from those on what we might call the front line - practitioners, NGOs and survivors - that what is needed is some sort of focusing, as the Minister of State has put it, of the discretion of judges. The phrase I used was structuring the discretion of judges. I agree with the Minister of State that the word “limiting” is not accurate. That is not what we seek to do here. Looking at the list of criteria set out in any of these amendments, they are not limiting because they include reference to any other matter which appears to the court to be relevant. They are therefore clearly not seeking to limit the discretion of judges in deciding whether to grant an order. Rather they seek to structure that discretion or focus the decision-making process in order that, as one practitioner put it to the Law Society in 1999, it would be easier for practitioners to advise clients on the issues to be considered by the court when deciding whether to grant a particular relief. In a practical sense, it could lead to a much more efficient and effective use of the court process.

Through SAFE Ireland and talking to survivors directly, we hear agonising, traumatic experiences from women, and it is mostly women, although I take Senator Norris’s point.

Senator David Norris: There are some men.

Senator Ivana Bacik: Yes. We hear from applicants who are deeply traumatised by the length of time it takes to go through court processes, the multiple times they may appear before the courts and the lengthy delays between court hearings in hearing applications for orders. There is real concern about a lack of consistency and exercise of discretion by judges which is too unstructured.

Judges have spoken about the lack of guidance, and the Law Society’s recommendation was about legislative guidance by way of criteria on the factors to be taken into account by a court hearing an application for any type of domestic violence order. That is what we are seeking. It is very clearly coming from a range of interests and stakeholders. It would improve the quality of the decision-making process in this very important area and would improve the Bill, if the Minister of State was to give consideration to it.

Senator Alice-Mary Higgins: For the purposes of clarification, I have never spoken and I do not think people here are speaking about limiting discretion. It is important to be very clear. We are saying that wide discretion alone does not necessarily always capture some of these issues. When we speak about there being discretion, we can assume that all issues will be captured. The Minister of State referred to focused guidance in terms of the Law Society, which has spoken about legislative guidance.

There are cases where there needs to be indications of things which may be considered along with whatever other issues a judge may consider to be appropriate. That is very clear in each of these proposals. I am worried because there is constant reference to a list. I worry that those reading the Official Report would believe a long list is involved. This is not some type of abstract brainstorming session.

Each of the items put forward in these proposals and the issues for consideration are wide. They reflect the expertise of those who have been in the courts and worked with people who

4 July 2017

have experienced violence and who are trying to access essential orders in respect of their safety and welfare. This is a representation of the knowledge and concrete experience we have. It is not a case of having an active imagination. Rather, the proposals are all based on evidence and the real experience and practices in our courts. They are useful and involve legislative guidance. They do not compromise discretion. Rather, they provide information and ensure that the right questions are being considered in decisions in respect of orders.

They also allow us to identify patterns so that we learn more about this complex issue. I welcome amendment No. 35 which allows for judges to indicate why they have made their decisions. If they are indicating why they have made decisions and what they have found or considered in respect of the kind of issues identified in the list, that combination is powerful for us because it allows us to see that in X number of cases judges found an extreme vulnerability was being exploited and in Y number of cases judges mentioned their concerns about repeated patterns of behaviour. We will learn more about this issue, which will help us to tackle it as a society.

I urge the Minister of State to come with a proposal in respect of this area which will be complementary to amendment No. 35 and allow the expertise and real-life needs that we have heard about from those working in this area to be reflected in every process, wherever it may take place in this country.

Senator David Norris: I know there are only about five minutes left in the debate and I propose to occupy as much of it as I possibly can. I hope my colleagues will do exactly the same for a very practical reason, namely, that I would like the Minister of State to have the opportunity, before we conclude this amendment, to withdraw or vote on it. I do not feel like voting on it today because I would like the Minister of State to give us his thoughts on the matter.

I would like to ask the Minister of State a question. Does he have any idea of the timeframe within which the Attorney General's advice could be secured? Is it likely to be within a matter of weeks?

Deputy David Stanton: I do not know. I am sorry. I will come back to the Senator.

Senator David Norris: I thank the Minister of State. What timescale does the Minister of State envisage for the Bill? Is it his hope that it would be passed by the Oireachtas before the summer recess?

Deputy David Stanton: Again, it has to go to the Dáil and we are in the hands of the Business Committee there. It makes decisions on the processing of proposed legislation. There are two weeks left before the recess.

Senator David Norris: It is unlikely-----

Deputy David Stanton: It is unlikely to get through. There is no enormous urgency in the House. We can reach the deadline of 7 p.m. I have spoken to the Leader, who was under the impression that the debate was to terminate at 6.45 p.m. However, we are in the hands-----

Acting Chairman (Senator Diarmuid Wilson): The order of the House is 7 p.m.

Senator David Norris: -----of the Acting Chairman and he has authoritatively ruled that the termination time is 7 p.m. I wish to make some observations. My beloved constituency colleague, Senator Bacik, said her amendment is by far the best and that all of the authorities-----

Senator Ivana Bacik: On a point of order-----

Senator David Norris: -----said the Labour Party amendment was infinitely the best. I do not know about that. My amendment is, word for word, virtually identical, but I got in first.

Senator Ivana Bacik: It is all about the elegant ordering in my amendment.

Senator David Norris: The elegant ordering.

Senator Ivana Bacik: On a point of order, I did not say my amendment was the best. I said-----

Senator David Norris: Senator Bacik said other people said it was the best.

Senator Ivana Bacik: SAFE Ireland kindly said it preferred the wording, which Senator Kelleher kindly acknowledged. I am simply acknowledging those facts.

Acting Chairman (Senator Diarmuid Wilson): That is not a point of order.

Senator David Norris: I certainly will not acknowledge it. I believe my amendment is infinitely the best and was the first in, so sucks boo to Senator Bacik.

The Minister of State said he sees the arguments for and against the amendment, has an open mind and is working on it. That is great. The Minister of State only gave one example, and I provided him with it.

Deputy David Stanton: Senator Norris only asked for one.

Senator David Norris: Yes, but I did not ask for one that I had given myself. I asked for one the Minister of State had come up with, and he failed significantly to do so. Nobody spoke about the limited discretion of judges. Rather, we spoke about good judgment, in which I think the Minister of State and other Senators are interested. I am very happy to yield to my Sinn Féin colleague, as long as the debate continues until 7 p.m.

Senator Rose Conway-Walsh: I will not keep going until 7 p.m. I am not at all comfortable with us not using the tools available to us here today. If we were to push any of the amendments to a vote, we would win the vote with the support of the House against the Government. It is a serious matter and it does not sit well with me that we are not using those tools. I respect the collective decision of the House not to push the amendments to a vote today.

I do so in good faith, and I have good faith that this will be done in a timely manner, that the Attorney General will realise that and the Government and Taoiseach realise we have not pushed the amendments to a vote today specifically because we trust the Bill will be addressed in a timely and efficient manner. We will be back here in September. There is nothing surer than that somebody else will have lost his or her life through domestic violence. That is a very heavy burden for us to carry going out of here today.

Senator Ivana Bacik: Senator Conway-Walsh has brought the matter back to the serious issues we are discussing. None of us wishes to delay the Bill. We are all very cognisant of the urgency of bringing reforming legislation forward and the need for it. I understand
7 o'clock this is the first time the Minister of State has come to the House to deal with the Bill.

The Tánaiste and former Minister for Justice and Equality, Deputy Frances Fitzgerald, dealt with the Bill. We have a new Minister for Justice and Equality and a new Attorney

4 July 2017

General, which I do not think anyone has acknowledged. We are all anxious to give time to the Government side to consult on the willingness to look favourably on the principle of these amendments.

I did not say mine was the best.

Senators proposing amendments are all trying to do the same thing and we are all guided by Safe Ireland, the Law Society of Ireland and others. It would be great if the Minister of State were willing to accept the amendments when he returns to the House.

Progress reported; Committee to sit again.

Report on Dying, Death and Bereavement: Statements

Acting Chairman (Senator Diarmuid Wilson): I welcome the newly appointed Minister for Social Protection, Deputy Regina Doherty.

Minister for Social Protection (Deputy Regina Doherty): I thank the Acting Chairman. This is my second time in the Seanad since my appointment. So far, I have not been anywhere else yet. It is a pleasure to be back in the House again.

I welcome the publication of the important report, *Finite Lives, Dying Death and Bereavement: An Examination of State Services in Ireland*, and thank the Seanad for the opportunity afforded to me to discuss its findings and extensive recommendations. It is fair to say the report would not have come about without the impetus provided by Senator Marie-Louise O'Donnell. It was kick-started by her initial motion on end of life care and bereavement carried in the Seanad in April 2014. The motion called on the Government to explore the components of an overarching strategy on end of life and bereavement which would examine wider societal issues, including legal issues, finance, economics, education and culture. In response to the motion, the then Taoiseach invited the Senator, in a letter of 26 March 2015, to examine Departments' policies, services and procedures around dying, death and bereavement and consider how they could be improved. A report on how the various Departments support their staff was completed in 2015 and, following the 2016 general election, work commenced on reviewing Departments' support to the public. This report is the outcome of this large body of work.

Dying, death and bereavement affects each and every one of us. It is a traumatic experience, although sometimes we do not fully acknowledge this. I was reminded of the final lines of a poem by Francis Ledwidge, *To One Dead*:

The silence for you

And the sorrow for me.

Ledwidge was no stranger to death. While Senators will be aware of the poet's early death, it is worth bearing in mind that his father died when he was five years old and his mother and he himself, as a teenager, had to go out to work to support the family.

Irish people are well aware of the sorrow of bereavement. We provide huge support to family members, relations, neighbours and friends when a bereavement is imminent and occurs. This is one of the very positive aspects of our society. However, we also need to identify the

State's role surrounding end of life supports for those approaching death and their survivors. This was essentially the remit given to the Senator, namely, to establish the policies, services and procedures around dying, death and bereavement provided by the State and how they could be improved or developed.

Senator O'Donnell and her research team sent questionnaires to the Secretaries General of Departments, surveyed Deputies and Senators, carried out interviews with academics and practitioners and conducted desk research. I commend her on producing such an impressive body of work in such a short time.

Senator Jerry Buttimer: Hear, hear.

Deputy Regina Doherty: The main recommendations of the report include developing an integrated strategy on dying, death and bereavement by an interdepartmental committee following a process of consultation. It seeks to improve access to information about end of life services and make life easier for people at a time when they should feel supported by the State. Practical recommendations include the establishment of a dedicated website on end of life services offered by the State and the introduction of a bereavement services helpline which would inform people of the steps they need to take following a bereavement and their rights and entitlements.

The report also recommends adopting a planning tool developed by the Irish Hospice Foundation, known as Think Ahead, which allows people to make preparations for their future care and to put their affairs in order. Many of these recommendations are straightforward, common-sense and useful measures that should be examined by Government and introduced where possible. Apart from the general overarching proposals, the report also makes specific recommendations for each Department. It is a tremendous starting point for discussion, consideration and debate.

Recommendations relevant to the Department of Social Protection include ensuring staff receive ongoing communications skills training. There have been significant improvements in the provision of staff training in recent years. My Department currently provides a customer service course to its staff that emphasises the Civil Service code of conduct, including dealing with customers sympathetically, efficiently and promptly. The course also emphasises best practice in communications skills. This is particularly beneficial for front-line staff dealing with end of life issues, including bereavement. All new entrants to the Department receive this programme and customer service training was also provided to front-line staff as part of the suite of training delivered during the roll-out of the Intreo service.

The report recommends that the Department considers introducing a service similar to the Tell Us Once service in place in the United Kingdom, whereby a bereaved person tells one point of contact on the death of a loved one and this information is disseminated to other departments. In my Department, when a date of death is recorded by one area of the Department, including the General Register Office, this information is disseminated within the Department via notifications through various information technology platforms. While this approach does not currently extend to other Departments or local authorities, this option could certainly be explored.

I draw attention to the citizens information website operated by an agency of my Department, the Citizens Information Board. The website includes a section on death and bereavement and provides information on the steps to be taken immediately following a death, register-

4 July 2017

ing a death, how to access income supports and legal issues that may arise. It is an excellent source of practical information. It also includes material on planning in terms of making a will, advance health directives and links to the Irish Hospice Foundation's Think Ahead tool, as well as general information on the State services available.

The two main recommendations for my Department are to reinstate the bereavement grant, which was abolished in 2014, and to increase the living alone allowance. The programme for Government includes a commitment to increase the living alone allowance. In this regard, a €2 increase in the allowance, from €9 per week to €11 per week, paid to pensioners and people with disabilities who live alone would cost €21 million. Introducing a once-off €850 bereavement grant would cost €25 million. As I am sure Senators will appreciate, there are many competing demands in the run-up to the budget between programme for Government commitments, my personal priorities, various pre-budget submissions and ensuring the social impact of the budget measures we introduce helps the most vulnerable. This does not mean anything has been ruled out. The bereavement grant is an issue that is consistently raised in my office, as I expect it is frequently raised with Senators. It was one of the first issues I inquired about on my appointment. The Department, through community welfare officers, continues to pay an average of €2,000 to people who present seeking assistance with bereavement costs. No one will be turned away.

Many of the recommendations in the report relate to other Departments. I am sure other Ministers and their officials will examine the recommendations relevant to their Departments and give them as much consideration as I am giving those that pertain to my Department.

In conclusion, I thank Senator Marie-Louise O'Donnell for her time, effort and most particularly for her commitment to this issue. As anybody who knows her will attest she is eloquent in her description of things. Her passion for this topic knows no beginning and no end. She is really committed to the issue. One can see that every time she stands up to speak. I pay particular tribute to her for the amount of work she has done. I thank her for the huge service that she has done for us in providing us with this report and to ensure that Government takes it seriously and that we will all act on the recommendations in so far as Government finances allow.

Senator Marie-Louise O'Donnell: I welcome the Minister and wish her luck in her new job. I know that she will do it well and articulately. I thank her for being here today and for taking this debate.

My report is an examination of end-of-life issues outside the health arena. My remit was to establish through 15 Departments and two State agencies policies, services and procedures around dying, death and bereavement and how they could be improved, enlarged or developed. My report is the first comprehensive analysis of end-of-life issues across all Departments. I learned an awful lot during the research. It did not come out of the ether and did not appear from the back of my head. In fact, I had always thought about dying, death and bereavement as something personal, private and associated with family. That is true but experts have taught me to think about them politically. This is the one life event that Government can plan for as it is inevitable that all citizens and residents of the State will eventually die. One hundred per cent of us will die and dying is 100% guaranteed. The cost to the State is estimated to be €1.4 billion so this needs thought, planning, services, human rights, respect, acknowledgement, policies, reviews, communication, clear information, supports, creative practices, newly unmet needs and a national conversation.

As the Minister has said, my report originated from a meeting of the Oireachtas Joint Committee on Health and Children that was chaired by the former Deputy and now Leader of the Seanad, Senator Jerry Buttimer. He chaired the meeting beautifully and he fuelled the idea of this report with meaning and value. Following the hearings I tabled a motion on end-of-life care and bereavement in the Seanad that was accepted by the Government. The Taoiseach at the time then invited me to review the end-of-life services provided by Departments and my report is the result.

I stand on the shoulders of giants this evening because nobody ever does anything on their own in politics. They may think they do but they do not. In the Visitors Gallery sit representatives of the Irish Hospice Foundation, McAuley Place in Naas, the Turning Point Institute, architects, the Alice Leahy Trust, Anam Cara, funeral directors, active retirement organisations, Sage, the National Safeguarding Committee, the Citizens Advice Bureau, Irish Rural Link, psychologists, philosophers, writers, psychometricians and the lead researcher, Ms Caroline Lynch.

Most of our knowledge, as politicians and Senators, is gained at committees. Great, informed, respected and objective people who work on the ground attend committees and tell us what we need to know. We become the conduit to change and alter things, and create legislation to protect, develop and make life better for the common good. That is where my report has come from.

The report has three elements. Part 1 features indepth research compiled by 15 Departments and two State agencies, namely, the OPW and the Revenue Commissioners. Part 2 contains 34 qualitative interviews from diverse disciplines that range from the arts, law, psychology, ethics, philosophy, specialist palliative care, sociology, social work, funeral services, industry, criminology, the coronial service and architecture. Part 3 contains a survey conducted on Deputies and Senators.

Dying, death and bereavement are very profound subjects. This is a very serious report on how we, as politicians, and a new Minister of the State can improve services and, therefore, the lives of people facing mortality. End-of-life services cost the health budget €1.4 billion a year. Eighty people die every day and 800 people are directly affected by their deaths. Does the State measure up when people face their most challenging time? I have tried to answer that question in my report. It is not accusative but challenging. What is the State's role in dying, death and bereavement? Does it support, enable, encourage and recognise? In some ways it does but in some ways it does not. The State does not prioritise the issues. There is little account taken of the signals the State sends out to people who are approaching the end of their lives or those whose lives will be changed forever by the loss of a loved one. A glaring example of this was the abolition of the bereavement grant, as mentioned by the Minister. The bereavement grant was rebranded as exceptional needs. Removing the word "bereavement" from the State's lexicon has had a social and psychological impact. Bereavement is an acknowledgement of loss and we, as citizens, have a right for that to be acknowledged. "Exceptional needs" is a label of poverty and people do not like it.

The Government rarely mentions death in its reports. Death is mentioned in Government statistics and where compensation is paid. The State counts us in and it counts us out. The State encourages us to plan for education, employment and retirement. However, it does not encourage us to plan for the end of life.

Senator Jerry Buttimer: Hear, hear.

Senator Marie-Louise O'Donnell: The State must encourage, support and enable people to think ahead and not to do so through one Department. One of the main recommendations was that the Department of the Taoiseach would take the lead and help people to think ahead.

Throughout the report, surveys and research the centrality of all arguments, and I have spent six years as a Senator, always comes back to the decency and dignity of how we are acknowledged and how our self-worth and self-respect is regarded, especially when human frailty, illness and life loss comes to our door. We need comfort, food, financial security, communication, warmth, transport, community care, the arts, lack of anxiety around loneliness, education, funeral and fuel surety, adaptive home environments, human rights, and living well with value and meaning until one dies. These are the issues that kept cropping up - living well until we die.

Why did the State second rate the power of community? I do not know why. The State continues to do so. It does not mean to do so but continues to do so. We live communally and locally. We do not live nationally. We die communally and locally. We do not die nationally. We want to die in our own homes. We talk about rural regeneration but at the same time strip away services. Planning permission is given *carte blanche* to globalisation within small towns and villages. We do not prioritise the human being as the core of all creativity and communication. We are now not likely to die at home or even live in our homes as we age because the State's policy is geared towards building nursing homes. Community care is what people want not nursing homes. Despite our greatest and most hoped for final wish we keep building more nursing homes. Do Members know what that does? It teaches people how to be frail. That is what it does.

We have no such thing as architectural expectations. We do not expect the environment in which we live to be beautiful. We have no power over our houses. We have no power over trees, shrubs, where we can sit or what we can look at. We have no power but the banks have the power to decide how much interest one pays over one's lifetime.

It is everybody's right to be around environmental beauty. It is health particularly when one faces one's own mortality. That right has been eroded. When politics does not prioritise the human being as the core of all creation and communication in heart and head, when it ceases to understand the human need for a qualitative way of life, a good death and a compassionate place for those who are left behind, then politics ceases to be of value. That is why politics has become valueless. People do not trust politicians. Throughout all of my research, and all of the days and nights I spent with Ms Caroline Lynch, Dr. John Weafer and Angela Edghill, the following constantly arose - the need for a human being to have value and meaning.

The second thing that arose was the power of the arts. Music, drama, poetry and visual arts were platforms for hope, courage and joy. There is also the transformative effects of the power of personal conversation, private feeling and public expression. All of this acted as a way to navigate through the most appalling times of our lives. However, at the same time the Department of Education and Skills gave 25 points to mathematics but did not do the same for visual art. When I am at the worst time in my life, I will not be looking to algebra to help me out. NGOs are exhausted asking for help, making suggestions, doing things creatively and doing things imaginatively. They are constantly ignored because good practice is consistently and constantly subsumed by territory. That is what happens in politics. We have lost the landscape vision. I am offering the Minister a platform because I know she has ability. I do not believe in

gender quotas but I believe in the truth that women can impart at times. I believe the Minister has a unique facility to take on aspects of this, run with it and see what she can do. Human beings are called to meaning. We are called to do more than function. We are value-giving people and meaning has collapsed.

I am nearly finished and I thank the Acting Chairman for his indulgence. The report on dying, death and bereavement informs us across all the Departments about isolation, fuel poverty, community care cutbacks, funeral costs and depression. The director of the safeguarding committee, Patricia Rickard-Clarke, is in the Gallery. Financial fraud is being perpetrated on the elderly. The Minister should carry out a spot check on whether pension payments that are being collected for our elders or for people who cannot collect them themselves are being used for the right reason. That has never been done. The previous Minister, now Taoiseach, was talking about a different kind of fraud. Is the money given to older people being used for the right reasons when they cannot collect it themselves? We have the ignoring and burying of elder ethics and rights. Questions must be asked and changes must be made.

The idea of the wicker weave on the front cover was to weave the concept of dying, death and bereavement across all Departments, not in a joyless or macabre way but in a way that Departments would see it as relevant and that it was their business. It is all of our businesses and central to how we think and develop all our policy. It could chart a way forward for all Departments - a life course, living well until one dies, and the right to a good death, a landscape vision of the whole life within a whole State. It is the reason I am a Senator.

How we die is as important as the irrefutable fact that we will. This report is the beginning of a national conversation. It is difficult and challenging but it is timely. It is one that may mark us out as a Republic which is 100 years old. I recommend the report to the House and to each Department to see where their relevance lies and what they can do.

It is an irrefutable fact that we will leave this planet and we should leave it well. We are always talking about how great it is to be born, become educated, get married and have a life here, but it must be a good place from which to leave. Those who are left behind should not be traumatised for the rest of their lives because of their leaving and how it was brought about when things could have been better.

I recommend the report to the House.

Senator Gerry Horkan: It will be hard to try to follow that. I congratulate Senator Marie-Louise O'Donnell; it is a fantastic publication. It is not my area of expertise normally, but I am delighted to be asked to speak on behalf of my colleague. It is a very fine 256-page report. I cannot say I have read every page and all the details, but I have read and absorbed a considerable amount of it. As it happens, my mother lectured in UCD for many years in social science. She lectured in gerontology, elder abuse and many of those areas over her 33 years in that department. Therefore, I have a bit more exposure to this topic than many people might think I do.

I welcome the opportunity to speak on the report. I support every aspect of it that I have read. I congratulate the Minister and wish her well in her new role. I also congratulate Senator Marie-Louise O'Donnell on the report which examines how the State and Departments - with the exception of the Department of Health which understandably is being dealt with in a different way - support people who are facing dying, death and bereavement. As an accountant, one might say there is nothing more certain than death and taxes. Unfortunately it comes to us all.

The report illustrates that dying and death cannot be looked at in isolation or as primarily the remit of one Department and that those facing death or those who have been bereaved will often encounter the Department of Social Protection and the Revenue Commissioners, but also many other Departments. We must therefore recognise that the State plays a role in dying and bereavement and how it responds can greatly affect individuals' and families' experience at what is a difficult and sensitive time.

More than 30,000 deaths were registered in 2016 and almost 30,000 in 2015. This comprises people of all ages and people who died from multiple causes - natural, accidental, suicide and illness. For example, 151 neonatal deaths of children under four weeks were registered in 2015. Diseases of the circulatory system accounted for 9,249 deaths, almost one third of the total.

While these are not easy or comfortable subjects to discuss, the report underscores that we will all face dying and bereavement and we need to start a conversation about end of life. By doing so, the State will be better equipped to respond holistically and with compassion to the challenges associated with dying, death and bereavement.

The recommendations of this report, including the need for the State to develop a whole-of-Government strategy on end-of-life care, a review of income supports and allowances, and also developing quality standards for bereavement, should be acted upon.

We must face the reality that dying, death and bereavement come to us all and as the report encourages us to do, we must think and plan ahead for the inevitable.

The report examined the work of Departments in supporting citizens at end of life and in bereavement. The Department of Health was doing its own review and was excluded. Fifteen Departments along with the OPW and the Office of the Revenue Commissioners were part of this research. Based on the findings of the research, the report makes a number of overarching recommendations, as well as recommendations for each Department. Some of these have been covered already but it is worth highlighting them again.

These recommendations include developing an integrated strategy on dying, death and bereavement for Ireland. This is the primary recommendation of the report. Such a strategy should be wider than health care and extend across the spectrum. In order to conduct a national dialogue on end-of-life issues, the report recommends the State should engage in a consultation and listening exercise to inform the new strategy. The report recommends that the State conduct a socioeconomic review of costs linked to end of life, not as a cost saving exercise, but to determine the most appropriate, effective and efficient services for the dying, the dead and the bereaved. As Senator Marie-Louise O'Donnell said, most people would prefer to die in the community, in their homes with their families where possible, rather than in a nursing home or a hospital.

The report proposed the development of a dedicated website on end-of-life services offered by the State, providing a comprehensive outline of all State services that are available to support people at the end of life. It is essential that people are able to access comprehensive, accurate and up-to-date information on the relevant supports and services offered by each Department.

The report recommended that each Department review its services from an end-of-life perspective and develop a plan of action including a bereavement policy. This review should include ensuring that front-line staff receive training in communications. Each Department should also develop a bereavement policy and a range of supports for its own staff.

To reduce the administrative burden the report recommended developing a “call us once” service and a bereavement service helpline. The “call us once” service that operates in the UK allows a person to make a phone call on the death of a loved one and this information is disseminated to most affected Departments. The report recommends that a similar system should be considered in Ireland. That would be a very simple process when set up. It would relieve much of the burden.

I helped out an elderly neighbour of mine whose husband had died. People are required to go through an amount of organisations and agencies, and it is very upsetting to get letters and polling cards. If someone dies outside the State, the death certificate does not get to the places it would reach for those who die in Ireland. They remain on registers and continue to get letters sent to them which can be quite distressing even though it is understandable that it happens.

The report recommends the Government should review the income supports available to people who are bereaved, including an analysis of the telephone allowance, fuel allowance and living-alone allowance. We have discussed things. I understand the pressure the Minister is and will be under as we approach budget time. The telephone allowance did not cost much and gave people certainty. Equally with the fuel allowance, people are far more worried about fuel than many other things. With the amount of extra cost involved, the Minister could give a lot of people peace of mind.

The report also recommends that we support people to live and die in the community. It is important to ensure that the supports and services are in place allowing those at the end of life to have access to multidisciplinary teams of professionals within their own communities. It is recommended that the bereavement grant be reinstated. For many people, this was a very important grant at a very difficult time. It helped meet some of the financial costs that follow in the aftermath of a death. Funerals and the simple process of burial are extremely expensive, most of all in Dublin but also across the country. It is a huge burden for many families. The report recommends that we adopt the Think Ahead planning tool and encourage people to plan ahead. Developed by the Irish Hospice Association, Think Ahead allows people to make preparations for their future care and to put their affairs in order. The report argues that the State should adopt this tool and make it available to every citizen free of charge.

The report recommends that the Government should use its global influence to support the development of palliative care services internationally into the future. It recommends the development of quality standards for bereavement. There is currently no statutory policy or standard in respect of bereavement services in Ireland for adults or children. The report recommends that the State should ensure that all bereavement supports, including counselling, provide a consistently high standard of service. There is a recommendation to set up a working group in the Department of Education and Skills to develop guidelines and education programmes for teachers - involving civil society and teachers - to examine ways in which to support grieving children. Government Departments and agencies must recognise their role in these matters. The report challenges the State to build dying and death into policy and practice across all Departments and agencies. Whether death is sudden or prolonged and whether the person involved is young or old, it is at this time that we most need to be treated with courtesy and civility by the State and to feel that we have been so treated.

I congratulate Senator Marie-Louise O’Donnell and the big team behind her. I recognise a number of their names of those involved, for example, Jane Lehane, Denis Murphy, who was in college at the same time as me and is now the principal of St. Mary’s, Ita Mangan, who lives in

4 July 2017

my former electoral area, Seamus Boland, whom I have met before, and John O’Keeffe. I did not even know all these people were involved in producing the report until I began reading it. I commend the report to the House. It is a fantastic publication and I hope many of its recommendations will be implemented sooner rather than later. Well done.

Senator Victor Boyhan: I warmly welcome the new Minister, Deputy Regina Doherty, and wish her well in her role. I thank Senator Marie-Louise O’Donnell for this brilliant piece of work. It is a really important document. However, important documents are no good unless we take them on board and implement them. The report is 256 pages long and contains 86 key recommendations. The Senator engaged in 34 comprehensive interviews with people from diverse disciplines. Out of those interviews came 112 suggestions and these are listed in the report. I will not rehash what is said in the report. As the great old expression goes, “Do not teach your mother to suck eggs.”

The report is not all gloom and doom. What strikes me most is the statement on page 14 to the effect that “the regenerative and joyous power of the Arts through music, drama, poetry, visual art, poetry and dance were cited as platforms for hope, courage and joy.” What a lovely line. The report alludes to the overarching capacity of the arts to enrich us all.

While reading the report, I was reminded of Maslow’s hierarchy of needs. The latter fits in nicely with this piece of work and describes the psychological need for food, water, warmth and rest, the need for security and safety and the need for belonging and love. Whatever age we are, we all long for, yearn for and require these things. It also includes the need for esteem, prestige and a feeling of accomplishment, as well as the need for acceptance, love, belonging and a sense of purpose. Then there is the need for self-actualisation and the achievement of one’s full potential, capacity and ability. Each and every one of us needs that affirmation.

While the report deals with issues concerning death, it is also relevant to life and how we live all of our lives. We never know when our time will be called and we must leave this world. That is the fact of life. The report sets out clearly all the Departments and their objectives. There are 85 key recommendations, as I said. It behoves all Ministers and politicians in these Houses to keep those items on the agenda and drive them forward. Many people facing death at the other end of the age spectrum may be alone, vulnerable, concerned and isolated. They may have to struggle with officialdom for home care packages or community services, including meals on wheels, an amazing movement that is mentioned in the report. People in rural areas may have difficulty accessing the post office. They may have limited opportunities to meet someone for a chat, to feel recognised or to have a sense of belonging to a community. That is important.

For me, the biggest thing coming out of the report is that we are a people of art. One little quote on page 231 resonated with me. It is captioned “We are artistic people” and is attributed to Margharita Solan. It reads:

I am much more than a physical being. I am an emotional, psychological and spiritual being and it is the arts that will make me feel better. My hearing, my touch, my taste, my sight and my thoughts. These are really the things that make a difference into how I live my day. The whole area of the arts is huge.

What an important thing - making someone’s day - what an important aspect of anyone’s life. This is a really important piece of work. I acknowledge the people in the Gallery who

no doubt have been involved. I know some of their faces. However, this fine work will mean nothing and come to nothing unless we keep it on our desks and our agendas, politically and personally, and drive each and every one of these 85 recommendations, heed the 256 pages and drive forward the 112 suggestions offered by the 34 interviewees. I congratulate the Senator on a wonderful legacy - not that she is going anywhere. She has a lot more to do.

Senator Marie-Louise O'Donnell: They have me dead and buried at the moment.

Senator Victor Boyhan: It is an exceptional piece of work and it will be more relevant if we put it to use.

Senator Colm Burke: I welcome the Minister and wish her every success. I had the pleasure of working with her on the Joint Oireachtas Committee on Health for five years and I certainly learned a lot from working with her. I look forward to working with her in her new role as Minister. I thank Senator O'Donnell and all who have helped her in producing this publication. There is a lot of research in it and it is a super publication in that it sets out a range of extremely important ideas. As Emily Dickinson wrote:

Because I could not stop for Death -

He kindly stopped for me -

The Carriage held but just Ourselves -

And Immortality.

We need to look at the challenges we now face in this country. Death affects people of all ages, from as young as a day old to as old as 102 or 103. The one challenge we have is that, at present, there are over 600,000 people over 65 in Ireland. Within ten years there will be 1 million such individuals.

That is the challenge we now face.

The level of support for old people are not the same as they were before. Families are smaller and many families have emigrated, leaving their parents at home. I know of a lady aged in her 90s who has lived in the same house since 1959. Her son and daughter work in the UK and are now retired. She is selling her house in order to move to England because that is the only way she can access the services she wants and have the support of her family. She could not expect her son and daughter, who have been working in England for over 40 years, to return to Ireland to look after her in her final years of life. That is the challenge she faces.

The report raises many issues, such as the living alone allowance. I was in a house in a rural area recently. I spoke to a man who, when his wife was alive, received a pension of over €400 a week, but when she died the payment was reduced to €240 a week. It is a significant amount of money, but those living in urban areas have access to bus services which makes things slightly easier. Those living in rural areas with no access to public transport are dependent on neighbours and friends to provide transport to shops, doctors and hospitals. That is the challenge faced by this man. The cost of heating his house has not changed since the death of his wife. The cost of food has not significantly changed. He lives on a narrow road on which only one vehicle can travel. If one met an ongoing vehicle one would have to pull in. There is no public

4 July 2017

transport. That is the challenge in rural areas.

I recently spoke to someone who is working with a farming organisation. She calls into farms to help them comply with safety regulations. She was amazed at the number of farmers to whom she called who have been living on their own for quite a number of years. When one is working on a farm and living alone, one does not necessarily have the same level of contact because one is occupied with the work one is doing. She came across people in their aged 70s and 80s who are still working. Rural areas need supports for people who want to continue to live and work there. The report highlights a number of key issues in that regard.

I met Senator O'Donnell when she was preparing this report. She is involved with me on the Bill relating to missing persons. The State could take immediate action. If a person goes missing, and the body is not found families cannot get a death certificate and face significant problems with simple things. There was a tragedy off the west coast in the past few months. The families faced major obstacles in trying to access the supports to which they are entitled.

I met a gentleman whose daughter went missing over two and a half years ago. Her car and clothes were found near a beach, but her body was not found and a death certificate has not been issued. He is facing major challenges and wants closure. We can bring closure to such cases through the missing persons Bill. That man would be entitled to go to the courts and apply for a presumption of death order because all of the evidence indicates that the person who is missing has died. Such a system has operated in Scotland for the past ten years. Only five applications a year are made in Scotland, but they are important for the people affected because they want closure.

As a solicitor I deal with wills. People sometimes take short cuts or no cuts at all. For example, a will was made by a person who owned a farm in Ireland and house in England. He owned the farm in Ireland because the person who was going to run it had a drink problem. The parents did not leave the farm to the son who was running the farm but instead gave it to a daughter who was teaching in England. She died and the question of the location of the will and who should continue to work the farm arose. We could not find a will, but found a carbon copy of a will in an old handbag in a wardrobe in a house in England. I spent four days in the High Court trying to get the will approved. They are the kind of things we deal with in respect of planning, wills and administration.

Some people want to leave things until tomorrow, but tomorrow may come far more quickly than they think. We do not do enough to advise people. The great thing about wills is that one can write them today and change them tomorrow. We need to provide more information on wills.

I refer to planning for housing. One area I represent is the north side of Cork city where great estates were built. Every house has five, six or seven steps. That was fine when people first moved to the houses when they were young, but they are now aged in their 70s and 80s and it is impossible to install wheelchair ramps. We need proper planning. We plan for people aged 25, 30 and 35 years, but we are not planning for when they are aged 70 or 80 and want to stay in the same house.

The report has highlighted a significant number of issues which would not be costly to implement but could improve people's lives substantially. We face major challenges in terms

of making sure an adequate number of people are available to provide home support. Of a cohort of more than 600,000, more than 23,500 are in the fair deal scheme. The same ratio would mean 40,000 people would be in nursing homes in ten years time. We need to plan for that because if 40,000 people do not want to be in nursing homes in ten years time we need to make sure there is enough support at local and community level to ensure people can continue to live in their homes.

I again thank Senator O'Donnell for bringing forward the report and all of those involved in it. It has made a significant contribution to the debate and I hope each Government Department will examine it carefully and bring about the changes that are required.

Senator Máire Devine: I welcome the Minister and those in the Gallery. I received the questionnaire on death, dying and bereavement, and shuddered and stayed away from it for a while. Given the tenacity of Senator O'Donnell, I managed to fill it in. I am delighted that the report has been presented to the Seanad. I wish to continue the poetic sense which is probably right for the end of life. In his insightful book, *A Grief Observed*, CS Lewis wrote, "My temple was but a house of cards".

As Sinn Féin spokesperson on health and well-being and social protection, this research makes very interesting reading from many different perspectives. Much of our energies, legislation and debate in the Seanad and Dáil Chambers involve the act of living with dignity and quality of life. This report examines the act of dying with dignity and equality.

It is an in-depth piece of research. A lot of time and resources have gone into it and I offer a special thanks to all of the groups in the Gallery which have contributed their time and energy to it. The second recommendation in the report is to conduct a national dialogue on end-of-life issues. It is fair to say Senator O'Donnell has begun the process very well.

The former Taoiseach, Deputy Enda Kenny, was specifically thanked for his support of the work. I question the legitimacy of that endorsement, given the track record of the Government in terms of the cuts and austerity measures which targeted the most vulnerable. Austerity dismissed ageing as burdensome and not valued, and treated it with disrespect.

Will the 86 key recommendations in the report to be taken seriously by the new Taoiseach and the Minister? This report and all of its recommendations within it cannot end up on a shelf gathering dust.

There is much to say about the report, but I have some points of note from my particular portfolios, namely, end of life issues and social protection. Recommendation 9 of the report is to reinstate the bereavement grant. In 2014, the bereavement grant was cut and it was possibly one of the most heartless austerity measures carried out by Fine Gael. The cost of funerals is enormous, not just financially but emotionally, and the grant was only an aid, yet it was taken away from the most vulnerable. The research in the chapter on social protection details funeral poverty, a concept which should never be allowed to exist. Perhaps the Government thought this cut fair to taxpayers, which is exactly and unfortunately how Theresa May has defended the cut of the bereavement grant in the UK this year. She is learning tips from our Government. Last year, Sinn Féin's alternative budget included a €600 bereavement grant as a first step to re-introducing it. It is a relatively low cost to society but goes a long way towards looking after those suffering the aftermath of a loss and attempting to grapple with huge distress, grief and the challenges of life becoming so changed and different.

4 July 2017

Health care is also my portfolio and I am well aware that the Joint Committee on Health is drawing up its own report on this area. Recommendation 8 is to support people to live and die in their communities. Senator O'Donnell articulated what is a community very well. I am a long term and passionate advocate of community-based approaches to health and well-being, and this extends to end of life care also. In Sinn Féin's policy document, Better4Health, we have explicitly stated that, if in government, we would enhance home support services as a part of a comprehensive programme of reform, with emphasis on the home and our communities, tackle the pay and conditions crisis that is facing carers in this country, increase respite care service provision for older people and place the right to home care on a statutory footing. This was discussed at length in this Chamber last week. I am a member of the all-party group dealing with dementia and Senator Kelleher offers good guidance in this regard. She has a depth of knowledge. Senator Burke spoke about building nursing homes. Other European countries stopped building nursing homes at least a decade ago. They are way ahead of us. They saw home care as the answer and are really successful in that regard. These measures would support people to live and die in the community and to live and die with dignity in the place that they call home.

As a nurse, my task was mostly to fight to preserve life but, at times, I have held the hands of the dying in the darkness of the night when no relative was available or to be found. Frightened people often know that they are dying. It was a privilege to be there and to hold their hands. There was a beauty about it as well before the sun rose. We had small tasks, one of which I remember well. I do not know if it is done today. When someone died, we would open the window to allow his or her spirit roam free. There was a sense of being there for someone and watching his or her spirit leave, and we hoped that we offered them something if they were alone and did not have family around.

I see many similarities between the recommendations here and what Sinn Féin and I would push for. We would hold Government Departments accountable for the findings. This document should not be another dust collector on the shelf, particularly because of the expert input from the NGO sector, the public and all carers. Let us not allow this wonderful and respectful report go to waste. Let us do as we mean to and let us care enough and let us be reactive to the needs that this document addresses.

Gabhaim mo bhuíochas leis an Seanadóir Marie Louise O'Donnell. Well done to her. Let us progress the report.

Senator Colette Kelleher: I join others in commending Senator O'Donnell. This is a significant, thorough and necessary piece of work and, might I say, a very beautiful document. Senator Grace O'Sullivan and I were looking at the photographs. It is unusual in a report to look at it and be visually stimulated rather than daunted by the volume of the words. We can all join in paying tribute to Senator O'Donnell for the way that she has painstakingly examined the issue and produced a comprehensive report. I was lucky enough to be present at the deaths of my mother and of my sister and, more recently, of my mother in law. One of the things one learns is that not all deaths are equal. Some are much better and nicer than others. The Senator's report highlights the conditions that we can make for us to live well, but also for us to die well and with dignity.

The report has 16 key recommendations that I think we can all endorse. I particularly welcome the call for the full commencement of the Assisted Decision-making Capacity Act. The Citizens' Assembly is currently examining the challenge and opportunities of ageing. On

behalf of the all-party Oireachtas group examining dementia, of which my colleague, Senator Devine, is an active member, I made a submission to the assembly. Many of our calls in that submission directly link as they are about ageing and dying as peacefully as possible. They directly talk to this report.

As Senator O'Donnell said, people who are old and dying want to live at home for as long as possible. We must do all that we can to facilitate people's wishes. I always think that, even if my mobility changes and I could not move, I would love to be near a French door, feel the wind on my face and be able to see the little birds, smell the grass, see the mountains and listen to some music. We need to appreciate all of those things when people are at home or in nursing homes so that we can make the environments that Senator O'Donnell speaks so passionately about fit for people. We know from the Irish Association of Social Workers, Age Action, the Alzheimer Society of Ireland and UCD that people with dementia want to live in a familiar environment. In fact, it can be a terribly disorientating and dreadful state of affairs if people are in a non-familiar environment. Therefore, home care is particularly key to that group of people.

In the submission to the Citizens' Assembly, we called for the creation of a national network of dementia advisers so that there is not only at least one dementia adviser in at least every county but one in each primary care network. We also called for dementia to be recognised as a chronic disease within the new GP contract. In every community, both urban and rural, there should be a dementia friendly community. This will involve education and awareness among those in An Post and shops as well as gardaí. Those can be the people who are available in a rural area when doctors, nurses or a hospital are not available.

As well as improving the community environment, we need to enhance the home environment. The Department of Health acknowledges that home care support can be a cost-effective alternative to long-term residential care for some older people and it has just produced a consultation paper. The consultation is fine but we kind of know what we need to do. Last year, 25,000 people signed the Alzheimer Society of Ireland's pre-budget call but we did not act on it. I am sure an equal number will sign it this year. We know that we need home care and a home care infrastructure. We have it in many other countries. We need resources for home care so that it does not disappear in the middle of the year or disappear for those living in one part of the country or another. It needs to be adequately resourced. We need the regulation that Senator Burke has been fighting for in this House and we need the right to it so that it is not just for residential care. Senator Devine spoke about the focus that we have on residential care to the expense of everything else. In Denmark, they have not built a nursing home since 1987 because they have a mixed provision. They have some nursing homes - we do need some - but they have alternatives because they looked ahead and did the joined-up thinking that Senator Marie Louise O'Donnell recommends in her report.

A campaign by NGOs, many of whom are represented here tonight, is calling for a proper home care infrastructure. We need to do it. I do not really believe that we need a consultation. We will all participate in it but we know what we need to do. This year, I also proposed a Bill to safeguard adults at risk of abuse, for which I thank my colleagues Patricia Rickard-Clarke, Mervyn Taylor and others. This Bill proposes additional protections to protect all adults, particularly but not exclusively as we come to the end of our lives.

A recent RED C poll commissioned by the National Safeguarding Committee found that one in three people believe that abuse of vulnerable adults is widespread. Some 80% of people are unclear about what constitutes psychological or financial abuse. While we do not have com-

4 July 2017

prehensive statistics on abuse and neglect, the data we have paints a bleak picture. Last year, the HSE received nearly 8,000 reports of adult abuse.

The National Study of Elder Abuse and Neglect in 2010 estimated that 10,000 older people are mistreated or neglected each year, with 6,000 cases of financial abuse. The study also showed that the only income of many people who were financially abused was the State pension, and this will be of particular interest to the Minister of State. The State pays in excess of €7 billion in pension payments and more than €3 billion in illness, disability and carers' payments, and again we need to be sure the people who are entitled to that money are getting it and are not being taken advantage of by unscrupulous people, some of whom can even be in their own families. The Department of Social Protection has a big challenge to give adequate protection to people. This is the aim of my Bill.

The Bill does two main things. It establishes a national safeguarding authority and mandatory reporting. We need these to uncover the scale of abuse we have. I hope to bring the Bill back before the Seanad before the end of the year. An ombudsman for older people would also be very helpful. While the Ombudsman and Information Commissioner for Ireland deals with complaints from or on behalf of older people relating to public bodies, there may be a need for an office solely focused on complaints made by older people which has the responsibility for promoting the rights and welfare of older people.

As highlighted by Senator O'Donnell, we need joined-up thinking. We need assistive technologies. We have wonderful technologies. I saw this while working among children with disabilities. Eyegaze is one example. Why can we not have this for people suffering from strokes or people who have communication difficulties? We should have assistive technology in our homes, for example, lights that turn on automatically in bathrooms. This does not cost a fortune when we get into it. We should have technologies that will remind us to take our medications. There is a world and an internet of things out there. We need to make the end of life as comfortable as possible for people. I believe enhanced home care, new rights and protections via a safeguarding Act and an ombudsman and the use of new technologies would do just that.

I congratulate once again my fellow Taoiseach's nominee, conduit - I recognise that word - and Independent Senator on her extensive and very detailed report. I have no doubt that the proposed changes will make the very difficult but inevitable process of death and dying easier for us all.

Senator Gabrielle McFadden: I welcome the Minister of State to the Chamber and the guests in the Public Gallery. This study was designed to be an examination of end of life issues outside of health. I admire the fact it has begun a conversation between the State and the citizen about these issues. I commend Senator Marie-Louise O'Donnell on the great work that went into this study. I also acknowledge the former Taoiseach, Deputy Enda Kenny, for having requested this study and support and respect his motives for having done so. As Senator Kelleher has said already, it is truly an amazing and beautiful publication. To be honest, I was not going to speak in this debate because I do not find the topic of death an easy one to discuss but, having looked at the publication, read it a few times and picked it up and put it down a few times, I felt compelled to come to the House and voice what I have to say. For a report like this, it is very beautiful.

Dying and bereavement are inevitable. Each year, 29,000 of us die in this country, which leaves about 290,000 bereaved people in the country each year. Helen Keller said:

We bereaved are not alone. We belong to the largest company in all the world - the company of those who have known suffering.

When we are dying or caring for someone we love who is dying, the State should be there to support us. The State must do better to support us when we are in our hour of need. This report asks, and I believe rightly so, that where State services are required, they be put in place or that the State help and support communities to respond to the needs of their citizens who are dying or bereaved. The report recognises the need for comfort, financial security, warmth and community care when one is facing end of life issues - in the words of the report, "living well until we die". The time when one is dying and one's family is dealing with the trauma of a loved one dying is a time when we most need to be treated with courtesy and respect.

I am helping at present a family facing the death of a loved one while trying to care for a very sick person and continuing to work and rear children. One Department is seeking forms, birth certificates and bank statements from this man. In my mind, the carer has enough to be doing living day to day, rearing young children in a house and caring for a terminally ill loved one without having to try to look for things the Department needs. The Department should be more compassionate and allow them to live the last few months of their lives comfortably as a family. Worrying about forms and certificates can be done later. When a family is at this stage, they need to spend every minute they have as a family making great memories and not worrying about forms. My family and I know this only too well. Departments need to be sensitive and helpful to families. I have personal experience of this, both positive and negative. On one occasion, my family received a letter from the HSE asking us whether our family member still had a terminal illness. It is unbelievable.

This report, as I said, starts the much-needed conversation about what the State can do to make life easier for someone who is dying in order that the family left behind have memories of a lovely, serene time, not a stressful time of hardship. One must not regret that one's final time with one's loved ones was spent filling out forms and getting bank statements and certificates together. Each Department has a responsibility to take this report on board and see what can be done to build death and dying and bereavement into policy and practice across all Departments. I commend the report to the Minister of State.

Senator Joan Freeman: I wish to share my speaking time with Senator McDowell.

Acting Chairman (Senator Catherine Noone): Is that agreed? Agreed.

Senator Joan Freeman: I am here more than anything to support Senator O'Donnell. She is marvellous. Her passion comes through every time she speaks, and what she has produced reflects exactly the kind of person she is. She is committed and has such enormous love of humanity, and it shows in her report. I was not going to speak either but I really wanted to say a few things.

I watched my mother and my mother-in-law live and die at home. They were in a very fortunate position because they had a large family and we did all the minding and caring. We forget such efforts all the time. I have two very good friends, one of whom travels down to Kerry every weekend. Her whole weekend is spent looking after an elderly parent while her sister looks after the parent during the week. I have another friend who does the same thing in Longford. They are saving the State many thousands of euro. They have lost much of their own lives doing this. They have put their own lives on hold. One of them does not get any

4 July 2017

carer's allowance. Any carer's allowance would never be adequate anyway for the amount of work and the hardship they go through, not that it is hard to mind a parent, but one's life stops and there are no two ways about it. In my case, I had to leave my children every Tuesday night to stay with my mother. I found this terribly stressful but there was no way under the sun we would have allowed our parents to go into a nursing home. This should be the main focus. Deputy Enda Kenny said this is a wonderful place in which to grow old. It is not a wonderful place in which to die. Furthermore, when I had two parents - a mother-in-law and a mother - die within months of each other, it was at enormous financial cost and there was no bereavement grant. Again, because we are a big family, we were able to club together and pay for it, but do we all remember how older people are always terrified of not having enough money to have themselves buried? What a terrible thing to have to think about and worry about. The removal of the bereavement grant was an insult to the people who worked for our country and made it what it is. I congratulate the Minister on her new job and it is lovely to meet her. I know she has probably already organised her budget but I ask her to consider reinstating it.

Senator Michael McDowell: I congratulate Senator Marie-Louise O'Donnell on this report. I attended its launch on what was an auspicious day. I welcome the Minister, I congratulate her on her appointment and I wish her well in the discharge of her functions.

I have become increasingly aware of a delay in the holding of inquests. People may die after a fall at home but it is now quite frequent, in the Dublin area at any rate, for an inquest to take a year or 18 months. It is difficult and unnecessary to leave that hanging over a family, especially when there is no suggestion of foul play. In the Constitution there is a general right to inherit or bequeath property by will but the legal profession and the Judiciary have somehow created a new idea that any challenge to a will gets paid for out of the estate, unless it is brought recklessly or in bad faith. This means people who are trying to administer estates in accordance with the intentions of the deceased are effectively blackmailed into surrendering to any case unless they can establish that the will is being challenged in bad faith or there is no real hope or prospect of challenging it successfully. Legal costs are very significant in these cases.

As regards getting older and approaching death, people are living a lot longer and, from time to time, it is tentatively stated that the pensionable age will go up by a year in 15, 12 or two years' time but we have not grasped the nettle of compulsory pensionability and bringing people's working lives to an end well in advance of the end of their natural lives. This applies particularly in the public sector, where so many people face getting their marching orders at 65 and living in an economic twilight zone thereafter until the onset of extreme old age. In the context of implementing all the suggestions made in Senator Marie-Louise O'Donnell's report, we have to face up to the fact that when Bismarck introduced the old age pension in Germany, it was available, on average, for about two years. However, we now live in a world where pensionability will be 15 or 25 years for many people. The implications, economically and socially, for those who are marginalised, out of employment or not playing an active part in the community are very significant and we have to face up to them.

Acting Chairman (Senator Catherine Noone): Senators are entitled to five minutes each but three Senators remain and there are only ten minutes left. Can they agree to stick to three minutes each? Agreed.

Senator Paul Gavan: I congratulate Senator Marie-Louise O'Donnell on an excellent report. It is not every day that we get agreement in this Chamber but the Senator's report has achieved that and she is to be commended. It is a fine and timely piece of work. I welcome the

Minister and congratulate her on her recent appointment. I have been through the bereavement grant process and it means a lot to families. Now that we seem to have some additional fiscal space, and maybe even some hidden fiscal space, it is high time for the Government to look at the issue and see if it can give people some reassurance.

A colleague of mine has been told he will lose his weekly heating grant because he has savings. However, those savings are destined to pay for his funeral. That seems to be a terrible way to punish someone after a lifetime of work. It is wrong and I think we all agree on that. I note that the grant is being phased out but that is not the point and somebody in their 70s should not be faced with the choice. It is an example of the State at its worst.

We need to look at standards because there is a huge gap in home care services. Senator Kelleher said we should try to keep people in their homes for as long as possible but there are a number of private sector operators which pay their staff as little as €9.50 and have them on precarious work contracts. One cannot have high-quality standards of care and continuity of care if such companies lose staff every six months because it does not pay them to work. It does not pay them if they do not get money while travelling from one person's home to another. There is exploitation in this area. We should look at bringing in a sectoral employment order to ensure that high standards of pay and training exist throughout the sector. The same applies to nursing homes. We seem to have drifted into a situation where care for the elderly has been effectively privatised in the past two decades, which is a retrograde step.

Senator Michelle Mulherin: I also compliment Senator Marie-Louise O'Donnell. I was also at the launch and it was a very interesting and different experience. I also compliment all the people who supported the Senator in delivering this document, which is broad-ranging and far-reaching in nature. I also agree that it is timely.

We would not have had this debate 100 years ago as people would not have been living so long. People are having fewer children and the demographic profile of society has changed. The only way we are sustaining population growth in the West is by living longer, unlike in developing countries where people produce more children. We should consider ourselves blessed that we have the space to have this type of conversation because in many countries they do not have it. It is also challenging because 60 is the new 40. We want to have quality of life. People work hard and have built up the country and the society that we enjoy. We have to look at housing and where people have mobility issues they should, if at all possible, stay at home and be supported, which is the cheaper option anyway. Senator McDowell spoke of pensions but who will pay for them if our younger people have gone? This leads me to the issue of migration, which is a massive topic for us as we grow older. Hopefully, we will enjoy good health as we do so.

I congratulate the Minister. I know she has empathy with this topic. I wish to raise one issue, however. At the moment, people get carer's benefit for two years. If they have a dependent child who is terminally ill, one parent can stay at home for two years until the payment stops, after which they are means tested for carer's benefit. If the other parent continues to work they can avail of the carer's benefit if they take two years out but that may not suit the set-up. There needs to be some accommodation when there is a dependent child or adult involved so that spouses or civil partners can share their PRSI credits to maximise the amount of benefit. If the other spouse stayed at home, the State would still have to pay carer's benefit. It is just transferring credits to somebody else. I am involved with such a case and I will bring it to the attention of the Minister. It would bring fairness all around. I welcome this debate.

4 July 2017

Senator Alice-Mary Higgins: I welcome the Minister, Deputy Regina Doherty, to the House and congratulate her on her appointment. I commend Senator Marie-Louise O'Donnell on her report. This is an incredibly important conversation. She is correct to say that the arts have been able to have this conversation in the past, going right back to the ancient Greek writers and to Irish writers such as Michael Longley and others who have drawn inspiration from it and who recognised that when we look to the essence of what it is to be human, we also need to look to the essence of what it is to live and die and our duty to the dead as well.

Having worked with Older and Bolder, campaigned on the national positive ageing strategy and talked about the demographic dividend, it was an interesting read and a challenging read to go to the next step and to consider death and bereavement. I commend Senator O'Donnell on making this conversation happen, not just between the State and citizen but within the State. Each of us who read the report was given pause for thought. One can see that in the correspondence the Senator has had with Departments such as the Department of Public Expenditure and Reform, and the Department of Finance. She showed them how they have a relationship and responsibility in respect of death. I was really struck, for example, by the Department of Defence and the view it had following the experience of those who have seen the thousands of migrants who have died in the Mediterranean Sea. It is now considered that they might need training in cultural norms to understand the different experiences of death that are happening with those around them. There was a huge sensitivity and detail in all those areas. Another area of note was the role of educators and, in terms of childhood bereavement, the need for psychologists. In the area of health we must consider the Assisted Decision-Making (Capacity) Act and the advance care directives. We have an anomaly in the State where pregnant women are, unfortunately, excluded from some of that advance care protection.

Given the limited two minutes I have I must abandon most of my points and focus specifically on social protection because I am a member of the Joint Committee on Social Protection. The proposals in this regard are concrete and solid. They include the gender pension gap, the very real and concrete issues identified by Age Action and others and the real problems for women in particular who tend to become distant from the system. I refer to qualified adults, people who are dependent on a spousal pension who often find themselves in a real limbo and disconnect from the system itself.

I highlight again the importance of the bereavement grant, even as a point of reconnection with the system and something people can access because an exceptional needs payment, which is means tested, is not something someone who has been outside the system will be able to access at that time of urgent need. The bereavement grant has had a very crucial role. Senator Marie-Louise O'Donnell has called on the Minister to look at the issue of funeral poverty. Reference has been made to Scotland in this regard. We have seen the impact of funeral debt in the UK. This is an important issue.

It is a key moment when a person finds himself or herself living alone. The living alone allowance is important in terms of how people are supported to make that possible and allowing them to continue to contribute to society and their community while living in their home for as long as possible.

Others have spoken about home care and quality care but it is crucial that there is recognition of care in our system with the care credit. It is vital in terms of the pension and the long-term security of people to ensure we do not penalise those who have delivered care, as is currently the case. Reintegration is an important issue. People in their 50s, for example, might

have cared for five or ten years and they want to re-enter and re-engage with the system. A care credit would be important to allow someone who is coming out of a bereavement to re-enter or retrain and come back into his or her own life having generously contributed and supported the State through his or her work of care.

Assisted technologies were mentioned but I wish to-----

Acting Chairman (Senator Catherine Noone): I ask Senator Higgins to conclude.

Senator Alice-Mary Higgins: I will finish. I wish to refer to public funding support for public research. Very often it is not a case of a product that is going to be on sale but it is a social process we can invest in, and public research can often identify that in a way that perhaps commodity-based research might not. This can transform experiences.

Senator Martin Conway: Our wonderful colleague, Senator Marie-Louise O'Donnell, has done a phenomenal service to the State in terms of this report. I had indicated to the Fine Gael group that I would like to speak but, unfortunately, others got in before me. I welcome the Minister, Deputy Doherty, to the House and congratulate her on her appointment. The great thing about this report is that it took so much from the report we did on farm safety.

Senator Marie-Louise O'Donnell: Well, I read it.

Senator Martin Conway: The Senator took so much from that report. I refer to the practical suggestions and solutions such as the one-stop-shop in the Department of Agriculture, Food and the Marine which all bereft people could access as opposed to having to ring one Department for one payment and another Department for another problem. The Senator addressed issues of concern to families who find themselves bereaved, something that was highlighted in our report. I applaud the phenomenal programme of work Senator Marie-Louise O'Donnell has done. I sincerely hope this report will percolate down into Government policy and that the Government will take note of the recommendations within it because, as others have said, we are all going to die and we hope we will do so with dignity and that the State will provide us with that dignity. I commend the recommendations in the report. I sincerely hope the Minister, along with her Government colleagues, will implement as many of the recommendations as is practicable and possible.

Minister for Social Protection (Deputy Regina Doherty): I thank Senators for all their contributions. They are exceptionally valuable to me. If I was able to do all the things I want to do, in particular for vulnerable people, older people and those who care for vulnerable people, I would probably use up every penny of the fiscal space no matter how big or small it is. Members know that will not be possible but we will fight as well as we can for it.

Without going into individual contributions, I have heard loud and clear about the need for quality home care based in our homes and communities. Probably every single person mentioned it today. I do not remember if it was Senator Kelleher who said we do not need a consultative process but I disagree with that. We do need one, in particular on the issue of how we will pay for it. We all know what we need to do, but it is not as simple as switching on a button and for it to be there next week. The review needs to be very small and time limited.

Senator Colette Kelleher: It must be quick.

Deputy Regina Doherty: Yes, it must be done quickly in order that we can get to the focus

4 July 2017

of knowing what we need, which is a service that is of a high quality and is well paid in the community in order that parents and vulnerable citizens can stay in their own homes and enjoy the beauty of those around them, namely, their grandchildren, children, friends, and birds in the back garden such as the robins who come up and eat the bread. We all know what it is like to have a good quality experience in our older years and we must be aspirational in terms of providing people who are in their dying months to have that time at home where they want to be.

I wish to refer to one or two minor issues that were raised where a response was sought. Senator Marie-Louise O'Donnell spoke about making sure people who are entitled to payments are getting them and that they are not being misused by others. There are arrangements in place currently and there are audits. We could probably step that up but I will have a look at the issue and come back to the Senator.

First, I must correct the record on the bereavement grant. I think I said we spent €250 million on it before we got rid of it but we did not. I got that wrong. It was €25 million. It is something everyone would like to see come back, but when we come to making such decisions, we will only have a very small amount of money and we do not want to exclude anyone. Reference was made to the hidden fiscal space but I have not managed to find any of it yet. It is not the case that one set of people is more vulnerable than the next set of people because we all know that all the citizens for whom we provide require help. My Department is a payments Department so therefore everyone is relying on the money they get every week. What is important is to make sure we reach the most vulnerable people. People who are in the dying days of their lives, along with their families who are left behind, are very vulnerable, and the last thing we want is any pensioner worrying about the money he or she has in the post office to pay for his or her funeral.

I assure Members that community welfare officers do not refuse anyone. That is one of the first things I asked when I became Minister. We are delivering an average of €1,700 for every claim that is made. We genuinely do not refuse people. If anyone has any knowledge of that, they should please bring it to me and I will certainly follow it up. That is not to say the reinstatement of the bereavement grant has been ruled out in the budget deliberations this year. It is just that there are a lot of competing issues.

Various topics have been handed to me with regard to the various payments my Department makes. That is what it is there to do. It is for people who are either vulnerable, living alone or parenting alone. There are 140 different types of payments. They are not competing, although they are competing. My role and aspiration is to make sure that we look after our ageing population.

We must make sure that we look after them financially and consider the compulsory retirement age. We must recognise that 60 years is probably the new 40. I look forward to my retirement and having time to do stuff that we do not have time to do today. We need to recognise the gap between when people lose their jobs and, realistically, from about 58 to 59 years probably will not secure full-time employment. We must have something for people that is socially inclusive as opposed to putting them on something like a jobseeker's payment and leaving them sit there until retirement age. That is one project that we will consider. More importantly, we should encourage people to stay in work. We must remove that bar, whether it is just anecdotal by practice in the private sector or legislatively in the public sector. We must let people know that they do not have to remain working if they do not want to do so, but we must allow people to defer their pensions if they so choose. We must allow people to continue to work and remain

active if they feel they want to do so. An actuarial review is under way. I expect it will give us all food for thought and I ask Senators to come on that journey with me.

Since my promotion, people have told me that pensions and social insurance are complex issues. I believe that things are only as complex as we make them.

Senator Martin Conway: Hear, hear.

Deputy Regina Doherty: The idea of the State, and the money that we have to spend in the State, is to provide people with a certain standard of living in their vulnerable or old years. That work should not be as complex as people make it out to be. We must consider how much money the Social Insurance Fund will yield over the next couple of years. We must recognise that far more people will reach pension age than younger people who pay for those pensions. We must analyse how we manage the Social Insurance Fund over the next ten, 20, 30 and 40 years and ensure we provide for the older generation who are living longer and healthier lives. We must ensure that they enjoy their lives by having a few bob in their back pockets every week. We must ensure that they experience a good old age.

We must consider all the numerous and worthwhile recommendations in the report. I will make sure that every Department reports to me on a six monthly basis on where they are with specific objectives that have been set for them. I can manage this work because only two Departments are specific to me. We must make sure that we consider that experience. As a State, we must ensure that our interactions with people, whether they are in their dying days or the bereaved who have lost loved ones, are dealt with as compassionately and with as much care and consideration as possible.

Senator McFadden was here earlier. I know the Department she talked about and it is mine. Unfortunately, many of the payments are governed by legislation and certain boxes must be ticked. On Monday of last week or the week before, a wonderful gentleman was brave enough to go on “Liveline” to tell us about his experience at the hands of the State. As a result we must all go to every Department to say that while something might be set in statute, there must be wriggle room for compassion. We are all people and not one of us would want our mother, father, grandmother, grandchild or anybody we love and care for to be treated sometimes by Departments in a cold and clinical manner. If nothing else, today’s report should make every Department think about their interactions with citizens. We are here to serve citizens and we are lucky to have the privilege to do so.

I will come back with recommendations on a twice yearly basis. The initiative will help us to analyse where we are now and we might have a review to ensure that we are doing what we are supposed to do. I commend Senator O’Donnell on a beautiful piece of work, as many people have said here tonight. The report is a testament to her positive view of what growing old and dying should be like, and how the bereaved should be treated by the State thereafter. I thank Senators for the courtesy that they have extended to me tonight.

Senator Marie-Louise O’Donnell: I know I am not allowed to speak.

Senator Máire Devine: That fact never stopped the Senator before.

Senator Marie-Louise O’Donnell: Yes, but I wish to recognise the various CEOs of organisations who are seated in the Visitors Gallery. Earlier, I omitted to mention Ms Mai Quaid, CEO, Active Retirement Ireland. She is an extraordinary woman and an extraordinary CEO of

4 July 2017

an extraordinary organisation.

I thank the Minister for her comments. I thank all of my colleagues for their support.

(Interruptions).

Acting Chairman (Senator Catherine Noone): That concludes statements. When is it proposed to sit again?

Senator Colm Burke: At 10.30 a.m. tomorrow.

The Seanad adjourned at 8.35 p.m. until 10.30 a.m. on Wednesday, 5 July 2017.